

Deciding to Run for Your Local School Board: A Legal Guide

Whether or not run for the school board is a serious decision. School board members are responsible for multi-million dollar budgets, taxpayer trust, employment issues, and the most important responsibility of all: providing a quality education to students.

Not everyone is able or willing to assume the responsibilities of a school board member. In order to answer common inquiries about who can and who cannot serve on a school board, MSBA has created a comprehensive guide to Missouri rules and regulations facing potential school board members. This guide also addresses frequent questions concerning legal obligations during a campaign for school board.

For more information on the topics covered in this guide contact the Missouri Department of Elementary and Secondary Education (573-751-4212), the Missouri Attorney General's Office (573-751-3321), the Missouri Ethics Commission (573-751-2020), or the Missouri School Boards' Association (800-221-6722).

Board Member Qualifications

There are relatively few qualifications necessary to run for a position on a local school board of education. Section 162.291, RSMo. requires directors of most school boards to be citizens of the United States, resident taxpayers of the district, residents of Missouri for one year next preceding their election, and twenty-four years of age. In urban districts, school board members are not required to be "resident taxpayers," but are required to be "voters of the district." Those school districts that satisfy the definition of "urban" in §160.011, RSMo., are Columbia, Independence, Kansas City, Lee's Summit, St. Joseph, and Springfield.

Candidates for the St. Louis Board of Education face more restrictions than candidates in other districts. Section 162.581, RSMo. requires directors of the St. Louis School Board to be twenty-four years of age, current "residents and citizens" of the city and "residents and citizens" of the city for three years immediately preceding the election. Further, candidates may not hold any office, except that of notary public, in the city or state, nor be interested in any contract with or claim against the board, either directly or indirectly.

Resident Taxpayers

The "resident taxpayers" requirement is fairly ambiguous. The statute does not define "resident taxpayer," but §160.011(12), RSMo., defines a "taxpayer" as any individual who has paid taxes to the state or any subdivision thereof within the immediately preceding twelve-month period or the spouse of such individual. The Missouri Supreme Court, in *State ex Inf. Mitchell ex rel. Goodman v. Heath (Mo. 1939)*, found that a school board member was a resident taxpayer by virtue of paying property taxes on his personal property within the district.

While paying property tax in the district is one way to qualify an individual as a resident taxpayer, it is not clear whether paying other taxes in the district would meet the requirement as well. The *Heath* Court based its ruling partly on the concept that statutes imposing qualifications for officers should be construed liberally in favor of the right of people to run for public office. Following this logic, it is conceivable that a court would find that simply paying sales tax in a district would qualify an individual as a resident taxpayer.

The “resident” part of “resident taxpayer” is not, however, ambiguous. Individuals must reside within the district in order to run the Board. Simply owning land within the district’s boundaries is not enough. The individual must physically live in the district in order to be eligible for the school board.

Delinquent Taxes

Candidates for any public office, including school board, may not be delinquent in the payment of any state income taxes or personal property taxes on their place of residence. Further, if the candidate is a past or present corporate officer of any fee office, the office’s taxes to the state must also be current. Fee offices are private companies that contract with the state to run a state office, such as a Department of Motor Vehicles office. Any candidate that does not meet these qualifications will be disqualified from participation in the election. §115.342, *RSMo*.

Employees of the District

Employees of the district may not sit on the board of education. §162.391, *RSMo*. This restriction applies to certificated, non-certificated, full-time, part-time and substitute employees. However, if the individual only provides services to the district as an independent contractor, he/she is allowed to be a member of the board, but should be aware that state law highly regulates business between the school district and a board member.

Missouri courts rely on an Internal Revenue Service test that considers twenty factors when determining whether a worker is an employee or an independent contractor. *Revenue Ruling 87-41 (1987)*; *Quality Medical Transcription v. Woods*, 91 S.W.3d 181 (Mo.App.W.D. 2002). The twenty factors include the number and type of hours required by the employer, where the work is done, how the worker is paid, who furnishes the tools and materials, etc.

All twenty factors must be considered together to determine whether the worker more closely resembles an employee or an independent contractor with no factor being conclusive. The ultimate focus is the employer’s “right to control the manner and means of performance.” *Quality Medical Transcription v. Woods*, 91 S.W.3d 181 (Mo.App.W.D. 2002). If the district controls the manner and means of performance to a great extent, the worker is an employee and cannot be a school board member.

Former employees receiving early retirement incentive checks from the district may or may not be considered employees depending upon the nature of the retirement agreement. The Missouri Ethics Commission has issued two opinions on this topic; one finding that the former employee *could* serve on the school board and the other opinion finding the former employee *could not* serve on the board. The issue distinguishing the two situations relied on the former employee's continuing responsibilities with the district. The former employee that was not eligible for the school board was still serving in an advisory role with the district, making him ineligible. *MEC Opinion 00.03.104*. The second individual had completed his contractual obligations to the district, and the payments received were for work previously completed. *MEC Opinion 05.01.102*.

Attendance at Board Meetings

Board members are expected to be present and actively participate in school board meetings. Section 162.303, RSMo., deems a board member's seat on the board vacated if he/she fails to attend three (3) consecutive regular meetings, unless excused by the board for reasons satisfactory to the board.

This provision only applies to regularly scheduled board meetings, so a board member is not penalized for missing a special board. The statute also grants the board complete flexibility in excusing absences by board members. As long as a majority of the board agrees, a board member may be excused from an absence.

Training

All board members, whether elected or appointed, are required to complete sixteen (16) hours of training within one year of the date of election or appointment. Training can only be provided by entities approved by the State Board of Education. MSBA provides training for board members around the state. If a board member fails to complete the training, he/she may be charged with a misdemeanor, and the district could receive negative marks on the following accreditation review. *§162.091, RSMo.*

Holding Other Offices

State law restricts individuals from serving in multiple public positions if the duties and responsibilities of the offices are "inconsistent, antagonistic, repugnant or conflicting, such as where one office is subordinate to another." *State ex rel. McGaughey v. Grayston, (Mo. 1942), AG Op. No. 84-2001.*

Although there are few opinions addressing conflicting positions with school board service, a 2001 Attorney General's Opinion listed the following offices as compatible with serving on a school board: county administrator, county clerk and circuit clerk. *AG Op. No. 84-2001*. The same opinion found that serving on a school board and acting as the county emergency planning coordinator was incompatible and, therefore, illegal.

Before running for a second elective office, an individual should inquire with both offices to receive confirmation the offices are not incompatible.

There is at least one conflict between the Missouri Ethics Commission and the Attorney General's Office regarding the holding of multiple public offices. In May 2005, the Ethics Commission released an opinion that it would not be a conflict of interest to be a member of a school board as well as a county commissioner in the same county. However, in June 2001, the Attorney General's Office released a contradictory opinion finding there would be a conflict of interest. Unfortunately, neither opinion is binding on a court, so there is no clear guidance on whether an individual could hold both offices simultaneously.

Criminal Record

An individual is excluded from serving on a school board if convicted, pled guilty to or entered a no contest plea for certain offenses. Any person found guilty of or pleading guilty to a felony or misdemeanor under the federal laws of the United States of America may not run for elective office in Missouri. §115.348, *RSMo*. A new law passed during the 2006 General Assembly extended the prohibition on holding elective office to those who have been convicted of or found guilty of or pled guilty to a felony under the laws of Missouri. §115.350, *RSMo*.

In addition, if a person is convicted, pleads guilty or no contest under the laws of another jurisdiction to a crime which, if committed within this state, would be a felony, that person is not allowed to hold public office until the completion of his/her sentence or period of probation. §561.021.2, *RSMo*. Further, if a person is convicted of or pleads guilty or no contest to a crime connected with the exercise of the right of suffrage, he/she is forever disqualified from holding any public office, elective or appointive. §561.021.3, *RSMo*.

Filing for a School Board Election

Candidates for school board file at the school district office, and filing opens at 8:00 a.m. on the sixteenth (16th) Tuesday preceding the election, except in school districts with a portion of its boundary within Kansas City, where filing opens on the fifteenth (15th) Tuesday preceding the election. Filing closes at 5:00 p.m. on the eleventh (11th) Tuesday preceding the election. The times for filing between the opening and closing are determined by the district's business hours.

For the opening day of filing, the district is allowed to determine by policy whether the filing order will be determined on a first come, first served basis or through a random lottery. § 115.124.2, *RSMo*. Prospective candidates should contact the superintendent to determine which method the district uses. On all days following the opening day of filing, filing order is determined by the sequence in which individuals file with the district.

The act of filing for candidacy is a fairly simple act. A candidate must file a declaration of intent in person and in writing at the location designated by the district. There may be a limited exception to the requirement of filing in person for those individuals unable to access the central office due to disability or military service, but no court has ruled on such an exception. The declaration requires the potential candidate to attest that he/she meets the statutory requirements of running for the school board. Potential candidates must also sign a statement acknowledging the receipt of a written notice of the candidate's obligation to file a personal financial disclosure statement and a copy of the summary of laws from the Missouri Ethics Commission. These documents should be presented to the candidate at the time of filing.

After filing for election, a candidate may remove his/her name from the ballot any time prior to the closing of filing. After the candidates have been certified to the county clerk and before the sixth (6th) Tuesday preceding the election, a candidate may only remove his/her name from the ballot by a court order. §115.127.6, *RSMo.* A candidate may not remove his/her name from the ballot after the sixth (6th) Tuesday before the election.

Write-In Candidates

Write-in candidates are allowed, but to ensure that votes for those candidates are counted the prospective candidate may be required to file a declaration of intent to be a write-in candidate with the county clerk. The declaration, if required, must be filed with the county clerk prior to 5:00 p.m. on the second Friday immediately preceding the election day. If the write-in candidate is running for an office for which no candidate has filed, he/she is not required to file the declaration of intent with the clerk because all write-in votes will be counted. This exception also applies if fewer candidates have filed than the number of open seats on the school board (e.g. two candidates have filed, but three seats must be filled).

Length of Terms

School board members in most districts serve three-year terms of office. There are, however, board members in several districts that serve alternate terms of service. Board members in Independence and St. Joseph serve six-year terms, §162.471, *RSMo.*, and board members in St. Louis and Kansas City serve four-year terms. §162.492 & 162.601, *RSMo.* All school board members serve until their successors are duly elected and qualified.

If a board member resigns, the rest of the board must select an individual to serve in the vacant seat until the next school board election. At the next election, along with electing individuals to fill the expired terms, an individual is elected to serve the remaining term of the board member that resigned. If a district is electing directors for terms of different lengths because a board member resigned, each candidate must declare for a term of a specific number of years and the different terms must be voted on as separate positions. §162.281, *RSMo.*

Personal Financial Disclosure Statements

A Personal Financial Disclosure Statement is a form used to identify financial interests of candidates to raise awareness of potential conflicts of interest. Each candidate must disclose particular financial information, including financial dealings with the school district they are seeking to represent.

Section 105.483.11, RSMo., requires all elected officials and candidates for elective office to file a personal financial disclosure statement. If a school district's operating budget is \$1 million dollars or less, however, school board candidates are not required to file a statement.

Missouri allows school districts to adopt their own means of disclosing potential conflicts of interest. Whether the district has adopted a policy or not will affect the *type* of Personal Financial Disclosure Statement the candidate must complete. If the school district subscribes to the MSBA policy service, consult MSBA Policy BBFA. School districts are required to disclose the existence of such a policy to all candidates. This notification should occur when the candidate files the necessary paperwork declaring his/her candidacy. If the district fails to notify a candidate, he/she should contact the superintendent to determine if such a policy exists.

If the school district has an appropriate conflict of interest policy, a candidate is only required to file the "short form," or the *Personal Financial Disclosure Statement for Political Subdivisions*. This version of the disclosure statement only requires the candidate to disclose transactions between the school district and the candidate, his/her spouse, his/her children, his/her parents or any business entity in which the candidate, spouse, children or parents have a substantial interest.

If the school district does not have a policy regarding conflicts of interest, each candidate is required to file the "long form," or the *Personal Financial Disclosure Statement*. This form requires a more detailed disclosure of personal information. Both forms may be obtained from the Missouri Ethics Commission website.

All persons required to fill out the "long form" must complete and file the statement with the Missouri Ethics Commission, regardless of whether or not they have any financial dealings with the district. Candidates required to file the "short form" do not have to file the form if they have nothing to report. However, the Missouri Ethics Commission would prefer a candidate to err on the side of over-disclosure rather than under-disclosure. It is always acceptable to file a disclosure statement when there is nothing to disclose or to file a "long form" when only required to file a "short form."

Each candidate must have his/her statement filed with the Missouri Ethics Commission by 5:00 p.m., no later than 14 days after the closing date of filing for candidacy. The Ethics Commission must receive the statement by 5:00 p.m. on the fourteenth day, or the statement must be postmarked the day prior to the deadline. If the

last day for filing a disclosure statement falls on a weekend or state holiday, the deadline is extended to the next day that is not a weekend or state holiday. Visit the Missouri Ethics Commission website (www.moethics.state.mo.us) for a complete list of filing deadlines based on specific election dates.

The penalty for failing to submit a Personal Financial Disclosure Statement can be quite severe. For every day the report is late, the Missouri Ethics Commission charges the candidate \$10. If the candidate fails to file the statement within 21 days after the filing deadline, the commission is required to remove the candidate's name from the ballot.

Identifying Campaign Materials

Campaign materials are defined as anything a candidate, committee, business or other person creates as a means of advertising, promoting or opposing a candidate's candidacy such as billboards, radio or television ads, yard signs, etc. Missouri law requires any person, candidate or committee to identify the sponsor of every printed and electronic advertisement. *§130.031, RSMo.* It is a violation for a sponsor to refuse to provide the required information or to provide false, misleading or incomplete information. This restriction applies to a candidate's committee as well as a private citizen or business that creates campaign materials in support or opposition of any candidate.

Section 130.031.8, RSMo., defines printed materials as any "pamphlet, circular, handbill, sample ballot, advertisement, including advertisements in any newspaper or other periodical, sign, including signs for display on motor vehicles, or other imprinted or lettered material." All of these materials must bear the sponsor's required information. "Printed materials" governed by this statute do NOT include:

- Any sign personally printed and constructed by an individual without compensation from any other person and displayed at that individual's home or on that person's vehicle.
- Any items given away or sold, such as campaign buttons, pins, pens, pencils, book matches, campaign jewelry, or clothing if:
 - a. The items are paid for by the candidate or committee,
 - b. The item is obvious in its identification with a specific candidate or committee AND
 - c. The expenditures are properly reported.
- Any news story, commentary, or editorial printed by a regularly published newspaper or other periodical without charge to a candidate, committee or any other person.

The identification of campaign materials must be in a "clear and conspicuous manner." *§130.031.8, RSMo.* "Clear and conspicuous" means the proper information is printed on the materials in a manner that can be read. Any specific questions concerning the "clear and conspicuous" standard should be directed to the Missouri Ethics Commission.

Appropriately labeling the printed item depends upon who paid for the materials. Each identification should begin with the phrase “Paid for by...”

- If the candidate paid with his/her own money, his/her name is enough.
- If a committee paid, the information must include:
 - a. Official committee name
 - b. Name of the treasurer at the time the printed material was purchased
- If a corporation or other business entity paid, the information must include:
 - a. Name of the entity
 - b. Name of the principal officer of the entity
 - c. Mailing address of entity, or principal officer if not available
- If any other individual or group of individuals paid, the information must include:
 - a. Printed name of each individual with mailing address
 - b. If more than 5 individuals paid a portion, the sign can say “For a list of other sponsors contact,” followed by the appropriate contact information
 - Contact person must keep record of all contributors and amount paid
 - Records must be available upon request

Campaign Contribution Limits

Missouri’s Supreme Court struck down 2006 legislation that removed campaign contribution limits for those running for public office. The Court’s decision in *Trout v. State* reinstated the campaign contribution limits that existed prior to January 1, 2007. The maximum contribution that a school board candidate may receive from each contributor depends upon the population of the school district as follows:

- For districts of less than 100,000: \$325
- For districts of 100,000 to 250,000: \$650
- For districts of more than 250,000: \$1,175

Candidates are required to obtain certain information for each individual donor including: name, address, employer or occupation if self-employed, date of contribution, and form of contribution. If a candidate is unable to obtain this information, the contribution is deemed to have come from an anonymous source.

Missouri law limits anonymous contributions to \$25 per donor. Any amount over \$25 must be returned to the donor (if his/her identity can be determined) or turned over to the state treasurer. §130.031.4, *RSMo*. The total amount of anonymous contributions a candidate or committee can accept is the greater of:

- \$500 **OR**
- 1% of all contributions received in the same calendar year.

Any anonymous contribution that pushes a committee over this threshold must be returned to the donor if possible or turned over to the state. §130.031.5, *RSMo*.

Fundraising Events

Missouri has special campaign contribution rules for fundraising events. Section 130.011(18), RSMo., defines a fundraising event as an “event . . . through which contributions are solicited or received by such means as the purchase of tickets, payment of attendance fees, donations for prizes or through the purchase of goods, services or political merchandise.” The law also provides a list of events that are considered “fundraising events” including dinners, luncheons, receptions, testimonials and auctions. This list is by no means exhaustive, so it is within the Missouri Ethics Commission’s power to consider other occasions “fundraising events.”

All of the same contribution rules apply to fundraising events as to any other form of contribution. The single difference is the acceptance of anonymous contributions at a fundraising event. Under section 130.031.6, RSMo., a contribution is not deemed anonymous, even without recording the required information, if the candidate proves the following conditions:

- There must be 25 or more contributing participants at the event.
- The candidate, committee treasurer, deputy treasurer or person sponsoring the event must make an announcement that it is illegal to make or receive a contribution in excess of \$100 without the name and address of the contributor.
- The person in charge of the event cannot knowingly accept a contribution from a single person over \$100 without obtaining the donor’s name and address.
- A statement describing the event must be prepared by the candidate, treasurer or person responsible for the event and attached to the disclosure report for the period during which the event occurred. The statement must include:
 - a. The name and mailing address of those responsible for conducting the event and the name and address of the candidate or committee.
 - b. The date of the event.
 - c. The name and address of the location where the event occurred and the approximate number of participants.
 - d. A brief description of the type of event and the fund-raising methods used.
 - e. The gross receipts from the event and a listing of expenditures incident to the event.
 - f. The total dollar amount of contributions received from donors whose names and addresses were not obtained and an explanation of why these names and addresses were not obtained.
 - g. The total dollar amount of contributions received from donors whose names and addresses were obtained.

If each of these requirements is met, contributions obtained without the required donor information are not deemed anonymous and do not count against a committee’s anonymous contribution limits.

Campaign Committees

Candidates use committees to collect funds and organize the campaign. Committees can be used to coordinate campaign events, organize contributions and expenditures, or even distribute campaign paraphernalia.

Missouri law defines a committee as “a person or combination of persons, who accepts contributions or makes expenditures for the primary or incidental purpose of influencing or attempting to influence the action of voters for or against the nomination or election ... of one or more candidates.” §130.011(7), *RSMo*. While a candidate may receive assistance from others throughout a campaign without creating a committee, a committee is a formal organization with the goal of electing (or blocking the election) of a certain candidate.

Candidates for political office are only required to form a campaign committee if they are expecting to spend and/or receive more than \$1,000 total during the course of the campaign or receive more than \$325 from a single contributor (only candidates in districts with a population of 100,000 or greater may receive contributions from individuals other than the candidate of greater than \$325). Any candidate not planning to exceed these limits is automatically exempted from forming a committee. §130.016.6, *RSMo*. If a candidate exceeds the \$1,000/\$325 limits during the campaign, he/she is required to then form a committee and file the necessary campaign finance reports. This includes filing a Statement of Exemption Rejection (Form ER) with the local election authority (further explained later). This report notifies the commission of the candidate’s intentions to create a committee. If the candidate wishes, he/she can form a committee and be the only member.

A candidate must decide whether or not to form a committee no later than 30 days before the election. Therefore, a candidate cannot spend or receive funds that push the candidate beyond the \$1,000/\$325 limitations within 30 days before the election. If a candidate does so, it is a violation, and the candidate could face sanctions. §130.016.7, *RSMo*.

The \$1,000 expenditure limit includes any money spent by the candidate or any other person, with the candidate’s knowledge and consent, on behalf of the person’s candidacy. This includes spending the candidate’s own money as well as campaign contributions.

Every contribution counts towards the expenditure/contribution limits. Missouri law defines a contribution as a “payment, gift, loan, advance, deposit, or donation of money or *anything of value* for the purpose of supporting or opposing the nomination or election of any candidate for public office.” Anything of value given to the candidate or committee is considered a contribution and must be counted towards the \$1,000/\$300 limits. §130.011(12), *RSMo*. This includes an “in-kind contribution,” which is a contribution in a form other than money. Examples of “in-kind contributions” include: signs, radio ads or services donated to the candidate or committee. Certain items are specifically NOT contributions:

- Ordinary home hospitality or services provided by volunteers. Examples include: baking cookies, serving drinks, etc.

- A contribution that is expressly and unconditionally rejected and returned to the donor within 10 business days of receipt.
- Interest earned on the deposit of committee funds.
- Costs of any connected organization used to support a candidate's committee.

If two or more candidates come together to run as a "slate," each candidate must be careful to disclose all expenditures made by each side. For example, if two candidates running as a slate each spend \$500 on advertising promoting both candidates, each committee must disclose a total of \$1,000 spent on advertising. Each candidate spent \$500 towards his/her campaign, but the \$500 spent by the other candidate is considered a contribution to his/her "partner." Therefore, each candidate discloses \$1,000 in expenditures for this particular action.

Though a candidate falling within the committee exemption is not required to file disclosure reports concerning expenditures and contributions, §130.036, RSMo., does require each candidate to record the amount and source of each contribution, and the amount and purpose of each expenditure. These records must be kept for three years after the date of the election.

Forming a Committee

If a candidate decides to form a committee, he/she must form a "candidate committee." Missouri law defines a candidate committee as "a committee which is formed by a candidate to receive contributions or make expenditures in behalf of the person's candidacy." §130.011(9), RSMo. Each candidate may only have one candidate committee per office sought, and the candidate is presumed to be in control of the committee's actions unless he/she files an affidavit with the appropriate officer stating otherwise. Forming a candidate committee takes four steps:

- **Name the committee.** Each committee must have an official name. The committee name must at least include the candidate's name.
- **Appoint a treasurer.** Each committee must appoint a treasurer that is a resident of Missouri. The treasurer is to maintain records and accounts, file timely reports, and ensure that the committee functions in accordance with state regulations. While these responsibilities fall on the treasurer, the candidate is ultimately responsible for the actions of his/her candidate committee. The candidate may appoint him/herself treasurer of a candidate committee. This must occur if the candidate acts as a committee of one. A committee may also have a deputy treasurer, who must also be a Missouri resident, to act as the treasurer when necessary.
- **Establish a depository account.** Each committee must have at least one official depository account in the committee's name to deposit all contributions and other receipts accepted by the committee (including the candidate's own contributions). All committee expenditures must be made from the official depository and must be made by the treasurer, deputy

treasurer or candidate. The depository must be a state or federally chartered bank, savings and loan association, or credit union located in Missouri.

- **File a *Statement of Committee Organization*.** Each committee must file this statement (CO-1&2) with the county clerk. This form must be filed within 20 days of the committee's formation, but no later than 30 days before the election. If the information on the statement is added to, changed or deleted, an amended *Statement of Committee Organization* must be filed within 20 days of the change, but no later than the date of the next disclosure report. If known at the time of formation, the statement of organization must include the candidate's name and office sought.

Record-Keeping Responsibilities

All candidates, whether they have formed a committee or not, must begin keeping financial records when he/she becomes a candidate. This includes keeping track of all contributions and expenditures. Missouri law states a person becomes a "candidate," and must therefore begin keeping records, when he/she first:

- Announces his/her candidacy,
- Files a declaration of candidacy with the appropriate election authority,
- Receives contributions, makes expenditures or reserves facilities with the intent to promote his/her candidacy OR
- Knows or has reason to know that others are receiving contributions, making expenditures or reserving facilities with the intent to promote his/her candidacy.

It is vital for candidates and committees to keep up-to-date records that contain documents related to financial transactions. Examples include: bills, receipts, deposit records, cancelled checks and other documents that could be used to verify any statements or reports filed by the candidate or committee. Candidates and committees must also keep complete records of all contributions.

Committee treasurers and candidates must be aware of the anti-commingling provision of the Missouri campaign finance statutes that prohibit committees from combining campaign funds with the funds of any other individual. If an individual, trade or professional association, business entity, or labor organization receives contributions as an agent of a committee, these contributions may be held in the agent's account for no more than five days for purposes of facilitating transmittal to the candidate, treasurer or deputy treasurer without violating the anti-commingling provisions.

Committee Disclosure Reports

Committee Disclosure Reports are used to document a committee's contributions received and expenditures made during the campaign. These reports are used to ensure that the committee is within the campaign contribution limitations set by law. If a

candidate does not create a committee, he/she does not have to file Committee Disclosure Reports. The report must be filed in a timely manner with the Missouri Ethics Commission.

Each Committee Disclosure Report is required to include at least the following four forms:

- **Cover page (Form CD Cover).** The cover page includes basic information about the candidate, committee, committee treasurer, etc. This form also includes sworn statements by the treasurer and candidate (if the candidate is not also the treasurer) regarding the totality and accuracy of the entire report.
- **Report summary (Form CD Summary).** The summary is used to consolidate the total receipts and expenditures made by the committee during the reporting period. The summary also displays the cumulative totals for the campaign to date. Most of this information is included in other report forms and can be added to the summary upon completion of these documents.
- **Contributions and loans received (Form CD1).** This form is used to list all contributions received from all sources during the reporting period. Committees must disclose itemized contributions (donations from other committees or donations from an individual of more than \$100), non-itemized contributions (all other donations received) and loans received by the committee.
- **Expenditures and contributions made (Form CD3).** This form is used to report all expenditures made during the reporting period. Committees must disclose non-itemized expenditures (individual expenditures of \$100 or less), itemized expenditures (expenditures in excess of \$100 and all payments made to campaign workers) and monetary contributions to candidates or committees.

These forms are the minimum required for each reporting period and are required for both the candidate and campaign committee. Depending on the committee's activity, additional documents may be required. For example, if the committee and/or candidate sponsored a fund-raising activity, a fund-raising statement (Form CD1A) must also be filed as a part of the disclosure report. A complete list of forms can be obtained from the Missouri Ethics Commission website (www.moethics.state.mo.us).

Candidate committees must file disclosure reports with the county clerk in which the school district is located. If the school district is located within the jurisdiction of more than one county, the committee must file disclosure reports with the county clerk in whose jurisdiction the candidate lives.

A committee must file a disclosure report every quarter (generally the 15th day of January, April, July and October), eight days before the election, and 30 days after the election. There are, however, a couple of exceptions:

- Since school board members are sworn in to office sooner than 25 days after the election, those elected must file a disclosure report the day before being sworn in.

- Since school board elections occur in April, the candidate's committee must file a disclosure report 40 days before the election, along with the other reports required.

Terminating a Committee

At the conclusion of an election, many candidates choose to terminate their committees. Candidates may choose, however, to continue using the committee for purposes allowed by law after the election. §130.011(10), *RSMo*. If a candidate decides to terminate his/her committee at the end of the campaign, he/she must follow statutory guidelines.

In order to terminate a committee, a candidate and/or treasurer must make sure all account balances are at zero; therefore, a committee must dispose of all funds that remain in the committee bank account. Missouri law identifies seven allowed uses for campaign contributions:

- Any ordinary expense incurred relating to the campaign.
- Any ordinary and necessary expense incurred in connection with the duties of a holder of elective office.
- Any expense associated with entertaining or providing social courtesies to constituents, professional associations, or others holding elective office.
- Returning any unused contribution.
- Contributing to a political organization or candidate committee.
- Establishing a new committee such as a continuing committee.
- Making an unconditional gift to any charitable, fraternal or civic organization or other associations formed to provide for some good in the order of benevolence, so long as the candidate or such person's immediate family gain no direct benefit from the gift.

If a committee decides to disburse unused contributions, it must repay contributions to the donor whose contribution was not used. The committee must consult its contribution records to determine which contributions were not utilized before distributing any repayment. A committee cannot simply choose a preferred donor to reimburse from unused funds.

Campaign funds can also be used to pay reasonable attorney's fees if the fees are accrued by a person who is the subject of a complaint arising from election issues. Otherwise, attorney's fees may not be paid with campaign funds.

Missouri law also lists two specific uses that are *not* allowed. First, campaign funds cannot be appropriated for personal use. In other words, a candidate or other agent of the committee cannot use campaign contributions for his/her own personal gain. Also, campaign funds cannot be used to pay restitution payments or fines stemming from a court order.

A committee's debt balances must also be at zero to dissolve. This means that the committee must repay all outstanding debts before it can be terminated.

Once a committee's account balances are at zero, a candidate may begin the process of officially terminating the committee. The first step is to appoint someone to maintain the committee's accounts and records for three years following the election. This person can be the treasurer, the candidate or any other person.

After selecting an individual to maintain the records, the committee must file a *Committee Termination Statement* (Form CO-3) with the Missouri Ethics Commission within 10 days of the committee's dissolution. This form is used to report the conclusion of all committee activity. The report must include contact information for the person chosen to maintain committee records, the means of disposing of surplus funds and outstanding debts, and a signed verification by the treasurer and candidate (if applicable).

A committee is also required to file a committee disclosure report covering the period from the last report to the date of dissolution. This report must follow the same guidelines as all other committee disclosure reports. All committee termination paperwork should be filed with the same election officer used for the other various filings.

After the Election

Within fourteen days of a school board election, all newly elected school board members shall qualify for office by taking the oath of office prescribed in the Missouri Constitution. §162.301, *RSMo*. Newly elected members of urban school boards must be sworn in within ten days of the election. §162.521, *RSMo*. Members of the St. Louis School Board must take the oath of office before a circuit or associate circuit judge of the city. It is unclear what the consequences are if a new board member is not sworn in during the requisite time period. To avoid unnecessary conflict, newly elected board members should be available to meet within the time period prescribed by law. Also, most school boards use this meeting to elect officers for the board.

Article VII, section 11 of the Missouri Constitution requires all elected public officials to take an oath to "support the Constitution of the United States and of this state, and to demean themselves faithfully in office."

Restrictions and Responsibilities of Public Office

Election to public office brings both restrictions and responsibilities. Those contemplating running for office should consult state law and school district policy and become knowledgeable of what can and cannot be done as a school board member. As stewards of public funds, school board members face statutory prohibitions on their

actions. Board members face restrictions on the conduct of personal business as well as official acts.

Providing Services to the District

A school board member or any business that they own may provide services to his/her school district for compensation as an independent contractor if certain rules are followed. A board member owns a business if he/she is the sole proprietor, a partner having more than a ten percent partnership interest, or a coparticipant or owner of in excess of ten percent of the outstanding shares of any class of stock in a corporation. Board members are allowed to donate their services to the school district at any time without receiving compensation, however, without violating Missouri conflict of interest laws.

A board member providing services as an independent contractor may not receive compensation exceeding \$500 per transaction or \$5,000 per year unless the district follows certain guidelines:

- The contract for services must be competitively bid after public notice pursuant to board policy **AND**
- The board member's bid **MUST** be the lowest received. §105.454(1) and §105.458.2, *RSMo.*

Selling Goods to the District

The rules regarding board members selling goods to the district they represent depends upon where the district is located. Section 171.181, *RSMo.* prohibits school board members of a seven-director school district, any portion of which is located in a first class county, from selling or providing "commodities" to the district. The penalty for a violation of this measure is a class A misdemeanor and forfeiture of his/her office. The statute does not define the term "commodities," however, so it is currently unclear what board members are not allowed to sell or provide to school districts. MSBA interprets §171.181 as restricting the sale of all "goods" or "products" to school districts in first class counties. Board members in such districts should refrain from selling or providing any "goods" to school districts.

If the district is located in a second, third or fourth class county, the board member may sell commodities pursuant to sections 105.450 to 105.458. A board member selling commodities to the district, however, may not receive compensation exceeding \$500 per transaction or \$5,000 per year unless the district follows certain guidelines:

- The contract for sale must be competitively bid after public notice pursuant to board policy **AND**
- The board member's bid **MUST** be the lowest received. §105.454(2) and §105.458.2, *RSMo.*

The penalty for violation in a second, third or fourth class county is also a class A misdemeanor and forfeiture of office.

Selling, Renting or Leasing Land to the District

A school board member cannot sell, rent or lease real property (real estate) to the school district for payment in excess of \$500 per transaction or \$5,000 per year unless the district follows certain restrictions. The sale, rental or lease is valid regardless of the transaction price if made pursuant to an award on a contract or sale made after public notice. If the school district follows the applicable requirements, bids or offers may be accepted, even if the amount exceeds the \$500/\$1,500 limits. *§105.454(2) & §105.458.1(2), RSMo.*

The same limitations apply to any sole proprietorship, partnership, joint venture or corporation in which any school board member is the sole proprietor, a partner having more than a ten percent partnership interest, or a coparticipant or owner in excess of ten percent of the outstanding shares of any class of stock. *§105.458.2(2), RSMo.* The restrictions also apply, in terms of real property, to contracts to buy from a school board member's spouse.