

Proposed Local Law Number 10 of 2019

County Of Ulster

A Local Law Regarding Comprehensive Campaign Finance Reform in Ulster County

BE IT ENACTED, by the County Legislature of the County of Ulster, New York, as follows:

SECTION 1. TITLE.

This Local Law shall be known and may be cited as the Ulster County Comprehensive Campaign Finance Reform and Accountability Act.

SECTION 2. LEGISLATIVE FINDINGS.

The Ulster County Legislature hereby finds and declares that large political contributions may raise concerns on the part of taxpayers and residents regarding undue influence. Large contributions raise the specter of quid pro quo corruption, even more so when the contributor is involved in government contracts. It is important for, and incumbent upon, elected officials to foster public confidence in governmental operations by preventing any actual, or even the perception of, corruption. For these reasons, and in furtherance of enhancing the public's trust and confidence in government, this Local Law is enacted.

SECTION 3. DEFINITIONS.

For the purposes of this Local Law, the following terms shall have the following meanings:

A. The term "participating candidate" shall mean any candidate for nomination for election, or election, to the office of County Executive, County Clerk, District Attorney, County Sheriff, County Comptroller or member of the County Legislature who files a written certification pursuant to paragraph (iii) of subdivision A of Section 7 of this Local Law.

B. The term "principal committee" shall mean the authorized committee designated by a candidate pursuant to paragraph (iv) of subdivision A of Section 5 of this Local Law.

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C. (i) The term “matchable contribution” shall mean:

(a) a contribution,

(b) contributions, or

(c) a portion of a contribution or contributions, not greater than the applicable contribution limitation set forth in subdivision A of Section 4 of this Local Law for all covered elections held in the same calendar year, made by a natural person resident in the County of Ulster to a participating candidate which has been reported in full to the Board of Elections in accordance with subdivision B of Section 5 by the candidate’s principal committee and has been contributed on or before December thirty-first in the year of such election that may be matched by public funds in accordance with the provisions of this Local Law. Any contribution, contributions, or a portion of a contribution determined to be invalid for matching funds by the Board of Elections may not be treated as a matchable contribution for any purpose. A loan may not be treated as a matchable contribution.

(ii) The following contributions are not matchable:

(a) in-kind contributions of property, goods, or services;

(b) contributions in the form of the purchase price paid for or otherwise induced by a chance to participate in a raffle, lottery, or a similar drawing for valuable prizes;

(c) contributions from individuals under the age of eighteen years;

(d) contributions from individual vendors to whom the participating candidate or his or her principal committee makes an expenditure, in furtherance of the nomination for election or election covered by the candidate’s certification, unless such expenditure is reimbursing an advance;

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(e) contributions from contributors subject to the limitations of subdivision B of Section 4 of this Local Law; and

(f) contributions from any corporation, limited liability company, limited liability partnership or partnership, other than a corporation, limited liability company, limited liability partnership or partnership that is a political committee as defined in subdivision K of Section 3 of this Local Law, for all covered elections held in the same calendar year in which he or she is a participating candidate, provided, however, that where a contribution is from a contributor whose name is followed by a professional designation including but not limited, to “M.D.,” “Esq.” and “C.P.A.” the Board of Elections shall not treat such contribution as coming from a corporation, limited liability company, limited liability partnership or partnership in the absence of further indicia that such contribution is from such an entity.

D. The term “qualified campaign expenditure” shall mean an expenditure for which public funds may be used.

E. The term “fund” shall mean the Ulster County Campaign Finance Fund.

F. The term “threshold for eligibility” shall mean the total amount of matchable contributions that a participating candidate and his or her principal committee must receive in order for such candidate to qualify for optional public financing pursuant to this Local Law.

G. The term “authorized committee” shall mean a political committee which has been authorized by one or more candidates to aid or take part in the elections of such candidate or candidates and which has filed a statement that such candidate or candidates have authorized such political committee pursuant to Section 14-112 of the New York State Election Law.

H. (i) The term “contribution” shall mean:

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- (a) any gift, subscription, advance, or deposit of money or any thing of value, made in connection with the nomination for election, or election, of any candidate;
 - (b) any funds received by a political committee from another political committee to the extent such funds do not constitute a transfer; and
 - (c) any payment, by any person other than a candidate or a political committee authorized by the candidate, made in connection with the nomination for election, or election, of any candidate, including but not limited to, compensation for the personal services of any individual which are rendered in connection with a candidate's election or nomination without charge; provided however, that none of the foregoing shall be deemed a contribution if it is made, taken or performed by a person or a political committee independent of the candidate or his or her agents or political committees authorized by such candidate pursuant to Section 14-112 of the New York State Election Law. For purposes of this subdivision, the term "independent of the candidate or his or her agents or political committees authorized by such candidate pursuant to Section 14-112 of the New York State Election Law" shall mean that the candidate or his or her agents or political committees so authorized by such candidate did not authorize, request, suggest, foster or cooperate in any such activity.
- (ii) A loan made to a candidate or his or her principal committee, other than in the regular course of the lender's business shall be deemed, to the extent not repaid by the date of the first covered election in which such candidate is governed by this Local Law following the date of the loan, a contribution by the lender. A loan made to a candidate or his or her principal committee in the regular course of the lender's business shall be deemed, to the extent not repaid by the date of the first covered election in which the candidate is governed by this Local Law following the date of the loan, a contribution by the obligor on the loan and by any other person endorsing, cosigning, guaranteeing, collateralizing or otherwise providing security for the loan;

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(iii) The term “contribution” shall not include:

(a) the value of non-professional services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee,

(b) the use of real or personal property and the cost of invitations, food and beverages voluntarily provided by an individual to a candidate or political committee on the individual’s residential premises for candidate-related activities to the extent such services do not exceed five hundred dollars in value; and

(c) the travel expenses of any individual who on his or her own behalf volunteers his or her personal services to any candidate or political committee to the extent such expenses are unreimbursed and do not exceed five hundred dollars in value.

I. The term “transfer” shall mean any exchange of funds or any thing of value between political committees authorized by the same candidate pursuant to Section 14-112 of the Election Law and taking part solely in his or her campaign.

J. The term “covered election” shall mean any primary, run-off primary, special, run-off special, or general election for nomination for election, or election, to the office of County Executive, County Clerk, District Attorney, County Sheriff, County Comptroller, or member of the County Legislature.

K. The term “political committee” shall mean any corporation aiding or promoting and any committee, political club or combination of one or more persons operating or cooperating to aid or to promote the success or defeat of a political party or principle, or to aid or take part in the election or defeat of a candidate for any party position voted for at a primary election, or to aid or defeat the nomination by petition of an independent candidate for public office; but nothing in this Local Law shall apply to any committee or organization for the discussion or advancement of political questions or principles without connection with any vote. “Political committee” shall include any party committee or constituted committee, as such committees are defined in Article Fourteen of the Election Law.

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L. The term “labor organization” shall mean any organization including any local, state, district council, joint council or national organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection. For purposes of this section a labor organization shall also include any political committee it has established pursuant to state or federal law.

M. (i) The term “business dealings with the County” shall mean:

(a) any contract (other than emergency contract or a contract procured through publicly-advertised competitive sealed bidding) which is for the procurement of goods, services or construction that is entered into or in effect with the County of Ulster or any agency or entity affiliated with County of Ulster; or

(b) any acquisition or disposition of real property (other than a public auction or competitive sealed bid transaction or the acquisition of property, or property acquired or sold pursuant to Article 11 of the New York State Real Property Tax Law) with the County of Ulster or any agency or entity affiliated with the County of Ulster; or

(c) any concession (other than a concession awarded through publicly-advertised competitive sealed bid).

(ii) Business dealings with the County as defined in this subdivision shall be as follows: for purposes of clause (a) of paragraph (i) of this subdivision, bids or proposals on contracts for the procurement of goods, services, or construction shall only constitute business dealings with the County of Ulster for the period from the later of the submission of the bid or proposal or the date of the public advertisement for the contract opportunity until twelve months after the date of such submission or advertisement, and contracts for the procurement of goods, services or construction shall only constitute business dealings with the County of Ulster during the term of such contract (or in the case of purchase contracts for goods, from the date of such purchase) and for twelve months thereafter, provided, however that where

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such contract award is made from a line item appropriation and/or discretionary funds made by an elected official other than the County Executive, such contract shall only constitute business dealings with the County from the date of adoption of the budget in which the appropriation of such contract is included until twelve months after the end of the term of such contract; for purposes of clause (b) of paragraph (i) of this subdivision, leases in which the County of Ulster is the proposed lessee shall only constitute business dealings with the County for a period of one year after the commencement of the lease term or after the commencement of any renewal. For purposes of clause (c) of paragraph (i) of this subdivision, bids or proposals for franchises and concessions shall only constitute business dealings with the County of Ulster during the term of such concession and for twelve months after the end of such term, and franchises shall only constitute business dealings with the County of Ulster for the period of one year after the commencement of the term of the franchise or after the commencement of any renewal.

(iii) Notwithstanding anything in this subdivision, a person, as defined by subdivision O of Section 3 of this Local Law, who has submitted bids or proposals on contracts for the procurement of goods, services or construction or who has submitted bids or proposals for franchises or concessions that are no longer being considered for an award or a person who for any other reason believes he or she should not be on the database may apply to the Director of Purchasing or other person designated by the County Executive for removal from the doing business database and shall be removed from the database upon a determination that said person should not be included in the database.

(iv) A person, as defined by subdivision O of Section 3, shall be considered to have business dealings with the County as of the date the person's name is entered in the doing business database, as such date is indicated in such database, or the date the person began doing business with the County, as such date is indicated in such database, whichever is earlier, except that the date on which the person is considered doing business with the County shall not be earlier than thirty days before the date the person's name is entered into such database.

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N. The term “economic development agreement” means any contract or agreement in which financial incentives including, but not limited to, tax incentives, payments in lieu of taxes and financing are offered in return for the development, attraction or retention of business; provided, however that no financial incentives which are given to a person who qualifies for such incentive by operation of law shall be deemed to be pursuant to an economic development agreement for purposes of this Local Law.

O. The term “doing business database” means a computerized database accessible to the Board of Elections that contains the names of persons who have business dealings with the County. Such database shall be developed, maintained and updated by the Director of Purchasing in a manner so as to ensure its reasonable accuracy and completeness; provided, however, that in no event shall such database be updated less frequently than once a month. For purposes of this definition, the term “person” shall include an entity that has business dealings with the County, any chief executive officer, chief financial officer and/or chief operating officer of such entity or persons serving in an equivalent capacity, any person employed in a senior managerial capacity regarding such entity, or any person with an ownership interest of ten percent (10%) or greater, or equal to the percentage in the Ulster County Ethics Law, whichever is less.

P. (i) For purposes of campaigns that accept public funds pursuant to Section 6 of this Local Law, the terms “expenditure” and “campaign expenditure” shall include all payments and liabilities in furtherance of a political campaign for covered office. There shall be a rebuttable presumption that the following expenditures are in furtherance of a political campaign for elective office:

(a) Ballot proposal advocacy where there are indicia that the expenditure relates to the candidate;

(b) Travel related solely and exclusively to a political campaign for a covered office or the holding of public office; provided, however, that any travel not related solely and exclusively to a political campaign or the holding of public office shall be subject to the provisions of paragraph ii;

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- (c) Computer hardware, software and other office technology purchased weeks before the date of a primary election, in the case of a candidate who is opposed in the primary election, or two weeks before the date of a general election, in the case of a candidate who was not opposed in a primary election;
 - (d) Costs incurred in demonstrating eligibility for the ballot or public funds payments or defending against a claim that public funds must be repaid; and
 - (e) Food and beverages provided to campaign workers and volunteers.
- (ii) Campaign funds shall not be converted by any person to a personal use which is unrelated to a political campaign. Expenditures not in furtherance of a political campaign for elective office include the following:
- (a) Expenditures to defray the normal living expenses of the candidate, immediate family of the candidate or any other individual except for the provision of such expenses for professional staff as part of a compensation package;
 - (b) Any residential or household items, supplies or expenditures;
 - (c) Clothing, haircuts and other personal grooming;
 - (d) Funeral, cremation or burial expenses including any expenses related to a death within the candidate's or officeholder's family;
 - (e) Automobile purchase;
 - (f) Tuition payments;
 - (g) Dues, fees or gratuities at a country club, health club, recreational facility or other nonpolitical organization unless part of a specific fundraising event that takes place on the organization's premises;

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(h) Admission to a sporting event, theater, concert or other entertainment event not part of a specific campaign activity;

(i) Expenditures for non-campaign related travel, food, drink or entertainment; if a candidate uses campaign funds to pay expenses associated with travel that involves both personal activities and campaign activities, the incremental expenses that result from the personal activities shall be considered for personal use unless the candidate benefiting from the use reimburses the campaign account within thirty days for the full amount of the incremental expenses; and

(j) Gifts, except for brochures buttons, signs and other campaign materials and token gifts valued at not more than fifty dollars (\$50.00) that are for the purpose of expressing gratitude, condolences or congratulations.

Q. The term “Board of Elections” shall mean the Board of Elections of the County of Ulster as required by New York State Election Law § 3-200, and pursuant to Ulster County Charter § C-97 and Administrative Code § 27-1.

R. The term “intermediary” shall mean an individual, corporation, partnership, political committee, employee organization or other entity which,

(i) solicits contributions to a candidate or other authorized committee where such solicitation is known to such candidate or his or her authorized committee, and

(ii) other than in the regular course of business as a postal, delivery or messenger service, delivers or handles any contribution from another person or entity to a candidate or authorized committee. For purposes of clause (i) of this subdivision only persons clearly identified as the solicitor of a contribution to the candidate or his or her authorized committee shall be presumed to be known to such candidate or his or her authorized committee.

“Intermediary” shall not include spouses, domestic partners, parents, children or siblings of the person making such contribution, or any fundraising agent,

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or any hosts of a campaign sponsored fundraising event paid for in whole or in part by the campaign. Where there are multiple individual hosts for a non-campaign sponsored event, the hosts shall designate one such host as the intermediary.

S. The term "fundraising agent" shall mean any of the following persons or entities that have accepted or may accept contributions on behalf of the candidate: (1) paid or volunteer full- or part-time campaign workers; or (2) commercial fundraising firms retained by the candidate and the agents thereof.

T. The term "election cycle" shall mean for a candidate for any particular office, the period between the day after the previous general election for that office and the day of the general election for the office the candidate seeks or seeks nomination for.

U. The term "Fair Market Value" shall mean the price at which property, services, materials, facilities or other things of value would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts. The fair market value of a particular item is not to be determined by a forced sale price. Nor is the fair market value of an item to be determined by the sale price of the item in a market other than that in which such item is most commonly sold to the public, taking into account the location of the item wherever appropriate.

SECTION 4. CONTRIBUTION LIMITS.

A. A candidate for nomination for election, or election, to the office of County Executive, County Clerk, District Attorney, County Comptroller, County Sheriff, or member of the County Legislature shall not accept and their principal committee or authorized committees must not accept, either directly or by transfer, any contribution or contributions from any one individual, partnership, political committee, labor organization or other entity for all covered elections held in the same election cycle in which he or she is a candidate which in the aggregate:

(i) for the office of County Executive, County Clerk, District Attorney, County Sheriff, or County Comptroller shall exceed three thousand five hundred dollars (\$3,500) per election cycle, or

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(ii) for member of the County Legislature, shall exceed six hundred fifty dollars (\$650.00) per election cycle; provided that if state law prescribes a contribution limitation of a lesser amount, this paragraph shall not be deemed to authorize acceptance of a contribution in excess of such lesser amount.

B. Individuals and organizations having business dealings with the County of Ulster.

(i) A candidate or his or her principal committee or authorized committees may not accept, either directly or by transfer, any contribution or contributions for a covered election from a person who has business dealings with the County, as that term is defined in subdivision M of Section 3 of this Local Law, if the aggregate of such contributions to such candidate from such person for all covered elections held in the same calendar year in which he or she is a candidate exceeds: (i) for the office of County Executive, County Clerk, District Attorney, County Sheriff, or County Comptroller, one thousand dollars (\$1,000.00) per election cycle; and

(ii) for member of the County Legislature two hundred fifty dollars (\$250.00) per election cycle.

(iii) Each candidate and his or her principal committee or authorized committees shall inquire of every individual or entity making a contribution, loan, guarantee or other security for such loan in excess of the amounts set forth in subdivision B(i) of this section, through a question, in a form prescribed by the Board of Elections, as to whether such individual, corporation, partnership, political committee, employee organization or other entity has business dealings with the County, as that term is defined in this Local Law, and, if so, the name of the agency or entity with which such business dealings are or were carried on and the appropriate type or category of such business dealings. Such form shall contain in prominent typeface and in a prominent location the statement "if a contributor has business dealings with the County as defined in the Ulster County Comprehensive Campaign Finance Reform and Accountability Act, such contributor may contribute only up to one thousand dollars (\$1,000.00) to a candidate for the office of County Executive, County Clerk, District Attorney, County Sheriff, or County Comptroller, and up to two hundred fifty dollars (\$250.00) to a candidate for the office of County Legislature." Upon receipt of the response to such inquiry

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(including any failure to respond), the principal committee shall keep a copy in its records and shall report each contribution to the Board of Elections on the next applicable filing deadline in accordance with the Board of Elections disclosure schedule.

(iv) The Board of Elections shall check each contribution against the doing business database and shall notify the principal committee or authorized committees within twenty days of the reporting of such contribution if a contribution exceeding the doing business contribution limitation set forth in subdivision B(i) of this section is subject to such limitations. Notwithstanding any provision in this subdivision, in the six weeks preceding the covered election the Board of Elections shall provide such notification to the principal or authorized committee within three business days of the report of such contribution to the Board of Elections in accordance with applicable reporting deadlines. Such committee shall have twenty days from the date of any such notification to return the amount of any contribution in excess of the limitations set forth in subdivision B(i) of this section to the contributor. No violation shall issue and no penalty shall be imposed where such excess amount is postmarked or delivered within twenty days of such notification by the Board of Elections and the Board of Elections shall not designate a candidate as having accepted a contribution in excess of such limitations where such excess has been returned in accordance with the time limitations set forth herein.

(v) Failure to return such excess amount in accordance with the provisions herein shall not result in the Board of Elections withholding public funds for which the participating candidate's principal committee is otherwise eligible pursuant to Section 7 of this Local Law; provided, however, that the Board of Elections may deduct an amount equal to the total unreturned contributions in excess of the limitations set forth in subdivision B(i) of this section from such payment of public funds.

(vi) For purposes of this section, "individual" shall include any chief executive officer, chief financial officer, and/or chief operating officer of an entity or persons serving in an equivalent capacity, any person in a senior managerial capacity regarding an entity, or any person with an ownership interest of ten

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percent (10%) or greater, or equal to the percentage in the Ulster County Ethics Law, whichever is less.

(vii) Notwithstanding any other provision of this section, no candidate shall be liable for any fine or penalty for the failure of any contributor to respond to any such request or for any erroneous response.

C. A candidate or his or her principal committee or authorized committees may not accept, either directly or by transfer, any contribution or contributions for a covered election from a person who is directly determined by the appointment of the candidate, or spouses and persons claimed as dependents on federal tax returns of a person who is directly determined by the appointment of the candidate, if the aggregate of such contributions to such candidate from such person for all covered elections held in the same election cycle in which he or she is a candidate exceeds:

(i) for the office of County Executive, County Clerk, District Attorney, County Sheriff, or County Comptroller, six hundred dollars (\$600) per election cycle;

(ii) and for a member of the County Legislature two hundred fifty dollars (\$250.00) per election cycle.

SECTION 5. DISCLOSURE REQUIREMENTS.

A. Each candidate shall notify the Board of Elections as to:

(i) the existence of each political committee affiliated with the candidate;

(ii) which committees have been authorized by such candidate;

(iii) whether any such committee also has been authorized by any other candidate; and

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(iv) if the candidate has authorized more than one committee, which authorized committee has been designated by the candidate as the candidate's principal committee for the election(s).

B. (i) Each candidate and his or her principal and authorized committees shall report to the Board of Elections every contribution, loan, guarantee, or other security for such loan received by the candidate and such committee. Each candidate and his or her principal and authorized committees shall also report information on each contributor, lender, guarantor, or provider of security and on each person or entity which is the intermediary for such contribution, loan, guarantee, or other security for such loan as required by the Board of Elections. Disclosure reports shall be submitted at such times and in such form as the Board of Elections shall require and shall be clearly legible.

(ii) Notwithstanding paragraph (i) above, contributions aggregating not more than ninety- nine dollars (\$99.00) from any one contributor for all covered elections held in a single calendar year or for a special election need not be separately itemized in disclosure reports submitted to the Board of Elections on behalf of a candidate and his or her principal committee, provided, however, that contributions which are not itemized shall not be matchable; and

(iii) The Board of Elections shall review each disclosure report timely submitted and issue to the candidate a review before the next disclosure report is due. Such review shall inform the candidate of relevant questions the Board of Elections has concerning the candidate's:

(a) compliance with requirements of this Local Law and of the rules issued by the Board of Elections; and

(b) disqualification for receiving public funds pursuant to this Local Law.

C. If a candidate and his or her principal or authorized committee demonstrate to the Board of Elections that a political committee has not accepted contributions, loans, or other receipts, and represent that such committee will not accept

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contributions, loans, or other receipts in a covered election, the candidate and his or her principal committee may submit to the Board of Elections legible copies of financial disclosure reports, required to be filed with the County Board of Elections, for such committees in lieu of the disclosure report form designated by the Board of Elections for purposes of paragraph (i) of subdivision B of this section.

SECTION 6. OPTIONAL PUBLIC FINANCING.

Each participating candidate for nomination for election or election in a covered election may obtain payment to his or her principal committee from public funds for qualified campaign expenditures, in accordance with the provisions of this Local Law, and subject to appropriation.

A. No such public funds shall be paid to a principal committee unless the Board of Elections determines that the participating candidate has met the eligibility requirements of this Local Law. Payment shall not exceed the amounts specified in this Local Law, and shall be made only in accordance with the provisions of this Local Law. Such payment may be made only to the participating candidate's principal committee. No public funds shall be used except as reimbursement or payment for qualified campaign expenditures actually and lawfully incurred or to repay loans used to pay qualified campaign expenditures.

B. If the threshold for eligibility is met, the participating candidate's principal committee shall receive payment for qualified campaign expenditures of five dollars (\$5.00) for each dollar of matchable contributions, up to one hundred dollars (\$100.00) in public funds per contributor, obtained and reported to the Board of Elections in accordance with the provisions of this Local Law. The total amount of matching funds that a candidate receives shall not exceed:

(i) for the position of County Executive, County Clerk, District Attorney, County Comptroller and County Sheriff twenty-three thousand dollars (\$23,000.00), and

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(ii) for a member of the County Legislature Two thousand five hundred (\$2,500.00) dollars.

C. A participating candidate seeking or obtaining nomination for election by more than one party shall be deemed one candidate, and shall not receive additional public funds or be authorized to accept contributions in excess of the maximum contribution applicable pursuant to Section 4 of this Local Law by reason of such candidate seeking or obtaining nomination for election by more than one party.

D. The Board of Elections shall make possible payment as soon as practicable after receipt of reports of matchable contributions, but not earlier than the earliest dates for making such payments as provided in subdivisions E and F of Section 9 of this Local Law. The Board of Elections shall schedule a minimum of three payment dates within the thirty days prior to a covered election. For purposes of such payment dates, the Board of Elections shall provide each candidate with a written determination specifying the basis for any non-payment. The Board of Elections shall provide candidates with a process by which they may immediately upon receipt of such determination petition the Board of Elections for reconsideration of any such non-payment and such reconsideration shall occur within five business days of the filing of such petition. In the event that the Board of Elections denies such petition then it shall immediately notify the candidate of his or her right to bring a special proceeding pursuant to article 78 of the Civil Practice Law and Rules.

SECTION 7. ELIGIBILITY AND OTHER REQUIREMENTS.

A. To be eligible for optional public financing under this Local Law, a candidate for nomination for election or election must:

(i) meet all the requirements of law to have his or her name on the ballot;

(ii) be a candidate for County Executive, County Clerk, District Attorney, County Sheriff, County Comptroller, or member of the County Legislature in a primary, special, or general election;

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(iii) choose to participate in the public funding provisions of this Local Law, by filing a written certification in such form as may be prescribed by the Board of Elections, which sets forth his or her acceptance of and agreement to comply with the terms and conditions for the provision of such funds.

(a) The deadline for filing such certification for a primary and general election shall be the last day to file nominating and designating petitions for the relevant office, or such other later date as the Board of Elections shall provide, provided, however, that any candidate who files such written certification prior to such date shall be permitted to rescind such certification in writing on or before the ninth Monday preceding the primary election or prior to the receipt of public funds, whichever occurs first;

(b) The deadline for filing such certification for a special election to fill a vacancy shall be on the seventh day after the proclamation of such special election. A certification may be filed on or before the seventh day after the occurrence of an extraordinary circumstance in an election, as declared by the Board of Elections, following the receipt and review of a petition submitted by a candidate in such election. For purposes of this paragraph, an "extraordinary circumstance" shall include the death of a candidate in the election, the resignation or removal of the person holding the office sought, and the submission to the Board of Elections of a written declaration by an officeholder that terminates his or her campaign for reelection;

(iv) obtain and furnish to the Board of Elections and his or her principal committee or authorized committees must obtain and furnish to the Board of Elections any information it may request relating to his or her campaign expenditures or contributions and furnish such documentation and other proof of compliance with this Local Law as may be requested by such Board of Elections;

(v) notify the Board of Elections in the candidate's written certification as to:

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- (a) the existence of each authorized committee authorized by such candidate that has not been terminated,
- (b) whether any such committee also has been authorized by any other candidate, and
- (c) if the candidate has authorized more than one authorized committee, which authorized committee has been designated by the candidate as the candidate's principal committee for the election(s) covered by the candidate's certification; provided, that such principal committee;
 - (A) shall be the only committee authorized by such candidate to aid or otherwise take part in the election(s) covered by the candidate's certification,
 - (B) shall not be an authorized committee of any other candidate, and
 - (C) shall not have been authorized or otherwise active for any election prior to the election(s) covered by the candidate's certification. The use of an entity other than the designated principal committee to aid or otherwise take part in the election(s) covered by the candidate's certification shall be a violation of this section and shall trigger the application to such entity of all provisions of this Local Law governing principal committees;
- (vi) not accept and his or her principal committee must not accept, either directly or by transfer, a contribution in excess of the limits provided in Section 4 of this Local Law;
- (vii) maintain and his or her principal committee must maintain such records of receipts and expenditures for a covered election as required by the Board of Elections;

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(viii) meet the threshold for eligibility set forth in subdivision B of this section;

(ix) fulfill the requirements of Section 44-6 of the Ulster County Ethics and Disclosure Law, including payment of any penalties as determined by the Ulster County Board of Ethics; and

(x) satisfy any claim made by the Board of Elections for the payment of civil penalties or repayment of public funds that remains outstanding against such candidate or his or her principal committee or an authorized committee of such candidate from a prior covered election.

B. (i) The threshold for eligibility for public funding for participating candidates in a primary or general election, or special election to fill a vacancy, shall be in the case of:

(a) County Executive, County Clerk, District Attorney, County Comptroller and County Sheriff, not less than fifteen thousand dollars (\$15,000.00) in matchable contributions comprised of sums of up to one hundred dollars (\$100.00) per contributor including at least one hundred fifty matchable contributions of ten dollars (\$10.00) or more;

(b) member of the County Legislature, not less than five hundred dollars (\$500.00) in matchable contributions comprised of sums of up to one hundred dollars (\$100.00) per contributor including at least fifty matchable contributions of ten dollars (\$10.00) or more from residents of the district in which the seat is to be filled.

(ii) Any participating candidate meeting the threshold for eligibility in a primary election for one of the foregoing offices shall be deemed to have met the threshold for eligibility for such office in any other election, other than a special election to fill a vacancy, held in the same calendar year.

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C. In order to be eligible to receive public funds in a primary election a participating candidate must agree that in the event he or she is a candidate for such office in any other election held in the same calendar year, other than a special election to fill a vacancy, that he or she will be bound in each such other election by the eligibility requirements and all other provisions of this Local Law.

D. Candidates who are contested in a primary election for nomination for election to office and who do not file a written certification pursuant to paragraph (iii) of subdivision A of this section shall not be eligible for public funds for any election to such office held in the same calendar year other than a special election to fill a vacancy.

E. Participating candidates who are seeking nomination or election exclusively as write-in candidates, who are unopposed in a covered election, or who are opposed in a covered election only by candidates seeking nomination or election exclusively as write-in candidates, shall not be eligible to receive public funds for such election.

F. If a participating candidate endorses or publicly supports his or her opponent for election, such candidate shall lose eligibility for public funds.

G. A participating candidate who loses in the primary election but remains on the ballot for the general election must certify to the Board of Elections before receiving public funds that he or she will actively campaign for office; such campaign activity shall include, but not be limited to, raising and spending funds, seeking endorsements, and broadly soliciting votes.

H. Regardless whether a candidate demonstrates eligibility for optional public financing under this Local Law, a candidate and his or her principal committee are nonetheless required to abide by the requirements of Section 4 of this Local Law.

I. Each participating candidate for nomination for election, or election, or the principal committee of such candidate shall submit, in a contemporaneous manner, the disclosure reports required pursuant to this Local Law, filed in accordance with the schedule specified by the state board of elections for the filing of campaign receipt and expenditure statements, and such other disclosure reports as the rules of the may require, in order for any contributions received during the periods covered

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by such reports and prior to the last date upon which such candidate may file a certification pursuant to paragraph (iii) of subdivision A of this section to qualify as matchable contributions.

J. Transfers that a principal committee received from a political committee (other than another principal committee) at any time during an election cycle shall not be matchable.

SECTION 8. QUALIFIED CAMPAIGN EXPENDITURES.

A. Public funds provided under the provisions of this Local Law may be used only for expenditures by a principal committee to further the participating candidate's nomination for election or election, either in a special election to fill a vacancy, or during the calendar year in which the primary or general election in which the candidate is seeking nomination for election or election is held.

B. Such public funds may not be used for:

(i) an expenditure in violation of any law;

(ii) payments made to the candidate or a spouse, domestic partner, child, grandchild, parent, grandparent, brother or sister of the candidate or spouse or domestic partner of such child, grandchild, parent, grandparent, brother or sister, or to a business entity in which the candidate or any such person has an ownership interest of ten percent (10%) or greater, or equal to the percentage cited in the Ulster County Ethics Law, whichever is less;

(iii) payments in excess of the fair market value of services, materials, facilities or other things of value received in exchange;

(iv) (a) any expenditure made after the candidate has been finally disqualified or had his or her petitions finally declared invalid by the Ulster County Board of Elections or a court of competent jurisdiction, except that such expenditures may be made:

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(1) as otherwise permitted pursuant to subdivision G of Section 9 of this Local Law, or

(2) for a different covered election, other than a special election to fill a vacancy, held later in the same calendar year in which the candidate seeks election for the same office; provided, however, that public funds originally received for a special election to fill a vacancy may not be retained for expenditure in any other election;

(b) any expenditure made after the only remaining opponent of the candidate has been finally disqualified or had his or her petitions declared invalid by the Ulster County Board of Elections or a court of competent jurisdiction, except that such expenditures may be made for a different covered election, other than a special election to fill a vacancy, held later in the same calendar year in which the candidate seeks election for the same office; provided, however, that public funds originally received for a special election to fill a vacancy may not be retained for expenditure in any other election;

(v) payments in cash;

(vi) any contribution, transfer, or loan made to another candidate or political committee;

(vii) gifts, except campaign material of minimal value including but not limited to brochures, buttons, signs and other promotional campaign material;

(viii) an expenditure made primarily for the purpose of expressly advocating a vote for or against a ballot proposal, other than expenditures made also to further the participating candidate's nomination for election or election;

(ix) payment of any penalty or fine imposed pursuant to federal, state or Local Law; or

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(x) payments made through advances, except in the case of individual purchases in excess of two hundred fifty dollars (\$250.00).

(xi) fees for legal services wholly unrelated to furthering the participating candidate's election or nomination for election.

C. Post-election, a candidate may use public funds only for routine activities involving nominal cost associated with winding up a campaign and responding to the post-election audit. Such expenditures may include: payment of outstanding liabilities to vendors for costs incurred prior to the election, which have been properly documented; payment of utility bills and rent; reasonable staff salaries and consultancy fees for responding to a post-election audit; reasonable staff salaries and legal fees incurred prior to the date of the issuance of the participant's final audit report and associated with defending against a claim that public funds must be repaid; a post-election event for staff, volunteers, and/or supporters held within thirty days of the election; reasonable moving expenses related to closing the campaign office; a holiday card mailing to contributors, campaign volunteers, and staff; thank you notes for contributors, campaign volunteers, and staff; payment of taxes and other reasonable expenses for compliance with applicable tax laws; and interest expense. Routine post-election expenditures that may be paid for with public funds do not include such items as post-election mailings other than as specifically provided for in this subdivision; making contributions; or making bonus payments or gifts to staff or volunteers. Public funds may not be used for transition and inauguration activities.

SECTION 9. ULSTER COUNTY CAMPAIGN FINANCE FUND.

A. There is hereby established a special fund, to be known as the Ulster County Campaign Finance Fund. The moneys in such fund may be expended only as payments for participating candidates in accordance with the provisions of this Local Law.

B. The Fund shall be kept separate and shall be credited with all sums appropriated therefore, any donations received pursuant to subdivision I of this section and all earnings accruing on such funds.

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C. In the 2020 Ulster County Budget, seventy-five thousand dollars (\$75,000) should be appropriated for the Ulster County Campaign Finance Fund. Funds shall be distributed in accordance with Section 6 of this Local Law. However, if funding is insufficient to meet the demands of Section 6, funds will be distributed among participating candidates proportionally, in correspondence with the amount of public funding they would otherwise receive.

D. The money in the Ulster County Campaign Finance Fund shall be paid to participating candidates by the Board of Elections upon its certification that such candidates qualify for such funds.

E. No moneys shall be paid to participating candidates in a primary election any earlier than two weeks after the last day to file designating petitions for such primary election.

F. No moneys shall be paid to participating candidates in a general election any earlier than the day after the day of the primary election held to nominate candidates for such election.

G. No moneys shall be paid to any participating candidate who has been finally disqualified or whose designating or nominating petitions have been finally declared invalid by the Ulster County Board of Elections or a court of competent jurisdiction. Any payment from the Fund in the possession of such a candidate or his or her principal committee on the date of such final disqualified or invalidation may not thereafter be expended for any purpose except the payment of liabilities incurred in qualified campaign expenditures before such date and shall be promptly repaid to the Fund.

H. Prior to the first distribution of public funds to candidates in any election, the Budget Director shall make a determination whether the moneys in the Fund are sufficient to provide all candidates the amounts they may receive pursuant to this Local Law for all elections to be held during the calendar year for which such determination is made. Such determination shall be published on the official Ulster County website, together with information supporting such determination.

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I. The Board of Elections shall be empowered to accept donations to be credited to the Fund. The Board of Elections may devise such methods of soliciting and collecting donations as it may deem feasible and appropriate. Donations earmarked for a specific candidate shall not be accepted.

SECTION 10. POWERS AND DUTIES OF THE BOARD OF ELECTIONS

A. The Board of Elections shall promulgate such regulations and provide such forms as it deems necessary for the administration of this Local Law and the Board shall have the power to investigate all matters relating to the performance of its functions and any other matter relating to the proper administration of this Local Law and for such purposes shall have the power to require the attendance and examine and take testimony under oath of such persons as it shall deem necessary and to require the production of books, accounts, papers and other evidence relative to such investigation and, if the Board deems it appropriate, levy a civil penalty in accordance with Section 13 of this Local Law.

B. The Board of Elections shall promulgate regulations concerning:

- (i) the form in which contributions are to be reported;
- (ii) the time period(s) during which such report(s) must be filed;
- (iii) the steps that must be taken to verify the accuracy of the contents of each report as provided for in this Local Law.

C. The Board of Elections shall require the filing of report(s) of contributions for purposes of determining compliance with subdivision A of Section 4 and subdivision B of Section 4, in accordance with the schedule specified by the State Board of Elections for the filing of campaign receipt and expenditure statements.

The Board of Elections shall also promulgate regulations concerning the form in which participating candidates are to report expenditures, the periods during which such reports must be filed, and the verification required.

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D. Review and amendment of the Ulster County Comprehensive Campaign Finance Reform and Accountability Act:

(i) The Board of Elections shall annually review the public financing made available pursuant to this Local Law. Its review shall include, but is not limited to:

(a) The number of candidates that opted to receive public financing during the prior campaign;

(b) The overall cost of a campaign;

(c) The adequacy of matching funds in meeting the demands of a campaign; and

(d) The impact of public financing on the County Budget.

(ii) The Board of Elections shall hold one or more public hearings regarding the Board's annual review of public campaign financing.

(iii) The Board of Elections shall make a recommendation to the County Legislature on whether the ratio and caps provided in subdivision B of Section 6 and the eligibility thresholds in subdivision B of Section 7 should be adjusted. If the County Legislature adopts the Board of Elections' recommendation it may, by resolution, amend subdivision B of Section 6 and/or subdivision B of Section 7 in accordance therewith.

E. Board of Elections decisions, determinations, and recommendations shall be by majority vote.

F. The County Attorney or Attorney(s) shall provide legal and advisory services to the Board of Elections as it may require in the performance of its duties. If the County Attorney or Attorney(s) for the County has a potential conflict of interest, the County shall make funds available and shall provide for outside counsel.

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SECTION 11. INDEPENDENT ADMINISTRATIVE HEARING OFFICER.

A. An Independent Administrative Hearing Officer (“Hearing Officer”) is hereby created, established and authorized to hear complaints of aggrieved candidates in the event that the Board of Election Commissioners do not, by majority vote, agree upon a finding pursuant to Section 10 of this Local Law.

B. The Hearing Officer shall be appointed by the County Attorney. Any Hearing Officer so appointed shall be an attorney admitted to practice law in good standing by the State of New York having been so admitted for no less than five (5) years. Such appointments shall first be made from a panel of retired Supreme Court Justices residing in Ulster County, but if none are able or willing to serve, from any eligible attorney.

C. The Hearing Officer has the authority to require the attendance of witnesses or the production of documentary evidence by subpoena.

D. The Hearing Officer shall promulgate and make available appropriate forms of complaints, certifications and of waiver and relinquishment.

E. The Hearing Officer shall give to respondent written notice of the complaint and an opportunity to request a hearing on the complaint.

F. The written notice shall include, at a minimum:

(i) A concise statement of the factual basis for the complaint;

(ii) The amount of damages claimed;

(iii) The provisions of State, Federal or Local laws or regulations alleged to have been violated by respondent;

(iv) The right to request a hearing on the material facts; and

(v) A copy of the rules of the hearing procedures which have been promulgated by the Hearing Officer.

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The hearing shall provide a reasonable opportunity to be heard, to assert any applicable answer, affirmative defenses, cross claims or counter claims, to move to dismiss, to cross-examine witnesses, and to present evidence free from interference, coercion, restraint, discrimination, or reprisal, and the parties shall have the right to be represented by a person of his/her choice at any stage of the hearing and proceedings at their own expense.

- G. If any party to the hearing fails to appear at the hearing without good cause being shown and the complainant presents a prima facie case against the respondent, the respondent may be found in default. The motion for default and a proposed default order shall be served by the Hearing Officer on all parties, and the defaulting party shall have twenty (20) days from service thereof to reply to the motion. The proposed default order may be set aside for good cause shown in accordance with the Civil Practice Law and Rules. Default by the complainant shall result in the dismissal of the complaint with prejudice.
- H. Should the Hearing Officer determine that a violation of any provision of applicable law and/or regulation has occurred the Hearing Officer shall consider the seriousness of the violation(s); any history of such violations; the economic impact (benefit or harm) resulting from the violation(s) to complainant; the economic impact of the damages to be assessed; and such other factors as justice may require. Money damages, or other non-monetary relief, awarded hereunder shall constitute a judgment as that term is defined in the Civil Practice Law and Rules, which may be enforced in accordance with that statute.
- I. The Hearing Officer shall establish rules and forms for discovery consistent with Article 31 of the Civil Practice Law and Rules, and for administration and implementation of this section, including procedures for conducting hearings, motion practice, and other necessary proceedings.
- J. The Hearing Officer shall maintain an abstract of all complaints received each year, which abstract shall include the date and subject matter of the complaint, the names of the parties, and the disposition of the complaint.

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SECTION 12. EXAMINATIONS AND AUDITS; REPAYMENTS.

A. The Board of Elections is hereby empowered to audit and examine all matters relating to the performance of its functions and any other matter relating to the proper administration of this Local Law. The Board of Elections shall conduct its campaign audits in accordance with generally accepted government auditing standards, and shall promulgate rules regarding what documentation is sufficient in demonstrating financial activity. These audit and examination powers extend to all candidates and the principal and authorized committees of all candidates, provided that:

(i) Any draft audit, the subject of which is a candidate or the principal and/or authorized committees of any candidate shall be completed within:

(a) eight months after the submission of the final disclosure report for the covered election for County Legislature races; and

(b) ten months after the submission of the final disclosure report for the covered election for County- wide races, unless the subject of such audit consents in writing to a longer period of time.

(ii) The Board of Elections shall provide each candidate a final audit, which shall contain the final resolution of all issues raised in the draft audit; such final audit shall be provided to the candidate within:

(a) fourteen months after the submission of the final disclosure report for the covered election, for County Legislature races; and

(b) sixteen months after the submission of the final disclosure report for the covered election for County-wide races, unless the subject of such audit consents in writing to a longer period of time. Provided, however, that where the issuance of such final audit is preceded by a notice of violations and recommended penalties and/or a notice of repayment of public funds, such notice or notices shall include potential penalties and/or repayment obligations and a notice of a candidate's right to a hearing pursuant to Section 11 or Section 13 B(ii)(a) of this Local Law and

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shall be provided to the candidate according to the deadlines applicable to final audits as set forth in this paragraph.

(iii) Any advice provided by Board of Elections staff to a candidate with regard to an action shall be presumptive evidence that such action, if taken in reliance on such advice, should not be subject to a penalty or repayment obligation where such candidate or such candidate's committee has confirmed such advice in a writing to such Board of Elections staff by registered or certified mail to the correct address, or by electronic or facsimile transmission with evidence of receipt, describing the action to be taken pursuant to the advice given and the Board of Elections or its staff has not responded to such written confirmation within seven business days disavowing or altering such advice, provided that the Board of Elections response shall be by registered or certified mail to the correct address, or by electronic or facsimile transmission with evidence of receipt.

(iv) Notwithstanding the provisions of paragraphs (i) and (ii) of this subdivision, if a committee has failed to respond to a request for information made by the Board of Elections during the post-election audit process, the time period for completing the draft and final audits shall be tolled and extended by the number of days by which the committee has exceeded the original deadline for a response, provided that the committee has received timely written notice of:

(a) the original deadline to provide the information, which shall not have been less than thirty days from the date such information was requested; and

(b) the commencement of the tolling period pursuant to this section. If a committee has responded to a request for information made by the Board of Elections but such response is inadequate, the time period for completing the draft and final audits shall be tolled and extended by the number of days until an adequate response is provided, provided that the committee has received timely written notice of:

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(1) the original deadline to provide the information, which shall not have been less than thirty days from the date such information was requested;

(2) the commencement of the tolling period pursuant to this section; and

(3) the detailed reasons why the original response was inadequate.

(v) Notwithstanding any provision of law to the contrary, the deadlines provided in paragraphs (i) and (ii) of this subdivision for the completion of draft and final audits shall not apply in cases where the audit raises issues involving potential campaign-related fraud, potential other criminal activity, or activity that may constitute a breach of certification pursuant to rules of the Board of Elections.

(vi) Notwithstanding any provision of the law to the contrary, the deadlines provided in paragraphs (i) and (ii) of this subdivision for the completion of draft and final audits shall not apply in the event that Board of Elections operations are interrupted due to a catastrophic emergency such as a natural disaster or criminal event, provided that once Board of Elections operations resume, the Board of Elections shall within two weeks announce new deadlines for the completion of draft and final audits consistent with paragraphs (i) and (ii).

B. (i) If the Board of Elections determines that any portion of the payment made to the principal committee of a participating candidate from the Fund was in excess of the aggregate amount of payments which such candidate was eligible to receive pursuant to this Local Law, it shall notify such committee and such committee shall pay to the Board of Elections an amount equal to the amount of excess payments.

(ii) If the Board of Elections determines that any portion of the payment made to a principal committee of a participating candidate from the fund was used for purposes other than qualified campaign expenditures, it shall notify

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such candidate and committee of the amount so disqualified and such candidate and committee shall pay to the Board of Elections an amount equal to such disqualified amount; provided, however, that in considering whether or not a participating candidate shall be required to pay to the Board of Elections such amount or an amount less than the entire disqualified amount, the Board of Elections shall act in accordance with the following:

(a) where credible documentation supporting each qualified campaign expenditure exists but is incomplete, the Board of Elections shall not impose such liability for such expenditure; and

(b) where there is an absence of credible documentation for each qualified campaign expenditure, the Board of Elections may impose liability upon a showing that such absence of credible documentation for such expenditure arose from a lack of adequate controls including, but not limited to, trained staff, internal procedures to follow published Board of Elections guidelines and procedures to follow standard financial controls.

(iii) If the total of contributions, other receipts, and payments from the Fund received by a participating candidate and his or her principal committee exceed the total campaign expenditures of such candidate and committee for all covered elections held in the same calendar year or for a special election to fill a vacancy such candidate and committee shall use such excess funds to reimburse the Fund for payments received by such committee from the Fund during such calendar year or for such special election. No such excess funds shall be used for any other purpose, unless the total amount of the payments received from the Fund by the principal committee has been repaid.

C. If a participating candidate whose principal committee has received public funds is disqualified by a court of competent jurisdiction on the grounds that such candidate committed fraudulent acts in order to obtain a place on the ballot and such decision is not reversed, such candidate and his or her principal committee shall pay to the Board of Elections an amount equal to the total of public funds received by such principal committee.

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D. No claim for the repayment of public funds shall be made against any candidate or committee without written notice to such candidate or committee, issued in a timely manner pursuant to all of the requirements of subdivision A of this section, and an opportunity to appear before the Board of Elections. Any such repayment claim shall be based on a final determination issued by the Board of Elections. Such final determination shall be included in and made part of the final audit which shall be issued within thirty days of such determination.

SECTION 13. EXAMINATIONS AND AUDITS; REPAYMENTS.

A. Duties. The Board of Elections shall determine whether a candidate, his or her principal committee, authorized committee, committee treasurer or any other agent of such candidate has committed a violation or infraction of any provision of this Local Law or the rules promulgated hereunder, for which the Board of Elections may assess a civil penalty pursuant to Section 14 of this Local Law. The Board of Elections shall promulgate rules defining infractions, and such definitions shall include, but not be limited to, failures to comply with the provisions of this Local Law or the rules promulgated hereunder that are limited and non-repetitive.

B. Process.

(i) The Board of Elections shall give written notice and the opportunity to appear before the Board of Elections to any candidate, his or her principal committee, authorized committee, committee treasurer or any other agent of such candidate, if the Board of Elections has reason to believe that such has committed a violation or infraction, before assessing any penalty for such action. Any such written notice of alleged violations shall be issued in a timely manner pursuant to all of the requirements of subdivision A of Section 12 of this Local Law and shall precede the issuance of the final audit required pursuant to subdivision A of Section 12 of this Local Law. In the case of a written notice issued prior to the date of a covered election, or after the date of a covered election in the case of a notice regarding an alleged failure to respond to a request for audit documentation, such notice may be issued prior to the issuance of a draft audit. Alleged violations and proposed penalties shall be subject to resolution by adjudication before the Board of Elections. The

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Board of Elections shall issue a final determination within thirty days of the conclusion of the adjudication proceeding.

(ii) The Board of Elections shall include in every final determination:

(a) Notice of the respondent's right to bring a special proceeding challenging the Board of Elections' final determination subject to Section 11 of this Law; and

(b) notice of the respondent's right to bring a special proceeding challenging the Board of Elections' or Administrative Hearing Officer's final determination in New York State Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules; and

(c) notice of the commencement of the four-month period during which such a special proceeding may be brought pursuant to Article 2 of the Civil Practice Law and Rules.

SECTION 14. PENALTIES.

A. Any candidate and his or her principal committee or his or her authorized committees that fail to file in a timely manner a statement of record required to be filed by this Local Law or the rules of the Board of Elections in implementation thereof or that violate any other provision of this Local Law or rule promulgated thereunder and any committee treasurer or any other agent of a candidate who commits such a violation or infraction, shall be subject to a civil penalty in an amount not in excess of one thousand dollars (\$1,000.00). The Board of Elections shall publish a schedule of civil penalties for common infractions and violations, including examples of aggravating and mitigating circumstances that may be taken into account by the Board of Elections in assessing such penalties. This schedule shall reflect that infractions are less serious failures to comply with the provisions of this Local Law.

B. In addition to the penalties provided in subdivision A of this section, a participating candidate or his or her principal committee, that has been found by the Board of Elections to have violated a provision of this Local Law by failing to

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provide any response to a draft audit report sent to the candidate after the election by the Board of Elections pursuant to Section 12 of this Local Law, shall be subject to a civil penalty for such violation of up to ten percent (10%) of the total public funds received by such candidate.

C. The intentional or knowing furnishing of any false or fictitious evidence, books or information to the Board of Elections under this Local Law, or the inclusion in any evidence, books, or information so furnished of a misrepresentation of a material fact, or the falsifying or concealment of any evidence, books, or information relevant to any audit by the Board of Elections of the intentional or knowing violation of any other provision of this Local Law shall be punishable as a class A misdemeanor for offering a false instrument (NY Penal Law § 175.30) in addition to any other local, state, or federal law or regulation, as well as any other penalty as may be provided under law, including subdivision A of this section. The Board of Elections shall assess penalties for such conduct and seek to recover any public funds obtained.

D. Notwithstanding any provision of law to the contrary, any candidate and his or her principal committee or authorized committees or any other person who commits any violation of this Local Law or any rules promulgated hereunder and who takes all steps necessary to correct such violation prior to receiving written notice from the Board of Elections of the existence of the potential violation shall not be subject to any penalty for such violation.

SECTION 15. CAMPAIGNS FOR OFFICE NOT SUBJECT TO THIS LOCAL LAW.

Contributions, loans, guarantees and other security for such loans used by a candidate in an election held prior to the effective date of this section or in a campaign for public office other than one covered by this Local Law, shall not be subject to the requirements and limitations of this Local Law.

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SECTION 16. CONSTRUCTION.

Nothing in this Local Law shall be construed to prohibit the making or receipt of contributions to the extent permitted by the election law or to permit the making or receipt of contributions otherwise prohibited.

SECTION 17. JOINT CAMPAIGN ACTIVITIES.

Nothing in this Local Law shall be construed to restrict candidates from authorizing expenditures for joint campaign materials and other joint campaign activities, provided that the benefit each candidate derives from the joint material or activity is proportionally equivalent to the expenditures authorized by such candidate.

SECTION 18. TOLLING OF TIME FOR NOTICE OF ALLEGED VIOLATIONS AND/OR NOTICE OF REPAYMENT OF PUBLIC FUNDS.

If a committee has failed to respond to a request for information made by the Board of Elections or has inadequately responded during the post-election audit process and the Board of Elections has satisfied the provisions of subdivision A of Section 12 of this Local Law, the time period for serving notice shall be tolled and extended by the number of days by which the committee has exceeded the original deadline for a response, provided that the committee has received timely written notice of:

- (i) the original deadline to provide the information, which shall not have been less than thirty days from the date such information was requested; and
- (ii) the commencement of the tolling period pursuant to this section.

SECTION 19. SEVERABILITY.

If any word, phrase, clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its

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operation to the word, phrase, clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 20. EFFECTIVE DATE.

Upon adoption, this Local Law shall be filed with the New York State Secretary of State and shall take effect on January 1, 2020, except for the provisions set forth in Section 10, which shall take effect immediately.