



# Oklahoma Democratic Party Committee Compliance Guide

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## **Preface**

This is a guide to help all members of the Oklahoma Democratic Party (ODP) conduct business in compliance with all State and Federal ethics requirements. This is not a legal document, nor should it be considered as legal guidance. This guide pulls from State and Federal resources, laws, and guidelines to compile a summary of requirements in a simpler, more accessible way put together specifically for ODP committees.

For the purpose of this guide, a committee is any organization recognized by ODP as a member of its functioning body. This includes county parties, congressional districts, clubs, federations, and any group recognized by ODP governing documents.

Any questions, concerns, or comments on this guide should be referred to the Oklahoma Democratic Party. Any questions, concerns, or comments on your committee's activities should be referred to the Oklahoma Ethics Commission.

### ***Structure Requirements -***

Each committee is required to have a Chair, Treasurer, and campaign depository at a financial institution that ordinarily conducts business in the State of Oklahoma. The bank account must be established solely for the committee and may not comeingle with funds of any other entity.

Officers are responsible for their committee's compliance with all ethics regulations. This includes record keeping requirements, registration, filing, and

notifying the OEC of any changes to the committee structure (change in officers, etc) within 10 days of the change.

In addition, each committee must obey the Oklahoma Democratic Party Constitution and Bylaws as well as any governing documents of their own committee.

Compliance with ethics regulations ensures that your committee and the Party stay out of trouble with both the Oklahoma Ethics Commission (OEC) and Federal Ethics Commission (FEC). Compliance also ensures transparency in all activity of the Party.

***Source of Guidance -***

*These recommendations were originally compiled in December 2019 using the OEC State Political Party Ethics Guide, Local Political Party Ethics Guide, Annotated Ethics Rules Version 2019.1, County Campaign Finance and Financial Disclosure Act Version 2015.1, Municipal Campaign Finance and Financial Disclosure Act Version 2015.1, as well as the FEC Political Party Committee Guide August 2013, and Compiled Federal Election Campaign Laws February 2019.*

## Federal vs. State

There are different rules, regulations, and reporting requirements for State and Federal election activity. It is important to understand the distinction and avoid any activity that triggers registration requirements. Registration with the FEC is a more complicated and cumbersome process and should be avoided if possible.

### **Affiliation –**

The FEC and OEC consider a Political Party as all its affiliated levels for contribution and expenditure limits. These levels include county, congressional district, local, and committees (federations, clubs, etc) regardless of if the committee has registered or not. The OEC dictates that any committee affiliated with the State Party through recognition in bylaws or other governing documents are included. There are no exceptions to this rule.

### **What Triggers Registration Requirements –**

#### ***State Level (OEC) -***

Committees are required to register with the OEC if they engage in any of the following:

- Independent Expenditures
- Electioneering Communication
- Contributions in any amount to any candidate for any state office.

*These activities are outlined in the Expenditures section.*

Once a committee engages in any of these activities, they must register with the OEC which includes a \$100 registration fee. The committee must then file quarterly reports for the remainder of the calendar year.

Committees that do not engage in any of these activities are not required to register with the OEC. However, committees are still responsible for following OEC guidelines including record keeping requirements. Committees may use the OEC's Guardian system as a bookkeeping tool without being required to register.

***Transferring Funds between the Committee and State Party –***

Transferring funds between the committee and State Party does not trigger registration requirements. This means that any committee that wishes to engage in any of the above actions may do so through the State Party. The State Party then reports the activity to the OEC. For example, if a County Party wants to contribute to a candidate committee, they may transfer funds to the State Party which may then transfer funds to the candidate committee.

If your committee wishes to engage in these actions without registering, please contact the State Party.

***Federal Level (FEC) -***

Committees are required to register with the FEC if they engage in any of the following activities in connection with a federal campaign (Senate, Congress, etc.) in a calendar year:

- Raise more than \$5,000 in federally designated contributions
- Spend more than \$5,000 on exempt party activities
- Make more than \$1,000 in contributions to campaigns (aggregated)
- Spend more than \$1,000 in other expenditures

Connection with a federal campaign means any activity that supports, opposes, influences, or otherwise targets a federal election. If these activities include both federal and non-federal candidates, only the value of the activity benefitting federal candidates count toward limits.

These thresholds are aggregated and apply to all contributions and expenditures made by the committee during the calendar year. This includes transfers to the ODP Federal account and any other committee that engages in federal activity. All funds raised or spent must comply with FEC regulations. Expenses for federal activity must be spent with funds raised specifically for federal activity. This requires an additional bank account designated for federal activity.

There are expenditure limits for how much a State Party may spend in support of a Federal candidate. The FEC requires that any committee acquire written authorization from the ODP to spend against these limits. Unauthorized expenses are in violation of FEC regulations.

Committees have 10 days to register with the FEC after passing any of these thresholds.

***Contributions to Campaigns –***

Any expense at the request of or in coordination with a campaign is considered a contribution to the campaign and must be recorded as such by both the candidate and committee. These expenses count toward the \$1,000 contribution limit.

***Exempt Party Activities –***

Exempt party activities are certain activities that benefit federal candidates but are not considered contributions to the candidate. These include preparing and distributing slate cards (i.e. walk cards) or sample ballots, distribution of campaign materials by volunteers on behalf of a candidate, and voter drives for presidential nominees.

***Other Expenditures –***

Any money, loans, advances, goods, services, or anything of value given for the purpose of influencing a federal election.

***Example:*** *X Federation raises \$1,001 in federally designated funds. The Federation spends \$501 to distribute walk cards for a Congressional candidate with no other candidates listed on them. They then transfer \$500 to the ODP Federal account, or to any other committee registered with the FEC. The committee is required to file with the FEC.*

## **What this means for your committee:**

For FEC registration thresholds, your committee will likely not exceed these limits to support a federal candidate through daily operations. This includes most general activities such as distributing walk cards, brochures, and other campaign materials for federal candidates. As a general rule, your committee should keep track of these activities and monitor them to ensure that thresholds are not passed. It is important to note that these activities are aggregated across all federal activity. This means that support for a congressional candidate counts toward the same threshold for support of a senate candidate. Ensuring compliance with the FEC is a complicated and cumbersome process that requires a significant commitment from your committee as well as the ODP as a whole. As a result, precautions should be taken to ensure that your committee does not pass these thresholds and remains in compliance.

For OEC registration thresholds, the chances of your committee engaging in activity that triggers the registration requirement is much higher. However, filing with the OEC is a much simpler process and committees are required to do so only for the remainder of the calendar year in which the activity occurs. Committees should be aware of these registration requirements and consider the additional responsibilities associated with engaging in the activities.

For the purposes of this guide, the remainder of this guide outlines only the State level ethics rules and regulations unless stated otherwise.

If your committee has any questions on what constitutes State or Federal activity, please contact the State Party prior to any action.



**Important note on Committee contributions to candidates:**

While a Committee may transfer funds to the State Party to make a contribution to a State candidate, the same cannot be done to make a contribution to a Federal candidate. The regulations allowing a Committee to transfer funds to the State Party to contribute to a State candidate without registering are specifically outlined as permissible activity by the Oklahoma Ethics Commission. The Federal Election Commission does not permit similar activity to make contributions to Federal candidates. There is no way to bypass this restriction. Doing so would violate Federal Election law by making a contribution in the name of another.

This means that the State Party cannot make contributions to Federal candidates on your Committees behalf to bypass the registration requirement. If your Committee makes contributions to Federal candidates in excess of \$1,000 in a calendar year, the Committee has met the registration requirement with the FEC.

Before making any contribution to a Federal candidate, please contact the ODP Treasurer to ensure compliance with FEC regulation and Federal Election Law.

## **Record Keeping**

Committees should always practice good record keeping for both ethics compliance and transparency. If anything were to happen and the OEC requests information from the committee, thorough records will ensure that the process goes smoothly. If a committee engages in activity that triggers the registration requirement, they will be required to disclose all information on receipts and expenditures to the OEC for that quarter.

### **OEC Bookkeeping Requirements**

#### ***Contributions -***

For contributions, committees must keep a record of the date of receipt (the OEC considers the date of receipt as the date the contribution was deposited into the bank) and value for all contributions regardless of amount as well as the name, address, occupation, and employer for every contributor regardless of the value of the contribution. Sale of goods are considered contributions and subject to the same requirements.

For in-kind contributions, committees should keep a record of what the item was as well as a receipt of purchase from the contributor if possible.

Anonymous contributions are limited to \$50 in cash per contribution. If a committee does not receive all of the required information at the time of contribution, it is required to use best efforts to obtain that information. The State Party's practice on this is to send a written letter requesting the additional information to the individual in question with an explanation of why it is being requested (typically, the omitted information is the occupation and employer) and

to keep that record on file as well as any information received as a result of the letter.

***Expenditures -***

For expenditures, committees must keep a record of the date of expense, value, and purpose of the expenditure as well as the name of the recipient, address, occupation and employer (if the recipient is a business or organization, occupation and employer are not required). Committees must keep a copy of a receipt or invoice for every expenditure made regardless of value.

**What this means for your committee:**

Committees should have a policy and procedure in place for ensuring thorough recordkeeping. The committee's treasurer should be aware of all requirements and ensure that proper procedure is followed, and that the committee is prepared to file with the OEC in the event that they are required to do so.

Please contact the ODP with any questions or guidance on best practices.

## **Contributions**

A contribution is anything of value given to a committee (at any level) and can be either monetary or in-kind.

### ***Types of Contributions -***

Monetary contributions may be made via card, check, or cash up to \$50 per individual. In-kind contributions may be made by providing a committee with any goods or services without charge and include any commercial discount given to the Committee not publicly available. In-kind contributions are recorded as the value of the good or service provided. Sales of goods are considered contributions. Items donated for fundraisers, such as auction items, are in-kind contributions and must be recorded as well as the amount raised by selling the item.

### ***Who Can and Can't Give -***

Committees can accept contributions from individuals who are not foreign nationals (individuals with permanent resident status may make contributions). Contributions must be voluntary given and may not be made in the name of another person. Committees may also accept contributions from State PACs and Candidate Committee Surplus Funds (Please contact the Party if you have questions on what this means). Committees may not accept contributions from Corporations or Labor Unions.

### ***Procedural Requirements -***

Contributions must be deposited within 10 days of receipt.

## **Limits -**

The contribution limit for a State Political Party is \$10,000 per calendar year. Both monetary and in-kind contributions count toward this limit.

*NOTE: Separate limits exist for the State Party's Federal and Levin accounts. The ODP may accept \$10,000 for the state, federal, and Levin account for a total of \$30,000 per calendar year per person.*

The \$10,000 contribution limit applies to all levels of the State Party. This means that all levels of the Party – County, Congressional, Federation, and otherwise – share the same \$10,000 contribution limit per calendar year.

An individual may host a fundraiser in their home using personal funds up to \$1,000 without requiring the committee to record the expense as an in-kind contribution. This exception may only be applied once a year per individual and applies to all levels of the Committee.

## **What this means for your committee:**

Prior to depositing a contribution, your committee should contact the State Party to verify that the contributor has not met their contribution limit for the year. The contribution will be recorded and applied to that contributor's limit, enabling other committees to raise funds from that contributor while ensuring ethics compliance. Contributions of any amount must go through this process.

This procedure ensures that all levels of the State Party are free from ethics violations. If one Party Committee receives a contribution that exceeds the annual

limit and does not report it, all subsequent Party Committees are in violation of Ethics regulations and subject to prosecution.

***Example:*** *X County Party receives \$1,000 from Jane Doe. The County Party contacts the State Party to inform them of this receipt. The State Party reviews its records, sees that Jane Doe has given \$6,000 this year, and informs the County Party that the funds are permissible and may be deposited. The State Party then records the contribution to reflect that Jane Doe has given \$7,000 this year. X Federation then receives a \$4,000 contribution from Jane Doe. The Federation contacts the State Party to inform them of this receipt. The State Party reviews its records and sees that Jane Doe may only contribute an additional \$3,000 and informs the Federation. The Federation must then NOT deposit the contribution and instead contact Jane Doe to return the contribution. The Federation may then ask Doe to make a \$3,000 contribution. If the Federation receives the new \$3,000 contribution, the Federation MUST repeat the same process to verify that the funds are permissible.*

## Expenditures

Expenditures are any funds spent or goods and services donated by a committee.

*NOTE: For the purposes of this guide, what is outlined below applies to State activities specifically. See the State vs. Federal section for additional information.*

### ***Types of Expenditures –***

Committees may spend funds on ordinary and necessary campaign expenses, operating expenses, and for purposes that further purposes of the committee (determined by reviewing the party's rules, bylaws, charter, or other organic documents). They may also make independent expenditures and expenditures for electioneering communication.

### ***Personal Use Prohibition –***

Committee funds may not be spent for personal use. This is defined as any use of funds to fulfill a commitment, obligation, or expense of an individual or other person that would exist irrespective of the political party's activities.

### **Contributions to Candidates –**

A political party may not contribute more than \$25,000 to a candidate for statewide office (any office that does not have districts, such as Governor, Attorney General, etc), nor more than \$10,000 to any other non-judicial candidate (House and Senate, District Attorney, etc.). This activity triggers OEC registration requirements. These limits are shared across all Political Party committees in the same way contributions are shared. In addition, contributions to candidates trigger the requirement that committees register with the OEC and file regular reports. However, there is an exception to this rule outlined in the State vs. Federal section.

### **Independent Expenditures and Electioneering Communications –**

An independent expenditure is any expenditure for communications that expressly advocate the election or defeat of a clearly identified candidate. These expenses must not be made in coordination with a candidate committee. Independent expenditures do not include displaying of yard signs, buttons, bumper stickers, or other displays of support or opposition to a political party or candidate. There are no financial limits on independent expenditures but this activity triggers OEC registration requirements.

An electioneering communication is a single or series of communications that refer to a clearly identified candidate for state office made within 60 days prior to a general election or 30 days prior to a primary or runoff. (*NOTE: This refers to State level candidates. Please see the section on Federal vs. State for additional information.*) These expenses must not be made in coordination with a candidate committee. To qualify, the communication must be sent by internet, direct mail, radio, television, cable, satellite broadcasting, or appear in a newspaper or magazine. The communication must also be targeted to the relevant electorate (25,000 or more people for statewide office, 2,500 or more for State Representative or District Judge, and 5,000 or more for any other state office). Electioneering communication is not issue advocacy, nor is it anything that falls outside of the above outlined components. There are no financial limits on electioneering communications but this activity triggers OEC registration requirements.

All electioneering communication and independent expenditures must be clearly identified with the following disclosure: “Not authorized by and candidate or campaign committee. Authorized and paid for by [Name, permanent address, and phone number of the Committee]”



If any independent expenditure or electioneering communication is made in coordination with (any sort of communication with the candidate or candidate committee) then it is a contribution to the candidate committee and must be reported. These expenditures count toward the contribution limit of the Party to the candidate committee as well as the thresholds for registration requirements with the OEC.

### **What this means for your committee:**

Committees should consider the purpose of each expenditure made, whether it is an independent expenditure or electioneering communication, and if it is a contribution to a candidate committee. If there are any questions or concerns, the committee should contact the State Party prior to making the expense. Committees should consult the State Party before engaging in any activity that may be seen as an independent expenditure or electioneering communication. Committees should also follow all rules, guidelines, and requirements outline in the State Party Constitution and Bylaws as well as their own governing documents.

## New & Existing Committees

Committees should review this guide to ensure that current practices are compliant with both FEC and OEC regulations. Committees should also refer to this guide as well as OEC guidelines prior to planning expenditures and receiving contributions.

### ***Bank accounts –***

Committees must establish at least one campaign depository at a financial institution that ordinarily conducts business in the State of Oklahoma. The bank account must be opened for the sole use of the committee and no other funds may co-mingle. Should a committee register with the FEC due to federal activity, a separate bank account is required for any federal funds and activity the committee plans to engage in.

Committees are encouraged to open a bank account at a financial institution with statewide branches. This allows for smoother transition between committee governance following elections.

### ***Opening a new account –***

Different financial institutions have different requirements for opening a bank account. Typically, banks do not see this kind of inquiry often and may not be familiar with the process of opening an account for political committees not registered with the FEC or OEC. Your committee should contact multiple financial institutions to find out what each will require. In general, all financial institutions will require an EIN, the committee's bylaws, and minutes from the meeting electing officers to open the account in addition to other requirements. When you go to your chosen bank to open an account, all signers (most often the Chair and

Treasurer) must be present. You should also bring a copy of the above documents as well as the ODP Bylaws (available on the ODP website) and the ODP's most recent statement of organization found at

<https://guardian.ok.gov/PublicSite/SearchPages/FilingAmendmentSelect.aspx?FilingID=171150>

Committees will almost always need to obtain an EIN from the IRS. You can do so online at: <https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online> or by searching “IRS EIN Application.” From there, you will register as a Political Organization (found under the “Additional Types” section). Then choose “Banking Purposes.” From there, you will need to list the Responsible Party. This should be an elected officer and is typically the Chair. When asked for a Form 8871, you will only be required to file one if you expect gross receipts to exceed \$25,000 a year. Once you have finished this application, you will receive an EIN and a form SS-4. Keep the form on file, this is an important document.

Your financial institution may insist that a registration with the OEC or FEC is required. Please contact ODP if this is the case. You may need to change financial institutions to one that is more familiar with this process.

### ***Changing officers –***

When your committee changes officers, you must notify the bank to update the names listed on the committee. A copy of the meeting minutes from the meeting when the election was held will be required for this process. Depending on the bank, all previous and new signers on the account may need to be present for the

process. You must also amend your IRS registration to reflect a new Responsible Party.

***Ethics Registration –***

Committees are not required to register with the OEC or FEC if they have not met the thresholds outlined above. If you believe your committee passed these thresholds without knowledge of registration requirements, please contact the ODP immediately. New committees are not required to register with the OEC at formation.

***Financial Reporting to the ODP –***

The Constitution of the ODP requires that each Democratic club and Federation submit a financial report no later than February 15th of each year. This report includes but is not limited to annual income and expenses, a list of funds controlled by the club, and a list of signatories for any accounts controlled by the club. This report must be submitted to the vice-chair of the county in which the club is located, the chair or any federation which the club is a member, and the ODP Treasurer.

## Additional Resources

**Oklahoma Ethics Commission (OEC):** <https://www.ok.gov/ethics/>

*Guides:* [https://www.ok.gov/ethics/Ethics Laws, Guides & Forms/Guides/index.html](https://www.ok.gov/ethics/Ethics_Laws,_Guides_&_Forms/Guides/index.html)

*Laws:* [https://www.ok.gov/ethics/Ethics Laws, Guides & Forms/index.html](https://www.ok.gov/ethics/Ethics_Laws,_Guides_&_Forms/index.html)

*Continuing Education Opportunities:*

[https://www.ok.gov/ethics/Agency Information & Continuing Education/Continuing Education/index.html](https://www.ok.gov/ethics/Agency_Information_&_Continuing_Education/Continuing_Education/index.html)

*Current Dates and Deadlines:*

[https://www.ok.gov/ethics/Campaign Finance Reporting/Reporting Calendars/](https://www.ok.gov/ethics/Campaign_Finance_Reporting/Reporting_Calendars/)

*Guardian System (Public Records of Ethics Filings):* <https://guardian.ok.gov/>

**Federal Ethics Commission (FEC):** <https://www.fec.gov/>

*Guides:*

<https://www.fec.gov/help-candidates-and-committees/guides/?tab=political-party-committees>

*Laws:* <https://www.fec.gov/data/legal/statutes/>

*Regulations:* <https://www.fec.gov/legal-resources/regulations/>

*Current Dates and Deadlines:*

<https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/>

**ODP Bylaws and Constitution:** <https://okdemocrats.org/odp-rules/>

**If you have any questions on how to ensure compliance or anything in this guide, please contact the ODP Treasurer:**

Rachael Hunsucker

treasurer@okdemocrats.org