

NO. 21-23-OR

ORDINANCE

An ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending the Allegheny County Code of Ordinances, Chapter 220, entitled “Campaign Finance Reports and Statements,” in order to establish requirements and prohibitions relating to the County’s searchable public database of campaign finance reports and certain forms of coordinated campaign expenditures, and clarifying existing law relating to penalties for violations.

Whereas, the right of candidates to campaign necessarily entails the need to finance such campaigns; and

Whereas, the Allegheny County Code of Ordinances, Chapter 220, was amended on May 31, 2023 in order to update its provisions by the passage and enactment of Bill Nos. 12607-23 and 12608-23; and

Whereas, a third bill, No. 12609-23 (establishing requirements relating to the County’s searchable public database of campaign finance reports) was held prior to passage; and

Whereas, a fourth bill, No. 12662-23 (relating to coordinated expenditures) remained in committee when 12607-23 and 12608-23 were enacted; and

Whereas, during the course of discussion of Bill Nos. 12607-23 and 12608-23, a suggestion was made that the penalty provision of the new Chapter 220 (codified at §220.9 of the Allegheny County Code of Ordinances) be amended to include a provision requiring that all monetary penalties be paid from Candidates’ personal funds, rather than with campaign funds; and

Whereas, it is the desire of Council to combine the provisions of Bill Nos. 12609-23 and 12662-23 and the suggestion relating to penalty payments into a single bill to allow for more efficient discussion and voting;

The Council of the County of Allegheny hereby enacts as follows:

SECTION 1. Incorporation of the Preamble

The provisions of the preamble to this Ordinance are hereby incorporated in their entirety by reference herein.

SECTION 2. Amendment of the Allegheny County Code of Ordinances.

The Allegheny County Code of Ordinances, Chapter 220, entitled "Campaign Finance Regulations," is hereby amended and supplemented as follows:

**Chapter 220
Campaign Finance Reports and Statements**

§220.2. Public Database and Additional Reporting.

- A. The Division of Elections shall maintain an online database of all campaign finance reports required by §220.8 of this Chapter and other applicable Commonwealth or Federal law or regulation. This database shall be made accessible to the public at no charge, and shall be searchable by candidate committee name, candidate name, and by covered election year.
- B. All Political Committees shall report to the Division of Elections all expenditures to, or made on behalf of, any question appearing on the ballot, in the same manner required of a Candidate Committee, as described in §220.8.
- D. Political Committees shall report, in the same manner required of a Candidate Committee, as described in §220.8, all Coordinated Expenditures and Independent Expenditures made to encourage or defeat an election outcome, or to advocate the election or defeat of a clearly identified Candidate or question appearing on the ballot. This provision is in addition to any other filing and reporting provisions of this Code that apply to such committees, their treasurers and chairpersons.
- D. Every person, other than a Political Committee or Candidate, who makes Coordinated Expenditures or Independent Expenditures for the purposes of influencing the outcome of an election for County Office or regarding a County Ballot Question, or to advocate the election or defeat of a clearly identified Candidate for County Office or County Ballot Question appearing on the ballot, other than by contribution to a Political Committee or Candidate, in an aggregate amount over one hundred dollars (\$100.00) during a calendar year, shall file with the Division of Elections a form prepared by the Division of Elections, in physical or electronic form, based on the Commonwealth's Independent Expenditure Report. Reports required by this subsection shall be filed by dates on which reports by Candidates making expenditures are required under this section.

E. The Division of Elections shall develop and promulgate regulations governing campaign finance report audits no less frequently than every three years.

§ 220.3. Electronic submission not required.

The filing of campaign finance reports and campaign finance statements through electronic means shall be permitted and encouraged, but not required. The Elections Division shall continue to accept such reports filed on paper.

§220.4. Database report accessibility.

Campaign finance reports and campaign finance statements, regardless of the means by which they were filed with the Elections Division, shall be posted and accessible to the public through the County's website within 72 hours of each filing deadline and shall remain accessible for a period of no less than five (5) years from the date of submission.

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§220.9. Penalties and Investigations.

- A. Any person residing in the County of Allegheny, including the County Solicitor, may bring an action for injunctive or other relief in any court of competent jurisdiction to enjoin any violations of or to compel compliance with the provisions of this Chapter.
- B. Pursuant to the procedures established in Article 1013 of the Administrative Code of Allegheny County, the Allegheny County Ethics Commission shall also be empowered to hear complaints from County residents regarding violations of this Chapter, and may use all of its powers to investigate alleged violations in accordance with its normal administrative procedures and powers. Nothing contained within this Subsection shall be read, interpreted, or otherwise deemed to limit the right of any County resident to seek injunctive or other relief as provided for in Subsection A.
- C. When the Ethics Commission makes any final finding of fact under the provisions of §5-1013.28 of the Administrative Code of Allegheny County relating to alleged violations of this Chapter, it shall forward such finding to the County Solicitor within seven (7) days of issuance.
 - 1. Within twenty (20) days of receipt of the finding of fact, the County Solicitor may, at his or her sole discretion, institute an enforcement action in any court of competent jurisdiction. In the event that such court determines that one or more violations of the terms of this Chapter after *de*

novus review of the facts and circumstances alleged by the County Solicitor, such court shall levy a fine on a candidate for such violation(s).

2. The fine shall be the greater of either one thousand dollars (\$1,000.00) per instance of a violation of this law, in which an instance shall be a single donation above the campaign finance limit, or one thousand dollars (\$1,000.00) for every two thousand dollars (\$2,000.00) accepted by the candidate committee above the campaign finance limits set forth in this Chapter. Candidates shall also be required to fully refund all donations received above the campaign finance limits set forth in this Chapter.
- D. The County Elections Division shall levy a fine of fifty dollars (\$50.00)/day for the late filing of reports required under §220.5 of this Chapter.
 - E. No person elected to a public office of the County of Allegheny shall receive a salary, stipend, expense reimbursement, or any other payment of funds of any sort from the County of Allegheny if they have outstanding fines owed related to penalties levied under the terms of this Chapter, or if they have not completed any action required by County Elections Division or court order relating to the terms of this Chapter.
 - F. Candidates shall pay any and all fines assessed under the terms of this Chapter from the Candidate's personal funds. Use of campaign funds to pay such fines, whether in whole or in part, shall constitute a separate violation of this Chapter, and shall be punishable by a fine of one thousand dollars (\$1,000) per payment.

§220.10. Coordinated Expenditures; In-Kind Contributions.

Coordinated Expenditures shall be deemed in-kind Political Contributions to a Candidate or Candidate Committee for the purposes of this Chapter. Coordinated Expenditures shall include (but not limited to) the following instances:

- A. The expenditure is made at the request or suggestion of the Candidate or Candidate Committee;
- B. A person suggests making an expenditure and the Candidate or Candidate Committee assents to the suggestion;
- C. The person making the expenditure communicates with the Candidate or Candidate Committee concerning the expenditure before making the expenditure;
- D. The Candidate or Candidate Committee has solicited funds for or directed funds to the person making the expenditure, but only if the solicitation occurred within the 12 months before the election that the expenditure seeks to influence; or

- E. The Candidate or Candidate Committee directs, places, or arranges the expenditure; or
- F. The person making the expenditure uses information obtained from the Candidate or Candidate Committee to design, prepare, or pay for the specific expenditure at issue, unless the person has obtained that information from a public source or from a communication the Candidate or Candidate Committee made to the general public. This subparagraph does not apply to the republication of Candidate or Candidate Committee communications or materials, which is covered by §220.11 of this Chapter.
- G. The person making the expenditures does so based on instructions received from the Candidate or Candidate Committee. A public communication by a Candidate or Candidate Committee will constitute such instructions only if:
1. The communication includes a suggestion that the electorate or segment thereof be made aware of information identified in the communication; and
 2. The communication suggests the manner in which the information should be presented, including (but not limited to) instances in which the communication includes a phrase such as “voters need to hear” or “voters need to see.” Despite the presence of these factors, coordination will not be found if the person can demonstrate that they had an independent basis for making the expenditure.

§220.11. Coordinated Expenditures; Exceptions.

An expenditure will not be considered a Coordinated Expenditure for the purposes of this Chapter merely because:

- A. The person making the expenditure interviews the Candidate;
- B. The person making the expenditure has endorsed the Candidate;
- C. The person making the expenditure and the Candidate or Candidate Committee use the same vendor, attorney, or accountant;
- D. The person making the expenditure has obtained from the Candidate or Candidate Committee a biography of the Candidate or a position paper, press release, or similar material about the Candidate; or
- E. The person making the expenditure has invited the Candidate to make an appearance before the person’s members, employees, or shareholders.

§220.12. Other In-kind Contributions; Redboxing.

- A. For the purposes of the Political Contribution limits established pursuant to the terms of this Chapter, an expenditure made to reproduce, republish, or disseminate a campaign communication (including audio recordings or video footage) or campaign material (such as photographs, flyers, signs, or brochures) prepared by a Candidate or Candidate Committee:
1. Shall be considered an in-kind Political Contribution made by the person making the expenditure;
 2. Shall be considered an in-kind Political Contribution received by the Candidate and/or Candidate Committee if the person making the expenditure obtains the communication or materials directly from the Candidate and/or Candidate Committee, or from another source with the consent of the Candidate or Candidate Committee. For the purposes of this Section, a campaign communication or campaign material is obtained with the Candidate's or Candidate Committee's consent if such Candidate or Candidate Committee provides it to a third party for the purpose of enabling another person to obtain the communication or material from that third party and subsequently republish some or all of it; and
 3. Shall be subject to the penalties established in §220.9 in the event that such expenditures are not reported as required herein.
- B. Notwithstanding any provision of Subsection A, republication of campaign materials hall not be considered an in-kind Political Contribution to the extent that:
1. The communication or material is incorporated into a communication that advocates the defeat of the Candidate or Candidate Committee that prepared the material;
 2. The item republished is a photograph or video obtained from a public source that is not controlled by the Candidate or Candidate Committee; or
 3. The person's expenditures for republication of a campaign's communications or materials are less than \$100 in the aggregate per reporting period.

§220.13. Effect upon other law.

Nothing contained within the terms of this Chapter shall be read or interpreted to abrogate, reduce, enlarge, or in any other way alter campaign finance or campaign finance reporting obligations imposed upon any Candidate or Candidate Committee by other applicable law or regulation.

SECTION 3. Effective Date and Implementation.

The provisions of this Ordinance shall take effect on December 31, 2023.

SECTION 4. Severability. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.

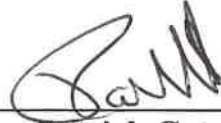
SECTION 5. Repealer. Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.

PRIMARY SPONSOR: COUNCIL MEMBER DUERR


CO-SPONSORS:

Enacted in Council, this 11th day of July, 2023,

Council Agenda No. 12209-23



Patrick Catena
President of Council

Attest: 

Jared E. Barker, Chief Clerk
Allegheny County Council

Chief Executive Office July, 2023

Approved: 

Rich Fitzgerald
Chief Executive

Attest: 

Jennifer Liptak
Chief of Staff