

CHAPTER 12

DISCLAIMERS

What is a Disclaimer

A disclaimer is the portion of a political message that identifies the name of the entity that paid for the item on which the disclaimer appears. A readable disclaimer must appear on almost everything that is created in an attempt to influence an election, including electronic messages. However, individuals acting alone to disseminate material and certain political action committees and political contributing entities limited in size and the amount of their expenditure are not required to include a disclaimer. Candidates are not considered individuals for this purpose. [R.C. 3517.105, 3517.20; OEC Advs. 96ELC-10 and 2012ELC-04]

Communications which constitute *electioneering communications* are different from messages which are intended to influence the outcome of an election. Electioneering communications require identification similar – but not identical – to a disclaimer, Please see Chapter 10, *Electioneering Communication* for more information.

Disclaimer Required

A sign, newspaper advertisement, literature or other political communication not listed in the “disclaimer exemptions” paragraph below, must include the applicable disclaimer in a conspicuous place on the political publication. [R.C. 3517.20; OEC Adv. 2012ELC-04]

Disclaimer Exemptions

Items that are not required to include a disclaimer include:

Airplane banners	Individually wrapped candy
Badges & buttons	Key tags
Balloons	Lapel pins & other jewelry
Charms	Letter openers
Clothing & hats	Paint stirrers
Combs	Pencils & pens
Cups & mugs	Plastic bags
Emery boards	Plastic discs (Frisbee ¹)
Figurines	Plastic flyswatters
Golf balls & golf tees	Sponges

¹ “Frisbee” is a registered trademark of WHAM-O, Inc.

Personal correspondence not reproduced by machine for general distribution also is exempt from the disclaimer requirement.

Magnets and stickers measuring two and one-half inches by three inches or less, or seven and one-half square inches or less, or three inches in diameter or less, are also specifically exempt from the disclaimer requirement.

[OAC 111-5-19]

If an item is not listed in OAC 111-5-19, then a specific exemption must be obtained by written request from the secretary of state prior to distribution of the item. When requesting an exemption, state your name and address and describe, in detail, the size and material of the item you wish to have exempted and a brief statement explaining why the exemption should be granted. In the event secretary of state staff members have questions about the exemption request, provide a telephone number. The secretary of state will respond in writing to all written exemption requests.

Exemption requests should be sent to:

OHIO SECRETARY OF STATE
CAMPAIGN FINANCE DIVISION
180 E. BROAD ST., 15TH FLOOR
COLUMBUS, OH 43215

Intent to Influence an Election

An advertisement or item that might, even in part, be purchased with the intent of influencing a current or future election or to build or maintain name recognition are reportable and must bear a disclaimer. This would include items purchased with the personal funds of the candidate or officeholder. Examples include items distributed at public events, such as high school basketball program ads or free items.

[OEC Adv. 89-04]

Individuals

Any individual acting completely alone does not need to place a disclaimer on a political communication. Candidates are not considered individuals for purposes of the disclaimer requirement and must include a disclaimer on all political communication unless the item is specifically exempted by rule or given an exemption by the secretary of state.

Candidate Campaign Committee Disclaimer Wording

Every political communication or publication or independent expenditure made in support of or opposition to any candidate or ballot issue that is issued by a candidate's campaign committee must include a readable disclaimer. A complete disclaimer for a candidate's

campaign committee is comprised of the phrase, “Paid for by,” followed by the name of the candidate’s campaign committee. [R.C. 3517.20; OEC Adv. 2012ELC-04]

Any independent expenditure made by a candidate’s campaign committee in support of or opposition to a candidate or ballot issue must also include the disclaimer of the campaign committee that made the independent expenditure. The name of the committee used in a disclaimer must always match the name of the committee on the most recently filed *Designation of Treasurer form*.

Political Action Committees and Political Contributing Entities

Every political publication or independent expenditure made in support of or opposition to any candidate or ballot issue that is issued by a PAC with ten or more members, or a PCE with ten or more members, must include a disclaimer. A proper disclaimer for a PAC or PCE is comprised of the name the PAC or PCE.

Any independent expenditure made by a PAC or PCE in support of or opposition to a candidate or ballot issue must also include the disclaimer of the PAC or PCE that made the independent expenditure. The name of the PAC or PCE used in a disclaimer must always match the name of the PAC or PCE on the most recently filed *Designation of Treasurer form*.

Some PACs and PCEs are not subject to the disclaimer requirement; these are referred to as “limited PACs” or “limited PCEs.” Any PAC or PCE with fewer than ten members that makes an independent expenditure of \$500 or less on a political publication or advertisement involving a statewide candidate or ballot issue, \$250 or less for a general assembly candidate, or \$100 or less for a local candidate or issue, is a “limited PAC” or “limited PCE” and is not subject to the disclaimer requirement.

For purposes of determining whether a PAC or PCE is a “limited PAC” or “limited PCE” having 10 or fewer members, “member” is defined as a person who makes one or more contributions to that PAC or PCE. [R.C. 3517.105(A)]

Radio and Television Advertisements

Radio advertisement disclaimers must include the name of the entity. [R.C. 3517.20(G)]

Television advertisement disclaimers must contain the name of the entity responsible. This information may be either spoken or appear on the screen, or both.
[R.C. 3517.20]

Telephone Banks/Pre-Recorded Phone Messages

When any candidate, campaign committee, legislative campaign fund, political party, political action committee, political contributing entity or other person or entity conducts a telephone bank to support or oppose a candidate or issue or to influence the voters in an election, the identity of the committee or other entity paying for the telephone bank must be included in the telephone call.

For the purpose of this requirement, a telephone bank occurs when all of the following conditions are met:

- The number of telephone calls is 500 or more; and,
- The content of the telephone call is identical or substantially similar; and,
- The telephone calls are made within any thirty-day period.

The telephone bank definition and disclosure requirements apply whether the telephone calls are made by individuals or by machine. [R.C. 3517.20 (A)(12)]

Electronic Messages

Electronic messages posted on the Internet or sent via electronic mail are subject to the disclaimer requirement. [OEC Adv. 96ELC-10]

Multi-piece Mailings

If more than one piece of printed material is mailed as a single packet, then *only one* of the pieces of the packet – whether on the envelope or on a piece within the envelope – must contain the disclaimer of the entity responsible for the communication. [R.C. 3517.20(C)]

Use of Political Party Bulk Mailing Permit

When a political party allows someone to use its bulk mailing permit, but the postage was paid for by the candidate's committee, the campaign committee's disclaimer should appear. However, if the party made an in-kind gift of the postage, then the party's disclaimer should appear on the envelope. [OEC Case No. 87A-08]

Questions regarding bulk mailing permits – use, acquisition, cost, etc. – should be directed to the U.S. Postal Service at (800) 275 – 8777 or www.USPS.com.

Updating a Disclaimer

The Ohio Elections Commission has determined that when a committee uses campaign signs or other materials from a prior campaign, the information within a disclaimer must be current when the signs are posted or the materials are distributed. A committee may update the disclaimer on signs and other materials by placing a label with the updated content over the original disclaimer printed on the item.

Permits and Placement

Some municipalities or community associations have local ordinances or charter provisions that may require a permit to place signs within a political subdivision or limit or prohibit the posting of political publications. The purchase of a sign permit is an ordinary and legitimate expenditure of the committee.