

## **State of Utah 2019 Municipal Financial Disclosure Dates**

Please note, these dates and deadlines *do not* take into account local financial disclosure ordinances. *Candidates should check with their respective municipal clerk/recorder* to ensure that they are in full compliance with their local financial disclosure ordinances.

Campaign financial disclosures are due by 5:00 p.m. on the due date.

### *Municipal Candidates*

<b>Report Due Date (by 5:00 p.m.)</b>	<b>Report includes transactions between</b>	<b>Who this applies to</b>
08-06-2019	01/01/2019 – 08/01/2019	Candidates in a Primary
09-12-2019	08/02/2019 – 09/07/2019	Candidates eliminated at Primary
10-29-2019	01/01/2019 – 10/24/2019 (no primary) 08/02/2019 – 10/24/2019 (won primary)	Candidates not in a Primary, or Candidates who won Primary
12-05-2019	10/25/2019 – 11/30/2019	Candidates in the General Election
30 days after disqualification	Varies, contact your municipal clerk/recorder	Candidates who are disqualified for failing to file a financial report by the deadline

## Campaign Finance Statutes: Municipal Candidates

### 10-3-208 Campaign finance disclosure in municipal election.

(1) Unless a municipality adopts by ordinance more stringent definitions, the following are defined terms for purposes of this section:

- (a) "Agent of a candidate" means:
  - (i) a person acting on behalf of a candidate at the direction of the reporting entity;
  - (ii) a person employed by a candidate in the candidate's capacity as a candidate;
  - (iii) the personal campaign committee of a candidate;
  - (iv) a member of the personal campaign committee of a candidate in the member's capacity as a member of the personal campaign committee of the candidate; or
  - (v) a political consultant of a candidate.
- (b) "Anonymous contribution limit" means for each calendar year:
  - (i) \$50; or
  - (ii) an amount less than \$50 that is specified in an ordinance of the municipality.
- (c)
  - (i) "Candidate" means a person who:
    - (A) files a declaration of candidacy for municipal office; or
    - (B) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a municipal office.
  - (ii) "Candidate" does not mean a person who files for the office of judge.
- (d)
  - (i) "Contribution" means any of the following when done for political purposes:
    - (A) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to a candidate;
    - (B) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the candidate;
    - (C) any transfer of funds from another reporting entity to the candidate;
    - (D) compensation paid by any person or reporting entity other than the candidate for personal services provided without charge to the candidate;
    - (E) a loan made by a candidate deposited to the candidate's own campaign; and
    - (F) an in-kind contribution.
  - (ii) "Contribution" does not include:
    - (A) services provided by an individual volunteering a portion or all of the individual's time on behalf of the candidate if the services are provided without compensation by the candidate or any other person;
    - (B) money lent to the candidate by a financial institution in the ordinary course of business; or
    - (C) goods or services provided for the benefit of a candidate at less than fair market value that are not authorized by or coordinated with the candidate.
- (e) "Coordinated with" means that goods or services provided for the benefit of a candidate are provided:
  - (i) with the candidate's prior knowledge, if the candidate does not object;
  - (ii) by agreement with the candidate;
  - (iii) in coordination with the candidate; or
  - (iv) using official logos, slogans, and similar elements belonging to a candidate.
- (f)
  - (i) "Expenditure" means any of the following made by a candidate or an agent of the candidate on behalf of the candidate:
    - (A) any disbursement from contributions, receipts, or from an account described in Subsection (3)(a)(i);
    - (B) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;
    - (C) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for a political purpose;
    - (D) compensation paid by a candidate for personal services rendered by a person without charge to a reporting entity;
    - (E) a transfer of funds between the candidate and a candidate's personal campaign committee as defined in Section 20A-11-101; or
    - (F) goods or services provided by a reporting entity to or for the benefit of the candidate for political purposes at less than fair market value.
  - (ii) "Expenditure" does not include:
    - (A) services provided without compensation by an individual volunteering a portion or all of the individual's time on behalf of a candidate; or

- (B) money lent to a candidate by a financial institution in the ordinary course of business.
- (g) "In-kind contribution" means anything of value other than money, that is accepted by or coordinated with a candidate.
- (h)
- (i) "Political consultant" means a person who is paid by a candidate, or paid by another person on behalf of and with the knowledge of the candidate, to provide political advice to the candidate.
- (ii) "Political consultant" includes a circumstance described in Subsection (1)(h)(i), where the person:
- (A) has already been paid, with money or other consideration;
- (B) expects to be paid in the future, with money or other consideration; or
- (C) understands that the person may, in the discretion of the candidate or another person on behalf of and with the knowledge of the candidate, be paid in the future, with money or other consideration.
- (i) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking a municipal office at any caucus, political convention, or election.
- (j) "Reporting entity" means:
- (i) a candidate;
- (ii) a committee appointed by a candidate to act for the candidate;
- (iii) a person who holds an elected municipal office;
- (iv) a party committee as defined in Section 20A-11-101;
- (v) a political action committee as defined in Section 20A-11-101;
- (vi) a political issues committee as defined in Section 20A-11-101;
- (vii) a corporation as defined in Section 20A-11-101; or
- (viii) a labor organization as defined in Section 20A-11-1501.
- (2)
- (a) A municipality may adopt an ordinance establishing campaign finance disclosure requirements for a candidate that are more stringent than the requirements provided in Subsections (3), (4), and (5).
- (b) The municipality may adopt definitions that are more stringent than those provided in Subsection (1).
- (c) If a municipality fails to adopt a campaign finance disclosure ordinance described in Subsection (2)(a), a candidate shall comply with financial reporting requirements contained in Subsections (3), (4), and (5).
- (3)
- (a) Each candidate:
- (i) shall deposit a contribution in a separate campaign account in a financial institution; and
- (ii) may not deposit or mingle any campaign contributions received into a personal or business account.
- (b) In a year in which a municipal primary is held, each candidate who will participate in the municipal primary shall file a campaign finance statement with the municipal clerk or recorder no later than seven days before the day described in Subsection 20A-1-201.5(2).
- (c) Each candidate who is not eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement:
- (i) no later than seven days before the day on which the municipal general election is held; and
- (ii) no later than 30 days after the day on which the municipal general election is held.
- (d) Each candidate for municipal office who is eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement within 30 days after the day on which the municipal primary election is held.
- (4) Each campaign finance statement described in Subsection (3) shall:
- (a) except as provided in Subsection (4)(b):
- (i) report all of the candidate's itemized and total:
- (A) contributions, including in-kind and other nonmonetary contributions, received up to and including five days before the campaign finance statement is due, excluding a contribution previously reported; and
- (B) expenditures made up to and including five days before the campaign finance statement is due, excluding an expenditure previously reported; and
- (ii) identify:
- (A) for each contribution, the amount of the contribution and the name of the donor, if known; and
- (B) for each expenditure, the amount of the expenditure and the name of the recipient of the expenditure; or
- (b) report the total amount of all contributions and expenditures if the candidate receives \$500 or less in contributions and spends \$500 or less on the candidate's campaign.
- (5) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds the anonymous contribution limit, and is from a donor whose name is unknown, a candidate shall disburse the amount of the contribution to:
- (a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or
- (b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

- (6)
- (a) A municipality may, by ordinance:
    - (i) provide an anonymous contribution limit less than \$50;
    - (ii) require greater disclosure of contributions or expenditures than is required in this section; and
    - (iii) impose additional penalties on candidates who fail to comply with the applicable requirements beyond those imposed by this section.
  - (b) A candidate is subject to the provisions of this section and not the provisions of an ordinance adopted by the municipality under Subsection (6)(a) if:
    - (i) the municipal ordinance establishes requirements or penalties that differ from those established in this section; and
    - (ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the ordinance as required in Subsection (7).
- (7) Each municipal clerk or recorder shall, at the time the candidate for municipal office files a declaration of candidacy, and again 14 days before each municipal general election, notify the candidate in writing of:
- (a) the provisions of statute or municipal ordinance governing the disclosure of contributions and expenditures;
  - (b) the dates when the candidate's campaign finance statement is required to be filed; and
  - (c) the penalties that apply for failure to file a timely campaign finance statement, including the statutory provision that requires removal of the candidate's name from the ballot for failure to file the required campaign finance statement when required.
- (8) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the municipal clerk or recorder shall:
- (a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and
  - (b) make the campaign finance statement filed by a candidate available for public inspection by:
    - (i)
      - (A) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and
      - (B) verifying that the address of the municipality's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or
    - (ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.
- (9)
- (a) If a candidate fails to timely file a campaign finance statement required under Subsection (3), the municipal clerk or recorder shall inform the appropriate election official who:
    - (i) shall:
      - (A) if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; or
      - (B) if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and
    - (ii) may not count any votes for that candidate.
  - (b) Notwithstanding Subsection (9)(a), a candidate who timely files each campaign finance statement required under Subsection (3) is not disqualified if:
    - (i) the statement details accurately and completely the information required under Subsection (4), except for inadvertent omissions or insignificant errors or inaccuracies; and
    - (ii) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.
  - (c) A candidate for municipal office who is disqualified under Subsection (9)(a) shall file with the municipal clerk or recorder a complete and accurate campaign finance statement within 30 days after the day on which the candidate is disqualified.
- (10) A campaign finance statement required under this section is considered filed if it is received in the municipal clerk or recorder's office by 5 p.m. on the date that it is due.
- (11)
- (a) A private party in interest may bring a civil action in district court to enforce the provisions of this section or an ordinance adopted under this section.
  - (b) In a civil action under Subsection (11)(a), the court may award costs and attorney fees to the prevailing party.

**10-3-209 Personal use expenditure -- Authorized and prohibited uses of campaign funds -- Enforcement -- Penalties.**

(1) Unless a municipality adopts by ordinance more stringent definitions, the following are defined terms for the purposes of this section:

- (a) "Candidate" means a person who:
  - (i) files a declaration of candidacy for municipal office; or
  - (ii) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a public office.
- (b) "Officeholder" means a person who is elected to and currently holds a municipal office.
- (c)
  - (i) "Personal use expenditure" means an expenditure that:
    - (A) is not excluded from the definition of personal use expenditure by Subsection (2) and primarily furthers a personal interest of a candidate or officeholder or a candidate's or officeholder's family, which interest is not connected with the performance of an activity as a candidate or an activity or duty of an officeholder; or
    - (B) would cause the candidate or officeholder to recognize the expenditure as taxable income under federal law.
  - (ii) "Personal use expenditure" includes:
    - (A) a mortgage, rent, utility, or vehicle payment;
    - (B) a household food item or supply;
    - (C) clothing, except for clothing bearing the candidate's name or campaign slogan or logo and that is used in the candidate's campaign;
    - (D) an admission to a sporting, artistic, or recreational event or other form of entertainment;
    - (E) dues, fees, or gratuities at a country club, health club, or recreational facility;
    - (F) a salary payment made to a candidate, officeholder, or a person who has not provided a bona fide service to a candidate or officeholder;
    - (G) a vacation;
    - (H) a vehicle expense;
    - (I) a meal expense;
    - (J) a travel expense;
    - (K) a payment of an administrative, civil, or criminal penalty;
    - (L) a satisfaction of a personal debt;
    - (M) a personal service, including the service of an attorney, accountant, physician, or other professional person;
    - (N) a membership fee for a professional or service organization; and
    - (O) a payment in excess of the fair market value of the item or service purchased.

(2) As used in this section, "personal use expenditure" does not mean an expenditure made:

- (a) for a political purpose;
- (b) for candidacy for public office;
- (c) to fulfill a duty or activity of an officeholder;
- (d) for a donation to a registered political party;
- (e) for a contribution to another candidate's campaign account, including sponsorship of or attendance at an event, the primary purpose of which is to solicit a contribution for another candidate's campaign account;
- (f) to return all or a portion of a contribution to a donor;
- (g) for the following items, if made in connection with the candidacy for public office or an activity or duty of an officeholder:
  - (i)
    - (A) a mileage allowance at the rate established by the Division of Finance under Section 63A-3-107; or
    - (B) for motor fuel or special fuel, as defined in Section 59-13-102;
  - (ii) a meal expense;
  - (iii) a travel expense, including an expense incurred for airfare or a rental vehicle;
  - (iv) a payment for a service provided by an attorney or accountant;
  - (v) a tuition payment or registration fee for participation in a meeting or conference;
  - (vi) a gift;
  - (vii) a payment for the following items in connection with an office space:
    - (A) rent;
    - (B) utilities;
    - (C) a supply; or
    - (D) furnishing;
  - (viii) a booth at a meeting or event; or
  - (ix) educational material;
- (h) to purchase or mail informational material, a survey, or a greeting card;

- (i) for a donation to a charitable organization, as defined by Section 13-22-2, including admission to or sponsorship of an event, the primary purpose of which is charitable solicitation, as defined in Section 13-22-2;
  - (j) to repay a loan a candidate makes from the candidate's personal account to the candidate's campaign account;
  - (k) to pay membership dues to a national organization whose primary purpose is to address general public policy;
  - (l) for admission to or sponsorship of an event, the primary purpose of which is to promote the social, educational, or economic well-being of the state or the candidate's or officeholder's community;
  - (m) for one or more guests of an officeholder or candidate to attend an event, meeting, or conference described in this Subsection (2); or
  - (n) to pay childcare expenses of:(A) a candidate while the candidate is engaging in campaign activity; or(B) an officeholder while the officeholder is engaging in the duties of an officeholder.
- (3)
- (a) A municipality may adopt an ordinance prohibiting a personal use expenditure by a candidate with requirements that are more stringent than the requirements provided in Subsection (4).
  - (b) The municipality may adopt definitions that are more stringent than those provided in Subsection (1) or (2).
  - (c) If a municipality fails to adopt a personal use expenditure ordinance described in Subsection (3)(a), a candidate shall comply with the requirements contained in Subsection (4).
- (4) A candidate or an officeholder may not use money deposited into a campaign account for:
- (a) a personal use expenditure; or
  - (b) an expenditure prohibited by law.
- (5) A municipality may enforce this section by adopting an ordinance:
- (a) to provide for the evaluation of a campaign finance statement to identify a personal use expenditure; and
  - (b) to commence informal adjudicative proceedings if, after an evaluation described in Subsection (5)(a), there is probable cause to believe that a candidate or officeholder has made a personal use expenditure.
- (6) If, in accordance with the proceedings described in Subsection (5)(b) established in municipal ordinance, a municipality determines that a candidate or officeholder has made a personal use expenditure, the municipality:
- (a) may require the candidate or officeholder to:
    - (i) remit an administrative penalty of an amount equal to 50% of the personal use expenditure to the municipality; and
    - (ii) deposit the amount of the personal use expenditure into the campaign account from which the personal use expenditure was disbursed; and
  - (b) shall deposit the money received under Subsection (6)(a)(i) into the municipal general fund.