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## ARA 13.03 CAMPAIGN FINANCE: COMPLAINT PROCESS

### A. Filing a Complaint

1. Complaints alleging violations of the City's campaign finance regulations must be filed in writing. Complainants are strongly encouraged to use the City Auditor's [complaint form](#) to ensure a comprehensive investigation. Complaints 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 should contact the [City Elections Office](#).

2. Complaints must include the following information:

- a. The name of the candidate, campaign, political committee, individual, or other entity alleged to have violated the City's campaign finance regulations;
- b. A description of the alleged violation(s);
  - i. For example, a contribution alleged to have been received or made in violation of the City's campaign finance laws, a communication that lacked the required disclosures, or a private or public employer that failed to permit a contribution to be made by payroll deduction.
  - ii. A complainant may raise more than one allegation per complaint.
- c. The date(s) of the violation(s); and
- d. Any applicable dollar amounts associated with the violation(s), if known.

3. The Auditor's Office may disregard and decline to investigate any statement of allegation(s) that do(es) not include the information set forth in Section E(2).
4. Complainants are encouraged to include with the complaint all relevant documentation or evidence pertaining to the violation(s).
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 regulations, 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.

## **B. Complaints Involving Open and Accountable Elections Program Participants**

1. Pursuant to [City Code Section 2.10.040](#), candidates participating in the City's Open and Accountable Elections Program ("Program") are eligible to receive any amount of money that the Program allows a candidate to receive.
2. If a complaint is submitted to the Auditor's Office involving alleged violations of both the Program and the City's campaign finance regulations, the Auditor's Office may refer the complaint to the Program to resolve Program issues before receiving the complaint to conduct its own investigation. If the Auditor's Office refers the complaint to the Program before initiating an investigation, the Auditor's Office will:

- a. Notify the complainant and every person who is the object of the complaint of the referral.
- b. Ask the Program to notify the Auditor's Office of its determination.
- c. Issue a notification to the complainant and every person who is the object of the complaint, within two business days of receiving the Program's determination, which acknowledges receipt of the determination and states that the Auditor's Office will:
  - i. Accept relevant, written materials that address complaint allegations for a period of 10 business days following the date of such notification ("material submission period"); and
  - ii. Render a decision on the complaint within 10 business days of the close of the material submission period.
  - iii. If the Program issues its determination within 30 calendar days of the date of the election involving the subject(s) of the complaint, the timelines in i. and ii. of this Subsection are reduced by one half.
- d. Issue a separate and independent decision regarding the complaint.

### **C. 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 and other evidence relevant to the allegations in 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.

- c. May be requested by the Auditor's Office, during or after the material submission period.

#### **D. 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 regulations 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 regulations, 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 regulations.
  - 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 regulations, 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 an 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. Warnings and Letters of Education

- A. 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 if there is no mandatory minimum penalty prescribed in the campaign finance regulations.
- B. If the receipt of a complaint or rendering of a violation determination by the Auditor's Office occurs after the election date relevant to a candidate who is the subject of the complaint, at its discretion the Auditor's Office may issue a warning and letter of education if there is no mandatory minimum penalty prescribed in the campaign finance regulations.

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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. The interim rule was revised by the City Auditor on April 29, 2020, also as an interim rule.

Adopted by the City Auditor on October 3, 2020, following a notice and comment period of at least 30 days.