

## 21-A §1014. PUBLICATION OR DISTRIBUTION OF POLITICAL COMMUNICATIONS

### 21-A §1014. PUBLICATION OR DISTRIBUTION OF POLITICAL COMMUNICATIONS

**1. Authorized by candidate.** Whenever a person makes an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, cable television systems, newspapers, magazines, campaign signs or other outdoor advertising facilities, publicly accessible sites on the Internet, direct mails or other similar types of general public political advertising or through flyers, handbills, bumper stickers and other nonperiodical publications, the communication, if authorized by a candidate, a candidate's authorized political committee or their agents, must clearly and conspicuously state that the communication has been so authorized and must clearly state the name and address of the person who made or financed the expenditure for the communication. The following forms of political communication do not require the name and address of the person who made or authorized the expenditure for the communication because the name or address would be so small as to be illegible or infeasible: ashtrays, badges and badge holders, balloons, campaign buttons, clothing, coasters, combs, emery boards, envelopes, erasers, glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic cups, pencils, pens, plastic tableware, 12-inch or shorter rulers, swizzle sticks, tickets to fund-raisers, electronic media advertisements where compliance with this section would be impracticable due to size or character limitations and similar items determined by the commission to be too small and unnecessary for the disclosures required by this section. A communication financed by a candidate or the candidate's committee is not required to state the address of the candidate or committee that financed the communication. A communication in the form of a sign that is financed by a candidate or the candidate's committee and that clearly identifies the name of the candidate and is lettered or printed individually by hand is not required to include the name and address of the person who made or financed the communication or to include a statement that the communication has been authorized by the candidate, the candidate's authorized committee or their agents.

[ 2011, c. 389, §10 (AMD) . ]

**2. Not authorized by candidate.** If the communication described in subsection 1 is not authorized by a candidate, a candidate's authorized political committee or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication. If the communication is in written form, the communication must contain at the bottom of the communication in print that is no smaller in size than 12-point bold print, Times New Roman font, the words "NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE."

[ 2011, c. 360, §1 (AMD) . ]

**2-A. Other communications.** Whenever a person makes an expenditure to finance a communication that names or depicts a clearly identified candidate and that is disseminated during the 21 days before a primary election or 35 days before a general election through the media described in subsection 1, the communication must state the name and address of the person who made or financed the communication and a statement that the communication was or was not authorized by the candidate. The disclosure is not required if the communication was not made for the purpose of influencing the candidate's nomination for election or election.

[ 2007, c. 443, Pt. A, §9 (AMD) . ]

**3. Broadcasting prohibited without disclosure.** No person operating a broadcasting station or cable television system within this State may broadcast any communication, as described in subsections 1 to 2-A, without an oral or written visual announcement of the disclosure required by this section.

[ 2011, c. 389, §11 (AMD) .]

**3-A. In-kind contributions of printed materials.** A candidate, political committee or political action committee shall report on the campaign finance report as a contribution to the candidate, political committee or political action committee any contributions of in-kind printed materials to be used in the support of a candidate or in the support or defeat of a ballot question. Any in-kind contributions of printed materials used or distributed by a candidate, political committee or political action committee must include the name or title of that candidate, political committee or political action committee as the authorizing agent for the printing and distribution of the in-kind contribution.

[ 2009, c. 190, Pt. A, §3 (AMD) .]

**3-B. Newspapers.** A newspaper may not publish a communication described in subsections 1 to 2-A without including the disclosure required by this section. For purposes of this subsection, "newspaper" includes any printed material intended for general circulation or to be read by the general public, including a version of the newspaper displayed on a website owned or operated by the newspaper. When necessary, a newspaper may seek the advice of the commission regarding whether or not the communication requires the disclosure.

[ 2007, c. 443, Pt. A, §9 (AMD) .]

**4. Enforcement.** A violation of this section may result in a civil penalty of no more than \$5,000, except that an expenditure for yard signs lacking the required information may result in a maximum civil penalty of \$200. In assessing a civil penalty, the commission shall consider, among other things, how widely the communication was disseminated, whether the violation was intentional, whether the violation occurred as the result of an error by a printer or other paid vendor and whether the communication conceals or misrepresents the identity of the person who financed it. If the person who financed the communication or who committed the violation corrects the violation within 10 days after receiving notification of the violation from the commission by adding the missing information to the communication, the commission may decide to assess no civil penalty.

[ 2011, c. 389, §12 (AMD) .]

**5. Telephone calls.** Prerecorded automated telephone calls and scripted live telephone communications that name a clearly identified candidate during the 21 days before a primary election or the 35 days before a general election must clearly state the name of the person who made or financed the expenditure for the communication, except for prerecorded automated telephone calls paid for by the candidate that use the candidate's voice in the telephone call and that are made in support of that candidate. Telephone calls made for the purposes of researching the views of voters are not required to include the disclosure.

[ 2007, c. 443, Pt. A, §9 (AMD) .]

**6. Exclusions.** The requirements of this section do not apply to:

A. Handbills or other literature produced and distributed at a cost not exceeding \$100 and prepared by one or more individuals who are not required to register or file campaign finance reports with the commission and who are acting independently of and without authorization by a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee or an agent of a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee; [2011, c. 389, §13 (NEW) .]

B. Campaign signs produced and distributed at a cost not exceeding \$100, paid for by one or more individuals who are not required to register or file campaign finance reports with the commission and who are acting independently of and without authorization by a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee or an agent of a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee; and [2011, c. 389, §13 (NEW).]

C. Internet and e-mail activities costing less than \$100, as excluded by rule of the commission, paid for by one or more individuals who are not required to register or file campaign finance reports with the commission and who are acting independently of and without authorization by a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee or an agent of a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee. [2011, c. 389, §13 (NEW).]

[ 2011, c. 389, §13 (NEW) .]

#### SECTION HISTORY

1985, c. 161, §6 (NEW). 1987, c. 188, §17 (AMD). 1989, c. 504, §§5,6,31 (AMD). 1991, c. 466, §37 (AMD). 1991, c. 839, §§8-10 (AMD). 1995, c. 483, §6 (AMD). 2003, c. 302, §1 (AMD). 2003, c. 510, §F1 (AMD). 2003, c. 510, §F2 (AFF). 2003, c. 599, §15 (AFF). 2005, c. 301, §§10-12 (AMD). 2005, c. 308, §1 (AMD). 2005, c. 542, §1 (AMD). 2007, c. 443, Pt. A, §9 (AMD). 2009, c. 183, §1 (AMD). 2009, c. 190, Pt. A, §§2, 3 (AMD). 2009, c. 652, Pt. A, §20 (AMD). 2011, c. 360, §1 (AMD). 2011, c. 389, §§10-13 (AMD).

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