

## Chapter 6 – Out-of-State Political Committees, Federal Committees and Participating Organizations

### 6.1. Out-of-State Political Committees

#### 1. Generally

An out-of-state political committee is a nonfederal, political committee that is lawfully registered with another state's election authority.

The term “out-of-state political committee” does not include a Maryland registered PAC or other political committee or entity that is registered with the [Federal Election Commission](#) (FEC).

*-§ 13-301(a) of the Election Law Article*

#### 2. Transfer Limitations

An out-of-state political committee may transfer up to \$6,000 to a Maryland campaign finance entity (*See Section 8.3 of the Summary Guide*).

#### 3. Affiliation

If an out-of-state political committee is affiliated with a Maryland registered political committee or with other political committees in different states, all affiliated entities are treated as a single contributor.

Campaign finance entities are deemed to be affiliated if they:

- Are organized and operated in coordination and cooperation with each other; or
- Conduct their operations and make their decisions relating to transfers and other contributions under the control of the same individual or entity.

*-§ 13-227(d)(2) of the Election Law Article*

#### *Example*

Sunshine Corporation is interested in supporting a Maryland gubernatorial candidate. Sunshine Corporation has a Maryland PAC and a West Virginia PAC. Since the PACs are affiliated, they can only transfer a combined total of \$6,000 to the gubernatorial candidate.

#### 4. Registration and Reporting Requirements

An out-of-state political committee must register with the State Board within 48 hours after making transfers in a cumulative amount of \$6,000 or more to one or more campaign finance entities. During the registration process, the out-of-State political committee must designate the election year in which the committee is participating.

Additionally, the out-of-state political committee must also file a statement with the State Board describing how to access campaign finance reports filed by the out-of-state committee in the state where it is registered and files its complete campaign finance reports with the registration.

After registering, the out-of-state political committee must electronically file campaign finance reports for all campaign related expenditures made within the State for the election year in which it is participating. The campaign finance reports are filed on the same schedule as a Maryland registered political committee for that designated election year and via the State's online report filing system.

*-§ 13-301 of the Election Law Article*

The out-of-State political committee may file a final report with the State Board to cease its reporting obligations before the election year reporting cycle ends.

## 5. Enforcement

Out-of-state political committees are subject to that same late fee penalties that apply to Maryland registered political committees.

*-§ 13-301(d) of the Election Law Article*

## 6.2 Federal Committees

A federal committee is any political committee registered with the Federal Election Commission (FEC). Like other entities or associations, a federal committee is considered a person under the campaign finance laws and allowed to make contributions, but not transfers, to Maryland political committees.

Depending on its campaign finance activity in Maryland, a federal committee may need to register and file disclosure reports with the State Board. A federal committee may be subject to the independent expenditure reporting requirements or could be a participating organization.

Campaign finance information for federal committees is available to the public on the [FEC website](#).

## 6.3 Participating Organizations

### 1. Generally

A participating organization means any entity that is organized under §501(c)(4) or (6) or §527 of the Internal Revenue Code, and makes a political disbursement.

A political disbursement means:

- A contribution to a political committee organized under Maryland's campaign finance laws;
- A disbursement to a person making independent expenditures or a disbursement for electioneering communications in Maryland; or

*-§ 13-309.2 of the Election Law Article, COMAR 33.13.17*

- A disbursement to an out-of-state political committee that makes a disbursement in Maryland.

## 2. Registration and Reporting Requirements

### A. Registration Requirements

A participating organization shall register with the State Board within 48 hours after making aggregate political disbursements of more than \$6,000 in an election cycle. Registration forms are available via MD CRIS.

At the time of registration, the participating organization must:

1. Identify the person exercising direction or control over its activities (principal officer); and
2. Indicate whether the participating organization will file a participating organization report or provide an active Internet address on its landing page that contains the information required by the State Board as to the participating organization's disbursements made and donations received.

### B. Reporting Requirements

After registering, the participating organization shall:

1. File a participating organization report within 48 hours after making aggregate political disbursements of \$10,000 or more; or
2. Post certain information on its website.

If the participating organization decides to file a report, the report must include:

- (1) the amount, and date, of each disbursement made in the State or to influence a State election during the period covered by the report; and
- (2) the identity of each donor person that made cumulative donations of \$10,000 or more during the reporting period.

If a donation was made by the participating organization to an independent expenditure entity or other like entity under Maryland law, the report must include the identity of the candidate that the independent expenditure entity supports or opposes.

The first report filed by a participating organization must include information for the period beginning two years before the date that the report was filed.

If the participating organization decides to post information on its website, the participating organization must:

1. Have a "Campaign Finance Activity" link on its homepage;
2. Use at least 12-point font for all required information; and
3. Continually update the information within 48 hours after making political disbursements of \$10,000 or more until the end of the election cycle.

*-§ 13-309.2 of the Election Law Article and COMAR 33.13.17*

Failure to update the information on the website will be considered a failure to file a report.

### 3. Enforcement

A participating organization that fails to file a required report (or timely post information on its website), in addition to any other sanction provided by law, may be assessed a penalty not greater than \$1,000 per day or 10% of the amount of the donations or political disbursements. The participating organization, Treasurer, and the person exercising direction or control are liable for any civil penalty.

A participating organization that fails to file a registration notice is subject to a civil penalty of \$5,000.

*-COMAR 33.13.17.05*

Within 48 hours after making aggregate political disbursements of \$50,000 or more in an election cycle, the participating organization must identify a registered agent in the State for service of process. The registered agent information is updated on the registration page in MD CRIS.

### 4. Record Keeping

A participating organization is required to keep for 2 years after the end of the election cycle in which it participated:

- Detailed and accurate records of all political disbursements made in the State or affecting State elections; and
- All donations received.

## 6.4 Independent Expenditure/Electioneering Communication Entities

An independent expenditure entity is a person or organization who made expenditures expressly advocating the success or defeat of a clearly identified candidate or ballot issue **not in coordination** with a candidate, ballot issue committee, or its agents. This entity is required to file an independent expenditure report.

An electioneering communication entity is a person who made expenditures within 60 days of the election that references a clearly identifiable candidate or ballot issue in a public communication **not in coordination** with a candidate, ballot issue committee, or its agents. The communication does not have to tell the public to vote for or against to be considered an electioneering communication. This entity is required to file an electioneering communication report.

#### *Key Terms:*

A public communication is any form of general public political advertising, including (but not limited to) communication by broadcast radio or television, cable television, satellite cable or television, mass mail, email-blast, text blast, qualifying paid digital communication, or telephone bank.

Public communication does not include news or editorial content, internal member communications within a business, or a candidate debate or forum.

*§ 13-306(a)(6) of the Election Law Article*

An electioneering communication is similar to a public communication, but it must:

- 1) refer to a clearly identified candidate or ballot;
- 2) be made within 60 days of an election day; and
- 3) be capable of being received by 50,000 or more individuals where the candidate or ballot issue is being considered, if transmitted by television or radio; or capable of being received by 5,000 or more individuals if transmitted by other means.

An electioneering communication, by definition, cannot be made in coordination with, or at the request or suggestion of, a candidate, campaign finance entity, or agent of a candidate or ballot issue.

*§ 13-307(a)(3) of the Election Law Article*

The reporting and filing requirements are the same for both independent expenditure entities and electioneering communication entities. Any reference to an independent expenditure entity also applies to an electioneering communication entity.

1. Registration Requirements

A person must register with the State Board within 48 hours after:

- For an independent expenditure entity: making aggregate independent expenditures of \$5,000 or more in an election cycle for campaign material that is a public communication
- For an electioneering communication entity: making aggregate disbursements of \$5,000 or more in an election cycle for election communications.

Registration occurs via MD CRIS.

At the time of registration, the filer must identify the person exercising direction or control over activities of the entity.

2. Reporting Requirements

A person must file an independent expenditure report within 48 hours after a person makes aggregate independent expenditures of \$10,000 or more in an election cycle for campaign material that is a public communication or electioneering communication. The report must include all disbursements made and the identity of each donor of \$6,000 or more during the reporting period. The report is filed via MD CRIS.

*Additional Requirements:*

If the person is a business entity, the business entity must do one of the following, unless neither are applicable:

- Notify its shareholders, members, or donors of the independent expenditure disbursements by regular, periodic reports issued by the entity; or
- Post a hyperlink to the entity's reports in MD CRIS within 24 hours of the filing of a report on the entity's homepage on the Internet. .

If the entity provides notice on its homepage, text must be in at least 10-point type; and a required hyperlink on the home or landing page of the business entity shall be labeled “Independent Political Spending.”

### 3. Enforcement

A person making independent expenditures who fails to file a required report may be assessed a penalty not greater than \$1,000 per day or 10% of the amount of the donations or the disbursements. The entity, Treasurer, and the person exercising direction or control are liable for any civil penalty.

Within 48 hours after making aggregate disbursements of \$50,000 or more in an election cycle, the entity must have a registered agent in the State for service of process. The registered agent information must be posted via MDCRIS on the committee’s registration page information.

### 4. Social Media Expenses

A person (or an agent of the person) that establishes, creates, uses, or maintains a social media account, micro-blog, or website for disseminating campaign material that is a public communication, shall attribute all related costs to the person making an independent expenditure in determining the aggregate amount of the public communication. The total shall include all costs associated with the establishment, creation, use, promotion, or maintenance of the social media account, micro-blog, or website, including payments to others for the design, promotion, or content of the campaign material.

### 5. Record Keeping

An independent expenditure or electioneering communication entity is required to keep for 2 years after the end of the election cycle in which it participated:

- Detailed and accurate records of all disbursements made; and
- All donations received.