



**STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION**

August 10, 2009

MEMORANDUM

TO: Candidates in the 2010 elections
FROM: Campaign Spending Commission
SUBJECT: General guidance regarding campaign finance law

This memorandum provides general guidance by the Hawaii Campaign Spending Commission (Commission) regarding Hawaii's campaign finance laws¹ for individuals who may be first-time candidates (and a brief reminder for other candidates) in the 2010 elections.²

- Visit the Commission's website at <http://hawaii.gov/campaign> and study the materials, including the Hawaii campaign finance laws and rules, 2010 Guidebook For Candidate Committees, Campaign Treasurer's Manual, and candidate training videos.
- Attend a training session by the Commission's staff. The schedule of classes is posted on the Commission's website.
- An individual is a candidate, according to the Hawaii campaign finance law,³ if the individual does any of the following:
 - (1) Files nomination papers with the office of elections or county clerk's office;
 - (2) Receives contributions in an aggregate amount of more than \$100 or makes or incurs any expenditures of more than \$100 to bring about the individual's nomination for election, or to bring about the individual's election to office;
 - (3) Gives consent for any other person to receive contributions or make expenditures to aid the individual's nomination for election, or the individual's election, to office;
or
 - (4) Is certified to be a candidate by the office of elections or county clerk.
- An individual begins the process to register as a candidate by completing the application for an electronic filing password and mailing or delivering the form to the Commission at

¹ This memorandum does not address laws outside of the Commission's jurisdiction (e.g., election laws and ethics laws).

² A candidate who is applying for either partial public financing or is a candidate in the 2010 Hawaii County Council elections is subject to additional requirements and should refer to the Public Funding Guidebook or the 2010 Hawaii County Council Comprehensive Public Funding Guidebook.

³ There are separate requirements to qualify as a candidate for purposes of the Hawaii election laws.

235 South Beretania Street, Room 300, Honolulu, Hawaii 96813. A user name and password is normally sent on the day the application is received to the email address provided on the application.

- Enter the user name and password exactly as seen in the e-mail (the username and password are case-sensitive) on the Commission's Candidate Filing System (CFS) log-in page and register with the Commission by electronically filing an Organizational Report. An Organizational Report must be filed within ten days of filing nomination papers for office; or the date the candidate or candidate's committee receives contributions or makes expenditures that amount to more than \$100 in the aggregate during the applicable election period, whichever occurs first.

NOTE: If an individual is currently registered as a candidate with the Commission, the existing Organizational Report must be amended on the CFS within ten days after a change is brought to the attention of the candidate, committee, or treasurer. An elected official who is seeking reelection to the same office in successive elections and has not sought election to any other office during the period between elections does not have to file an Organizational Report on the CFS unless the report must otherwise be amended because of a change in information.

- Open a campaign bank account and do not commingle funds in this account with funds in a personal account. All contributions must be deposited in the campaign account.
- Certain contributions are prohibited, though not all of the prohibitions are discussed in this memorandum. For example, foreign nationals (individuals who are not citizens of the United States), except for green card holders, are prohibited from making contributions or expenditures. False name and anonymous contributions⁴ are prohibited. Certain state and county contractors are prohibited from making contributions; it does not apply, however, to personal contributions by employees, partners, shareholders or officers of the business with a government contract.
- The maximum amount that a person may contribute to a candidate varies according to the office that a candidate is seeking. No person shall make an aggregate contribution in excess of these limits⁵ during an election period⁶ to a candidate.

⁴ The "calabash bowl" exception allows a candidate to receive anonymous contributions of less than \$500 from ten or more people at a political function.

⁵ The contribution limits that apply to the three types of offices are as follows:

- A candidate seeking nomination or election to a two-year office - Aggregate contributions not to exceed \$2,000 during an election period;
- A candidate seeking nomination or election to a four-year nonstatewide office - Aggregate contributions not to exceed \$4,000 during an election period;
- A candidate seeking nomination or election to a four-year statewide office - Aggregate contributions not to exceed \$6,000 during an election period.

A candidate's immediate family shall be exempt from the above limitation, but shall be limited to contributing and lending \$50,000, in the aggregate, in any election period.

The following is a list of offices and their respective contribution limits:

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- If a candidate has a function for which the price or suggested contribution is more than \$25 per person, a Notice of Intent to Hold a Fundraiser must be filed with the Commission prior to the function. This form is available on the Commission's website.
- A campaign may also be financed by a candidate's own funds and loans from a candidate; and loans from the candidate's immediate family,⁷ a third-person, or a financial institution. Special requirements are applicable to loans, including filing with the Commission an executed loan document which includes the lender's name, interest rate, if any, and a repayment schedule for any loan that is more than \$100.
- Campaign funds shall be used only for expenditures permitted by law and shall not be used for unauthorized or personal expenses. Permissible expenditures include necessary expenses that are predominantly and directly related to a candidate's campaign to influence the nomination or election of the candidate; and purchase of two tickets to candidate, committee, or political party events.
- Complete records of expenditures must be maintained for at least five years and the "[r]ecords shall include vouchers, worksheets, and receipts which shall provide in sufficient detail the necessary information and data, from which the reports and statements may be verified, explained, or clarified, and checked for accuracy and completeness."

Two-Year (\$2,000)	State House of Representative County Council (Hawaii, Maui, Kauai)
Four-Year Nonstatewide (\$4,000)	State Senate Mayor Prosecuting Attorney City Council (Honolulu) Board of Education
Four-Year Statewide (\$6,000)	Governor Lt. Governor Office of Hawaiian Affairs

⁶ "Election period" means the two-year period between general election days if a candidate is seeking nomination or election to a two-year office and the four-year time period between general election days if a candidate is seeking nomination or election to a four-year office. The current election periods are as follows:

- Two-year office (2010 Election Period) - November 4, 2008, through the day of the next general election which is November 2, 2010;
- Four-year office (2010 Election Period) - November 8, 2006, through the day of the next general election which is November 2, 2010.

⁷ "Immediate family" means a candidate's spouse or reciprocal beneficiary, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses or reciprocal beneficiaries of such persons. For the purposes of this part, "reciprocal beneficiaries" shall have the same meaning as in section 572C-3.

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- A candidate⁸ must electronically file reports periodically on the CFS which disclose contributions, expenditures, and other information. A summary of the reporting dates is set forth below for the reports due only for the primary election. After the primary election, the reports due vary depending on various factors (e.g., whether a candidate won outright or lost in the primary election, whether a candidate was unopposed in the primary election). Please visit the Commission's website for the appropriate reporting schedule.

Date Report Due	Reporting Period	Report
February 1, 2010	July 1 through December 31, 2009	Supplemental Report
August 2, 2010	January 1 through June 30, 2010	1 st Preliminary Primary Report
September 8, 2010	July 1 through September 3, 2010	2nd Preliminary Primary Report
September 15, 2010	September 4 through September 14, 2010	Late Contributions Report ⁹
October 8, 2010	September 4 through September 18, 2010	Final Primary Report
Various	Various	Various

- A candidate elected to office must continue filing disclosure reports on the CFS until the candidate terminates the candidate's committee.
- If a candidate does not win the election and the candidate has a surplus, the candidate must continue filing reports on the CFS (contact the Commission or see the Commission's website to obtain the applicable reporting schedule). The surplus must be disbursed in the manner required by law within one year of the election unless the candidate decides to run for a new office and files an amended Organizational Report within that one year period. If a candidate does not win the election and the candidate has a deficit, the candidate must continue filing reports until the deficit has been cleared.
- A candidate who receives contributions but fails to file a nomination for that election shall return all residual funds to the donors no later than ninety days after the date on which nominations for that election must be filed. Contributions not returned to the donors shall escheat to the Hawaii election campaign fund. A candidate who withdraws or ceases to be a candidate because of death, term limits, disqualification, resignation, or other personal reasons shall return all residual funds to the donors no later than ninety days after the candidate or committee ceases to be a candidate or committee. Residual funds not returned to the donors shall escheat to the Hawaii election campaign fund.
- A candidate must continue reporting on the CFS until filing the "Request for Registration Termination" form with a copy of the closing bank statement, the candidate has no surplus or deficit, and the Commission approves the request.

⁸ A candidate who is applying for partial public financing or is a candidate in the 2010 Hawaii County Council elections is subject to additional reporting requirements.

⁹ A candidate must report contributions received from any person aggregating more than \$500 within the period of fourteen calendar days through four calendar days prior to the election. This report is not required if there are no late contributions.