

# CHAPTER 3

## OEA/NEA FUND FOR CHILDREN AND PUBLIC EDUCATION (FCPE)

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# SECTION I – POLITICAL ACTION COMMITTEES

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## What is OEA/NEA Fund for Children and Public Education?

The Ohio Education Association has established a political action committee (PAC), which is the political action arm of the OEA. Money contributed to the OEA Fund for Children and Public Education (FCPE) can be used to support candidates for statewide offices (Governor, Attorney General, State Auditor, Secretary of State, State Treasurer and Ohio Supreme Court Justices), candidates running for the Ohio General Assembly (State Senators and State Representatives) and candidates running for the State Board of Education.

Twenty percent of contributions made to the OEA FCPE is forwarded to the National Education Association FCPE (the NEA Fund). The NEA Fund uses that money to assist candidates for U.S. Congress, as well as for the Presidency of the United States.

Contributions are purely voluntary. Members are free to refuse to contribute without it affecting their membership status in any way. When members are contacted about the OEA/NEA FCPE contributions, it is likely that the collector will suggest an amount of \$26, but members may contribute as little or as much (subject to contribution limits) as they choose.

A local association may request that a portion of the money sent to OEA FCPE be returned to the local's registered PAC. This is accomplished by submitting a written request to the OEA Director of Government Relations on the form "Application for Reimbursement of OEA-FCPE Funds". A local receiving a portion of money sent to the OEA FCPE is prohibited from using such funds (1) to support a candidate for a federal or state office; or (2) to support a candidate that is in conflict with the position of OEA or NEA or another local association involved in the same election. In addition, any FCPE rebate funds received by a local association **must not be used for local levy campaigns**. FCPE rebate funds can be used to support endorsed candidates in publicly elected local races. ***A procedure for establishing a PAC from which the local association may contribute to candidates running for local offices (including school board positions) is included in this chapter. It will be necessary to establish a PAC before filing an application to receive a portion of the OEA-FCPE funds as described above. If you have questions about the use of local PAC dollars please contact OEA Government Relations.***

The OEA Fund for Children and Public Education is a major factor in securing the benefits that Ohio's public school employees have gained over several years. The OEA FCPE provides OEA lobbyists with clout -- both at the state and national levels. The collection of OEA FCPE money is a vital part of the duties of the local education association.

## Process for OEA/NEA Fund for Children and Public Education Recommendations

Every House and Senate District in Ohio has a District Screening Committee made up of local OEA members who donate their time and energy to the screening and endorsement of candidates for the Ohio House of Representatives and the Ohio Senate. The OEA FCPE District Screening Committee notifies candidates of its intent to interview and endorse and sends a legislative questionnaire to be completed. After all candidates are screened, the committee makes its decision by majority vote and that decision is sent to the OEA FCPE State Council for concurrence. Such concurrence shall be automatic except under certain circumstances.

OEA FCPE also organizes Congressional Screenings through Congressional District Screening Committees, which are comprised of members appointed to Congressional Contact Teams, the NEA Director assigned to the district being screened, and representatives from local associations covered by the Congressional District. A Congressional District Screening Committee's recommendation must be confirmed by the NEA PAC Council. Requests for contributions to endorsed Congressional candidates must also be approved by the NEA PAC Council.

Endorsed candidates are eligible for financial support, member activism in support of their campaign and other campaign resources. However, an endorsement does not mean that each candidate will receive such support due to limited financial and human resources which require that we target our donations and other activities to be most effective. The OEA FCPE State Council approves contributions upon the recommendation of the OEA Government Relations staff. Of course, the availability of OEA FCPE money is a factor.

The OEA FCPE State Council is a group of nineteen members -- five are OEA Board of Director members including the President, Vice-President, and Secretary-Treasurer of the OEA. One is an OEA-R member elected by the OEA-R Advisory Council. The other thirteen are elected at a statewide OEA Fund for Children and Public Education Convention attended by elected representatives of the OEA FCPE House, Senate, and Congressional District Committees and the OEA FCPE State Council. Members are elected at-large and by OEA districts proportionate to the district's OEA membership. In addition, the Executive Director and the Director of Government Relations are *ex officio*, non-voting members. The OEA FCPE State Council is also responsible for the development of the legislative questionnaire used in screening candidates.

## SECTION II - HOW TO HANDLE CONTRIBUTIONS

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### Introduction

Contributions from members to OEA/NEA Fund for Children and Public Education can be made by any one of the following methods:

1. **Cash or Check**
2. **Credit Card**
3. **Payroll deduction**

With respect to solicitation and wage deduction of contributions, follow these general guidelines:

- A. A labor organization that solicits a member for a contribution to its PAC must first inform the member, at the time of solicitation, that making a contribution is voluntary and that the member's decision to make or not make a contribution will not benefit them or place them at a disadvantage with respect to their membership in the labor organization. This requirement is met when the member completes the OEA FCPE contribution form.
- B. Persons who solicit contributions on behalf of a labor organization PAC are prohibited from coercing, intimidating or causing harm to any person in order to get them to make or not make a contribution to the PAC.
- C. A PAC may solicit contributions from members at whatever frequency is desired, except that no person or PAC may solicit a political contribution from a public employee while the employee is performing his/her official duties or in those areas where official business is being conducted.  
O.R.C. 3517.092(D)
- D. Public employers may deduct contributions to PACs from an employee's wages and salary at the employee's request.
- E. Persons who solicit contributions from members should inform members the contributions are not tax-deductible. The non-tax deductible nature of PAC contributions is expressly stated on the PAC form.

### Legal Do's & Don'ts of FCPE Fundraising

Ohio laws and federal laws and regulations are very strict concerning the collection of OEA/NEA Fund for Children and Public Education money. It is important that every local comply with the laws and regulations with NO exceptions.

- **DO NOT** use Association funds to either purchase directly or to provide reimbursement for the purchase of fundraising items.
- **DO NOT** offer a fundraiser that is exclusively stated to be for contributors only. Everyone must have an opportunity to participate. Contact your OEA Labor Relations Consultant or OEA Government Relations for guidance regarding fundraising activities.

- **DO NOT** solicit contributions while the member is performing official duties or in those areas where official business is being conducted.
- **DO NOT** solicit non-members. Non-members should NOT be solicited for FCPE contributions.
- **DO NOT** place contribution forms in school mailboxes or solicit contributions via school email.
- **DO NOT** send cash. Convert all cash to money orders made payable to “OEA Fund for Children and Public Education.”
- **NEVER** submit Association checks.
- **NEVER** commingle OEA membership money with OEA/NEA Fund for Children and Public Education (FCPE) money.
- **DO NOT** hold checks or cash. LAW REQUIRES that no more than 30 days be allowed to pass from the time the contribution is made to the time the state and national offices receive it. (This is reduced to 10 days for contributions over \$50.)
- **DO NOT** accept cash contributions from a single individual for more than \$100 per election. The individual may, however, write a check for any additional amount he/she would like to contribute.
- **DO** inform the member(s) being solicited—at the time of solicitation—that making a contribution is voluntary and that his/her decision to contribute will not affect his or her standing in the Association. (This requirement is met when the member signs the FCPE contribution form.)
- **DO** inform the member(s) being solicited that they can make a contribution online and that the online contribution is a convenient, secure and a quick way to donate to FCPE. Members can find the contribution site at <https://www.ohea.org/donate>.
- **DO** make sure that checks or money orders are made payable to the “OEA Fund for Children and Public Education” and NOT to OEA.
- **DO** make sure that all of the information on the individual contribution form is completed properly. Make sure each contributor signs an individual contribution form.
- **DO** convert all cash to money orders. You may use one money order for several cash contributions; however, the money order must be accompanied by the name of each contributor, the last four digits of his/her social security number, and the amount contributed.
- **DO** personally solicit contributions (make the “ask”) from members during union meetings or before or after work hours.
- **DO** submit contributions to OEA for processing as quickly as possible. LAW REQUIRES that no more than 30 days be allowed to pass from the time the contribution is made to the time the state and national offices receive it. (This is reduced to 10 days for contributions over \$50.)
- Dues funds **CAN** be used for ballot and levy campaigns, but only by following SPECIFIC GUIDELINES. Contact your OEA Labor Relations Consultant or OEA Government Relations regarding these guidelines before contributing to a ballot or levy campaign.

- **DO** make certain that, when money is transmitted to OEA-FCPE by the school district's treasurer (for payroll contributions), the check is made payable to the "OEA Fund for Children and Public Education." The check must also be accompanied by the name of each contributor, the last four digits of his/her social security number, and the amount contributed.
- **And, finally, DO contact OEA Government Relations if you have any questions related to fundraising for FCPE. Call 1-800-282-1500, or InfoOEA at (844) 632-4636.**

## Cash Contributions

A member wishing to contribute cash is limited to a contribution of \$100 for any one election. (O.R.C. 3517.13(F)). Contributions by check or credit card can be accepted for desired contributions exceeding \$100.

Federal Law requires that cash contributions over fifty dollars be received by the PAC within ten days of collection and contribution. If the amount is less than fifty dollars, it must be received by the PAC within thirty days.

Since a portion of all contributions are forwarded to NEA-FCPE, the timing of the transmission of these contributions to OEA is critical.

### **Do not commingle OEA membership money with OEA/NEA Fund for Children and Public Education money.**

- If paying by cash, please make sure all the information on the Contribution Form is completed properly. (Refer to the example of the OEA/NEA Fund for Children and Public Education Contribution Form.)
- If paying by money order, the member needs to make the money order payable to OEA Fund for Children and Public Education and send it with the transmittal form, and completed Contribution Form to: OEA Fund for Children and Public Education, 225 East Broad Street, Box 2550, Columbus, Ohio 43216.
- The money order must be accompanied by the name of each contributor, the last four digits of his/her social security number, and the amount contributed. (See the example of the Money Order Transmittal Form.)

## Check Contribution

When members wish to contribute to OEA/NEA Fund for Children and Public Education by check, please make sure that all the information on the contribution form is completed properly. (Refer to the OEA/NEA Fund for Children and Public Education Contribution Form.)

**Make sure that each check is made payable to OEA Fund for Children and Public Education and not to OEA.** Place each check inside the last copy of the contribution form, seal it, and make sure it gets to the proper person for mailing to the OEA Fund for Children and Public Education office. Federal Law requires that check contributions over fifty dollars be received by the PAC within ten days of collection and contribution. If the amount is less than fifty dollars, it must be received by the PAC within thirty days.

### **Do not commingle OEA membership money with the OEA/NEA Fund for Children and Public Education money.**

(Refer to Form 2 Personal Check Transmittal Form.)

## Credit Card Contributions

Credit card contributions can be made as a one-time contribution. When members wish to contribute by credit card, please make sure that all information on the contribution form is completed correctly. Use the credit card section of the OEA/NEA Fund for Children and Public Education Contribution Form.

Make sure that the account number and amount is written correctly, that the member has included the expiration date of the credit card in the appropriate place on the form; and that the member has signed and dated the form.

Members may also use a credit or debit card to make a one-time or continuing contribution to OEA FCPE online at <https://www.ohea.org/donate>.

(Refer to the instructions on handling credit card contributions on the Credit Card Transmittal Form.)

## Payroll Deduction Contributions


OEA encourages its members to contribute to OEA/NEA Fund for Children and Public Education through continuous payroll deduction. Simply have members complete the contribution form and make sure that the appropriate attached copies are sent to the employer's payroll department and to the OEA.

OEA/NEA Fund for Children and Public Education payroll deduction contributions are treated as a separate contribution each time a deduction occurs. **A payroll deduction list or a transmittal sheet must accompany each check from the employer's payroll department and must indicate the name and last four digits of the social security number of each contributor, as well as the amount deducted.** This information must be provided with each check so that the contributions can be properly credited to each individual member.



# Example Contribution Form

**PLEASE PROVIDE ALL OF THE INFORMATION REQUESTED. YOU ARE MAKING 4 COPIES TO COMPLY WITH Federal and State laws you must supply a street address. A Post Office Box is not acceptable.**



**FOPEir**  
OEA/NEA  
FUND FOR CHILDREN AND PUBLIC EDUCATION

LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER:

TITLE: Mr 1 2 3 4 5

FIRST NAME: \_\_\_\_\_ MIDDLE INITIAL: \_\_\_\_\_ LAST NAME: \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

LOCAL ASSOCIATION: \_\_\_\_\_

NON-WORK E-MAIL: \_\_\_\_\_

\* EMPLOYER: \_\_\_\_\_ \* OCCUPATION: \_\_\_\_\_

The OEA Fund for Children & Public Education collects contributions from Association members and uses those contributions to help elect pro-education candidates to state and local political offices. The NEA Fund for Children & Public Education performs a similar function in conjunction with elections primarily in local political offices. A member may refuse to make any contributions, and this will not affect his or her membership status. Whatever amount is contributed, 80% will go to the OEA Fund for Children & Public Education and 20% will go to the NEA Fund for Children & Public Education. Contributions to the OEA Fund for Children & Public Education and the NEA Fund for Children & Public Education are voluntary and are not a condition of employment or membership in OEA, NEA or any of their affiliates; employees and members have the right to refuse to contribute without suffering reprisals. Contributions or gifts to the OEA Fund for Children & Public Education are not tax-deductible. Only U.S. citizens or lawful permanent residents may contribute to the NEA Fund. \* Federal and state law requires political action committees to use best efforts to report the name, address, occupation, and name of employer for individuals whose contributions meet certain requirements.

**A CASH (MONEY ORDER) OR CHECK**  
MAKE PAYABLE TO THE OEA FUND FOR CHILDREN AND PUBLIC EDUCATION (FCPE)

\$200  \$100  \$52  \$26  OTHER \$ \_\_\_\_\_

CASH (CONVERTED TO MONEY ORDER)  CHECK ENCLOSED IN ENCLOSED IN ATTACHED ENVELOPE

**B CREDIT CARD**

One time amount \$ \_\_\_\_\_ Monthly Amount \$ \_\_\_\_\_

Account Number: \_\_\_\_\_ Card Type: \_\_\_\_\_  
Expiration Date: \_\_\_\_\_ M/C VISA (CIRCLE ONE)  
(NO Discover/AMEX)

**C PAYROLL DEDUCTION**

One time amount \$ \_\_\_\_\_ authorized \$ \_\_\_\_\_ per pay to be withdrawn on a continuing basis = \$ \_\_\_\_\_  
total annual contribution \_\_\_\_\_

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

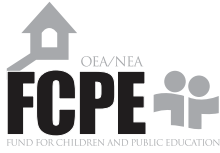
**ALL CONTRIBUTION FORMS MUST BE SIGNED CONTRIBUTOR'S COPY**

REV. 5/16 PLEASE PRESS FIRMLY, YOU ARE MAKING 4 COPIES

## **Instructions for Handling Credit Card Contributions (Use the credit card section on the Contribution Form)**

1. Have the member indicate the type of card (Visa or MasterCard) that they are using on the contribution form; **OEA Fund for Children and Public Education does not accept Discover or AMEX.**
2. Make sure the member's credit card number, name and phone number, including area code, are printed clearly on the form.
3. Make sure the "Expiration Date" is filled out.
4. Fill in the dollar amount and check the "ONE TIME" amount box.
5. Be sure to inform the member that their contribution will be counted towards their local association's PAC contribution total for the membership award year.
6. Have the member complete all other information on the contribution form, indicating the member's name, last four digits of social security number, address, and local association.
7. Record the date of the contribution.
8. Make sure the member's signature is on the contribution form. (It cannot be processed without a signature.)
9. Have the member keep the member copy, as this is their receipt.

**Form #1**  
**Credit Card Contribution Transmittal Form**



The following credit card contribution transmittal information is necessary **each** time funds are transferred to The OEA Fund for Children & Public Education. **Without this information, the contributions cannot be processed. Please enclose completed contribution forms.**

Date of Transfer of Funds \_\_\_\_\_ Name of Local \_\_\_\_\_

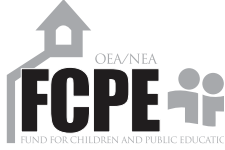
School District \_\_\_\_\_ County \_\_\_\_\_

LAST 4 DIGITS OF SOCIAL SECURITY NUMBER	NAME OF CONTRIBUTOR	AMOUNT DEDUCTED
1		
2		
3		
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SEND COMPLETED FORM TO:

The OEA Fund for Children & Public Education, 225 East Broad St., P.O. Box 2550, Columbus, OH 43216

**Form #2**  
**Personal Check Transmittal Form**



This form should be used by locals who collect contributions by personal check. All checks should be made payable to The OEA Fund for Children & Public Education. Without this information, the contributions cannot be processed. Please enclose completed contribution forms.

Date \_\_\_\_\_ Name of Local \_\_\_\_\_

School District \_\_\_\_\_ County \_\_\_\_\_

LAST 4 DIGITS OF SOCIAL SECURITY NUMBER		NAME OF CONTRIBUTOR	CONTRIBUTION
1			
2			
3			
4			
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SEND COMPLETED FORM TO:  
 The OEA Fund for Children & Public Education, 225 East Broad St., P.O. Box 2550, Columbus, OH 43216

**Form #3**  
**Money Order Transmittal Form**



This form should be used by locals who collect cash contributions. All cash should be converted to one money order made payable to *The OEA Fund for Children & Public Education*. State and federal election law limit cash contributions to one hundred (\$100.00) per person, per election. Without this information, the contributions cannot be processed. *Please enclose completed contribution forms.*

Date \_\_\_\_\_ Name of Local \_\_\_\_\_

School District \_\_\_\_\_ County \_\_\_\_\_

LAST 4 DIGITS OF SOCIAL SECURITY NUMBER		NAME OF CONTRIBUTOR	CASH CONTRIBUTION
1			
2			
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MAKE MONEY ORDER PAYABLE TO *The OEA Fund for Children & Public Education* AND SEND TO:  
 The OEA Fund for Children & Public Education, 225 East Broad St., P.O. Box 2550, Columbus, OH 43216

**Form #4**  
**Payroll Deduction Transmittal Form**



This form should be used by locals whose members sign up for payroll deduction contributions. This information is necessary each time funds are transferred to the OEA Fund for Children and Public Education. Without this information, the contributions cannot be processed. *Please enclose completed contribution forms.*

Date \_\_\_\_\_ Name of Local \_\_\_\_\_

School District \_\_\_\_\_ County \_\_\_\_\_

LAST 4 DIGITS OF SOCIAL SECURITY NUMBER	NAME OF CONTRIBUTOR	AMOUNT DEDUCTED PER PAY
1		
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SEND COMPLETED FORM TO:

The OEA Fund for Children & Public Education, 225 East Broad St., P.O. Box 2550, Columbus, OH 43216

**Form #5  
Summary Contribution**



**SUMMARY CONTRIBUTION TRANSMITTAL FORM  
PLEASE PRINT**

Date \_\_\_\_\_

Preparer's Name \_\_\_\_\_

Local Association \_\_\_\_\_

CONTRIBUTIONS BY:	DOLLAR AMOUNT
<b>FORM #1 CREDIT CARD (one-time only basis)</b>	
<b>FORM #2 PERSONAL CHECKS (payable to FCPE with contribution forms enclosed)</b>	
<b>FORM #3 MONEY ORDER (convert all cash contributions to a money order before sending)</b>	
<b>TOTAL</b>	

**SEND TO: *The OEA Fund for Children & Public Education,  
225 East Broad Street, PO Box 2550, Columbus, OH 43216***

*\*Please see form #4 for payroll deduction transmittal*

Please send one copy of this completed form to OEA-FCPE and keep one copy for the local association's records.

## SECTION III - SUMMARY

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### Instructions

1. It is very important to follow the proper procedure when completing the necessary information for each OEA/NEA Fund for Children and Public Education contributor to avoid unnecessary delays in processing. Each local association should appoint one person to be responsible for the collection of OEA/NEA Fund for Children and Public Education money, so that the same procedure is followed at all times.
2. Make sure the collection person does not hold checks or cash at the local level, once the collection has begun. Laws require that political contributions be transmitted promptly.
3. Make sure that all contributors see the collection envelope and the information statement (below), since 20% of the OEA Fund for Children and Public Education contributions go to the NEA Fund for Children and Public Education, and federal laws require the following disclaimer language:

“The Ohio Education Association Fund for Children and Public Education collects contributions from Association members and uses those contributions to help elect pro-education candidates to state and local political offices. THE NATIONAL EDUCATION ASSOCIATION FUND FOR CHILDREN AND PUBLIC EDUCATION performs a similar function in connection with elections to federal office. A member may refuse to make any contributions, and this will not affect his or her membership status, rights or benefits in OEA, NEA or any of their affiliates. Whatever amount is contributed, 80% will go to OEA Fund for Children and Public Education and 20% of it will go to NEA Fund for Children and Public Education. Contributions to OEA Fund for Children and Public Education and NEA Fund for Children and Public Education are voluntary and are not a condition of employment or membership in OEA, NEA or any of their affiliates; employees and members have the right to refuse to contribute without suffering reprisals. Contributions or gifts to OEA/NEA Fund for Children and Public Education are not deductible as charitable contributions for federal income tax purposes. Only U.S. citizens or lawful permanent residents may contribute to the NEA fund. **\*Federal and state law requires political action committees to use best efforts to report the name, address, occupation, and name of employer for individuals whose contributions meet certain requirements.\***”

4. It is important that all contributors complete all information requested on the OEA/NEA Fund for Children and Public Education Contribution Form. This information is required by law.
5. When contributions are made by payroll deduction, each transmittal is treated as a separate contribution. **A payroll deduction list or a transmittal sheet must accompany each check from the employer's payroll department and must indicate the name and last four digits of the social security number of each contributor as well as the amount deducted.** A complete listing is necessary so that the contribution can be properly credited to the right person.
6. OEA/NEA Fund for Children and Public Education cannot accept local association dues money. OEA/NEA Fund for Children and Public Education cannot accept local association checks for money collected; instead, convert cash sums collected to a money order made payable to OEA Fund for Children and Public Education. A transmittal sheet must accompany each money order from the local association and must indicate the name and social security number of each contributor as well as the amount of cash collected (refer to Form 3 Money Order Transmittal Form).



7. Non-members cannot be solicited for contributions. Only OEA members should be solicited for contributions to OEA/NEA Fund for Children and Public Education.
8. When extra OEA/NEA Fund for Children and Public Education materials are needed, local associations should contact the UniServ office.
9. A portion of the local contributions may be returned to the local's registered PAC upon written request to the OEA/NEA Fund for Children and Public Education Chairperson under OEA Fund for Children and Public Education constitutional guidelines. (Refer to the Application for Reimbursement of OEA Fund for Children and Public Education Funds form.)
10. If all of the above procedures are followed, OEA/NEA Fund for Children and Public Education contributions will be processed without delay and the money can be used to assist candidates who support OEA's legislative goals. Electing friends of OEA and NEA to public office is truly an investment in the future of public schools in Ohio.

## **Solicitation Guidelines and General Legal Information**

In general, Ohio campaign finance laws govern Ohio elections and federal campaign finance law governs federal elections. The Ohio Education Association Fund for Children and Public Education ("OEA-FCPE") participates in Ohio elections. The OEA is also a collecting agent for the National Education Association Fund for Children and Public Education ("NEA-FCPE"), which participates in federal elections. The following discussion is intended to advise local association Treasurers of the federal and Ohio laws that apply to OEA-FCPE fund raising efforts.

An Ohio labor organization may establish a political action committee (PAC)<sup>1</sup>, subject to strict statutory requirements regarding administration, solicitation and reporting, R.C. §§3517.082 and 3517.092(F). A PAC consists entirely of voluntary contributions made for the express purpose of influencing elections or engaging in other partisan political activity. In the context of campaign finance, PAC money is often referred to as "hard" money. In contrast, a labor organization's treasury, comprised of member dues, property, and any other income, is referred to as "soft" money.

Ohio labor organizations are permitted to use their treasury and property for direct contributions **in state (Ohio) candidate elections** and for other state partisan purposes.

The State has regulated this right, enacting administrative rules requiring a labor organization to first register as a "political contributing entity" ("PCE") before making any direct political contributions. The PCE must also comply with contribution limits and reporting requirements.

Under federal election law, which governs that portion of funds collected by OEA and forwarded to the NEA-FCPE for use in federal elections, labor organizations are **prohibited from using treasury funds or property** to influence a federal election. See 2 U.S.C. §441b. The same federal statute prohibits corporations from using corporate treasury funds or property to influence a federal election. On January 21, 2010, the United States Supreme Court carved a very narrow exception to this rule that permits corporations (and, by extension, labor organizations) to use their treasury funds for one specific type of speech: independent expenditures for public communications that "expressly advocate" for election/defeat of candidates. See *Citizens United v. Federal Election Commission*, 130 S. Ct. 876 (2010). *Citizens United* does not change the federal prohibition against using corporation/union treasury funds for direct contributions to political candidates and/or political parties in federal elections. Also, the narrow category of expenditures

permitted by Citizens United must be reported, and must also comply with a complex set of regulations governing independent expenditures and the coordination of activities with candidates or parties. For these reasons, independent expenditures are not recommended and local associations should seek legal advice from OEA before making independent expenditures.

Under both Ohio and federal law, a labor organization may use its treasury funds and/or property to make direct contributions in support of or in opposition to a ballot issue or a ballot issue PAC. Labor organizations may also make direct non-monetary contributions of goods, services, or use of property (known as "in-kind" contributions) in support of or in opposition to a ballot issue or ballot issue PAC. This support may be either an independent expenditure, or an expenditure made in coordination with a ballot issue committee or ballot issue PAC. R.C. §3599.03. All contributions to or on behalf of state ballot issue committees and ballot issue PACs must be timely reported to the Secretary of State on the appropriate form. For federal taxation reasons, neither PAC money nor registered PCE money should be used in support of ballot issues.

"Issue advocacy" refers to public advocacy on public policy issues. Federal election law heavily regulates issue advocacy to insure that the public advocacy in support of the "issue" does not also constitute support of a candidate or other partisan political campaign activity. "Issue advocacy" is an area affected by the United States Supreme Court's *Citizens United* ruling, discussed above, and the application of that ruling to existing regulations is ongoing. Ohio law also contains restrictions on issue advocacy, which may be affected by the *Citizens United* ruling and ongoing legislation related thereto. Despite the *Citizens United* ruling, if a labor organization spends treasury funds for "issue advocacy" which is in fact "candidate advocacy," such conduct may violate election laws, and under the Internal Revenue Code may jeopardize the labor organization's tax-exempt status. For this reason, any local association that wishes to participate in issue advocacy should first contact the OEA Legal Department's office for guidance.

Be aware that virtually every political contribution or expenditure carries with it a reporting obligation. If a local association does not have its own PAC, its reporting requirements will most likely be limited to reporting ballot issue expenditures and contributions. Contributions to a local levy/ballot committee or expenditures in support of a local levy/ballot issue must be timely reported with the applicable local board of elections. A local association with a PAC must follow all reporting requirements and contribution limits and these requirements/limits will also apply to any OEA-FCPE rebate requested by the local association and received as a PAC-to-PAC transfer. If you have any questions, concerning the reports required by the Secretary of State, please contact your Labor Relations Consultant to obtain information specific to your local association's needs.

<sup>1</sup>In federal election law, a PAC is referred to as a "separate segregated fund" (SSF). For purposes of this discussion, the term "PAC" refers to both PACs and SSFs

## Questions and Answers Regarding Campaign Finance Law

The following "Questions and Answers" are designed to address the more commonly asked questions about the campaign finance laws and their effect on the OEA and the OEA-FCPE.

### **Q1. If our local association has full-time or part-time release officers, can they engage in political activity?**

A1. Only within the confines of O.R.C. 3599.03 if the officer is acting in his/her capacity as a labor organization official. See Q2.

### **Q2. Can an individual member of the association participate in the political process without fear of violating the law?**

A2. Individuals, not acting as a representative or member of a labor organization, may make contributions to statewide or legislative candidates, as before. However, any contribution in excess of \$100 (one hundred dollars) requires the contributor to report the name of the contributor's employer. O.R.C. 3517.10(B)(4). In addition, there are contribution limits for individuals under the law. O.R.C. 3517.102. Individuals may solicit contributions from co-workers as long as the efforts are not conducted at a time when and/or place where official business is being conducted at the time of the solicitation. O.R.C. 3517.092(F).

### **Q3. Why not just give candidates necessary things of value (instead of cash) to support their campaigns?**

A3. These contributions, called "in-kind contributions," must be reported by the contributor, must be included in a candidate's report and are subject to the dollar limitation imposed by the law (as determined by fair market value).

Candidates must also report "other income" which is defined as a loan, investment income, or interest income, and, again, these types of contributions are subject to the contribution limitations. O.R.C. 3517.10(B)

### **Q4. What are "independent expenditures" and how are they treated under the law?**

A4. An "independent expenditure" is an expenditure made in support of or opposition to a candidate or a ballot issue that is not made with the consent of, in coordination, cooperation or consultation with, or at the request of or suggestion of the benefited candidate or ballot issue committee.

Entities that currently file campaign finance statements (such as a PAC) must report, as part of their statement of contributions and expenditures, any independent expenditures they make to support or oppose any candidate or ballot issues. O.R.C. 3517.105 and 3517.99

Labor organization dues money cannot be used for independent expenditures unless the labor organization is properly established as a Political Contributing Entity ("PCE"). ORC 3517.01 (B) (17)(a).

Individuals and PACs are prohibited from using a false or fictitious name in making an independent expenditure. A name is false or fictitious if the person or entity using the name does not exist or if it has not filed a Designation of Treasurer form, if so required. O.R.C. 3517.105 & 3517.99

**Q5. Can PAC or the OEA Fund for Children and Public Education contributions be collected at a union meeting held on school grounds?**

A5. PAC contributions cannot be collected during hours when school is in session and when students are in attendance. However, a union meeting conducted before or after work hours is still an appropriate place to make PAC solicitations. However, members are cautioned to conduct meetings where solicitations will take place outside the presence of any students and in an area where classroom business and the business of the school district does not ordinarily occur. To that end, these meetings should take place in lounges, cafeterias or gymnasiums. Classrooms, offices and the sites of board of education meetings should be avoided as places where PAC solicitations occur.

In addition to the cautions listed above, members are encouraged to use good judgment and common sense in determining when and where "official business" is conducted.

**Q6. What about using school mailboxes and inter-office mail for PAC solicitations?**

A6. School mailboxes cannot be used for PAC solicitations. Therefore, OEA Fund for Children and Public Education forms should not be placed into mailboxes since these are for solicitation. However, unless otherwise restricted or prohibited by Board Policies, flyers and the like may be circulated to members via school mailboxes since they are for informational purposes only.

**Q7. What about contribution limits? How much can we contribute to candidates and issues?**

A7. Please see the attached chart, which reflects the current limitations, promulgated under Chapter 3517. This information can be found and may be printed from the Secretary of State's website: [www.sos.state.oh.us](http://www.sos.state.oh.us).

## Contribution Limits

### Ohio Campaign Contribution Limits Effective Feb. 25, 2019 through Feb. 24, 2021

This chart is intended to be a general guide and does not include every statutory provision relating to contribution limits.

		← Contributions From →							
		INDIVIDUAL (Must be 7 years of age or older)	PACs PCEs	COUNTY PARTY State Candidate Fund	COUNTY PARTY Other Account <sup>8</sup>	STATE PARTY State Candidate Fund	LEGISLATIVE CAMPAIGN FUND	CAMPAIGN COMMITTEE (includes local)	
Contributions To	↑	STATEWIDE	\$13,292.35	\$13,292.35	\$332,308.77 <sup>12</sup>	\$3,323.09 <sup>9</sup>	\$749,688.58 <sup>7</sup>	PROHIBITED	\$13,292.35
		SENATE	\$13,292.35	\$13,292.35	\$13,292.35 <sup>1</sup> \$149,538.95 <sup>2</sup>	\$3,323.09 <sup>9</sup>	\$149,538.95 <sup>7</sup>	\$74,437.16 <sup>6</sup> \$149,538.95 <sup>6</sup>	\$13,292.35
		HOUSE	\$13,292.35	\$13,292.35	\$13,292.35 <sup>1</sup> \$74,437.16 <sup>2</sup>	\$3,323.09 <sup>9</sup>	\$74,437.16 <sup>7</sup>	\$38,556.54 <sup>6</sup> \$74,437.16 <sup>6</sup>	\$13,292.35
		STATE PARTY State Candidate Fund	\$39,877.05 <sup>3</sup>	\$39,877.05 <sup>3</sup>	NO LIMIT	PROHIBITED	NO LIMIT	NO LIMIT	\$39,877.05 <sup>5</sup>
		LEGISLATIVE CAMPAIGN FUND	\$19,938.53 <sup>3</sup>	\$19,938.53 <sup>3</sup>	NO LIMIT	PROHIBITED	NO LIMIT	PROHIBITED	\$19,938.53 <sup>5</sup>
		COUNTY PARTY State Candidate Fund	\$13,292.35 <sup>10</sup>	PROHIBITED	PROHIBITED	PROHIBITED	NO LIMIT	NO LIMIT	\$13,292.35 <sup>4</sup>
	↓		PACs PCEs	\$13,292.35 <sup>3</sup>	\$13,292.35 <sup>13</sup>	\$13,292.35 <sup>11</sup>	\$13,292.35 <sup>11</sup>	\$13,292.35 <sup>11</sup>	PROHIBITED

Per Election Period unless otherwise footnoted

1. These limits apply to contributions given to a campaign committee which is **not** a 'designated state campaign committee'.
2. These limits apply to cash or cash equivalents, not in-kind. The campaign committee of a House or Senate candidate which is a 'designated state campaign committee' may **accept**, in aggregate from any one or a combination of state candidate funds of county political parties **\$66,461.75** and **\$132,970.17**, respectively, in an election period.
3. These limits are per calendar year.
4. This limit is per calendar year and may only be made if the campaign committee's candidate will appear on a ballot in that county or is an officeholder representing any part of that county.
5. These limits are per calendar year and do not apply to contributions given by a 'designated state campaign committee'.
6. These limits apply to cash or cash equivalents, not- in-kind. The smaller limit is for the Primary election period and the larger limit is for the General election period.
7. These limits apply to cash or cash equivalents, not in-kind.
8. These limits apply to political parties in counties having a population of less than 150,000 which do not establish a State Candidate Fund. 'Other Account' does not include an account that contains moneys received from the Ohio Political Party Fund (Restricted Fund).
9. Recipients of county party non-State Candidate Fund contributions must be campaign committees for statewide candidates or a 'designated state campaign committee'.
10. This limit is per calendar year. Contributions to a County Party SCF are restricted to individuals residing in the county or 'designated state campaign committees' of the County Party SCF.
11. These limits are per calendar year and apply to the aggregate of contributions given by the National, State and County level of a political party.
12. A campaign committee for a state wide candidate may **accept** not more than this amount, in aggregate, from any one or a combination of state candidate funds of county political parties in an election period.
13. This limit is per calendar year and does not apply to contributions made to or received by one or more PACs that are affiliated.

# Application for Reimbursement of OEA-FCPE Funds

## Application for Reimbursement of OEA-FCPE Funds

**Must be received on or before the first Monday in April for a primary election and on or before the first Monday in October for a general election in even-numbered years and at any time in an odd-numbered year.**

In accordance with the OEA Fund for Children and Public Education (OEA-FCPE) Bylaws, Section B 2.17, I request a reimbursement of twenty-five percent (25%) of the state OEA-FCPE funds collected from our association OEA-FCPE contributions.

I understand that my reimbursement is from funds collected during the previous OEA-FCPE fiscal year. I further understand that no reimbursement check will be issued for less than ten dollars (\$10.00).

I understand that I may not use these funds for or against a candidate in conflict with one endorsed by OEA-FCPE or another local association involved in the same contest. I understand, too, that I may not advertise this candidate as having been endorsed by OEA-FCPE but rather must indicate this endorsement as coming from my local association. I understand that these FCPE rebate funds should not be used for a levy campaign or ballot issue based on the significant tax consequences for the use of PAC funds for those purposes. I understand that these funds may not be used to make contributions to a state candidate's campaign. I understand that all expenditures from these funds must be reported in accordance with Ohio campaign finance law.

**These funds will be used for the following purpose: (must be completed)**

\_\_\_\_\_

\_\_\_\_\_

Local Association Name: \_\_\_\_\_

Check **MUST** be made  
Payable to Local PAC

PAC Name: \_\_\_\_\_

Have you ever filed a copy of the "Designation of Treasurer" form with the county board of elections? Yes  No   
If yes, please attach a copy to this reimbursement request.

Do you have a registration number for the PAC? If so, please provide the number below.

Local PAC Registration Number: \_\_\_\_\_

Does the PAC have gross receipts in excess of \$25,000 on an annual basis? Yes  No

Do you file regular campaign finance reports with the appropriate county board of elections? Yes  No

\*\*If yes, please attach copies of all reports filed since you submitted your last "Application for Reimbursement of OEA-FCPE Funds."

Do you maintain a separate segregated non-interest bearing bank account for your PAC dollars used to support candidates in local political elections? Yes  No

Local Association President: \_\_\_\_\_  
Signature

Send Reimbursement Check to: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone Numbers: School ( ) \_\_\_\_\_ Home ( ) \_\_\_\_\_

Signature of Director of Government Relations and Date: \_\_\_\_\_

Signature of OEA Secretary-Treasurer and Date: \_\_\_\_\_

Ohio Education Association  
**Return Form To:** Director of Government Relations  
225 East Broad Street, Box 2550  
Columbus, OH 43216

## **Steps to Establish Political Action Committees (PACS) to Assist Local Candidates Running for Political Office**

- Step 1:** Once a decision is made to establish a PAC to make contributions to local candidates, the Local Education Association (“LEA”) should **adopt a resolution authorizing the establishment of a PAC.**
- Step 2: Select a treasurer for the PAC.** The treasurer is responsible for filing periodic campaign finance reports with the county board of elections and for managing the receipts and expenditures of the PAC. It is best if the treasurer’s position does not change on an annual or bi-annual basis due to the on-going filing obligations. There are both campaign finance and accounting responsibilities knowledge required for this position.
- Step 3: File a Designation of Treasurer form** with the County Board of Elections **prior** to accepting any contribution or making any expenditure. For a number of reasons you may want to include the name of your LEA in the PAC name (i.e. Gotham City Education Association PAC). *Anytime a new Treasurer is appointed, a new Designation of Treasurer form must be filed with the local county board of elections.*  
**Form 30-D - [http://www.sos.state.oh.us/SOS/Upload/candidates/forms/30d\\_NON.pdf](http://www.sos.state.oh.us/SOS/Upload/candidates/forms/30d_NON.pdf)**
- Step 4:** The Treasurer or the LEA’s accountant will need to **obtain an Employer Identification Number (“EIN”)** for the PAC from the **Internal Revenue Service (IRS)**. You will need this EIN to open a bank account separate from the bank account for the LEA’s **general treasury funds.**  
**[http://www.irs.gov/uac/Form-SS-4,-Application-for-Employer-Identification-Number-\(EIN\)](http://www.irs.gov/uac/Form-SS-4,-Application-for-Employer-Identification-Number-(EIN))**
- Step 5: Open a separate non-interest bearing bank account** with a local financial institution using the newly acquired EIN. Also, ask the Bank to waive monthly or annual fees on this account. As indicated in Step 4, do not use the LEA’s EIN that is assigned to the account that contains the LEA’s general treasury funds. Use the new EIN for the PAC account. **Do not commingle the funds of the two (2) accounts.**
- Step 6: Establish contribution and expenditure guidelines for the PAC.** You can adopt formal “By-Laws” but that is not required. However, it is recommended that you do establish some guidelines related to accepting contributions into the PAC and making expenditures from the PAC proceeds. However, this checklist is written with the thought in mind that contributions will be received by the LEA in accordance with the OEA Fund for Children and Public Education (OEA-FCPE) Bylaws, Section B 2.17, which provides for reimbursement of twenty-five percent (25%) of the LEA’s contributions to the state OEA-FCPE funds.
- Step 7:** If it is anticipated that gross receipts (contributions into your PAC) will exceed **\$25,000.00** in a calendar year, the **LEA will need to file an IRS Form 8871 with the IRS declaring the PAC as a 527 organization and IRS Form 8872** reporting the amount of contributions and expenditures so that contributions to the PAC are not taxable to the PAC. If the LEA is certain that the PAC will not exceed the exemption limit of \$25,000.00, then this step is not necessary.  
**<http://www.irs.gov/Charities-&-Non-Profits/Political-Organizations/Political-Organization-Filing-and-Disclosure>**
- Step 8: File an annual tax return with the IRS,** if the limit of \$25,000.00 is met.
- Step 9:** If gross receipts are **under the exemption limit of \$25,000.00** and the PAC completes and files its required campaign finance reports (identified in Step 10), **the PAC is exempt from filing a Form 990 or 990EZ with the IRS.**

**Step 10: It is required by Ohio law that periodic campaign finance reports be filed with the local county board of elections.** Some of the reporting dates are optional based on the activity of the PAC during prior reporting periods. It is necessary to review the requirements applicable to your circumstances. If the LEA has questions about the filing requirements, the requirements can be found in Ohio Revised Code Section 3517.10 (<http://codes.ohio.gov/orc/3517.01>). Additionally, the LEA may contact OEA's Legal Department at 614-262-0646. A missed reporting deadline will likely result in a referral to the Ohio Elections Commission. Deadlines cannot be extended. The report must be filed on or before the due date by 4:00 p.m. The 4:00 p.m. deadline is provided in the statute. When you file in person, take the original and a copy so that you can have a file-stamped copy for your records. If you mail you must still ensure that the report is filed prior to 4:00 p.m. the date it is due. If you do use the mail to deliver the report, provide a copy with the original and a self-addressed stamped envelope with the appropriate return address and request that the file-stamped copy of the report be returned in the envelope for your records.

## Campaign Finance Reports

- A. Pre-primary Election Report** – Due by 4:00 p.m. twelve (12) days before a primary election if the PAC spent or received \$1,000.00 or more to influence an election between the time the last report was filed and the 20th day before the election.
- B. Post-primary Election Report** – Due by 4:00 p.m. thirty-eight (38) days after the primary election if the PAC received any contributions or made expenditures to influence that election between the time the last report was filed and 31st day after the election.
- C. Semiannual Report** – Due by 4:00 p.m. on the last business day of July if the PAC was not required to file a report after the immediately preceding primary election. It must cover the time period since the last report was filed through the last day of June. A semiannual report should reflect only activity that has taken place since the last report was filed.
- D. Pre-general Election Report** – Due by 4:00 p.m. twelve (12) days before the general election if the PAC spent or received \$1,000.00 or more to influence that election between the last report that was filed and the 20th day before the election.
- E. Post-general Election Report** – Due by 4:00 p.m. thirty-eight (38) days after the general election if the PAC received any contributions or made expenditures to influence that election between the time the last report was filed and the 31st day after the election.
- F. Annual Report** – Due by 4:00 P.M. on the last business day in January if the PAC was not required to file a report after the immediately preceding November election. The report covers the time period since the most recently filed report, through the last day of December. An annual report should reflect only activity that has taken place since the last report was filed.
- G. Special Elections** – The pre-election and post-election filing deadlines also apply to special elections. A special election may trigger the “twelve (12) days before” due date for filing the pre-election report and the “thirty-eight (38) days after” due date for filing the post-election report.



Campaign finance reporting forms can be found by visiting the Ohio Secretary of State's website at this URL - <http://www.sos.state.oh.us/SOS/CampaignFinance/Filing/CFForms.aspx>

**FYI** – If the PAC makes no contributions or expenditures and receives no contributions, it must still file semiannual and annual reports every year unless it terminates the PAC. In order to terminate the PAC the Local Association must file to do so with the county board of elections after zeroing out the balance of the account.

**Please remember that campaign finance statutes, rules and regulations are subject to change. While the basic process may remain the same or similar, changes could occur that will impact the way you manage and report your financial information.**

### Use of Funds for Political Activity Chart

	LOCAL/STATE BALLOT ISSUES OR BALLOT PACS	POLITICAL CANDIDATES FOR LOCAL OFFICES
LOCAL DUES DOLLARS	YES <sup>1</sup>	NO <sup>2</sup>
LOCAL POLITICAL CANDIDATE PAC FUNDS	NO <sup>3</sup>	YES
FCPE PAC REBATE FUNDS	NO	YES <sup>4</sup>

<sup>1</sup> However, lobby expenses paid from local dues dollars cannot be deductible as miscellaneous itemized deductions from members' income taxes. Otherwise the local would be liable for the tax consequences.

<sup>2</sup> Unless the local registers as a Political Contributing Entity (PCE) (see A-2) (Not recommended).

<sup>3</sup> Based on significant tax consequences.

<sup>4</sup> However the rebate funds cannot be used for or against a candidate in conflict with one endorsed by OEA FCPE or another local association involved in the same election. The rebate funds cannot be used in any federal, statewide and/or state legislative campaign (OEA FCPE Bylaws §B2.17)

### Types of Expenditures

#### Independent:

- Any money spent in support or opposition without the consent of and not in coordination, cooperation, or consultation with the candidate or issue

#### Direct Contributions to a Campaign:

- Any monetary donation made directly to the candidate's campaign

#### In-kind Contributions:

- Anything of value other than money
- Any non-monetary contribution of goods or services used to support a campaign, e.g. supplying paper, paying for stamps that are then donated to the campaign, paying for telephone system for calls to registered voters
- Any and all expenditures over \$25 must have a receipt or cancelled check