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## ARA 13.02 CAMPAIGN FINANCE: COMPLAINT PROCESS

### A. Purpose

In 2018, voters amended the City Charter to regulate campaign contributions and expenditures in City candidate elections. [Article 3 of the Charter](#) and [Chapter 2.10 of the Portland City Code](#) (collectively, “the City’s campaign finance laws”) set contribution and expenditure limits for campaigns relating to the election of City of Portland candidates (Mayor, Commissioners, and City Auditor). The City’s campaign finance laws also require certain campaign communication disclosures, the registration of certain expenditures with the Secretary of State, and employee political deductions via payroll.

Any person may file a complaint with the Auditor’s Office alleging a violation of the City’s campaign finance laws, and the Auditor’s Office may initiate a complaint when there is reason to believe that a violation has occurred. This rule sets forth additional guidance regarding the filing of complaints and the Auditor’s Office’s investigation and enforcement processes.

This rule is distinct from any administrative rules governing the City’s [Open and Accountable Elections](#) program.

### B. Authority

[Charter Section 2-506](#) authorizes the Auditor’s Office to adopt, amend, and repeal administrative rules to carry out the Auditor’s Office’s duties.

### C. Construction

This rule will be construed in conformity with the City Charter and the City Code, and with applicable state and federal laws, rules, and regulations, all of which supersede any conflicting provisions in this rule.

### D. Definitions

For purposes of this rule, the definitions set forth in [Charter Section 3-308](#) and [City Code Section 2.10.080](#) apply, and:

1. "Complainant" means any person who has filed a complaint with the Auditor's Office alleging a violation of the City's campaign finance laws.
2. "Good faith effort" means what a reasonable person would determine is a diligent and honest effort under the same set of facts or circumstances.
3. "Interested parties" means the subject(s) of the complaint, the complainant, and anyone who has previously requested notice of the complaint outcome.

## **E. Filing a Complaint**

1. Complaints alleging violations of the City's campaign finance laws must be filed in writing, and may be filed:
  - a. By email to: [elections@portlandoregon.gov](mailto:elections@portlandoregon.gov).
  - b. By mail to: City Elections Office, 1221 SW 4th Ave Room 130, Portland OR 97204.

A complainant who needs assistance making a complaint in writing should contact the [City Elections Office](#).

2. Complaints must include the following information:
  - a. The name of the candidate, campaign, or political committee alleged to have violated the City's campaign finance laws. Complainants may raise allegations against more than one candidate, campaign, or political committee.
  - b. A description of the alleged violation(s), including:
    - i. A description of the violation (for example, the contribution and/or expenditure alleged to have been received or made in violation of the City's campaign finance laws, the communication that lacked the required disclosures, the private or public employer that failed to permit a contribution to be made by payroll deduction); and
    - ii. Any applicable dollar amounts associated with the complaint, if known.
3. The Auditor's Office may dismiss any complaint that does not include the information set forth in Section E(2). Dismissed complaints will not be investigated.

4. Complainants are encouraged to submit all documentation or evidence relevant to the alleged violation with the complaint.
5. Complainants are encouraged to provide their names and contact information, so the Auditor's Office can contact them for follow up.
  - a. If a complainant requests that their name and contact information be kept confidential, the Auditor's Office is committed to treating the identifying information as confidential and will protect it from disclosure unless ordered otherwise by a court or the District Attorney.
  - b. The Auditor's Office considers complaints alleging violations of City campaign finance laws, submitted on the condition of confidentiality, to be exempt from public disclosure under [ORS 192.355\(4\)](#). However, confidentiality is a legal matter that must be evaluated on a case-by-case basis, and absolute confidentiality cannot be guaranteed.

#### **F. Investigation and Enforcement of Complaints - Applicability**

1. The Auditor's Office will investigate and enforce complaints alleging that:
  - a. An entity has failed to register with the Oregon Secretary of State as a political committee, as required by [City Code Section 2.10.020 B](#).
  - b. An employer has violated the payroll deduction requirements set forth in [City Code Section 2.10.010 C](#).
  - c. A communication to voters related to a City of Portland candidate election failed to prominently disclose information as required by [City Code Section 2.10.030](#).
2. If the contribution and expenditure limits set forth in Code Chapter 2.10 are upheld by a court as constitutional under federal and state law, the Auditor's Office will investigate and enforce complaints alleging contribution and expenditure violations.

#### **G. Complaint Investigations**

1. Upon receiving or initiating a complaint, the Auditor's Office will follow the notice and investigation procedures prescribed in [City Code Subsections 2.10.050 E. – H](#).

2. Written materials supporting or opposing the complaint:
  - a. May be submitted by email to: [elections@portlandoregon.gov](mailto:elections@portlandoregon.gov), or by mail to: City Elections Office, 1221 SW 4th Ave Room 130, Portland OR 97204.
  - b. May include supporting evidence (e.g., documents or photographs) attached as exhibits and/or links to relevant electronic media.

## **H. Auditor's Office Decision**

1. The Auditor's Office's decision on the complaint must:
  - a. Be in writing and provided to all interested parties.
  - b. Identify whether a violation of the City's campaign finance laws occurred and the basis for the decision.
  - c. Include a statement that the complainant or the subject of the complaint may, within 30 calendar days of the issuance of the decision, appeal the decision to the appropriate Circuit Court as an agency order in other than a contested case ([see ORS 183.484](#)).
2. If the Auditor's Office finds that an entity or individual violated one or more of the City's campaign finance laws, the Auditor's Office's written decision must also set forth a notice of violation, which includes the following information:
  - a. The name of the individual or entity found to be in violation of the City's campaign finance laws.
  - b. A brief description of the complaint and the Auditor's Office's findings.
  - c. A statement of the amount due as a civil penalty, if any, and instructions for paying the civil penalty.
    - i. In accordance with the City's campaign finance laws, the civil penalty for contribution or expenditure violations is not less than two nor more than twenty times the amount of the unlawful contribution or expenditure at issue.

- ii. If the civil penalty cannot be determined based on the amount of the unlawful contribution or expenditure, the Auditor's Office will determine an appropriate civil penalty, up to \$3,000 per violation.
- iii. In determining the amount of a civil penalty, the Auditor's Office may consider mitigating or aggravating factors, including:
  - A. The overall budget and resources available to the campaign or entity.
  - B. The number of previous violations within the same election cycle.
  - C. Whether the violation was repeated and continuous, or isolated and temporary. The Auditor's Office may choose to treat repeated, similar actions occurring during the same election cycle, which would otherwise be considered distinct violations, as aggravating circumstances under a single violation.
  - D. Whether the violation appears to be willful (characterized primarily by purposeful action of commission or omission). The Auditor's Office's determination regarding whether a violation is willful will be based on relevant circumstances and available records.
  - E. The campaign or entity's level of cooperation during the investigation, including providing relevant and timely information as requested.
  - F. The amount of penalties, if any, previously imposed under similar circumstances.
  - G. *For communications disclosure violations:* The size of the intended audience and the costs associated with producing and/or managing the communication.
  - H. *For contribution and expenditure violations:* The relative size of the contribution or expenditure.
  - I. Any other applicable factors the Auditor's Office deems relevant.
- iv. Upon review of the findings, if the Auditor's Office finds reason to believe the subject of the complaint put forth a good faith effort to comply with City Code

Chapter 2.10, the City Auditor may, upon first offense, issue a warning and letter of education.

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### **Auditor's Office Administrative Rule Information and History**

Questions about this administrative rule may be directed to the [City Elections Office](#).

Adopted by the City Auditor on April 6, 2020 as an interim rule effective for not more than 180 days.