

## ARTICLE IV. PUBLIC CAMPAIGN FINANCING.

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### Sec. 16-18. Definitions.

In this Article, the following terms have the meanings indicated:

*Applicant candidate* means a person who is running for a covered office and who is seeking to be a certified candidate in a primary or general election.

*Board* means the Maryland State Board of Elections.

*Campaign finance entity* means a political committee established under Title 13 of the Election Law Article of the Maryland Code.

*Certified candidate* means a candidate running for a covered office who is certified as eligible for public campaign financing from the Fund.

*Consumer Price Index* means the Consumer Price Index for All Urban Consumers (CPI-U) for the Washington-Arlington-Alexandria Core Based Statistical Area (CBSA), as published by the United States Department of Labor, Bureau of Labor Statistics, or a successor index.

*Contested election* means an election in which there are more candidates for an office than the number who can be elected to that office. Contested election includes a special election held to fill a vacancy in a covered office under Section 16-17.

*Contribution* means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a campaign finance entity to promote or assist in the promotion of the success or defeat of a candidate, political party, or question. *Contribution* includes proceeds from the sale of tickets to a campaign fund-raising event as defined in Section 1-101 of the Election Law Article of the Maryland Code.

*County Board* means the Montgomery County Board of Elections.

*Covered office* means the office of County Executive or County Councilmember.

*Director* means the Director of the Department of Finance or the Director's designee.

*Distribution period* means the period of time beginning 365 days before the primary election for the office the candidate seeks and ending 30 days after the date of the general

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election. The distribution period for a special election under Section 16-17 must be set by Council resolution.

*Election cycle* means the primary and general election for the same term of a covered office.

*Eligible contribution* means an aggregate donation in a 4-year election cycle of \$250 or less from an individual, including an individual who does not reside in the County.

*Fund* means the Public Election Fund.

*Noncertified candidate* means a person who is running for a covered office who either:

- (1) chooses not to apply to be a certified candidate; or
- (2) applies to be a certified candidate but fails to qualify.

*Non-participating candidate* means a person who is running for a covered office who is either a noncertified candidate or a certified candidate who declines to accept a public contribution.

*Participating candidate* means a certified candidate who has received a public contribution from the Fund for a primary or general election.

*Public contribution* means money disbursed from the Fund to a certified candidate.

*Publicly funded campaign account* means a campaign finance account established by a candidate for the exclusive purpose of receiving eligible contributions and spending funds in accordance with this Article.

*Qualifying contribution* means an eligible contribution of at least \$5 but no more than \$250 in support of an applicant candidate that is:

- (1) made by a County resident;
- (2) made after the beginning of the designated qualifying period, but no later than the respective election; and
- (3) acknowledged by a receipt that identifies the contributor's name and residential address and signed by the contributor directly or by a digital signature using a method approved by the Board.

*Qualifying contribution* does not include an in-kind contribution of property, goods, or services.

*Qualifying period* means the period of time beginning on January 1 following the last election for the office the candidate seeks and ending 45 days before the date of the primary

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election. The qualifying period for a special election under Section 16-17 must be set by Council resolution.

*Slate* means a political committee of two or more candidates who join together to conduct and pay for joint campaign activities. (2014 L.M.C., ch. 28, § 2; 2018 L.M.C., ch. 3, §1; 2020 L.M.C., ch. 31, §1.)

### **Sec. 16-19. Public Election Fund established.**

(a) The Director must create a Public Election Fund. This Fund is continuing and non-lapsing.

(b) The Fund consists of:

- (1) all funds appropriated to it by the County Council;
- (2) any unspent money remaining in a certified candidate's publicly funded campaign account after the candidate is no longer a candidate for a covered office;
- (3) any public contribution plus interest returned to the Fund by a participating candidate who withdraws from participation;
- (4) all interest earned on money in the Fund; and
- (5) voluntary donations made directly to the Fund. (2014 L.M.C., ch. 28, § 2.)

### **Sec. 16-20. Collecting qualifying contributions.**

(a) Before raising any contribution governed by this Article, an applicant candidate must:

- (1) file notice of intent with the Board on or before April 15 of the year of the election on a form prescribed by the Board; and
- (2) establish a publicly funded campaign account for the candidate for the purpose of receiving eligible contributions and spending funds in accordance with this Article.

(b) Other than a contribution from an applicant candidate or the candidate's spouse, an applicant candidate must not accept an eligible contribution from an individual greater than \$250.

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(c) An applicant candidate must not accept a loan from anyone other than the candidate or the candidate's spouse. An applicant candidate and the candidate's spouse together must not contribute or lend a combined total of more than \$12,000 to the candidate's publicly funded campaign account.

(d) *Consumer Price Index adjustment.* The Chief Administrative Officer must adjust the contribution limit established in Subsection (b), effective July 1, 2022, and July 1 of each subsequent fourth year, by the annual average increase, if any, in the Consumer Price Index for the previous 4 calendar years. The Chief Administrative Officer must calculate the adjustment to the nearest multiple of \$10, and must publish the amount of this adjustment not later than March 1 of each fourth year. (2014 L.M.C., ch. 28, § 2; 2017 L.M.C., ch. 33, § 1; 2018 L.M.C., ch. 3, § 1; 2020 L.M.C., ch. 31, §1.)

**Sec. 16-21. Requirements for certification.**

- (a) To qualify as a certified candidate:
  - (1) a candidate for Executive must collect from County residents at least:
    - (A) 500 qualifying contributions; and
    - (B) an aggregate total of \$40,000;
  - (2) a candidate for At-Large Councilmember must collect from County residents at least:
    - (A) 250 qualifying contributions; and
    - (B) an aggregate total of \$20,000; and
  - (3) a candidate for District Councilmember must collect from County residents at least:
    - (A) 125 qualifying contributions; and
    - (B) an aggregate total of \$10,000.
- (b) An applicant candidate must deposit all eligible contributions received into the candidate's publicly funded campaign account. An applicant candidate must deliver to the Board a copy of a receipt for each qualifying contribution.
- (c) A candidate must apply to the Board for certification during the qualifying period. (2014 L.M.C., ch. 28, § 2; 2020 L.M.C., ch. 31, §1.)

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**Editor's note**—2014 L.M.C., ch. 28, § 2 Initial Regulations, states: The County Executive must submit the initial regulations required by Subsection 16-21(d) to the Council for approval not later than 180 days after this Act becomes law.

### **Sec. 16-22. Board determination.**

- (a) The Board must certify an applicant candidate if the Board finds that the candidate has received the required number of qualifying contributions and the required aggregate total dollars for the office no later than 10 business days after receiving:
- (1) a declaration from the candidate agreeing to follow the regulations governing the use of a public contribution;
  - (2) a campaign finance report that includes:
    - (A) a list of each qualifying contribution received;
    - (B) a list of each expenditure made by the candidate during the qualifying period; and
    - (C) the receipt associated with each contribution and expenditure; and
  - (3) a certificate of candidacy for a covered office.
- (b) The decision by the Board whether to certify a candidate is final.
- (c) A candidate may submit only one application for certification for any election. A candidate may correct any mistakes in the application for certification or supplement their application with additional qualifying contributions within the earlier of:
- (1) 10 business days after receiving notice that the Board denied the application; or
  - (2) the end of the qualifying period.
- (d) If the Board certifies a candidate, the Board must authorize the Director to disburse a public contribution to the candidate's publicly funded campaign account.
- (e) A candidate that submits a notice of intent under Section 16-20, but fails to qualify as a certified candidate is deemed a non-participating candidate and is not bound by the requirements of this Article. (2014 L.M.C., ch. 28, § 2; 2017 L.M.C., ch. 23, § 1; 2020 L.M.C., ch. 31, §1.)

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**Sec. 16-23. Distribution of public contribution.**

(a) *Matching amounts.* The Director must distribute a public contribution from the Fund to each certified candidate in a contested election only during the distribution period as follows:

(1) for a certified candidate for County Executive, the matching dollars must equal:

(A) \$6 for each dollar of a qualifying contribution received for the first \$50 of each qualifying contribution;

(B) \$4 for each dollar of a qualifying contribution received for the second \$50 of each qualifying contribution;

(C) \$2 for each dollar of a qualifying contribution received for the third \$50 of each qualifying contribution; and

(D) \$0 for each dollar of a qualifying contribution received for the remainder of each qualifying contribution.

(2) for a certified candidate for County Council, the matching dollars must equal:

(A) \$4 for each dollar of a qualifying contribution received for the first \$50 of each qualifying contribution;

(B) \$3 for each dollar of a qualifying contribution received for the second \$50 of each qualifying contribution;

(C) \$2 for each dollar of a qualifying contribution received for the third \$50 of each qualifying contribution; and

(D) \$0 for each dollar of a qualifying contribution received for the remainder of each qualifying contribution.

(3) The total public contribution payable to a certified candidate for either a primary or a general election must not exceed:

(A) \$750,000 for a candidate for County Executive;

(B) \$250,000 for a candidate for At Large Councilmember; and

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(C) \$125,000 for a candidate for District Councilmember.

(b) *Non-matchable contributions.* The Director must not distribute matching dollars from the Fund to a certified candidate for:

- (1) a contribution from the candidate or the candidate's spouse; or
- (2) an in-kind contribution of property, goods, or services.

(c) *Qualifying contribution limits.* A certified candidate may continue to collect qualifying contributions and submit a request for a matching public contribution up to, and including, the day of a primary or a general election. A qualifying contribution must not exceed \$250 from any individual in the aggregate during a 4-year election cycle.

(d) *Availability of funds for distribution.* On or before July 1 of the year preceding the primary election, the Director must determine if the amount in the Fund is sufficient to meet the maximum public contributions reasonably expected to be required during the next election cycle. If the Director determines that the total amount available for distribution in the Fund is insufficient to meet the allocations required by this Section, the Director must reduce each public contribution to a certified candidate by the same percentage of the total public contribution.

(e) *General election distributions.* Within 3 business days after the County Board certifies the results of the primary election, the Board must authorize the Director to continue to disburse the appropriate public contribution for the general election to each certified candidate who is certified to be on the ballot for the general election.

(f) *Petition candidates.* A certified candidate nominated by petition may receive a public contribution for the general election if:

- (1) the candidate's nomination is certified by the County Board; and
- (2) the candidate did not participate in a primary election.

(g) *Receipts required.* A participating candidate must submit a receipt for each qualifying contribution to the Board to receive a public contribution. The Director must deposit the appropriate public contribution into a participating candidate's publicly funded campaign account within 3 business days after the Board authorizes the public contribution.

(h) *General election public contributions.* A candidate may receive a matching public contribution during the general election for an unmatched qualifying contribution received during the primary election after the candidate has received the maximum public contribution for the primary election if the candidate is otherwise eligible to receive matching public contributions during the general election.

(i) *Mistaken public contributions.* If the Director mistakenly distributes a public

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contribution to a candidate greater than the candidate was entitled to receive, the candidate must repay the funds mistakenly distributed within 5 business days after being notified of the mistake. Any unspent funds returned to the County after an election may be used as a credit against any repayment required for a public contribution mistakenly received.

(j) *Consumer Price Index adjustment.* The Chief Administrative Officer must adjust the public contribution limits established in Subsection (a)(3) and the eligible contribution limit established in Subsection (c), effective July 1, 2022, and July 1 of each subsequent fourth year, by the annual average increase, if any, in the Consumer Price Index for the previous 4 calendar years. The Chief Administrative Officer must calculate the adjustment to the nearest multiple of \$10, and must publish the amount of this adjustment not later than March 1 of each fourth year. (2014 L.M.C., ch. 28, § 2; 2017 L.M.C., ch. 23, § 1; 2020 L.M.C., ch. 31, §1.)

### **Sec. 16-24. Use of public contribution.**

(a) Except as provided in Section 16-27, a participating candidate may only use the eligible contributions and the matching public contribution for a primary or general election for expenses incurred for the election. A participating candidate must not pay in advance for goods and services to be used after certification with non-qualifying contributions received before applying for certification unless the expenditure is permitted by Executive regulation adopted under Section 16-21.

(b) A complaint alleging an impermissible receipt or use of funds by a participating candidate must be filed with the Board.

(c) A participating candidate must provide the Board with reasonable access to the financial records of the candidate's publicly funded campaign account, upon request. (2014 L.M.C., ch. 28, § 2; 2020 L.M.C., ch. 31, §1.)

### **Sec. 16-25. Withdrawal.**

(a) A certified candidate may withdraw an application for a public contribution any time before the public contribution is received by the candidate's publicly funded campaign account.

(b) A participating candidate may withdraw from participation if the candidate:

- (1) files a statement of withdrawal with the Board on a form prescribed by the Board; and



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(2) repays to the Fund the full amount of the public contribution received, together with the applicable interest established by regulation. (2014 L.M.C., ch. 28, § 2; 2020 L.M.C., ch. 31, §1.)

**Sec. 16-26. Applicant and participating candidate restrictions.**

An applicant candidate or a participating candidate must not:

(a) accept a private contribution from any group or organization, including a political action committee, a corporation, a labor organization, or a State or local central committee of a political party;

(b) accept private contributions from an individual in an aggregate greater than \$150 during a 4-year election cycle, or the maximum amount of an eligible contribution, as adjusted by Section 16-23(i);

(c) pay for any campaign expense after filing a notice of intent with the Board to seek public funding with any campaign finance account other than the candidate's publicly funded campaign account;

(d) be a member of a slate in any election in which the candidate receives a public contribution;

(e) accept a loan from anyone other than the candidate or the candidate's spouse; or

(f) transfer funds:

(1) to the candidate's publicly funded campaign account from any other campaign finance entity established for the candidate; and

(2) from the candidate's publicly funded campaign account to any other campaign finance entity. (2014 L.M.C., ch. 28, § 2; 2018 L.M.C., ch. 3, § 1.)

**Sec. 16-27. Return of unspent funds; retention of funds.**

(a) Except as provided in subsection (b):

(1) within 90 days after the County Board certifies the results of the primary election, a participating candidate who is not certified to be on the ballot for the general election must return any unspent money in the candidate's publicly funded campaign account to the

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Fund; and

(2) within 90 days after the County Board certifies the results of the general election, a participating candidate must return any unspent money in the candidate's publicly funded campaign account to the Fund.

(b) A certified candidate may retain funds to pay for post-election expenses if:

(1) the retained funds do not exceed \$5,000;

(2) the candidate files a new declaration of intent to participate in the public campaign financing system for the 4-year next election cycle by January 31 the year after the election; and

(3) keep the same campaign finance entity open. (2020 L.M.C., ch. 31, §1.)

**Editor's note**—Former Section 16-27 was renumbered by 2020 L.M.C., ch. 31, §1.

### **Sec. 16-28. Audit.**

(a) After a general election in an election cycle, the Executive must conduct an audit of the financial activity of the public campaign financing system, including publicly funded campaign accounts, to ensure publicly funded campaign accounts raised and spent funds in compliance with this Article.

(b) The Executive must adopt regulations that specify the scope of the audit required by this Section. (2020 L.M.C., ch. 31, §1.)

**Editor's note**—Former Section 16-28 was renumbered by 2020 L.M.C., ch. 31, § 1.

### **Sec. 16-29. Regulations.**

The Executive, after consulting with the Board, must adopt regulations under Method 1 that specify:

(a) how and when receipts for qualifying contributions from contributors must be submitted to the Board;

(b) the documents that must be filed with the Board for certification;

(c) the allowable uses of money in a publicly funded campaign account;

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- (d) the scope of the audit required in Section 16-28; and
- (e) other policies necessary to implement this Article. (2020 L.M.C., ch. 31, §1.)

### **Sec. 16-30. Penalties.**

(a) *Civil Violations.* Any violation of this Article is a Class A civil violation. Each day a violation exists is a separate offense.

(b) *Payment.* A fine may be paid by the campaign only if all public contributions have been repaid to the Fund. Otherwise, the candidate or officer found to be responsible for the violation is personally liable for the fine.

(c) *Additional penalties.*

(1) In addition to the penalty specified in Subsection 16-30(a), a certified or participating candidate must withdraw from the public campaign financing system if the candidate intentionally or knowingly provides falsified information, misrepresents a material fact, or conceals relevant information to the Board or Director under this Article.

(2) A candidate that must withdraw from the public campaign financing system under (c)(1) must abide by the withdrawal requirements in Section 16-25, including the repayment of any public contribution received. (2014 L.M.C., ch. 28, § 2; 2020 L.M.C., ch. 31, §1.)

**Editor's note**—Formerly Section 16-28; renumbered by 2020 L.M.C., ch. 31, §1.

### **Sec. 16-31. Public Election Fund Committee; County liaison.**

(a) *Committee established.* The Public Election Fund Committee is 7 members appointed by the County Council for a 4-year term beginning on May 1 of the first year of the Council's term of office. A vacancy occurring before the end of a term must be filled by appointment for the remainder of the term. The Council must ask the County Executive to recommend within 30 days one or more qualified applicants before making any appointment.

(b) *Membership; officers.*

(1) Each member must be a resident of the County while serving on the Committee.

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- (2) No more than 3 members may be from the same political party.
- (3) The members should reflect the diversity of the County.
- (4) The Council must designate the chair and vice-chair.

(c) *Compensation.* Each member must serve without compensation, but may be reimbursed for travel and dependent care expenses.

(d) *Duties.* The Committee must:

(1) estimate the funds necessary to implement the public campaign finance system; and

(2) conduct public outreach and education activities to raise awareness of the public campaign financing system.

(e) *Annual report.* The Committee must issue a report to the Council on or before January 30 each year that:

(1) identifies the estimated funds necessary to implement the public campaign financing system;

(2) recommends an appropriation to the Public Election Fund for the following fiscal year; and

(3) the public outreach and education activities undertaken in the prior calendar year.

(f) *Staff support.* The Executive Director of the Office of the County Council must provide staff support for the Committee. (2014 L.M.C., ch. 28, § 2; 2019 L.M.C., ch. 23, §1; 2020 L.M.C., ch. 31, §1.)

**Editor's note**—Formerly Section 16-27; renumbered and renamed by 2020 L.M.C., ch. 31, §1.

### **Sec. 16-32. County liaison.**

The County Executive must designate an employee to serve as a liaison between County government and the public, candidates, and potential candidates on issues related to the public campaign finance program. (2020 L.M.C., ch. 31, § 1.)