

WEBER COUNTY ORDINANCE COVER SHEET

Type of ordinance: <input type="checkbox"/> New <input checked="" type="checkbox"/> Amendment	
Requester: <input checked="" type="checkbox"/> County department or office: <u>Elections (Clerk/Auditor)</u> <input type="checkbox"/> Other: (name of individual or organization) _____	
Contact person (if not requester): <u>Ryan Cowley</u>	
Phone number: <u>801-399-8036</u> Email: <u>rcowley@co.weber.ut.us</u>	
Summary and purpose of proposed ordinance (be specific): Update and clarify campaign finance reporting for county and local school board candidates.	
County Commissioner Preliminary Approval	
Commissioner signature: _____ Date: _____	
County department or office assigned as originating department: _____	
County Attorney's Office Review	
Initial review: <input checked="" type="checkbox"/> Approved (no legal concerns) <input type="checkbox"/> Not recommended (see below for unresolved legal concerns)	
Signature: <u><i>[Signature]</i></u> Date: <u>3/17/21</u>	
Unresolved legal concerns or other comments:	
Second review (if applicable): <input type="checkbox"/> Approved <input type="checkbox"/> Still not recommended due to legal concerns	
Signature: _____ Date: _____	
Clerk's Office Review	
Initial review: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Not recommended (see below for unresolved concerns)	
Signature: <u><i>Rudy Hatch</i></u> Date: <u>3-8-21</u>	
Unresolved concerns or other comments:	
Second review (if applicable): <input type="checkbox"/> Approved <input type="checkbox"/> Still not recommended due to concerns	
Signature: _____ Date: _____	
Review by Other Entity	
<input type="checkbox"/> Not required <input type="checkbox"/> Reviewed and approved Entity: _____	
County Commission	
First Reading Date: _____ Votes _____ Jenkins _____ Froerer _____ Harvey _____	<input type="checkbox"/> Approved to be moved to second reading <input type="checkbox"/> Originating department to make changes and submit for second reading <input type="checkbox"/> Final approval given (no second reading necessary) <input type="checkbox"/> Rejected <input type="checkbox"/> Other: _____
Second Reading Date: _____ Votes _____ Jenkins _____ Froerer _____ Harvey _____	<input type="checkbox"/> Approved as presented <input type="checkbox"/> Approved with changes <input type="checkbox"/> Rejected <input type="checkbox"/> Other: _____
Comments (e.g., changes ordered by Commission):	

ORDINANCE NO. _____

AN ORDINANCE OF WEBER COUNTY TO UPDATE AND CLARIFY CAMPAIGN
FINANCE REPORTING FOR COUNTY AND LOCAL SCHOOL BOARD
CANDIDATES

WHEREAS, under UCA § 17-16-6.5(10)(a), counties may enact additional requirements regarding disclosure of campaign contributions and expenditures; and impose additional penalties for noncompliance;

WHEREAS, these requirements apply to candidates who apply for county elected office and for local school board office candidates who reside in the county;

WHEREAS, over time, legislative amendments in the Utah State Code have created a need to amend and clarify Weber County's ordinance regarding disclosure of campaign contributions and expenditures; and

WHEREAS, Weber County values transparency for its citizens.

NOW THEREFORE, the Board of County Commissioners of Weber County ordains the following amendments to Title 2, Chapter 15 of the Weber County Code:

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Title 2 Administration, Chapter 15 Regulation and Accounting of Revenues Contributions and Expenditures Relating to Personal Campaigns

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Sec 2-15-1 Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commented [Q1]: These terms have been alphabetized.

Campaign committee:

1. The term "campaign committee" means an association or combination of persons organized for the purpose of raising, collecting or disbursing money for political purposes, and includes personal campaign committees organized in the county to secure the nomination or election of a candidate.
2. The term "campaign committee" does not mean:
 1. Any political party organized under the laws of the state;
 2. Any entity that provides goods or services to an individual or committee in the regular course of its business at the same price that would be provided to the general public;
 3. Individuals who are related and who make contributions from a joint checking account;
 4. A corporation, except a corporation whose apparent purpose is to act as a political action committee; or
 5. An issue campaign committee.

1. Annual office holder report means a report filed annually by county office holders.
2. Anonymous contribution means a contribution that is from a donor whose name is unknown.
3. Candidate means ~~and includes every person who seeks nomination or election to any person who has filed for~~ any of the following county government offices: county commissioner, county treasurer, county sheriff, county clerk/auditor, county recorder/surveyor, county attorney, ~~county surveyor, and~~ county assessor, or local school board.
4. Campaign account means an account in a financial institution that is separate from any other personal or business account and is used for political purposes.

Commented [Q2]: This is no longer called an "interim report" because State Code gives the term "interim report" the same meaning as a "preliminary report." (See below for the change from "preliminary report" to "interim report.")

Contributions:

5. The term "contributions" means any Contributions means any gift, subscription, loan, advance or deposit of money or anything of value, except a loan of money made in accordance with applicable financial institution laws and regulations in the ordinary course of business from a financial institution regulated by the state or federal government; including in-kind and tangible donations from an individual or an organization;
 - a) Contribution does not mean personal services provided without compensation by individuals volunteering their time on behalf of a candidate or a campaign committee.
 1. A transfer of funds between a political committee or organization and a campaign committee;
 2. The term "contributions" does not include personal services provided without compensation by individuals volunteering their time on behalf of a candidate or a campaign committee.
 3. The terms "contributions," "expenditures" and "disbursements" do not include, nor shall a candidate or a campaign committee be required to impute a monetary value to, the following activities:
 1. Endorsement or publicity regarding a candidate or issue extended by the press or other news media;
 2. Endorsement or publicity regarding a candidate or issue extended by an association, fraternal organization, group, or other entity with its own membership; or
 3. Uncompensated labor and personal services.

Election means any general or primary election held pursuant to and as defined and provided by state law, and conducted by the county.

Office holder means a person who holds an elected or appointed county office or position of employment.

6. County office holder means any person, that is not a candidate and who holds the office of county commissioner, county treasurer, county sheriff, county clerk/auditor, recorder/surveyor, county attorney, and county assessor;

a) County office holder does not mean a local school board candidate or member.

7. Election means any general or primary election where a candidate appears on the ballot.

8. Expenditure or disbursement means or includes:

a) A purchase, payment distribution, loan, advance, deposit or gift of money or anything of value made for political purposes;

b) A contract, promise or agreement, express or implied, whether or not legally enforceable, to make any expenditure;

c) A transfer of funds to a political committee or organization by a campaign committee;

d) ~~The candidate filing fee. A payment for personal services by a campaign committee for services rendered to a candidate or to a campaign committee.~~

9. Final report means a report filed by a candidate after withdrawing, primary elimination or after participation in a general election.

10. Political purpose means any act done with intent or in such a way as to influence or tend to influence, directly or indirectly, the nomination or election of a candidate or influence an issue on the ballot.

11. Interim report means a report filed by a candidate prior to a primary or general election.

12. Timely means a report or statement that is:

a) Submitted no more than seven days before the report deadline and

i. is physically received in the clerk/auditor's office by 5:00 pm Mountain Time on the day the report is due;

ii. is received by an approved electronic method by midnight Mountain Time on the day the report is due; or

Deleted: <#>An "exempt organization" is an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

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Deleted: <#>Itemized list means a list that contains the date, name, city, and the amount. Any expenditure must include the description or purpose.

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- iii. the candidate has proof that the report was mailed, with appropriate postage and addressing, three days before the report was due; and
 - b) Current within three days of the date of filing; and
 - c) Completed and accurate.
13. Withdraw means a candidate provides written notification to the county clerk/auditor that they are no longer a candidate.

(Code 2019, § 17-16-6.5)

Sec 2-15-2 Personal Campaign Committee Candidate Report Filing Procedures

~~Every candidate shall appoint a personal campaign committee to consist of one or more persons and shall require that a secretary be appointed. The candidate may choose to appoint himself as the committee and in so doing the secretary shall be the candidate himself.~~

1. Candidates are responsible for establishing a campaign account that is used for all contributions and expenditures related to their candidacy.
2. A candidate may not deposit or mingle any contributions received into a personal or business account.
3. A candidate shall timely file with the county clerk/auditor full, correct, and itemized reports of all contributions and expenses as set forth in this section. The Reports shall include the following itemizations:
 - a) the date and amount of each contribution and expenditure;
 - b) the name of the donor for each contribution, if known;
 - c) the name of the recipient for each expenditure;
 - d) the purpose for each expenditure; and
 - e) the city of the donor or recipient's primary location.
4. Candidates shall file an interim report at least seven calendar days before an election in which they appear on the ballot.
5. Candidates shall file a final report within 30 calendar days after withdrawal, primary election elimination, or general election where a candidate appears on the ballot.
6. County office holders shall file an annual office holder report no later than the last business day of each calendar year in which they were not up for election.

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7. Reports shall be filed on forms approved and provided by the county clerk/auditor.
8. Successive reports shall contain totals from the last report, current report and a cumulative total. ~~Successive reports~~ shall not contain itemized information supplied in prior reports.
9. If no contributions are received or expenditures made, candidates must file a report to that effect in a timely manner.
10. If a candidate has an existing campaign account, the first report filed by a candidate must include the beginning balance and include an itemized list of any contributions and/or expenditures that have previously not been reported on an ~~interim, final or annual office holder~~ report. Such itemizations must include the information listed under Subsection (c) of this Section.
11. An anonymous contribution has a limit of \$50. Anonymous contributions exceeding \$50, whether cash or a negotiable instrument, must be disbursed within 30 calendar days of receiving the donation to the county treasurer for deposit in the county's general fund or to an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.
12. All reports shall be available for inspection the day following the deadline and shall be publicly available on the elections website within seven calendar days.

(Code 2019, § 17-16-6.5)

Sec 2-15-3 Revenues And Expenditures Civil Actions

Any private party in interest may bring a civil action in district court to enforce the provisions of this section or any ordinance adopted under this section.

In a civil action filed under this Section, the court shall award costs and attorney fees to the prevailing party.

All expenditures of money or other things of monetary value made for political purposes and all contributions received by a candidate or member or secretary of a duly constituted campaign committee shall be reported as provided in sections 2-15-4 and 2-15-5.

(Code 2019, § 17-16-6.5)

Sec 2-15-4 Campaign Statements—Filing Procedures Penalties

1. — Every campaign committee secretary shall file with the county clerk, on forms furnished by the clerk, full, correct and itemized statements of all moneys and things of monetary value received and expended in the furtherance of political purposes, in accordance with the schedule set forth in this section.

2. — Preliminary statements shall be filed at least seven days but no more than 14 days preceding both the primary and general elections, (except that unopposed primary candidates

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~~Complaints or challenges to a report must be filed in writing by a candidate or registered voter with the report inspector and state with specificity why the report is inaccurate or does not conform to law. The report inspector must review the report and within five business days make a determination. ¶ For questions of accuracy or completeness the report inspector shall request an examination of all books and records for the candidate or county office holder. Such books and records shall be produced within two calendar days of the request for examination. Failure to produce books and records shall result in the determination that the report was not timely filed. ¶~~

~~Challenges to preliminary reports must be made within two business days of the filing deadline. The report inspector shall notify the affected candidate or county office holder in writing, requesting compliance with this chapter. A candidate whose report has been determined to contain errors has two business days to amend and resubmit the campaign finance report. Failure to submit a corrected report shall result in the determination that the report was not timely filed.~~

Commented [Q6]: This provision comes from UCA § 17-16-6.5(17), which vests authority in the district courts to adjudicate challenges and grievances under this Chapter. Because of this provision, I have removed the administrative procedure for challenges/complaints as well as grievances against penalties (below).

If the Elections Office receives a complaint or a tip about an incorrect report, the office may contact the candidate, notify them of the information, and—if true—suggest filing an amended report. If the complainant wants to press for enforcement, however, they need to take it to the courts.

~~Deleted: Code 1985, § 6-19-3~~

need not file statements before the primary election), which statements shall include all receipts and disbursements current to within three days of the date of filing.

3. — Final statements shall be filed by candidates eliminated at the primary election within 30 days following the primary election. Final statements shall be filed by general election candidates or the candidate's campaign committee by January 5 of the year following a general election and shall include all contributions and disbursements through December 31 of the general election calendar year.

4. — Successive statements shall not contain information supplied in prior statements, except aggregate totals shall be carried forward for both receipts and disbursements.

5. — All statements shall be dated and signed by the candidate and the committee secretary.

1. Any person who fails to comply with this Chapter is guilty of an infraction.

Commented [Q7]: This is one of the penalties individuals are subject to under UCA § 17-16-6.5(9)

2. The penalty for not submitting a timely report is:

a) \$100 fine assessed by the county clerk/auditor at 12:01 am immediately following the filing deadline;

b) \$100 fine assessed by the county clerk/auditor at 12:01 am each week following the filing deadline up to \$400; and

c) For interim reports:

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i. removal from the ballot if not properly filed within 24 hours of the deadline pursuant to 17-16-6.5; and

ii. the political party of the candidate may not replace the candidate.

Commented [Q8]: This is one of the penalties candidates are subject to under UCA § 17-16-6.5(12).

3. Failure to pay a fine or file a financial report precludes an individual from filing to become a candidate until

a) all fines assessed under this Chapter are paid;

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b) the missing financial report or a statement providing a reasonable justification as to why the report was never submitted has been filed with the county clerk/auditor; and

Commented [Q9]: I suggest enhancing this requirement to include a "reasonable justification" as to why the report was never submitted. I've inserted the suggested language here. Without the enhanced requirement, the candidate could give any reason (no matter how bad) and still avoid filing the missing report.

c) a promise to file all future financial reports has been filed with the county clerk/auditor.

4. Fines shall be paid to the county clerk/auditor for deposit in the county's general fund.

5. A candidate shall not be disqualified from candidacy for submitting a report that is later found to contain inadvertent omissions or insignificant errors or inaccuracies, as long as:

- a) the original report is timely filed; and
- b) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

(Code 2019, § 17-16-6.5)

~~Sec 2-15-5 Same—Contents~~

~~The statements required by section 2-15-4 shall contain:~~

- ~~1. The name and address of every person, corporation or other entity contributing, loaning or advancing to the candidate or campaign committee money or other thing of monetary value in an amount of more than \$50.00, and the amount or value of that which was contributed, loaned or advanced by each;~~
- ~~2. The aggregate amount or value of all contributions, loans or advances of \$50.00 or less, and the number of contributors;~~
- ~~3. The name and city of every person, corporation or other entity to whom, or to which, the campaign committee secretary and the candidate have disbursed money, or other thing of monetary value, stating the amount or value of the disbursement;~~
- ~~4. The total sum of the amount or value of all disbursements;~~
- ~~5. If no contribution is received or expenditure made by a candidate, campaign committee or its secretary, a statement to that effect shall be filed.~~
- ~~1. Financial reports shall be retained in the Clerk/Auditor's Office for one year from the date it was filed by a candidate that is not elected or for one year after a county officer leaves office after which they will be transferred to the state archives for permanent storage.~~

~~(Code 1985, § 6-19-5; Ord. No. 96-12, 4-17-1996)~~

~~Sec 2-15-6 Same—Filing; Forms; Public Inspection~~

- ~~1. Forms for all statements required by this chapter shall be prepared by the county clerk and approved by the board of county commissioners, and copies thereof, together with a copy of this chapter, shall be furnished upon request by the clerk to the secretary of every campaign committee, to every candidate, or to any others who make a request.~~
- ~~2. All statements required by this chapter shall be open to public inspection and may be copied for a fee at the office of the county clerk during normal business hours, and all such statements shall be preserved by the clerk for a period of four years from January 1 of the year following the election for which they are filed.~~

Commented [Q10]: This provision follows UCA § 17-16-6.5(15)

Deleted: A person aggrieved by the imposition of a fine may request and be granted an administrative appeal of that grievance. The administrative appeal shall be made to the county's designee. The aggrieved party shall file a written notice of appeal to the county's designee within 14 calendar days after final imposition of the fine. The written notice of appeal shall include the aggrieved party's name, address, phone, email, and brief explanation of the appeal. After receipt of the written notice of appeal, the county's designee shall make a determination, within 10 business days, on the merits of the appeal. If the appeal is denied, the aggrieved party may appeal to district court.

Deleted: Code 1985, § 6-19-4; Ord. No. 96-12, 4-17-1996

(Code 1985, § 6-19-6)

~~See 2-15-7 Office Holder Filing Procedures~~

~~Any person who holds an elected county office, through election or appointment and who receives any contribution for political purposes, shall file by December 31 in each year he or she is not a candidate a statement setting out all contributions for political purposes received that calendar year on forms provided by the county clerk, which forms shall be signed by the office holder.~~

(Code 1985, § 6-19-7; Ord. No. 96-12, 4-17-1996)

~~See 2-15-8 Limitations On Contributions~~

~~1. — The acceptance of anonymous contributions is hereby prohibited. Any anonymous contributions received by a candidate or campaign committee shall be transmitted to the county treasurer for deposit in the general fund.~~

~~2. — No person shall make a contribution in the name of another person, or make a contribution with another person's funds in his own name, and no campaign committee shall knowingly accept such contributions; provided, however, that contributions may be made and received so long as the name of the party or of the entity sponsoring the campaign committee is imprinted on any check or other means of contribution and is listed in campaign statements.~~

(Code 1985, § 6-19-8)

~~See 2-15-9 Campaign Statements—Inspection And Complaints~~

~~Except when reviewing his own campaign statements, which shall be inspected by the county attorney, the county clerk shall inspect all financial campaign statements within four days after the same are filed, and if it appears that any campaign committee, person or political action committee has failed to file a statement as required by law, or if it appears that the statement does not conform to law, or upon a written and verified complaint by a candidate or by a voter setting forth with specificity that a statement filed does not conform to law, the clerk shall notify the delinquent campaign committee, person, or political action committee in writing, requesting compliance with this chapter.~~

(Code 1985, § 6-19-9)

~~See 2-15-10 Same—Failure To File~~

~~Upon the failure of any campaign committee or person to file a statement within five days after receiving notice under section 2-15-8, or, if in the exercise of reasonable discretion the clerk (or the county attorney when the clerk's campaign statement is questioned) questions the accuracy or completeness of such statement, the clerk shall request an examination of all books and records of such committee or person. Such books and records shall be produced for inspection within two days after the request for examination is received.~~

(Code 1985, § 6-19-10)

Sec 2-15-11 Enforcement Powers

If a campaign committee or person fails to file a statement within five days after receiving notice under section 2-15-8, fails to comply with the notice provided under section 2-15-10, or if any statement filed discloses a violation of this chapter, the clerk shall notify the county attorney, and shall furnish the county attorney copies of all papers in his possession relating hereto, and the county attorney, on such complaint or the complaint of any other person, shall enter forthwith the same in a docket kept for that purpose, and within ten days thereafter shall examine every case. If the evidence is deemed sufficient by the county attorney, the county attorney shall institute such criminal or civil proceedings as may be deemed appropriate.

(Code 1985, § 6-19-11)