Colorado Campaign and Political Finance Laws & Filing Requirements

School Board Candidates School Board Candidate Committees

Colorado Secretary of State's Office Presented by Kristine Reynolds Presentation for CASB June 16, 2023





Disclaimer

The Colorado Secretary of State's office does not provide legal advice.

This training was created for reference purposes only.

Information contained in the training is not a substitute for legal advice and actual knowledge of campaign finance laws and regulations.

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Resources

- <u>Campaign Finance</u> page on Secretary of State's (SOS) website
- <u>TRACER</u> (Transparency in Contribution and Expenditure Reporting) website
- <u>Colorado Campaign and Political Finance Manual</u> available on TRACER and the SOS website (and includes the laws and rules)
 - Article XXVIII of the Colorado Constitution,
 - Title 1, Article 45 of the Colorado Revised Statute (a.k.a. the Fair Campaign Practices Act), and
 - Rules Concerning Campaign and Political Finance
- Training Opportunities <u>Click here to visit the training page</u>
 - Online eLearnings (CPF 101)
 - TRACER Webinars (Learn how to use TRACER)
 - <u>Lawn Chair Chats</u> Informal discussions, via Zoom, to discuss Colorado's Campaign Finance laws/rules and TRACER (functions and demonstrations).
- Campaign Finance Support Help Desk
 - Phone: 303-894-2200 (Dial 3, then 1)
 - Email: <u>CPFhelp@coloradosos.gov</u>



Topics for Discussion

- Standalone candidate v. candidate committee
- Disclosure Reports & filing schedules
- Contributions, Expenditures
- Disclaimers / Paid for by Statements
- Penalties, Waivers, & Complaints
- Closing / Terminating a committee
- TRACER



You Become a Candidate When

- You publicly announce an intention to seek election to public office And then
- Receive a contribution or make an expenditure on behalf of the candidacy

Within 10 calendar days of becoming a candidate you must file a **Candidate Affidavit**





Public Announcement Definition (CPF Rule 1.20)

- Registering a candidate committee, or
- Announcing an intention to seek public office through:
 - A speech, advertisement, or other communication reported or appearing in public media, or
 - A statement made in any place accessible to the public, or
 - A statement made in a manner that a reasonable person would expect to become public.

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Standalone Candidate vs. Candidate Committee

Standalone Candidate

- A candidate who is <u>self-</u> <u>funding</u> their candidacy; not accepting contributions of any kind from anyone.
- Files disclosure reports to show their expenditures for the campaign.
- Only required to file reports for periods where expenditures take place.

Candidate Committee

- A candidate who is <u>accepting</u> <u>contributions</u> to help fund their campaign.
- Files disclosure reports to show their contributions and expenditures.
- Must register prior to accepting any type of contribution.
- Once registered all reporting (contributions/expenditures) is done under the committee.
- Required to file all reports regardless of the level of activity.

Note: DEOs who disqualify a candidate under 1-45-110(3), C.R.S. must provide proper and timely notification.

Disclosure Report Due Dates

Legislation passed in 2018 (HB18-1047) increased the frequency of disclosure reports for school board candidates/committees. A frequent schedule is required during years when the candidate's office is on the ballot. During years when the candidate's office is not on the ballot, reports are due quarterly.

2023 Report Due Dates

| May 1, 2023 (Mon.) | September 18, 2023 (Mon.) | |
|--------------------------|---------------------------|---------|
| June 1, 2023 (Thur.) | October 3, 2023 (Tue.) | The sha |
| July 3, 2023 (Mon.) | October 16, 2023 (Mon.) | |
| August 1, 2023 (Tue.) | October 30, 2023 (Mon.) | |
| September 5, 2023 (Tue.) | December 12, 2023 (Tue.) | and the |

Reports are filed electronically using TRACER and are timely if filed <u>before midnight</u> on the due date.

Other Important Dates:

- September 8, 2023 Starts the 60-day period before the Election for Biennial School Electioneering Communication and concludes on November 6, 2023
- October 8, 2023 Starts the 30-day period before the Election for 24 Hour Major Contributor reports and concludes on November 6, 2023

Supplemental Information / Reports

| Biennial School Electioneering | 24 Hour Notice of Major Contributor |
|---|---|
| Communication | Report |
| Communications referring to one or | A Major Contribution is a one-time |
| more candidates for school board and | contribution of \$1,000 or more |
| are broadcasted, printed, mailed, | received within 30 days before the |
| delivered, or otherwise distributed | Regular Biennial School election. |
| within 60 days before the election. | <i>Note: This includes contributions or</i> |
| The communication may or may not use | <i>loans a candidate gives to their own</i> |
| express advocacy. | <i>candidate committee.</i> |
| When an expenditure is entered and flagged by a filer as meeting the criteria, TRACER prompts filer to provide additional details which includes the name(s) of the candidate(s) mentioned in the communication and the date(s) and method of the communication. | TRACER creates a report once a qualifying contribution has been entered/saved. These reports are due within 24 hours of the recorded received date. <i>Note: If an incorrect contribution date is</i> <i>entered, call the help desk for assistance in</i> <i>correcting. Updating a date on a major</i> <i>contribution entry may create multiple major</i> <i>contributor reports.</i> 8 |

Contributions

Prohibited Contributors / Contributions

- Corporations (profit & non-profit)
- Labor Organizations / Unions
- Foreign Citizens
- Foreign Governments
- Foreign Corporations
- Issue Committees
- Small-Scale Issue Committees
- Independent Expenditure
 Committees
- Other Candidate Committees
- Anonymous sources contributions where the identity of the contributor is unknown or not all the required information is provided

Limited Liability Company (LLC) Contributions

- LLC contributions are allowed if
 - All the LLC members are permissible contributors,
 - The LLC's shares are NOT publicly traded,
 - The LLC does not file their taxes like a corporation.
 - See the training manual for more details on LLC contributions and how to report them.
- LLC contributions must include an affirmation form that the LLC knows the contribution is permissible (see website for a sample <u>form</u>)
- Must be itemized on report regardless of the amount contributed

Contribution Limits - School District Director Candidate Committees

House Bill 22-1060 created contribution limits for School Board District Directors; Signed by the Governor on 04-13-2022; **Effective July 1, 2022**

| Type of Contributor/Donor | Contribution/Donation Limit |
|---|--|
| Individual (Natural Person) | \$2,500 |
| Political Committee | For the entire Election cycle |
| LLC* or Business Entity | |
| (other than a corporation) | |
| Federal PAC | |
| Note: Other permissible contributors are treated like an Individual for contribution limits. | Note: There is no limit for how much a candidate may contribute/loan to their own candidate committee. |
| Small Donor Committee | \$25,000 |
| | For the entire Election cycle |
| Political Party | \$2,500 |
| | For the entire Election cycle |

*Review requirements for LLC's in 1-45-103.7, C.R.S.



Disclosure Requirements

Contributions

- Must report all including those under \$20 (a.k.a Non-Itemized)
- \$20 or more (aggregated or one-time), within a reporting period, must be itemized with:
 - Contributor's name & address, and
 - Occupation & Employer, if from a natural person & the contribution is \$100 or more
- No cash or coin contributions over \$100
- Use Fair Market Value to report non-monetary (in-kind) contributions
- Anonymous contributions may not be kept and must be donated to an IRS recognized charity or sent to the State Treasurer's office within 30 days of receipt. (CPF Rule 10.8)
- Select "Candidate" as the contributor type when a candidate contributes/loans to their own committee

Expenditures

- Must report all including those under \$20 (a.k.a Non-Itemized)
- \$20 or more (aggregated or one-time), within a reporting period, must be itemized
 - Itemized means listing:
 - Name & address to whom payment was made
 - Purpose of expenditure
- No cash or coin expenditures over \$100
- An expenditure is made when:
 - The actual spending occurs OR
 - A contractual agreement has been made and the amount is known - <u>Whichever</u> <u>comes first</u>
- The law does not provide a list of permissible or prohibited types of expenditures. Funds can't be used for personal purposes except as outline by 1-45-103.7(6.5), C.R.S. by candidates for reasonable and necessary child / dependent care expenses.

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Sign Placement

Sign Placement - check with:

- The city's / county's zoning or code enforcement office
- CDOT (Colorado Department of Transportation)
- HOA (Homeowner Association)



Note: Colorado's Campaign Finance Laws/Rules do not address sign placement locations or time frames when signs may be put up and/or must be removed.



"Paid For By" Statements

THE SECRETARY OF STATE'S OFFICE SUGGESTS THAT ALL **COMMUNICATIONS CONTAIN A DISCLAIMER /** PAID FOR BY STATEMENT.

Disclaimer / "Paid for By" Statements are required for the following types of communications:

| Broadcast & Non-Broadcast | Placed on a website |
|---------------------------|------------------------|
| Mailed | Steaming media service |
| Printed | Online forum for a fee |
| Delivered | Otherwise distributed |

Did you know about, or have you read through the Secretary of State's Guidance on Disclaimer Statements document?

No? Then then click here or visit the **Campaign Finance** page of the SOS website.

TV & Radio Ads / "Paid for By" Statements

Must comply with the Federal Communications Commission (FCC) Sponsorship Identification or "Sponsored by" regulations. Click here to visit the FCC website.

"Paid For By" Statements Continued

Electioneering Communications

 Spends \$1,000 or more, in the aggregate during a calendar year, on Electioneering Communications Expenditures
 Spends in excess of \$1,000 on an Independent Expenditure Communication in the calendar year

Independent

Other Communications

Spend in excess of \$1,000 on a communication that must be disclosed under Article XXVIII of the Colorado Constitution or the Fair Campaign Practices Act – C.R.S. 1-45-108.3(1)



"Paid For By" Statements / Disclaimer Requirements

Non-Broadcast Communications including Online Communications

- Must appear in a manner that is clear, conspicuous, and is clearly readable,
- A statement that "The communication has been paid for by (full name of the person paying for the communication)",
- Name of the natural person who is the registered agent if the person that paid for the communication is not a natural person,
- For an Independent Expenditure, a specific statement that the communication is not authorized by any candidate,
- Font is no less than 15 percent of the largest font used in the communication. If 15 percent is less than 8-point font, then the font must be 8-point font.









"Paid For By" Statements / Disclaimer Requirements

Broadcast Communications including Online Video and Audio

- Must comply with the Federal Communications Commission (FCC) for size, duration and placement. Click <u>here</u> to visit the FCC website for their requirements.
- A statement that "The communication has been paid for by (full name of the person paying for the communication)"



"Paid For By" Statements / Disclaimer Requirements Continued

Electronic or Online Communications

If impracticable to include a disclaimer on an electronic or online communication, the required disclaimer must be available by means of a direct link from the communication to a web page or application screen containing the disclaimer statement.

• Direct link disclaimer requirements:

- Same as the Non-Broadcast communication requirements for size and content,
- The information on the direct link must be clearly and conspicuously displayed and must be immediately apparent on the screen without receiving or viewing any additional material.

"Paid For By" Statements / Disclaimer Requirements Continued

Campaign and Political Finance Rule 22

A disclaimer / paid for by statement does not apply to bumper stickers, pins, buttons, pens, and similar small items upon which the disclaimer cannot be reasonably printed.











Penalties / Waiver Requests

| Imposed Penalties | Appealing Penalties |
|---|---|
| Penalties of \$50 per day, including weekends and holidays, are imposed every day a report is late. | Written appeals may be submitted to the Secretary of State's office through your TRACER account or by email. The request is due no later than 30 days after the date the notification of penalty was sent. |
| | Penalty may be reduced or waived if good cause is shown – See CPF Rule 18.1 for details. |
| | will believe him 19 |

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Campaign Finance Complaints

- Complaint Process is established by Colorado law 1-45-111.7 C.R.S.
- Anyone who believes a violation of Colorado CPF law has occurred can file a complaint
- Complaints cannot be filed anonymously
- Complaints are public information
- Complainants are not a party to the proceedings
- Complaints may be initiated by the Election Division's Complaint and Enforcement unit
 - Note: The Complaint and Enforcement unit is separate and apart from the Campaign Finance Compliance/Guidance team. Enforcement's contact information: <u>CPFcomplaints@coloradosos.gov</u> or 303-894-2200 ext. 6338.

Campaign Finance Complaints Continued

CPF Complaints Must:

- Be filed on the Campaign and Political Finance
 Complaint form
- Identify a complainant and a respondent
- Be filed within 180 days of when you knew or should have known of the alleged violation
- Allege one or more violations of campaign finance regulations or law
- State sufficient facts to support a legal and factual basis for the complaint

Campaign Finance Complaints Continued

- Complaint process & outcomes:
 - Cure
 - Investigation
 - Dismissal
 - Administrative Hearing
- Administrative Hearings can result in a monetary penalty
- Complaint process is detailed in 1-45-111.7 C.R.S.

Note: Please review and address TRACER audit warnings when filing as they can be the basis for the Election Division's Campaign Finance Enforcement Team to initiate an enforcement action(s).







QUESTIONS



Thank You

Campaign Finance Compliance & Guidance Support Team

E-mail: CPFhelp@coloradosos.gov

Phone: 303-894-2200 (Dial 3, then 1)



TRACER website: https://tracer.sos.colorado.gov

Campaign Finance Complaints & Enforcement Team





Additional Resources

| State | Federal |
|---|--|
| State of Colorado | Federal Election Commission (FEC) |
| http://www.colorado.gov/ | www.fec.gov |
| Colorado General Assembly www.leg.colorado.gov | Federal Communications Commission (FCC) https://www.fcc.gov/media/policy/political -programming |
| The Independent Ethics Commission | Internal Revenue Service (IRS) |
| www.colorado.gov/pacific/iec | www.irs.gov |
| LexisNexis by Colorado Legal | U.S. Office of Special Counsel – Hatch |
| Resources | Act Overview |
| http://www.lexisnexis.com/hottopics/color | https://osc.gov/Services/Pages/HatchAct |
| ado | .aspx |



| TRACER | Review - | HOM | IE PA | \GE |
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| Secretary of State Home | r State /old Elections & Voting | Search Resources Reports Quick Stats |
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| TRACER Home | | |
| Committee Search Contribution Search Expenditure Search Loan Search Penalty Search Complaint Search Political Race Search | About this website | Help with this page <u> Campaign Finance Manual (PDF</u>) |
| - Supplemental Reports - Registered Agent Search - Document Search - All Searches | Welcome to th | e Campaign Finance Disclosure Website |
| - Announcements - Publications - Forms - FAQ | | Registered User Login |
| - Download Data - Links - All Resources Reports | Search Database | Learn to Use TRACER Committee Registration |
| Quick Stats Learn to Use TRACER Committee Registration Candidate Affidavit | Generate Reports | Quick Stats Candidate Affidavit |
| | Contributions and Loan | ns Filed in 2023 |
| | Democratic Candidates \$58,659.17 | All Others Issue \$15,070.26 |
| | Issue Committees | Rep |



Candidate Affidavit Searches

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This search allows you to see all who have filed a candidate affidavit in TRACER.

- 1 Click Candidate Search
- *Election Year* field Select 2023 2
- 3. Jurisdiction field: From the dropdown list choose the desired county (Tip: use the county where the Admin. Offices for the School District are located)
- 4. Office field: Select School Board Director
- 5. Status field: Defaults to Active (may change to Select all Status if needed)
- 6. Click on the red Search button
- 7. Search Results are displayed (or an error message appears if no results are found)
- 8. Click on a candidate's name to see detailed information about them and their filings



28



| TRACER Home ■ Search ■ Resources Reports Quick Stats Learn to Use TRACER Committee Registration Candidate Affidavit | TRACER | | Registere <u>Campaign Fina</u> | ed User Login v 20180706.1 Help with this page ance Manual (PDF) | Login page aft setting up username, PII and security question / |
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committee.

Registered User Login Page – Forgot Your PIN

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|---|---|---|---|
| | Home Business & Lice | ensing Elections & Voting | 1. Enter Username |
| TRACER Home Search - Candidate Search - Committee Search - Contribution Search - Expenditure Search | TRACER | Registered User Login | Enter PIN (password) Click Login button |
| Loan Search Penalty Search Complaint Search Political Race Search Supplemental Reports Registered Agent Search Document Search All Searches Resources Announcements Publications Forms FAQ Download Data Links All Resources Reports Quick Stats Learn to Use TRACER Committee Registration Candidate Affidavit | User Name: scandidate28813 PIN:Login Reset Forgot your PIN? Forgot your User Name? Find My Lost PIN User Name: scandidate28813 Question: In what city would you most like to live? Answer: ••••••••• Submit | <u>Campaign Finance Manual (PDF)</u> | Forgot your Username or PIN? No problem. |
| After initially so may use one of know the answ | etting up your login information you f the "Forgot" links. You will need to ver to the security question. | TRACER | Registered User Login <i>Help with this page</i> <u>Campaign Finance Manual (PDF)</u> |

- Forgot your PIN? will show your PIN on screen
- Forgot your Username? will send you your username by email (to the email you used to register)



Candidate or Committee Workspace

The difference between a candidate's and a committee's workspace is the committees has a Contributions tab at the top. Enter all transactions, using the tabs at the top, **before** attempting to file a report. Once a committee is registered, reporting is done through the committee.

Candidate

| | | Home | Business & | Licensing | Elections | & Voting | |
|-------------------------------------|-----------------------------------|---------------------|----------------|-----------------|-----------|---------------------------|-------------------------|
| | Overview | Expenditu | res 👔 I | ile Repor | ts Re | ports | Administration |
| | | | | | | | |
| R Home TRACE | | | | | Candi | late/Comr | nittee Overview |
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| mental Reports ered Agent Search | | | | | | | |
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| ACCOUNT ACCOUNT | Status | | | | | | |
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| ad Data | | | | | | | |
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| Transacti | on History | | | | | | |
| ats Election Crea | on History | | | | | | |
| ts Election Cyc | ION HISTORY | | | | | Election | Cuolo |
| e TRACER Registration | Ion History le: NONE Transa | ction Type | | | | Election (Total Filed | Cycle To Date |

10/26/2015

11/28/2015 12/3/2015 Not Filed

DECEMBER 3, 2015 - REPORT OF

Committee

| | | Home B | usiness & Li | censing | Elections | & Voting | |
|-----------------------|--|---------------------|----------------|----------------|------------------|-------------|------------------------|
| Overview | Contributions Expenditur | es Loan: | s Y File | e Reports | Rep | oorts | Administration |
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| earch | | | | | Canulu | ale/Com | mittee Overvie |
| - Candidate Search | | | | | | | |
| Committee Search | Welcome back: SCHOOL BOARD CANDIDATE on | behalf of FRIENDS O | F SCHOOL BO | ARD CANDIDA | TE FOR | 1 | |
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| | Reports Due | | | | | | |
| | • | | | | | | |
| | Report Name | Period Begin | Period End | Due Date | Report Status | | Action |
| | OCTOBER 13, 2015 - REPORT OF CONTRIBUTIONS AND EXPENDITURES | 10/30/2014 | 10/8/2015 | 10/13/2015 | Not Filed | View/File | Nothing to Report |
| | OCTOBER 30, 2015 - REPORT OF | 10/9/2015 | 10/25/2015 | 10/30/2015 | Not Filed | | |
| | DECEMBER 3, 2015 - REPORT OF | | | | | | |
| | CONTRIBUTIONS AND EXPENDITURES | 10/26/2015 | 11/28/2015 | 12/3/2015 | Not Filed | | |



File Reports Tab

After entering all transactions go to the File Reports tab, scroll past the *Filing History* section and down to the *Reports Due* section, and locate the required report. This takes you to the File Reports page where you'll have an opportunity to review the report before filing.

Whether filing as a candidate or committee, use the "View/File" link to submit a report with activity or if you have no activity, use the "Nothing to Report" link.

| lections & Voting | | | | | | |
|---|-------------------------------|-----------------------------|--------------------|---------------|--------------|--|
| Contributions Contributions | oans | File Rep | orts 🏹 | Repo | orts | Administration |
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| Committee: COMMITTEE TO ELECT TEST JONES ID: | 20175032027 | | | | | |
| Reports Due | | | | | | |
| <u>Report</u> | <u>Period</u> <u>Begin</u> | <u>Period</u> <u>End</u> | <u>Due</u> Date | <u>Statu:</u> | | Action |
| OCTOBER 16, 2017 - REPORT OF CONTRIBUTIONS AND EXPENDITURES | 7/1/2017 | 9/30/2017 | 10/16/2017 | Past Due | View/File | Nothing to Report |
| JANUARY 16, 2018 - REPORT OF CONTRIBUTIONS AND EXPENDITURES | 10/1/2017 | 12/31/2017 | 1/16/2018 | Not Filed | | |

File Report Page

Candidate

Committee

| Overview Expenditures File Reports | Reports Administration |
|--|--|
| TRACER St. | atement of Personal Expenditures |
| Welcome back: SCHOOL BOARD CANDIDATE on behalf of SCHOOL BOARD CANDIDATE | Last Login: Apr 20 2015 12:35PM My Message Center |
| Help with this page Switch Organizations Switch to Committee Wo Campaign Finance Manual (PDF) | t <u>ispace Log Off</u> v 20141013.1 Sandbox <u>Change My PIN</u> |
| Candidate Name: SCHOOL BOARD CANDIDATE ID: 20155028813 | |
| File Candidate Statement of Personal Expenditures | |
| Reporting Begin Date: 10/30/2014 Reporting End Date: 10/08/2015 Total Itemized Expenditures: \$2.3.0 Total Non-Itemized Expenditures: \$0.00 | Report Due: 10/13/2015 |
| All Expenditures in this Reporting Period to be Included on this Report Date Disbursement Type Expenditure Type Payee Name Amount 4/20/2015 Monetary (Itemized) Advertising KINKOS FEDEX \$23.20 COLOR CAMPAU | Explanation COPIES OF FLYER FOR DOOR TO DOOR SNIN |
| Click on <i>File</i> to submit the report. TRACER may ask if you really | File Cancel Message from webpage Image: Concel Image: Concel Image: Concel Image: Concel Image: Concel |
| click <i>OK</i> to confirm the action. | dge or belief that all contribut ntributions or donations rece |
| | anization, are from permissib |



Filing Complete

• Click the red *Finished* button once you get the onscreen confirmation of filing.



• You also get an email confirmation



 Don't be late – we don't want to impose late filing penalties – call or email us for help.

TRACER - Update Contact Information

Go to the Administration tab to update your contact information including email addresses.

TRACER sends email notices when a report is filed and when an upcoming report is due; therefore, please keep your email address current.



| Committee | | | Upda | te Registration | Update Email |
|--------------------|---|-----------|-----------|-----------------|--------------|
| Key: | 20195036199 | Type: | | Candidate Com | mittee |
| Name: | KRIS' TEST CANDIDATE COMMITTEE - SENATE | Jurisdict | ion: | STATEWIDE | |
| Address: | 1234 MAIN | Party: | | Republican | |
| | | Office: | | Colorado Senat | te |
| City, State, Zip: | DENVER CO 80000 | District: | | Senate District | 04 |
| Telephone: | 303-894-2200 | Special [| District: | No | |
| Email: | FCPA@SOS.STATE.CO.US | | | | |
| Alternate Email 1: | | | | | |
| Alternate Email 2: | | | | | |

| | | | Retur |
|--------------------------------------|--|-------------|-------|
| | COMMITTEE - SENATE | | |
| Kegistered Agent Email KRIS AGENT | notreal@SOS.STATE.CO.US | | |
| Additional Email 1: | | | |
| Additional Email 2: | | | |
| | | | |
| assword Security E | mail ed to send personal password req | uests only. | |

TRACER Resources

• "Help with this page" link



Help page results

Viewing a Candidate or Committee

You can access the Candidate/Committee Overview page to view the account status, transaction hi reports due, file a report that is due, add or modify a penalty or waiver, and request a waiver.

Tasks

To access the Candidate/Committee Overview page:

1. Perform the steps for Searching for a Candidate or Committee.

The Candidate/Committee Search Results page is displayed.

2. Click the link in the Candidate/Committee Name column of the data grid for the Candidate

Campaign Finance Manual



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