

**Contribution Limit and Disclosure of Funding Sources in  
Communications Relating to Multnomah County Candidate  
Elections:  
Administrative Rules Implementing MCC 5.203 to 5.204**

The Contribution Limit and Disclosure Administrative Rules set forth herein are hereby adopted pursuant to Multnomah County Code Chapter 5.

Dated this 16th day of November, 2021.

JAMIE WALTZ, DIRECTOR  
MULTNOMAH COUNTY DEPARTMENT OF COMMUNITY SERVICES

/s/ Tim Scott

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Tim Scott, Director  
Multnomah County Elections  
Department of Community Services  
Multnomah County

REVIEWED:

JENNY M. MADKOUR, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY

/s/ Katherine Thomas

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Katherine Thomas, Assistant County Attorney

1. **Title: Citation of Rules**

- a. These rules may be referred to as "Contribution Limit and Disclosure Rules," "CLDR," or "rules."
- b. These rules shall be cited, for example, as CLDR 2(a)(i).

2. **Authority:** The Director adopts these rules pursuant to MCC Chapter 5.204. The Director may amend or repeal these rules and may adopt new rules as necessary for the administration of MCC 5.203 and 5.204.

3. **Definitions:** All terms not otherwise defined in these rules shall have the meaning set forth in MCC 5.200. The following definitions are supplemental to, and not in lieu of, the definitions provided in MCC 5.200.

a. **Candidate:** As defined in ORS 260.005(1)(a) (2016) and incorporated by reference into MCC 5.200, the term Candidate:

i. Means an Individual who:

- 1. Files their Candidate Filing form (SEL 101) with the Director for one of the elected public offices of Multnomah County for an upcoming election; or
- 2. Identifies an elected public office of Multnomah County for an upcoming election in an original or amended Statement of Organization for a Candidate Committee; or
- 3. Declares their candidacy for an elected public office of Multnomah County for an upcoming election on a publicly accessible source; or
- 4. Expresses consent to be named as a candidate for nomination or election to an elected public office of Multnomah County for an upcoming election; or
- 5. Solicits or receives and accepts a Contribution, makes an Expenditure, or gives consent to an Individual or Entity to solicit or receive and accept a Contribution or make an Expenditure on the Individual's behalf to secure nomination or election for an upcoming election to an elected public office of Multnomah County; or
- 6. Is an officeholder for one of the elected public offices of Multnomah County and is the subject of a recall petition that has been completed and filed.

ii. Does not mean an Individual who has filed a Candidate Filing Withdrawal form (SEL 150) for an upcoming election for one of the elected public offices of Multnomah County.

b. **Communication:** As used in the definition of "Communication" in MCC 5.200, written, printed, digital, electronic or broadcast communications include but are not limited to text messages, videos, websites, social media posts, emails, graphics with interchanging formats or photos, still photos transmitted electronically, and automated or autogenerated communications prepared by a campaign and distributed by volunteers using their own devices in support of or opposition to a clearly identified candidate in a Multnomah County Candidate Election.

c. **Contribution:**

- i. As defined in ORS 260.005(3) (2016) and MCC 5.200, “Contribution” does not include anything of value provided by a Candidate to their own Candidate Committee or otherwise provided by a Candidate to support their own election or nomination to an elected public office of Multnomah County, including a loan.
  - ii. For purposes of MCC 5.201(A) and (B), a Contribution is not considered to have been made or received if refunded or declined:
    - 1. Except as provided in CLDR 3(c)(ii)(2), within 30 calendar days of the date of receipt by the Candidate or their Candidate Committee;
    - 2. During the period beginning 42 calendar days before a primary, general, recall, or special election, within seven calendar days of the date of receipt by the Candidate or their Candidate Committee.
- d. **Election Cycle:** As defined in MCC 5.200:
- i. An Election Cycle for a special election is inclusive of a special runoff election if no candidate received 50% plus one vote of votes cast at an election to fill a vacancy.
  - ii. An Election Cycle for a recall election suspends the regular Election Cycle for the Candidate subject to recall until the day after the recall election, at which point the regular Election Cycle resumes.
  - iii. When an Individual becomes a Candidate for a recall election prior to the recall Election Cycle, the Candidate will be presumed to be in the regular Election Cycle for their current office regardless of whether they are or could be a Candidate for that office in an upcoming primary or general election.
- e. **Entity:** As used in the definition of “Entity” in MCC 5.200, a form of organization that creates an entity which is legally separate from an Individual includes Candidate Committees, Political Committees and Small Donor Committees.
- f. **Expresses consent or expression of consent:** For the purpose of when an Individual becomes a Candidate under MCC 5.200 and these Rules, “expresses consent” includes, but is not limited to, written communications or recorded statements affirming an Individual’s agreement to participate as a candidate for an elected public office of Multnomah County for an upcoming election, including as a write-in candidate.
- g. **Publicly accessible source:** For the purpose of when an Individual becomes a Candidate under MCC 5.200 and these Rules, a “publicly accessible source” includes, but is not limited to, public posts on social media; publicly accessible websites, blogs, or message boards; statements made by the Individual published by news media; television and print ads; and billboards.
- h. **Social Media:** Any online platform through which users create or share content such as photos, videos, and text-based communications to and with various audiences. Examples include but are not limited to: Facebook, Twitter, YouTube, Reddit, and Instagram.

#### 4. Contribution Limits

- a. Contributions made to an Individual before they become a Candidate will not be subject to the limits in MCC 5.201(B).
- b. For purposes of enforcement, the amount of an unlawful Contribution is the amount in excess of the limits set forth in MCC 5.201(B).

## 5. Registration of Political Committees

- a. For the purpose of MCC 5.202, “register” means registration with the Oregon Secretary of State.
- b. A Political Committee that has complied with state registration requirements shall be considered to be in compliance with MCC 5.202.
- c. The Director will not separately investigate or enforce alleged violations of MCC 5.202. State registration requirements are enforced by the Oregon Secretary of State.

## 6. Disclosure

- a. **Communications Regarding Multiple Multnomah County Offices:** For a Communication related to more than one elected public office for Multnomah County, the relevant Election Cycle begins at the earliest Election Cycle start date, if the Election Cycles differ between the offices.
- b. **Electronic Communications**
  - i. Except as provided in CLDR 6(b)(ii), a Communication on Social Media may satisfy the Disclosure requirements by:
    1. Identifying in the Communication who paid to provide or present the Communication, and including an active link to a website with any additional disclosures required in MCC 5.203, provided that the information is easily accessible to voters and prominently displayed, including, as applicable:
      - a. A Political Committee or other Entity’s five Dominant Contributors and associated information required by MCC 5.203(A)(1)(a);
      - b. The types of businesses from which the Entity making an Independent Expenditure has obtained a majority of income over the previous 5 years, with each business identified by the name associated with its 6-digit code of the NAICS as required by MCC 5.203(A)(2)(b);
      - c. If any of the five largest Dominant Contributors or Dominant Independent Spenders is a Political Committee (other than a Small Donor Committee) or nonprofit organization, each of the three Dominant Contributors providing the largest amounts of funding to that Political Committee or nonprofit during the current Election Cycle as required by MCC 5.203(B); or
    2. Disclosing all required information at a static location, such as a profile page, available on the same platform. If the static page of a Social Media account is character limited so as to preclude full compliance with MCC 5.203 on the static page, Political Committees or other Entities paying to provide or present the Communication may provide an active link to a website with all information required by MCC 5.203, provided that the information is easily accessible to voters and prominently displayed.
  - ii. If professionally produced content, such as a video or photo, is posted to a Social Media account, the professionally produced content must also prominently display all information required by MCC 5.203 within the content itself.

## 7. Enforcement

### a. Complaints

- i. **How to file:** All complaints from an Individual or Entity or the Director must be made in writing and delivered through a form prescribed by the Director:
  1. Through a complaint form on [multco.us/elections](http://multco.us/elections);
  2. Electronically to [campaignfinance@multco.us](mailto:campaignfinance@multco.us); or
  3. By mail to Campaign Finance Complaints, Multnomah County Elections Division, 1040 SE Morrison St, Portland, OR 97214.

### ii. Information Required

1. Complaints must be made on the form prescribed by the Director and contain the following information:
  - a. Name of the complainant. Anonymous complaints will be returned, if possible, and will not be investigated.
  - b. Contact information, including physical address, email and phone number of complainant
  - c. A copy of the communication alleged to be in violation of County Code, if applicable.
  - d. Name(s) of Individuals or Entities alleged to have committed the violation. If the Entity alleged to have committed the violation is a Candidate Committee or Political Committee, complainant is encouraged to include:
    - i. the name of the Entity as listed in ORESTAR; and
    - ii. the committee ID as listed in ORESTAR.
  - e. Name of the Candidate to whom the alleged violation relates.
  - f. The date(s) of the violation(s).
  - g. Any applicable dollar amount(s) associated with the violation(s), if known.
    - i. If more than one Individual or Entity has funded the a communication alleged to be in violation of MCC 5.203, specify the amount of funding provided by each individual or entity, if known.
  - h. Any supporting evidence, such as documents or photographs, attached as exhibits or links to relevant electronic media.
  - i. A detailed description of the alleged violation, including:
    - i. The specific section and subsection(s) of Multnomah County Code that is alleged to have been violated.
    - ii. If the complaint alleges that the incorrect source of funding has been disclosed or no source of funding has been disclosed:
      1. An explanation of the basis for the complaint; and
      2. Identification of the alleged actual source of funding, if known.

- iii. If the complaint alleges that the incorrect 6-digit code of the North American Industry Classification System (NAICS) information has been provided:
  1. An explanation of the basis for the complaint; and
  2. Identification of the alleged actual NAICS information.
2. A complaint may raise more than one allegation per complaint.
- iii. Duplicative allegations or allegations that are substantially similar to those in an ongoing investigation or a previously rendered decision will not be reinvestigated.
- iv. The Director, in the Director's sole discretion, may consolidate investigations on related or serial allegations.
- v. The Director may decline to investigate any complaint that does not include the information identified above. Incomplete complaints will be returned to the complainant for missing information.
- vi. Complaints alleging violations of MCC 5.201 for actions occurring prior to August 23, 2021 will not be investigated.

**b. Notification of Complaint:** Upon receipt or issuance of a complaint, the Director will notify the Individual or Entity alleged to have violated MCC 5.200 to 5.203 and offer an opportunity to submit materials for a period of 10 business days from the date of the notice of complaint.

- i. If a violation of MCC 5.201 is alleged, an Individual or Entity that allegedly made the unlawful Contribution may offer evidence of written communication to the Candidate or their Candidate Committee requesting reimbursement of Contributions in excess of the limit, sent within 30 days of the Contribution at issue.
  1. The Director will issue a letter of education to an Individual or Entity that offers evidence under subsection (i) of this section if it is the Individual or Entity's first violation of MCC 5.201 in the Election Cycle, unless the Director finds evidence of one or more of the following exacerbating factors, in which case the Director may issue a civil penalty as described in CLDR 7(e)(ii):
    - a. Multiple violations;
    - b. Past experience with campaigns and campaign laws;
    - c. Evidence of actual knowledge of the law;
    - d. Evidence of intentional conduct;
    - e. A contributor's enforcement history; or
    - f. Other exacerbating factors as determined by the Director.

**c. Decision and Enforcement**

- i. The Director's preliminary decision on a complaint will:
  1. Be in writing and provided to the complainant, the Individual or Entity alleged to have violated MCC 5.200 through 5.203, and any Individual or Entity the Director deems relevant to the complaint, including news organizations who have requested to receive such decisions;
  2. Include a copy of the complaint;
  3. Identify whether a violation of MCC 5.200 through 5.203 occurred and the basis for the decision; and
  4. If a violation is found, the preliminary decision will also include:

- a. The name of the Individual or Entity in violation;
  - b. The code section violated and a brief descriptive statement of the nature of the violation;
  - c. A statement of the amount due as a civil penalty, if any, for the violation;
  - d. A statement, if applicable, explaining all civil penalties are due within 30 days of the date that the decision becomes final;
  - e. A statement advising that if any civil penalty is not timely paid, the failure to pay will lead to late penalties as provided in MCC 5.204;
  - f. A statement that the determination of the violation is final within 10 days unless reconsideration is sought; and
  - g. A statement explaining the process for appealing the violation
- ii. The preliminary decision will be served by mail, except as allowed in subsection (iii) of this section,
    1. For a Political Committee or Candidate Committee, the preliminary decision will be mailed to the committee treasurer or persons associated with the Committee, as identified in ORESTAR.
    2. For an Entity organized under ORS 60 or ORS 65, the preliminary decision will be mailed to the registered agent, manager, or member as identified in the Oregon Secretary of State's Business Registry Database.
    3. For any other Entity, the preliminary decision will be mailed to the Entity's principal place of business.
    4. For an Individual, the preliminary decision will be mailed to their voter registration address, if known.
  - iii. The preliminary decision may be served by email if any Individual or Entity entitled to service has communicated with the Director by email.

**d. Withdraw and Reconsideration**

- i. The Director on their own discretion or at the request of an interested party, may withdraw a preliminary decision for reconsideration.
  1. If no withdrawal occurs within 10 business days of the date of the preliminary decision, then the decision will be final.
  2. If a preliminary decision is withdrawn, the Director may accept additional relevant evidence and will issue a new written decision. The new decision will be final upon issuance.

**e. Civil Penalties**

- i. **First Violation in an Election Cycle:** Upon finding a violation has occurred, if it is the Individual or Entity's first violation in the Election Cycle, the Director may issue a letter of education. The letter of education will explain the violation and provide information about how to comply.
  1. The decision to issue a letter of education is subject to the discretion of the Director. Factors to consider include, but are not limited to:
    - a. Attempts to cure violation(s), including under CLDR 7(b)(i);
    - b. Past experience with campaigns and campaign laws;
    - c. Evidence of actual knowledge of the law;

- d. Evidence of intentional conduct;
  - e. A Candidate or contributor's enforcement history;
  - f. Failure to cooperate during the investigation process; and
  - g. The overall interests of justice.
- ii. **Subsequent Violations in an Election Cycle:** Upon finding a violation has occurred, if it is the Individual or Entity's second violation in the Election Cycle, the Director will issue a civil penalty that is two times the amount of the unlawful Contribution, Expenditure, or Independent Expenditure. For each subsequent violation in the Election Cycle, the civil penalty multiplier will increase by a factor of one, but will not exceed 20. For example, for the third violation in the Election Cycle, the civil penalty will be three times the amount of the unlawful Contribution, Expenditure or Independent Expenditure.
- iii. The Director may issue a letter of education for any violations of MCC 5.200 through 5.203 that do not result in an unlawful Contribution, Expenditure or Independent Expenditure.

**8. Interpretation:** These rules will be construed in conformity with Multnomah County ordinances, resolutions, and orders, and with state and federal laws, rules and regulations, all of which supersede any conflicting provisions in these rules. If any provision, sentence, phrase, clause or word in these rules is for any reason held to conflict with any superior authority or is held unconstitutional, illegal, invalid or otherwise unenforceable by a court of competent jurisdiction, such conflict or holding will not invalidate the remainder of these rules, but will be confined to the provision, sentence, phrase, clause or word held unconstitutional, illegal, invalid or otherwise unenforceable.

**9. Computation of Time:** In computing any period of time prescribed or allowed by MCC 5.200 to 5.205 or these rules, the day of the act or event from which the designated period of time begins to run will not be included. The last day of the computed period will be included unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.