



WESTCHESTER COUNTY FAIR CAMPAIGN PRACTICES COMMITTEE MANUAL

(Revised June 3, 2019)

PURPOSE

The purpose of the Westchester County Fair Campaign Practices Committee is to help set an acceptable standard for political discussion by offering a forum for identifying unfair campaign practices and promoting a climate in which candidates conduct honest and fair campaigns. The Committee encourages candidates to conduct campaigns openly and fairly, to focus on issues and qualifications, to refrain from dishonest and defamatory attacks, and to avoid the use of campaign materials that distort the facts.

The Committee accepts written complaints from candidates about alleged unfair campaign practices.

The Committee may then hold hearings to determine whether the action complained about is indeed unfair or whether it falls within acceptable political discourse. Among other things that the Committee will consider to be an unfair campaign practice is a misstatement of a material fact or any communication that misleads the public. See "Principles" below and "Guidance for Candidates" for examples of practices the Committee considers unfair.

The term "candidate" refers to those individuals who are official candidates for public office, and any other individual or group, such as campaign committees, whose actions have an effect on the fairness and conduct of the campaign. The Committee hears only complaints brought by the candidates themselves in the same race.

The Committee has no power to compel anyone or any group to stop doing what it has found to be unfair, nor does it have the authority or power to enforce election or other laws. Rather its effectiveness is based on the fact that its decisions in the form of press releases are circulated by the print, television and electronic media.

STATEMENT OF PRINCIPLES

The Westchester County Fair Campaign Practices Committee believes that candidates should conduct their campaigns in accordance with the following principles:

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- The candidate will conduct a campaign for public office openly and fairly, focusing on issues and qualifications.
- The candidate will not use or condone any campaign material or advertisement that misstates, misrepresents or distorts material fact or any communication that misleads the public.
- The candidate will neither engage in nor be involved with false or misleading attacks upon the character of an opponent, nor in invasions of privacy unrelated to fitness for office.
- The candidate will not participate in or condone any appeal to prejudice.
- The candidate will clearly identify by name the funding source of all advertisements and campaign literature published and distributed.
- The candidate will not abuse the Westchester County Fair Campaign Practices Committee process in order to obtain political advantage. This includes, but is not limited to, announcing that he/she has filed a complaint, or quoting from the Committee's Findings unless the individual Finding cited is quoted in its entirety. The Committee considers selective quotation or misrepresentation of its Findings to be an unfair campaign practice.
- **The candidate will publicly repudiate materials or actions made on behalf of their candidacy that violates this Statement of Principles.**

OPERATING PROCEDURES

Filing of Complaints:

1. Complainant is a candidate for office who has filed or intends to file with the Board of Elections. Only a candidate may submit an Unfair Campaign Practices Complaint Form to the Committee.
2. **Candidates wishing to file complaints must complete the Unfair Campaign Practices Complaint Form and sign the Filing Procedures & Signature Form included in this Manual. All complaints must be accompanied by supporting documentation at the time of submission.** A phone call must be made to the Coordinator, Jennifer Mebes Flagg, 914.468.4465, alerting her that a complaint is being filed.
3. Complaints should be timely and be submitted within a reasonable time after the action complained about occurred.
4. The Committee will act only on complaints submitted in writing. Complaints and supporting documentation should be concise enough to be presented during the ten minutes allotted to the complainant at the hearing. The Committee may consolidate redundant or overlapping complaints.
5. The complaint must be filed with the Westchester County Fair Campaign Practices Committee, according to instructions found on the Filing Procedures & Signature Form. As indicated on this form, the complaint, including all supporting documentation, must simultaneously be sent to the party complained against by email or hand delivery with proof of receipt. It is the complainant's responsibility to see that the contact information is correct and that the complaint is received by the appropriate party or parties.

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6. In addition to being sent to the Committee, a complaint filed within seven days preceding the day of the election should be emailed and hand delivered to the party complained against, with verification of receipt in order to be considered before the day of the election. Candidates also may file post-election complaints by 10 AM on the seventh day after the election. (See “Hearings” below.) The only subsequent complaint that might be considered is a counter-complaint from the candidate who was complained against.
7. The Committee will notify both the complainant and the party complained against that it has received the complaint.
8. The Committee will review every complaint to determine whether a hearing is warranted or any action should be taken. The Committee may choose not to have a hearing if it determines that a hearing is not necessary or appropriate. The Committee may render a decision without holding a hearing if it determines that a hearing is not necessary.
9. The Committee will notify the candidate who filed the complaint and the party complained against as to whether a hearing will be scheduled, a Finding will be issued without a hearing, or that no action will be taken.
10. Press releases concerning the filing of a complaint may come only from the Committee. If notice of the filing of a complaint is made public by any other source, the Committee will consider the action an unfair campaign practice.

Questions regarding these procedures should be directed to the Coordinator, Jennifer Mebes Flagg, (Email: faircampaigns@gmail.com, Phone: 914.468.4465) or the Chair, Susan Pace Guma (Email: susanpguma@gmail.com, Phone: 914.337.6007)

Hearings:

1. Until one week before the day of the election, the Committee will hear complaints as deemed appropriate. The Committee will communicate notice of the hearing to all parties to the complaint at least 48 hours prior to the hearing.
2. Complaints filed within the seven days immediately preceding Election Day will be considered and may be heard on an expedited basis. Once the complaint is filed during this period, parties to the complaint or their representatives should be prepared to appear on short notice at a hearing. In order to respond to last-minute false or misleading charges, the Committee is also prepared to schedule a hearing and release its Findings during the last weekend before the election.
3. The Committee may request that the party complained against suspend specific campaign practices prior or subsequent to the hearing and the rendering of a decision.
4. Candidates may file post-election complaints no later than 10:00 AM on the seventh day after the election. The Committee will hear such complaints only if the action(s) complained of occurred within seven days prior to the election.

Hearing Procedures:

1. Five voting members of the Committee must be present to hold a hearing.
2. Once all parties have received notification, scheduled hearings may go forward at the Committee's discretion even in the absence of any of the parties. Parties to the complaint are expected to arrive on time and follow the hearing procedures.
3. Hearings consist of an open hearing and an executive session.

Open Hearing

Only the complainant and the party complained against (or their representatives) are permitted to speak. Each party is given a maximum of 10 minutes to present its case. Any supporting material by either party should be submitted at least 24 hours prior to the hearing with sufficient time for the Committee and the party complained against to examine it. **Bringing additional material to the hearing is strongly discouraged and may not be considered.**

A 30-minute question period follows during which members of the Committee, both voting and ex officio, may question the parties. All replies are addressed to the Committee and not to the other party.

Executive Session

The executive session is open only to the Committee and ex officio members. Decisions are by majority vote of voting members present.

Decisions:

1. As soon as possible after the hearing, the Committee's Findings in the form of a news release will be emailed to the principals and to the news media.
2. The Committee will not delay public release of its Findings if it is unable to make direct contact with the parties.
3. All candidates or parties to the complaint wishing to quote from a Finding must quote the specific Finding in its entirety as it appears in the body of the news release. They should not reproduce and distribute the release itself so as not to compromise private phone numbers. The Committee considers selective quotation or misrepresentation of its Findings to be an unfair campaign practice and will be reported as such.
4. The Committee may render a decision without holding a hearing if it determines that a hearing is not necessary.

GUIDANCE TO CANDIDATES FROM PAST COMMITTEE FINDINGS

The following is a partial list of situations that have resulted in a Finding of unfair campaign practices. They are meant to be exemplary only and are not inclusive. Candidates should primarily refer to the Statement of Principles set forth above. Like the Statement of Principles, these guidelines use the term “candidate” to refer to both those individuals who are official candidates for public office and other individuals and groups, such as campaign committees, whose actions have a substantial effect on the fairness and conduct of the campaign.

1. A candidate should neither engage in nor be involved with false or misleading attacks on the character of an opponent nor in invasions of privacy unrelated to fitness for office.
2. Differences of opinion are appropriate subjects in campaign debate and should not be brought before the Committee. It is not the role of the Westchester County Fair Campaign Practices Committee to clarify positions or determine definitions. An example is the term “pro-choice” which has been used to describe a range of public policy positions. It is the responsibility of the candidates themselves to explain to the public their definition of the term.
3. A candidate should not use the term “illegal” if there are reasonable questions about the allegations.
4. A candidate should not create the false impression that she/he is an incumbent. A high standard of clarity is expected in campaign materials. Words like “for” or “elect” in campaign signs and material can help to clarify the issue. First names should be included if there is more than one person with the same surname in office or running for office.
5. A candidate bears responsibility for the accuracy of campaign literature distributed in support of his/her candidacy. If inaccurate, the candidate should publicly disavow the misleading contents of that material. If an error has been made (misrepresentation of background, failure to identify by name the source of campaign material, etc.) this should immediately be made public.
6. A candidate is responsible for all content on his/her campaign and personal online platforms, regardless of who posts the content.
7. A candidate should not use the word “only” when reasonable questions about the truthfulness of the claim can be raised; for example, “I am the only candidate endorsed by an environmental group.”
8. A candidate should not make charges or assertions that are partially true and therefore misleading, nor should he/she use statements that are misleading or taken out of context.
9. A candidate may not alter materials originating with others or created in different circumstances in such a way as to convey a false impression; for example, using a photo taken with an elected official on another occasion to convey the impression of a current endorsement.
10. A candidate is urged to exercise great care when characterizing his/her opponent’s positions. In the absence of a specifically publicly stated position on an issue, a candidate should avoid attributing a position on this issue to her/his opponent.

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11. A candidate should not use campaign advertisements or materials that depict fictional or hypothetical events, for example, a commercial that begins, “Imagine....” A commercial that depicts a scene that never took place undermines the very distinction between true and false campaign advertising and opens the door to false, misleading, and fictional claims.
12. A candidate should make any data he/she presents in campaign literature as specific and detailed as possible. Graphic or written representation of statistical data such as budgetary and tax information must be accurate with regard to detail and context and clearly indicate the time-periods and the amounts involved, and the source of the information.
13. A candidate must use the exact wording in Westchester County Fair Campaign Practices Findings and must not distort the Committee Findings to obtain political advantage. If a candidate reproduces a Committee Finding, the candidate must reproduce the specific Finding in its entirety.
14. A candidate should not abuse the process of filing complaints to obtain political advantage by notifying the press or public prior to the hearing of a complaint.