

# **Offices on the May 10, 2022 Primary Election Ballot**

**Filing Period open from Monday, January 10, 2022 thru Saturday, January 29, 2022**

The Monongalia County Clerk's Office will be open on Saturday, January 29, 2022 from 9:00 a.m. until 12:00 noon for the purpose of candidate filing only.

**BEFORE YOU FILE:** **ALL CANDIDATE FILING FEES ARE NON-REFUNDABLE** even if you withdrawal your candidacy. Make sure you know the requirements for the office before you file your certificate of announcement. (See the full Running for Office Guide on web page for more detailed information).

U.S. House of Representatives

State Senate (Districts 2, 13)

House of Delegates (Districts 77, 78, 79, 80, 81, 82)

State Political Party Executive Committee

County Commission (Central District) (currently Sikora)	Fee \$413.95
Circuit Clerk	Fee \$620.93
County Clerk	Fee \$620.93
Congressional District Executive Committee (District 2)(Male)	Fee \$5.00
Congressional District Executive Committee (District 2)(Female)	Fee \$5.00
Senatorial District Executive Committee (District 2)(Male)	Fee \$5.00
Senatorial District Executive Committee (District 2)(Female)	Fee \$5.00
Senatorial District Executive Committee (District 13)(Male)	Fee \$5.00
Senatorial District Executive Committee (District 13)(Female)	Fee \$5.00
Delegate District Executive Committee (District 77)(Male)	Fee \$5.00
Delegate District Executive Committee (District 77)(Female)	Fee \$5.00
County Political Party Executive Committee (Districts 1-12)(Male)	Fee \$10
County Political Party Executive Committee (Districts 1-12)(Female)	Fee \$10
Board of Education (3 seats—from Central or Western Districts)	Fee \$25
Conservation District Supervisor (Monongahela District)	Fee \$10

- Highlighted offices file with the Monongalia County Clerk, all other offices file with the WV Secretary of State's Office.
- If filing for the office of County Commission or Board of Education – please verify your residence is in the same Magisterial District which will be on the ballot (see above). Magisterial District boundary lines were changed due to the 2020 Census requirements.
- If filing for a Political Party District Executive Committee-please verify your residence is in a precinct which is within the Executive Committee district you designated on your Certificate of Announcement. The newly assigned Political Party Executive Committee Districts are listed at [www.monongaliacountyclerk.com](http://www.monongaliacountyclerk.com). Voting Precincts were changed due to the 2020 Census and the realignment of the House of Delegate and State Senate boundary lines by the West Virginia Legislature.
- To determine your correct Magisterial, Precinct, Executive Committee, House and Senate Boundary, please visit [www.monongaliacountyclerk.com](http://www.monongaliacountyclerk.com) and enter your residence address using the interactive maps or please contact our office at 304-291-7230 and our Elections and Voter Registration Department will be happy to assist in verifying your current information.

Monongalia County Clerk's Office  
Carye L. Blaney, County Clerk  
Executive Committee Districts 2022

**EXECUTIVE CTE**  
**DISTRICT**

**PRECINCTS**

**Tentative Locations**

1	16	BoPARC Senior Community Center
2	10, 13	Mountaineer Middle School
3	23, 25, 26, 36, 74	St. Mary's Catholic Church
		Suncrest Middle School
		Granville Social Hall
4	1, 2A, 2B, 35, 63	Mountainview Elementary School
		Morgantown High School
5	86	North Elementary School
6	33, 38	Brookhaven Elementary School
7	79, 82	Cheat Lake VFD
8	30, 31, 32	Marilla Recreation Center
		Eastwood Elementary School
9	34, 77, 78, 81, 83	University High School
		Cheat Lake Community Church
10	59,61,62	Smithtown Community Building
		Ridgedale Elementary School
		Triune Halleck VFD
11	58, 64, 67, 68, 71, 72, 73, 75	Mylan Park Elementary School
		Skyview Elementary School
		Arnettsville Community Center
		Westover VFW Post 9916
12	40, 44, 47, 51, 51M, 52	Mason Dixon Elementary School
		Granville Fire Dept Bingo Hall
		Scott's Run VFD (Cassville)
		Clay Battelle High School
		Mason Dixon Park

**STATE OF WEST VIRGINIA**  
**Candidate's Certificate of Announcement for 2022 Elections**  
(W. Va. Code §3 5 7)

**THIS FORM MUST BE COMPLETE IN ORDER TO BE ACCEPTED. READ INSTRUCTIONS CAREFULLY.**

(1) **Date of Election:**

☐ Primary - May 10, 2022

☐ General - November 8, 2022

☐ Unexpired Term

(2) **Name of Office Sought:** \_\_\_\_\_

(3) **District/Division:** \_\_\_\_\_

(4) **Candidate's Legal Name:** \_\_\_\_\_  
(First, middle and last name)

(5) **Candidate's Name to Appear on Ballot:** \_\_\_\_\_  
(Limited to 25 characters)

(6) **I am a Resident and Legally Qualified Voter of the County of:** \_\_\_\_\_

(6)(a) **Magisterial District** (County Commission and Board of Education candidates): \_\_\_\_\_

(6)(b) **Magisterial or Executive Committee District** (County Executive Committee Candidates): \_\_\_\_\_

(7) **Current Legal Residence Address at the Time of Filing:** \_\_\_\_\_  
(Do not enter a P.O. Box)

(8) **Mailing Address:** \_\_\_\_\_  
(If different from residence address above)

\_\_\_\_\_  
Daytime Phone (for public use)

\_\_\_\_\_  
Email Address (for public use)

\_\_\_\_\_  
Campaign Phone (for public use)

\_\_\_\_\_  
Campaign Website

\_\_\_\_\_  
Campaign Committee Name (if applicable)

(9) **For Partisan Elections only:**

**I am a Member of and Affiliated with the Following Political Party:** \_\_\_\_\_. By filling out this space, I hereby certify and attest that I am a member of and affiliated with this political party as evidenced by my current voter's registration, and I have not been registered as a member of another political party within sixty (60) days of this date, pursuant to W. Va. Code §3-5-7(d)(6).

(10) **For Executive Committee Candidates Only, Enter Gender:** \_\_\_\_\_

**I swear and affirm that I am a candidate for this office in good faith, that I am eligible and qualified to hold this office and that the information provided on this form is true.**

\_\_\_\_\_  
Candidate's Signature (Must be notarized)

\_\_\_\_\_  
Date

(Notary Public Use Only)

State of \_\_\_\_\_, County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature of Notary Public or official authorized to give oaths

Official Form C-1 Revised 1/22

# Instructions for completing Candidate's Certificate of Announcement

Any candidate who seeks nomination or election to an office to be filled by election in any primary or general election within the state shall file a complete certificate of announcement, under oath, and pay the required fee with the proper filing officer and within the required time.  
[W. Va. Code §3-5-7]

- (1) Check the box beside the date of the election on which the candidate seeks to appear on the ballot.
- (2) Enter name of the office sought.
- (3) Enter the district from which the office sought is elected.
  - Candidates must enter a district if seeking any of the following offices: U.S. House of Representatives, State Senate, House of Delegates, Conservation District Supervisor, or Greater Huntington Park & Recreation District.
  - Candidates must enter a district (if applicable) and division number if seeking any of the following judicial offices: Justice of the Supreme Court, Circuit Court Judge, Family Court Judge, and Magistrate.
- (4) Enter the full legal name of the candidate; this must include first, middle and last name.
- (5) Enter the exact name the candidate desires to appear on the ballot, subject to limitations prescribed in W. Va. Code §3-5-13 and WV CSR §153-14. (Use no more than 25 characters)
- (6) Enter the county of which the candidate is a resident and legally qualified voter.
  - (6) (a) County Commission and Board of Education candidates must enter the magisterial district in which they reside at the time of filing.
  - (6) (b) County executive committee candidates must enter the magisterial or executive committee district in which they reside at the time of filing.
- (7) Enter the house number, street number, city, state and zip code of the address at which the candidate legally resides at the time of filing. Do not enter a P.O. Box.
- (8) Enter the candidate's mailing address, if different than residence address.
- (9) **For Partisan Elections only:** The name of the candidate's political party, as registered. The candidate must not have been registered as a voter affiliated with any other political party for a period of sixty (60) days before the date of the filing announcement. (Board of Education, Conservation District Supervisor, and judicial candidates should not list political affiliation)
- (10) Executive committee candidates must enter their gender,

## IMPORTANT REMINDER

**YOU ARE SWEARING TO THE TRUTH OF THE INFORMATION PROVIDED AND YOUR SIGNATURE MUST BE NOTARIZED**

## OTHER IMPORTANT REMINDERS

- ▶ Pay the appropriate filing fee in the appropriate office.
- ▶ **File your certificate of announcement within the filing period.** Filings received before January 10, 2022 will be returned. Filings for all offices must be received by the correct filing officer or postmarked by the U.S. Postal Service no later than midnight, January 29, 2022.
- ▶ **Do not file for more than one office.** If you file for more than one office and do not withdraw from all but one before the close of the filing period, you will not be placed on the ballot for any office.
- ▶ **Your position on the ballot will be decided by RANDOM DRAWING at 9:00 A.M. FEBRUARY 22, 2022.** Each county clerk in the state will begin a drawing for ballot positions for all offices at this time. You or your representative may attend.

## THIS IS YOUR NOTICE OF THE BALLOT DRAWING

- ▶ **If you decide to withdraw, you must do so by filing an application by the deadline.** The law sets February 15, 2022 (third Tuesday following the close of candidate filing) as the last day for your withdrawal to be **received** by the filing officer to remove your name from the primary election ballot.
- ▶ **File your personal financial disclosure form with the West Virginia Ethics Commission within 10 days after you file your certificate of announcement.** You may download this form at [ethics.wv.gov](http://ethics.wv.gov) or request it by calling the Ethics Commission at 304-558-0664. Candidates for federal offices are not required to file.

## FILING FEES\* BY OFFICE

FILES WITH SECRETARY OF STATE:		FILES WITH COUNTY CLERK:	
U.S. House of Representatives	\$1,740.00	County Clerk	1% of the annual salary and based on county classification. Contact the County Clerk office for filing fee.
State Senate	\$200.00	County Commission/Council	
		Circuit Clerk	
House of Delegates	\$100.00	Board of Education	\$25.00
State Executive Committee (except Senate District 17 files with Kanawha County Clerk)	\$20.00	Conservation District Supervisor	\$10.00
Greater Huntington Park & Recreation District	\$10.00	District Executive Committee (Congressional, Senatorial, Delegate)	\$5.00
		County Executive Committee	\$10.00

\* Filing fees are based on figures available at time this form was published.

# CODE OF FAIR CAMPAIGN PRACTICES

## STATE ELECTION COMMISSION

Nathaniel K. Tawney, Chair

Matthew G. Chapman

Anthony J. Delligatti

Vacant

Mac Warner, Secretary of State (Ex-Officio Member)

The State Election Commission and the Secretary of State invite you to subscribe and adhere to the Code of Fair Campaign Practices. If you decide to participate and are running for a county office, please file this document with your county clerk; for a statewide, legislative or judicial office, please file with the Secretary of State.

### THIS CODE IS VOLUNTARY; HOWEVER, IT HAS BEEN AUTHORIZED BY CHAPTER 3, ARTICLE 1B OF THE W. Va. CODE

There are basic principles of decency, honesty and fair play which every candidate for public office in the United States has a moral obligation to observe and uphold, in order that, after vigorously contested but fairly conducted campaigns, our citizens may exercise the constitutional right to a free choice and the will of the people may be fully and clearly expressed on the issues before the country. THEREFORE:

- I SHALL CONDUCT this campaign openly and publicly, discussing the issues as I see them, presenting positions and policies with sincerity and frankness, and criticizing without fear or favor of the record and policies of candidates or political parties which merit such criticism.
- I SHALL NOT USE OR PERMIT the use of character defamation, whispering campaigns, libel, slander, or scurrilous attacks on any candidate or his or her personal or family life.
- I SHALL COMDEMN the use of campaign advertising or communication of any sort which misrepresents, distorts, or otherwise falsifies the facts regarding any candidate or issue raised in my campaign.
- I SHALL NOT USE OR PERMIT any appeal to negative prejudice based on race, sex, religion, national origin, physical disability, or age.
- I SHALL NOT USE OR PERMIT any dishonest or unethical practice which tends to corrupt or undermine our system or free elections, or which hampers or prevents the full and free expression of the will of the voters including acts intended to hinder, prevent or discourage any eligible person from registering to vote, or from voting, or which is intended to affect voting through the buying of influence or votes.
- I SHALL NOT COERCE election help or campaign contributions for myself or my committee or for any other candidate or any ballot issue from my employees or from any person under my authority, influence or control.
- I SHALL IMMEDIATELY AND PUBLICLY REPUDIATE support on behalf of or in opposition to any candidacy deriving from any individual or group which resorts to the methods and tactics which I condemn. I shall accept responsibility to take firm action against any subordinate or associate who violates any provisions of this code or the laws governing elections.
- I PERSONALLY SUPPORT a limit on campaign expenditures that when reasonable, sufficient and fairly applied, does not limit or restrict the expression of ideas of the candidate or others on behalf of the candidate, but instead challenges individuals to engage in open dialogue on the issues rather than merely to purchase the excessive repetition of images and slogans.
- ACCORDINGLY, IF I AM A CANDIDATE for one of the offices listed below, I will, in conjunction with the committee or committees organized on my behalf, adhere to the following limits on campaign spending specified for the office I seek.

	<u>PRIMARY</u>	<u>GENERAL</u>
Governor	\$1,000,000	\$1,000,000
Constitutional Officers	150,000	150,000
Supreme Court of Appeals	150,000	150,000
State Senate	50,000	50,000
House of Delegates	25,000	25,000
Circuit Judge	50,000	50,000

*Expenditures which do not exceed the limits designated for the primary election may not be added to the limits for the general election.*

I SHALL DEFEND AND UPHOLD the right of every qualified voter to full and equal participation in the electoral process.

I, the undersigned, a candidate for election to public office in the State of West Virginia, or the chairperson of a political committee supporting one or more candidates for election, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct this campaign in accordance with the above principles and practices. I understand that subscription and adherence to the code is voluntary.

Date

Signature

Committee for/Committee Name

Address and City

Names of individuals signing this Code will be provided to the public.

**PLEASE SUBMIT THIS COMPLETED FORM WHEN YOU COMPLETE THE CERTIFICATE OF ANNOUNCEMENT . YOUR NAME MAY NOT BE PRONOUNCED AS YOU INTEND ON THE AUDIO BALLOT WITHOUT THIS FORM BEING RETURNED.**

*Pronunciation Instructions*

- In the “NAME ON BALLOT” column, enter the name as it appears on your ballot (First, Middle Last).
- In the “PRONOUNCED AS” column, enter the breakdown of syllables within the name, using rhyming words for each syllable that match the proper pronunciation of the name. If possible, rhyme the entire name. When this is not an option, please rhyme each syllable accordingly. Be sure to capitalize the syllables of the name that are annunciated.
- Please do not pick and choose pronunciations by apparent difficulty. Names that may appear commonplace may have inflections not standard to the name. This will help to alleviate many timely corrections.
- Please see the below example for details:

NAME ON BALLOT	PRONOUNCED AS
Monte Anthony	Monte (Rhyme: Jaunty)
Robert Maniscalco	Maniscalco (Rhyme: Mana – Falco)
Sue Jahn	Jahn (Rhyme: fawn) ‘J’ = ‘H’ sound Hawn
Tangipahoa	TANgi (Rhyme: Tangiers) Pa (Rhyme: Paw) HO (Like the garden tool HOE) A (Rhyme: Sud)
Tanya Smither	Tan (Rhyme: Taught, not Tan) ya
Tim Beauprez	Beauprez (Rhyme: hooray)
William Mishaud	Mishaud (Rhyme: ME-show) ‘d’ is silent

Candidate Name: \_\_\_\_\_

Office: \_\_\_\_\_ District: \_\_\_\_\_

NAME AS IT IS TO APPEAR ON BALLOT	PRONOUNCED AS



# West Virginia School Board Association

PO Box 1008 • Charleston, West Virginia 25324 • (304) 346-0571 • WV 1-800-642-9233

## Memorandum

TO: County Boards of Education Candidates  
FROM: Howard M. O'Cull, Ed.D., West Virginia School Board Association (WVSBA) Executive Director  
RE: Orientation and Training Required of County Board Members  
DATE: December 23, 2021

This is to inform you that West Virginia law (§18-5-1a) states “...(No) person elected to a county board of education (after July 1, 1990) shall assume the duties of board member unless he or she has first attended and completed a course of orientation relating to boardsmanship and governance effectiveness which shall be given between the date of election and the beginning of the member’s term of office...”

The statute also states “(A)ttendance at the session of orientation given between the date of election and the beginning of the member’s term of office shall permit such member or members to assume the duties of board member, as specified in this section.”

The statute reads further: “Members appointed to the board shall attend and complete the next such course provided following their appointment...” The Orientation provisions, however, do not apply to “members who have taken office prior to (July 1, 1988), and who serve continuously there from.”

**The Orientation course, as specified in this section, will be held June 24/25, 2022, at the Canaan Valley Resort & Conference Center, Davis, W. Va. NOTE: The West Virginia School Board Association (WVSBA) has no legal standing or authority to interpret this statute and its application. If you deem such interpretation is necessary, please contact legal counsel.**

**Finally, the Code states, “Failure to attend and complete the approved course of orientation and training relating to boardsmanship and governance effectiveness without good cause as determined by the state board by duly promulgated legislative rules constitutes neglect of duty (West Virginia §6-6-7).”**

As referenced above, the statute requires county board members, once elected or appointed, to receive seven (7) clock hours school board member training annually relating to “boardsmanship and governance effectiveness.” You will note the pertinent penalties language which is found in West Virginia §6-6-7.

The West Virginia School Board Association (WVSBA), by law, is responsible for providing such training in accordance with State Board of Education directives and work of the State board of Education-approved County Board Member Training Standards Review Committee (TSRC) as cited in the statute.

**Because the Orientation is received prior to assuming office, Orientation attendance and Orientation program completion does not apply toward the seven (7) clock hours training requirement.**

Should you have any questions regarding these matters, please contact Dr. O'Cull at 304-346-0571. His email address is [hocull@wvsba.org](mailto:hocull@wvsba.org)

Thank you.



**SUPERINTENDENT**

Dr. Eddie R. Campbell, Jr.

**BOARD OF EDUCATION**

Nancy Walker, *President*  
Ron Lytle, *Vice President*  
Michael L. Kelly, *Member*  
Dr. Melanie Rogers, *Member*  
Dr. Sara Anderson, *Member*

January 5, 2022

Carye L. Blaney  
County Clerk of Monongalia County  
243 High Street, Room 123  
Morgantown, WV 26505

Dear Ms. Blaney:

This letter is to inform you that we have three (3) Board of Education Members with expired terms as of June 30, 2022.

This action necessitates the posting of three (3) positions for the Monongalia County Board of Education on the May Primary Election Ballot. Members must be from either the Western District or the Central District. However, of the three positions, only two may be from the Western District or two may be from the Central District. We are allowed no more than two elected candidates from the same district.

Therefore, the Monongalia County Board of Education approves this election ballot as described above with the instruction to vote for no more than three (3) candidates.

Please contact my office if I can be of further assistance.

Sincerely,



Eddie R. Campbell, Jr., Ed. D.  
Superintendent

ERC/bs0





# CAMPAIGN FINANCE GUIDE

WEST VIRGINIA SECRETARY  
OF STATE'S OFFICE

ELECTIONS DIVISION

May 25, 2021

## **CONTACT**

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Office of the Secretary of State  
State Capitol Building, 157-K  
Charleston, WV 25305

### PHONE:

Main: (304) 558-8000

Fax: (304) 558-8381

Toll Free: (866) 767-8683

### WEBSITE:

[www.wvsos.gov](http://www.wvsos.gov)

### EMAIL:

[elections@wvsos.gov](mailto:elections@wvsos.gov)

## Getting Started

*(a)(2) Every candidate or treasurer of every political committee shall keep detailed accounts of every sum of money or other thing of value received by him or her, including all loans of money or things of value and of all expenditures and disbursements made, or liabilities incurred by the candidate or committee.*

*(a)(3) A person that is not a political committee and makes independent expenditures or electioneering communications must keep detailed accounts of every sum of money or thing of value received by him or her for the purpose of furthering any independent expenditure or electioneering communication and of all disbursements made for independent expenditures or electioneering communications. (W. Va. Code §3-8-5).*

### Who must file campaign finance reports?

- **Pre-candidates** for future offices
- All existing **Candidate Committees**
- **Candidate Committees** from previous election cycles with excess funds
- **Political Action Committees**
- **Political Party Executive Committees**
- **Caucus Campaign Committees**
- **Inaugural Committees**

### What must be reported?

- **Monetary Contributions** (Money)
- **In-Kind Contributions** (Non-cash contributions of value)
- **Loans Received**
- **Expenditures**
- **Unpaid Bills**
- Transactions Due to a **Fund-raising Event**
- All **Other Income** (Returned checks or contributions, interest on bank accounts, etc.)
- Uses of **Excess Funds**

Every candidate, pre-candidate and elected official is required to file campaign finance reports until all funds have been expended, loans have been paid or forgiven, no unpaid bills remain, and the committee is closed. Candidates running for or elected to executive committee positions are not required to file campaign finance statements.

There are two important time periods for campaign finance reports:

- The **transaction period** is the specific time period committees must track all contributions and expenditures for their campaign finance reports.
- Financial activity tracked during each transaction period must be recorded on the campaign financial statement and submitted during the appropriate **filing period in which the report is due**.

### Naming a Treasurer

A treasurer must be designated in writing and filed with the appropriate filing office. A change of treasurer or financial agent may be made at any time by filing a written statement with the Secretary of State. If a candidate does not appoint a treasurer, the candidate must serve as treasurer. Candidates for judicial offices may not be the treasurer for their own campaign.

All funds for a political committee are the responsibility of the treasurer, and all reporting requirements and financial transactions must be made through the committee's treasurer. Agents of the committee may make transactions on behalf of the committee and have the treasurer reimburse the transaction for the lawful expenses incurred by the agent. An agent may also accept contributions for the committee; however, the contributions must pass through the hands of the treasurer to ensure the contributions meet the acceptable criteria of a lawful contribution.

A treasurer or financial agent may resign, but a new treasurer must be designated before the resignation is official. The old treasurer continues to be responsible for the committee's finances until the new treasurer is appointed. The appointment is not official until a Change of Treasurer form has been submitted to the proper filing office.

## **Record Keeping**

Except for candidates for party committeeman and committeewoman, all candidates for state or local offices and all persons supporting, aiding, or opposing the nomination, election, or defeat of any such candidate shall keep, for a period of five years, records of receipts and expenditures made for political purposes. (W. Va. Code §3-8-5).

## **What must be tracked?**

Every committee "shall keep detailed accounts of every sum of money or other thing of value received by him or her, including all loans of money or things of value, and of all expenditures and disbursements made, liabilities incurred, by the candidate, financial agent, person, association or organization or committee, for political purpose or by any officers or members of the committee or any person acting under its authority or its behalf." (WV Code §3-8-5)

## **Records must include** (but are not limited to):

- Contributions of money
- Contributions of items of value as an in-kind contribution
- Loans received by the committee and the loan agreement
- Amount of loans repaid by the committee
- Expenditures from the committee's funds
- Bills that have yet to be paid, including payments for staff
- Transactions related to fundraising events
- Usage of excess funds and receipts of excess funds

## **Opening a Candidate Committee**

### **The Certificate of Announcement**

At the time of filing your Certificate of Announcement, you must also pay a filing fee. If you are filing with the Secretary of State, this fee may be paid by check, credit card, cash or money order. Personal checks may be used; however, if the check is returned for insufficient funds, your candidacy will not be certified. Checks should be made payable to the Secretary of State's Office. Many of the filing fees are based on the salary of the position you are seeking. If the salary of the position you seek changes, the filing fee will change accordingly.

Please contact your County Clerk for specific fees for county offices and the type of payment they can accept.

**For the 2022 election cycle, candidates must file a Certificate of Announcement during the period of Monday, January 10, 2022 through midnight on Saturday, January 29, 2022.**

The Certificate of Announcement cannot be accepted prior to January 10, 2022. If the form is filed or postmarked before January 10, 2022, it will be returned and must be filed only during the proper filing period. Filings that are mailed must be post marked by the U.S. Postal Service no later than midnight on January 29, 2022. If you use an express shipping service (UPS, FedEx, DHL, etc.) your filing must be **received** by midnight on January 29, 2022. Dates provided by these services are not equivalent to postmarks.

### **Where to File:**

**Secretary of State** for any Federal office, Statewide office, State Senate, House of Delegates or Judicial office (excluding Magistrate), or if you are running for an office on the ballot in more than one county.

**County Clerk** for any County Office, including Magistrate.

**Municipal Recorder** for a candidate running for municipal office.

Filing the Certificate of Announcement in the proper location is of the highest of importance. If the document is improperly filed, your ability to run for office could be seriously jeopardized.

**Late filings cannot be accepted for any reason.**

## **Starting a Political Action Committee (PAC)**

### **Who Must Register?**

A group must register as a PAC if they are:

- Soliciting contributions or spending funds with the primary purpose of supporting or opposing the nomination or election of one or more candidates.
- A corporation planning to organize to solicit contributions and spend funds in support or opposition of candidates or political parties in an election.

To register as a Political Action Committee in West Virginia, you must file a Statement of Organization with the Secretary of State's Office, County Clerk's Office, or the Municipal Clerk's Office.

When organizing your committee, you must designate a treasurer to be responsible for the finances. **Your organization may not receive or spend funds for political purposes if a treasurer has not been designated.**

The Statement of Organization must include the signatures of the chairperson and the treasurer of the committee. The treasurer who is designated will remain the treasurer until a new treasurer is designated.

**Groups of individuals organizing for the purpose of issue advocacy only are not required to register as a PAC.**

## Corporate Political Action Committees

Although some types of corporate political activity are prohibited, a corporation may set up a corporate PAC. The corporation may solicit funds to a separate segregated fund to be used for political purposes only. Corporate PACs are regulated by the same rules and regulations as Non-Corporate PACs with these additional prohibitions:

- Receiving contributions from any other person than its stockholders and their immediate families and its executive or administrative personnel and their immediate families.
- Giving money or anything of value belonging to the corporation to the corporation's PAC.
- Using money gained by job discrimination, financial reprisal or physical force or money gained by a commercial transaction.
- Individuals soliciting a contribution at the time of the solicitation failing to inform those being solicited of their right not to contribute without punishment.

## Contributions

### Contribution Limitations

Per West Virginia State Code §3-8-5c, the contribution amounts that an individual may give to any candidate or candidate's committee are set to be valued at **\$2,800 per Primary election** and **\$2,800 per General election**. All items of value (cash and in-kind contributions) given to a committee are counted toward this limitation of \$2,800. A candidate may contribute as much as they desire to their own campaign; however, they cannot be reimbursed unless it is a loan, rather than a contribution. It is unlawful for the committee to accept any contributed funds which exceed the contribution limit. Excess contributions must be returned to the contributor.

The contribution amounts that an individual may give to a political action committee are limited to \$5,000, allowing **\$5,000 per Primary** and **\$5,000 per General election**. Contributions to a state party executive committee or caucus campaign committee are limited to **\$10,000 per calendar year**.

### Reporting Contributions

Contributions of \$250.00 or less must include the name of the contributor and the date the contribution was received by the committee.

Contributions over \$250.00 must include the name and address of the contributor, the date the contribution was received by the committee, the contributor's occupation, the contributor's place of employment, or the affiliation of the political committee if it is not an individual.

### Cash Contributions

The maximum cash contribution a committee may receive from a contributor is \$50. The name of the contributor and date of contribution must be recorded. All contributions over \$50 must be by means other than cash. Cash contributions over the amount of \$50 must be returned to the contributor.

### Loans

A candidate, spouse of a candidate or a lending institution may give a loan to the candidate's committee. There is no limit as to how much a candidate can loan to their campaign. When a candidate committee takes a loan, even if it is from the candidate, a loan agreement must be

included with the next report due. The loan agreement must state the date, amount, interest amount (if any), description of collateral, and full names and addresses of all persons involved in the loan.

A loan by the candidate to his or her committee may be forgiven. Loans from a spouse or lending institution may not be forgiven. If a loan is to be forgiven by a candidate to the committee, the loan should then be considered as a contribution from the candidate to the candidate's committee. To report the forgiving of a loan, the amount of the loan will be reported as a contribution to the committee from the candidate and the loan will be paid for, indicating that the committee no longer carries the liability.

### **In-Kind Contributions**

An **in-kind** contribution is a contribution to a committee which is something of value, except for money. Examples of in-kind contributions are food, drink and entertainment costs that are associated with a fund-raising event, the use of a cell phone, use of a car, discounts of a price, use of a home for a fund-raiser, etc. These contributions are to be reported at the fair market value of the use of the resources and are subject to the contribution limits of the individual giving the contribution.

### **Other Income**

Other income includes refunds on bills paid, interest on bank account, sale of equipment or any income not reported as a contribution or in-kind contribution.

### **Fund-Raisers** (WV Code §3-8-1a)

A fund-raising event is "an event such as a dinner, reception, testimonial, cocktail party, auction or similar affair through which contributions are solicited or received." (West Virginia Code §3-8-1a)

Fund-raising events are to be reported separately from other transactions, with those transactions being grouped by fund-raising event. A total Net Receipt of Funds must also be accounted for.

### **Raffles**

Although raffles are a common way for a charitable organization to raise money, candidate committees and political action committees are prohibited from holding a raffle by West Virginia Code §47-21-2. Political Party Executive Committees are the only political organizations that can hold a raffle after obtaining a license. To organize a raffle the group must have a license from the West Virginia Tax Department.

### **Anonymous Contributions** (WV Code §3-8-5a(j))

"Passing the hat" at a meet-the-candidate dinner or other type of fundraiser is used to bring in contributions anonymously. If a contribution is received anonymously, and the contributor cannot be identified, the money must be turned over to the State of West Virginia General Revenue Fund.

All contributions must be identified with the full name of the person or group which gave the donation. If the identification of the donor of a contribution cannot be determined, the donation must be given to the State of West Virginia General Fund. Send an amount equal to the anonymous contribution to the West Virginia Secretary of State's office.

## **Political Contributions**

Active political committees are restricted to the types of contributions they may give and receive. The capacity to give or receive a contribution is dependent on the type of committee established. Below you will find a list of possible contribution types and if the contributions are acceptable to the committee.

### **As a State Candidate you may give up to \$2,800 to:**

Executive Committee  
Legislative Caucus Committee

### **As a State Candidate you may receive up to \$2,800 from:**

State PAC  
Executive Committee  
Federal Committee  
Corporation PAC

### **As a State Candidate you may NOT give money to the following:**

Another State Candidate  
PAC  
Federal Committee

**As a State Candidate you may NOT receive money from an Independent Expenditure PAC.**

**As a State Candidate you may NOT receive money from foreign nationals.**

## **Persons Entering into State Contract**

*...no person entering into any contract with the state or its subdivisions, or any department or agency of the state, either for rendition of personal services or furnishing any material, supplies or equipment or selling any land or building to the state, or its subdivisions, or any department or agency of the state, if payment for the performance of the contract or payment for the material, supplies, equipment, land or building is to be made, in whole or in part, from public funds may not, during the period of negotiation for or performance under the contract or furnishing of materials, supplies, equipment, land or buildings, directly or indirectly, make any contribution to any political party, committee or candidate for public office or to any person for political purposes or use; nor may any person or firm solicit any contributions for any purpose during any period. (WV Code §3-8-12(d)).*

## **Code of Fair Campaign Practices (WV Code §3-1B-5)**

At the time of filing for office, you will have an opportunity to subscribe to the Code of Fair Campaign Practices. The code is a voluntary pledge to adhere to a few guidelines which will create an atmosphere of campaigning that is constructive, ethical, and good-natured. The code has been in existence since 1995.

### **Highlights of the Code Include:**

- A pledge to adhere to campaign spending limitations
- To conduct your campaign openly and publicly

- To condemn false advertising or communications which are not fact
- To not coerce individuals under your authority to give contributions or election help
- To defend and uphold the right of every qualified voter to full and equal participation in the electoral process

## **Voluntary Contribution Limitations**

	<u>PRIMARY</u>	<u>GENERAL</u>
Governor	\$1,000,000	\$1,000,000
Constitutional Officer	\$ 150,000	\$ 150,000
Supreme Court	\$ 150,000	\$ 150,000
Circuit Judge	\$ 50,000	\$ 50,000
State Senate	\$ 50,000	\$ 50,000
House of Delegates	\$ 25,000	\$ 25,000

Contributions which do not exceed the limits designated for the Primary election may not be added to the limits for the General election.

## **Voluntary Subscription to the Code**

To subscribe to and to adhere to the Code of Fair Campaign Practices is voluntary. In no event may any person be required to adhere to or endorse the code.

In the event that an opponent to a subscribing candidate of the Code of Fair Campaign Practices exceeds the campaign spending limitations, the candidate who has subscribed to the code who has not exceeded the spending limitations shall be automatically released from the portion of the code establishing the campaign spending limitations.

## **Expenditures**

All expenditures must be reported. Detailed accounts of all expenditures, disbursements made, and liabilities incurred must be reported.

Money spent out-of-pocket on an election must be reported as an expenditure. If money is spent on behalf of a candidate, and is not reimbursed by the committee, it must be reported as an in-kind contribution, and is subject to contribution limitations.

An active candidate's committee (before the election date of the candidate) cannot give donations to other candidate committees or Political Action Committees. This activity is not permitted by West Virginia Code §3-8-9.

All expenditures must be made at a rate and an amount which is "proper and reasonable" to the services purchased.

An expenditure made is to be reported on the date in which the check is written or the date when the transfer of funds takes place.



Required information for all expenditures:

- The name of the person or business to which the expenditure was given
- The address of the person or business to which the expenditure was given
- The date of the transaction
- The purpose of the transaction
- The amount of the expenditure

### **Allowable Expenditures**

**A candidate or political committee may make expenditures only for the following purposes:**

- Office expenses, overhead costs for headquarters, and for costs related to postage.
- Candidates who do not have headquarters may purchase or rent filing cabinets, other office equipment and furnishings, computers, computer hardware and software, scanners, typewriters, calculators, audio visual equipment
- Paid legitimate advertisements for the promotion of the candidate on the ballot
- Costs related to public meetings and political conventions such as food, drink, and entertainment
- Necessary traveling and hotel expenses
- Costs incurred with petitions for nomination of candidates
- Lists of registered voters, investigating an individual's right to vote and conducting proceedings to prevent unlawful registration or voting
- Taking voters to the polls
- Securing publication in newspapers, radio, and television broadcasting of information that is relevant to an election
- Conducting a public opinion poll or polls
- Legitimate advertising agency services
- The purchase of memorials, flowers or citations by political party executive committees or political action committees representing a political party
- The purchase of nominal, noncash expressions of appreciation following the close of the polls of an election or within thirty days thereafter
- The payment of dues or subscriptions to any national, state, local, or legislative caucus committee of any political party
- To employ persons to perform functions enumerated in WV Code §3-8-9, either on a full-time, part-time, or temporary basis.
- Transfers to any national, state, or local committee of any political party when that committee is acting as a vendor.
- Legal and accounting services
- Food and drink for campaign-related purposes

- Required filing fees associated with the campaign. The payment of any fees or fines assessed against the candidate or the candidate's committee is prohibited under W. Va. Code §3-8-9(19).
- Contributions to a county party executive committee, state party executive committee, or caucus campaign committee
- Payment for any required filing fees
- For expenses related to caregiving services

### **Political Advertisements**

All political advertisements and materials must have a disclaimer on them identifying who the advertising was paid for or on behalf of. When putting a disclaimer on the advertisement you must state the name of the person or committee authorizing its publication.

### **Unpaid Bills**

All liabilities incurred by a committee must be reported. This includes all bills or promises of payment that have been left unpaid at the end of the reporting period. A listing of unpaid bills will ensure that the committee does not ever have a negative ending cash balance, but still shows all transactions that have taken place. The transaction date of an unpaid bill will be the date that the vendor provides a bill for payment.

### **Excess Funds**

After a candidate withdraws from an election, loses in a Primary, loses in a General election or wins the election, the funds in possession of the committee that amount to more than the liabilities incurred for the election are considered Excess Campaign Funds. No person may receive or utilize excess campaign assets for personal economic gain. (WV CSR §146-3-7)

## **Completing and Submitting Campaign Finance Reports**

Financial Reports for the following committees must be filed electronically through the **Campaign Finance Reporting System (CFRS)**:

- Governor
- Secretary of State
- Attorney General
- State Auditor
- State Treasurer
- Commissioner of Agriculture
- Supreme Court Judge of Appeals
- Circuit Court Judge
- Family Court Judge

- Political Action Committees (PACs)
- State Political Party/Caucus Campaign Committees
- Independent Expenditure/Electioneering Communication Committees

If by no fault of their own a candidate or committee is unable to file the campaign financial statement, they shall file said statement in person, via facsimile, or other electronic means of transmission.

Committees required to file electronically may apply to the State Election Commission for an exemption of electronic filing in the case of hardship. (W. Va. Code §3-8-5b)

Candidates for county and municipal elections must file their reports by using the **Short or Long Campaign Financial Statement**.

The **Short Form Campaign Financial Statement** is designed to accommodate committees that do not have transactions beyond simple contributions and expenditures; it does not cover any other reporting requirements, such as loans and in-kind contributions, which are required by WV Code 3-8-5a.

The **Long Form Campaign Financial Statement** includes all activities that required by WV Code §3-8-5a. If a committee answers YES to any of the following questions, a **Long Form** must be used:

- Has your committee received any loans?
- Has your committee held any fundraisers?
- Has your committee received any miscellaneous receipts, such as refunds or checking account interest?
- Does your committee have any unpaid bills or loans?
- Have you or anyone else given an in-kind contribution to your campaign?
- Has your committee given or received a transfer of excess campaign funds?
- Has your PAC made any Independent Expenditures within this reporting period?

Both the short and long finance forms require both the candidate or committee name and the treasurer's contact information. The candidate, agent, or treasurer must also sign the oath or affirmation at the end of the form.

## Reporting Periods

- The reporting period during the election cycle to which the financial report applies must be indicated: 1<sup>st</sup> Quarter, 2<sup>nd</sup> Quarter, 3<sup>rd</sup> Quarter, 4<sup>th</sup> Quarter, Primary, or General.
- Each election cycle reporting period covers a certain time span during the election cycle for which candidates and committees must report financial transactions.
- These reports are to be filed in succession of one another.

## Additional Report Types

- **Primary Report:** Filed between the 15<sup>th</sup> day and the 11<sup>th</sup> day prior to the Primary Election, (if applicable).
- **General Report:** Filed between the 15<sup>th</sup> day and 11<sup>th</sup> day prior to the General Election.
- **Amended Report:** Filed to replace a previously submitted report to correct or update information. Both the amended report box and the reporting period that will be amended must be clearly marked.
- **Final Report:** Filed to close your account. The final report box must be marked. If the report is submitted during a required reporting period, the reporting period must also be

marked. The committee's ending balance must be zero if filing a final report. A Statement of Dissolution must also be filed with the filing officer.

### **Late, Incomplete or Inaccurate Statements**

- If a financial report has not been submitted in a timely manner, your committee will be subject to the \$10/day penalty provisions of West Virginia Code §3-8-7.
- If a report is submitted early, it cannot be accepted. A report which is submitted early will not include all financial transactions until the completion of the final day of the reporting period.
- Some incomplete or inaccurate reports will also need to be returned to the committee. If a report is returned to your committee, late penalties may be issued until the report is submitted to the proper filing official. The most common incomplete or inaccurate statements that are returned include:
  - Committee name and election year are not accurate
  - Wrong reporting period box marked
  - Contributions and expenditures not for the indicated reporting period
  - Final Report indicated with an ending balance, unpaid bills, or loans
  - Oath or Affirmation not signed or not signed by appropriate person

### **2022 Election Year Campaign Finance Reporting Schedule**

<b><u>Report</u></b>	<b><u>Transaction Dates</u></b>	<b><u>Filing Dates</u></b>
2022 1st Quarter Report	January 1, 2022 – March 31, 2022	April 1, 2022 – April 7, 2022
2022 Primary Report	April 1, 2022 – April 24, 2022	April 25, 2022 – April 29, 2022
2022 2nd Quarter Report	April 25, 2022 – June 30, 2022	July 1, 2022 – July 7, 2022
2022 3rd Quarter Report	July 1, 2022 – September 30, 2022	October 1, 2022 – October 7, 2022
2022 General Report	October 1, 2022 – October 23, 2022	October 24, 2022 – October 28, 2022
2022 4th Quarter Report	October 24, 2022 – December 31, 2022	January 1, 2023 – January 9, 2023

\* Filing deadlines falling on Saturdays, Sundays, or legal holidays are to be extended to the following day that is not a Saturday, Sunday, or legal holiday.  
(W. Va. Code 2-2-1(15)(e))

### **Reporting Contributions of \$250 or Less**

For each contribution of \$250 or less, the committee must include (1) the full name of the individual, association, or committee donating; (2) the amount of the contribution; and (3) the date the contribution was made.

## Reporting Contributions of Over \$250

Once contributions from an individual, association, or committee reach an accumulated total of more than \$250 during an election cycle, the committee must collect and record additional information on the campaign finance report.

### **Required information from contributors of more than \$250:**

- Full name
- Address
- Amount of contribution
- Date the contribution was made
- Residential and mailing addresses

### Individual contributors only:

- Occupation (e.g., attorney, doctor, homemaker, retired)
- Employer (this is the contributor's primary employer; if self-employed it should be noted; if homemaker or retired, "not applicable" may be used)

### Political committees only:

- Political affiliation of the committee (or if the donation comes from a business-affiliated PAC, the business that the PAC is sponsored by)

## Reporting a Fund-Raising Event

If a committee hosts a fund-raising event, such as a dinner or reception for the purpose of raising money for the campaign, the *Long Form Campaign Financial Statement* must be used to report committee finances.

**Fund-Raising Event:** All contributions received at a fundraising event must only be reported on the fund-raising events page of the campaign financial statement. Committees must report contributor information under the same requirements for reporting contributions as outlined above.

**Joint Fund-Raising:** Committees may host joint fund-raising events pursuant to a written agreement stating the terms of allocation of funds and the committees involved.

**Total Monetary Contributions:** Total of money received (cash or check) in connection with this particular fund-raising event.

**Total Expenditures:** All committee funds spent in relation to the fund-raising event. These expenditures are to be listed on the itemized expenditures page of the campaign financial statement.

**Net Receipts:** The total amount of funds accumulated in relation to the fund-raising minus all committee expenses.

**In-Kind Contribution:** A donation of goods or services used toward the fund-raising event that can be assigned a monetary value. In-kind contributions must be itemized in the in-kind contributions section of the campaign financial statement.

## Reporting Other Income and In-Kind Contributions

If the committee receives "other income" or an in-kind contribution, the *Long Form Campaign Financial Statement* must be used to report the committee finances.

**Other Income:** Income that does not fit the definition of a contribution, such as interest on a bank account, refunds, or the sale of equipment. Information required for the other income category includes the date of the receipt, source of the income, the type of receipt (brief description), and the amount of the transaction.

**In-Kind Contributions:** a donation of goods or services used toward the campaign. The amount of an in-kind contribution should be reported at the fair market value of the goods received or services rendered. The committee should include the full name of the contributor,

date of the transaction, description of the contribution, and the value. If the value of the contribution is over \$250, additional contributor information is required: address, occupation and employer if it is an individual, and affiliation if it is a PAC.

## **Reporting Loans**

If a loan is taken for a candidate's committee, the information required on the loans page of the *Long Form Campaign Financial Statement* must be completed, and a copy of the loan agreement must be included with the same financial statement.

The following information must be reported on outstanding loans:

- The name and address of the bank, candidate, or candidate's spouse making the loan;
- The balance of the loan carried from the previous report;
- The amount of all new loans received during this period;
- Repayments made during the reporting period;
- The outstanding balance at the end of the reporting period for each loan listed.

## **Reporting Expenditures**

All expenditures made by a political committee must be reported. The following information is required for all expenditures:

- Date of the expenditure – the date the check is written or when the money is transferred to any person to pay for goods or services rendered.
- Name and address of person or vendor to whom the expenditure was given.
- Purpose – The purpose of the expense must be a reason outlined in §3-8-9 of West Virginia code.

## **Penalty Provisions**

According to West Virginia Code §3-8-7, failure to file a financial statement is a misdemeanor, punishable by up to a year in jail, a fine of \$500 or both, at the discretion of the court. This penalty also applies to "grossly incomplete or inaccurate" financial statements. Civil penalties of \$10 a day for each day a report is late or grossly inaccurate will also be levied. The Secretary of State shall publish an online list of all persons who file financial statements after the deadline. Candidates who have not filed the required campaign finance reports for the Primary Election will not be placed on the General ballot. Candidates that have not filed the required financial reports for the General Election cannot assume the duties of their office until all required reports are properly filed.

West Virginia law allows the Secretary of State (or the County Clerk or Municipal Recorder) to review or audit financial reports in order to ensure compliance with campaign finance laws. They are required to submit the names of individuals who have failed to file financial statements, or have filed incomplete or inaccurate financial statements, to the county prosecuting attorney for action.

## **Record Keeping**

Candidates "and all persons supporting, aiding or opposing the nomination, election or defeat of any candidate shall keep for a period of **five years** records of receipts and expenditures which are made for political purposes." (WV Code §3-8-2)

## After the Election

After a candidate withdraws from an election, loses in a Primary, loses in a General election or wins the election, the funds in possession of the committee that amount to more than the liabilities incurred for the election are considered **Excess Campaign Funds**. No person may receive or utilize excess campaign assets for personal economic gain. (WV CSR§146-3-7)

## Allowable Uses of Excess Campaign Funds

The **only** allowable expenditures of excess campaign funds are outlined here:

- **Transfer of funds from a candidate's committee to the same candidate's committee for a subsequent election year**  
A new committee must be formed, or a Pre-Candidacy Statement filed for the subsequent election year prior to making the transfer of funds. There is no limitation of the amount of funds that may be transferred.
- **Contribution to another candidate's committee, political action committee, or a local executive committee**  
The limit on these contributions is \$2,800 per cycle.
- **Contribution to any state political party executive committee or a legislative caucus committee**  
The limit on this contribution is \$15,000.
- **Return of contributions on a pro-rata basis to each donor.**
- **Transfer to any national or local committee of any political party**  
The limit on these contributions is \$2,800.
- **Offsetting any usual and customary expense incurred in connection with the duties as a holder of public office**  
Any items purchased will become the property of the State, or the district, county, or municipality of the office that is held. Although "usual and customary expense" is not defined, there must be some evidence of a common usage for their purpose.
- **Making a charitable contribution**  
There is no monetary limitation for charitable contributions.

## Closing the Committee

A committee is considered to be open until a Final Report is filed stating that the committee has no outstanding loans, bills, and an ending balance of zero. Any Final Report which does not meet these criteria will be returned. A Final Report does not need to be filed during a specific reporting period but must include all activity up to date of the report being filed. Once a Final Report is filed the committee may not raise or spend any funds. A new candidate committee must be created for every election cycle in which a candidate is running for office.

## Dissolution of a PAC

In addition to having no unpaid bills or a balance of funds at the time of submitting a Final Report, a political action committee must file a Notice of Dissolution of a Political Committee form. This form affirms the committee will no longer accept contributions or make expenditures

and cease activity as a political committee. This form must be filed at the same time the Final Report is submitted to the proper filing office to finalize the dissolution of a PAC.

### **Independent Expenditures**

Any paid advertisement that is done without the “consultation or coordination” of a candidate or a candidate’s committee is considered an independent expenditure. A disclaimer must be present on all independent expenditures stating, “Paid for by (committee or individual’s name)” and also that the advertisement “is not authorized by any candidate or candidate’s committee.”

There is no limit on the amount of funds that can be spent on Independent Expenditures. However, there is an additional reporting requirement for these expenditures. Any individual or organization making independent expenditures must follow the reporting dates set by West Virginia Code §3-8-5.

Any individual, PAC, corporation, or executive committee may make an “independent expenditure” in an attempt to influence the election or defeat of a candidate for office. This expenditure must be made without the consultation or coordination of the candidate or candidate’s committee to be considered independent. If the expenditure is made in consultation or coordination with the candidate or candidate’s committee, the expenditure will be considered an in-kind contribution to the candidate’s committee and will be limited to the \$2,800 contribution limits.

In addition to reports due during regular reporting periods, any individual or organization must file additional reports when making a:

- \$1,000 single time/aggregate expenditure made within a calendar year,
- \$500 or more expenditure for any county office or single county judicial candidate within 15 days and before 12 hours of an election,
- \$5,000 or more expenditure for any statewide, legislative or multi-county judicial candidate within 15 days and before 12 hours of an election, or
- \$10,000 or more anytime expenditure.

All independent expenditures must have a “clear and conspicuous public notice” identifying the person who paid for the expenditure and that it had not been authorized by any candidate or candidate’s committee.

### **Electioneering Communications**

Any communication defined as electioneering communications must have a disclaimer clearly stating, “Paid for by (committee name)”. If the Electioneering Communication is an Independent Expenditure, the communication must also include that “it is not authorized by any candidate or candidate’s committee.” If the communication is made for television, it must be spoken clearly and appear on the screen at the end of the advertisement.

All independent expenditures and electioneering communications reports may be viewed on the Secretary of State’s campaign finance page at [cfrs.wvsos.gov](https://cfrs.wvsos.gov).



## **Division of Highways Rules for the Placement of Political Signs**

Signs or posters cannot be placed on or above a Division of Highways right of way, which normally stretches 20 feet from the center line of a public road. Distances do vary, however, so please contact the West Virginia Division of Highways if you are uncertain.

Signs or posters near rights of way must comply with the outdoor advertising statute in Chapter 17, Article 19, Section 1 of the West Virginia Code, and must also conform to any municipal ordinances regulating outdoor advertising.

Signs or posters cannot be placed on Division of Highways traffic control signs nor block such signs, and cannot obscure the view of any connecting road or intersection.

Signs or posters cannot be placed on elements in nature, such as rocks or trees.

Avoid placing materials on fence posts, utility poles, or other stationary objects on private property without consent of the property owners.

Political overhead banners cannot be erected over any county, state or federal highway.

DOH Communications Main Line: 304-558-0103 [www.transportation.wv.gov](http://www.transportation.wv.gov)

# State of West Virginia TREASURER DESIGNATION For Candidate's Committee

I, \_\_\_\_\_, a candidate in the election year \_\_\_\_\_ for the office of \_\_\_\_\_ in the \_\_\_\_\_ district, hereby designate the following person who has agreed to serve as treasurer to be responsible for the campaign financial activity in relation to my or the above office:

Campaign Committee Name: \_\_\_\_\_

Treasurer Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Email: \_\_\_\_\_ Telephone: \_\_\_\_\_

It is the responsibility of the treasurer to read and comply with all campaign finance laws, regulations, and other related materials. I understand that every financial transaction related to my precandidacy or candidacy is subject to the requirements of the W. Va. Code and the Rules & Regulations promulgated by the Secretary of State, including all reporting requirements.

*All committees that file with the Secretary of State's office are required to file campaign finance reports electronically through the online Campaign Finance Reporting System (CFRS). Committees that file on a county or municipal level file campaign finance reports by paper forms prescribed by the Secretary of State's office.*

I understand that every financial transaction is subject to the requirements of the W. Va. Code and the Rules and Regulations promulgated by the Secretary of State, including all reporting requirements.

This document will serve as the oath for all electronically filed reports associated with the above listed committee, if applicable.

Signature of Candidate: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Treasurer: \_\_\_\_\_ Date: \_\_\_\_\_



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Secretary of State's Office  
State Capitol  
Charleston, WV 25305  
1-866-767-8683  
elections@wvsos.gov  
www.wvsos.gov

File this form with **Secretary of State** if a candidate for statewide, legislative, or judicial office.

File this form with **County Clerk** if a candidate for county office.

File this form with **Municipal Clerk/Recorder** if a candidate for municipal (city or town) office.

OFFICIAL FORM F-3  
REVISED 8/19

# State of West Virginia Campaign Financial Statement (Short Form) in Relation to \_\_\_\_\_ Election Year

IF YOU ANSWER "YES" TO ANY OF THE FOLLOWING QUESTIONS, YOU CANNOT USE THIS FORM.  
YOU MUST USE THE LONG FORM (FORM F-7) TO FILE YOUR CAMPAIGN FINANCE REPORT.

1. Has your committee received any loans?
2. Has your committee held any fundraisers?
3. Has your committee received any miscellaneous receipts, such as refunds or checking account interest?
4. Does your committee have any unpaid bills?
5. Have you or anyone else given an in-kind contribution to your campaign?
6. Has your committee given or received a transfer of excess campaign funds?

Committee or Candidate Name: \_\_\_\_\_

Office Sought: \_\_\_\_\_ District/Circuit: \_\_\_\_\_

Committee's Treasurer: \_\_\_\_\_

Treasurer's Mailing Address: \_\_\_\_\_

Treasurer's Daytime Phone: \_\_\_\_\_

**SELECT REPORT TYPE** (*Filing deadlines falling on Saturday, Sunday or a legal holiday will be extended to the next business day.*)

- |   |   |  |   |
|---|---|--|---|
| <input type="checkbox"/> <b>First Quarter</b><br>Due April 1-7  | <input type="checkbox"/> <b>Second Quarter</b><br>Due July 1-7  | <input type="checkbox"/> <b>Third Quarter</b><br>Due October 1-7         | <input type="checkbox"/> <b>Fourth Quarter</b><br>Due January 1-7     |
| <input type="checkbox"/> <b>Primary Report</b><br>Due 15 days prior<br>to Primary Election<br>or within 4 business<br>days thereafter | <input type="checkbox"/> <b>General Report</b><br>Due 15 days prior<br>to General Election<br>or within 4 business<br>days thereafter | <input type="checkbox"/> <b>Amendment</b><br>May be filed at<br>any time | <input type="checkbox"/> <b>Final Report</b><br>Zero balance required |

## REPORT TOTALS

### CASH BALANCE SUMMARY

<b>Beginning Balance</b> (ending balance from previous report) 1.	
<b>Total Contributions</b> (from page 2) 2.	+
<b>Subtotal</b> (lines 1+2) 3.	=
<b>Total Expenditures</b> (from page 2) 4.	
<b>Ending Balance</b> (line 3-4)	

### TOTAL CONTRIBUTIONS ELECTION YEAR-TO-DATE

(Add line 2 from all reports)

### TOTAL EXPENDITURES ELECTION YEAR-TO-DATE

(Add line 4 from all reports)

*\*Cannot have a negative ending balance*

## CONTRIBUTIONS

\$250 or Less

More than \$250

Date	Full Name	Election Check One	Amount	Date	Contributor Information	Election Check One	Amount
		<input type="checkbox"/> Primary <input type="checkbox"/> General			Full Name: Address:	<input type="checkbox"/> Primary <input type="checkbox"/> General	
		<input type="checkbox"/> Primary <input type="checkbox"/> General			Contributor's job: (individual) Employer: (individual) Affiliation: (political committee)	<input type="checkbox"/> Primary <input type="checkbox"/> General	
		<input type="checkbox"/> Primary <input type="checkbox"/> General			Full Name: Address:	<input type="checkbox"/> Primary <input type="checkbox"/> General	
		<input type="checkbox"/> Primary <input type="checkbox"/> General			Contributor's job: (individual) Employer: (individual) Affiliation: (political committee)	<input type="checkbox"/> Primary <input type="checkbox"/> General	
		<input type="checkbox"/> Primary <input type="checkbox"/> General			Full Name: Address:	<input type="checkbox"/> Primary <input type="checkbox"/> General	
		<input type="checkbox"/> Primary <input type="checkbox"/> General			Contributor's job: (individual) Employer: (individual) Affiliation: (political committee)	<input type="checkbox"/> Primary <input type="checkbox"/> General	
		<input type="checkbox"/> Primary <input type="checkbox"/> General			Full Name: Address:	<input type="checkbox"/> Primary <input type="checkbox"/> General	
		<input type="checkbox"/> Primary <input type="checkbox"/> General			Contributor's job: (individual) Employer: (individual) Affiliation: (political committee)	<input type="checkbox"/> Primary <input type="checkbox"/> General	
				<b>Total Contributions:</b> (add both columns)			

## ITEMIZED EXPENDITURES

Date	Full name, residence address (if person); business address (if vendor)	Purpose	Amount
<b>Total Expenditures:</b>			

## OATH OR AFFIRMATION

I, \_\_\_\_\_, swear or affirm that the attached statement is true and correct, to the best of my knowledge, of all financial transactions occurring within the period covered by this statement, as required by West Virginia Code §3-8-5a.

\_\_\_\_\_ Signature of Candidate, Treasurer, or Agent

Date \_\_\_\_\_

Office Use Only

Received by: \_\_\_\_\_

# State of West Virginia Campaign Financial Statement (Long Form) in Relation to \_\_\_\_\_ Election Year

Committee or Candidate Name: \_\_\_\_\_

Office Sought: (if applicable) \_\_\_\_\_ District/Circuit: (if applicable) \_\_\_\_\_

Committee's Treasurer: \_\_\_\_\_

Treasurer's Mailing Address: \_\_\_\_\_

Treasurer's Daytime Phone: \_\_\_\_\_

**SELECT REPORTING PERIOD** (*Filing deadlines falling on Saturday, Sunday or a legal holiday will be extended to the next business day.*)

☐ **First Quarter**

Due April 1-7

☐ **Second Quarter**

Due July 1-7

☐ **Third Quarter**

Due October 1-7

☐ **Fourth Quarter**

Due January 1-7

☐ **Primary Report**

Due 15 days prior  
to Primary Election  
or within 4 business  
days thereafter

☐ **General Report**

Due 15 days prior  
to General Election  
or within 4 business  
days thereafter

☐ **Amendment**

May be filed at  
any time

☐ **Final Report**

Zero balance required

## REPORT TOTALS

### RECEIPTS OF FUNDS

Totals for this Period

Contributions (Page 3)	
Monetary Contributions from all Fund-Raising Events (Page 4)	+
Receipt of a Transfer of Excess Funds (Page 8)	+
<b>Total Monetary Contributions</b>	=
In-Kind Contributions (Page 5)	+
<b>Total Contributions</b>	+

Other Income (Page 5)	
Loans Received (Page 6)	+
<b>Total Other Income:</b>	=

### OUTSTANDING LOANS & DEBTS

Unpaid Bills (Page 9)	
Outstanding Loans (Page 6)	+
<b>Total Debts:</b>	=

**TOTAL CONTRIBUTIONS ELECTION YEAR-TO-DATE**  
(Add total contributions from all reports)

### CASH BALANCE SUMMARY

Beginning Balance (ending balance from previous report)	
<b>Total Monetary Contributions</b>	+
<b>Total Other Income</b>	+
<b>Subtotal a.</b>	=

Total Expenditures (Page 7)	
Total Disbursements of Excess Funds (Page 8)	+
Repayment of Loans (Page 6)	+
<b>Subtotal b.</b>	=

Ending Balance (Subtotal a. - Subtotal b.)	=
---	---

**TOTAL EXPENDITURES ELECTION YEAR-TO-DATE**  
(Add total expenditures from all reports)

DATE	CONTRIBUTOR’S FULL NAME OR COMMITTEE’S NAME	ELECTION Check One	AMOUNT
		<input type="checkbox"/> Primary <input type="checkbox"/> General	
		<input type="checkbox"/> Primary <input type="checkbox"/> General	
		<input type="checkbox"/> Primary <input type="checkbox"/> General	
		<input type="checkbox"/> Primary <input type="checkbox"/> General	
		<input type="checkbox"/> Primary <input type="checkbox"/> General	
		<input type="checkbox"/> Primary <input type="checkbox"/> General	
		<input type="checkbox"/> Primary <input type="checkbox"/> General	
		<input type="checkbox"/> Primary <input type="checkbox"/> General	
		<input type="checkbox"/> Primary <input type="checkbox"/> General	
		<input type="checkbox"/> Primary <input type="checkbox"/> General	
		<input type="checkbox"/> Primary <input type="checkbox"/> General	
		<input type="checkbox"/> Primary <input type="checkbox"/> General	
		<input type="checkbox"/> Primary <input type="checkbox"/> General	
		<input type="checkbox"/> Primary <input type="checkbox"/> General	
		<input type="checkbox"/> Primary <input type="checkbox"/> General	

Subtotal of contributors of \$250 or less:

CONTRIBUTIONS OF  
MORE THAN \$250

☐ Check if additional pages  
have been attached.

DATE	INDIVIDUAL CONTRIBUTOR OR COMMITTEE’S INFORMATION	ELECTION Check One	AMOUNT
	Full Name:  Address: residential and mailing (if different)  Contributor’s occupation :(individual contributor only)  Where contributor works: (individual contributor only)  Affiliation: (political committee only)	<input type="checkbox"/> Primary  <input type="checkbox"/> General	
	Full Name:  Address: residential and mailing (if different)  Contributor’s occupation :(individual contributor only)  Where contributor works: (individual contributor only)  Affiliation: (political committee only)	<input type="checkbox"/> Primary  <input type="checkbox"/> General	
	Full Name:  Address: residential and mailing (if different)  Contributor’s occupation :(individual contributor only)  Where contributor works: (individual contributor only)  Affiliation: (political committee only)	<input type="checkbox"/> Primary  <input type="checkbox"/> General	
	Full Name:  Address: residential and mailing (if different)  Contributor’s occupation :(individual contributor only)  Where contributor works: (individual contributor only)  Affiliation: (political committee only)	<input type="checkbox"/> Primary  <input type="checkbox"/> General	
	Full Name:  Address: residential and mailing (if different)  Contributor’s occupation :(individual contributor only)  Where contributor works: (individual contributor only)  Affiliation: (political committee only)	<input type="checkbox"/> Primary  <input type="checkbox"/> General	

MAKE COPIES OF THIS  
PAGE AS NEEDED

Subtotal of all contributions of more than \$250  
Subtotal of all contributions of \$250 or less (from page 2)

TOTAL CONTRIBTUIONS:

+
=

The only exception to this rule may apply to political party executive committees. (WV Code §3-8-5a)

<b>Date of Event</b> _____ <b>Type of Event</b> _____ <b>Name of Place Held</b> _____ <b>Address of Place Held</b> _____ _____	<b>Monetary Contributions</b> _____ <b>Expenditures (from pg. 7)</b> _____  <b>NET RECEIPTS</b> _____  <b>Total In-Kind Contributions</b> <b>Related to Fundraiser</b> _____
--	--

[illegible]

**MAKE COPIES OF THIS PAGE AS NEEDED**



OTHER INCOME: INTEREST, REFUNDS, MISCELLANEOUS RECEIPTS

Date	Source of Income	Type of Receipt	Amount

Total Other Income:

IN-KIND CONTRIBUTIONS

Date	Name and Contributor Information	Description of Contribution	Election Check One	Value
			<input type="checkbox"/> Primary <input type="checkbox"/> General	
			<input type="checkbox"/> Primary <input type="checkbox"/> General	
			<input type="checkbox"/> Primary <input type="checkbox"/> General	
			<input type="checkbox"/> Primary <input type="checkbox"/> General	
			<input type="checkbox"/> Primary <input type="checkbox"/> General	
			<input type="checkbox"/> Primary <input type="checkbox"/> General	

Total In-Kind Contributions:

LOANS

**West Virginia Code §3-8-5f      Loans to candidates, organizations or persons for election purposes.**  
*“No candidate, financial agent, person or association of persons or organization advocating or opposing the nomination or election of any candidate or the passage or defeat of any issue or item to be voted upon may receive any money or any other thing of value as a loan toward election expenses except from the candidate, his or her spouse or a lending institution. All loans shall be evidenced by a written agreement executed by the lender, whether the candidate, his or her spouse, or the lending institution. Such agreement shall state the date and amount of the loan, the terms, including interest and repayment schedule, and a description of the collateral, if any, and the full names and addresses of all parties to the agreement. A copy of the agreement shall be filed with the financial statement next required after the loan is executed.”*

The loan agreement **must** include all items asked for in the statute. The loan agreement does not have to follow a certain format; generally, if all required information is listed, any format is accepted.

Any money a candidates contributes to his or her campaign committee with the hope of repayment must be treated as a loan and reported in this section. When a candidate determines that no further repayments can be expected, the loan can be reported as repaid in the sections by entering the amount left to repay in the repayments column and reporting the came amount as a contribution from the candidate on Page 2.

How to Report Loans

- 1. Each loan for your campaign must be listed on a separate line. Each time you loan money to the campaign, it is considered a separate loan. Include the following information on the form below:  
Loans from previous reporting periods, and the balance of each loan;  
Any payments made on loans;  
New loans.
- 2. Attach a copy of the loan agreement for every new loan received during this reporting period.

LOANS

Bank Loans: List name & address of financial institution  Candidate Loans: List name, residence address and mailing address of person making or cosigning loan.	Column A	Column B		Column C		Column C	
	Balance of previous loan at end of period	Amount of new loan received during period		Repayments during period		Outstanding balance at end of period	
	Amount	Date	Amount	Date	Amount	Date	Amount
Totals:		Loans Received		Repayment of Loans		Outstanding Loans	

ITEMIZED EXPENDITURES

☐ Check if additional pages have been attached.

Date	Name of Person or Vendor and Address	Purpose	Amount
	Name: Address:		
	Name: Address:		
	Name: Address:		
	Name: Address:		
	Name: Address:		
	Name: Address:		
	Name: Address:		
	Name: Address:		
	Name: Address:		
	Name: Address:		
	Name: Address:		
	Name: Address:		
	Name: Address:		
	Name: Address:		
	Name: Address:		
	Name: Address:		
	Name: Address:		
	Name: Address:		
	Name: Address:		

Total Expenditures:

RECEIPT OF A TRANSFER OF EXCESS FUNDS

☐

Check if additional pages have been attached.

Date	Candidate Committee Name and Year	Amount
Total Receipts of Transfer of Excess Funds:		

DISBURSEMENT OF EXCESS FUNDS

Date	Candidate Committee Name and Year Disbursing Excess Funds	Purpose of Disbursement	Amount
Total Disbursements of Excess Funds:			

Date	Owed to Whom	Purpose	Amount
	Name: Address:		
	Name: Address:		
	Name: Address:		
	Name: Address:		
	Name: Address:		
	Name: Address:		
	Name: Address:		
	Name: Address:		
<b>Total Unpaid Bills:</b>			

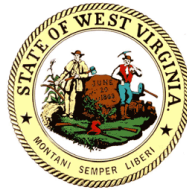
### OATH/AFFIRMATION

I, \_\_\_\_\_, swear or affirm that the attached statement is true and accurate, to the best of my knowledge, for all financial transactions occurring within the period covered by this statement, as required by West Virginia Code §3-8-5a.

\_\_\_\_\_ Signature of Candidate, Financial Agent or Treasurer

Date \_\_\_\_\_, 20\_\_\_\_

<b>Office Use Only</b>
<p>Received By: _____</p>



Return completed form to:  
[ellen.m.briggs@wv.gov](mailto:ellen.m.briggs@wv.gov) or  
WV Ethics Commission  
210 Brooks Street, Suite 300  
Charleston, WV 25301

## West Virginia Ethics Commission Financial Disclosure Statement

### Contact Information and Signature Sheet (This Sheet will not be placed on the Internet.)

By law, only certain public officials, public employees, and candidates must file a Financial Disclosure Statement. To assist us in processing your form, please mark which category applies to you. I am:

☐ on a board/commission/agency to which the Governor appointed me (specify in Question No. 3)

☐ an elected state or county official or candidate (specify in Question No. 2)

☐ an elected city official or candidate in one of the following municipalities: Charleston, Fairmont or Morgantown (specify in Question No. 2)

☐ a state executive branch employee. For more information on which "state executive branch employees" must file, see the FDS Information Sheet or go to [ethics.wv.gov](http://ethics.wv.gov). (If employed during the past calendar year as a state executive branch employee, specify in Question No. 5 and 13)

#### Please print clearly

Filer's last name: \_\_\_\_\_ First name: \_\_\_\_\_  
Spouse's last name: \_\_\_\_\_ First name: \_\_\_\_\_  
County: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Email: \_\_\_\_\_

Daytime telephone: (\_\_\_\_) \_\_\_\_\_

#### Signature and Acknowledgement

I hereby acknowledge, under penalty of perjury, that the information contained in my attached Financial Disclosure Statement, including all attached worksheets, is to the best of my knowledge true, correct and complete.

Filer's signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_

Return completed form to:  
[ellen.m.briggs@wv.gov](mailto:ellen.m.briggs@wv.gov)  
WV Ethics Commission  
210 Brooks Street, Suite 300  
Charleston, WV 25301



Candidate information, if applicable

County : \_\_\_\_\_

Candidate for: \_\_\_\_\_

Date you filed for candidacy: \_\_\_\_\_

District or circuit, if applicable \_\_\_\_\_

## West Virginia Ethics Commission Financial Disclosure Statement

### Directions

- Please read and answer **every question**—even if your answer is “N/A” (not applicable). Incomplete original Statements will be returned to you for completion or correction.
- You must file a new Financial Disclosure Statement each year you hold or run for a public position.
- If this is your annual filing, the Statement is due by February 1.
- If you are a new appointee, this Statement is due within 30 days of the date of your appointment.
- If you are a candidate for public office, this Statement is due within 10 days of filing your *Certificate of Announcement*.
- The information you provide on this Statement covers the prior calendar year, except where otherwise indicated.
- You may attach additional pages to this form if necessary.

### 1. Name of Filer and Spouse

Filer's last name \_\_\_\_\_ First name \_\_\_\_\_

Spouse's last name \_\_\_\_\_ First name \_\_\_\_\_

County of residence \_\_\_\_\_

Business (employment) address \_\_\_\_\_

City/state/zip \_\_\_\_\_

### 2. Elective Office

Do you currently hold an elected county, circuit or state office or an elected office in one of the following cities:

Charleston, Fairmont or Morgantown? **Yes** \_\_\_\_ **No** \_\_\_\_ If yes, title of office: \_\_\_\_\_

Are you presently a candidate for public office? **N/A** \_\_\_\_ **Yes** \_\_\_\_ **No** \_\_\_\_

If yes, for what office: \_\_\_\_\_ Date you filed for candidacy: \_\_\_\_\_

### 3. Positions on State Boards, Commissions or Agencies

List all State Boards, Commissions or Agencies on which you now serve or have served during the past calendar year through appointment by the Governor. ☐ Mark here if N/A

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name: \_\_\_\_\_

#### 4. Business Names

List all names under which you and/or your spouse conducted or did business during the past calendar year. If you or your spouse were self-employed, list the name or names under which you or your spouse conducted the business, trade, sole proprietorship or profession.

☐ Mark here if no business names to report.

self ☐ spouse ☐

self ☐ spouse ☐

self ☐ spouse ☐

#### 5. Employment

For you and your spouse, list the name and address of each full-time or part-time employer(s) during the past calendar year. Include all employment with city, county or state government as well as employment in the private sector. Provide your job title and a general description of your job duties. For purposes of this question, an employer is one who provides you with a W-2 form. This does not include self-employment if listed elsewhere on the Financial Disclosure Statement.

☐ Mark here if neither you nor your spouse were employed.

Employer Name and Address		Job title and duties of your position
self <input type="checkbox"/> spouse <input type="checkbox"/>	1.	
self <input type="checkbox"/> spouse <input type="checkbox"/>	2.	
self <input type="checkbox"/> spouse <input type="checkbox"/>	3.	
self <input type="checkbox"/> spouse <input type="checkbox"/>	4.	

#### 6. 20% Gross Income Categories for you and your spouse

Did you or your spouse receive more than 20% of your gross income during the past calendar year from any one or more of the categories listed below? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, mark with an 'X' all categories that apply to you and/or your spouse.

self	spouse	self	spouse	self	spouse
<b>COMPANIES</b>		<b>MINING</b>		<b>GOVERNMENT</b>	
<input type="checkbox"/>	<input type="checkbox"/> Advertising	<input type="checkbox"/>	<input type="checkbox"/> Surface mining	<input type="checkbox"/>	<input type="checkbox"/> City or town
<input type="checkbox"/>	<input type="checkbox"/> Beer, wine or liquor (or distributor)	<input type="checkbox"/>	<input type="checkbox"/> Mining equipment	<input type="checkbox"/>	<input type="checkbox"/> County
<input type="checkbox"/>	<input type="checkbox"/> Brokerage/Financial Advisor	<input type="checkbox"/>	<input type="checkbox"/> Deep mining	<input type="checkbox"/>	<input type="checkbox"/> State
<input type="checkbox"/>	<input type="checkbox"/> Cable television	<b>OIL OR GAS</b>		<b>ASSOCIATIONS OR ORGANIZATIONS</b>	
<input type="checkbox"/>	<input type="checkbox"/> Chemical	<input type="checkbox"/>	<input type="checkbox"/> Retail	<input type="checkbox"/>	<input type="checkbox"/> Labor Association/Organization
<input type="checkbox"/>	<input type="checkbox"/> Construction	<input type="checkbox"/>	<input type="checkbox"/> Wholesale	<input type="checkbox"/>	<input type="checkbox"/> Professional Association
<input type="checkbox"/>	<input type="checkbox"/> Insurance	<input type="checkbox"/>	<input type="checkbox"/> Exploration	<input type="checkbox"/>	<input type="checkbox"/> Association that promotes gaming or lottery
<input type="checkbox"/>	<input type="checkbox"/> Interstate transportation	<input type="checkbox"/>	<input type="checkbox"/> Production & Drilling	<input type="checkbox"/>	<input type="checkbox"/> Association of public employees or public officials
<input type="checkbox"/>	<input type="checkbox"/> Intrastate transportation	<b>UTILITIES</b>		<input type="checkbox"/>	<input type="checkbox"/> Trade Association or Organization
<input type="checkbox"/>	<input type="checkbox"/> Manufacturing	<input type="checkbox"/>	<input type="checkbox"/> Electric	<b>OTHER</b>	
<input type="checkbox"/>	<input type="checkbox"/> Media	<input type="checkbox"/>	<input type="checkbox"/> Gas	<input type="checkbox"/>	<input type="checkbox"/> Economic Development
<input type="checkbox"/>	<input type="checkbox"/> Promotional	<input type="checkbox"/>	<input type="checkbox"/> Telephone	<input type="checkbox"/>	<input type="checkbox"/> Hospitals or other health care providers
<input type="checkbox"/>	<input type="checkbox"/> Race tracks	<input type="checkbox"/>	<input type="checkbox"/> Water	<input type="checkbox"/>	<input type="checkbox"/> Information Technology
<input type="checkbox"/>	<input type="checkbox"/> Recreation	<b>FINANCIAL</b>		<input type="checkbox"/>	<input type="checkbox"/> Legal service providers
<input type="checkbox"/>	<input type="checkbox"/> Retail	<input type="checkbox"/>	<input type="checkbox"/> Banks, Savings & Loan Assoc.	<input type="checkbox"/>	<input type="checkbox"/> Lobbying
<input type="checkbox"/>	<input type="checkbox"/> Timber	<input type="checkbox"/>	<input type="checkbox"/> Loan or Finance Companies		
<input type="checkbox"/>	<input type="checkbox"/> Wholesale				
<input type="checkbox"/>	<input type="checkbox"/> Waste disposal				



Name: \_\_\_\_\_

## 7. For-Profit Business

List the name and address of each for-profit business on which either you or your spouse served on the Board of Directors or as an officer during the past calendar year. Describe the type of business.

☐ Mark here if neither you nor your spouse served on a Board of Directors or was an officer of a for-profit business.

Name and address of the business	Description of the business
self <input type="checkbox"/> spouse <input type="checkbox"/>	
self <input type="checkbox"/> spouse <input type="checkbox"/>	
self <input type="checkbox"/> spouse <input type="checkbox"/>	
self <input type="checkbox"/> spouse <input type="checkbox"/>	

## 8. Non-Profit Organization

List the name and address of each non-profit organization on which either you or your spouse served on the Board of Directors or as an officer during the past calendar year. Describe the non-profit organization.

☐ Mark here if neither you nor your spouse served on a Board of Directors or was an officer of a non-profit organization.

Name and address of the organization	Description of the non-profit
self <input type="checkbox"/> spouse <input type="checkbox"/>	
self <input type="checkbox"/> spouse <input type="checkbox"/>	
self <input type="checkbox"/> spouse <input type="checkbox"/>	
self <input type="checkbox"/> spouse <input type="checkbox"/>	

## 9. Sales or Contracts with State, County or Local Government

During the past calendar year, did you or your spouse have any sales or contracts with any unit of state, county or local government? **Yes** \_\_\_\_\_ **No** \_\_\_\_\_ (Sales or contracts for goods or services may be either direct or through a partnership, corporation or association in which either you or your spouse owned or controlled more than 10 percent.)

**If yes**, identify the government agency that purchased the goods or services, and describe the nature of the goods or services. (See the instruction sheet for more information about the Ethics Act's prohibition against having an interest in a public contract under W. Va. Code § 6B-2-5(d).)

Name of Government organization	Description of goods or services provided
self spouse <b>X</b> Example: State of WV DHHR	Foster home placement studies
self <b>X</b> spouse Example: Clay County Sheriff's Department	Rental of garage space for patrol cars
self <input type="checkbox"/> spouse <input type="checkbox"/>	
self <input type="checkbox"/> spouse <input type="checkbox"/>	
self <input type="checkbox"/> spouse <input type="checkbox"/>	

## 10. Adult Children – Public Employment

List the name and business address of any adult child or step-child employed by any unit of state, county or local government during the past calendar year. ☐ Mark here if this question does not apply to you.

Name of child or step-child	Business address

Name: \_\_\_\_\_

## 11. DEBTS

**A. Owed to others on the date you sign this form:** List the names of all persons residing or transacting business in the state who you owe more than \$5,000 (in the aggregate) on the date of this Statement. Include debts you owe in the name of any other person and debts on which you are a cosigner.

You **DO NOT** have to report:

1. Debts to immediate family members, parents or grandparents
2. Home mortgages for your primary and secondary residences
3. Loans for autos maintained for the use of your immediate family
4. Student loans
5. Debts resulting from the ordinary conduct of your business, profession or occupation
6. Debts to a financial institution or to a credit card company

If any debt over \$5,000, which is otherwise non-reportable, required the approval of the state or any of its political subdivisions, or if a loan was obtained from the "Linked Deposit Program" (W. Va. Code § 12-1A-1 et seq.), you must list the debt.

☐ Mark here if you owe no debts as described above.

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**B. Owed to you on the date you sign this form:** List the names of all persons residing or transacting business in the state who owe you, in the aggregate, more than \$5,000 on the date of this Statement (either in your name or any other person's name for your use or benefit.)

You **DO NOT** have to report:

1. Debts from immediate family members, parents or grandparents
2. Debts resulting from the ordinary conduct of your business, profession or occupation
3. Demand or saving accounts in banks, savings and loan associations, or other similar depositories
4. Loans by you to any business in which you have an ownership interest

☐ Mark here if you had no debts owed to you as described above.

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## 12. GIFTS

A **gift** is anything with monetary value, including meals and beverages. During the past calendar year, if you, your spouse, and/or any of your dependents received one or more gifts whose total value is more than \$100 from a person, business or organization which has a direct and immediate interest in a governmental activity over which you have control, then list the name of each giver **UNLESS** it falls into one of the exceptions listed below. "Total value" includes the cumulative fair market value of all gifts from the same source, directly or indirectly, during the past calendar year.

Gifts from the following sources need **NOT** be reported:

1. your spouse, child, grandchild, parents or grandparents
2. a trust established by your spouse, child, grandchild or ancestor
3. a will or lawful inheritance in the absence of a will
4. a registered lobbyist (*registered lobbyists report these expenditures on the Lobbyist Schedule A form with their Lobbyist Activity Reporting forms*)

☐ Mark here if you received no gifts as described above.

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Name: \_\_\_\_\_

**This page applies to questions 13 and 14 on the next page.**

**\*\* If you are an elected official, candidate or state employee, you do not need to complete Worksheet A.**

**You must, however, answer questions 13 and 14 about you and your spouse.**

**\*\* All other filers:** If you have been appointed to serve on a State Board, Commission or Agency by the Governor and receive no compensation for your service, you may not be required to report certain financial information about your spouse. Complete Worksheet A to determine if this spousal exemption applies. You still must report your own income and business information in questions 13 and 14.

### **Worksheet A (for questions 13 and 14)**

**Part 1. Are you a State Board, Commission or Agency member appointed by the Governor?**

**YES** \_\_\_\_\_ Continue to Part 2.

**NO** \_\_\_\_\_ **DO NOT** complete parts 2 or 3 on this page. Continue to questions 13 and 14 on the next page and answer the questions for both you and your spouse.

**Part 2. Do you hold another office or employment position that requires you to file this Financial Disclosure Statement?**

**YES** \_\_\_\_\_ **DO NOT** complete part 3 on this page. Continue to questions 13 and 14 on the next page and answer the questions for both you and your spouse.

**NO** \_\_\_\_\_ Continue to Part 3.

**Part 3. Complete this section to determine if you are exempt from disclosing certain financial information about your spouse in questions 13 and 14 on the next page.**

List the name of the State Board, Commission or Agency of which you are an appointed member:

Board name: \_\_\_\_\_

**Check each box that applies:**

1. ☐ There is no compensation, per diem, salary or other payment authorized by state law for serving on this Board or Commission. (Excluding travel or expense reimbursement) Note: The test is not whether you decline compensation but whether it is authorized by code, statute or law.
2. ☐ Neither my spouse nor a business with which he or she is associated is regulated by the State Board, Commission or Agency on which I serve by appointment. ("Associated" is defined as a business in which your spouse, or his or her immediate family member, is a director, officer, owner, employee, compensated agent or holder of stock which constitutes five percent or more of the total outstanding stocks of any class. "Immediate family member" means dependent children, grandchildren or parents.)
3. ☐ Neither my spouse nor a business with which he or she is associated has a contract with, or receives any grants or appropriations from, the State Board, Commission or Agency on which I (the filer) serve.

-----  
**➔ If you have checked all three boxes in Part 3 above, then answer questions 13 and 14 on the next page as they pertain only to you.**

**➔ If you did not check all three boxes in Part 3, you must answer questions 13 and 14 in their entirety as they pertain to both you and your spouse.**

Name: \_\_\_\_\_

**13. ALL sources of income over \$1,000 including employment during the past calendar year** *(To determine if you must disclose income information about your spouse, refer to Worksheet A)*

- List every source or category of income or employment over \$1,000 received by you and/or your spouse during the past calendar year in your name, or by any other person for your use or benefit. Include employment even if listed elsewhere on this Statement.
- Include distributions received from retirement and pension accounts.
- Do not list specific names of clients or customers. *For example*, if you are a lawyer or an insurance agent, do not list the names of your clients.
- Do not disclose actual dollar amounts of income, only the source.

Indicate if the income was received by you or your spouse by marking the appropriate box in the chart below.

Categories of income over \$1,000	Description (or job title)
self <input checked="" type="checkbox"/> spouse <input type="checkbox"/> Example: Social Security	U.S. Government
self <input checked="" type="checkbox"/> spouse <input checked="" type="checkbox"/> Example: Sold real estate	Sold residence in Beckley
self <input checked="" type="checkbox"/> spouse <input type="checkbox"/> Example: Farming/timber	Sold timber from my farm
self <input type="checkbox"/> spouse <input checked="" type="checkbox"/> Example: Employment	Teacher, Mingo County schools
self <input type="checkbox"/> spouse <input type="checkbox"/>	
self <input type="checkbox"/> spouse <input type="checkbox"/>	
self <input type="checkbox"/> spouse <input type="checkbox"/>	
self <input type="checkbox"/> spouse <input type="checkbox"/>	
self <input type="checkbox"/> spouse <input type="checkbox"/>	
self <input type="checkbox"/> spouse <input type="checkbox"/>	

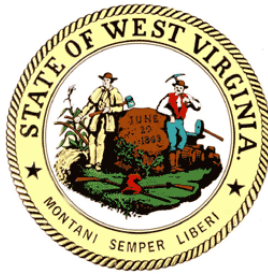
**14. Business and/or Property Interests** *(To determine if you must disclose business or property interests of your spouse, refer to Worksheet A)*

List the name and address of each business in which, during the past calendar year or at present, you or your spouse held an interest with a fair market value of \$10,000 or more including, but not limited to: non-publicly owned businesses, publicly or privately traded stocks, bonds or securities, including those held in self-directed retirement accounts, and commercial real estate. (For purposes of this question, DO NOT include mutual funds or specific holdings in mutual funds or retirement accounts. However, distributions from retirement accounts must be reported in question 13 if they are greater than \$1,000 annually.) Attach additional sheets if necessary.

☐ Mark here if neither you nor your spouse had any interest in a business or real estate as described above.

self <input type="checkbox"/> spouse <input checked="" type="checkbox"/> Example: Jones Coal Hauling, 123 Main Street, Placeville WV
self <input checked="" type="checkbox"/> spouse <input type="checkbox"/> Example: Stonefront Apartment Building, 123 Main Street, Charleston WV 25312
self <input checked="" type="checkbox"/> spouse <input checked="" type="checkbox"/> Example: Acme Bank Stock, 788 Water Street, Cincinnati OH 34343
self <input type="checkbox"/> spouse <input type="checkbox"/>
self <input type="checkbox"/> spouse <input type="checkbox"/>
self <input type="checkbox"/> spouse <input type="checkbox"/>

Rev: 09/2021



# The Ethics Act

## A Code of Conduct for Public Servants

West Virginia Ethics Commission  
210 Brooks Street, Suite 300  
Charleston, WV 25301  
(304)558-0664 Fax (304)558-2169  
Toll Free (866)558-0664  
Email: [ethics@wv.gov](mailto:ethics@wv.gov) Website: [www.ethics.wv.gov](http://www.ethics.wv.gov)

## What is the Ethics Act?

The West Virginia Governmental Ethics Act (W. Va. Code §§ 6B-1-1 through 6B-3-11) is a code of conduct to guide public officials and public employees in avoiding conflicts between their personal interests and their public responsibilities.

## Who is covered by the Act?

The code of conduct established by the Act applies to all full-time and part-time public servants (public employees, elected and appointed public officials) who serve in the legislative, judicial and executive branches of state, county and municipal governments and their respective boards, commissions and agencies.

## What is the Ethics Commission?

The West Virginia Ethics Commission was created to administer the Ethics Act. It is comprised of nine part-time citizen members appointed by the Governor and approved by the West Virginia Senate. The Commission is supported by a staff of five full-time and two part-time employees.

## What does the Commission do?

The Ethics Commission is responsible for enforcing the Ethics Act and advising public servants regarding the Act.

Many questions from the public can be addressed by staff over the phone. Please call (304)558-0664 or contact staff by email at [ethics@wv.gov](mailto:ethics@wv.gov).

Some questions require consideration by the full Commission at its regular monthly meeting through the issuance of a written Advisory Opinion.

The Commission's Committee on Open Governmental Meetings answers questions from governing bodies and their members, and provides Advisory Opinions on the meaning and application of the Open Meetings Act .

The Committee on Standards of Conduct for Administrative Law Judges answers questions from ALJs and provides Advisory Opinions to them which interpret the Code of Conduct for State Administrative Law Judges. It also rules on complaints filed against ALJs.

The Ethics Commission is also responsible for the registration and reporting of lobbyists and for the processing of Financial Disclosure Statements.

## Minimal Ethical Standards\* Established by the Act

*\*Agencies may impose stricter rules of conduct than those set forth in the Ethics Act.*

### Private Gain

The basic principle underlying the code of conduct created by the Ethics Act is that those in public service must use their positions for the benefit of the public and not for their own private gain or for the private gain of another.

For example:

- Public servants may not use their agency's supplies or equipment for personal projects or activities.
- Public employees and full-time appointed officials may not work on personal projects or activities during work hours for which they are paid by their government employer.
- Public servants may not use subordinates to work on personal projects or activities during work hours or compel them to do so on their own time.

## **Nepotism**

The Ethics Act prohibits “nepotism,” which is favoritism shown or patronage granted in employment or working conditions by a public official or public employee to relatives or persons with whom the public official or public employee resides. “Public official” and “public employee” include all elected and appointed public officials and public employees, whether full- or part-time, in state, county, municipal governments and their respective boards, agencies, departments and commissions and in any other regional or local governmental agency, including county school boards.

"Relative" means spouse, mother, father, sister, brother, son, daughter, grandmother, grandfather, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law or daughter-in-law.

A public agency, including its officials and employees, must administer the employment and working conditions of a relative of a public employee or a public official or a person with whom the public official or employee resides in an impartial manner. To the extent possible, a public official or public employee may not participate in decisions affecting the employment and working conditions of his or her relative or a person with whom he or she resides. If he or she is one of several people with the authority to make these decisions, others with authority shall make the decisions.

A public official or public employee may not directly supervise a relative or a person with whom he or she resides. This prohibition includes reviewing, auditing or evaluating work or taking part in discussions or making recommendations concerning employment, assignments, compensation, bonuses, benefits, discipline or related matters. This prohibition does not extend to matters affecting a class of five or more similarly situated employees.

If a public official or public employee must participate in decisions affecting the employment, working conditions or supervision of the public official or public employee’s relative or a person with whom the public official or public employee resides, then:

- An independent third party shall be involved in the process. A public official or public employee may not use a subordinate for the independent third party unless it is an elected public official who may not lawfully delegate the powers of his or her office, *e.g.*, county assessor or county clerk, and
- The public official or employee shall exercise his or her best objective judgment in making the decision, and be prepared to justify his or her decision.

## **Gifts**

The Ethics Act provides that public officials and public employees may not solicit a gift unless the solicitation is for a charitable purpose, and the charitable purpose must be one from which they and their immediate family members derive no direct personal benefit. (However, see the exceptions set forth below.)

Public officials and employees may not directly solicit a subordinate for any gift even if the gift is for a charitable purpose. The Ethics Act’s prohibition against solicitation of gifts does not apply to solicitation of political contributions.

The Ethics Act prohibits public officials and public employees from accepting gifts from lobbyists, or any person whom the official or employee knows or has reason to know is doing or seeking to do business of

any kind with his or her agency; is engaged in activities which are regulated or controlled by his or her agency; or has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his or her official duties.

Notwithstanding the general prohibitions set forth in the prior two sections against public officials and employees accepting gifts, the Ethics Act provides that the following types of gifts **may** be accepted by public employees or public officials from lobbyists or others:

- (A) Meals and beverages of any dollar value may be accepted if the person purchasing the meal is present. Otherwise, public officials and employees may accept meals and beverages totaling \$25;
- (B) Ceremonial gifts or awards which have insignificant monetary value;
- (C) Unsolicited gifts of nominal value or trivial items of informational value are permissible if the value of any one item, or a combination of items from the same source, given to a public official or employee does not total more than \$25 in one calendar year;
- (D) Reasonable expenses for food, travel and lodging of the official or employee for a meeting at which the official or employee participates in a panel or has a speaking engagement. A public official or employee **may not** accept expenses for amenities at the event such as free golf or spa treatments unless they are part of the room package for all guests staying at the hotel. Reasonable expenses for food, travel and lodging for one guest to attend may be accepted;
- (E) Gifts of tickets or free admission extended to a public official or public employee to attend charitable, cultural or political events if the purpose of such gift or admission is a courtesy or ceremony customarily extended to the office and the tickets are given by the sponsor of the event. Free tickets to sporting events may only be accepted if the ticket is \$25 or less and the ticket is given by a sponsor of the event. If the price of entrance is greater than \$25, an official may accept the ticket only if it is incidental to the conduct of official or ceremonial duties;
- (F) Gifts that are purely private and personal in nature, or
- (G) Gifts from relatives by blood or marriage or a member of the same household.

## **Selling to Subordinates**

Although they may choose to buy from a supervisor, a public servant may not personally solicit (in person, by phone or by personal letter) private business from subordinates who the public servant directs, supervises or controls. Solicitations directed to the public at large for sale of property which the public servant is not regularly engaged in selling are permitted.

## **Voting\***

A public official may not vote on a matter in which she, or an immediate family member, has a financial interest or matters involving a business with which she or an immediate family member is associated.

Legislative voting is governed by a separate provision in the Act which permits voting by Legislators after a ruling from the presiding officer in their chamber regarding a potential conflict is obtained.

*\*See **Voting Provisions of the WV Ethics Act** Guideline for detailed information.*



## **Private Interests in Public Contracts, Purchases & Sales**

A public servant may not have a financial interest in any contract, purchase or sale over which her public position gives her control. The public servant's spouse, dependent parents or dependent children also may not have such an interest unless the total value of the contracts, purchases or sales is less than \$1,000 in a calendar year. The Commission has authority to grant an agency a hardship exemption from this provision.

This provision applies only to:

- (1) those contracts which one's job gives him authority to award or control, and
- (2) those purchases and sales he is authorized to make or direct others to make.

Part-time appointed officials (except those covered by W. Va. Code § 61-10-15) are not subject to this prohibition provided they recuse themselves from considering and acting on such matters consistent with the provision regarding voting.

## **Use of Name or Likeness Using Public Funds**

This section of the Act is commonly referred to as the "trinkets statute" and provides that public officials, their agents, or anyone on the public payroll may not place the official's name or likeness on trinkets and other places paid for with public funds in violation of the section's limitations and prohibitions. This section is set forth in W. Va. Code § 6B-2B-1 through -6.

This section of the Act provides limitations and prohibitions on the use of public officials' names or likenesses on "trinkets," advertising, vehicles, table skirts, banners, educational materials, websites and social media if these items are paid for with public funds.

The statute does not prohibit a public official's name and likeness on any official record, official report, letterhead, or document, certificate or instructional material issued in the course of his/her duties as a public official. Other official documents, such as fax cover sheets, press release headers, office signs and envelopes may include the public official's name, but not his or her likeness.

## **Licensing & Rate-Making**

A public servant may not take official action on a license or rate-making matter affecting an entity in which she, or the members of her immediate family, own or control an interest of 10% or greater. In addition, unless he files a prior written public disclosure with his agency, a public servant may not take official action on a license or rate-making matter affecting a person to whom the entity in which he has an interest has sold goods or services totaling more than \$1,000 during the preceding year.

## **Changing Jobs**

Full-time public servants may not: (1) seek employment with, (2) be employed by or (3) seek to purchase from, or sell or lease real or personal property to, any person or business:

- (a) that has a matter before the agency on which they are taking, or a subordinate is known to be taking, regulatory action, or
- (b) that had, within the preceding 12 months, a matter on which they took, or a subordinate is known to have taken, regulatory action.

The Ethics Commission has authority to grant an exemption from this prohibition.

## **Conflicts of Interest: Employment**

Full-time public servants may not take personal regulatory action on matters affecting a person:

- (a) by whom they are secondarily employed, or
- (b) with whom they are seeking employment or have an agreement concerning future employment.

## **Dual Compensation**

No public servant may receive compensation from two sources in state, county or municipal government for working the same hours except under certain limited circumstances. Persons who are allowed to make up time missed with a governmental employer to perform the duties of another governmental position are required to maintain specific time records. Their employers are required to submit these records to the Ethics Commission on a quarterly basis.

## **Private Pay Prohibited**

Full-time public servants may not accept private pay for providing information or services which are within the scope of their public duties. They cannot sell, even on their own time, services which their public position requires them to provide.

# **Limitations During and After Governmental Service**

**Confidential Information:** Public servants may not, during or after governmental service, knowingly and improperly disclose confidential information acquired through their public positions or use it to further the personal interests of themselves or of another person.

**Prohibited Representation:** The Ethics Act requires a public servant to obtain her agency's consent before she represents a client in a matter in which she is or was substantially involved on behalf of the agency. This applies both during and after the person's governmental service.

The prohibition applies only to those matters in which the public servant was personally involved in a decision-making, advisory or staff support capacity. It does not apply to legislators or legislative staff.

**Limitation on Practice:** Certain public servants are prohibited from representing persons before the agency which they serve during their employment or service and for one year after the termination of their employment or service. This is referred to as the "revolving door prohibition."

This prohibition applies only to elected and appointed public officials and full-time staff attorneys and accountants in agencies authorized to hear contested cases or make regulations.

This prohibition applies to representation in contested cases, regulation filings, license or permit applications, rate-making proceedings and in efforts to influence the expenditure of public funds. It does not apply to legislators or legislative staff.

The Ethics Commission has authority to grant an exemption from this prohibition.

**Lobbying:** The following public officers or employees may not, during or for one year after the termination of their public employment or service, be allowed to register as lobbyists:

- (1) Members of the Legislature;

(2) Members of the Executive Department as referenced in article VII, section one of the Constitution of West Virginia (Governor, Secretary of State, Auditor, Treasurer, Commissioner of Agriculture and Attorney General);

(3) Will and pleasure professional employees of the Legislature under the direct supervision of a member of the Legislature;

(4) Will and pleasure professional employees of members of the Executive Department under the direct supervision of the Executive Department officer and who regularly, personally and substantially participates in a decision-making or advisory capacity regarding agency or department policy;

(5) Members of the Supreme Court of Appeals;

(6) Secretaries of the Departments of Administration, Education and the Arts, Environmental Protection, Health and Human Resources, Military Affairs and Public Safety, Revenue, Transportation, Commerce and Veterans' Assistance; and

(7) Heads of any state departments or agencies.

## For County Public Servants Only

Certain county personnel are also subject to W. Va. Code § 61-10-15, which is a criminal statute containing a similar, but more comprehensive, prohibition regarding contracts. The Ethics Commission is responsible for advising public servants about this statute but has no role in its enforcement.

W. Va. Code § 61-10-15 applies to:

(1) elected county officials (including sheriffs, county commissioners and school board members),

(2) appointed county officials (those who serve on county boards, commissions, authorities and agencies), and

(3) public school superintendents, principals and teachers.

It does not apply to other county workers.

W.Va. Code §61-10-15 prohibits these county employees and officials from having personal financial interests, directly or indirectly, in a contract, purchase or sale over which their public position gives them "voice, influence or control." The prohibition extends to their spouses, those whom they support, and businesses in which they have an ownership interest or by which they are employed.

The Ethics Commission has authority to grant exemptions to a county agency based upon documented hardship.

W.Va. Code §61-10-15 imposes strict limitations on nepotism in employment. County officials may not hire their spouses or dependent family members.

There are certain very specific exceptions to this statute. Contact the Ethics Commission with questions.

## Complaints

The Ethics Commission and its Probable Cause Review Board investigate and resolve violations of the Ethics Act. Any citizen who is aware of a violation of the Act may file a written complaint with the Commission. In addition, the Commission itself may initiate a complaint if it receives credible evidence of a material violation of the Act.

Complaints are first reviewed by the three-member Probable Cause Review Board to determine whether the allegations in the complaint would constitute a violation of the Ethics Act. The Review Board dismisses complaints which allege trivial or inconsequential violations without an investigation.

If a complaint is investigated, at the conclusion of the investigation the Review Board may either dismiss the complaint or issue an order finding that there is probable cause to believe that the person against whom the complaint was filed violated the Ethics Act. The matter will then proceed to a public hearing or be resolved through a settlement, or “conciliation,” agreement.

Persons found guilty of a material violation of the Act may be publicly reprimanded and fined up to \$5,000 per violation. The Commission also may order restitution, reimbursement to the Ethics Commission for its costs, or recommend that the person be terminated from employment or removed from office.

It is a violation of the Act to give false and misleading information to the Commission or to procure or induce another to provide false information to the Commission. If the Commission finds by clear and convincing evidence that a complaint was made in bad faith it may issue sanctions against the person who filed the complaint.

West Virginia Ethics Commission  
210 Brooks Street, Suite 300  
Charleston, WV 25301  
(304)558-0664 Fax (304)558-2169  
Toll Free (866)558-0664  
Email: [ethics@wv.gov](mailto:ethics@wv.gov) Website: [www.ethics.wv.gov](http://www.ethics.wv.gov)

Revised July 7, 2017

# Division of Highways Rules for the Placement of Political Signs

Please keep the following rules in mind when displaying campaign materials:

- Signs or posters cannot be placed on or above a Division of Highways right of way. Contact the West Virginia Division of Highways if you are uncertain.
- Signs or posters near rights of way must comply with outdoor advertising statute in Chapter 17, Article 19, Section 1 of the West Virginia Code, and must also conform to any municipal ordinances regulating outdoor advertising.
- Signs or posters cannot be placed on Division of Highways traffic control signs nor block such signs, and cannot obscure the view of any connecting road or intersection.
- Signs or posters cannot be placed on elements in nature, such as rocks or trees.
- Avoid placing materials on fence posts, utility poles, or other stationary objects on private property without consent of the property owners.
- Political overhead banners cannot be erected over any county, state, or federal highway.

DOH Communications Main Line: 304-558-2822 | [www.transportation.wv.gov](http://www.transportation.wv.gov)



# 2022

# RUNNING FOR

# OFFICE GUIDE

WEST VIRGINIA SECRETARY  
OF STATE'S OFFICE

ELECTIONS DIVISION

December 23, 2021

## CONTACT

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State Capitol Building, 157-K  
Charleston, WV 25305

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## THE DECISION TO BE A CANDIDATE

Public office is a serious commitment of service to the citizens of West Virginia. Before you decide to file for office, think carefully about your personal situation and seek an office that fits your other responsibilities.

## LEARN HOW ELECTIONS WORK IN WEST VIRGINIA

### Political Parties

There are four recognized political parties that have automatic ballot access in West Virginia:

Democratic Party  
Libertarian Party  
Mountain Party  
Republican Party

These parties will nominate candidates for offices on the General Election ballot in the Primary Election, by convention, or by other means of selection as determined by party rules. (W. Va. Code § 3-1-8.) If you are a member of one of these parties and need more information, please contact your Party Chairperson for information on their nomination process.

Individuals may also run as "No Party" or as "Write-in" candidates. You may find more information about running as a "No Party" or as a "Write-in" candidate in Section I of this guide.

**Primary Election:** Primary Elections are elections held for the purpose of nominating candidates by political parties for offices on the General Election ballot.

**Nonpartisan elections:** state law requires certain elected positions to be "nonpartisan," for which candidates run as individuals and not affiliated with any political party. Nonpartisan elections are most often held in conjunction with Primary Elections.

The following nonpartisan offices will be elected in the Primary Election in 2022:

- Board of Education
- Conservation District Supervisor
- Greater Huntington Park and Recreation District
- Political Party Executive Committee (State, County, and District)
- Any vacancy in a non-partisan office that requires a special election for the election of a candidate.

Candidates for the following offices will be nominated in the Primary Election in 2022:

- U.S. House of Representatives
- State Senator
- House of Delegates
- County Clerk
- County Commission/Council
- Circuit Clerk
- Any vacancy that requires the nomination of a candidate for special election to be held in the General Election

**General Election:** An election to choose from individuals that have been officially certified as candidates on the ballot or certified as write-in candidates.

### ***ARE YOU ELIGIBLE TO RUN?***

It is a fundamental right to run for office for those that are eligible. Importantly, it is the candidate's responsibility to determine whether they are eligible to become a candidate or hold the office. Please review the requirements for the office to make sure you meet the prerequisites set out for minimum age, residency, and any other requirements specific for that office.

"Residence" has been defined by the West Virginia Supreme Court as the place where you physically live and intend to remain indefinitely. A business location where you do not live cannot be established as a residence. Property which you rent to someone else is not your residence. A post office box does not establish residence. Some offices require you to be a resident for a length of time before election, by the time of filing for office, or by the time of taking office. Below are extracts from court cases with more details about the definition of "residence."

- "In West Virginia, the term 'residence' is synonymous with the term 'domicile' for election law purposes." Syl. pt. 7, *White v. Manchin*, 173 W.Va. 526 (1984). "The important facts in determining the domicile of a person who has more than one residence are the physical character of each, the time spent and the things done in each place, and whether or not there is an intention to return to the original domicile." Syl. pt. 4, *Shaw v. Shaw*, 155 W. Va. 712, 712-13, 187 S.E.2d 124, 125 (1972). "A man may live in several different places but he can have only one domicile. Domicile is a place a person intends to retain as a permanent residence and go back to ultimately after moving away." Syl. Pt. 2, *Shaw v. Shaw*, 155 W. Va. 712, 712, 187 S.E.2d 124, 125 (1972).

- “Domicile is a combination of residence (or presence) and an intention of remaining. If domicile has once existed, mere temporary absence will not destroy it, however long continued.” Syl. Pt. 2, Lotz v. Atamaniuk, 172 W.Va. 116, 304 S.E.2d 20 (1983).

Also, make sure you are not prohibited from running by reviewing the requirements set by the United States Constitution, West Virginia Constitution, West Virginia State Election laws, and Ethics Regulations. In very limited circumstances, the Secretary of State and county and municipal officials determine disputes regarding candidate’s eligibility. Instead, these legal disputes are mostly resolved in court.

### ***CAN YOU RUN FOR OFFICE AND CONTINUE YOUR PRESENT JOB?***

Many factors can affect your ability to run for office, some of which are outlined below:

- Board of education members and judicial officers must resign upon filing for any partisan office, and members of other boards and commissions may also be restricted from political activity.
- The **Hatch Act** covers the political activity of federal employees and some state and local employees in programs financed by federal loans or grants. The Hatch Act was amended in 2012. The most current specifics of the Hatch Act can be reviewed on this website: [osc.gov](http://osc.gov).
- The **West Virginia Division of Personnel** covers the political activity of state classified employees. For direction regarding permitted and prohibited political activities, visit [personnel.wv.gov/sections/emprel](http://personnel.wv.gov/sections/emprel) or call the Division of Personnel at (304) 558-3950.

If you think a conflict might exist for you, you should consult with your human resources or personnel director of your existing employer.

## **SECTION I: BECOMING A CANDIDATE**

### **FILING AS A PRE-CANDIDATE (W. Va. Code § 3-8-5e)**

Filing for pre-candidacy is not declaring your candidacy for that office; rather, it gives you the ability to raise money in support of your candidacy prior to filing the official Certificate of Announcement.

You must file a Pre-Candidacy Registration Form before you start raising and spending money for a possible candidacy. You must also declare a treasurer who will be responsible for your committee's financial transactions at the time you file. It is the responsibility of the treasurer to receive, keep, and disburse all sums of money. A candidate may act as the treasurer of the committee, but it is important to note that judicial candidates are prohibited from acting as treasurer.

### ***WHEN TO FILE AS A PRE-CANDIDATE***

**Offices with terms four years or less:** You may file as a pre-candidate beginning the day after the General Election that precedes the term of office you are seeking.

**Offices with terms more than four years:** You may file no more than four years preceding the term of office you are seeking. (W. Va. Code § 3-8-5e)

### ***REPORTING REQUIREMENTS OF A PRE-CANDIDATE***

Pre-candidates must report every sum of money, item or service of value received, all expenditures made, and liabilities incurred. The pre-candidate is required to file quarterly reports in accordance with the reporting schedule for campaign finances. The report must identify all contributions and expenditures occurring after the previous was report filed, if applicable. Since all funds for the committee are the responsibility of the treasurer, it is highly recommended that you choose a treasurer for your committee early in the campaign.

### ***CREATING A COMMITTEE NAME***

The name of your committee can be anything that is relevant to your candidacy.

Some common committee names include:

Committee to Elect \_\_\_\_\_  
\_\_\_\_\_for Delegate 2022  
Friends of \_\_\_\_\_

Your committee's name must be printed on campaign materials and advertisements, indicating that it was paid for by the committee.

### ***COMMITTEE BANK ACCOUNT***

This office strongly recommends that your committee's bank account be separate and distinct from your personal bank account. It is against the law to use campaign money for personal benefit. Mixing personal and campaign funds may lead to criminal charges. (W. Va. Code § 3-8-9)

## DECLARING YOUR CANDIDACY

You must use the Certificate of Announcement to declare your candidacy. All required information on the form must be provided. The form must be signed and notarized. Any missing information or signatures may cause the form to be rejected.

At the time of filing your Certificate of Announcement, you must also pay the filing fee or submit equivalent documentation to meet the fee requirements. Many of the filing fees are based on the salary of the position you are seeking. If the salary of the position you seek changes, the filing fee will change accordingly.

For the 2022 election cycle, candidates must file a Certificate of Announcement during the following period: **Monday, January 10, 2022 to midnight on Saturday, January 29, 2022.**

The Certificate of Announcement cannot be accepted prior to January 10, 2022. If the form is received or postmarked before January 10, 2022, it will be returned. Filings that are mailed must be postmarked by the U.S. Postal Service before midnight on January 29. If you use an express shipping service (UPS, FedEx, DHL, etc.) your filing must be **received** by midnight on January 29 in the correct filing office. The dates provided by these services are not equivalent to postmarks. Check with the appropriate filing office for hours of operation on the last day of filing.

### ***WHERE TO FILE***

**Secretary of State:** candidates for Federal office, Statewide office, State Senate, House of Delegates, judicial office (excluding Magistrate), and those running for an office spanning more than one county.

**County Clerk:** candidates for an office which is entirely within one county that are not listed as filing with the Secretary of State above, including Magistrate.

**Municipal Recorder:** candidates for a municipal office.

If you are filing with the Secretary of State, you may pay by check, credit card, cash, or money order. If payment is by check and it is returned for insufficient funds, you will not be certified as a candidate until the filing is resubmitted with sufficient payment. Checks should be made payable to the Secretary of State's Office.

Please contact your county clerk for specific fees for county offices and the type of payment they can accept.

\*\*\* Filing the Certificate of Announcement with the correct office is crucial. If the document is not received in the correct filing office or mailed by the deadline you will not be certified as a candidate. **Late filings cannot be accepted.** \*\*\*

**ALLOWABLE NICKNAMES ON THE BALLOT** (W. Va. C.S.R. § 153-14-et. seq.)

A nickname may be used on the ballot by using quotation marks, parenthesis, or in lieu of the candidate's first name. A candidate may not use a title or position such as Dr., Rev., Sen., or Sheriff, or a common meaning of status, such as Sarge, Coach, or Doc. A nickname shall also be limited to one word and the length of the name on the ballot cannot be more than 25 characters.

**BALLOT POSITIONING** (W. Va. Code § § 3-5-13a and 3-6-2)

Candidates on the General Election ballot will be placed in order of their party's performance in the previous Presidential Election. Ballot positions shall be randomly selected for non-partisan elections or within a race that includes partial randomization of those elections that include more than one partisan nomination for any office or division. The drawing for the Primary Election will be held at 9:00 a.m. on February 22, 2022 (fourth Tuesday following the close of candidate filing) and for the General Election, at 9:00 a.m. on August 30, 2022 (seventieth day preceding the election).

**LAST DAY TO WITHDRAW** (W. Va. Code § 3-5-11)

The last day to withdraw your name from the ballot and decline to run as a candidate for the office is February 15, 2022 (third Tuesday following close of candidate filing). You must file the Certificate of Withdrawal in the same filing office where you filed the Certificate of Announcement. This filing must be received in the correct filing office by the deadline. A postmark date does not apply.

**ETHICS COMMISSION PERSONAL FINANCIAL DISCLOSURE** (W. Va. Code § 6B-2-6 and 6B-2-7)

Within ten days of filing the Certificate of Announcement, state candidates (not federal) must file a Candidate Financial Disclosure Statement with the West Virginia Ethics Commission. The Ethics Financial Disclosure Statement is required in addition to campaign finance filings. If this statement is not returned to the Ethics Commission, the candidate's name may not be placed on the ballot, or the candidate may not be allowed to take the oath of office. You may file or download the Candidate Financial Disclosure Statement at [www.ethics.wv.gov](http://www.ethics.wv.gov). Political party executive committee candidates are not required to file this form.

All questions on the Candidate Financial Disclosure Statement must be answered prior to submitting the form to the Ethics Commission. These financial statements are a matter of public record and can be inspected at the Ethics Commission Office.

If there are any questions on how to complete this form, please call the Ethics Commission at (304) 558-0664 or (toll free) 1-866-558-0664. These forms are to be returned to the following address:

**WV Ethics Commission**  
**210 Brooks St., Suite 300**  
**Charleston, WV 25301**

## **FEDERAL OFFICES**

Candidates for federal office must file a Certificate of Announcement with the Secretary of State's Office to be on the ballot in West Virginia. These candidates must also follow the statement of organization and campaign finance reporting regulations of the Federal Election Commission (FEC).

Information on federal candidate filing and reporting requirements can be at [www.fec.gov](http://www.fec.gov) or call the FEC at 800-424-9530 or 202-694-1000.

### **U.S. HOUSE OF REPRESENTATIVES**

<b>Term:</b>	2 years	<b>Minimum Age:</b>	25 years
<b>Salary:</b>	\$174,000*	<b>Residence:</b>	7 year citizen of the U.S.
<b>Filing Fee:</b>	\$1,740*		WV inhabitant when elected

One person will be elected from each of the Congressional Districts. The term begins in January 2023.

### **CONGRESSIONAL DISTRICTS**

#### **First**

Boone  
Braxton  
Cabell  
Calhoun  
Clay  
Fayette  
Gilmer  
Greenbrier  
Jackson  
Kanawha  
Lincoln  
Logan  
Mason

#### **Second**

Barbour  
Berkeley  
Brooke  
Doddridge  
Grant  
Hampshire  
Hancock  
Hardy  
Harrison  
Jefferson  
Lewis  
Marion  
Marshall

McDowell	Mineral
Mercer	Monongalia
Mingo	Morgan
Monroe	Ohio
Nicholas	Pleasants
Pendleton	Preston
Pocahontas	Randolph
Putnam	Ritchie
Raleigh	Taylor
Roane	Tucker
Summers	Tyler
Wayne	Upshur
Webster	Wetzel
Wirt	Wood
Wyoming	

*\*Salaries and filing fees are based on figures available at publication.*

## STATE OFFICES

Candidates for state office must file a Certificate of Announcement with the Secretary of State's Office to be on the ballot in West Virginia.

### **STATE SENATE**

<b>Term:</b>	4 years	<b>Minimum Age:</b>	25 years
<b>Salary:</b>	\$20,000*	<b>Residence:</b>	WV 5 years prior to election.
<b>Filing Fee:</b>	\$200		District & county 1 year prior to election.

17 of the 34 seats in the state senate will be up for election to full terms in 2022. No candidate is eligible to file residing in a county and within the same district already represented by a seated senator.

### ***SENATORIAL DISTRICTS***

**Bold** indicates counties that are entirely within the senate district.

<b><u>District</u></b>	<b><u>Counties in District</u></b>
1	<b>Brooke, Hancock, Marshall, Ohio</b>
2	<b>Doddridge, Marion, Marshall, Monongalia, Tyler, Wetzel</b>



- 3           **Pleasants, Ritchie, Wirt, Wood**
- 4           Cabell, Jackson, **Mason**, Putnam
- 5           Cabell, Wayne
- 6           **McDowell, Mercer, Mingo**, Wayne
- 7           **Boone**, Kanawha, **Lincoln, Logan**
- 8           **Clay**, Jackson, Kanawha, Putnam, **Roane**
- 9           Fayette, **Raleigh, Wyoming**
- 10          Fayette, **Greenbrier, Monroe, Nicholas, Summers**
- 11          **Barbour, Braxton, Pendleton, Pocahontas, Randolph, Upshur, Webster**
- 12          **Calhoun, Gilmer, Harrison, Lewis**, Taylor
- 13          Marion, Monongalia
- 14          **Grant, Hardy, Mineral, Preston**, Taylor, **Tucker**
- 15          Berkeley, **Hampshire, Morgan**
- 16          Berkeley, **Jefferson**
- 17          Kanawha

### **HOUSE OF DELEGATES**

<b>Term:</b>	2 years	<b>Minimum Age:</b>	18 years
<b>Salary:</b>	\$20,000*	<b>Residence:</b>	Resident of district
<b>Filing Fee:</b>	\$100		for 1 year prior to Election.

All 100 seats in the House of Delegates will be on the ballot in 2022. The candidate must know the correct district number before filing.

### ***HOUSE OF DELEGATES DISTRICTS***

**Bold** indicates a county entirely within one district.

*\*District 28 – the 2 members cannot be from the same county*

<b><u>DISTRICT #</u></b>	<b><u># ELECTED</u></b>	<b><u>COUNTIES IN DISTRICT</u></b>
1	1	Brooke, Hancock
2	1	Brooke, Hancock
3	1	Brooke, Ohio
4	1	Ohio
5	1	Ohio
6	1	Marshall
7	1	Marshall, Wetzel
8	1	Tyler, Wetzel, <b>Doddridge</b>
9	1	<b>Pleasants, Ritchie,</b> Tyler
10	1	Wood
11	1	Wood
12	1	Wood
13	1	Wood
14	1	Wirt, Wood
15	1	<b>Roane,</b> Wirt
16	1	Jackson
17	1	Jackson Mason
18	1	Mason, Putnam
19	1	Putnam
20	1	Putnam
21	1	Putnam
22	1	Cabell
23	1	Cabell
24	1	Cabell
25	1	Cabell
26	1	Cabell
27	1	Cabell, Wayne
28	1	Wayne
29	1	Mingo, Wayne
30	1	Lincoln
31	1	Boone, Lincoln, Logan
32	1	Boone
33	1	Logan
34	1	Mingo, McDowell
35	1	Wyoming
36	1	McDowell
37	1	Mercer
38	1	Mercer
39	1	Mercer
40	1	Monroe, Summers
41	1	Summers, Raleigh, Mercer
42	1	Raleigh

43	1	Raleigh, Wyoming
44	1	Raleigh
45	1	Raleigh, Fayette
46	1	Greenbrier, Pocahontas
47	1	Greenbrier, Monroe
48	1	Nicholas, Greenbrier, <b>Webster</b>
49	1	Nicholas
50	1	Fayette
51	1	Fayette
52	1	Fayette, Kanawha
53	1	Kanawha
54	1	Kanawha
55	1	Kanawha
56	1	Kanawha
57	1	Kanawha
58	1	Kanawha
59	1	Kanawha
60	1	Kanawha
61	1	Kanawha
62	1	<b>Calhoun, Clay</b> , Gilmer
63	1	<b>Braxton</b> , Gilmer
64	1	Lewis, Upshur
65	1	Upshur
66	1	Pocahontas, Randolph
67	1	Pendleton, Randolph
68	1	<b>Barbour</b> , Upshur
69	1	Harrison, Lewis
70	1	Harrison
71	1	Harrison
72	1	Harrison, Wetzel
73	1	Marion, <b>Taylor</b>
74	1	Marion
75	1	Marion
76	1	Marion
77	1	Monongalia, Wetzel
78	1	Monongalia
79	1	Monongalia
80	1	Monongalia
81	1	Monongalia
82	1	Monongalia
83	1	Preston
84	1	Preston
85	1	<b>Grant, Tucker</b>

86	1	<b>Hardy</b> , Pendleton
87	1	Mineral
88	1	Hampshire, Mineral
89	1	Hampshire, Morgan
90	1	Berkeley, Morgan
91	1	Berkeley
92	1	Berkeley
93	1	Berkeley
94	1	Berkeley
95	1	Berkeley
96	1	Berkeley
97	1	Berkeley, Jefferson
98	1	Jefferson
99	1	Jefferson
100	1	Jefferson

## **COUNTY OFFICES**

All candidates for county office must file with their respective county clerk. The filing fee for county offices is one percent of the annual salary, except for the Greater Huntington Park and Recreation District. Because county classification is used to determine salary, please contact your county clerk for the filing fee.

All candidates for county office must be qualified voters and some offices have additional qualifications. For more information, you may contact the West Virginia Association of Counties at (304) 346-0591.

### **COUNTY CLERK**

<b>Term:</b> 6 years	<b>Minimum Age:</b> 18 years
<b>Filing Fee:</b> Contact County Clerk	<b>Residence:</b> County

### **CIRCUIT CLERK**

<b>Term:</b> 6 years	<b>Minimum Age:</b> 18 years
<b>Filing Fee:</b> Contact County Clerk	<b>Residence:</b> County

### **COUNTY COMMISSION**

<b>Term:</b> 6 years	<b>Minimum Age:</b> 18 years
<b>Filing Fee:</b> Contact County Clerk	<b>Residence:</b> Open magisterial district

### **BOARD OF EDUCATION**

<b>Term:</b> 4 years	<b>Minimum Age:</b> 18 years
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**Filing Fee:** \$25

**Residence:**

Open magisterial district

**Other:**

High School diploma or  
GED; Training required  
prior to taking office.

Each of the 55 county school systems is governed by a five-member nonpartisan board of education. No more than two members may be elected or serve from the same magisterial district. The residence of incumbent board members continuing in office after July 1, 2022 will govern which magisterial districts have openings. New terms begin July 1, 2022.

### **CONSERVATION DISTRICT SUPERVISOR**

**Term:** 4 years

**Minimum Age:** n/a

**Filing Fee:** \$10

**Salary:** n/a

**Requirements:** Landowner in district; education or experience in conservation.

At least one supervisor will be elected in each county within the fourteen conservation districts in West Virginia. Because of population, Berkeley and Kanawha Counties will elect two. Candidates for supervisor only run for the office in the county in which they reside. For any questions regarding this position, contact the West Virginia Conservation Agency at (304) 558-2204 or [www.wvca.us](http://www.wvca.us).

### **GREATER HUNTINGTON PARK & RECREATION DISTRICT SUPERVISORS**

**Term:** 6 years

**Minimum Age:** 18 years

**Salary:** N/A

**Residence:** Must reside in district in  
which they are elected

**Filing Fee:** \$10

Seats for District 1, District 2, District 3, District 5 (1 full term and 1 unexpired), and Westmoreland District (unexpired) will be on the Primary Election Ballot. If you have questions, please call the Greater Huntington Park & Recreation District at 304-696-5954.

### **COUNTY CLERK PHONE NUMBERS**

BARBOUR	304-457-2232	KANAWHA	304-357-0130	PRESTON	304-329-0070
BERKELEY	304-264-1989	LEWIS	304-269-8215	PUTNAM	304-586-0202
BOONE	304-369-7330	LINCOLN	304-824-3336	RALEIGH	304-252-8681
BRAXTON	304-765-2833	LOGAN	304-792-8600	RANDOLPH	304-636-0543
BROOKE	304-737-3661	MARION	304-367-5445	RITCHIE	304-643-2164
CABELL	304-526-8625	MARSHALL	304-845-1220	ROANE	304-927-2860
CALHOUN	304-354-6725	MASON	304-675-1997	SUMMERS	304-466-7104
CLAY	304-587-4259	MCDOWELL	304-436-8544	TAYLOR	304-265-1401
DODDRIDGE	304-873-2631	MERCER	304-487-8338	TUCKER	304-478-2414
FAYETTE	304-574-4225	MINERAL	304-788-3924	TYLER	304-758-2102
GILMER	304-462-7641	MINGO	304-235-0330	UPSHUR	304-472-1068
GRANT	304-257-4550	MONONGALIA	304-291-7230	WAYNE	304-272-6362
GREENBRIER	304-647-6602	MONROE	304-772-3096	WEBSTER	304-847-2508
HAMPSHIRE	304-822-5112	MORGAN	304-258-8547	WETZEL	304-455-8224
HANCOCK	304-564-3311	NICHOLAS	304-872-7820	WIRT	304-275-4271
HARDY	304-530-0250	OHIO	304-234-3750	WOOD	304-424-1850
HARRISON	304-624-8613	PENDLETON	304-358-2505	WYOMING	304-732-8000
JACKSON	304-373-2250	PLEASANTS	304-684-3542		
JEFFERSON	304-728-3246	POCAHONTAS	304-799-4549		

### **PARTY EXECUTIVE COMMITTEES**

Executive Committee members are selected in the Primary election to four-year terms. Candidates for State Executive Committees will file with the Secretary of State, except for candidates in Senate District 17. Candidates for District and County Executive Committee positions will file with the County Clerk.

When electing executive committee members, the two candidates with the highest votes shall be elected first and the other candidates shall be qualified based on vote tallies, gender and county of residence.

A current listing of all executive committee members shall be filed with the Secretary of State by the end of July each year. Any appointments to fill vacancies on an executive committee do not take effect if the updated list of committee members has not been submitted to the Secretary of State within 10 days of the appointment.

## **STATE EXECUTIVE COMMITTEE**

Districts: Members will be elected from Senate Districts

District Members: Two (2) men and two (2) women are selected from each Senate District.

Filing Fee: \$20.00

***No more than two committee members can be elected from the same county***

**DISTRICT EXECUTIVE COMMITTEES** (Congressional, Senate and Delegate)

Districts: Members will be elected from each county in a multi-county district.

District Members: One (1) man and one (1) woman from each county in the district

Filing Fee: \$5.00

***Does not apply to single-county senate or delegate districts***

## **COUNTY EXECUTIVE COMMITTEE**

Districts: Members will be elected from Magisterial or Executive Committee Districts.

District Members: If there are three (3) districts in the county, then two (2) men and (2) women will be elected from each district. If there are more than three (3) districts, then one (1) man and (1) woman will be elected from each district.

Filing Fee: \$10.00

## **UNEXPIRED TERMS**

If a vacancy occurs due to retirement, resignation, disqualification or removal, an election may be required to complete the term. The candidate wishing to run for an unexpired term must file a Certificate of Announcement and specify it is for the unexpired term with the correct filing office. The Certificate of Announcement must be filed during the filing period for full terms and the candidate must pay the required fee for that office unless a special filing period has been proclaimed. Please

check with the appropriate filing office for possible unexpired terms that may be on the ballot in 2022.

## **NO PARTY ORGANIZATION CANDIDATES**

(W. Va. Code § § 3-5-23 and 3-5-24)

An individual may run for public office without belonging to a political party recognized in West Virginia (Democratic, Libertarian, Mountain, and Republican). To run as a candidate with no party organization and have one's name placed on the ballot for the **General Election**, an individual must gather signatures on a nominating certificate. A candidate running with no party organization will not appear on the Primary election ballot.

Note: "No party" affiliation candidates may commonly be referred to as minor party, unaffiliated or independent candidates.

### ***CREDENTIALS AND NOMINATING CERTIFICATES***

The process for individuals seeking to run as no party organization candidates in the General election must follow the procedures outlined below:

1. Gain authorization to collect signatures by obtaining the Official Credentials Form from the County Clerk in each county one wishes to gather signatures; this form must be displayed to each voter canvassed or solicited;
2. Obtain the nominating certificates for gathering signatures, Candidate Nomination Petition; this form may be acquired at the time an individual obtains his or her credentials; and
3. Obtain the required number of signatures: **not less than one percent of the entire vote cast at the last preceding General election for the office being sought but never less than twenty-five.**

### **Additional Requirements**

- Individuals seeking an office on the ballot in more than one county must use a separate nominating petition form for each county.
- Any signature gathered must be signed by the voter in his or her own handwriting or by his or her marks duly witnessed.
- In order for a voter's signature to count, he or she must be a duly registered voter within the county, district, or other political division represented by the office sought.

**Deadline: A candidate with no party organization must file his or her Certificate of Announcement, nominating certificates and filing fee with the appropriate office no later than August 3, 2022.**



## WRITE-IN CANDIDATES

(W. Va. Code § 3-6-4a)

An individual may file as an official write-in candidate for offices to be elected in the Primary, General, or special election by filing the Write-In Candidate's Certificate of Announcement with the appropriate filing office. A person wanting to file as an official write-in candidate must meet the eligibility requirements for that specific office.

The following information applies to all write-in candidates:

- Write-in candidates are not listed on the ballot; rather, a list of official write-in candidates is posted at each polling place during early voting and on Election Day.
- Only votes for the official write-in candidates are counted.
- Write-in candidates are not required to pay a filing fee or collect signatures.

**The deadline to file a Write-In Candidate's Certificate of Announcement for offices who are elected, instead of nominated, in the Primary Election: March 22, 2022**

**Only those offices elected in the Primary (Board of Education, Conservation District Supervisors) may have write-in candidates in the Primary election. The deadline to file a Write-In Candidate's Certificate of Announcement for offices elected in the General Election: September 20, 2022**

## MUNICIPAL ELECTIONS

(W. Va. Code- Chapter 8)

Any part of a county or counties may be incorporated as a city, depending upon the population, either as a Class I, Class II or Class III city, or a Class IV town or village. Municipalities generally elect a mayor, municipal recorder or clerk, and councilmen. Together they form the governing body of the municipality. The municipality normally frames and adopts a city charter; providing a method and time for filing of certificates of candidacy, nominating candidates, conducting Primary and regular municipal elections, and determining and certifying the results of elections. If a charter does not provide procedures for the administration of elections, municipalities must follow West Virginia State Code.

Since each municipality may have different filing dates and procedures for candidacy and campaign finance reporting than those contained in this guide for county and statewide offices, you should contact your municipal clerk/recorder for information regarding specific requirements in your city.

### ***FILING PRE-CANDIDACY***

Any candidate who wishes to raise money for his/her campaign before the official candidate filing period must first file a Pre-Candidacy Registration Form with the municipal clerk/recorder.

### ***FILING THE MUNICIPAL CERTIFICATE OF ANNOUNCEMENT***

The Municipal Candidate's Certificate of Announcement and Municipal Write-In Candidate's Certificate of Announcement must be filed with the municipal recorder/clerk within the appropriate filing periods.

### ***CANDIDATE REQUIREMENTS***

Unless otherwise provided by charter provision or ordinance, the mayor, recorder, and councilmen must be residents of the municipality and must be qualified voters entitled to vote for members of its governing body. (W. Va. Code § 8-5-7)

### ***CAMPAIGN FINANCE***

Anyone who files a Pre-Candidacy Registration Form and/or a Candidate's Certificate of Announcement is required to file Campaign Finance Reports. All funds received must be reported by name of contributor and the amount received, no matter how small. Contact your municipal clerk/recorder for specific reporting dates and deadlines.

## **SECTION II: MANAGING CAMPAIGN FINANCES**

### **CANDIDATE FINANCIAL RECORDS**

#### ***WHAT MUST BE TRACKED?***

"Every candidate or treasurer of every political committee shall keep detailed accounts of every sum of money or other thing of value received by him or her, including all loans of money or things of value and of all expenditures and disbursements made, or liabilities incurred, by the candidate or political committee." (W. Va. Code § 3-8-5(a)(2))

#### ***KEEPING FINANCIAL RECORDS***

"Except for candidates or party committeeman and committeewoman, all candidates for nomination or election to state or local offices and all persons supporting, aiding, or opposing the nomination, election, or defeat of any such candidate shall keep, for a period of two years, records of receipts and expenditures which are made for political purposes." (W. Va. Code § 3-8-5(a)(1)) Furthermore, the Secretary of State or County Clerk may conduct an audit of any sworn financial statement, and this may require the committee to present receipts. (W. Va. Code §

3-8-7(b)(5)) If any violation of code is found, the committee may be held accountable for transactions for up to five years. (W. Va. Code § 3-8-5d) Therefore, it is highly recommended that receipts be kept for the entire five-year period.

### ***FINANCIAL RESPONSIBILITY***

The treasurer of the committee is responsible for the candidate committee's finances. All reporting requirements and financial transactions must be handled through the committee's treasurer. Agents of the committee may make transactions on behalf of the committee; the treasurer may reimburse the transactions for lawful expenses incurred by the agent. An agent may also accept contributions for the committee; however, the contributions must pass through the hands of the treasurer to ensure the contribution meets the criteria of a lawful contribution.

## **POLITICAL CONTRIBUTIONS**

Contribution "means a gift, subscription, loan, assessment, payment for services, dues, advance, donation, pledge, contract, agreement, forbearance, promise of money, or other tangible thing of value, whether conditional or legally enforceable, or a transfer of money or other tangible thing of value to a person, made for the purpose of influencing the nomination, election, or defeat of a candidate." (W. Va. Code § 3-8-1a(9).) Remember to get all the information required for your campaign finance report from your contributors at the time they make their donation.

Except from the provisions of W.Va. Code § 3-8-9b, coordinated expenditures are contributions and are subject to all reporting requirements contained in W. Va. Code § 3-8-9a.

### ***HOW MUCH MONEY CAN A CANDIDATE COMMITTEE ACCEPT?***

A candidate committee may accept up to \$2,800 per Primary Election and \$2,800 per General Election. (W. Va. Code § 3-8-5c.) Contributions for the General Election may be accepted during the Primary Election Cycle if the contributor clearly indicates the contribution is to be accepted for the General Election and that the funds may not be spent until after the nomination of the candidate. (W. Va. Code § 3-8-5c(a)(1)(b).) If the candidate does not win nomination in the Primary Election, the committee must return the General Election contribution to the donor.

A receipt of corporate contributions is prohibited. (W. Va. Code § 3-8-8)

It is unlawful for a candidate committee to spend any funds that exceed the contribution limit. When a contribution exceeds the limit, the excess money must be returned to the contributor. All items of value (cash and in-kind contributions) given to a committee are counted toward this \$2,800 limit.

A candidate may contribute as much as he or she desires to his or her own campaign; however, he or she may not be repaid unless it is treated as a loan to the campaign, which requires a written agreement. A candidate committee may also receive loans from financial institutions and from the candidate's spouse. Candidate reimbursement for appropriate expenses related to the campaign from the campaign is allowed; However, "personal use" of campaign funds is prohibited.

A candidate committee may not accept contributions from another candidate committee that is campaigning for the current election; however, a committee may accept up to \$2,800 per Primary Election and \$2,800 per General Election from a candidate committee from a past election that has excess funds.

**As a State Candidate Committee, you may not receive money from an Independent Expenditure PAC.**

**As a State Candidate Committee, you may not solicit, accept, or receive money from a foreign national (W. Va. Code § 3-8-5g(b)).**

***HOW MUCH CAN A CANDIDATE COMMITTEE CONTRIBUTE TO OTHER CAMPAIGNS OR COMMITTEES?***

A current candidate committee may contribute up to \$10,000 per calendar year to a party executive committee or a caucus campaign committee, and a campaign may contribute up to \$15,000 per calendar year out of excess campaign funds after the election. These contributions may not be earmarked or designated to be used in support or opposition of a particular candidate, per W. Va. Code § 3-8-5c(b).

***CANDIDATE CONTRIBUTION LIMIT SUMMARY***

**As a current State Candidate Committee, you may give up to \$10,000 per calendar year:**

Party Executive Committee  
Caucus Campaign Committee

**As a current State Candidate Committee, you may NOT give money to the following:**

Another State Candidate  
PAC\*  
Federal Committee\*

**As a State Candidate Committee, you may receive up to \$2,800 in each General or Primary election from:**

Individuals

State Political Action Committee (PAC)

Executive Committee

Federal Committee

Corporate PAC

*\*Unless the expense is toward the purchase of an allowable expense as specified in W. Va. Code § 3-8-9 and W. Va. C.S.R. § 146-3-6.*

**CASH CONTRIBUTIONS**

A cash contribution can be accepted for up to \$50. The name of the contributor must be recorded and reported, or it must be donated to the General Revenue Fund of the State. All contribution amounts above \$50 must be by means other than cash.

**ANONYMOUS CONTRIBUTIONS**

Anonymous contributions are illegal to accept. Activities such as passing the hat to bring in contributions are not permissible. All contributions must be identified with the full name of the person or group of people that made the contribution. If the identification of the donor of a contribution cannot be determined, the contribution must be given to the General Revenue Fund of the State. The only exception is for executive committees that are holding an event; please review this exemption in W. Va. Code § 3-8-5a. If an anonymous contribution is in the possession of a committee, you must send an amount equal to the anonymous contribution to:

**WV Secretary of State's Office**

**Elections Division**

**State Capitol Building 1, Suite 157-K**

**Charleston, WV 25305**

**CANDIDATE COMMITTEE ELECTION CYCLES**

There are two contribution periods for a candidate committee within the election year. A contribution to a candidate committee is considered in connection with the Primary election if it is received on or before Primary Election Day. A contribution given after the Primary election period can be considered in connection with the Primary Election if, with the consent of the contributor, it is clearly marked on the financial statement as a contribution for the previous contribution period, provided that the funds are used to repay unpaid bills, loans or debts incurred during that contribution period.

A contribution is considered in connection with the General election if it is received after the day of the Primary Election and until the committee has paid all its financial obligations after the General election. A candidate may accept a General

Election contribution prior to the Primary Election is the contribution is clearly identified to the General by the contributor but cannot be expended until after being nominated at the Primary Election.

### **FUND-RAISING EVENTS**

As defined by the Election Code, a fund-raising event is “*an event such as a dinner, reception, testimonial, cocktail party, auction or similar affair through which contributions are solicited or received.* (W. Va. Code § 3-8-1a(20).)

A committee may pay for food, drink and entertainment costs that are incurred in holding a fund-raising event. The committee must be careful in determining the methodology of the fund-raising event to be certain that personal gifts are not given to attendees from committee funds. Fund-raising transactions are reported separately from other transactions. The total amount raised, after expenses, is reported as the net receipt of funds for each event. (W. Va. Code § 3-8-5a.)

Committees may engage in joint fundraising agreements with other political committees, including those committees registered with the FEC, when organized in advance. W. Va. Code § 3-8-9c requires joint fundraising agreements that identify the political committees involved and define terms of fund allocation. All joint fundraising agreements must be in writing and filed with the Secretary of State.

## **EXPENDITURE OF FUNDS**

### **SPENDING MONEY**

The committee has now raised money (contributions, transfers of money from previous campaign accounts, loans, out of pocket expenses, etc.) and is ready to spend the funds for political purposes. No money may be spent from committee funds unless it is allowed by W. Va. Code § 3-8-9 or W. Va. C.S.R. § 146-3-6. The law is: if it is not on the list, then it is not allowed. This is to ensure that the funds are spent on electioneering purposes only, without exception.

Records of all transactions are to be kept for two years after the date of the transaction. The information to be kept for reporting purposes is:

- The name of the person or business to which the expenditure was given
- The address of the person or business to which the expenditure was given
- The date of the transaction
- The purpose of the transaction
- Amount of expenditures

### **Things to remember about spending money...**

- All expenditures must be reported. Detailed accounts of all expenditures and disbursements made, and liabilities incurred must be reported
- Money spent out-of-pocket on the election must be reported as an expenditure. If money is spent on behalf of a candidate, and is not reimbursed by the committee, it must be reported as an in-kind contribution, and is subject to contribution limitations
- All loans must be listed in the loan section on the campaign finance report
- An active candidate's committee (before the election date of the candidate) cannot give donations to other candidate's committees, political action committees, or charitable organizations
- An active committee (candidate, PAC or executive committee) cannot give a donation to a charitable organization; however, the committee can purchase tickets to events if it has a political purpose.
- All expenditures must be made at a rate and an amount which is proper and reasonable to the services purchased citation.
- Expenditures are reported on the date the check is written or the date the transfer of funds takes place
- A contribution is reported on the date that the check, cash or other thing of value is received by the treasurer or agent of the political committee

## **ALLOWABLE EXPENDITURES**

(W. Va. Code § 3-8-9)

### **A candidate or political committee may make expenditures only for the following purposes:**

- Office expenses, overhead costs for headquarters, and for costs related to postage
- Candidates who do not have headquarters may purchase or rent filing cabinets, other office equipment and furnishings, computers, computer hardware and software, scanners, typewriters, calculators, audio visual equipment
- Paid legitimate advertisements for the promotion of the candidate on the ballot
- Costs related to public meetings and political conventions such as food, drink, and entertainment
- Necessary travel and hotel expenses
- Costs incurred with petitions for nomination of candidates
- Lists of registered voters, investigating an individual's right to vote and conducting proceedings to prevent unlawful registration or voting
- Taking voters to the polls
- Securing publication in newspapers, radio, and television broadcasting of information that is relevant to an election

- Conducting a public opinion poll or polls
- Legitimate advertising agency services
- The purchase of memorials, flowers or citations by political party executive committees or political action committees representing a political party
- The purchase of nominal, noncash expressions of appreciation following the close of the polls of an election or within thirty days thereafter
- The payment of dues or subscriptions to any national, state, local, or legislative caucus committee of any political party
- To employ persons to perform functions enumerated in W. Va. Code § 3-8-9, either on a full-time, part-time, or temporary basis
- Transfers to any national, state, or local committee, so long as there is no coordination between the candidate and political party committee
- Contributions to a county party executive committee, state party executive committee, or caucus campaign committee
- Payment for legal and accounting services
- Payment of any required filing fees
- For expenses related to caregiving services

## CAMPAIGN FINANCE REPORTS

(W. Va. Code § 3-8-5)

Every candidate, pre-candidate and elected official is required to file campaign finance reports until the committee is closed. Even committees with a zero balance should file their reports in a timely manner to avoid fines. Candidates running for or elected to executive committee positions are not required to file campaign finance reports. These reports are to be filed in succession of one another.

There are two important time periods for campaign finance reports:

- The **transaction period** is the specific time period committees must track all contributions and expenditures for their campaign finance reports
- Financial activity tracked during each transaction period must be recorded on the campaign financial statement and submitted during the appropriate **time period in which the report is due**.

All candidates participating in the Primary Election are required to file the Primary Report in addition to all Quarterly Reports.

All candidates participating in the General Election are required to file the General Report in addition to all Quarterly Reports.



## **CAMPAIGN FINANCE REPORTING SCHEDULE**

<b><u>Report</u></b>	<b><u>Transaction Dates</u></b>	<b><u>Filing Dates</u></b>
2021 2nd Quarter	April 1, 2021 – June 30, 2021	July 1, 2021 – July 7, 2021
2021 3rd Quarter	July 1, 2021 – September 30, 2021	October 1, 2021 – October 7, 2021
2021 4th Quarter	October 1, 2021 – December 31, 2021	January 1, 2022 – January 7, 2022
2022 1ST Quarter	January 1, 2022 – March 31, 2022	April 1, 2022 – April 7, 2022
2022 Primary Report	April 1, 2022 – April 24, 2022	April 25, 2022 – April 29, 2022
2022 2nd Quarter	April 25, 2022 – June 30, 2022	July 1, 2022 – July 7, 2022
2022 3rd Quarter	July 1, 2022 – September 30, 2022	October 1, 2022 – October 7, 2022
2022 General Report	October 1, 2022 – October 23, 2022	October 24, 2022 – October 28, 2022
2022 4th Quarter	October 24, 2022 – December 31, 2022	January 1, 2023 – January 9, 2023

\* Filing deadlines falling on Saturdays, Sundays, or legal holidays are to be extended to the following day that is not a Saturday, Sunday, or legal holiday. (W. Va. Code 2-2-1(15)(e).)

### ***CONSEQUENCES FOR LATE REPORTS***

If your committee submits a late report, it shall be fined \$10 per day by the Secretary of State. The Secretary of State shall publish a list of late filers online, which shall be publicly available. Furthermore, if a candidate nominated by Primary election or appointed by the executive committee or executive committee chair fails to file his or her campaign finance report by the eighty-fourth day before the General election, he or she will be disqualified and will not appear on the General election ballot. If a committee files late or grossly inaccurate campaign finance reports, the committee will be contacted by a member of the Elections Division with instructions for proper resolution. (W. Va. Code § 3-8-7.)

### ***THE CAMPAIGN FINANCE REPORTING SYSTEM***

The Campaign Finance Reporting System (CFRS) is designed to allow candidates and committees to file their financial reports in an efficient and accessible online method.

Candidates for the following offices are required to use the CFRS to file their financial reports:

- Governor
- Secretary of State
- Attorney General
- Auditor
- Treasurer
- Commissioner of Agriculture

- House of Delegates
- State Senate
- Supreme Court of Appeals
- Circuit Court Judge
- Family Court Judge

### ***ELECTIONEERING COMMUNICATIONS, INDEPENDENT EXPENDITURES, AND POLITICAL ACTION COMMITTEE FINANCE REPORTING***

As a result of legislative action in 2019, any person filing electioneering communication reports or independent expenditure reports, and any political committee filing campaign finance reports with the Secretary of State's Office **must be filed online** via the Campaign Finance Reporting System (CFRS) at [cfrs.wvsos.gov](http://cfrs.wvsos.gov).

The CFRS system allows committees to keep a record of contributions and expenditures in one convenient location throughout the election cycle. This system performs calculations and informs the user of errors which need to be corrected. While you can add your contributions and expenditures at any time, the finance reports cannot be submitted unless the reporting period is open.

### ***PAPER FILERS ONLY: DETERMINING WHAT FORM TO USE***

Only candidates for Greater Huntington Park Board, county, and municipal offices may use paper forms.

The Long Form Campaign Financial Statement includes all activities that are required by W. Va. Code § 3-8-5a. If a candidate's committee answers YES to any of the following questions, he or she must file the *Long Form*:

- Has your committee received any loans?
- Has your committee held any fundraisers?
- Has your committee received any miscellaneous receipts, such as refunds or checking account interest?
- Does your committee have any unpaid bills or loans?
- Have you or anyone else given an in-kind contribution to your campaign?
- Has your committee given or received a transfer of excess campaign funds?

The Short Form Campaign Financial Statement is designed to accommodate committees that do not have transactions beyond simple contributions and expenditures; it does not cover any other reporting requirements, such as loans and in-kind contributions, which are required by W. Va. Code § 3-8-5a.

The short and long finance forms require both the candidate or committee name and the treasurer's contact information. The candidate, agent, or treasurer must also sign the oath or affirmation at the end of the form.

One must mark the reporting period during the election cycle to which the financial report applies: 1st Quarter Report, 2nd Quarter Report, 3rd Quarter Report, 4th Quarter Report, Primary Report, or General Report. Each election cycle reporting period covers a certain time span during the election cycle.

These reports are to be filed in succession of one another. In addition to the Quarterly, Primary, and General Reports, individuals may file amended and final reports, which are defined below:

### ***AMENDING REPORTS***

If a mistake is discovered, a report already submitted by the committee may be altered to reflect the accurate financial activity. An amended report may be submitted at any time and with no penalty. If an amended report is submitted, it must include the same information as the previously submitted report with the errors corrected. All financial transactions for the reporting period must be included in the amended report, not just the portion that has been changed by the amendment.

### ***REPORTING LOANS***

A candidate, spouse of a candidate, or a lending institution may give a loan to the committee. When a loan is taken, the treasurer must include a copy of the loan agreement with the next campaign finance report that is due. The loan agreement must state the date, amount, interest amount (if any), a description of collateral, and full names and addresses of all persons involved in the loan.

If a loan from the candidate or spouse is forgiven, the loan should then be considered as a contribution to the candidate's committee. To report the forgiving of a loan, report the remaining amount of the loan as a contribution to the committee from the candidate or spouse. In the loans section of the finance report, show the loan as paid; this will show that the committee no longer carries the liability.

Paper filers: If a loan is taken for a candidate's committee, the information required on the loans page of the Long Form Campaign Financial Statement must be completed, and a copy of the loan agreement must be included with the same financial statement. The following information must be reported on outstanding loans:

- The name and address of the bank, candidate, or candidate's spouse making the loan;

- The balance of the loan carried from the previous report;
- The amount of all new loans received during this period;
- Repayments made during the reporting period;
- The outstanding balance at the end of the reporting period for each loan listed.

### ***REPORTING UNPAID BILLS***

All liabilities incurred by a committee must be reported. This includes all bills or promises of payment that have been left unpaid at the end of the reporting period. Listing unpaid bills will prevent the committee from having a negative ending cash balance and will show all transactions that have taken place. The transaction date of an unpaid bill will be the date that the vendor provides a bill for payment.

### ***REPORTING OTHER INCOME***

Receipts of income that are not considered contributions must also be reported. These include refunds on bills paid, interest on investments, checking accounts or saving accounts, sale of equipment, or any income not reported as a contribution or an in-kind contribution.

### ***REPORTING CONTRIBUTIONS \$250 OR LESS***

For each contribution of \$250 or less, the committee must include (1) the full name of the individual, association, or committee donating; (2) the amount of the contribution; and (3) the date the contribution was made.

### ***REPORTING CONTRIBUTIONS OVER \$250***

Once contributions from an individual, association, or committee reach an accumulated total of more than \$250 during an election cycle, the committee must collect and record additional information on the campaign finance report.

### **Required information from contributors of more than \$250:**

Full name

Address

Amount of contribution

Date the contribution was made

Residential and mailing addresses

#### **Individual contributors only:**

- Occupation (e.g., attorney, doctor, homemaker, retired)
- Employer (this is the contributor's primary employer; if self-employed, it should be noted; if a homemaker or retired, write "not applicable")

Political committees only:

- Political affiliation of the committee (or if the donation comes from a business-affiliated PAC, the business that the PAC is sponsored by)

***REPORTING A FUND-RAISING EVENT***

Committees must report contributor information under the same requirements for reporting contributions as outlined above.

Paper filers must use the long form to report on a fund-raising event.

**Total Monetary Contributions:** Total of money received (cash or check) in connection with this particular fund-raising event.

Paper filers: All contributions received at a fund-raising event must be reported on the fund-raising events page of the campaign financial statement.

**Total Expenditures:** All committee funds spent in relation to the fund-raising event.

Paper filers: These expenditures are to be listed on the itemized expenditures page of the campaign financial statement.

**Net Receipts:** The total amount of funds accumulated in relation to the fund-raising event minus all committee expenses.

**In-Kind Contribution:** A donation of goods or services used toward the fund-raising event that can be assigned a monetary value.

Paper filers: In-kind contributions must be itemized in the in-kind contributions section of the campaign financial statement.

**Joint Fund-raising Agreements:** Prior to participation in joint fund-raisers, a written joint fund-raising agreement must be filed with the Secretary of State. The agreement must provide terms of allocation of proceeds between the participating committees.

***REPORTING OTHER INCOME AND IN-KIND CONTRIBUTIONS***

If the committee receives "other income" or an in-kind contribution, the Long Form Campaign Financial Statement must be used to report the committee finances.

**Other Income:** Income that does not fit the definition of a contribution – such as interest on a bank account, refunds, or the sale of equipment – is considered other

income. Information required for the other income category includes the date of the receipt, source of the income, the type of receipt (brief description), and the amount of the transaction.

**In-Kind Contributions:** A donation of goods or services used toward the campaign is considered an in-kind contribution. The amount of an in-kind contribution should be reported at the fair market value of the goods received or services rendered. The committee should include the full name of the contributor, date of the transaction, description of the contribution, and the value. If the value of the contribution is over \$250, additional contributor information is required: address; occupation and employer if it is an individual; and affiliation if it is a PAC.

### ***REPORTING FOR ADVERTISING AGENCIES***

When lump sum payments are made to an advertising firm or campaign management firm that will disburse the money on behalf of a committee, the advertising agency must also file a campaign finance report under the same expenditure guidelines as your own committee. All disbursements of funds must be disclosed and tracked to its final recipient and are subject to West Virginia campaign finance law outlined in W. Va. C.S.R. § 146-3.

### ***ADDITIONAL REPORT TYPES***

In addition to Quarterly, Primary Election, and General Election campaign finance reports, a candidate committee may file the following reports at any time:

**Amended Report:** Filed to replace a previously submitted report to correct information.

Paper filers: both the amended report box and the reporting period that will be amended must be clearly marked.

Online filers: depending on the date of the transaction you are correcting, the system will prompt you to file an amended reporting for the appropriate filing period.

**Final Report:** Filed to close your account. The final report box must be marked. The committee's ending balance must be zero if filing a final report.

Paper filers: if the report is submitted during a required reporting period, the box for the reporting period must also be checked.

## **POLITICAL COMMUNICATIONS**

### ***POLITICAL DISCLAIMERS*** (W. Va. C.S.R. § 146-3-12)

No person may publish, issue, or circulate, or cause to be published, issued, or circulated, any anonymous letter (including e-mail), circular, placard, radio or television advertisement, or other publication supporting or aiding the election or defeat of a clearly identified candidate. For this reason, political advertisements and publications should include the name of the person who is responsible for the content. (W. Va. Code § 3-8-12(a))

Political disclaimers must be legible on the face of all political advertisements and other political materials, and they must clearly state the name of the person or organization authorizing the distribution of the material.

Political advertisements on broadcast, cable, or satellite transmission must include a statement identifying the person paying for the communication.

### **INDEPENDENT EXPENDITURES**

Any expenditure that advocates for the election or defeat of a clearly identified candidate or candidates of a political party that is made without the consultation or coordination of a candidate or a candidate's committee is considered an independent expenditure.

A disclaimer must be present on any communication paid for by an independent expenditure, which clearly states that the communication is not authorized by the candidate or representative of the candidate and clearly identifies the person making the expenditure. If the communication is made for broadcast, cable or satellite transmission, it must be both spoken clearly and appear in a written format at the end of the communication.

### **COORDINATED EXPENDITURES**

Any communication that results from a political expenditure and is made in coordination with a state committee of a political party and caucus campaign committee must contain a disclaimer that clearly identifies that the expenditure is coordinated with the candidate or candidate's committee with whom it was coordinated.

### **ELECTIONEERING COMMUNICATIONS**

Any electioneering communication, defined by W. Va. Code § 3-8-1a(14), must have a disclaimer clearly stating the name of the person or organization authorizing the communication. If the communication is made for broadcast, cable or satellite transmission, it must be both spoken clearly and appear in a written format at the end of the communication.

## ***SOLICITATION OF FUNDS OR SUPPORT FROM STATE, COUNTY OR MUNICIPAL EMPLOYEES***

Soliciting funds from a state employee or an employee of a political subdivision of the state is not allowed. However, if a mass solicitation is done, it should include a disclaimer such as "Please disregard if you are a public employee" to prevent you from violating this provision. (W. Va. C.S.R. § 146-3-10.7)

Asking for money, support, or votes is not permitted, nor is the delivery of written communications to the workplace of state, county, or municipal employees. The disclaimer mentioned above does not legally excuse the act of knowingly delivering communications to a workplace or government email account. (W. Va. Code § 3-8-12(c))

## **AFTER THE ELECTION**

(W. Va. C.S.R. § 146-3-7)

Amounts of funds received by a candidate as contributions that are in excess of the amount of expenditures for the election are considered "Excess Campaign Funds". No person may receive or use excess campaign funds for personal economic gain.

## **ALLOWABLE USES OF EXCESS CAMPAIGN FUNDS**

The **only** allowable expenditures of excess campaign funds are outlined below (if it's not on the list, then it's not allowed):

- **Transfer of funds from a candidate's committee to the same candidate's committee for a subsequent election year:** The candidate must form a new committee by filing a Pre-Candidacy Statement for the later election year prior to making the transfer of funds. It should be reported as an expenditure on the old campaign and a contribution on the new campaign. There is no limitation of the amount of funds that may be transferred.
- **Making a charitable contribution:** There is no monetary limitation for charitable contributions.
- **Contribution to another candidate's committee:** The limit on this contribution is \$2,800 per Primary Election and \$2,800 per General Election.
- **Offsetting any usual and customary expense incurred in connection with the duties as a holder of public office:** Any items purchased will become the property of the State, or the district, county, or municipality of the office that is held.
- **Contribution to any state political party executive committee or a legislative caucus committee:** The limit on this contribution is \$15,000 in a calendar year.
- **Return of contributions on a pro-rata basis to each donor.**
- **Transfer to any national committee of any political party:** The limit on this contribution is in accordance with federal requirements.



- **Contribution to a county or political subdivision executive committee of a political party:** The limit on this contribution is \$10,000 per calendar year.

## **HOW TO CLOSE A COMMITTEE**

When a committee no longer has outstanding debts or liabilities and has a zero balance in their campaign account, the committee may close. To close a committee, one must file a **Final Report** itemizing all transactions made since the last report was filed. The report must reflect the zero balance. Filing a proper Final Report ends all reporting requirements for that committee.

## **ELECTION CYBERSECURITY INCIDENT RESPONSE PLANS FOR CAMPAIGNS**

Protection against a cyber-attack should be thought out well in advance of the necessity for cybersecurity protections. The West Virginia Secretary of State's Office has partnered with Harvard's Belfer Center to create guidance for cyber security training. One set of guidance is specifically tailored for campaigns. Please review the Cybersecurity Campaign Playbook at the Belfer Center's website at [www.belfercenter.org/publication/cybersecurity-campaign-playbook](http://www.belfercenter.org/publication/cybersecurity-campaign-playbook).

It's just as important to plan for responding to an attack as it is to develop a security strategy to prevent one. How you respond often has more to do with the ultimate outcome of an incident than what was compromised.

### **Be prepared for an incident to occur**

1. Establish cybersecurity rules and provide cybersecurity training for your campaign staff;
2. Make available a cybersecurity incident response in case of an incident; and
3. Plan how to respond ahead of an incident.

### **If a breach occurs**

1. Unplug the physical device from power and the internet – "kill it";
2. Change the password using a different device with different web services;
3. Notify the platform of the possible compromise; and
4. Contact the appropriate officials. At a minimum, contact the WVSOS and they will advise on contacting the others.

### **Candidate Cyber Incident Communication Contacts**

1. Campaign IT specialist for an internal system review
2. Your state political party headquarters:
  - a. Democratic (304) 342-8121
  - b. Libertarian (800) 969-5798

- c. Mountain (304) 669-0247
  - d. Republican (304) 768-0493
- 3. WV State Police
  - a. If ransomware is involved call the state authorities at (304) 746-2100
- 4. WV Secretary of State
  - a. Dave Tackett, CIO, DTackett@wvsos.gov, (304) 558-6000
- 5. Department of Homeland Security
  - a. Greg Carden, DHS Protective Security Advisor (West Virginia), Gregory.Carden@hq.dhs.gov, (202) 841-1907
- 6. Your legal and communications teams or key staff who oversee your campaign operations

## ELECTION RESOURCES

### **Elections Division**

WV Secretary of State  
 State Capitol Building 157-K  
 Charleston, WV 25305  
 (304) 558-6000  
 (866) 767-8683  
[elections@wvsos.gov](mailto:elections@wvsos.gov)  
[www.wvsos.gov](http://www.wvsos.gov)

Information on state election laws/regulations, candidate filing, campaign finance reporting requirements, forms, official election returns for statewide elections, and voter registration information.

### **West Virginia Ethics Commission**

210 Brooks Street, Suite 300  
 Charleston, WV 25301  
 (304) 558-0664  
 (866) 558-0664  
[ethics@wv.gov](mailto:ethics@wv.gov)  
[www.ethics.wv.gov](http://www.ethics.wv.gov)

Forms and information on filing personal financial disclosures and questions regarding conflicts of interest between outside employment and public office.

### **Federal Election Commission (FEC)**

1050 First Street, NE  
 Washington, DC 20463  
 (800) 424-9530, menu option 6  
[info@fec.gov](mailto:info@fec.gov)  
[www.fec.gov](http://www.fec.gov)

Administers and enforces federal campaign finance law. The FEC has jurisdiction over the financing of campaigns for the U.S. House, Senate, Presidency, and the Vice Presidency.

### **State Election Commission (SEC)**

C/o WV Secretary of State  
 State Capitol Building 157-K  
 Charleston, WV 25305  
[elections@wvsos.gov](mailto:elections@wvsos.gov)  
[www.wvsos.gov](http://www.wvsos.gov)

Voter system certification, filling vacancy on General election ballot when candidate withdraws for extenuating circumstances, and campaign finance issues.

**U.S. Election Assistance Commission (EAC)**

633 3rd Street NW, Suite 200

Washington, DC 20001

(866) 747-1471

[www.eac.gov](http://www.eac.gov)

Serves as a national clearinghouse for information and reviews procedures for federal elections.

## RECOGNIZED POLITICAL PARTIES

**West Virginia Democratic Party**

P.O. Box 11926

Charleston, WV 25339

(304) 342-8121

[wvparty@wvdems.org](mailto:wvparty@wvdems.org)

[www.wvdemocrats.com](http://www.wvdemocrats.com)

Information on Democratic Party political activities, functions of executive committees, process for delegates to national contention, and party rules.

**West Virginia Libertarian Party**

P.O. Box 2506

Parkersburg, WV 26102

(800) 969-5798

[www.lpww.org](http://www.lpww.org)

Information on Libertarian Party political activities, functions of executive committees, process for delegates to national contention, and party rules.

**West Virginia Mountain Party**

121 Village Green Road

Salem, WV 26426

(304) 669-0247

[contact@mountainpartywv.net](mailto:contact@mountainpartywv.net)

[mountainpartywv.net](http://mountainpartywv.net)

Information on Mountain Party political activities, functions of executive committees, process for delegates to national contention, and party rules.

**West Virginia Republican Party**

P.O. Box 2711

Charleston, WV 25330

(304) 768-0493

[wvgop@wvgop.org](mailto:wvgop@wvgop.org)

[www.wvgop.org](http://www.wvgop.org)

Information on Republican Party political activities, functions of executive committees, process for delegates to national contention, and party rules.

## MEMORANDUM

To: West Virginia County Clerks and Staff  
From: Donald Kersey, WVSOS General Counsel & Deputy Secretary of State  
Date: January 4, 2022  
RE: Candidate Eligibility Affected by Magisterial District Reapportionment

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i. Introduction

This Memorandum is provided to West Virginia county clerks and their staff for educational purposes in regards to considerations for prospective candidates to county commission or county board of education whose eligibility is based, in part, on residency in an open<sup>1</sup> magisterial district for the 2022 election cycle.

The informal conclusions below are issued under the Secretary of State's authority to "advise with election officials[,]"<sup>2</sup> which conclusions are based in part on legal advice provided to counsel for the Secretary of State's Office by counsel for the Attorney General's Office.

ii. Legal Disclaimer

THIS MEMORANDUM IS NOT A FORMAL ADMINISTRATIVE ORDER OR LEGAL OPINION ISSUED BY THE SECRETARY OF STATE OR ATTORNEY GENERAL AND IS NOT LEGALLY BINDING ON ANY COUNTY COMMISSION, COUNTY CLERK, OR CANDIDATE.<sup>3</sup>

PROSPECTIVE CANDIDATES ARE STRONGLY ENCOURAGED TO SEEK INDEPENDENT LEGAL ADVICE FROM PRIVATE COUNSEL, ESPECIALLY IN CASES OF UNCERTAINTY REGARDING ELIGIBILITY TO RUN FOR OR HOLD PUBLIC OFFICE.

iii. Candidate's Duty to Determine Eligibility

It is each candidate's duty to independently make a good faith<sup>4</sup> determination of his or her eligibility to run for an elected office in West Virginia.

Certificates of announcement are filed under oath<sup>5</sup> by each candidate, and any candidate who knowingly provides false information on a certificate of announcement is subject to criminal penalties for false swearing.<sup>6</sup>

Except under rare circumstances,<sup>7</sup> neither the Secretary of State nor county clerks have the authority to determine or make an inquiry or investigation into a candidate's eligibility to run for or hold public office.<sup>8</sup>

Rather, a candidate's eligibility may only be challenged in the manners provided by law.<sup>9</sup>

## I. Background:

During the Third Extraordinary Session of the Legislature held in October of 2021, the Legislature passed HB 301 (effective on October 18, 2021), SB 3033 (effective on October 14, 2021), and SB 3034 (effective on October 20, 2021), all relating to the reapportionment of representation in West Virginia's House of Delegates, Congressional, and Senate districts respectively, based on the results of the U.S. Census Bureau's decennial population survey.

Following the Legislature's redistricting process, each county commission is responsible for determining, based upon county population changes, whether it is necessary to reapportion the county's magisterial districts.

Pursuant to W. Va. Code § 1-2-2b(b), as amended,<sup>10</sup> the deadline for county commissions to complete the magisterial district reapportionment process following legislative redistricting is "prior to January 22, 2022."<sup>11</sup>

Magisterial district boundaries must be established under the parameters in W. Va. Code § 7-2-2, which provides:

Each county shall be laid off by the county court into magisterial districts, not less than three nor more than ten in number, and as nearly equal as may be in territory and population. . . . The county court may, from time to time, increase or diminish the number of such districts, and change the boundary lines thereof as necessity may require, in order to conform the same to the provisions of the Constitution of the State.

While the West Virginia Constitution ("Constitution") sets forth requirements for legislative and congressional districts reapportionment, it does not establish requirements specifically for county magisterial districts. Therefore, at a minimum, the Constitution requires that "[e]very citizen shall be entitled to equal representation in the government, and, in all apportionments of representation, equality of numbers of those entitled thereto, shall as far as practicable, be preserved."<sup>12</sup>

## II. Issue Presented

Following magisterial district reapportionment, do prospective candidates to county commission or county board of education determine their eligibility based on the previous magisterial district boundaries from which sitting county officials were elected?

## III. Summary Answer

No. The previous magisterial district boundaries are not considered for determining prospective candidates' eligibility to run for or hold office on a county commission or county board of education.<sup>13</sup>

Rather, for the 2022 election cycle, candidates for county commission or county board of education are to determine open magisterial districts based on the newly reapportioned magisterial district boundaries.

Each magisterial district in which no current county commissioner or county board of education member resides is open, and any citizen residing in an open district may run for county commission or county board of education, as long as all other eligibility requirements for the office are met.

To determine eligibility for those offices based on residence following magisterial district reapportionment, prospective county commission or county board of education candidates are to consider (1) the current sitting officials' residences (*i.e.* physical addresses) at the time of their election, and (2) the new, reapportioned magisterial district boundaries, irrespective of the sitting officials' previous magisterial district boundaries.

In effect, following magisterial district reapportionment, it is possible to have more than one sitting county elected official whose residences are located within the same "new" magisterial district boundary, which officials' terms of office do not end in 2022.

In that case, it is possible for prospective candidates from more than one magisterial district to seek election to that county office. It follows that one or more of the new magisterial districts will not have an official from the new district serving in the elected county office. Such result is not unconstitutional, nor does it depart from legislative intent, for it is possible regardless a county reapportions its magisterial districts if, for example, a county has more magisterial districts than elected positions in the county office.<sup>14</sup>

See Attachment A for a detailed example and visual representations for further clarity.

#### IV. Discussion

The issue presented at its core is determining which magisterial districts are open in the 2022 election. That determination must be based on sitting elected county officials' residences at the time of their elections, whose terms of office do not expire in 2022.<sup>15</sup>

##### a. Post-Redistricting County Commission Candidate Residency:

Eligibility to become a candidate for county commission is generally set forth in W. Va. Code § 7-1-1b. According to the Constitution, county commissioners "hold their office for a term of six years" and "one shall be elected every two years; but no two of said commissioners shall be elected from the same magisterial district."<sup>16</sup>

When magisterial districts remain the same, determining which district is open is simple: the district from which the commissioner whose seat is on the upcoming ballot resided when elected six years prior is open. If the county has more magisterial districts than county commissioners, any additional magisterial districts without sitting commissioners residing therein are also open. Each district in which a sitting commissioner resides is therefore closed and no persons residing therein are eligible to run for county commission that election year.

This principle continues when magisterial districts are reapportioned, and a change in magisterial district boundaries affects only prospective candidates who reside in a district, according to the new magisterial district boundaries, in which a sitting commissioner also resides.

This conclusion is supported by *Burkhart v. Sine*, 200 W.Va. 328 (1997). While the facts in *Burkhart* are somewhat distinguishable, the Court's analysis of residency when magisterial districts are reapportioned is applicable.

Specifically, the Court finds:

[A] member of the County Commission is deemed to be elected from the magisterial district in which that person resides on the day that person is elected to serve on the County Commission, that is, the date of the general election. Absent unusual circumstances, a candidate generally resides in the same district on the date of filing in which he or she resides on the date of the election; *therefore, a candidate carries that residence with him or her throughout the entire term.*

*Burkhart*, 200 W.Va. at 332 (emphasis added).

The above finding raises a question of whether a commissioner is continually “deemed to be elected from the magisterial district in which that person resides on the day that person is elected” for the full term of office, even after magisterial districts are reapportioned.

If that were the case, commissioners would carry the magisterial district boundary from which they were elected for the full term, regardless the districts are reapportioned. As such, following reapportionment prospective candidates (1) cannot reside within any sitting commissioner's previous magisterial district, and (2) cannot reside in an area that now includes a sitting commissioner under the newly reapportioned magisterial districts.

Constitutionally and statutorily, such cannot be the case. That interpretation, *inter alia*, would give improper legal effect the previous magisterial district boundaries, which by nature of reapportionment were deemed to not satisfy the Constitution's requirement for equal representation,<sup>17</sup> and is contrary to the *Burkhart* decision.

Specifically, *Burkhart* held that “a candidate carries that residence with him or her throughout the entire term.”<sup>18</sup> By a plain reading of the word “residence” it is clear that commissioners are to be deemed elected from the residence—*i.e.* the physical address at which they resided at the time of their election—for the full term of office (unless sooner removed by law or judicial action).

Where, as was the case in *Burkhart*, a commissioner changes residence into a different magisterial district, such change in residence shall not prevent prospective candidates who live in a different district from running for an open seat on the county commission. Moreover, the *Burkhart* Court paid no credence to the previous magisterial district boundaries in its decision; it relied fully on the newly reapportioned magisterial districts.

Applying the principle articulated in *Burkhart*, sitting county commissioners carry their residences throughout their term of office. Every two years eligible persons from an open magisterial district are able to become candidates for county commission so long as they reside in a magisterial district that does not also encompass the physical residence of a sitting county commissioner whose term of office does not expire at the end of the election cycle.

Importantly, when determining which magisterial districts are open after reapportionment, only the new magisterial district boundaries, and only the physical residences of sitting commissioners at the time of their elections, shall be considered for determining which districts are open.

Therefore, after reapportionment it is possible for more than one sitting commissioners to reside in the same newly adopted magisterial district boundary. This is acceptable because the Constitution only prohibits “no two of said commissioners shall be *elected* from the same magisterial district[.]”<sup>19</sup> inferring that it is permissible for two or more commissioners to “reside” in the same magisterial district so long as they were not “elected” from the same district.<sup>20</sup>

Given the complicated nature of this issue, please see Attachment A for a detailed example with visual representations of how this scenario occurs and is resolved.

b. Post-Redistricting County Board of Education Candidate Residency:

The residency requirements for county board of education candidates and members are strewn throughout the law, including W. Va. Code §§ 3-5-6 and 18-5-1 *et seq.*

According to the Constitution, “[n]o more than two of the members of such [county] board [of education] may be residents of the same magisterial district within any school district.”<sup>21</sup> Additionally, pursuant to statute, “[n]o more than two members may . . . serve from the same magisterial district[.]”<sup>22</sup>

The analysis and conclusion in section IV.a. of this Memorandum regarding prospective county commission candidates may be applied in full to county board of education candidates because magisterial district boundary changes, resulting from county reapportionment, are made without regard to any specific office. Rather, magisterial districts are created with respect only to county population. Candidates for both county commission and county board of education determine their eligibility based on the same magisterial district boundaries.

However, distinct from county commission candidates, the law creates an additional residency requirement for county board of education members. Importantly, this distinction does not affect candidates, but sitting members of county boards of education.

Specifically, the law provides that “[n]o more than two members may be elected *or serve* from the same magisterial district.”<sup>23</sup>

If, for example, magisterial district reapportionment results in more than two sitting board of education members residing in the same newly reapportioned magisterial district, one could argue that such result is contrary to the statute—*i.e.* there will be more than two members serving from



the same magisterial district. In such case there must be either removal or resignation from those offices in order to comply with the statute.

However, such interpretation would be unconstitutional and contrary to legislative intent.

Regarding removal of elected official, the Constitution provides generally:

All officers elected or appointed under this constitution, may, unless in cases herein otherwise provided for, be removed from office for official misconduct, incompetence, neglect of duty, or gross immorality, in such manner as may be prescribed by general laws, and unless so removed they shall continue to discharge the duties of their respective offices until their successors are elected, or appointed and qualified.

W. Va. Const., art. 4, § 6.

For removal of a county board of education member specifically, W. Va. Code § 6-6-7 provides:

Any person holding any county, school district or municipal office, *including the office of a member of a board of education* and the office of magistrate, the term or tenure of which office is fixed by law, whether the office be elective or appointive, except judges of the circuit courts, may be removed from such office in the manner provided in this section for official misconduct, neglect of duty, incompetence or for any of the causes or on any of the grounds provided by any other statute.

*Id.* (emphasis added).

If it were the case that magisterial district reapportionment which results in more than two board of education members residing in the same *new* magisterial district boundaries, thereby resulting in a removal or forced resignation of the additional officers, then the Legislature must have, and would have, provided such directive and procedure in W. Va. Code § 6-6-7.

However, the removal statute makes no mention of reapportionment. Rather, the grounds upon which county board of education members can be removed are limited to “official misconduct, neglect of duty, incompetence or for any of the causes or on any of the grounds provided by any other statute.”

There being no “other statute” discussing removal grounds of county board of education members related to reapportionment, shown by the absence of such confirmed by reviewing all known Constitutional and statutory provisions relating to magisterial district reapportionment and county boards of education, there can be but one conclusion: post-reapportionment magisterial district changes resulting in more than two board of education members residing in the same newly reapportioned magisterial district boundary do not constitute more than two members who “serve” from the “same magisterial district.”

Therefore, the residence at which a board of education member was elected pre-reapportionment is where, consistent with *Burkhart, supra*, that member resides and, *arguendo*, “serves” for the full term of office. This distinction, while slight, is the only interpretation that does not violate the Constitution and removal statute.

V. Conclusion

Only the most recently adopted magisterial district boundaries are to be considered by prospective candidates for county commission or county board of education. Magisterial district reapportionment has no effect on sitting county elected officials.

However, upon the expiration of the term of office for a county commissioner or county board of education member, he or she must satisfy the eligibility requirements to become a candidate for the office, which includes residing in an open magisterial district according to the most recently adopted magisterial district boundaries.

This Memorandum is provided to West Virginia county clerks and their staff for educational purposes in regards to considerations for prospective candidates to county commission or county board of education whose eligibility is based, in part, on residency in an open magisterial district for the 2022 election cycle.

THIS MEMORANDUM IS NOT A FORMAL ADMINISTRATIVE ORDER OR LEGAL OPINION ISSUED BY THE SECRETARY OF STATE OR ATTORNEY GENERAL AND IS NOT LEGALLY BINDING ON ANY COUNTY COMMISSION, COUNTY CLERK, OR CANDIDATE.

PROSPECTIVE CANDIDATES ARE STRONGLY ENCOURAGED TO SEEK INDEPENDENT LEGAL ADVICE FROM PRIVATE COUNSEL, ESPECIALLY IN CASES OF UNCERTAINTY REGARDING ELIGIBILITY TO RUN FOR OR HOLD PUBLIC OFFICE.

[ENDNOTES BEGIN ON THE FOLLOWING PAGE]

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## **ENDNOTES:**

<sup>1</sup> The term “open” used in this Memorandum refers to a magisterial district in which no elected county commissioner official resides, or no more than two (2) county board of education members reside, and whose seat is not on the ballot because the term of office does not end during the election year. By contrast, the term “closed” refers to a magisterial district in which a current elected official resided at the time of his or her election, and who will remain in office until at least the next regularly scheduled election.

<sup>2</sup> W. Va. Code § 3-1A-6(c).

<sup>3</sup> Given the expedient nature of the main issue discussed in this Memorandum, due to unrelated matters requiring the Attorney General’s immediate attention, the Secretary of State was advised that a formal written legal opinion under W. Va. Code § 5-3-1 could not be issued prior to the start of the candidate filing period which begins January 10, 2022. Therefore, the analysis and reasoning provided herein are educational, informal, and have no legal bearing.

<sup>4</sup> W. Va. Code § 3-5-7(d)(8).

<sup>5</sup> W. Va. Code § 3-5-7(d)(9).

<sup>6</sup> W. Va. Code § 3-5-7(f).

<sup>7</sup> *State ex rel. Maloney v. McCartney*, 159 W.Va. 513, 527 (1976) (“[I]t may be reasonably inferred that the Secretary should refuse to place on the ballot any person whose certificate of candidacy shows ineligibility on its face.”).

Other challenges under rare circumstances that permit an administrative refusal to certify a candidate for the ballot include a challenge alleging the candidate was not affiliated with a political party for the requisite timeframe under W. Va. Code § 3-5-7(e), or filing by clearly ineligible persons “such as a filing certificate tendered by a seven year old child[.]” *State ex rel. Maloney v. McCartney*, 159 W.Va. 513, 527 (1976).

<sup>8</sup> *See State ex rel. Summerfield v. Maxwell*, 148 W.Va. 535, 540 (1964) (“There is mutuality of conception to the effect that neither a ballot commissioner nor any other ‘officer or person’ named in Chapter 3 of the code has ‘jurisdiction’, or the administrative or judicial power, to make an investigation or inquiry relative to the qualifications of any candidate for any national, state, county, district or municipal office.”); *but see State ex rel. McKnight v. Clark*, 86 W.Va. 496 (1920) (“It would, of course, be different if the certificate itself showed [a candidate’s] ineligibility; but in this case the certificate shows that the relator is eligible to the office for which he desires to be a candidate, and the inquiry of the board of ballot commissioners must stop there. If he should be elected to this office, a proper inquiry can then be instituted before a competent tribunal to determine the question of his eligibility.”).

<sup>9</sup> *See, e.g., Adams v. Londeree*, syl. pt. 2, 139 W.Va. 748 (1954) (regarding pre-election eligibility challenges the Court held, “[w]here a person nominated to office is required by law to possess certain qualification at the time of his election, mandamus will lie to determine the qualification.”); for post-election eligibility challenges, *see* W. Va. Code § 3-7-1 *et seq.* (statutory procedures for initiating a post-election contest depending on the type of office).

<sup>10</sup> Both HB 301 and SB 3034 amend W. Va. Code § 1-2-2b, but which amendments are slightly different. Therefore, the conflicting provisions of W. Va. Code § 1-2-2b shall be resolved by following SB 3034, which is the most recent amendment to that section. *See Wiley v. Toppings*, 210 W.Va. 173 (2001).

<sup>11</sup> W. Va. Code § 1-2-2b(b).

<sup>12</sup> W. Va. Const., art. II, § 4 (1872).

<sup>13</sup> Each office has different, additional eligibility requirements. This Memorandum only addresses residency.

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<sup>14</sup> Pursuant to W. Va. Code § 7-1-1(b), “[a] county commission shall consist of three commissioners” unless such county follows the formal procedure to adopt an alternative form of government. However, per W. Va. Code § 7-2-2, counties may have between three (3) and ten (10) magisterial districts. Therefore, it is possible for a county to have three commissioners but, for example, ten magisterial districts, resulting in seven magisterial districts having no elected officials serving on county commission.

<sup>15</sup> See *Burkhart v. Sine*, 200 W.Va. 328, 332 (1997) (holding that a county commissioner serves the county from where he or she resided at the time of the general election, even if the commissioner resided in a different district at the time he or she filed pre-election candidacy paperwork); *concur* The Honorable Rachel Romano, 2019 WL 3387012 (W. Va. A.G. June 27, 2019).

<sup>16</sup> W. Va. Const., art. IX, § 10 (1974).

<sup>17</sup> See W. Va. Const., art. II, § 4 (1872), which provides, “Every citizen shall be entitled to equal representation in the government, and, in all apportionments of representation, equality of numbers of those entitled thereto, shall as far as practicable, be preserved.”

<sup>18</sup> *Burkhart*, *supra* note 16.

<sup>19</sup> W. Va. Const., art. IX, § 10 (1974) (emphasis added).

<sup>20</sup> *Concur* The Honorable Rachel Romano, *supra*.

<sup>21</sup> W. Va. Const., art. XII, § 6 (1986); *see also* W. Va. Code § 18-5-1 (providing in part, “[n]o more than two members shall be elected from the same magisterial district”).

<sup>22</sup> W. Va. Code § 3-5-6(b) (last amended in 1993, this provision supersedes county board of education candidate requirements set forth in W. Va. Code § 18-5-1, which previous requirements did not prohibit more than two board of education members from serving from the same magisterial district.

Following magisterial reapportionment, it is possible that sitting board of education members will be redistricted into the same magisterial district that previously contained the maximum two members. In such case, by analogy to *Burkhart*, *supra* note 16 at syl. pt. 3, the board member “is deemed to be elected from the magisterial district in which that person resides on the day that person is elected to serve on the County [board of education], that is, the date of the general election. . . .”


<sup>23</sup> W. Va. Code § 3-5-6(b) (emphasis added).

## ATTACHMENT A


### Example Scenario:

*(Note: the example below is a completely fictitious example and does not reflect the actual magisterial districts or officials' residences in Mercer County.)*

Assume that Mercer County has three magisterial districts, and three county commissioners elected to 6-year staggered terms.

Commissioner Ash (District 1) was elected in 2018, whose legal residence at the time of the election is shown on the map below as a green dot  in District 1. Ash's term ends in 2024.

Commissioner Brown (District 2) was elected in 2020, whose legal residence at the time of the election is shown on the map below as a green dot  in District 2. Brown's term ends in 2026.

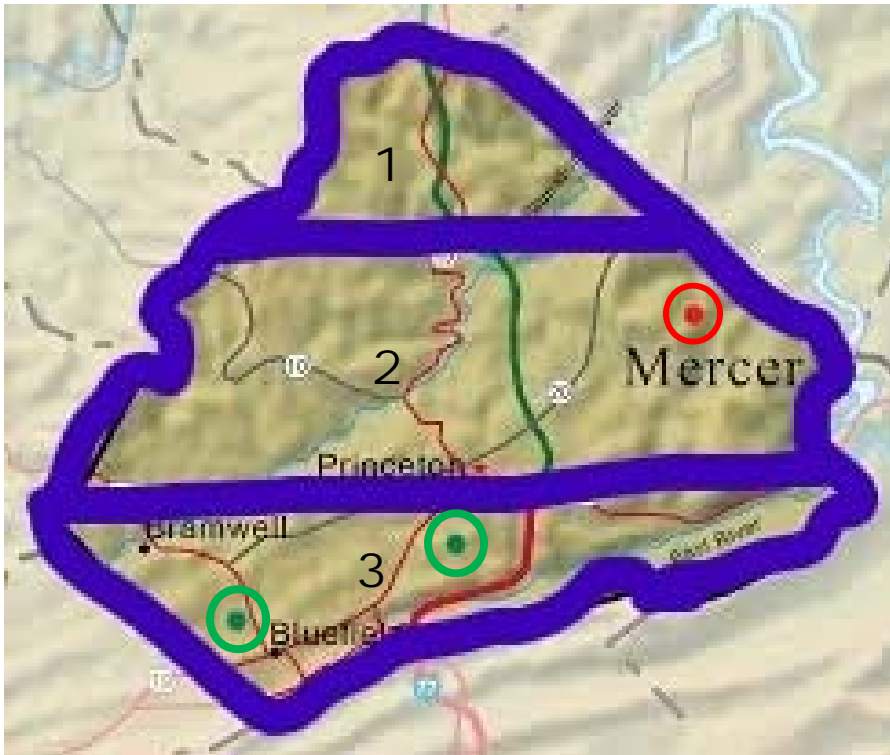
Commissioner Cody (District 3) was elected in 2016, whose legal residence at the time of the election is shown on the map below as a red dot  in District 3. *Cody's term ends in 2022 and will be on the 2022 ballot.*

Magisterial districts before county reapportionment:



In December 2021, the Mercer County Commission determined that its magisterial districts must be reapportioned based on population changes reported by the U.S. Census Bureau.

After reapportionment, the new magisterial districts resulted in two county commissioners, Ash and Brown, residing in the same district, which is now the new District 3 as shown below:



Determining Open Magisterial Districts for 2022 Election:

Following the newly reapportioned magisterial district boundaries, no prospective candidates residing in District 3 are eligible to run because it is a closed district.

Eligible persons residing in District 1 or District 2 (shaded area) satisfy the residency requirement to run for county commission in the 2022 election because no sitting commissioners reside in either district as shown below:

