

A Candidate's Legal Guide to Running for the School Board

(Revised 11/19)

Candidates should not take school board service lightly and need to clearly understand the obligations of a school board member before making the serious decision to run. The school board is responsible for multi-million dollar budgets, taxpayer trust, employment issues, and the most important responsibility of all: providing a quality education to students.

Not everyone is able or willing to assume the responsibilities of a school board member. MSBA has created this guide to answer common inquiries and legal issues about who can serve on a school board and other issues candidates should be aware of.

Board Member Qualifications

Section 162.291, RSMo., requires a director of most school boards to be a citizen of the United States, a resident taxpayer of the district, a resident of Missouri for one year immediately preceding the election, and at least 24 years of age. In urban districts (Columbia, Ft. Zumwalt, Independence, Kansas City, Lee's Summit, Springfield and St. Joseph), school board members are required to be "voters of the district" rather than "resident taxpayers."

Candidates for the St. Louis Board of Education face more restrictions than candidates in other districts. Section 162.581, RSMo., requires directors of the St. Louis School Board to be at least 24 years of age, current "residents and citizens" of the city and "residents and citizens" of the city for three years immediately preceding the election. Further, candidates may not hold any office, except that of notary public, in the city or state, nor be interested in any contract with or claim against the Board either directly or indirectly.

In addition, candidates for school board are subject to many of the same restrictions as candidates for other offices. All candidates for school board must have filed all previous required campaign disclosure reports with the Missouri Ethics Commission (MEC). They must be current on all state income taxes, personal property taxes, municipal taxes and real property taxes on the candidate's residence as stated on the declaration of candidacy. They must be free of certain criminal convictions, as described in more detail below.

Resident Taxpayers and Delinquent Taxes

The "resident" part of "resident taxpayer" is not ambiguous. Individuals must reside within the district in order to run for the board. Simply owning land within the district's boundaries is not enough. The individual must physically live in the district in order to be eligible for the school board.

Section 160.011(12), RSMo., defines a “taxpayer” as “any individual who has paid taxes to the state or any subdivision thereof within the immediately preceding twelve-month period or the spouse of such individual.” Arguably paying sales tax on a small purchase would satisfy this requirement.

State law requires candidates to not only be a “taxpayer,” but also to be current on certain taxes. §115.306, RSMo. Candidates cannot be delinquent on state income taxes, personal property taxes, municipal taxes and real property taxes on the candidate’s residence provided in the declaration of candidacy. Likewise, if the candidate is a past or current officer of a Missouri fee office, the fee office cannot owe taxes to the state. Candidates must file an affidavit affirming that they (or the fee office) are current on taxes to the Missouri Department of Revenue (DOR). (See Mo. Dept. of Rev. Form 5120.) Candidates who are delinquent on their taxes may be disqualified from running if a complaint is filed with the DOR.

Employees of the District

Employees of the district may not sit on the Board of Education. §162.391, RSMo. This restriction applies to certificated, non-certificated, full-time, part-time and substitute employees. However, if the individual only provides services to the district as an independent contractor, he or she is allowed to be a member of the board, but should be aware that state law highly regulates business between the school district and a board member. These laws are discussed in detail in the section “Conflict of Interest and Nepotism.”

Missouri courts rely on an Internal Revenue Service test that considers 20 factors when determining whether a worker is an employee or an independent contractor. *Revenue Ruling 87-41 (1987)*; *Quality Medical Transcription v. Woods*, 91 S.W.3d 181 (Mo.App.W.D. 2002). The 20 factors include the number and type of hours required by the employer, where the work is done, how the worker is paid, who furnishes the tools and materials, etc.

All 20 factors must be considered together to determine whether the worker more closely resembles an employee or an independent contractor with no factor being conclusive. The ultimate focus is the employer’s “right to control the manner and means of performance.” If the district controls the manner and means of performance, the worker is an employee and cannot be a school board member.

Former employees receiving early retirement incentive checks from the district may or may not be considered employees depending on the nature of the retirement agreement. The MEC has issued two opinions on this topic: one finding that the former employee *could* serve on the school board and the other finding that the former employee *could not* serve on the board. The issue distinguishing the two situations was the former employee’s continuing responsibilities with the district. In one case the retired individual had completed his contractual obligations to the district, and the payments received were for work previously completed. *MEC Opinion 05.01.102*. In the second situation, the

former employee was still serving in an advisory role with the district as a condition of receiving an early retirement incentive and was being paid for those services, but the employee was interested in running for the Board. The MEC stated that the person could not continue to receive the payments if he or she were elected to the Board. *MEC Opinion 00.03.104.*

Attendance at Board Meetings

Board members are expected to be present and actively participate in school board meetings. Section 162.303, RSMo., deems a board member's seat on the board vacated if he or she fails to attend three consecutive regular meetings, unless excused by the board for reasons satisfactory to the board.

This provision only applies to regularly scheduled board meetings, so a board member is not penalized for missing a special board meeting. The statute also grants the board complete flexibility in excusing absences by board members. As long as a majority of the board agrees, a board member's absence may be excused.

Training

All board members, whether elected or appointed, are required to complete 18.5 hours of training within one year of the date of election or appointment with 2.5 hours of that training devoted to information on identifying the signs of sexual abuse in children and potentially abusive relationships between children and adults. §162.203, RSMo. After the initial 18.5 hours of training, board members must complete one hour of refresher training on the same topic for each additional year they are in office. Training can only be provided by either a statewide association organized for the benefit of members of boards of education or an entity approved by the state board of education. MSBA provides training for most of the newly elected board members in Missouri.

Holding Other Offices

State law restricts individuals from *servng* in multiple public positions if the duties and responsibilities of the offices are “inconsistent, antagonistic, repugnant or conflicting, such as where one office is subordinate to another.” *State ex rel. McGaughey v. Grayston, (Mo. 1942); AG Op. No. 84-2001.*

Although, there are few court opinions addressing positions conflicting with school board service a 2019 Missouri Circuit Court opinion did address the issue of whether a school board member could also concurrently hold a position as a member of the county council. *State of Missouri v. Tracey Perry, (2019).* The Court held that the positions were not inherently inconsistent, or repugnant. However, the Court did not opine on the reasons the two positions weren't incompatible.

On the other hand, a 2001 Attorney General's opinion listed the following offices as compatible with serving on a school board: county administrator and circuit clerk. *AG*

Op. No. 84-2001. The same opinion found that serving on a school board and acting as the county emergency planning coordinator or as the county commissioner were incompatible and, therefore, illegal. State law designates the county executive of those counties without a commission as the person to appoint members of a school board when there are more than two vacancies. In the AG opinion cited above, the reason for finding incompatibility between serving on the school board and as a county commissioner was that commissioners are required by law to appoint school board members when there are more than two vacancies.

Although the court case is law, it is limited in scope and doesn't provide much guidance on what specific actions are incompatible with serving in both offices. Further, it is still possible the Attorney General would also find incompatibility between holding the office of county executive and serving as a school board member.

Criminal Record

A Board candidate cannot be a registered sex offender or required to register as a sex offender. §162.014, *RSMo.* A candidate cannot have been found guilty of or pled guilty to a felony under Missouri law or an offense in another state that would be considered a felony in this state. §115.306. Further, a candidate cannot have been found guilty of or pled guilty to a felony under federal law. §115.306.

Filing for a School Board Election

Candidates for school board file at the school district office and filing opens at 8:00 a.m. on the sixteenth Tuesday preceding the election, except in a school district with a portion of its boundary within Kansas City, where filing opens on the fifteenth Tuesday preceding the election. Filing closes for all districts at 5:00 p.m. on the eleventh Tuesday preceding the election. The times for filing between the opening and closing are determined by the district's business hours.

For the opening day of filing, the district is allowed to determine by policy whether the filing order will be determined on a first-come, first-served basis or through a random lottery. § 115.124.2, *RSMo.* Prospective candidates should contact the central administrative office to determine which method the district uses. On all days following the opening day of filing, filing order is determined by the sequence in which candidates file with the district.

The act of filing for candidacy is a fairly simple act. A candidate must file a declaration of intent in person and in writing at the location designated by the district. The declaration requires the potential candidate to attest that he or she meets the statutory requirements of running for the school board. Potential candidates must also sign a statement acknowledging the receipt of a written notice of the candidate's obligation to file a personal financial disclosure statement and a copy of the summary of laws from the MEC. These documents should be presented to the candidate at the time of filing.

There is a limited exception to the requirement of filing in person for those individuals unable to file in person due to disability or military service. The law permits individuals who are not able to file in person for one of these reasons to file by certified mail. In addition, those persons may designate a personal representative to serve as a proxy for the purpose of determining ballot order. *§115.124, RSMo.* MSBA Policy BBB, School Board Elections, outlines a process for districts to use in this circumstance. This process is similar to one already used by the Missouri Secretary of State's office for candidates for statewide office.

After filing, a candidate may remove his or her name from the ballot any time before the district certifies the candidates. After the candidates have been certified to the county clerk or other election authority and before the sixth Tuesday preceding the election, a candidate may only remove his or her name from the ballot by a court order. *§115.127.6, RSMo.* A candidate may not remove his/her name from the ballot after the sixth Tuesday before the election.

Write-In Candidates

Write-in candidates are allowed in all elections. If candidates have filed for each open seat, a write-in candidate is required to file a declaration of intent to be a write-in candidate with the county clerk or other election authority. The declaration, if required, must be filed prior to 5:00 p.m. on the second Friday immediately preceding the election.

If the write-in candidate is running for an office for which no candidate has filed, he or she is not required to file the declaration of intent because all write-in votes will be counted. However, MSBA recommends that all write-in candidates contact the clerk or other election authority to determine whether filing is required so that the clerk is prepared to count all votes.

Length of Terms

School board members in most districts serve three-year terms of office. However, board members in Independence serve six-year terms, *§162.471, RSMo.*, and board members in St. Louis and Kansas City serve four-year terms. *§162.492 & 162.601, RSMo.* All school board members serve until their successors are duly elected and qualified.

If a board member resigns or otherwise leaves the board, the rest of the board must select an individual to serve in the vacant seat until the next school board election. At the next election, along with electing individuals to fill the expired terms, an individual is elected to serve the remaining term of the board member who vacated his or her seat. If a district is electing directors for terms of different lengths, each candidate must declare for a term of a specific number of years and the different terms must be voted on as separate positions. *§162.281, RSMo.* In the Kansas City School District, vacancies that occur more than six months prior to the election are filled by a special election. *§162.492, RSMo.*

Financial Interest Statements

A Financial Interest Statement is a legal form used to identify financial interests of candidates and to raise awareness of potential conflicts of interest. If the district has an annual operating budget over \$1 million, each candidate for the district must disclose particular financial information, including financial dealings with the school district.

Section 105.483(11), RSMo., requires elected officials and candidates for elective office to file a personal financial disclosure statement, also known as a financial interest statement, with some exceptions. For example, if a school district's operating budget is \$1 million dollars or less, school board candidates are not required to file a statement.

Missouri law allows school districts to adopt their own policy for disclosing potential conflicts of interest as long as the policy meets the minimum requirements of the law and the school board readopts the policy every other year (biennially) by September 15 and files a certified copy with the MEC no later than September 25. Whether the district has adopted a policy will affect the *type* of financial interest statement the candidate must complete. If the school district subscribes to the MSBA policy service, consult MSBA Policy BBFA. School districts are required to disclose the existence of such a policy to all candidates. This notification should occur when the candidate files the necessary paperwork declaring his or her candidacy.

If the school district has an appropriate conflict of interest policy that was adopted at least biennially and filed with the MEC, a candidate is only required to file the "short form," the *Financial Disclosure Statement for Political Subdivisions*, which is found on the MEC website. This version of the disclosure statement only requires the candidate to disclose transactions between the school district and the candidate; his or her spouse, children, or parents; or any business entity in which the candidate, spouse, children or parents have a substantial interest.

If the school district does not have a current policy regarding conflicts of interest and the district has an operating budget over \$1 million, each candidate is required to file the "long form," the *Personal Financial Disclosure Statement*. This form requires a more detailed disclosure of personal information. Both forms may be obtained from the MEC website at www.mec.mo.gov/mec/PFD/Forms.aspx.

All persons required to fill out the "long form" must complete and file the statement with the MEC, regardless of whether they have any financial dealings with the district. The law requires candidates filing the "short form" to file only if they have a transaction to disclose. However, MSBA's standard policy BBFA, Board Member Conflict of Interest and Financial Disclosure, requires all candidates to file the form even if they do not have any transactions to disclose. This process ensures that all candidates have minimally read the form carefully and are certain that they do or do not have transactions to disclose. Candidates should read the district's policy carefully to ensure that they comply with not only the law but the district's expectations.

Candidates may file statements electronically or by mail. Each candidate must have his or her statement filed with the MEC by 5:00 p.m. no later than 14 days after the closing date of filing for candidacy. If the statement is mailed, the Ethics Commission must receive the statement by 5:00 p.m. on the fourteenth day, or the statement must be postmarked the day prior to the deadline. If the last day for filing a financial interest statement falls on a weekend or state holiday, the deadline is extended to the next day that is not a weekend or state holiday. Visit the MEC website for a complete list of filing deadlines based on specific election dates. Candidates using the “short form” must also file the form with the school district.

Electronic Filing

As referenced above, board candidates may file their Financial Interest Statement electronically. To use the system, candidates must first obtain an online ID and password by completing the Filer Account Request form. The form and filing pages are both available on the MEC website at www.mec.mo.gov.

Identifying Campaign Materials

Campaign materials may include anything a candidate, committee, business or other person creates as a means of advertising, promoting or opposing a candidate’s candidacy such as billboards, radio or television ads, yard signs, etc. Missouri law requires any person, candidate or committee to identify the sponsor of all printed matter. §130.031, RSMo. It is a violation for a sponsor to refuse to provide the required information or to provide false, misleading or incomplete information. This restriction applies to not only a candidate’s committee, but also a candidate without a committee or any materials produced by a private citizen or business in support or opposition of any candidate.

It is recommended that sponsors identify themselves on electronic materials as well, including websites and social media. For information regarding the sponsorship identification requirements for radio and television ads, contact the Federal Communication Commission at www.fcc.gov.

Section 130.031.8, RSMo., defines printed materials as any “pamphlet, circular, handbill, sample ballot, advertisement, including advertisements in any newspaper or other periodical, sign, including signs for display on motor vehicles, or other imprinted or lettered material.” All of these materials must bear the sponsor’s required information. “Printed materials” governed by this statute do **NOT** include:

- Any sign personally printed and constructed by an individual without compensation from any other person and displayed at that individual’s home or on that person’s vehicle.
- Any items given away or sold, such as campaign buttons, pins, pens, pencils, book matches, campaign jewelry or clothing if:
 - a. The items are paid for by the candidate or committee,

- b. The item is obvious in its identification with a specific candidate or committee AND
- c. The expenditures are properly reported.
- Any news story, commentary or editorial printed by a regularly published newspaper or other periodical without charge to a candidate, committee or any other person.

The identification of campaign materials must be in a “clear and conspicuous manner.” §130.031.8, *RSMo*. “Clear and conspicuous” means the proper information is printed on the materials in a manner that can be read. Any specific questions concerning the “clear and conspicuous” standard should be directed to the MEC.

Appropriately labeling the printed item depends on who paid for the materials. Each identification should begin with the phrase “Paid for by...”

- If the candidate paid with his or her own money, his or her name is enough.
- If a committee paid, the information must include:
 - a. Official committee name
 - b. Name of the treasurer at the time the printed material was purchased
- If a corporation or other business entity paid, the information must include:
 - a. Name of the entity
 - b. Name of the principal officer of the entity
 - c. Mailing address of entity, or principal officer if not available
- If any other individual or group of individuals paid, the information must include:
 - a. Printed name of each individual with mailing address
 - b. If more than five individuals paid a portion, the sign can say “For a list of other sponsors contact,” followed by the appropriate contact information.

Campaign Contribution Limits

Missouri has no limits on the total amount of contributions a candidate may receive. However, cash donations are limited to \$100 per contributor, and any contribution that exceeds \$5,000 must be electronically reported to the MEC within 48 hours of its receipt.

Missouri law also limits anonymous contributions to \$25 per donor. Any amount over \$25 must be returned to the donor (if his or her identity can be determined) or turned over to the state treasurer. §130.031.4, *RSMo*. The total amount of anonymous contributions a candidate or committee can accept is the greater of:

- \$500 **OR**
- 1% of all contributions received in the same calendar year.

Any anonymous contribution that pushes a committee over this threshold must be returned to the donor if possible or turned over to the state. §130.031.5, *RSMo*.

Fundraising Events

Missouri has special campaign contribution rules for fundraising events. Section 130.011(18), RSMo., defines a fundraising event as an “event . . . through which contributions are solicited or received by such means as the purchase of tickets, payment of attendance fees, donations for prizes or through the purchase of goods, services or political merchandise.” The law also provides a list of events that are considered “fundraising events” including dinners, luncheons, receptions, testimonials and auctions. This list is by no means exhaustive, so it is within the MEC’s power to consider other occasions “fundraising events.”

All of the same contribution rules apply to fundraising events as to any other form of contribution. The single difference is the acceptance of anonymous contributions at a fundraising event. Under section 130.031.6, RSMo., a contribution is not deemed anonymous, even without recording the required information, if the candidate proves the following conditions:

- There must be 25 or more contributing participants at the event.
- The candidate, committee treasurer, deputy treasurer or person sponsoring the event must make an announcement that it is illegal to make or receive a contribution in excess of \$100 without the name and address of the contributor.
- The person in charge of the event cannot knowingly accept a contribution from a single person over \$100 without obtaining the donor’s name and address.
- A statement describing the event must be prepared by the candidate, treasurer or person responsible for the event and attached to the disclosure report for the period during which the event occurred. The statement must include:
 - a. The name and mailing address of those responsible for conducting the event and the name and address of the candidate or committee.
 - b. The date of the event.
 - c. The name and address of the location where the event occurred and the approximate number of participants.
 - d. A brief description of the type of event and the fundraising methods used.
 - e. The gross receipts from the event and a listing of expenditures incident to the event.
 - f. The total dollar amount of contributions received from donors whose names and addresses were not obtained and an explanation of why these names and addresses were not obtained.
 - g. The total dollar amount of contributions received from donors whose names and addresses were obtained.

If each of these requirements is met, contributions obtained without the required donor information are not deemed anonymous and do not count against a committee’s anonymous contribution limits.

Committees

Candidates use committees to collect funds and organize the campaign. Committees can be used to coordinate campaign events, organize contributions and expenditures, or even distribute campaign paraphernalia. Missouri law defines a committee as “a person or combination of persons, who accepts contributions or makes expenditures for the primary or incidental purpose of influencing or attempting to influence the action of voters for or against” candidate nominations, elections or ballot issues or to pay off the debts of a committee. §130.011(7), *RSMo*.

While a candidate may receive assistance from others throughout a campaign without creating a committee, a committee is a formal organization with the goal of electing or defeating a candidate or ballot issue. Missouri recognizes the following types of committees:

- **Candidate committee** - A committee formed by a candidate to receive contributions or make expenditures on behalf of the person’s candidacy
- **Exploratory committee** - A committee formed by an individual to receive contributions or make expenditures on behalf of this individual in determining whether or not to seek elective office
- **Campaign committee** - A committee formed by an individual or a group to receive contributions or make expenditures and whose sole purpose is to support or oppose one or more ballot measures
- **Continuing committee** - Commonly called PACs, a committee of continuing existence whose primary or incidental purpose is to attempt to influence the actions of voters, but it is not a campaign committee, candidate committee or political party committee
- **Political Party committee** - A committee of a political party whose primary or incidental purpose is to attempt to influence the actions of voters for the political party

Forming a Candidate Committee

Candidates for school board and certain other offices are required to form a candidate committee if they expect to spend and/or receive more than \$1000 total during the course of the campaign or receive more than \$325 from a single contributor. Any candidate not planning to exceed these limits is automatically exempted from forming a committee. §130.016.6, *RSMo*. If a candidate spends or receives more than \$1000/\$325 during the campaign, he or she is required to then form a committee and file the necessary reports. If the candidate wishes, he or she can form a committee and be the only member.

A candidate must decide whether to form a committee no later than 30 days before the election. Therefore, a candidate cannot spend or receive funds that push the candidate beyond the \$1000/\$325 limitations within 30 days before the election. §130.016.7, *RSMo*.

The \$1000 expenditure limit includes any money spent by the candidate or any other person, with the candidate's knowledge and consent, on behalf of the person's candidacy. This includes spending the candidate's own money as well as campaign contributions.

Every contribution counts toward the expenditure/contribution limits. Missouri law defines a contribution as a "payment, gift, loan, advance, deposit, or donation of money or *anything of value* for the purpose of supporting or opposing the nomination or election of any candidate for public office." Anything of value given to the candidate or committee is considered a contribution and must be counted toward the \$1000/\$325 limits. §130.011(12), *RSMo.* This includes an "in-kind contribution," which is a contribution in a form other than money. Examples of "in-kind contributions" include signs, radio ads or services donated to the candidate or committee. Certain items are specifically NOT contributions:

- Ordinary home hospitality or services provided by volunteers. Examples include baking cookies, serving drinks, etc.
- A contribution that is expressly and unconditionally rejected and returned to the donor within ten business days of receipt.
- Interest earned on the deposit of committee funds.
- Costs of any connected organization used to support a candidate's committee.

If two or more candidates come together to run as a "slate," each candidate must be careful to disclose all expenditures made by each side. For example, if two candidates running as a slate each spend \$250 on advertising promoting both candidates, each committee must disclose a total of \$500 spent on advertising. Each candidate spent \$250 towards his or her campaign, but the \$250 spent by the other candidate is considered a contribution to his or her "partner." Therefore, each candidate discloses \$500 in expenditures for this particular action. For information on how to report such expenditures, contact the MEC.

Whether or not a candidate has a committee, §130.036, *RSMo.*, requires each candidate to keep records, document the amount and source of each contribution, and document the amount and purpose of each expenditure. These records must be kept for three years after the date of the election.

Forming a candidate committee takes four steps:

- **Name the committee.** Each committee must have an official name. The committee name must include the candidate's name.
- **Appoint a treasurer.** Each committee must appoint a treasurer who is a resident of Missouri and the district or a resident of any county in which the district sits. The treasurer is to maintain records and accounts, file timely reports and ensure that the committee functions in accordance with state regulations. While these responsibilities fall on the treasurer, the candidate is ultimately responsible for the actions of his or her candidate committee. The

candidate may appoint himself or herself treasurer of a candidate committee. This must occur if the candidate acts as a committee of one. A committee may also have a deputy treasurer to act as the treasurer when necessary. The deputy treasurer must meet the same residency requirements as the treasurer.

- **Establish a depository account.** Each committee must have at least one official depository account in the committee's name to deposit all contributions and other receipts accepted by the committee (including the candidate's own contributions). All committee expenditures must be made from the official depository and must be made by the treasurer, deputy treasurer or candidate. The depository must be a state or federally chartered bank, savings and loan association, or credit union located in Missouri.
- **File a *Statement of Committee Organization*.** A *Statement of Committee Organization Form* must be filed within 20 days of the committee's formation, but no later than the first disclosure report deadline. If the information on the statement is added to, changed or deleted, an amended *Statement of Committee Organization* must be filed within 20 days of the change, but no later than the date of the next disclosure report.

Record-Keeping Responsibilities

All candidates, regardless of whether they have formed a committee, must begin keeping financial records when they become a candidate. This includes keeping track of all contributions and expenditures. Missouri law states a person becomes a "candidate" and must therefore begin keeping records when he or she first:

- Announces his or her candidacy,
- Files a declaration of candidacy with the appropriate election authority,
- Receives contributions, makes expenditures or reserves facilities with the intent to promote his or her candidacy OR
- Knows or has reason to know that others are receiving contributions, making expenditures or reserving facilities with the intent to promote his/her candidacy.

It is vital for candidates and committees to keep up-to-date records that contain documents related to financial transactions. Examples include: bills, receipts, deposit records, cancelled checks and other documents that could be used to verify any statements or reports filed by the candidate or committee. Candidates and committees must also keep complete records of all contributions.

Committee treasurers and candidates must be aware of the anti-commingling provision of the Missouri law that prohibits committees from combining campaign funds with the funds of any other individual. If an individual, trade or professional association, business entity, or labor organization receives contributions as an agent of a committee, these contributions may be held in the agent's account for no more than five days for purposes of facilitating transmittal to the candidate, treasurer or deputy treasurer without violating the anti-commingling provision.

Committee Disclosure Reports

Committee Disclosure Reports are used to document a committee's contributions received and expenditures made during the campaign. These reports are used to ensure that the committee is within the campaign contribution requirements set by law. Candidate committees must register with the MEC, file reports electronically with the MEC and will be assessed fees for late filing. Candidate committees will not file reports with the local election authority. If a candidate does not create a committee, he/she does not have to file *Committee Disclosure Reports*.

Each *Committee Disclosure Report* is required to include at least the following four forms:

- **Cover page.** The cover page includes basic information about the candidate, committee, committee treasurer, etc. This form also includes sworn statements by the treasurer and candidate (if the candidate is not also the treasurer) regarding the totality and accuracy of the entire report.
- **Report summary.** The summary is used to consolidate the total receipts and expenditures made by the committee during the reporting period. The summary also displays the cumulative totals for the campaign to date. Most of this information is included in other report forms and can be added to the summary upon completion of these documents.
- **Contributions and loans received.** This form is used to list all contributions received from all sources during the reporting period. Committees must disclose itemized contributions (donations from other committees or donations of more than \$100 from an individual), non-itemized contributions (all other donations received) and loans received by the committee.
- **Expenditures and contributions made.** This form is used to report all expenditures made during the reporting period. Committees must disclose non-itemized expenditures (individual expenditures of \$100 or less), itemized expenditures (expenditures in excess of \$100 and all payments made to campaign workers) and monetary contributions to candidates or committees.

These forms are the minimum required for each reporting period. Depending on the committee's activity, additional documents may be required. For example, if the candidate sponsored a fundraising activity, a fundraising statement must also be filed as a part of the disclosure report. Copies of forms can be obtained from the MEC website.

A committee must file a disclosure report every quarter (generally the fifteenth day of January, April, July and October), eight days before the election, and 30 days after the election. There are, however, a couple of exceptions:

- Since school board members are sworn in to office sooner than 25 days after the election, those elected must file a disclosure report the day before being sworn in.

- Since school board elections occur in April, the candidate's committee must file a disclosure report 40 days before the election, along with the other required reports.

Terminating a Committee

At the conclusion of an election, many candidates choose to terminate their committees. Candidates may choose, however, to continue using the committee for purposes allowed by law after the election. §130.011(9), *RSMo*. If a candidate decides to terminate his or her committee at the end of the campaign, he or she must follow statutory guidelines.

In order to terminate a committee, a candidate or treasurer must make sure all account balances are at zero; therefore, a committee must dispose of all funds that remain in the committee bank account. Missouri law identifies seven allowed uses for campaign contributions:

- Any ordinary expense incurred relating to the campaign.
- Any ordinary and necessary expense incurred in connection with the duties of a holder of elective office.
- Any expense associated with entertaining or providing social courtesies to constituents, professional associations or others holding elective office.
- Returning any unused contribution.
- Contributing to a political organization or candidate committee.
- Establishing a new committee.
- Making an unconditional gift to any charitable, fraternal or civic organization or other benevolent associations, so long as neither the candidate nor the candidate's immediate family receives a direct benefit from the gift.

Missouri law also lists two specific uses that are *not* allowed. First, campaign funds cannot be appropriated for personal use. In other words, a candidate or other agent of the committee cannot use campaign contributions for his or her own personal gain. Also, campaign funds cannot be used to pay restitution payments or fines stemming from a court order.

A committee's debt balances must also be at zero before dissolution. This means that the committee must repay all outstanding debts before it can be terminated.

Once a committee's account balances are at zero, a candidate may begin the process of officially terminating the committee. The first step is to appoint someone to maintain the committee's accounts and records for three years following the election. This person can be the treasurer, the candidate or any other person.

After selecting an individual to maintain the records, the committee must file a Committee Termination Statement Form with the appropriate filing authority within ten days of the committee's dissolution. This form is used to report the conclusion of all

committee activity. The report must include contact information for the person chosen to maintain committee records, the means of disposing of surplus funds and outstanding debts, and a signed verification by the treasurer and candidate (if applicable).

A committee is also required to file a committee disclosure report covering the period from the last report to the date of dissolution. This report must follow the same guidelines as all other committee disclosure reports. All committee termination paperwork should be filed with the same election officer used for the other various filings.

After the Election

Article VII, section 11 of the Missouri Constitution requires all elected public officials to take an oath to “support the Constitution of the United States and of this state, and to demean themselves faithfully in office.” Within 14 days of a school board election, all newly elected school board members of seven-director districts shall qualify for office by taking the oath of office prescribed in the Missouri Constitution. §162.301, *RSMo*. Newly elected members of urban school boards must be sworn in within ten days of the election. §162.521, *RSMo*. Members of the St. Louis School Board must take the oath of office before a circuit or associate circuit judge of the city. It is unclear what the consequences are if a new board member is not sworn in during the requisite time period.

Conflict of Interest and Nepotism

Election to public office brings both restrictions and responsibilities. Those contemplating running for office should consult state law and school district policy and become knowledgeable of what can and cannot be done as a school board member. As stewards of public funds, school board members face statutory prohibitions on their actions. Board members face restrictions on the conduct of personal business as well as official acts. The following are just a few of the important laws school board members must follow.

Providing Services or Personal Property to the District

Board members cannot perform services for the district individually or as an independent contractor or sell, rent or lease personal property to the district for consideration in excess of value of five hundred dollars (\$500) per transaction or five thousand dollars (\$5,000) per year to him or her, to his or her spouse, to a dependent child in his or her custody or to any business with which he or she is associated unless the transaction is made pursuant to an award on a contract let or sale made after public notice and competitive bidding, provided that the bid or offer accepted is the lowest received. §105.454, *RSMo*.

Usually districts are free to accept the best bid for the district, even if it is not the lowest. However, in this specific circumstance the district can only do business with a

board member if the bid is the absolute lowest received. This law impacts transactions with:

- A board member and businesses owned by a board member.
- A board member's spouse and businesses owned by the spouse.
- Dependent children and businesses owned by a board member's dependent children.
- A partnership or joint venture in which a board member or his or her spouse is a partner, other than a limited partner in a limited partnership.
- A corporation or limited partnership in which the board member is an officer or director.
- A corporation or limited partnership in which the board member or his or her spouse or dependent child owns more than ten percent of any class of stock or partnership units.
- Any trust in which the board member or employee is a trustee or settlor in which the board member or employee's spouse or dependent child is a beneficiary.

Selling, Renting or Leasing Real Property to the District

A school board member cannot sell, rent or lease real property (real estate) to the school district for consideration in excess of five hundred dollars' (\$500) value per transaction or five thousand dollars' (\$5,000) value per year to him or her, to his or her spouse, to a dependent child in his or her custody or to any business with which he or she is associated unless the district first notifies the public of the transaction. §105.454, *RSMo.* A "business with which a Board member is associated" is as defined in the section on providing services or personal property to the district.

Voting to Employ or Appoint a Relative

The Missouri Constitution prohibits public officials like school board members from participating in the vote to hire or appoint a relative within four degrees of blood or marriage. *Mo.Const. Art. VII § 6; § 162.261.3, RSMo.* For the purpose of determining whether a board member has committed nepotism, an independent contractor providing services to the district is considered to be an employee. State v. Rhoads, (Mo. App. 2013).

A district may still employ or contract with a board member's relative; however, the board member cannot participate in the decision and must abstain from the vote. Board members should take care to make sure that the minutes of meetings in which relatives are employed or appointed clearly reflect that the board member abstained from the vote. Further, MSBA recommends that board members leave the room during the discussion of the motion. For assistance in determining which relatives fall within the fourth degree, use MSBA's Nepotism Chart on the MSBA website.

Board members who violate the nepotism laws forfeit their seats. This is true even if the vote was accidental. For this reason it is extremely important that board members identify their relatives and carefully read lists prior to participating in votes to appoint or employ.

More Information

For more information on the topics covered in this guide, contact the Missouri Attorney General's Office (573-751-3321), the Missouri Ethics Commission (573-751-2020) or (800-392-8660), the Missouri Department of Revenue, (573-751-4450) or the Missouri School Boards' Association (MSBA) (800-221-6722).