

Chairman Phil Mendelson  
at the request of the Attorney General

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Phil Mendelson, at the request of the Attorney General, introduced the following bill, which was referred to the Committee on \_\_\_\_\_

To require political action committees to direct their contributions through regulated accounts that are designated for that purpose; clarify that expenditures coordinated with a candidate or campaign are considered contributions to that candidate or campaign; require political action committees and independent expenditure committees to certify that the donations they have received have not been coordinated with any candidate or campaign; enhance disclosure of independent expenditures; prohibit candidates, public officials, and their affiliated political committees from soliciting donations to any independent expenditure committee or political action committee; close the loophole allowing unlimited contributions to a political action committee in a year when the committee is not supporting candidates; disqualify individuals and corporations from large contracts or other significant business with the District if they have recently contributed to certain covered recipients; regulate Hatch Act employee designations by requiring them to be for a principal campaign or exploratory committee, requiring employees to use either annual or unpaid leave, requiring designated employees to disclose their designation to the Board of Ethics and Government Accountability, and requiring the Board to post designated-employee information on its website; require members of boards and commissions to obtain ethics training from the Board at the beginning of their service.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this Act may be cited as the “Campaign Finance Transparency and Accountability Amendment Act of 2016”.

TITLE I – CAMPAIGN FINANCE

1           Sec. 101. The Board of Ethics and Government Accountability Establishment and  
2 Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-  
3 124; D.C. Official Code § 1-1161.01 *et seq.*) is amended as follows:

4           (a) Section 101 (D.C. Official Code § 1-1161.01) is amended as follows:

5                   (1) Paragraph (4A) is amended to read as follows:

6                           “(4A) “Business contributor” means a business entity that makes a contribution,  
7 or makes a donation to a political action committee or an independent expenditure committee,  
8 along with all of that entity’s affiliated entities.”.

9                   (2) A new paragraph (9A) is added to read as follows:

10                           “(9A) “Contribution Account” means an account of a political action committee  
11 that is segregated from other accounts of the political action committee and is used for the sole  
12 purpose of making contributions to candidates, political parties, political committees, and  
13 Contribution Accounts of other political action committees.”.

14                   (3) Paragraph (10) is amended by inserting a new subparagraph (C) to read as  
15 follows:

16                           “(C) The term “contribution” includes any expenditure that is coordinated with:

17                                   “(I) A candidate or public official;

18                                   “(II) A political committee affiliated with a candidate or public official; or

19                                   “(III) An agent of any person described in sub-subparagraph (I) or (II).”.

20                   (4) Paragraph (10B) is amended to read as follows:

21                           “(10B)(A) “Coordinate” or “coordination” means to take an action, including making an  
22 expenditure:

23                                   “(I) At the request, suggestion, or direction of a covered campaign; or

1                   “(II) In cooperation, consultation, or concert with, or with other material  
2 involvement of, a covered campaign.

3                   “(B) There is a rebuttable presumption that an expenditure by a person is  
4 coordinated with a covered campaign if:

5                   “(I) The expenditure is based on information that the covered campaign  
6 provided to the person about the covered campaign’s needs or plans, including information about  
7 campaign messaging or planned expenditures;

8                   “(II) The person making the expenditure retains the services of a person  
9 who provides the covered campaign with professional services related to campaign or  
10 fundraising strategy; or

11                   “(III) The person making the expenditure is a committee that was  
12 established, run, or staffed in a leadership role by an individual who previously worked in a  
13 senior position or advisory capacity on the candidate’s or public official’s staff within the current  
14 campaign, who is an immediate family member of the candidate or the public official, or who  
15 has been a candidate within the prior two elections.”.

16                   (5) A new paragraph (10C) is added to read as follows:

17                   “(10C) “Covered campaign” means:

18                   “(A) A candidate or public official;

19                   “(B) A political committee affiliated with a candidate or public official; or

20                   “(C) An agent of any person described in subparagraph (A) or (B).”.

21                   (b) Section 313 (D.C. Official Code § 1-1163.13) is amended as follows:

22                   (1) Subsection (a)(1) is amended to read as follows:

1                   “(1) Every political action committee and every independent expenditure  
2 committee shall certify, in each report filed with the Director of Campaign Finance, that:

3                                 “(A) To the best of its knowledge, after due diligence, the expenditures it  
4 has made have not been controlled by or coordinated with any covered campaign; and

5                                 “(B) To the best of its knowledge, after due diligence, none of the  
6 contributions or donations it has received were solicited, as defined in section 333(j-1)(2), by any  
7 covered campaign.”.

8                   (2) Subsection (b) is amended to read as follows:

9                   “(b) A business contributor to a political committee, political action committee, or  
10 independent expenditure committee shall:

11                                 “(1) Provide the committee with the identities of the contributor’s affiliated  
12 entities that have also contributed to the committee; and

13                                 “(2) Comply with all requests from the Office of Campaign Finance to provide  
14 material information about its individual owners, the identity of affiliated entities, the individual  
15 owners of affiliated entities, the contributions or expenditures made by such entities, and any  
16 other information that the Office of Campaign Finance reasonably requests in order to enforce  
17 this section.

18                   (3) New subsections (b-1), (b-2), and (b-3) are added to read as follows:

19                   “(b-1) Independent expenditure disclosures by individuals. Any individual who makes  
20 one or more independent expenditures in an aggregate amount of \$50 or more within a calendar  
21 year shall file reports with the Director of Campaign Finance, that include:

22                                 “(1) The individual’s name and address;

23                                 “(2) The amount and object of the expenditures;

1           “(3) The names of any candidates, initiatives, referenda, or recalls in support of or  
2 opposition to which the expenditures are directed; and

3           “(4) A certification that the independent expenditures were not coordinated with  
4 any covered campaign.

5           “(b-2) Independent expenditure disclosures by covered organizations.

6           “(1) For the purpose of this subsection, the term “covered organization” means  
7 any person other than an individual, a political committee, a political action committee, or an  
8 independent expenditure committee.

9           “(2) A covered organization that makes one or more independent expenditures in  
10 an aggregate amount of \$500 or more shall file reports with the Director of Campaign Finance  
11 that include:

12                   “(A) The organization’s name and principal place of business;

13                   “(B) The amount and object of the expenditures;

14                   “(C) The name of any candidate, initiative, referendum, or recall in  
15 support of which or opposition to which the expenditures are directed;

16                   “(D) A certification that, to the best of the organization’s knowledge after  
17 due diligence, the independent expenditures were not coordinated with any covered campaign;

18                   “(E) A certification that, to the best of the organization’s knowledge after  
19 due diligence, none of the donations that organization has received were solicited, as defined in  
20 section 313(j-1)(2), by any covered campaign; and

21                   “(F) The name and principal place of business of any affiliated entity.

22           “(3) If the covered organization makes independent expenditures solely from a  
23 segregated bank account, and if funds donated to the organization are not allocated to that

1 account unless the donor requests in writing that they be allocated to the account, each of the  
2 organization's reports to the Office of Campaign Finance under paragraph (2) shall include:

3                   “(A) The name and address of each person whose total donations to the  
4 account during the period covered by the report exceeded \$200; and

5                   “(B) The date and amount of each donation by that person to the account  
6 during the period covered by the report.

7                   “(4) If the covered organization makes independent expenditures from sources  
8 other than the type of segregated bank account described in paragraph (3), each of the  
9 organization's reports to the Office of Campaign Finance under paragraph (2) shall include:

10                   “(A) The name and address of each person whose total donations to the  
11 organization during the period covered by the report exceeded \$200; and

12                   “(B) The date and amount of each donation by that person to the  
13 organization during the period covered by the report.

14                   “(5) Any disclosures required under paragraph (4) shall not include amounts  
15 received by the covered organization:

16                   “(A) In commercial transactions in the ordinary course of business  
17 conducted by the covered organization; or

18                   “(B) In the form of investments (other than investments by the principal  
19 shareholder in a limited liability corporation) in the covered organization.

20                   “(6) Any disclosures required under paragraph (4) shall not include information  
21 about a donor's donation if:

22                   “(A) That donor prohibited, in writing, the use of his or her payment to  
23 support or oppose any candidate, initiative, referendum, or recall; and

1                   “(B) The covered organization agreed to follow the prohibition and  
2 deposited the donation in an account which is segregated from any account used to make  
3 independent expenditures.

4                   “(b-3) Contribution Accounts for Political Action Committees.

5                   “(1) A political action committee may not make contributions to a public official,  
6 a candidate, a political party, or a political committee unless and until it establishes a  
7 Contribution Account for the purposes of financing any contributions the political action  
8 committee will make to any public official, candidate, political party, political committee, or  
9 political action committee.

10                  “(2) Within ten days of establishing the Contribution Account, a political action  
11 committee must notify the Board that it has established a Contribution Account.

12                  “(3) A political action committee that establishes a Contribution Account must:

13                         “(A) Ensure that the Contribution Account remains segregated from any  
14 accounts of the political action committee that are used to make independent expenditures;

15                         “(B) Ensure that no donation or contribution to the political action  
16 committee is placed in the Contribution Account unless the contributor or donor has specifically  
17 designated the donation for that purpose;

18                         “(C) Ensure that contributions are made only from the Contribution  
19 Account;

20                         “(D) Inform prospective contributors and donors to the political action  
21 committee that a contribution or donation to the political action committee will not be placed in  
22 the Contribution Account unless the contributor or donor specifically designates the contribution  
23 or donation for that purpose; and

1                   “(E) Ensure that the Contribution Account pays a proportional share of the  
2 political action committee’s administrative expenses.

3                   “(4) If a political action committee has established a Contribution Account, it  
4 must, in any reports it files pursuant to section 309 of this act, identify any receipts that have  
5 been allocated to that Contribution Account.”.

6                   (c) Section 333 (D.C. Official Code § 1-1163.33) is amended as follows:

7                   (1) A new subsection (h-1) is added to read as follows:

8                   “(h-1) A contribution to a political action committee shall not be considered a  
9 contribution for the purposes of the limitations specified in this section if that contribution is not  
10 designated for the political action committee’s Contribution Account.”.

11                   (2) A new subsection (j-1) is added to read as follows:

12                   “(j-1)(1) A covered campaign shall not solicit a contribution or donation to any covered  
13 organization as defined in section 313(b-2)(1), any independent expenditure committee, or any  
14 political action committee.

15                   “(2) For the purposes of this subsection, a person solicits a contribution or  
16 donation to an independent expenditure committee or political action committee if that person  
17 asks, requests, or recommends, explicitly or implicitly, that the other person make a contribution  
18 or donation to that independent expenditure committee or political action committee. This  
19 includes any oral or written communication that, construed as reasonably understood in the  
20 context in which it is made, contains a clear message asking, requesting, or recommending that  
21 another person make such a contribution or donation.”.

22                   Sec. 102. Title 3, subsection 3011.33 of the District of Columbia Municipal Regulations  
23 is repealed.

1 TITLE II – PREVENTING PAY-TO-PLAY IN BUSINESS DEALINGS WITH THE  
2 DISTRICT

3 Sec. 201. Definitions.

4 For purposes of this title, the term:

5 (1) “Business contributor” means the same as that term is defined in section 101(4A) of  
6 the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics  
7 Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official  
8 Code § 1-1161.01(4A)).

9 (2) “Candidate” means the same as that term is defined in section 101(6) of the Board of  
10 Ethics and Government Accountability Establishment and Comprehensive Ethics Reform  
11 Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-  
12 1161.01(6)).

13 (3) “Contracting authority” means:

14 (A) The Chief Procurement Officer as defined in section 104(11) of this act;

15 (B) Any subordinate agency, instrumentality, employee of the District  
16 government, independent agency, board, or commission, other than the District of Columbia  
17 courts and the District of Columbia Public Defender Service, that is exempted from Chapter 3A  
18 of this act pursuant to section 105(c) of the Procurement Practices Reform Act of 2010, effective  
19 April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.05).

20 (C) Any subordinate agency, instrumentality, employee of the District  
21 government, independent agency, board, or commission authorized to conduct procurements  
22 under section 201 of the Procurement Practices Reform Act of 2010, effective April 8, 2011  
23 (D.C. Law 18-371; D.C. Official Code § 2-352.01).

1           (3) “Contribution” means the same as that term is defined in section 101(10) of the Board  
2 of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform  
3 Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-  
4 1161.01(10)).

5           (4) “Contribution Account” means the same as that term is defined in section 101(9A) of  
6 the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics  
7 Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official  
8 Code § 1-1161.01(9A)).

9           (5) “Covered recipient” means:

10                   (A) Any elected District official who is or could be involved in influencing or  
11 approving the award of a tax abatement, a contract valued at \$100,000 or more, or an agreement  
12 for the acquisition, sale, or lease of any land or building;

13                   (B) Any candidate for elective District office who is or could be involved in  
14 influencing or approving the award of a tax abatement, a contract valued at \$100,000 or more, or  
15 an agreement for the acquisition, sale, or lease of any land or building;

16                   (C) Any political committee affiliated with a District candidate or official  
17 described in subparagraphs (A) and (B).

18                   (D) Any political party;

19                   (E) Any political action committee Contribution Account, as defined in section  
20 101(9A) of the Board of Ethics and Government Accountability Establishment and  
21 Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-  
22 124; D.C. Official Code § 1-1161.01(9A)).

1 (F) Any constituent-service program or fund, or substantially similar entity,  
2 controlled, operated, or managed by:

3 “(i) Any elected District official who is or could be involved in  
4 influencing the award of a contract or grant; or

5 “(ii) Any person under the supervision, direction, or control of an elected  
6 District official who is or could be involved in influencing the award of a contract or grant.

7 (G) Any entity or organization:

8 (i) Which a candidate or public official described in subparagraphs (A)  
9 and (B), or a member of his or her immediate family, controls; or

10 (ii) In which a candidate or public official described in subparagraphs (A)  
11 and (B) has an ownership interest of 10 percent or more.

12 (6) “Election” means the same as that term is defined in section 101(15) of the Board of  
13 Ethics and Government Accountability Establishment and Comprehensive Ethics Reform  
14 Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-  
15 1161.01(15)).

16 (7) “Engage in business dealings with the District” means to:

17 (A) Receive a grant from the District that is valued at \$100,000 or more;

18 (B) Receive a tax abatement from the District that is valued at \$100,000 or more;

19 (C) Enter into an agreement with the District for the acquisition, sale, or lease of  
20 any land or building; or

21 (D) Enter into a contract with the District valued at \$100,000 or more.

22 (8) “Immediate family” means the same as that term is defined in section 101(26) of the  
23 Board of Ethics and Government Accountability Establishment and Comprehensive Ethics

1 Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official  
2 Code § 1-1161.01(26)).

3 (9) “Person” means:

4 (A) An individual, partnership, committee, corporation, labor organization, and  
5 any other organization; or

6 (B) A business contributor.

7 (10) “Political action committee” means the same as that term is defined in section  
8 101(43A) of the Board of Ethics and Government Accountability Establishment and  
9 Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-  
10 124; D.C. Official Code § 1-1161.01(43A)).

11 (11) “Political committee” means the same as that term is defined in section 101(44) of  
12 the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics  
13 Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official  
14 Code § 1-1161.01(44)).

15 (12) “Political party” means the same as that term is defined in section 101(45) of the  
16 Board of Ethics and Government Accountability Establishment and Comprehensive Ethics  
17 Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official  
18 Code § 1-1161.01(45)).

19 Sec. 202. Eligibility to engage in business dealings with the District.

20 (a) A person that makes a contribution or solicitation for contribution to a covered  
21 recipient, shall, for two years, be ineligible to engage in business dealings with the District.

22 (b) The two-year ineligibility described in subsection (a) shall begin on the date that the  
23 contribution or solicitation for contribution was made.

1 (c) Neither the District nor any contracting authority of the District shall do any of the  
2 following with a person that is ineligible to engage in business dealings with the District:

- 3 (1) Provide the person a grant valued at \$100,000 or more;
- 4 (2) Provide the person a tax abatement that is valued at \$100,000 or more;
- 5 (3) Enter into an agreement with the person for the acquisition, purchase, or sale  
6 of land; or
- 7 (4) Enter into a contract, valued at \$100,000 or more, with the person.

8 (d) For the purposes of this section, a person solicits a contribution or donation to covered  
9 recipient if that person asks, requests, or recommends, explicitly or implicitly, that another  
10 person make a contribution or donation to that covered recipient. This includes any oral or  
11 written communication that, construed as reasonably understood in the context in which it is  
12 made, contains a clear message asking, requesting, or recommending that another person make  
13 such a contribution or donation.

14 Sec. 203. Sworn statement on eligibility to engage in business dealings with the District.

15 Before a person may engage in business dealings with the District, the person shall  
16 provide the District with a sworn statement, under penalty of perjury, that to the best of the  
17 person’s knowledge, after due diligence, the person is in compliance with this title and therefore  
18 is eligible to engage in business dealings with the District.

19 TITLE III – POLITICAL ACTIVITY AND TRAINING

20 Sec. 301. Employee Political Activity

21 (a) Section 3(b) of the Prohibition on Government Employee Engagement in Political  
22 Activity Act of 2010, effective March 31, 2011 (D.C. Law 18-355; D.C. Official Code § 1-  
23 1171.02) is amended as follows:

1 (1) The lead-in language is amended by striking the phrase “while on leave” and  
2 inserting the phrase “while on annual or unpaid leave” in its place.

3 (2) A new paragraph (1-a) is added to read as follows:

4 “(1-a) The employee may only perform these functions for a principal campaign  
5 committee or an exploratory committee.”.

6 (3) Paragraph (3) is amended to read as follows:

7 “(3)(A) Any designated employee shall report that designation to the Board on a  
8 paper or electronic form that the Board designates.

9 “(B) The form for each designated employee shall identify only the  
10 employee’s name, the identity of the designor, and the identity of the principal campaign  
11 committee or exploratory committee for which the employee is soliciting, accepting, or receiving  
12 contributions.

13 “(C) The Board shall, on its website, identify each designated employee,  
14 and for each designated employee shall identify the employee’s designor as well as the principal  
15 campaign committee or exploratory committee for which the employee is soliciting, accepting,  
16 or receiving contributions.

17 “(D) The report required by this paragraph shall be in addition to any  
18 disclosure required under section 224 of the Board of Ethics and Government Accountability  
19 Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27,  
20 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.24).”.

21 (b) Section 1801(a-2) of the District of Columbia Comprehensive Merit Personnel Act of  
22 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-618.01(a-2)) is amended  
23 by inserting a new paragraph (4) to read as follows:

1                   “(4) No later than 90 days after commencement of service, each member of a  
2 board or commission shall certify that he or she has undergone ethics training developed by the  
3 District of Columbia Board of Ethics and Government Accountability. The required training  
4 may be provided electronically, in person, or both as considered appropriate by the Board of  
5 Ethics and Government Accountability.”.

6                   TITLE IV – FISCAL IMPACT AND EFFECTIVE DATE

7                   Sec. 401. Fiscal impact statement.

8                   The Council adopts the fiscal impact statement provided by the Chief Financial Officer as  
9 the fiscal impact statement required by section 4a of the General Legislative Procedures Act of  
10 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

11                  Sec. 402. Effective date.

12                  This act shall take effect following approval by the Mayor (or in the event of veto by the  
13 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as  
14 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
15 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of  
16 Columbia Register.