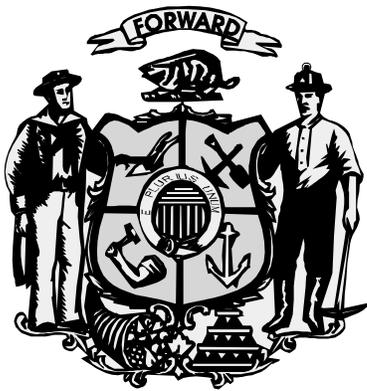


# **CAMPAIGN FINANCE OVERVIEW**

## **REFERENDUM COMMITTEES**

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## **REGISTRATION REQUIREMENTS**

### **Introduction**

A Referendum Committee is defined as:

any person, other than an individual, or any permanent or temporary combination of 2 or more persons unrelated by marriage that satisfies any of the following:

1. It has the major purpose of making expenditures to support or defeat a referendum, as specified in the entity's organizational or governing documents, the entity's bylaws, resolutions of the entity's governing body, or registration statements filed by the entity under this chapter.
2. It uses more than 50 percent of its total spending in a 12-month period on expenditures made to support or defeat a referendum. In this subdivision, total spending does not include a committee's fundraising or administrative expenses.

Additionally, Referendum Committees do not have to register unless they receive contributions or make disbursements of over \$10,000 in a calendar year.

The Government Accountability Board has developed this guide to assist referendum committees in understanding the law, meeting the registration and financial reporting requirements, and complying with contribution limits and prohibitions. If after reading through these materials you have questions or need additional information, contact our office at (608) 261-2028.

### **When Referendum Committees are Required to Register**

Under Wisconsin campaign finance statute §11.0802, a new referendum committee must register within 10 days of passing the threshold of \$10,000 of activity in a calendar year.

All referendum committees must register at the level where the referendum is occurring (State, County, Town, Municipal or School District). State-level Referendum committees may register online at <http://cfis.wi.gov>. Referendum committees at the county, municipal, town, or school district level will register with a ETHCF-1 form. When completed, to activate your registration, you must send a signed copy to the requisite filing officer by email, fax or US mail (PO Box 7984, Madison, WI 53707).

After filing the registration statement, a referendum committee may continue receiving and disbursing campaign funds. The committee's financial activities must be reported to the filing officer on campaign finance reports (ETHCF-2S, 2SE, 2SU, 2L/LE (local) or 2a), *unless the committee has claimed an exemption from filing finance reports*. These reports will disclose information on the receipts, expenditures, incurred obligations and loans of the committee.

### **Completing a Registration Statement**

Several items of information are required on a referendum committee's registration statement (ETHCF-1). When any of this information changes, an amendment to the registration statement must be filed in a timely manner (**within 10 days**).

## Required Registration Information

- After picking the Committee Type of “Referendum Committee”, new registrants must indicate whether they support or oppose the referendum in question.
- Along with the name and contact information, new committees must also supply a four-digit PIN number. The PIN number will be used when submitting any reports or changing registration information in the CFIS website.
- All committees are required to have an active treasurer. Please make sure the email address for the treasurer is kept up to date, so the committee receives notices of filing deadlines and other communications. Failure to keep this information current may result in the committee being penalized for failure to file necessary reports.
- Additional contacts are not required. However, the Government Accountability Board recommends having more than one contact person for the committee.
- Every referendum committee must have a campaign account, and provide the name and address of the financial institution. To open the campaign account, it may be necessary to complete a request for Employer Identification Number (EIN) using form SS4. This form should be available from your financial institution or from an IRS office or website <http://www.irs.gov/charities/political/index.html>.
- After registration, every **statewide referendum** committee will be issued an Ethics ID#. This ID# also serves as the ‘username’ to login to the CFIS website. We recommend that this ID#, along with the full committee name, appear on all committee checks.

## Certification

The committee treasurer must sign the registration statement certifying that the information is true, correct, and complete. When the filing officer receives the signed statement, they will activate the committee, and at the state level, the CFIS website will send the Ethics ID# (which is also the username) and a password to the email address(es) on file.

## Amending a Registration Statement

When any of the information reported on the registration statement changes, the statement must be amended by filing a new ETHCF-1 within 10 days. The treasurer should file an amended ETHCF-1 indicating that it is an amendment.

## MAJOR PROVISIONS OF CAMPAIGN FINANCE LAW

Included below is a summary of some of the major provisions of campaign finance law. A copy of Chapter 11, *Wisconsin Statutes*, as well as other campaign finance rules, guidelines and reporting advice can be found on the campaign finance website at <https://cfis.wi.gov>, by clicking the **General Information** button on the bottom left or at [gab.wi.gov/](http://gab.wi.gov/).

## Prohibited Contributions

Certain contributions are prohibited by Wisconsin law. A committee may not accept the following types of contributions:

1. Anonymous contributions of more than \$10;
2. Contributions in cash of more than \$100;
3. Contributions given in the name of someone other than the contributor (these are laundered contributions);
4. Contributions in excess of the limits set by law. Referendum committees may accept unlimited amounts from individuals, party committees, corporations, labor unions and other referendum committees.

### **Other Income from Businesses**

1. Corporations **may contribute** to referendum committees in the State of Wisconsin.
2. Sole-proprietorships may contribute. The contribution must be reported under the name of the individual owner.
3. Partnerships may contribute. The contribution must be reported under the names of the individual owners. The partnership may agree beforehand on how to allocate a portion of the contribution to each partner. If the partnership does not inform the candidate how the contribution should be allocated between the partners, then the contribution should be divided up according to each partner's share of the partnership's profits.
4. LLCs taxed as a sole-proprietorship or partnership may contribute. The contribution must be reported under the name(s) of the individual owner(s). If there is more than one owner, contributions should be allocated as described in the partnership section above.

Occasionally, a committee may receive other income, like interest on a savings or checking account, or a refund of a security deposit, from a business. This other income is not a contribution, and may be accepted from any type of business. The income should be reported on Schedule 1-C (Other Income), rather than Schedule 1-A, where contributions are reported.

### **In-Kind Contributions**

An in-kind contribution is any good, service or property offered to the committee free of charge or at less than the usual cost, or payment of a registrant's obligations for such goods, services or property. For example, if a volunteer purchases stamps that are used for a mailing and is not reimbursed for the cost of the stamps, the value of the stamps is an in-kind contribution to the committee from that volunteer. When an individual is paid to work on behalf of a committee by another committee or some other individual, the payment for those services is an in-kind contribution to the committee that benefits from the work. If an individual offers to provide food and beverages for a fundraiser at less than the ordinary market price, the difference between the ordinary market price and the cost to the committee is an in-kind contribution from the individual.

The treasurer must agree to accept an in-kind contribution before it is given. Before making an in-kind contribution to a committee, the contributor is required to notify an authorized person and obtain either oral or written consent to the contribution. If the contributor does not know the actual value of the contribution, a good faith and reasonable estimate of the fair market value should be provided.

An in-kind contribution received by the committee is reported as both a receipt and expenditure. This procedure allows the committee to disclose the receipt of the contribution on its campaign finance report along with cash contributions received. Then, in order to keep the committee's cash balance accurate, the amount of the in-kind is reported as an expenditure. The two entries offset each other and do not affect the cash balance.

If an estimate of the value of an in-kind contribution is the only value available at the time the committee is required to file a report, the committee must report the estimated value of the contribution. When the actual value of the estimated in-kind contribution is known, the actual amount is reported as an amendment to the original campaign finance report.

In-kind contributions are subject to the same itemization thresholds and the same contribution limits as cash contributions. Cash contributions and in-kind contributions from a single contributor are added together for the purposes of determining compliance with contribution limits and the year-to-date amount for a specific contributor. When a political communication is provided as an in-kind contribution, the disclaimer must identify the committee receiving the contribution.

### **Returned Contributions**

Any contribution you return to the donor after depositing it in the committee's account must be reported as a returned contribution to the contributor. Any contribution returned to the donor uncashed within 15 days of receipt has not been accepted and does not get reported.

### **Contributions Transferred through Conduits**

A conduit receives contributions from individuals, deposits those contributions in a financial institution, and then transfers the contributions to a committee selected by the original contributor. The conduit may not exercise any discretion over the amount or ultimate recipient of the contributions. A conduit is required to register with the Government Accountability Board.

When a conduit transfers contributions, it writes a single check for the total amount of all individual contributions designated for that committee. It is required to provide a transmittal letter with the check. This letter must identify the organization as a conduit, and list the individual contributors, the amount of each individual's contribution, and the date the individual authorized their contribution (see Wis. Admin. Code GAB § 1.855).

Contributions transferred through conduits are reported as contributions received from the individuals listed in the transmittal letter. These contributions are reported under the individual's name. They are subject to itemization on the same basis as other individual contributions.

### **Obligations**

“Obligation” means any express agreement to make a disbursement, including all of the following:

- (a) A loan or loan guarantee.
- (b) A promise or a payment to purchase, rent, or lease tangible personal property.
- (c) A promise or a payment for a service that has been or will be performed.

### **ATTRIBUTION STATEMENTS ON POLITICAL LITERATURE (DISCLAIMERS)**

#### **Disclaimers**

No disbursement by a **registered committee** may be made anonymously and no contribution or disbursement may be made in a fictitious name or by one person or organization in the name of another.

- (a) Every printed advertisement, billboard, handbill, sample ballot, television or radio advertisement, or other communication containing express advocacy which is paid for by any contribution or disbursement shall clearly identify its source.
- (b) Every communication described under par. (a) the cost of which is paid for or reimbursed by a committee, or for which a committee assumes responsibility, whether by accepting a contribution or making a disbursement, shall identify its source by the words "Paid for by" followed by the name of the committee making the payment or reimbursement or assuming responsibility for the communication and may include the name of the treasurer or other authorized agent of the committee.

If the communication is an in-kind contribution, the committee accepting the contribution is also accepting responsibility for the communication and must be listed in the disclaimer.

Attribution statements do not apply to communications containing express advocacy printed on small items, which would normally require a disclaimer, but cannot be conveniently printed, including text messages, social media communications, and certain small advertisements on mobile phones.

### **Formats for Disclaimers**

When a communication is paid for by a committee, the disclaimer must include the words "Paid for by," followed by the name of the committee:

"Paid for by the ABC Committee."

### **CAMPAIGN FINANCE REPORTS (GAB-2S, 2SE, 2SU, 2L or 2a)**

All registrants that are not exempt from filing must file campaign finance reports. Committees must continue to file periodic reports until termination of their registration. These reports must be filed with the appropriate local filing officer when due. Any **state level referendum committee** that spends more than \$1,000 in a campaign period (two years) must file reports electronically through the CFIS website.

### **When to file Reports**

All committees must file continuing reports in January and July of each year until they terminate their registration. Referendum committees that spend money on a spring primary or August primary ballot referendum must file a pre-primary and a pre-election report due 8 days before the primary or general election. Referendum committees that spend money on a spring election or November election ballot referendum must file a pre-election report due 8 days before the general election.

### **Itemization of Reporting Periods and Elections:**

**Spring Primary:** A committee that engages in activity concerning a spring primary must file: (1) a pre-primary report; (2) a pre-election report; and (3) annually in each year of an election cycle, a report on January 15 and July 15.

Spring Election: A referendum committee that engages in activity concerning a spring election must file: (1) a pre-election report; and (2) annually in each year of an election cycle, a report on January 15 and July 15.

Partisan Primary: A committee that engages in activity concerning a partisan primary must file: (1) a pre-primary report; (2) a pre-election report; (3) in an odd-numbered year, a report on January 15 and July 15; and (4) in an even-numbered year, a report on January 15 and July 15 and on the 4th Tuesday in September.

General Election: A referendum committee that engages in activity concerning a general election must file: (1) a pre-election report; (2) in an odd-numbered year, a report on January 15 and July 15; and (3) in an even-numbered year, a report on January 15 and July 15 and on the 4th Tuesday in September.

Reporting deadlines can be found at: (<http://www.gab.wi.gov/campaign-finance/limits-deadlines>)

### **How to Complete the ETHCF-2S or 2L Campaign Finance Reports**

Local referendum committees will file the ETHCF-2L/LE report with the local filing officer.

There are three ways for state level committees to file a campaign finance report:

- Using the online screens in the Campaign Finance Information System (“CFIS”) [state only],
- Using the CFIS upload templates (ETHCF-2SU), or
- Using a ETHCF-2SE or 2LE (for locals) Excel workbook with schedules that may be found on the G.A.B. website at <http://www.gab.wi.gov/forms>.

If you choose to use the Excel spreadsheet, you should e-mail your completed document to the appropriate filing officer (GAB at [gabcfis@wi.gov](mailto:gabcfis@wi.gov)). For state level committees, the GAB will upload the information contained in the spreadsheet into CFIS for you.

**Every committee must** use one of the specified, approved forms. A committee that chooses to use the Excel or SU upload template with schedule detail must use the template approved by the Commission. **If your template does not match any fields listed in this document, you are using the wrong template and it will not upload properly.** Please contact the GAB for the correct form.

For detailed instructions on how to complete and file the campaign finance report, go to <https://cfis.wi.gov> and click on the **Manuals** link in the center of the page.

### **Information Required**

The information listed on the campaign finance report discloses the financial activity of the committee. The law requires disclosure of income, disbursements, and incurred obligations. In addition, disclosure is required for obligations, including loan guarantees, and for estimated in-kind contributions. Committee treasurers must exercise diligence in acquiring and furnishing the contributor information required. Under current state law, treasurers are required to make a **“good faith effort”** to obtain all information required on the reports. For all contributors, you must disclose the individual’s name and address. If the individual’s calendar year-to-date total exceeds \$200, you must also provide the individual’s occupation.

Referendum committee’s registered with the state will almost always file the ETHCF-2 or 2a campaign finance reports electronically through the CFIS website. The help screens on that site may answer some of your questions, and you can also obtain a paper or PDF copy of the ETHCF-2 - each of the report schedules has detailed instructions for completing it on the back. When you have entered all transactions for a reporting

period, the CFIS system will automatically generate the ETHCF-2 report for you, and place all transactions on the appropriate schedules.

All contributions received by the committee must be reported in Schedule 1 (Receipts) of the campaign finance report. Contributions and loans from individuals are listed in Schedule 1A (Contributions Including Loans From Individuals). Contributions from other committees, such as other referendum committees, political party committees, and candidate committees, are reported in Schedule 1B (Contributions from Committees). All other income, such as loans from financial institutions, contributions returned from other registrants, refunds, returns of deposits or interest on investments are reported in Schedule 1C (Other Income and Commercial Loans). The date which must be provided for all contributions is the date the committee **received** the contribution, that is, the date it acquired possession and control of the contribution, **not** the date of deposit or date on the check (unless all dates are the same).

All money spent by the committee is reported in Schedule 2 (Disbursements) of the campaign finance report. General operating expenditures are listed in Schedule 2A (Gross Expenditures). Contributions to other political committees are listed in Schedule 2B (Contributions to Committees).

Additional information required to be disclosed is reported in Schedule 3 (Additional Disclosure) of the campaign finance report. All obligations of the committee such as unpaid bills are listed in Schedule 3A (Incurred Obligations Excluding Loans). Loans and the individuals who guarantee loans for the committee are listed in Schedule 3B (Loans).

Schedule 4 (Termination Request) of the campaign finance report or the ETHCF-13 form (termination request) is used for requests to terminate a committee.

### **No-Activity Report (Postcard Report)**

If a committee receives no contributions, makes no disbursements and incurs no obligations during a reporting period, the registrant may file a postcard report form, ETHCF-2a. This postcard form should be used **only** when there has been no financial activity and the cash balance remains unchanged during the reporting period. If there is any financial activity, a registrant is required to use the regular campaign finance report form, ETHCF-2S, 2SU, 2SE or 2L/LE (Local only).

## **Reporting Campaign Finance Transactions**

### **Reporting Receipts**

In preparing to report receipts on a campaign finance report, please remember the following:

1. Anonymous contributions of \$10 or less can be accepted from individuals only. Under this threshold, the individual donor's name and address do not have to be tracked. If any anonymous receipts of more than \$10 are received, the excess donations must be donated to the common school fund or to charity.
2. Anonymous contributions of \$10 or less can be grouped together and reported as a single amount on the campaign finance report. If the total is more than \$10, committees should add a comment describing the circumstances of the receipt.
3. Any non-anonymous contribution must be itemized, and include the person's name and address.
4. Contributions of \$100 or less may be accepted in cash. Contributions over \$100 must be made by check, or by other negotiable instrument.
5. If a single contribution is over \$200 (or if one person's total contributions for the calendar year go over \$200) the committee must report not only the contributor's name and address, but also the contributor's occupation.

6. Contributions from individuals received through a conduit are reported as receipts. They are treated in the same manner as other individual contributions.
7. A contribution given from a joint checking account should be reported as a contribution from the individual that signed the check. If any part of the amount on the check is intended to be contributed by the other owner of the account, that amount should be clearly indicated on the check or in some other writing which accompanies the check.
8. Receipts from raffles, auctions, garage sale, and other similar fundraising events are individual contributions (unless anonymous under \$10) and must be entered as a receipt.
9. Contributions received from a sole proprietorship or partnerships are reported as individual contributions under the name of the owner(s).
10. All contributions from political committees, regardless of the amount, must be itemized and entered as a receipt from the contributing committee. The full name and address of the registrant, the date and the amount of the contribution are required.
11. In-kind contributions (a gift of goods or services, rather than money) are reported at their fair market value at the time of contribution. These contributions are reported as both a receipt and an expenditure. As a receipt, they are entered as a contribution type of "in-kind", with the appropriate information about the contributor. This offsetting expenditure entry is necessary because an in-kind contribution is treated as if cash was given, and then used to buy the item contributed.
12. A loan from an individual is considered a contribution. It must be reported as a contribution and as a loan. Payments on the loan should be reported as expenditures and the cumulative amount paid in a reporting period is also reported. Loans from political committees are considered contributions and are reported.
13. Refunds, interest income and loans from commercial lenders are also reported as money received by the campaign. They are listed as "other income" rather than contributions.

### **Reporting Disbursements - Gross Expenditures**

In preparing Schedule 2 of the campaign finance report, the treasurer should remember the following:

1. An expenditure that exceeds \$20 in amount or value is an itemized expenditure requiring the name and address of the person or business to whom it was made and the date and amount of the payment.
2. The specific political purpose of an expenditure must be reported. Please remember that the purpose of campaign finance reports is to inform the public. The descriptions should provide a person, perhaps unfamiliar with the intricacies of campaigning, with information on the nature of the expenditure and how it relates to the political process. For example, if food has been purchased for a fundraiser or for a party for workers, give the purpose as "food for fundraiser" or "food for party for campaign workers." Do not write "food" only. If T-shirts are purchased for resale by the committee, give the purpose as "campaign T-shirts for resale," not "T-shirts" only.
3. An in-kind contribution of goods or services to another committee must be itemized, regardless of the amount. The itemization must include the name and address of the registrant on whose behalf the disbursement (in-kind contribution) is made, the name and address of the original vendor of the goods or services, and the date and amount of the disbursement.
4. The receipt of an in-kind contribution is also reported as an in-kind expenditure. If the candidate or other person makes an in-kind contribution to the committee, the in-kind expenditure must include the name of the original vendor of the goods or services, and the political purpose of the expenditure.
5. Payments made on loans and incurred obligations are reported as expenditures. The cumulative amount paid to each creditor is reported.
6. All financial institution service charges should be listed as itemized expenditures depending on the amount.
7. Contributions to other political registrants should be reported and must be itemized regardless of the amount transferred. The itemization must list the name and address of the registrant receiving the contribution, the date and amount of the contribution.

8. A letter should be sent to the filing officer within 5 days of donating money to a charitable organization, the Common School Fund, or any government entity. The letter should include the date of the donation, the name of the organization, and shall provide an explanation to the filing officer of why the funds were not retained by the committee. See 11.1302 *Wis. Stats.*

### **Reporting Incurred Obligations**

1. Incurred obligations are to be reported when an enforceable agreement has been reached. If the exact amount of the obligation has not yet been defined, the amount of the obligation must be estimated. Although the committee may not have received a bill, the amount recorded should be a good faith estimate of the amount owed.
2. Each obligation must be carried forward on subsequent reports until the obligation has been reduced to zero.

### **Reporting Loans**

It is important to remember the following information concerning the recording and reporting of loans:

1. A loan from an individual or a political committee is reported as a contribution in Schedule 1A (individual) or in Schedule 1B (political committee) and is listed in Schedule 3B.
2. A loan from a financial institution is reported in Schedule 1C as other income and in Schedule 3B as a loan.
3. Each payment on a loan must be reported as an expenditure in Schedule 2A. The cumulative amount of the payments made on a loan is reported in Schedule 3B.

### **Filing Fee (State only)**

Every referendum committee **registered with the state** whose disbursements exceed a total of \$2,500 in any calendar year must pay an annual filing fee of \$100. Administrative and fundraising expenses do not count toward the \$2,500 threshold. The payment is made to the G.A.B. and is due no later than January 15<sup>th</sup> following the calendar year for which the fee was required. If a committee becomes subject to registration during the year, it must pay the fee when it registers.

If a committee terminates during a year, and spends more than \$2,500 in that year, the registrant must pay the \$100 filing fee with its termination request.

Any committee required to pay the filing fee who fails to do so within the time prescribed will be referred to the Board for further action. The statutes provide for a forfeiture of \$500 plus three times the filing fee which is \$300.

### **TERMINATION OF REGISTRATION AND REPORTING REQUIREMENTS**

A committee may terminate its registration if it meets the following requirements:

1. Determines that all financial activity will stop, and that it will no longer receive contributions, make disbursements, or incur obligations; and
2. Files a termination campaign finance report showing that all incurred obligations have been paid or satisfied, and that the cash balance has been reduced to zero; and,

3. Completes a request for termination in Schedule 4 (Termination Request) or form ETHCF-13.

Committees registered with the Government Accountability Board must pay the filing fee, if required for that year, before terminating their committee. Be sure to inform the filing officer that your committee is requesting termination when filing the committee's final campaign finance report. Simply filing a report with a \$0 balance does not terminate your committee.

### **Disposal of Residual Funds**

Residual funds may be used for any purpose not prohibited by law, including:

1. Returning money to contributors in amounts that are not more than the contributor's original contribution (note: the treasurer may choose which contributors to refund. You *are not required* to pro-rate and return a portion to all contributors); or
2. Donating money to any tax-exempt charitable organization or the Common School Fund; or
3. Transferring money to another referendum committee or independent expenditure committee; or
4. Using any combination of the above.

Prior to making these disbursements, make sure the committee does not have any pending fees or settlement offers.