



ARA-13.03 – Campaign Finance: Complaint Process

Background: These rules are based on a voter-approved Charter amendment, related City Code, and subsequent court rulings.

A. Filing a Complaint

1. Complaints alleging violations of the City's campaign finance regulations must be filed in writing with the City Elections Office within the Auditor's Office. Complainants are encouraged to use the City Auditor's [complaint form](#), which indicates the information needed to ensure a comprehensive investigation. Complaints may be filed:

- a. By email to: 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 email the City Elections Office.

2. Complaints should include the following information:
 - a. Name(s) and contact information of complainant(s). The City Elections Office does not accept allegations submitted anonymously.
 - b. If a complainant requests that their name, contact information, and identifying details be kept confidential, the Elections Office will treat the information as confidential and exempt from public disclosure under ORS 192.355(4) unless ordered to disclose it under the law.
 - i. A complainant may request confidentiality of their identity at any time but, whenever possible, complainants should request confidentiality from the Elections Office at or before the first communication with the Office about the complaint.

- ii. The Elections Office reserves the right to determine which details about a complainant are ones that tend to identify their identity.
 - c. The name of the candidate, campaign, political committee, individual, or other entity alleged to have violated the City's campaign finance regulations.
 - d. 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.
 - e. A complainant may raise more than one allegation per complaint.
 - f. The date(s) of the violation(s).
 - g. Any applicable dollar amount(s) associated with the violation(s), if known.
3. The Auditor's Office may decline to investigate any submissions that do not include the information in Subsection (A)(2).
4. Complainants are encouraged to include with the complaint all relevant documentation or evidence they may have pertaining to the violation(s).
5. Duplicative allegations or allegations that are substantially similar to those in an ongoing investigation or a previously rendered decision will not be reinvestigated.
6. Complaints alleging only violations of Charter and Code provisions in ARA 13.01(E) (Constitutional Limits on Enforcement) that the Auditor's Office does not enforce will not be investigated.

B. Complaints Involving Small Donor Elections Program Participants

1. Candidates participating in the City's public funding of campaigns program, known as the Small Donor Elections program, are eligible to receive any amount of money based on that program's rules.
2. If a complaint is submitted to the Auditor's Office involving alleged violations of both the Small Donor Elections program and the City's campaign finance regulations, the Auditor's Office may do one or both of the following:

- a. Refer the complaint to the Small Donor Elections program for its own investigation, or
- b. Submit a consultation question to the Small Donor Elections program for the program to issue an advisory determination as to whether certain circumstances relevant to a complaint would be deemed to violate the rules of the Small Donor Elections program.
 - i. The Auditor's Office may rely on the Small Donor Election program's advisory determination in making its own determination of whether a violation of the campaign finance regulations has occurred.
 - ii. If the Small Donor Election program conducts an investigation after providing an advisory determination to the Auditor's Office and draws a different conclusion than that reached in the advisory determination, the Auditor's Office may amend its own determination in accordance with Subsection (D)(5) below.

C. Complaint Investigations

1. For allegations against a contributor alleged to have contributed more than the amounts allowed in [Code Section 2.10.010](#):
 - a. When contact information for a contributor alleged to be in violation is not included as part of a complaint, the Auditor's Office will make a good faith effort to expeditiously obtain the contributor's contact information (including an email address, physical address, or phone number) in order to provide the contributor notice and opportunity for response as required by [City Code 2.10.050 E.2](#).
 - b. For this subsection, a good faith effort may include requesting contributor contact information from a campaign alleged to have received an unlawful contribution from the contributor.
 - c. At the Auditor's Office's discretion, the timeline for an investigation may be tolled (meaning, the timelines set forth in City Code 2.10.050 will be paused) during the period it takes to determine the contributor's contact information.
2. For investigations, generally:

- a. Upon receiving or initiating a complaint, the Auditor's Office will follow the notice and investigation procedures prescribed in [Code Subsections 2.10.050 E. – H.](#)
- b. Written materials and other evidence relevant to the allegations in the complaint:
 - i. May be submitted by email to: elections@portlandoregon.gov or by mail to: City Elections Office, 1221 SW 4th Ave, Room 130, Portland, OR 97204.
 - ii. May include supporting evidence, such as documents or photographs, attached as exhibits and/or links to relevant electronic media.
 - iii. May be requested by the Auditor's Office, during or after the material submission period.
- c. The Auditor's Office may issue and seek enforcement of subpoenas requiring the production of any relevant information necessary to determine compliance with the provisions of Code Chapter 2.10.
 - i. Subpoenas will require a response no earlier than seven calendar days after issuance, unless a shorter period is required to comply with applicable deadlines.
 - ii. Should a person or entity fail to comply with a subpoena, the Auditor's Office may:
 - 1. Draw adverse inferences in its determination against any individual or entity that fails to comply with a subpoena; and/or
 - 2. Apply to the Multnomah County Circuit Court for an order to the subpoenaed party mandating compliance with the Auditor's Office subpoena or an appearance set by the court to show cause why they had not complied.

D. Auditor's Office Decision and Enforcement

- 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 seek review of the decision in Multnomah County Circuit Court.
 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 will issue a written decision in the form of a warning and letter of education or 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. For violations of timely disclosure requirements, all available and previously undisclosed information found through the investigation about the involved communication donor(s).
 - c. A brief description of the complaint and the Auditor’s Office’s findings.
 - d. A statement of the amount due as a civil penalty, if any, and instructions for paying the civil penalty.
 3. Warning and Letters of Education
 - a. Upon finding a violation, if the Auditor’s Office finds reason to believe the subject of the complaint put forth a good faith effort to comply with [Code Chapter 2.10](#), the Auditor’s Office may, for a first-time violation, issue a warning and letter of education if there is no mandatory minimum penalty prescribed in the Code. For purposes of this subsection, “good faith effort” means what a reasonable person would determine is a diligent attempt to comply with the City campaign finance regulations under the circumstances.
 - b. Once an election date has passed, the values of deterrence and provision of timely information to the electorate are diminished. Therefore, if the Auditor’s Office receives a complaint or issues a determination after the relevant election date, the Auditor’s Office may issue a warning and letter of education if there is no mandatory minimum penalty prescribed in the Code.
 4. Civil Penalties

- a. The civil penalty for each contribution or expenditure violation is not less than two nor more than 20 times the amount of the unlawful contribution or expenditure.
- b. If the civil penalty cannot be determined based on an unlawful contribution or expenditure, the Auditor's Office will determine an appropriate civil penalty up to \$3,000 per violation.
- c. In determining the amount of a civil penalty, the Auditor's Office may consider mitigating or aggravating factors, including:
 - i. The overall budget and resources available to the campaign or entity.
 - ii. The number of previous violations by the penalized party within the same election cycle.
 - iii. Whether the violation was repeated and continuous or isolated and infrequent. The Auditor's Office may choose to treat repeated similar actions occurring during the same election cycle as aggravating circumstances under a single violation.
 - iv. Whether the violation appears to have been made knowingly based on relevant circumstances and available records.
 - v. The campaign or entity's level of cooperation during the investigation, including providing timely and relevant information as requested.
 - vi. The amount of penalties, if any, previously imposed on the same party or other parties under similar circumstances.
 - vii. *For communications disclosure violations:* The size of the intended audience and the cost of the communication.
 - viii. *For contribution and expenditure violations:* The size of the contribution or expenditure.
 - ix. Whether complaints have been filed in apparent abuse of the complaint process. This can occur, for example, when complaints against a potential competitor are filed repeatedly with similar allegations occurring in a short period, instead of filing all allegations as one complaint.

- x. Any other applicable factors the Auditor's Office deems relevant.
- d. Limits on civil penalties imposed under this rule do not include interest. Civil penalties not paid within 60 days from the payment due date may be subject to 10 percent simple interest per annum.

5. Withdrawal and Reconsideration

- a. The Auditor's Office may, on its own discretion or on request of an interested party, withdraw a decision for reconsideration within the earlier of 30 days from issuance of the decision or until the decision is appealed.
- b. The Auditor's Office may consider additional information in deciding whether to withdraw the decision.
- c. Upon withdrawal of a decision, the Auditor's Office may accept additional relevant evidence for consideration.
- d. In the event the Auditor's Office withdraws a decision, the Auditor's Office will issue a new written determination within 30 days. The reissued determination will be provided to all interested parties.

6. Appeal

- a. Decisions of the Auditor's Office will be subject to judicial review in the Multnomah County Circuit Court.
- b. Decisions of the Auditor's Office can be appealed to the Circuit Court:
 - i. For decisions that are not withdrawn for reconsideration, within 60 days from the issuance of a decision; and
 - ii. For decisions that are withdrawn for reconsideration, within 60 days from the issuance of the reissued decision.

7. A decision is considered final for purposes of [Code Section 2.10.050 J.](#):

- a. For decisions that are appealed, following the completion of any judicial review or the final disposition of any appeal;
- b. For decisions that are not appealed, after the time for appeal has expired in accordance with ARA 13.03(D)(6).

Auditor's Office Administrative Rule Information

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

Auditor's Office Administrative Rule History

Adopted by the City Auditor on April 6, 2020, as interim rules, for a period of no greater than 180 days.

Amended by the City Auditor on April 29, 2020, as interim rules, for a period of no greater than 180 days.

Amended by the City Auditor on October 3, 2020.

Amended by the City Auditor on June 1, 2021.

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