



Office of the New Mexico
Secretary of State
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2020 Candidate Campaign Finance Reporting Guide

Version 2.0 – Published December 20, 2019

Revision History

Revision Number	Date	Updates
1.0	12.20.2019	Original Publication Date

About This Guide

This publication has been prepared by the New Mexico Secretary of State's Bureau of Elections. It's intended to serve as an easy-to-use reference for current and former candidates and elected officials who are required to comply with the Campaign Reporting Act (NMSA 1978, §§1-19-1 through 1-19-37) (2019) and the Campaign Finance Rule (1.10.13.1 to 1.10.13.32 NMAC) included in the New Mexico Administrative Code, as well as for anyone interested in the campaign finance disclosure process in New Mexico. We recommend that even the most experienced candidates take the time to review this guide, as laws, rules, policies, and procedures may have changed over the years.

Please note, this guide is intended to be a reference that provides consolidated guidance on the Campaign Reporting Act, the Campaign Finance Rule, and the use of the Campaign Finance Information System for filing electronic campaign finance reports. It is not a legal authority. Despite our good faith efforts and multiple reviews, this guide may contain inadvertent errors. Please email sos.elections@state.nm.us immediately if you believe there is an error. Also, please remember that this guide is not a substitute for legal research or the advice of an attorney.

Copies of the New Mexico Election Code, including the Campaign Reporting Act, and other applicable laws are available in the *2019 Edition of the Election Handbook of the State of New Mexico*, which is available on our website. It is also important that you read this guide in conjunction with the laws referenced herein. Additionally, the Campaign Finance Rule (NMAC 1.10.13), which is part of the New Mexico Administrative Code, is available on our website.

This guide contains information to assist candidates in complying with applicable campaign finance disclosure laws and applicable reporting requirements including information to assist individuals in filing reports in the Campaign Finance Information System (CFIS). Additional guides are available from the Office of the Secretary of State that focus on compliance for political committees, lobbyists, and independent expenditure disclosure.

If you have any questions about the information in this guide or if you have questions regarding running for office that are not provided in this guide, please feel free to contact the Bureau of Elections at (800) 477-3632, (505) 827-3600 or sos.elections@state.nm.us.

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2020 CAMPAIGN FINANCE REPORTING SCHEDULE FOR CANDIDATES, CAMPAIGN COMMITTEES AND POLITICAL ACTION COMMITTEES

Primary Election Date: June 2, 2020
REQUIRED PRIMARY ELECTION REPORTS

	<u>First Primary Report</u>	<u>Second Primary Report</u>	<u>Third Primary Report</u>	<u>Fourth Primary Report</u>
Due Date	April 13, 2020	May 11, 2020	May 28, 2020	July 2, 2020
Reporting Period	October 8, 2019 - April 6, 2020	April 7, 2020 - May 4, 2020	May 5, 2020 - May 28, 2020	May 29, 2020 - June 29, 2020

General Election Date: November 3, 2020
REQUIRED GENERAL ELECTION REPORTS

	<u>First General Report</u>	<u>Second General Report</u>	<u>Third General Report</u>	<u>Fourth General Report</u>
Due Date	September 14, 2020	October 12, 2020	October 29, 2020	January 7, 2021
Reporting Period	June 30, 2020 - September 7, 2020	September 8, 2020- October 5, 2020	October 6, 2020 - October 27, 2020	October 28, 2020 - December 31, 2020

Definitions

Campaign Committee - two or more persons authorized by a candidate to raise, collect or expend contributions on the candidate's behalf for the purpose of electing the candidate to office; provided that a candidate shall not authorize more than one campaign committee; (NMSA 1978, § 1-19-26(E)).

CFIS – the acronym used for the electronic filing system or, the Campaign Finance Information System, used by candidate campaign committees, and political committees to file the campaign finance disclosure reports required by the Campaign Reporting Act.

Coordinated Expenditure - an expenditure that is made by a person other than a candidate or campaign committee at the request or suggestion of, or in cooperation, consultation, or concert with, a candidate, the candidate's campaign committee or a political party, or any agent or representative of a candidate, campaign committee or political party, including a legislative caucus committee, for the purpose of:

- 1) Supporting or opposing the nomination or election of a candidate; or
- 2) Paying for an advertisement that refers to a clearly identified candidate and is published and disseminated to the relevant electorate in New Mexico within 30 days before the primary election or 60 days before the general election in which the candidate is on the ballot

NMSA 1978, § 1-19-26(I); 1.10.13.7(H) NMAC.

CRA – the acronym used for the Campaign Reporting Act (NMSA 1978 §§ 1-19-1 through 1-19-37).

Debt - an outstanding expenditure or loan which is not fully paid at the time it is reported in the campaign finance information system and is therefore reported as unpaid debt; 1.10.13.7(I) NMAC.

Earmarking - making a contribution in which the original donor expresses an intention for the contribution to pass through some other person to a specific candidate or committee or to be used for a specific purpose, such as funding independent expenditures; 1.10.13.7(K) NMAC.

Final Report - the last report electronically filed under the Campaign Reporting Act in accordance with Subsection F of Section 1-19-29 NMSA 1978 indicating that:

- 1) There are no outstanding campaign debts;
- 2) All money has been expended in accordance with the provisions of NMSA 1978, § 1-19-29.1; and
- 3) The bank accounts have been closed; 1.10.13.7(N) NMAC.

Independent Expenditure - an expenditure that is:

- 1) Made by a person other than a candidate or campaign committee;
- 2) Not a coordinated expenditure as defined in 1.10.13.7(H) NMAC; and
- 3) Made to pay for an advertisement that:
 - a. Expressly advocates for the election or defeat of a clearly identified candidate or the passage or defeat of a clearly identified ballot measure;
 - b. is susceptible to no other reasonable interpretation than as an appeal to vote for or against a clearly identified candidate or ballot measure; or
 - c. refers to a clearly identified candidate or ballot measure and is published and disseminated to the relevant electorate in New Mexico within 30 days before the primary election or 60 days before the general election in which the candidate or ballot measure is on the ballot. NMSA 1978, § 1-19-26(N); 1.10.13.7(Q) NMAC.

In-kind Contribution - goods or services or anything of value contributed to a candidate or committee other than money. The provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services is an in-kind contribution. Examples of such goods or services include, but are not limited to: securities, facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists. 1.10.13.7(R) NMAC.

Loan - an extension of credit to a candidate or committee by any person, including the candidate themselves, for use as monies spent toward the election of a candidate or other political purpose 1.10.13.7(T) NMAC.

Solicit - to ask that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value, whether it is to be made or provided directly to the candidate or committee, or through a conduit or intermediary 1.10.13.7(E) NMAC.

Special Event - a barbeque, tea, coffee, dinner, reception, dance, concert or similar fundraiser where tickets costing twenty-five dollars (\$25) or less are sold and no more than one thousand dollars (\$1,000) net contributions are received. 1.10.13.7(GG).

Statement of No Activity - the prescribed form used by a reporting individual to indicate that no contributions were raised or expenditures were made during a particular reporting period. 1.10.13.7(HH) NMAC.

Treasurer - an individual explicitly designated by a candidate or committee to authorize disbursements, receive contributions, maintain a proper record of the campaign finances, and who, along with the candidate, is liable for discrepancies in the finances and reports of the committee. 1.10.13.7(II) NMAC. A treasurer is a “reporting individual” as defined in Section NMSA 1978, 1-19-26(V) NMAC.

Step 1: Getting Started

Resources and applicable laws

The Campaign Reporting Act (CRA) requires campaign finance disclosure reports from candidates and political committees raising and spending money for primary, general, or statewide special elections. **Win or lose, a candidate is required to continue filing campaign finance reports until the campaign account is closed.** Additionally, candidates who have filed for office in an upcoming election are required to file campaign finance reports even if they do not raise or spend money or only use personal funds to support their campaigns.

The Office of the New Mexico Secretary of State (SOS) seeks to ensure voluntary compliance with the CRA and is responsible for educating candidates and other reporting individuals who are required to comply with the CRA. Candidates are urged to read applicable laws and guides and attend a live webinar, which are frequently posted and advertised on our website at www.sos.state.nm.us. Resources include:

- Campaign Reporting Act, *NMSA 1978 § 1-19-25 through 1-19-37*;
- Campaign Finance Rule, *NMAC 1.10.13.1 through 1.10.13.32*;
- Guide to New Mexico Public Financing, if applicable;
- This Guide – 2019 Candidate Campaign Finance Reporting Guidelines;
- CFIS webinar training;
- *Future Guides are also planned for Political Action Committees and Independent Expenditures.*

In addition to these listed resources, SOS ethics staff are available to answer questions and assist candidates in achieving voluntary compliance. SOS ethics staff may be reached at (800) 477-3632, (505) 827-3600 or sos.elections@state.nm.us. Fines and other enforcement efforts will be sought only after attempts at achieving voluntary compliance are not successful or after a final determination has been issued by the Secretary of State. See, NMSA 1978, § 1-19-34.4.

SOS ethics staff are not authorized to provide legal advice to candidates regarding the CRA. However, staff are able to provide information regarding the CRA and administrative and educational efforts of the Office of the Secretary of State.

Who is required to report?

All candidates running for a state or county office in any primary, general, or statewide special election in New Mexico must comply with the CRA-this includes write-in and judicial retention candidates.

Once a candidate registers his or her campaign committee and begins filing campaign finance disclosure reports, the candidate must continue to file until a “final” report is filed in CFIS. Additionally, the campaign bank account must have a zero balance and be closed. **This includes all individuals who ultimately decide not to file for office, candidates who are not qualified or disqualified from running for office, candidates who withdraw their candidacy,**

candidates who are not actively running in any given election cycle, and candidates who lose their elections.

Important: Even candidates who do not raise or spend funds or candidates who only use personal funds **MUST** file disclosure reports with the Office of the Secretary of State using the online Campaign Finance Information System (“CFIS”).

Who is NOT required to report?

Candidates for **federal office** do not file campaign finance documents with the Office of the Secretary of State¹. Candidates running for a federal office are advised to contact the Federal Election Commission at (800) 424-9530 or www.fec.gov for information about announcing candidacy and reporting contributions and expenditures.

The CRA explicitly excludes municipal, school board (see below), and special district election candidates. NMSA 1978, § 1-19-26(K).

However, candidates for school board must adhere to the School District Campaign Reporting Act (NMSA 1978 §§ 1-22A-1 to 1-22A-10) and file electronic campaign finance disclosure reports with the Office of the Secretary of State.

While municipal candidates are not subject to the CRA, municipal candidates are advised to contact the local city clerk to determine whether a municipality may have campaign finance disclosure requirements that are not administered by the Office of the Secretary of State.

Who is considered a candidate?

A candidate is an individual who seeks or considers running for an office in an election covered by the CRA. NMSA 1978 § 1-19-26(G).

Non-statewide candidates must file a Candidate Campaign Committee Registration Form and begin filing disclosure reports within 10 days of spending or receiving \$1,000, or more, or upon filing a Declaration of Candidacy; whichever occurs first.

Statewide candidates must file a Candidate Campaign Committee Registration Form and begin filing disclosure reports within 10 days of spending or receiving \$3,000, or upon filing a Declaration of Candidacy; whichever occurs first.

Candidate Campaign Committee Registration

A candidate must complete a Candidate Campaign Committee Registration Form in order to set up an account in CFIS for electronic report filing. If a candidate is registering at the time of filing a declaration of candidacy, the candidate may submit his or her registration form with the proper filing office, otherwise, the form must be submitted to the Office of the Secretary of State 1.10.13.8 NMAC.

¹ While federal candidates are not required to adhere to the CRA, they are required to file a declaration of candidacy and nominating petitions on candidate filing day with the SOS in order to appear on the ballot.

The proper filing office for all statewide offices, legislators that represent districts that span more than one county, public regulation commissioner, public education commissioner, district attorney and district court judges is the Office of the Secretary of State. NMSA 1978, § 1-1-5.9 (2019).

The proper filing office for legislators that represent single county districts, all county offices, magistrate court judges, and metropolitan court judges is the Office of the County Clerk in the relevant county. Information on the locations of County Clerk Offices can be found on the Secretary of State's website.

Once we receive the completed Candidate Campaign Committee Registration Form, we will create an account for the candidate in CFIS. A valid email address is required **at all times** for use of CFIS. Once a CFIS account has been created, the candidate will be emailed a username and password to gain access to the system, which is located at <https://www.cfis.state.nm.us>.

Once a CFIS account is established, a candidate is required to maintain current contact information in CFIS including treasurer information. This information may be updated in CFIS by clicking the 'Campaign Details' tab on the top menu bar. Failure to provide accurate or current contact information does not limit the candidate's liability regarding applicable fines and civil actions under the CRA.

CFIS requires all accounts to have an active email account. This is how our office contacts reporting individuals with important information regarding deadlines, training opportunities, and other information that will assist candidates in remaining compliant with the CRA.

NMSA 1978 § 1-19-34 requires candidates to appoint and consistently maintain a campaign treasurer. The CRA makes it unlawful for a candidate to make any expenditures or solicit or accept any contribution unless a treasurer has been appointed. In the event of a vacancy, the candidate must appoint a new treasurer and update CFIS within 10 days. The candidate is permitted to act as his or her own treasurer.

Transferring existing campaign funds to a new campaign

Each time a candidate runs for office, a new Candidate Campaign Committee Registration Form is required. If a candidate has previously run for an office covered by the CRA, the SOS will create a new "campaign" for the election year listed on the registration form in the candidate's existing CFIS account.

A candidate may only have one campaign committee at a time. NMSA 1978, § 1-19-26(E). Any candidate campaign committee registration form received will result in the Office of the Secretary of State moving the last reporting campaign balance, including debts, to the new campaign committee account in CFIS. This transfer is applicable to all current and former candidates and elected officials who have an open CFIS account including candidates who chose to run for a different office.

Example: A state senator who ran for office in 2018 and intends to run for Attorney General in 2020 is required to submit a new Candidate Campaign Committee Registration Form. Upon receipt of the form, SOS staff will create a “2020 campaign” for the office of Attorney General in CFIS and move over any remaining funds still available from the fundraising efforts associated with the senator’s 2018 campaign.

The only exception to this requirement is if the candidate is seeking public financing. In this case, if the candidate has a previously open campaign account, they must keep it separated.

Establishing a Campaign Committee Bank Account

All candidates who collect contributions are required to set up a separate bank account for their campaign committee funds. Campaign funds are not and should not be treated as a candidate’s personal funds. Soliciting or accepting a contribution prior to opening a campaign bank account is a violation of the CRA. However, if a candidate does not raise or spend any campaign funds, they are not required to open up a bank account. 1.10.13.13(B) NMAC.

When opening a campaign bank account, certain financial institutions may require proof that the bank account is tied to a political campaign and proof that the candidate is in fact running for office. In this case, the only item available to demonstrate a campaign is active is the Candidate Campaign Committee Registration Form until the Declaration of Candidacy is filed. Some financial institutions have requested that candidates produce a timestamped Declaration of Candidacy in order to open a campaign account, however, this is not available until the legal filing day. Such issues are typically a result of confusion with campaign terminology and can be alleviated with an explanation from the candidate regarding the filing day form and requirements.

Additionally, some financial institutions may also require an “Employee Identification Number” in order to open an account. Applying for and receiving an EIN for your campaign committee is quick and easy and can be done by visiting the IRS website.

Establishing a Campaign Treasurer

A campaign treasurer is an individual explicitly designated by a candidate or committee to authorize disbursements, receive contributions, maintain a proper record of the campaign finances, and who, along with the candidate, is liable for discrepancies in the finances and reports of the committee. 1.10.13.7(II) NMAC.

The treasurer is responsible for maintaining and preserving a proper record of all contributions received, disbursements from the campaign account, and any other thing of value. This record is important in the event your reports are ever questioned; it is your evidence of compliance with the CRA. The treasurer is jointly responsible with the candidate as a reporting individual. NMSA 1978, § 1-19-26(V); The CRA does allow for a candidate to serve as his or her own campaign treasurer. NMSA 1978, § 1-19-34(A)(1).

It is unlawful to solicit or accept a contribution² or make an expenditure without a treasurer NMSA 1978, § 1-19-34(A). If your treasurer is no longer able to serve, the candidate must appoint a successor treasurer and update the treasurer's information with the SOS within 10 calendar days of the vacancy. NMSA 1978, § 1-19-34(A); 1.10.13.8(G) NMAC. This information is updated directly within CFIS under the 'Campaign Details' tab in the top menu bar.

In the case of a new treasurer, a candidate is advised to change his/her CFIS password and remove the former treasurer's access to the campaign bank account.

The Office of the Secretary of State is unable to remove a treasurer associated with a campaign as the candidate must appoint a new one and make the associated change within CFIS. CFIS does not allow for this information to be left blank.

² Judicial candidates - your treasurer will authorize receipt of all contributions pursuant to the [Judicial Code of Conduct](#). However, judicial candidates are not prohibited from expending or authorizing the expenditure of campaign funds.

Step 2: Raising Campaign Contributions

Candidates are required to disclose every contribution they receive for their campaign. To ensure compliance with the CRA, candidates must:

- Ensure no one has contributed over the contribution limits in aggregate;
- Avoid an overage of anonymous contributions;
- Plan special events carefully and track named and anonymous donations carefully;
- Take the time to find out the original source of a donation in order to report correctly;
- Keep detailed records on all contributions; and,
- Disclose each contribution in sufficient detail to support transparency.

What is a contribution?

A contribution is a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, which is made or received for a political purpose, including payment of a debt incurred in an election campaign. NMSA 1978, § 1-19-26(H). Contributions are subject to specific limits which are discussed later in this guide.

A contribution does not include the value of services provided without compensation, unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee. Nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee. NMSA 1978, § 1-19-26(H). More information about volunteers is provided in the Volunteers section of this guide.

Candidates are responsible for reporting all contributions, regardless of the form in which they were received (e.g., check, credit card, cash or in-kind). This includes ensuring all contributions are lawful.

What information must be reported for each contribution?

Each contribution, including in-kind contributions³, and loan contributions must disclose the following:

- The amount of the contribution, or value thereof;
- The date the contribution was received;
- The contributor's full first and last name or full legal entity name, as well as the contributor's address; and,
- The occupation, name and type of business is required for contributors who contribute more than \$200 in the aggregate during an election cycle.
 - Friend, acquaintance, relative, or other personal relationships are not acceptable entries in the occupation or type of business filed of the report;
 - Retired, unemployed, student, homemaker, etc. are acceptable entries for occupation or type of business.

³ When reporting an in-kind contribution, CFIS has a required field for the description of the in-kind contribution.

- The opening and closing cash balance for the bank accounts maintained by the reporting individual during the reporting period and the name of the financial institution for each account;
 - The amount of each unpaid debt and the identity of the person to whom the debt is owed.
- NMSA 1978, § 1-19-31.

When a contribution is made versus received

The date a contribution is “made” by the contributor and the date the contribution is “received” by the candidate is significant for purposes of complying with contribution limits.

What date is a contribution reported as made?

Pursuant to 1.10.13.23 NMAC, a contribution is "made" by the contributor when the contributor relinquishes control over it.

- If the contributor hand delivers a contribution to a candidate, the contribution is made on the delivery date.
- If mailed, a contribution is made on the date of the postmark.
- An in-kind contribution is made on the date that the goods or services are provided by the contributor.
- A contribution made via the Internet is considered made on the date the contributor electronically confirms the transaction.

What date is a contribution reported as received?

Pursuant to NMAC 1.10.13.23, the date of receipt is the date the candidate, treasurer, or a person acting on a candidate’s behalf actually “receives” the contribution. This is the date the candidate shall use to report the contribution. The date of deposit is not used for reporting or contribution limit purposes.

- A contribution is reported as received on the date the contribution was delivered.
- When the candidate receives contributions through credit card charges or electronic delivery, the date of receipt is the date on which the candidate receives the contributor's signed authorization to charge the contribution.
- The date of receipt of in-kind contributions is the date the goods or services are provided to the candidate.

Contribution Limits

The CRA establishes contribution limits for non-statewide offices, statewide offices, and political action committees. These limits are reevaluated for incremental increases based upon the consumer price index and the new limits are published on the SOS website. New limits are announced each October 1 of an even numbered year and become effective the day after the general election. NMSA 1978 § 1-19-34.7.

The limits apply to any type of contribution, including contributions of money, contributions of goods or services, and loans. Receiving a contribution over the established limit is a violation of the CRA. NMSA 1978, § 1-19-34.7(E). Campaign committees may not retain contributions that exceed the donor's contribution limit. NMSA 1978, § 1-19-34.7(A); 1.10.13.22(A) NMAC.

Election Cycle: The period beginning on January 1 after the last general election and ending on December 31 after the general election. NMSA 1978, § 1-1-3.1 (2019)

Primary Election Cycle: The primary election cycle for all campaign committees is the period beginning on January 1 after the last general election and ending on the day of the primary election. NMSA 1978, § 1-1-3.1 (2019).

General Election Cycle: The general election cycle is the period beginning on the day after the primary election and ending on December 31 after the general election. NMSA 1978, § 1-1-3.1.

Are my family members subject to the contribution limits? Yes. If any person, including a relative or friend of the candidate, gives or loans the candidate money in connection with his or her campaign, the funds are not considered personal funds of the candidate even if they are given to the candidate directly. Instead, the gift or loan is considered a contribution to the campaign, subject to the limits and must be disclosed. 1.10.13.20(E) NMAC

Note: The use of personal funds by a candidate is not subject to contribution limits. NMSA 1978, § 1-19-34.7(H).

Using Personal Funds for my Campaign

When using personal funds to finance a campaign, a candidate must determine whether he or she will report the money as a loan or as a contribution. A contribution is considered a gift and is not reimbursable. A loan indicates the debtor (i.e. the candidate) will be reimbursed or repaid. If you use your personal funds in your campaign and want reimbursed for those funds, you must report the funds as a loan and not a contribution.

Personal funds must be reported in CFIS in one of the following ways:

- Report the personal funds as a contribution to the campaign committee – if you will not be reimbursing yourself (In CFIS select: Manage Transactions → Contributions → Monetary Contributions).
- Report the personal funds as a loan to the campaign committee – if you anticipate raising funds to pay yourself back (In CFIS select: Manage Transactions → Loans).

Note: Failure to report the use of personal funds for the campaign is a violation of the CRA.

The personal funds of a candidate include:

- Assets that the candidate has the legal right of access to, or control over, and which he or she has legal title to or an equitable interest in, at the time of candidacy;
- Income from employment, including self-employment;
- Dividends and interest from, and proceeds from, sale or liquidation of stocks, real estate or other investments;
- Income from trusts, if established before the start of a primary or general election cycle;
- Bequests to the candidate, if established before the commencement of a primary or general election cycle;
- Personal gifts that have been customarily received by the candidate prior to the commencement of a primary or general election cycle; and,
- Proceeds from lotteries or games of chance. 1.10.13.20(F) NMAC.

Many candidates use their personal debit or credit cards to avoid the inconvenience of writing a check. The CRA does not prohibit the use of debit or credit cards to pay for campaign expenses. The CRA simply requires that all disbursements be made in a form such that the date, amount and payee of the transaction are automatically recorded or by check (NMSA 1978, § 1-19-34(A)(3)).

***Example:** A county clerk candidate is driving throughout the county to visit potential constituents. He uses his personal debit card to pay for gas. The candidate should provide his treasurer with the receipt(s) for the gas. Treasurer will either report the expenditure(s) as a loan from the candidate to the campaign if the candidate wishes to be reimbursed for the personal funds, or report the amount as a personal contribution to the account and then report the expense made (i.e. gas) to keep the opening and closing balance correct.*

***Example:** An assessor candidate wants to order campaign materials prior to raising any money. Assessor writes a personal check to the campaign for \$1,500. The treasurer must report this as a loan or a monetary contribution.*

Do not report personal funds as both a contribution and a loan. This will lead to double reporting and falsely inflate your campaign funds.

Assets Jointly Held with Spouse: A candidate may also use his or her portion of assets owned jointly with a spouse as personal funds as those assets are considered community property. The candidate is presumed to own a one-half interest in such property.

Some banks may require a spouse to cosign a loan obtained by the candidate using jointly held assets as collateral. While an endorsement or guarantee of a loan would normally constitute a contribution, in this instance the spouse is not considered a contributor as long as the candidate's share of the asset being used as the loan collateral meets or exceeds the amount of the loan.

In-Kind Contributions

An in-kind contribution is any good or service, or anything of value, contributed to a candidate or committee other than money. 1.10.13.7(R) NMAC.

The value of an in-kind contribution is subject to the same contribution limits as a gift of money.

In-kind contributions must be reported with the actual value of the contribution. If goods or services are provided to a candidate (reported as an expenditure of the campaign) at less than the usual and normal charge, an in-kind contribution must be reported by the candidate to account for the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount charged to the candidate or committee.

If an actual value of goods or services is not available, an estimated value of the contribution may be used.

Coordinated expenditures made on behalf of the candidate or campaign committee shall be reported by the candidate as in-kind contributions received from the coordinating political committee and are subject to contribution limits. A political committee, which includes a legislative caucus committee, see, NMSA 1978, 1-19-26(Q), may make an in-kind contribution by donating the goods and services directly to the candidate or campaign committee or by paying a third party to provide them.

The value of in-kind contributions from a political party or legislative caucus committee to a candidate nominated by that party in a general election cycle do not apply to the limitation on contribution to candidates or campaign committees. 1.10.13.18(F) NMSA

If a committee or person makes an in-kind contribution that benefits multiple candidates, each candidate must report the estimated benefit received per person. 1.10.13.18(C) NMAC.

The contributor should advise the candidate of the value of an in-kind contribution at the time it is made so that the candidate can disclose it properly and monitor the contributor's aggregate contributions.

Anonymous Contributions

An anonymous contribution is a contribution from an unknown contributor; the contributor is unknown to the candidate or the candidate's agent to the political committee or its agent who accepts the contribution. NMSA 1978 § 1-19-26(B).

No single anonymous contribution may be accepted in excess of one hundred dollars (\$100) by any candidate. NMSA 1978 § 1-19-34(B).

No more than \$500 may be accepted in aggregate anonymous contributions for any non-statewide candidate in a primary or general election cycle. NMSA 1978 § 1-19-34(B).

No more than \$2,000 may be accepted in aggregate anonymous contributions for any statewide campaign committee or political committee in a primary or general election cycle. NMSA 1978 § 1-19-34(B).

The CRA requires that excessive anonymous contributions are either deposited into the state general fund or donated to a qualifying charitable organization. NMSA 1978 § 1-19-34(D).

Candidates who accept anonymous contributions that exceed the limits and want the funds paid into the general fund must provide the SOS with the payment equal to the amount accepted over the limit for deposit, along with a written explanation for the payment.

If excess anonymous contributions are paid to charitable organizations, you must provide a written explanation in the memo field available in CFIS. The voluntary disposal of anonymous overages will not result in a finding of a violation by the SOS.

Special Events

A special event is a barbeque, tea, coffee, dinner, reception, dance, concert or similar fundraiser where tickets that cost twenty-five dollars \$25 or less are sold, and no more than \$1,000 in net contributions are received. NMAC 1.10.13.7(GG).

Special events are reported in a special section in CFIS under the ‘Manage Transactions’ tab. Contributions received as a result of special events shall be reported cumulatively on the special events form in CFIS under the ‘Manage Transactions’ tab. Candidates must report:

- Sponsor of the event;
- Amount received (gross proceeds);
- Expenditures incurred;
- Estimated number of persons in attendance; and,
- Net amount received after deducting the expenditures incurred in conducting the event (net proceeds).

For all other fundraising events at which the price of admission exceeds \$25, or which raise more than \$1,000 in net proceeds, the reporting individual must report each individual contribution and may NOT use the Special Events form (NMSA 1978 § 1-19-34(C)).

***Example:** Candidate for State Treasurer holds a barbeque where attendees pay \$15.00 per person to attend. The candidate sits in a dunk tank at the barbeque and attendees pay \$5 a ball to throw at the tank. The tickets have names associated with them, but the \$5 per throw does not. The \$5 are anonymous contributions and cannot exceed \$1,000 of the net proceeds from the event. Since contributor information is being collected for the \$10 tickets, these can be reported as individual contributions and do not need to be included in the \$1,000 net proceeds from the special event.*

Can I hold a raffle as a fundraiser?

Candidates may not hold raffles as a fundraising method. While not prohibited by the CRA, the New Mexico Gaming Control Board does not include campaigns, campaign committees or political committees as organizations eligible to hold a raffle under the Bingo and Raffle Act. Violations of the Bingo and Raffle Act could result in criminal charges. NMSA 1978 § 60-2F-25.

Loans - May I borrow money for my campaign costs?

A loan is an extension of credit to a candidate or committee by any person, including the candidate themselves, for use as monies spent toward the election of a candidate. 1.10.13.7(T) NMAC. All loans made to a candidate's campaign, including loans sourced from a candidate's own personal funds, must be reported.

Like contributions, loans will increase the total balance of your available campaign funds in CFIS. Contribution limits apply to loans unless the loan is sourced from the candidate's own personal funds.

***Example:** A sheriff candidate has not received any contributions yet, but needs to print some signs and invitations for a fundraiser, so he deposits a check from his personal checking account into his campaign account in the amount of \$2,000. The candidate should report the \$2,000 as a loan on the first report due after the date of the loan.*

***Example:** A State house candidate refinances her home to get a better interest rate after filing her declaration of candidacy. She is personally responsible for the repayment and the transaction was completed without any connection to her campaign in the usual course of business for the lender. The candidate does not need to report this transaction on her campaign finance reports. However, if the candidate deposits proceeds from the loan in her campaign account, she will need to report these funds as a contribution or a loan.*

Loan forgiveness: creditors, whether the candidate or someone else, have the option of forgiving all or a portion of a loan to the campaign. If during the reporting period, an outstanding loan is forgiven, it must be reported to include the date the loan was forgiven, the name and address of the lender, and the amount forgiven in CFIS under Manage Transactions → Loans.

A loan from personal funds may also be forgiven if sufficient funds are not available for reimbursement.

Loan repayment: payments on outstanding loans are reported separately from other expenditures under Manage Transactions → Loans. Repayments can be all or a portion of the total amount of the loan. You must report the date of the payment, just like any other expenditure, the name of the creditor, and the amount of the payment.

***Example:** A sheriff candidate has held some highly successful fundraisers and now has \$10,000 in his campaign account. The candidate may use these funds to pay back the loan of personal funds he previously made to the campaign. The candidate could also choose to forgive the loan. In either case, the information is reported in CFIS under 'Manage Transactions → Loans.'*

Prohibited Period - Is there a time when I cannot solicit or receive contributions?

The governor or the lieutenant governor, or any agent on the governor's or the lieutenant governor's behalf, state legislator, the attorney general, the secretary of state, the state treasurer, the

commissioner of public lands or the state auditor or a candidate for state legislator, attorney general, secretary of state, state treasurer, commissioner of public lands or state auditor, or any agent on behalf of the attorney general, the secretary of state, the state treasurer, the commissioner of public lands or the state auditor or a candidate for attorney general, the secretary of state, state treasurer, commissioner of public lands or state auditor may not knowingly solicit a contribution for a political purpose during the prohibited period. NMSA 1978, § 1-19-34.1:

- The prohibited period begins on January 1 and ends on the adjournment of the regular or special session.

Note that the prohibition is for knowingly soliciting a contribution. The prohibition does not ban the acceptance of unsolicited contributions during the prohibited period.

Lobbyists are also prohibited from acting as an intermediary for political contributions or making arrangements for political contributions during the prohibited period to members of the legislature, any statewide elected official, or a candidate for these offices. NMSA 1978 § 2-11-8.1(B).

Additionally, candidates for, or public officials elected to, a regulatory office (i.e. the Public Regulation Commission) are prohibited from soliciting or accepting contributions from an entity, its officers, employees, or a person directly regulated by the office. NMSA 1978 § 1-19-34.2.

Excessive Contributions

The candidate and his or her treasurer are responsible for ensuring that all contributions are lawful. If a person has reason to suspect that a contribution is excessive or prohibited, he or she must validate the legality of the contribution and correct any discrepancy, if necessary, within ten days of receiving the contribution. The candidate or treasurer must check campaign records regularly to ensure that successive contributions from one contributor do not exceed the contribution limits of the CRA.

Excessive or prohibited contributions may be returned to the contributor if the candidate voluntarily returns the contribution without a finding of violation by the Secretary of State. Self-reporting and voluntary correction are not grounds for a violation finding.

However, if the Secretary of State makes a formal finding that an excessive or illegal contribution has been received by a candidate, the candidate shall deposit the excessive or illegal contribution into the state general fund or public election fund (in order to achieve voluntary compliance. NMSA 1978, §§ 1-19-34(D) or 1-19-34.7(E). Checks shall be made out to the Secretary of State with a memo to indicate where the monies shall be deposited.

Aggregate contributions: Contributions are calculated in the aggregate, meaning that an individual can contribute multiple times to a candidate, so long as the total contributed by the individual during the election cycle does not exceed the contribution limit. It is the responsibility of the reporting individual to assure that successive contributions from one contributor, in the aggregate, do not exceed the contribution limit. Contributions are reported individually, so the treasurer must have a system to calculate and track aggregate contributions.

***Example:** Mr. Jones likes to contribute to his favorite officials and candidates when he receives his quarterly investment dividends. To determine whether Mr. Jones is within the \$5,000 contribution limit for a state representative during the primary election cycle, the treasurer must aggregate all contributions from Mr. Jones received beginning January 1, 2021 to present date. This will tell you how much more Mr. Jones can contribute through the end of the primary cycle, or if he has reached the limit for contributions during the cycle.*

Excessive Contributions: Once a single contributor's aggregate contributions for an election cycle meet the contribution limit applicable to the candidate, the candidate cannot accept further contributions from that contributor for that election cycle. A "single contributor" is an individual and does not include a joint account holder or a spouse.

***Example:** Ms. Anaya and her boyfriend share a joint checking account. Ms. Anaya writes a check to a candidate for \$5,000. Three weeks later, her boyfriend, Mr. Baca, writes a \$5,000 check from the same account to the same candidate. Despite the funds having come from the same account, the funds are attributable to two separate individuals.*

The limits on contributions to a candidate committee apply separately to each election in which the candidate participates. Primary and general elections are considered separate elections, with separate contribution limits. To avoid making an inadvertent excessive contribution, the Secretary of State strongly encourages contributors to designate their contributions to a candidate by writing the name of the specific election on the check or by attaching a signed statement with the same information.

When a person makes a contribution above the contribution limits to a candidate in the primary cycle, the candidate may re-designate the excessive portion to the general election cycle if the contribution:

- is made during that candidate's primary election cycle;
- is not designated in writing for a particular election;
- would be excessive if treated as a primary election contribution; and
- if re-designated, does not cause the contributor to exceed any contribution limit.

All re-designations of funds must be indicated in the memo field of CFIS. An undesignated contribution will automatically be considered to apply to the election cycle in which it was received unless the memo field is used to indicate otherwise.

If a candidate receives a contribution for the general election prior to the start of the General election cycle, that candidate must report the date the funds were received in the proper reporting period, however, the candidate must segregate those funds and not use them until the start of the general election cycle.

Also, a candidate who receives funds in the primary election cycle that are designated for use in the general election cycle and who loses the primary election must return the funds to the original donor or must donate the excessive contribution to the public election fund. A candidate or committee must disclose refunds of contributions in CFIS using the refund contributions option

(In CFIS select: Manage Transactions → Expenditures → Refund Contributions). A donation to the public election fund may be reported in CFIS as an expenditure.

Campaign Debts

Campaign debts may not exceed available campaign funds unless the debt is a loan. Loans from any entity, except a candidate's personal funds, must conform to contribution limits.

Resolving outstanding debts: Following the date of the primary or general election, if a candidate has outstanding debts after expending all available campaign funds, the candidate may collect contributions for the sole purpose of paying those debts.

The contributions will apply to the primary or general election cycle for which the campaign debt was incurred for purposes of computing allowable contribution limits.

A candidate may not transfer funds collected specifically to satisfy campaign debt to a subsequent primary or general election cycle. Accordingly, contributions collected for the purpose of paying off outstanding campaign debts may not exceed the amount of the outstanding debts.

***Example:** After a hotly contested primary for a county assessor seat, the community decides to rally behind the prevailing candidate. Mrs. Contributor sends the campaign committee a check for \$6,000; however, the contribution limit per election cycle is \$5,000. This is the first donation that Mrs. Contributor has ever made to the candidate. The candidate is also carrying \$9,000 in debt from the primary race. So long as the check is not designated for the general election, the treasurer may attribute \$5,000 to Mrs. Contributor in the general election cycle (in compliance with the general election contribution limit) and \$1,000 to her in the primary cycle to reduce the carryover debt from the primary. The candidate may NOT use the full \$6,000 to cover debt from the primary election as this would cause the candidate to exceed the primary election cycle contribution limit.*

What is "earmarking"?

Earmarking is a contribution in which the original contributor intends for the contribution to pass through some other person to a specific candidate or committee. 1.10.13.7(K) NMAC

Earmarking is allowed as long as the original source of the contribution is disclosed. A contribution earmarked for a candidate through a political committee counts against the original contributor's limit for that candidate. All contributions made by a person to a candidate, either directly or indirectly, including contributions that are in any way earmarked or otherwise directed through another person to a candidate, shall be treated as contributions from the original person to that candidate. NMSA 1978 §1-19-34.7(D).

It is unlawful to make a contribution to a candidate or a political committee in the name of another person with the intent of disguising the source of the contribution. Additionally, a person may not knowingly accept a contribution in which the source of the contribution is being disguised. NMSA 1978 § 1-19-34.3

A candidate may not knowingly accept a contribution wherein the source of the funds is disguised.

***Example:** Mr. Smith wishes to make a contribution to a candidate that his spouse does not support. To avoid a household conflict, Mr. Smith gives cash to a friend, Mr. Gurule, instructing him to make the contribution in Mr. Gurule's name instead of Mr. Smith's name. Mr. Gurule writes a check from his checking account to the candidate and delivers the contribution to the candidate's treasurer. Mr. Smith and Mr. Gurule have both violated the law. If the candidate or treasurer has knowledge of Mr. Smith and Mr. Gurule's agreement, the candidate may not accept the contribution or must report the contribution as coming from the original source, here Mr. Smith.*

Additionally, candidates are authorized to accept payments from internet fundraising organizations such as ActBlue. However, to avoid violating the CRA, candidates are required to disclose the name, address, and occupation or business, if applicable, of the original contributor who donated to the candidate through the organization's internet site. Conversely, candidates should *not* report "ActBlue" as the contributor, as ActBlue is the mechanism by which the contribution from the original contributor was received, not the actual contributor.

Volunteers

Volunteer work performed for a candidate or committee is not considered a contribution (financial or in-kind). 1.10.13.19 NMAC. An individual may volunteer his or her own personal services to a campaign or candidate if the services are not compensated by the candidate, campaign or any other person. A few examples of "personal services" that may be volunteered include word processing, entertaining, making phone calls, collecting petition signatures, or making deliveries.

If a third party pays a person to volunteer for a candidate, the payment constitutes an in-kind contribution to the campaign committee, which must be reported by the campaign committee. NMSA 1978 § 1-19-34(A).

Individuals may use their own homes, recreation or meeting rooms of complexes, or other facilities to conduct volunteer activities for a campaign committee without reporting the rental value of the premises as a contribution. 1.10.13.20(B) NMAC

Candidates and campaigns may reimburse volunteers for out-of-pocket expenses other than the value of their time. Any expense reimbursed by the candidate or committee must be reported by the candidate. 1.10.13.20(C) NMAC

Step 3: Making Campaign Expenditures

What qualifies as an expenditure?

An “expenditure” is a payment, transfer or distribution, or obligation or promise to pay, transfer or distribute any money or other thing of value for a political purpose, including payment of a debt incurred in an election campaign or pre-primary convention. NMSA 1978, § 1-19-26(M).

What information must be reported for each expenditure?

Each expenditure must be reported and must disclose the following:

- The date of each expenditure;
- To whom each expenditure was made and their address;
- The purpose of each expenditure; and,
- The amount of each expenditure. The opening and closing cash balance for the bank accounts maintained by the reporting individual during the reporting period and the name of the financial institution for each account; The amount of each unpaid debt and the identity of the person to whom the debt is owed.

NMSA 1978, § 1-19-31.

The “purpose” of each expenditure must include a description detailed enough to associate the expense to the campaign.

Regarding the date of each expenditure, if an expenditure is made in person then the date reported should be the date of delivery. If the expenditure is mailed then the date reported should be the date of the postmark.

Are there restrictions on expenditures that can be made?

Pursuant to NMSA 1978 § 1-19-29.1(A), it is unlawful for a candidate or the candidate's agent to make an expenditure, except for the following purposes:

- Expenditures of the campaign;
- Expenditures of legislators that are reasonably related to performing the duties of the office held, including mail, telephone and travel expenditures to serve constituents, but excluding personal and legislative session living expenses;
- Donations to the state general fund;
- Donations to a charitable organization such as churches, educational organization, or organizations whose principal purpose is to provide medical or hospital care, education or research;
- Expenditures to eliminate the campaign debt of the candidate for the office sought or expenditures incurred by the candidate when seeking election to public office in a primary, general, or statewide special election;

- Donations to a political committee or to another candidate seeking election to public office in a primary, general, or statewide special election⁴; or,
- Disbursements to return unused funds pro rata to the contributors if no campaign debt exists.

Expenditures that are reasonably attributable to the candidate's campaign and not to personal use or personal living expenses are permissible campaign expenditures. Personal use of campaign funds is any use of funds in a campaign account to fulfill a commitment, obligation or expense of any candidate or legislator that would exist regardless of the candidate's campaign or responsibilities as a legislator. If the expense would exist even in the absence of the candidacy, or even if the legislator were not in office, then it is not considered to be a campaign-related expenditure. 1.10.13.25(B)(2) NMCA

Some examples of personal expenses include:

- Mortgage, rent, or utility payments for your business or home;
- Childcare or housekeeping services;
- Clothing;
- Massages or other spa services;
- Medical treatments; and,
- Hair, nail, or make-up expenses.

***Example:** A legislator wishes to attend an environmental conference in Washington, D.C. and pay for the travel and lodging with his campaign funds. The legislator ran on a platform of environmental issues and frequently attends constituent meetings and discussions regarding such issues. Attendance of this conference is reasonably related to his legislative duties and therefore a permissible expenditure.*

***Example:** A candidate for the legislature would like to get her nails done prior to walking neighborhoods in her district to meet and greet. This is not a permissible expenditure of campaign funds.*

Legal Expenses

Legal expenses specifically related to the campaign or legislative office are permissible uses of campaign funds. Such expenses include, but are not limited to, presenting a legal challenge to an opponent's qualifications for election, participating in such a challenge or defending such a challenge. Permissible legal expenditures also include defending or filing a complaint with the office of secretary of state or any ethics authority. However, candidates and public officials shall not use campaign funds to pay any fine or penalty imposed by the secretary of state or court. 1.10.13.25(B)(4) NMCA

***Example:** A constituent files a lawsuit claiming that you do not live within your district and should not be qualified for the ballot. You hire an attorney to defend you against this*

⁴ Contributions to a political committee not covered by the CRA or candidates seeking office in an election other than a primary, general, or statewide special are NOT allowable. For example, contributions to candidates for a municipal election or to a PAC supporting a school board candidate or candidates are not allowable.

suit and to keep you on the ballot. Regardless of the outcome of the case, you may pay the legal expenses from your campaign funds.

Vehicle Expenses

Wear and tear on a vehicle is a permissible expense of the campaign and candidates shall claim mileage rather than actual repairs for travel solely related to the campaign. Mileage shall be calculated at no more than the published rate pursuant to the Mileage and Per Diem Act. 1.10.13.25(B)(6) NMCA.

Candidates must keep a log for the candidate's own records regarding miles traveled for campaign purposes and calculate the per diem based on this log. Mileage rates are meant to account for both wear and tear on a vehicle as well as costs for gas; therefore, candidates may not charge for both gas and mileage. 1.10.13.25(B)(6) NMCA

Charitable Donations

Donations to a charitable organization from campaign funds may only be made to organizations recognized as tax exempt under Section 501(c)3 of the Internal Revenue Code of 1986. The candidate or committee making a charitable donation is responsible for determining whether the charity has the permissible tax status prior to making the donation. 1.10.13.26 NMCA.

***Example:** A statewide official has been a volunteer at the Alzheimer's Association for several years. She wishes to make a donation to the association from her campaign funds. This is a permissible charitable donation of campaign funds.*

***Example:** A statewide official would like to donate money to a needy family. This is NOT a permissible donation of campaign funds because individual families are not tax exempt under Section 501(c)3 of the Internal Revenue Code of 1986.*

May I use personal funds for campaign expenses?

Candidates who use their own personal funds for expenditures of the campaign committee **MUST** report the funds as either contributions to the campaign committee, which cannot be repaid to the candidate, or as loans to the campaign committee, which can be repaid from other campaign contributions received by the campaign committee.

Candidates may pay for expenditures of the campaign committee out of personal funds and obtain reimbursement from the campaign committee, but the campaign committee **MUST** itemize the expenditures reimbursed. For example, a candidate may not report a single payment to a credit card in lieu of reporting each individual expenditure paid for out of personal funds. Additionally, use of a credit card specifically designated for campaign expenses is permissible but expenditures must be itemized when reported.

Example: Candidate uses her personal credit card to pay for yard signs, mailers, and walk lists. She also continues to use her credit card for personal expenses. Candidate needs to report the campaign expenditures carefully.

- **Right way:** Report the total amount Candidate spent in personal funds for the yard signs, mailers, and walk lists as a loan. If the items appeared on one invoice from the vendor, only report the total expended. Use the description field to describe the expenditure(s) constituting the loan. When reimbursement is made by the campaign back to the candidate, or the loan is forgiven, report the reimbursement or forgiveness attributable to the candidate.
- **Wrong way:** Do not report an expenditure description of “Visa bill” and report total paid. Expenditures should be clearly itemized.

What if I’m not sure if a certain expense is permissible?

A candidate or candidate's agent may seek an opinion or declaratory ruling from the Secretary of State on the lawfulness of expenditures made prior to the campaign committee facing an enforcement action. A declaratory ruling made by the Secretary of State shall be issued in accordance with the Administrative Procedures Act (NMSA 1978 § 12-8-9).

To the extent that an expenditure is determined unlawful pursuant to a declaratory ruling from the Secretary of State, the campaign committee shall be given the opportunity to amend any inconsistent reports and take other necessary steps to come into voluntary compliance.

Our office encourages candidates or candidates’ agents to contact our office in advance if there is any question about whether or not an expenditure is permissible.

What are Coordinated and Independent Expenditures?

The CRA defines “coordinated expenditures” and “independent expenditures” in NSMA 1978, Section 1-19-26 ((I) and (N), respectively. In addition, Section 1-19-27.3 explains the reporting requirements for independent expenditures. Further, 1.10.13 NMAC provides regulations for these types of expenditures based upon federal law and current case law. Please refer to these definitions and the rule if you require further information regarding these types of expenditures.

A candidate is generally impacted by these types of expenditures as follows:

Independent Expenditures

An independent expenditure is made by a person, other than a candidate or campaign committee; not a coordinated expenditure as defined in the Campaign Reporting Act; and made to pay for an advertisement that:

- (a) expressly advocates the election or defeat of a clearly identified candidate or the passage or defeat of a clearly identified ballot question;
- (b) is susceptible to no other reasonable interpretation than as an appeal to vote for or against a clearly identified candidate or ballot question; or

(c) refers to a clearly identified candidate or ballot question and is published and disseminated to the relevant electorate in New Mexico within thirty (30) days before the primary election or sixty (60) days before the general election at which the candidate or ballot question is on the ballot.

NMSA 1978, § 1-19-26(N); 1.10.13.7(Q) NMAC

A candidate benefiting from an independent expenditure has no obligation to report the independent expenditure.

Coordinated Expenditures

A coordinated expenditure is made by a person, by a person other than a candidate or campaign committee; at the request or suggestion of, or in cooperation, consultation or concert with, a candidate, campaign committee or political party or any agent or representative of a candidate, campaign committee or political party; and for the purpose of:

(a) supporting or opposing the nomination or election of a candidate; or

(b) paying for an advertisement that refers to a clearly identified candidate and is published and disseminated to the relevant electorate in New Mexico within thirty (30) days before the primary election or sixty (60) days before the general election in which the candidate is on the ballot; NMSA 1978, § 1-19-26(I); 1.10.13.7(H) NMAC.

A candidate benefiting from a coordinate expenditure is required to report this as an in-kind contribution to the candidate's campaign committee. A coordinated expenditure is subject to the contribution limits.

Candidates may endorse other candidates and this does not constitute a coordinated expenditure unless the endorser pays for an advertisement that constitutes a coordinated expenditure.

***Example:** A candidate for county treasurer makes a statement that he supports a candidate that is running for county clerk and the statement is printed in the local newspaper. The candidate for county treasurer does not spend any money to advertise or print this endorsement in the newspaper. This would not count as a coordinated expenditure and the candidate for county clerk has no obligation to report this on her report.*

Additionally, a candidate's response to an inquiry or questionnaire about that candidate's positions on legislative or policy issues, which does not include discussion of campaign plans, projects, activities or needs, does not constitute a coordinated expenditure.

***Example:** A non-profit group requests that a candidate fill out a candidate questionnaire about her position on a variety of policy issues that will be printed by the group in a "voter guide." This would not count as a coordinated expenditure and the candidate has no obligation to report this on her report.*

Campaign Material Disclosures

Do I have to print disclosures on my campaign materials?

NMSA 1978, Section 1-19-26.4 and Rule 1.10.13.31 NMAC contain provisions that require certain disclaimers to appear on campaign materials. Part 1.10.13.31 NMAC, clarifies the constitutional portions of the law which is also explained in this section.

Disclaimers are required on advertisements disseminated by:

- a candidate, campaign committee, or political committee, including a legislative caucus committee, registered pursuant to the CRA or the 1.10.13 NMAC; and
- a person who is providing an advertisement as a coordinated expenditure; and
- a person who has made independent expenditures in an aggregate amount exceeding one thousand dollars (\$1,000) during the current election cycle, and that either:
 - expressly advocate the election or defeat of a clearly identified candidate or the passage or defeat of a clearly identified ballot measure, or
 - refer to a clearly identified candidate or ballot measure and are disseminated to the relevant electorate within 30 days before the primary election or 60 days before the general election at which the candidate or ballot measure is on the ballot.

Disclaimers must include the name of the person, entity, candidate, or campaign committee who paid for the advertising material. Disclaimers must be legibly displayed by visual media, or if the advertisement is transmitted by audio media, the disclaimer must be clearly spoken during the advertisement. If the advertisement is transmitted by audiovisual media, the statement shall be both written legibly and spoken clearly during the advertisement. Please see 1.10.13.31(D) through (G) NMAC for details as to how the disclaimer should be presented depending on the type of communication vehicle, such as printed, radio and television advertisements.

Disclaimers do not need to be printed on bumper stickers, pins, buttons, pens and similar small items upon which the disclaimer cannot be conveniently printed. Additionally, disclaimers are not required for skywriting, water towers, clothes or other means of displaying an advertisement for which the printing of a disclaimer would be impractical.

Do I have to disclose who paid for telephone calls?

Disclosure is required if the call is:

- Communicating with 500 or more phone numbers;
- With content of a similar nature;
- Made during an election cycle;
- Made by individuals or electronically; and,
- Advocates support for or opposition to a candidate or a ballot measure.

Scripts of each such call shall be retained for 90 days following the election.

Candidates are required to disclose the organization's name that authorized or paid for telephone calls for or by a candidate or political committee. The name disclosed must be either the organization's commonly known name or the full name of the committee as registered in CFIS. NMSA 1978, § 1-19-26.3

Step 4: Filing Campaign Finance Disclosure Reports

Training Alert! The SOS provides CFIS training!

The SOS holds at least one webinar prior to each reporting deadline. For more training, please register for a campaign finance training webinar advertised on the SOS website. All candidates and treasurers will be notified when a new webinar is scheduled using the email information on file in CFIS.

Where do I file my reports?

The CRA requires all candidates to submit reports electronically in the Campaign Finance Information System or "CFIS." NMSA 1978, § 1-19-27. CFIS may be accessed online at any time at the following web address: <https://www.cfis.state.nm.us>.

Each CFIS account is established upon receipt of a completed Candidate Campaign Committee Registration Form. Upon being successfully registered in CFIS, a system-generated email with a username and password is emailed to the campaign committee email address provided on the registration form. The email will come from the email address sos.ethics@state.nm.us. Please check your junk mail filter or contact the Bureau of Elections if you have not received this information within five days from the date of submitting the registration form.

All reports are listed as 'pending' in CFIS and are unavailable for public viewing until the candidate 'submits' the report. To submit the report in CFIS, go to Manage Reports → Submit/Amend Reports → Submit Report. You then must click 'ok' on the pop up attestation message.

Once the report is submitted it will reflect 'submitted' or 'amended' under the 'status' column on the Submit/Amend Reports page. Reports are not considered filed unless the report has been submitted and candidates may be subject to penalties if the report is not submitted by the filing deadline. See also, 1.10.13.12 NMAC

CFIS Password Resets

If you already have an active account in CFIS and have forgotten your password, please use the "Forgot Your Password" feature on the CFIS login page to obtain a new password. This will send a system generated email to the email address currently on file in CFIS with instructions to complete the password change.

Note: CFIS requires that you set a 'strong password' which includes at least eight characters, a capital letter, a number, and a special character.

If you do not have access to the email account on file or otherwise don't receive the email generated using the "Forgot Your Password" feature, SOS Bureau of Elections staff can assist you in resetting the password. To complete the password change via telephone, you will be asked to confirm some details related to the account or will need access to the telephone number currently on file in CFIS. To ensure the security of your account, staff may call you at the number on file in CFIS and confirm with whom they are speaking. Similarly, if you come to the SOS office to change your password, staff may require identification in order to ensure the security of your account.

If you do not have access to either the email address or the telephone number on file, you may complete a new Candidate Campaign Committee Registration Form. To protect the security of the account, the form must be notarized. Once we receive the form, staff will complete any changes indicated on the form. You will receive a confirmation email at the address on file in CFIS once the changes are completed.

Hardship Waiver Requests

The CRA requires all candidates to submit reports electronically in CFIS. NMSA 1978, § 1-19-29(J). However, candidates may apply for an exemption to electronic filing in case of hardship by submitting a Hardship Waiver Request Form. The Secretary of State will grant a hardship waiver if the candidate has no way to access CFIS. NMSA 1978, § 1-19-29(K); 1.10.13.12(C) NMAC.

Upon approval of a hardship waiver, the candidate shall submit his/her report on a prescribed paper form. Approval of a hardship waiver authorizes the SOS to enter the report into the electronic system on behalf of the candidate. A copy of the electronic report entered by the SOS will be mailed to the candidate once it has been entered into CFIS. 1.10.13.12(C)(2) NMAC

Submission of a hardship waiver request does not constitute meeting the reporting requirements including the statutory reporting deadlines. Failure to adhere to a report deadline may still result in fines. See NMSA 1978 § 1-19-35. Candidates must make arrangements for hardship approval in advance of report deadlines to ensure timely filing. 1.10.13.12(C)(3) NMAC

When do I file my reports?

The CRA establishes a filing schedule with deadlines for all reports, and prescribes monetary penalties for failure to file, failure to timely file, complete, or to file accurate reports or statements of no activity. NMSA 1978, § 1-19-29. The CRA also provides for civil and criminal enforcement for failure to comply.

A current reporting schedule may be found on our website and on page 1 of this guide.

Election Year Reporting for Candidates

During an even-numbered election year, the CRA requires eight (8) campaign finance reports, which consist of four (4) primary election reports and four (4) general election reports for candidates appearing on, or intending to appear on, the primary or general election ballot in that year. NMSA 1978, § 1-19-29.

All primary election candidates must file all four primary reports regardless of whether they have raised or spent any funds. Once the primary election is complete, candidates who do not move forward to the general election and have a zero balance may file a “final” CFIS report that indicates:

1. The campaign has no outstanding debts;
2. All funds in the account have been expended pursuant to the CRA (i.e., the account has a zero balance); and,
3. The bank account has been closed. NMSA 1978, § 1-19-29(F).

All general election candidates must file all eight reports (four primary and four general) regardless of whether they have raised or spent any funds. NMSA 1978, § 1-19-29(F). All general election candidates must file **all eight reports** before they may opt to file a “final” CFIS report and close their CFIS account.

Important: If a candidate does not close his or her CFIS account after a primary or general election, then continued reporting is required.

Election Year Reporting for Non-Candidate Public Officials or Former Candidates

During an even-numbered election year, any public official not currently running for re-election, or former candidate who has not previously filed a final CFIS report, is required to file two (2) biannual campaign finance reports by the required deadline. NMSA 1978, § 1-19-29(H).

Once a candidate completes a Candidate Campaign Committee Registration Form, even if the candidate does not ultimately file a Declaration of Candidacy or otherwise withdraws his or her name from appearing on the ballot, the candidate must continue to file campaign finance reports until they file a “final” report. NMSA 1978, § 1-19-29(H).

Non-Election Year

In an odd-numbered non-election year, the CRA requires two (2) biannual campaign finance reports for anyone who continues to maintain a campaign balance and has not filed a “final” CFIS report. This requirement is applicable to active and former candidates, and individuals who are considering running for office and are considered a candidate as described in NMSA 1978 § 1-19-26(G).

Supplemental Reports

In addition to the eight reports required in an even-numbered election year, certain candidates (see list below) must also file supplemental reports in CFIS if they collect a contribution, or pledge to contribute, over a certain amount beginning the Thursday before a primary, general, or statewide special election. NMSA 1978 § 1-19-29(B)(5).

Any applicable contribution, or pledge to contribute, received after 5:00 PM on the Tuesday before a primary, general or statewide special election shall be reported to the Secretary of State in CFIS within 24 hours of receipt.

Additionally, any such contribution, or pledge to contribute, received after 5:00 PM on the Friday before a primary, general or statewide special election must be reported on a supplemental report by noon on the Monday before the election. NMSA 1978, § 1-19-29(B)(5).

Supplemental Report Contribution Trigger:

Legislative or Non-statewide judicial candidates: Any contribution or pledge of \$1000 or more. NMSA 1978, § 1-19-29(B)(5).

Statewide candidates: Any contribution or pledge of \$3,000 or more. NMSA 1978, § 1-19-26(B)(5).

All other candidates: No supplemental reporting is required.

Supplemental Reporting in CFIS:

If the contribution was received between 5pm on the Tuesday through midnight Thursday before a primary general or statewide special election, report the contribution on the 3rd Primary Report or 3rd General Report associated with the applicable reporting cycle.

If the contribution was received after 5pm on the Friday before an election through noon on the Monday before the election, report the contribution on the CFIS Supplemental Report that is due by noon on the Monday before the election.

Note: Remember to select the correct report in CFIS by clicking the blue link labeled ‘Select Campaign and Reporting Period here.’

What do I report?

Candidates shall report all contributions regardless of the dollar amount, in-kind contributions, loans, expenditures, loan repayments, and debt forgiven by the lender. This includes reporting all debits and credits from the campaign committee bank account. See NMSA 1978, § 1-19-31.

Specifically, State law requires that the following information should appear on every report:

- The name and address of the person or entity to whom an expenditure was made or from whom a contribution was received;
- All contributions, in-kind contributions, and loans received during the reporting period (no matter how small);
- The occupation, name, and type of business, as applicable, of any individual or entity making contributions of \$200 or more in the aggregate per election;
- All expenditures made during the reporting period;
- The purpose of the expenditure;

- The opening and closing cash balance for the bank account(s) maintained by the reporting individual during the reporting period⁵ and the name of the financial institutional institution for each account
- The amount of each outstanding, unpaid debt, and the identity of the person or entity to whom the debt is owed;
- The amount of any forgiven loan or loan payment; and,
- The name and address of each contact maintained by the candidate in CFIS for the purpose of reporting contributions and expenditures.

Notes:

- Interest accrued on the campaign bank account is reported as a contribution;
- Bank fees or other debits or penalties on the bank account are reported as expenditures;
- To update contacts associated with your account (i.e. contributors or vendors being paid for expenses) go to ‘Manage Contacts’ on the CFIS menu to add or update contact information in the system prior to entering any other transactions.

How do I file my report?

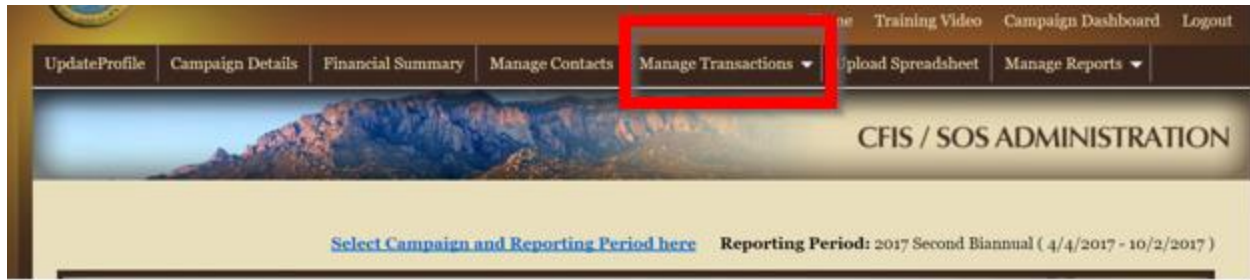
Reports are filed electronically in CFIS. Once logged into CFIS, check that the applicable reporting period is selected before entering contributions and expenditures. If you need to change the reporting period choose ‘Select Campaign and Reporting Period here.’



Note: Any time a record is added or updated in CFIS, please click ‘submit’ or ‘save’ button near the bottom of the screen to complete the action.

Once the correct reporting period is selected, you may enter contributions and expenditures of the campaign under the ‘Manage Transactions’ drop-down menu.

⁵ Because bank statement cycles do not match reporting cycles, CFIS requires that the opening balance on the first day of the reporting period match the ending balance of the previous reporting period. The closing balance is the balance on the final day of the reporting period.



After all entries have been made, the report must be submitted or else it will remain in a pending state and is not considered submitted. To submit your report go to Manage Reports → Submit/Amend Report. Once there, you must click ‘Submit Report’:

Manage Reports:

Here you may submit your filing period reports and amend them if necessary. If you wish to close your campaign, please go to the "Close Campaign" Page.

Report Title	Close Date	Filing Date	Status	View History	Action	Submit Options
2017 Second Biannual	10/2/2017	10/9/2017	Submitted	View History	Submit Report	<input checked="" type="radio"/> File Report <input type="radio"/> File Statement of No Activity*

CFIS menu items explained

Below is a brief explanation of each of the menu items located from the top menu bar within CFIS.

Update Profile: This section allows the reporting individual to change the CFIS password and update the email address associated with the account. This email address will receive notice of changed passwords or is used when a person clicks the ‘forgot my password’ link from the login screen.



Campaign Details: This section is where all contact information for the candidate, campaign, and treasurer is listed and this information must be kept up-to-date. This contact information is utilized by the SOS to send out reminder notices, non-compliance information, and to otherwise communicate with the candidate regarding the campaign.



Financial Summary: This section provides a summary of the campaign balance, total contributions, total expenditures, loan balance, and campaign debt for the selected reporting period. Please note that a reporting individual attempting to close the CFIS account and file a final report must show a zero balance with no loans or debt on the financial summary or CFIS will not allow you to close out.



Manage Contacts: This section is used to add or search for contributors or vendors being paid for expenditures of the campaign. A candidate must add a contact first, prior to adding a contribution or expenditure associated with that contact.

Once a contact is added, it can be used for reporting multiple contributions and expenditures from the same contact.



Manage Contacts:

Please search existing contacts or add a new account by clicking the link below.

[Click Here to Add a New Contact](#)

Search for an Individual Contact:

First Name:

Last Name:

Search for Entity/Business Contact:

Name:

Type:

[List All Contacts](#) [List All Individual Contacts](#) [List all Entity/Business Contacts](#)

Contact Information

- In CFIS, required fields are identified by a red asterisk.
- Name and address are required for all contacts. Specifying 'unknown' or N/A is not acceptable and is a violation of the CRA.
- A candidate is required to include the occupation for any contributor who contributes an aggregate of \$200 or more in a reporting cycle. NMSA 1978, § 1-19-31(B). Specifying 'unknown' or N/A is not acceptable and is a violation of the CRA.

Contact Information:

* Name: * Address:

Contact Type: * City:

Contributions: * State:

Occupation: * Zip:

County:

Manage Transactions: This section is used by candidates to enter all contributions, expenditures, loans and special events. This section can also be used to delete or edit existing transactions as well as to log refunded contributions.

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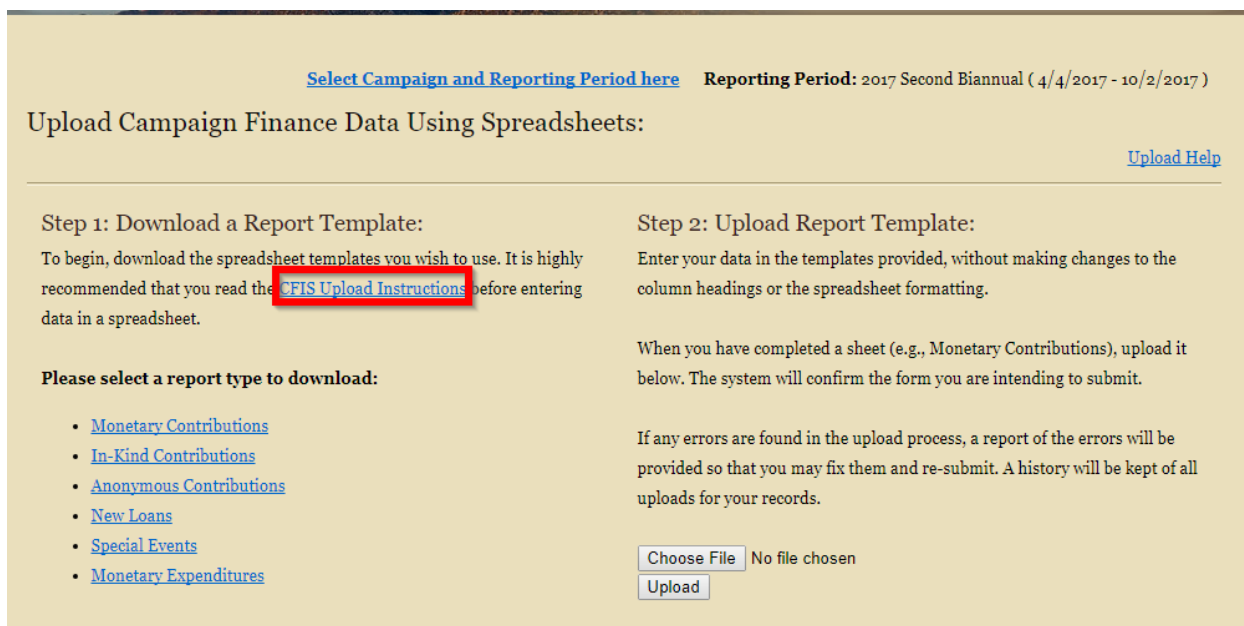
UpdateProfile Campaign Details Financial Summary Manage Contacts Manage Transactions Upload Spreadsheet Manage Reports

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Select Campaign and Reporting Period here Reporting Period: 2017 Second Biannual (4/4/2017 - 10/2/2017)

Upload Spreadsheet: This section allows candidates to upload campaign transactions from spreadsheets and it's often used by campaigns that have a large volume of contributions or expenditures or candidates who use a third party campaign finance management system. In order to use this feature, CFIS requires that the spreadsheets follow a specific file format. A guide called

‘CFIS upload instructions; may be downloaded from the ‘upload spreadsheet’ screen which provides more information on how to set up and use this feature.



Manage Reports: This section allows the reporting individual to:

1. Preview a pdf version of a report before it is submitted;
2. Submit or amend a report;
3. File a statement of no activity; or,
4. Close a campaign account.

A candidate may also view and print hard copies of each pdf report from Manage Reports → Submit/Amend Report. Simply click on the blue ‘Report Title,’ as referenced below, to view or print the pdf of the report.

Manage Reports:

Here you may submit your filing period reports and amend them if necessary. If you wish to close your campaign, please go to the "Close Campaign" Page.

Report Title	Close Date	Filing Date	Status	View History	Action	Submit Options
2017 Second Biannual	10/2/2017	10/9/2017	Submitted	View History	Submit Report	<input checked="" type="radio"/> File Report <input type="radio"/> File Statement of No Activity*

Important note: A report remains in a pending status until the report is submitted. A pending report is not available to the public; only submitted reports are public. To submit your report go to Manage Reports → Submit/Amend Report. Once there, you must click ‘Submit Report’

Manage Reports:

Here you may submit your filing period reports and amend them if necessary. If you wish to close your campaign, please go to the "Close Campaign" Page.

Report Title	Close Date	Filing Date	Status	View History	Action	Submit Options
2017 Second Biannual	10/2/2017	10/9/2017	Submitted	View History	Submit Report	<input checked="" type="radio"/> File Report <input type="radio"/> File Statement of No Activity*

What if I have nothing to report?

If a candidate has not received any contributions or expended any funds since the last report was filed then a statement of no activity must be filed in lieu of a campaign report by the reporting deadline.

In CFIS, go to Manage Reports → File Statement of No Activity. If you fail to file a statement of no activity by the reporting deadline, you will be considered non-compliant and will be subject to penalties.

When may I stop reporting under the Campaign Reporting Act?

Losing an election or withdrawing candidacy does not suspend or cease your requirement to file under the CRA.

All candidates are required to continue filing reports until filing a “final” report that indicates:

4. The campaign has no outstanding debts;
5. All funds in the account have been expended pursuant to the CRA(i.e., the account has a zero balance); and,
6. The bank account has been closed. NMSA 1974 § 1-19-29(F).

To indicate that a report is final in CFIS go to Manage Reports → Close Campaign. CFIS will not allow a candidate to file a final report if there is an outstanding balance or loans.



Important Note: Failure to file a ‘final’ report in CFIS will result in a candidate continuing to receive notices of non-compliance and to possible penalties and fines.

***Example:** A candidate for county commissioner loses her primary race. In her last primary report, the candidate has \$250 remaining in her campaign bank account. This candidate must continue to timely file campaign finance reports, whether or not there are contributions or expenditures to report, because there is still money in her account.*

This candidate must assure that her campaign is debt free, that all campaign money has been expended properly, has a zero balance and that the bank account is closed in order to close her CFIS account in compliance with the CRA. Failure to properly close the account or timely report could cause an unintentional violation of the CRA. If Ms. Candidate wishes to run again in the future, SOS staff can reactivate her account after it is closed.

Compliance Requirements and Penalties

What if I forget to report a contribution or expenditure?

A candidate may either amend the report for the period covering the omitted transaction or report it on the most current report as a previously unreported transaction. However, the failure to timely report transactions may still subject the candidate and committee to fines and penalties under the CRA.

How do I make a correction to a past report?

The CRA allows a candidate to amend any prior report to make corrections.

If a candidate must add a previously omitted contribution or expenditure, it is easiest to add it to the most recently filed report or to a report in the current campaign period in lieu of amending a report from a prior campaign as this can cause issues in CFIS with correctly reflecting campaign balances and the transfer of loans and debt. However, if this is necessary, please work with a Bureau of Elections staff member to receive additional guidance.

To edit a specific report, first click ‘select campaign and reporting period here’ and choose the applicable campaign and reporting period from the drop down box.

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UpdateProfile Campaign Details Financial Summary Manage Contacts Manage Transactions Upload Spreadsheet Manage Reports

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[Select Campaign and Reporting Period here](#) Reporting Period: 2017 Second Biannual (4/4/2017 - 10/2/2017)

Campaign Details:
Please select the campaign you would like to view.

Please Select a Campaign

Campaign: State Senator - 2016

Please Select a Reporting Period

Reporting Period: 2017 Second Biannual - 10/9/2017

Submit Information

What if I don't file a report by the deadline?

Filing campaign finance reports by each deadline is required by State law. A candidate who does not file a report by the deadline becomes noncompliant with the CRA and is subject to penalties. The CRA requires that the SOS first seek voluntary compliance and it provides a curing period for late reports. However, if a candidate continues to be late, he or she is subject to a fine of \$50 for each business day up to a total of \$5,000 per violation until the report is filed. These penalties are mandatory pursuant to state law. NMSA 1978, § 1-19-35(A).

Notification Process for Failure to File Reports

- On the day following a reporting deadline, the SOS will email and mail a letter to candidates and their treasurers who failed to file their reports by the deadline. That letter will provide a ten (10) day curing period for the reporting individual to file the report, and to provide a written explanation within CFIS indicating why the violation occurred. NMSA 1978, § 1-19-34.4 (C). The letter will also notify the reporting individual that they have incurred a \$50.00 statutory fine for filing late, and that the fine will continue to accumulate daily until the report is filed. CFIS will not accept the report for filing unless a reason for late submission is provided under Manage Reports → Submit/Amend Reports.

UpdateProfile Campaign Details Financial Summary Manage Contacts Manage Transactions Upload Spreadsheet **Manage Reports**

CFIS / SOS ADMINISTRATION

[Select Campaign and Reporting Period here](#) Campaign Details: Lieutenant Governor Reporting Period: 2017 Second Biannual (4/4/2017 - 10/2/2017)

Manage Reports:

Here you may submit your filing period reports and amend them if necessary. If you wish to close your campaign, please go to the "Close Campaign" Page.

Report Title	Close Date	Filing Date	Status	View History	Action	Submit Options
2018 First Biannual	4/3/2018	4/9/2018	Pending		Submit Report	<input checked="" type="radio"/> File Report <input type="radio"/> File Statement of No Activity*
2017 Second Biannual	10/2/2017	10/9/2017	Pending		Submit Report Please provide an explanation for submitting your report past the statutory deadline below <div style="border: 1px solid gray; height: 40px; width: 100%;"></div>	<input checked="" type="radio"/> File Report <input type="radio"/> File Statement of No Activity*

- If the report is filed within ten (10) days, and the Secretary of State determines that good cause exists to partially or fully waive the fine, the Secretary of State will issue a written notice of final action by certified mail NMSA 1978, § 1-19-34.4(C).

- If the candidate fails to provide a written response or fails to file a report within ten (10) business days, the Secretary of State shall issue a “Notice of Final Action.” The Notice of Final Action provides that the candidate must file the late report, provide a written explanation of why the violation occurred, and pay the fine owed. NMSA 1978, § 1-19-34.4(D).
- Within ten (10) business days of receiving a Notice of Final Action, the candidate may challenge the imposition of the fine by filing a request for arbitration on the prescribed arbitration request form. NMSA 1978 § 1-19-34.4(D). Requests for arbitration will only be accepted if they are made on the proper form and submitted within the ten-day deadline. More information on the arbitration process is included in the next section of this guide.
 - **Important Note:** Once the SOS issues a Notice of Final Action, the office does not have authority under the CRA to waive fines. All opportunity to seek voluntary compliance and receive a fine waiver MUST occur before the Notice of Final Act is issued.
- If the fine is not paid within the prescribed timeframe, and arbitration is not requested, the SOS may seek a court judgment in order to recover the fines owed or refer the matter to the Attorney General or to the appropriate District Attorney for criminal enforcement. NMSA 1978, § 1-9-34.4 (G). Effective January 1, 2020, the SOS may also refer the matter to the States Ethic Commission for civil enforcement. See, NMSA 1978, § 1-19-34.8; NMSA 1978, § 10-16G-9 (2019).

The CRA also provides additional penalties for not filing the supplemental reports required by the CRA. Specifically:

- If a candidate files a false, intentionally incomplete or late supplemental report, the candidate is liable for a fine of \$500 for the first business day and \$50 for each subsequent business day after the time required for the filing until the true and complete report is filed, up to a maximum of \$5,000. NMSA 1978 § 1-19-35(B) and;
- Failure to file or the filing of a late supplemental report is also subject to a penalty equal to the amount of each contribution received or pledged during the time period in which a supplemental report is required. NMSA 1978 § 1-19-35(C).

Note: Candidates are required to provide an accurate mailing address and email address under ‘Campaign Details’ in CFIS. Failure to provide current contact information or to otherwise claim non-receipt of report reminders or compliance notices does not negate or resolve non-compliance and the associated fines.

Arbitration Process

Once a Notice of Final Action is issued, the candidate may submit a written request for binding arbitration within ten (10) business days of the date of the Notice of Final Action. Only written requests submitted on the Arbitration Request Form available on the SOS website submitted within

the required timeframe will be considered.

It's important to note that arbitration is not an opportunity for mediation or for a candidate to plea for leniency. Candidates are advised to have an attorney represent them during the proceedings and to be prepared to discuss the legal reason they are not liable for and should not be assessed the fine outlined in the Notice of Final Action.

A candidate may choose an arbitrator from a list of arbitrators provided by the SOS and the arbitrator shall conduct the hearing within 30 days of the request for arbitration. NMSA 1978, § 1-19-34.4(F). The arbitrator may also schedule the arbitration beyond the 30 day timeframe with the agreement of the parties. The arbitrator shall issue a legally binding written decision, which shall be a public record. The decision shall be issued and filed with the SOS within 30 days of the arbitration hearing. NMSA 1978, § 1-19-34.4(F).

Once the written decision is issued by the arbitrator it is binding under the law, and the parties are required to abide by the terms of the order including the payment of any fines owed. If the candidate refuses to abide by the terms of the arbitration order, the SOS will file a request for judgment in District Court, or may refer the matter to the Attorney General or the district court. NMSA 1978, § 1-19-34.4(G).

What about other violations of the CRA?

Beyond late filing, there are other potential violations of the CRA for which a candidate committee may be held liable. Such violations include, but are not limited to: acceptance of contributions over the established limit; a failure to provide required report information such as the address or occupation (if required) of a contributor; a description of campaign expenditures that fails to articulate the way in which the expenditure is related to the campaign or legislative duties, etc.

If it is determined that a candidate may have violated the CRA, a written notice will be sent to the candidate requesting further information, offering an opportunity to come into voluntary compliance, or imposing a fine. The candidate has ten (10) business days from the date of the letter to correct the violation and provide written explanation. If a timely explanation is filed, and it is determined that good cause exists to waive the fine imposed, the SOS may partially or fully waive any fine imposed for any late, incomplete or false report or statement of exception.

Are there additional consequences for CRA violations?

Candidates who violate the CRA are subject to administrative, civil, and/or criminal action.

- Administrative Action:
 - If a violation occurs, the SOS can keep a candidate's name from appearing on the ballot or it can refuse delivery of a candidate's certificate of nomination or certificate of election. NMSA 1978, § 1-19-34.4.
- Civil Action:

- For purposes of a civil action, it shall be presumed that a candidate has authorized and approved each solicitation for campaign contributions made by his campaign committee or a person authorized by the candidate to solicit campaign contributions on his or her behalf. NMSA 1978, § 1-19-34.5.
 - The Attorney General or District Attorney may institute a civil action in district court for any violation of the Campaign Reporting Act or to prevent a violation of the Act that involves an unlawful solicitation or the making or acceptance of an unlawful contribution including a permanent or temporary injunction, a restraining order or any other appropriate order or monetary penalties. NMSA 1978, § 1-19-34.6.
 - The statute also allows the Attorney General or District Attorney to file a case to prevent the CRA violations from occurring.
- Criminal Action:
 - The Attorney General or District Attorney may prosecute a candidate for any knowing and willful violation of the CRA. Such a violation would be a misdemeanor punishable by a fine up to \$1,000.00 or by imprisonment for one year, or both. NMSA 1978 § 1-19-34.6.

Does the SOS conduct an audit or review of the reports?

In order to determine compliance with the CRA, the SOS conducts a “thorough examination” of at least ten (10) percent of the reports filed during the year. NMSA 1978, § 1-19-32.1. This review of randomly selected reports is based upon a computer generated list provided by CFIS.

A review is conducted after each general election and includes all reports filed during that even-numbered calendar year. A review is also conducted on all reports filed in April during a non-election, odd-numbered year. The SOS may also initiate a review of reports beyond these statutorily required examinations, which most commonly occurs when the office receives a specific inquiry or a complaint.

Candidates should expect public scrutiny of their reports. The SOS does receive regular media inquiries, questions, and public complaints regarding the information contained in campaign finance reports and may investigate these inquiries. Candidates should expect this and ensure that reports are accurate and include adequate information about how contributions and expenditures are associated with the candidate’s campaign to avoid any issues.

What is included in the review of reports?

During the random review, the SOS will review multiple aspects of the reports to ensure compliance with the CRA and the Campaign Finance Rule, NMAC 1.10.13, including, but not limited to:

- Contributions received, including loans and anonymous contributions, which exceed allowable contribution limits;
- Expenditures that may not be permissible or that are not easily identified as being related to the campaign;

- How much money was raised or spent prior to registration with the SOS; and,
- A crosscheck of contributions between candidates, political committees, and lobbyists to ensure that reporting is consistent.

The SOS shall notify a potential violator that a possible discrepancy has been found and allow the candidate or committee ten (10) business days from the date of the notice to submit a written explanation NMSA 1978, §1-19-32.1(A). After a written explanation is received, the SOS will issue a Notice of Final Action, which may include dismissal of the possible finding upon explanation or correction or could include a penalty, pursuant to NMSA 1978, § 1-19-34.4(C). If necessary, the SOS may request additional information or action from the candidate in order to issue a notice of final action. NMSA 1978, § 1-19-32.1(B).

Upon completion of the random review, the SOS shall generate an annual report that details the findings and actions taken by the candidates, committees, and the SOS, which shall be made available to the public.

Records Retention

A candidate or treasurer is required to obtain and preserve all records necessary to substantiate the campaign finance reports for two years following the date the report was filed. This includes all bank statements and receipts. These records shall be made available to the secretary of state, attorney general or district attorney upon written request. 1.10.13.29(A) & (B) NMAC.

Complaints

The SOS is charged with accepting and investigating complaints related to elections and governmental ethics under New Mexico law, including the CRA. The statutory authority granted to the SOS includes the following state and federal laws:

- Election Code and Campaign Practices (Chapter 1 NMSA);
- Lobbyist Regulation Act (Chapter 2, Article 11 NMSA);
- Municipal Election Code (Chapter 3, Articles 8 and 9 NMSA);
- School District Elections (Chapter 22, Article 6 and 7, NMSA);
- Governmental Conduct Act (Chapter 10, Article 16 NMSA);
- Financial Disclosure Act (Chapter 10, Article 16A NMSA); and
- Public Law 107-252, the Help America Vote Act of 2002 (“HAVA”).

However, effective January 1, 2020, the State Ethics Commission will have jurisdiction and civil compliance enforcement of the following Acts:

- Campaign Reporting Act; see, NMSA 1978, § 1-19-34.9 (2019) (effective January 1, 2020);
- Lobbyist Regulation Act; see, NMSA 1978, § 2-11-8.3 (2019) (effective January 1, 2020)
- Governmental Conduct Act; see, NMSA 1978, § 10-16-13.1 & 10-16-14 (2019) (effective January 1, 2020);
- Financial Disclosure Act; see, NMSA 1978, § 10-16A-6 & 10-16A-8 (2019) (effective January 1, 2020).

See also, NMSA 1978, § 10-16G-9 (2019) (Effective January 1, 2020). Complaints received that are outside the scope of the SOS authority are not reviewed by our office. However, we will make reasonable efforts to inform the complainant of agencies that may have authority over the issues outlined in the complaint.

The SOS will not accept or review anonymous complaints. The identities of those who file a complaint are made known to those accused of violating the CRA and all complaints are made available to the public.

The Bureau of Elections will communicate with both parties via email and mail. However, it is the responsibility of the complainant to provide valid contact information for both parties to the best of their knowledge.

To initiate a complaint under the CRA or any of the other laws administered by the SOS, a person must submit the complaint in writing and include all information included on the designated complaint form on the SOS website. Following receipt of the complaint, if it's determined that additional information is needed or that the complaint does not reasonably identify the allegations or the body of law that has potentially been violated the SOS will return the complaint and request the complainant provide further information.

If the complaint is determined to be complete and within the jurisdiction of the SOS, the Bureau of Elections will forward it to the respondent for response with a deadline of fifteen (15) days to respond. Reasonable requests for extensions of deadlines are typically granted.

Upon receipt of the respondent's explanation, the SOS will make a determination based upon the information provided, or request further information from either party. If at the end of our investigation the SOS determines that a violation has occurred, the SOS may offer an opportunity for the respondent to take action to come into voluntary compliance. The SOS may refer the complaint to the Attorney General or a district attorney. Referrals to the Attorney General or the district will no longer be under the jurisdiction of the SOS. After January 1, 2020, civil complaints will be forwarded to the State Ethics Commission, if the SOS is unable to determine if a campaign reporting violation has occurred or if a violator declines to come into compliance or pay the civil fines.

Please note that the SOS does not employ investigators, auditors, or law enforcement personnel. An initial review and determination of a campaign reporting complaint will be conducted based upon information provided by the complainant, respondent, and other readily available information. The SOS does not have subpoena powers and the office is charged with seeking voluntary compliance with all laws under its authority. However, the State Ethics Commission **does have** investigative authority and subpoena powers and the Ethics Commission and the SOS will work together to encourage and enforce compliance of the campaign reporting act. NMSA 1978, § 10-16G-10 (2019) (effective January 1, 2020).

All documents submitted with or pertaining to a complaint are subject to inspection under the New Mexico Inspection of Public Records Act.

Important Resources

[2019 Edition of the Election Handbook of the State of New Mexico – Article 19, Campaign Practices Act and Campaign Reporting Act](#)

[Campaign Finance Rule \(NMAC 1.10.13\)](#)

[Candidate Campaign Committee Registration Form](#)

[Office of the Secretary of State Website](#)

[Campaign Finance Information System](#)