Disclaimers, Yard Signs, and Campaign Finance Issues
June 8, 2016

Brad King
Co-Director, Indiana Election Division
2016 State Board of Accounts Conference

Miscellaneous 2016 Legislation

– All local courts (including superior or probate courts) have jurisdiction over election cases, such as appeals from county election boards or recounts. Formerly restricted to circuit courts.
– Increased number of property owners or registered voters (500, rather than 100) required to begin petition and remonstrance process, or public question process, for “controlled projects.”
– Public question allowed for school corporation to extend tax levy.
Miscellaneous 2016 Legislation

• Laws governing private “poll takers” revised:
  – Resident not required to provide poll taker with information regarding name and voting qualifications of all persons residing at residence.
  – Owner or manager of residential facilities not required to maintain lists of residents or provide list to poll taker.
  – Owner or manager of residential facility must allow poll taker for political party or independent candidate to enter facility during reasonable hours to conduct poll of residents.

Disclaimers

• Basic requirement, even if candidate NOT required to file campaign finance reports.
• Designed to tell public who paid for communication, and whether candidate approved of communication.
• Can lead to campaign finance complaints and county election board hearings. Referral to Prosecuting Attorney since Class A misdemeanor.
Disclaimers

• Exemptions: bumper stickers, pens, “other small items”; articles of clothing.
• Where is disclaimer required? Yard signs; newspaper ads; most mass mailings.
• Color contrast requirements: black text on white background, or same as contrast between background and largest text.
• Printing font size requirements: 7 point absolute minimum.

Disclaimers - Examples

• “Paid for by Jones for County Surveyor Committee”

• “Paid for by Citizens for a Better County PAC and not authorized by any candidate.”

• “Paid for by John R. Smith and not authorized by any candidate.”
If the Horse is out of the Barn...

• If disclaimer omitted, or incorrect, correct text can be added to yard signs and other material.

• If newspaper ad, running a correction may help.

• Self-reporting to county election board. Maximum civil penalty of $1,000, plus costs, for color contrast or font size requirements.

Impersonating Officeholder

• Person cannot knowingly or intentionally distribute political advertisements or campaign materials falsely representing that “candidate in any election is or has been an officeholder”. IC 3-9-3-5.

• CEB penalty of up to $500, if unanimous vote.

• Example #1: “Re-elect John Smith Coroner”.
  • OK or not? Depends! Is (or was) he serving as coroner?

• Example #2: “John Smith Coroner”

• Example #2 can be OK. “For” is not a magic word.

• Law interpreted in favor of candidate if ambiguous.
Yard Signs

• When does state law allow political signs to be placed in my yard?
  – A. After Labor Day.
  – B. After General Election candidates are certified.
  – C. Once someone else puts a sign in their yard.
  – D. None of the above.

Correct answer:

• D. None of the above. There is no state law that sets a date for when yard signs (or other communications like billboards) can be placed in yards.
  • Subject to county or municipal zoning and sign ordinances, if any.
  • Subject to IC 32-21-13, homeowners association may adopt rules regarding when sign can be placed, number, size, or location of signs.
  • Refer questions to Plan Commission or homeowners association.
Electioneering Material on Public Property

• If county, city, town, township, school corporation permits or authorizes campaign material in support of candidate, political party, or public question on its property, then

• Local government must allow campaign material **from any person** to be placed on that property,

• Subject to same restrictions on time, place and manner. IC 36-1-3-9 (now 36-1-4-21).

“Special” Campaign Finance Filers

• **School board candidates:**
  – Exempted from requirement to file Statement of Organization (CFA-1)
  – Exempted from requirement to file Campaign Finance Reports (CFA-4)

  – **UNLESS...**
$500 threshold

• If candidate receives more than $500 in contributions, or makes more than $500 in expenditures for campaign,
• THEN, candidate must file CFA-1 statement of organization and then CFA-4 campaign finance reports.
• Yes, “Even if it is just my own money.”
• Disclaimer always required for school board candidate materials
School Board CFA Filing Deadlines

• CFA-1 Statement of Organization required no later than noon 10 days after crossing $500 threshold.
• CFA-4 Campaign Finance Report before general election: by noon, October 21, 2016, for reporting period ending October 14.
• CFA-11 Large Contribution ($1000 or more) after October 14 through November 6, 2016.
School Board CFA Deadlines

• Annual report due noon, January 18, 2017.
• Remind candidates that committees:
  – CAN continue, even if candidate loses, and
  – DO NOT “AUTOMATICALLY” close.
• File CFA-4 report that checks “Final/Disbands Committee” box on line 11.

Ballot Vacancy Candidates

• Must file CFA-1 statement of organization no later than noon 7 days after deadline for filing certificate of candidate selection (July 12 for candidate whose certificate filed July 5, for example).
Ballot Vacancy Candidates

• However, if candidate already raised or spent $100 for office paying $5000 or more annually, then CFA-1 required noon 10 days after crossing $100 threshold.

• Likewise, if candidate already raised or spent $500 for office paying less than $5000 annually, then CFA-1 required noon 10 days after crossing $500 threshold.
Ballot Vacancy Candidates

- CFA-4 Reports due by noon, July 26, 2016.
- Reporting period begins when candidate required to file the CFA-1 (no later than July 5) and ends July 19.
- General election report and January 2017 annual report due at same time as primary candidates.
- CFA-11 large contribution report required.

Write-In Candidates and Petition Candidates

- Write-in candidates subject to same campaign finance reporting requirements as ballot vacancy candidates.
- Candidates nominated by petition for partisan office (Independent; Citizens Party, for example) subject to same campaign finance reporting requirements as ballot vacancy candidates.
Libertarian Party Candidates

• All Libertarian Party Candidates nominated by either state or local party convention or by ballot vacancy filling after convention.
• Not nominated by petitions or at primary.

Libertarian Party Convention Candidates

• If nominated at party convention, candidate must file CFA-1 statement of organization no later than noon 20 days after party convention.
• CFA-4 reports due noon 20 days after party convention convenes (same as CFA-1).
• CFA-4 reports due before general election and in January 2017 like other candidates.
• CFA-11 large contribution report applies.
Libertarian Party
Ballot Vacancy Candidates

• If candidate is chosen to fill post-convention ballot vacancy, then candidate must file CFA-1 statement of organization by noon, July 12, 2016, unless
  – Candidate already crossed $100 threshold for office paying more than $5000 annually, or
  – Candidate already crossed $500 threshold for office paying $5000 or less annually.

Libertarian Party
Ballot Vacancy Candidates

• CFA-4 Reports due by noon, July 26, 2016.
• Reporting period begins when candidate required to file the CFA-1 (no later than July 5) and ends July 19.
• General election report and January 2017 annual report due at same time as primary candidates.
• CFA-11 large contribution report required.