

# New Haven Democracy Fund Regulations

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## **A. Civil Penalties**

1. **Who is covered.** Any person that violates the Democracy Fund Ordinance (“the Ordinance”), as well as any person or entity that causes any other person to violate any provision of the Ordinance or that aids and abets any other person in such a violation.

### **2. Late filings**

a. The penalty for the late filing of a report required by the Ordinance is \$50 per business day, and \$100 per business day during the 14 days prior to an election, up to a total of \$2,000.

b. If the report is late as a direct result of an error by the Democracy Fund Administrator (“the Administrator”), the violation will be waived and no penalty assessed.

### **3. Insufficient filings.**

a. An insufficiency results when an item is missing from a report or when an item in a report is missing required information or documentation, or the information or documentation provided is not adequate.

b. If the Democracy Fund Board or Administrator determines that there are insufficiencies, a letter identifying the insufficiencies will be sent to the committee treasurer. If the insufficiencies are corrected by the amendment deadline provided in the letter, the report will be considered sufficient and there will be no penalty. If the treasurer fails to correct the insufficiencies by the amendment deadline, the committee will be subject to a penalty, as follows.

For missing items:

- 1) First violation by the committee: \$20 per insufficient item.
- 2) Second violation: \$30 per insufficient item.
- 3) Third or subsequent violation: \$50 per insufficient item.

For missing information and documentation:

- 1) First violation by the committee: \$10 per insufficient item.
- 2) Second violation: \$15 per insufficient item.
- 3) Third or subsequent violation: \$20 per insufficient item.

### **4. Improper contributions and expenditures.**

a. Per Section 2-832(c) of the Democracy Fund Ordinance, the penalty for improper contributions and improper expenditures is not “to exceed two thousand dollars per violation, or twice the amount of any improper expenditure or contribution, whichever is greater.”

b. “Prompt return” of excess contributions. If an amount contributed by an individual in excess of the contribution limit is not returned to the contributor, or paid to the Democracy Fund, within 30 calendar days after receipt by the participating committee or within 7 calendar days after the date upon which the next report is due to the Democracy Fund Administrator, whichever is earlier, the excess amount of the contribution will be considered an “improper contribution” for the purpose of this section.

**5. Notice of proposed penalty.** The Administrator will send a notice of proposed penalty to any person, candidate, or committee the Board determines to be in violation of the Ordinance.

**6. Payment of penalties.**

a. If a penalty is imposed against a candidate, the candidate’s mayoral committee, or its treasurer or other staff member, the candidate and the treasurer are personally liable for the amount to be paid.

b. Penalties are due immediately when they become final.

c. All monies received in civil penalties shall be paid to the Treasurer of the Board and credited to the Democracy Fund.

**7. Interest calculation.**

a. Civil penalties are subject to interest at a rate of 12 percent simple interest of the total amount per annum.

b. Interest will be calculated on the unpaid balance from the date the penalty becomes final.

**8. Waiver of penalties.** All or part of any penalty may be waived for good cause shown.

**B. Complaints and Investigations**

**1. Initiation of proceeding.** A proceeding under §245(k) of the Ordinance may be commenced when: (1) the Board receives a written complaint sworn to or affirmed, alleging the commission or omission of acts in violation of the Ordinance, or (2) the Board, on its own initiative, seeks an investigation pursuant to Regulation B-6. No such proceeding need be initiated for late or insufficient filings.

**2. Service of complaints.** A complaint must be filed by mailing it to, or by personally delivering it to, the Administrator at the address shown on the Democracy Fund website.

3. **Contents of complaint.** A complaint must specify times, places, and names of witnesses to the acts charged as violations of the Ordinance, to the extent known. A complaint should be based on personal knowledge, if possible. If a complaint is based on information and belief, the complainant must state the source of that information and belief. Copies of all documentary evidence available to the complainant must be attached to the complaint.

4. **Initial complaint processing.** Upon receipt of a complaint, the Board will review the complaint for substantial compliance with the requirements of subsection 3 and the directions on the complaint form, and if the complaint complies with those requirements and if the allegations, if true, would constitute a violation of the Ordinance, the Administrator will, within 10 days after receipt, mail to each respondent notification that the complaint has been filed, enclosing a copy of the complaint. If the complaint does not comply or if its allegations would not constitute a violation, the Board will dismiss the complaint and so notify the complainant(s).

5. **Opportunity to respond to complaint.** Within 20 days from mailing by the Board of a copy of the complaint to a respondent, or within such lesser time as may be specified by the Board for complaints received less than 40 days before the election, the respondent may submit a verified answer, which may set forth reasons why the Board should dismiss the complaint. If, based upon its review of the complaint and any answer filed, the Board determines the complaint to be lacking in merit, the Board will dismiss the complaint.

6. **Investigation.** Following receipt of a complaint, or at any time if acting on its own initiative, the Investigator, or the Administrator or a hired professional, if there is not currently an Investigator, may conduct an investigation into possible violations of the Ordinance. An investigation may include, but is not limited to, field investigations, desk and field audits, the issuance of subpoenas, the taking of sworn testimony, and the issuance of document requests and interrogatories. The goal of the investigation is to determine whether there is probable cause to believe that a violation of the Ordinance has occurred. "Probable cause" means a preponderance of the evidence, that is, that it is more likely than not that a violation has occurred.

### **C. Board Determinations**

1. **Determination that complaint lacks merit.** During or following an investigation, the Board may determine that a complaint is lacking in merit, or that violations of the Ordinance have not been substantiated, and dismiss the complaint.

**2. Probable cause determination and notice of determination.** If, any time during or after the investigation, the Board determines that there is probable cause to believe that a violation of the Ordinance has occurred, and/or that funds are due to the Board, the Board will notify all respondents, in writing, whether via the postal system, electronic mail, or facsimile, of the alleged violation(s) and/or of the amount of funds to be paid or repaid to the Democracy Fund. Such notice must (a) set forth the factual and legal basis for the Board's determination, (b) notify all respondents of the opportunity to submit information and documentation for the Board's consideration within a reasonable time period to be specified in such notice, and to appear before the Board or its designee at a hearing to contest the determination; and (c) notify all respondents of their options to waive the hearing and to instead either accept the Board's determination or to ask the Board to institute settlement or mediation procedures pursuant to Regulation C-5.

**3. Hearings.** Unless waived by all respondents, a public hearing will be held by the full Board, by a designated subcommittee or member of the Board, or by a designated hearing officer, using administrative rules of evidence. The names and contact information of all persons wishing to present testimony must be provided at least five business days prior to the date of the hearing. The respondents will be afforded due process of law, including the opportunity to be represented by counsel, to request that a subpoena be issued, to call witnesses, to cross-examine opposing witnesses, and to present oral and written arguments on the law and facts. All witnesses must testify under oath.

**4. Final determinations and enforcement.** Following the hearing or opportunity for the respondents to submit information, the Board may determine the amount of civil penalties for any violations it determines, by majority vote, to have occurred and/or the amount of funds to be paid or repaid, and then it must provide notice setting forth the factual and legal basis of the determination. If these amounts are not paid by the payment deadline set forth in the notice, they may be sought through appropriate enforcement action or, in the case of civil penalties, by deduction from any public funds otherwise due for any election.

**5. Settlement and mediation.** In the alternative, the Board or Administrator may initiate settlement or mediation procedures with any respondent who approves this approach. For this purpose, the Board or Administrator may conduct a settlement conference or have a mediator or other designee meet with complainants, respondents, and possibly a Board representative. If terms of settlement satisfactory to the parties are reached, a settlement agreement will be signed by the parties. If any amounts to be paid as provided for in the agreement are not paid by the payment deadline, they may be sought through appropriate enforcement action or, in the case of civil penalties, by deduction from any public funds otherwise due for any election. If the Board has reason to believe that any respondent has not fully complied with the terms of the agreement, or if new facts have been

brought to the Board's attention, the Board may, at its discretion, re-open the case and/or bring an appropriate enforcement proceeding.

In the case of mediation, the Administrator will provide respondent(s) with a list of three mediators. The respondent(s) may agree to use one of the three mediators listed or, if they cannot agree, each respondent may strike the name of one of the mediators from the list. If none is selected, the Administrator will select a mediator whose name has not been stricken from the list. Depending upon the circumstances, in the exercise of its discretion, the Board may either pay for the services of the mediator or ask the respondent(s) to share responsibility for payment of some or all of the mediator's fees.

#### **D. Advisory Opinions**

Upon the written request of a candidate or any other person, the Board will issue an advisory opinion interpreting the Ordinance and these regulations, or otherwise respond in writing to the request, within thirty days of receipt of such request, or within ten business days of receipt if such request is received less than thirty days before a covered election, to the extent practicable. The Board will make public its advisory opinions, including by publication on its website.

#### **E. Post-Election Expenditures** (relating to Democracy Fund Ordinance §2-822.10)

Participating mayoral committees may make post-election expenditures paid for with unspent campaign funds only for routine activities involving the cost associated with winding up a campaign and responding to any post-election audits. Routine post-election expenditures do not include such items as post-election mailings other than as specifically provided for in this subparagraph; making contributions; making bonus payments or gifts to staff or volunteers; or transition and inauguration activities. The \$250 per election limit on post-election expenditures in the Ordinance applies only to post-election parties, thank you notes and advertising to thank supporters and voters, and the like.