

Chapter 9 – Expenditures

9.1 Generally

An expenditure is defined as a gift, transfer, disbursement, or promise of money or valuable thing by or on behalf of a political committee to promote or assist in promoting the success or defeat of a candidate, political party, or question at an election; or, to pay the for the costs associated with contesting an election under Title 12.

- § 1-101(aa) of the Election Law Article

- Expenditures must have an electoral purpose; that is, they must enhance the candidate's election chances, such that they would not have been incurred if there had been no candidacy.
- Expenditures may not be for the personal use of the candidate or any other individual.
- Except as expressly authorized by law, expenditures must be made by the Treasurer.¹⁵
- Expenditures must be supported by receipts, statements, bills, or vouchers, which are required to be kept with the account books and records.

9.2 How to Make Expenditures

1. Direct Expenditures

Expenditures made by the campaign finance entity must be made by check, debit card issued by the financial institution, or other authorized electronic methods. The only authorized signatory for checks or use of the debit card on the account is the Treasurer. If the Treasurer is unable to perform duties of the position, the Chair, during that limited time period, is permitted to assume the duties of the Treasurer. Wire transfers or electronic fund transfers are permitted methods for making an expenditure.

The political committee cannot use a credit card or money order to make an expenditure.

- §§ 13-218 and 13-220 of the Election Law Article, COMAR 33.13.06.04

Additionally, certain expenditures must be made with a check; no other method is permissible. This includes payment for walk around services on election day and compensation to a responsible officer.

2. Reimbursement

The candidate, Treasurer, or an authorized campaign worker may pay an expense of the campaign from personal funds and seek a reimbursement, provided:

- The expense is supported by a receipt that is retained by the Treasurer of the political committee;
- The Treasurer reimburses the person who paid the expense from the campaign bank account;

¹⁵ The exception to the rule is referenced in Section 7.3 of the Summary Guide.

- The reimbursement is made within the same reporting period as the initial transaction; and
- The reimbursement is reported on the campaign finance report as specified in Chapter 11 of this Summary Guide.

- § 13-220(b) of the Election Law Article

Important: Reimbursements cannot be used in lieu of loans. Accordingly, if a campaign does not have sufficient funds to make a reimbursement, the expenditure should not be made. Instead, the candidate, treasurer, or authorized campaign worker should make a loan to the campaign. This will allow the campaign to make the purchase directly, and the lender can be repaid as funds become available. Further, this approach will allow the campaign to accurately and timely disclose the transaction.

9.3 Petty Cash

A petty cash fund of up to \$250 may be maintained by the Treasurer in a separate account book. The fund can be **replenished only by check**. All expenditures from the petty cash fund must be supported by receipts and kept as part of the account book and records of the political committee. No more than \$25 in the aggregate may be disbursed from the petty cash fund to any single recipient in connection with any Primary or General Election.

- § 13-220(c) of the Election Law Article

Recommendation

Even though the law permits the use of petty cash, it is recommended that, whenever possible, campaign expenditures be made by check or debit card associated with the campaign bank account.

9.4 Expenditures to Federal Candidates and Committees

A political committee may make an expenditure to a federal candidate or federal PAC only if the expenditure serves an electoral purpose. Political committees are limited to \$1,000 in the aggregate to contributions to federal candidates, federal political parties, and federal PACs within a calendar year. See 52 U.S.C. § 30101(4). The federal committees receiving these funds are required to confirm with your committee that your contribution is comprised of federally permissible funds.

If your political committee exceeds the aggregate \$1,000 contribution threshold, you may receive a letter from the FEC requiring your committee to register with the Commission. At that point, your committee would have to register and begin reporting to the FEC or your committee would need to seek a refund of the federal contribution that triggered your committee to exceed the annual aggregate limit.

FEC regulations prohibit the transfer of funds or assets from a candidate's campaign committee for a nonfederal election to his or her principal campaign committee or other authorized committee for a Federal election. 52 U.S.C. 30116(a)(4).

9.5 Expenditures to a Municipal Candidate and Committee

Generally, contributions may be used only in State and county elections. If the expenditure made to a municipal candidate serves an electoral purpose for the political committee, the expenditure is permissible. Consult municipal codes and laws for any applicable municipal campaign finance limits.

Remember, Baltimore City is not considered a municipality for this purpose. Baltimore City elections are subject to State campaign finance regulations.

9.6 Legislative Newsletters

It is permissible for a candidate committee of an incumbent member of the General Assembly to use campaign funds to pay for the publication expense of a legislative newsletter. A legislative newsletter is a document used by an incumbent to disseminate information to a constituent, voter, or potential voter about an issue of public interest or the incumbent's performance in legislative office.

—§§ 13-406 through 13-408 of the Election Law Article

Please remember to include an authority line on the legislative newsletter.

9.7 Prohibited Expenditures

Prohibited expenditures of campaign funds include:

- For personal use or benefit of the candidate, candidate's family, or any other individual;
- The mortgage, rent, or utilities for the personal residence of the candidate or the candidate's family;
- Paying for a political endorsement;
- Making loans to other political committees;
- Expenses related to the necessary and ordinary course of holding office;
- Expenses relating to travel outside the country;
- Tuition and any other associated costs for educational programs or schooling; or
- Administrative accounts.

- COMAR 33.13.10.03

For example, a candidate may not use campaign funds to pay a mortgage payment or an oil change on a personal vehicle. These types of expenditures would have occurred regardless of the individual being a candidate. Additionally, the nexus between the expenditure and the promotion of the candidacy is too tenuous.

This is not a comprehensive list. If you have any questions regarding permissible expenditures, please contact the State Board or review the regulations.

9.X Guidance for Child Care and Cybersecurity Expenses

SBE has issued guidance on committee expenditures for both child care and cybersecurity expenses.

Child care expenditures are permissible if they would not have occurred but for the fact a candidacy is

being promoted, supported or opposed. Therefore, child care expenses would have to have an electoral purpose in order for them to be permissible.

Cybersecurity expenditures in support of cybersecurity countermeasures to protect emails, storage of voter data, and other campaign information would have to have an electoral purpose in order for them to be permissible.

For further explanation, please review the guidance memorandums found here https://elections.maryland.gov/campaign_finance/guidance.html.

9.8 Charities

Generally, campaign funds may not be used solely for charitable purposes. Maryland law requires campaign funds to be used for the purpose of supporting or opposing a candidate, question, or political committee. Furthermore, it is important to keep in mind that contributors give to campaign committees for one important reason – they want to support the candidate, question, or political party in an election. When campaign funds are spent for a non-campaign related purpose, it frustrates the intent of the contributor.

However, there are instances when a charitable donation is permissible because it is for a campaign purpose. For example, a candidate may permissibly use campaign funds to attend a charitable event since attending the event increases the candidate's visibility and allows the candidate to network with potential voters and donors.

Additionally, if the political committee is in the process of submitting a final report, the political committee may make a direct contribution to a charity.

9.9 Legal Defense

1. Permissible Expenditures

Contesting or Maintaining Election Results

A candidate or political committee may use campaign funds to pay reasonable legal expenses incurred to contest or maintain the results of the candidate's election. A person may donate or volunteer legal services for this purpose and the value of the donation will not be considered a campaign contribution.

–§ 13-233 of the Election Law Article

Campaign-Related Legal Defense

Campaign funds may be used to pay for investigations or legal actions resulting from the conduct of the campaign or election.

–See COMAR 33.13.10.03B(6)

2. Impermissible Use

Non-Campaign-Related Legal Expenses

It is prohibited for any candidate or political committee to use campaign funds for legal or other expenses related to investigations or court proceedings that do not have a direct connection with the candidacy. For example, investigations or charges involving misconduct in an individual's employment or public office are not campaign-related, even if the charges first come to light as a result of the individual's decision to run for elected office.

Non-campaign-related legal costs are considered "personal" expenses for purposes of the campaign finance laws.

3. Separate Legal Defense Funds

A candidate may establish a legal defense fund separate from the campaign committee and accept donations from others. A separate legal defense fund may be used to defend against any type of charge, whether campaign-related or not. Donations to a segregated legal defense fund are not considered campaign contributions.

Candidates defending against a prosecution for campaign-related improprieties who wish to use campaign funds or donations from others to defray legal defense costs are urged to contact the State Board for further guidance. Funds collected and used for legal expenses must be kept in a segregated account and may not be converted to campaign use after the legal expenses have been paid.

Please note, while a candidate may raise funds for legal defense that will not be subject to campaign finance contribution limits, if the candidate is an officeholder, ethics rules on gifts and disclosures may apply.

9.10 Recounts/Contested Elections

A campaign must pay recount and contested election expenses from campaign funds. A public financed committee may establish a separate contested election committee to pay for expenses related to the recount or contesting an election under Title 12 of the Election Law Article.

A contribution received by the political committee for a recount is subject to the contribution limits.

- § 12-102 of the Election Law Article