§ 14-107. Independent expenditure reporting. 1. For purposes of this article:

(a) "Independent expenditure" means an expenditure made by an independent expenditure committee in the form of (i) an audio or video communication via broadcast, cable or satellite, (ii) a written communication via advertisements, pamphlets, circulars, flyers, brochures, letterheads or (iii) other published statements, where such expenditure is conveyed to five hundred or more members of a general public audience, or in the form of any paid internet or digital advertisement targeted to fifty or more members of a general public audience, or in the form of a public-facing website, which: (i) irrespective of when such communication is made, contains words such as "vote," "oppose," "support," "elect," "defeat," or "reject," which call for the election or defeat of the clearly identified candidate, (ii) refers to and advocates for or against a clearly identified candidate or ballot proposal on or after January first of the year of the election in which such candidate is seeking office or such proposal shall appear on the ballot, or (iii) within sixty days before a general or special election for the office sought by the candidate or thirty days before a primary election, includes or references a clearly identified candidate. An independent expenditure shall not include communications where such candidate, the candidate's political committee or its agents, a party committee or its agents, or a constituted committee or its agents or a political committee formed to promote the success or defeat of a ballot proposal or its agents, did authorize, request, suggest, foster or cooperate in such communication.

(b) Independent expenditures do not include expenditures in connection with:

(i) a written news story, commentary, or editorial or a news story, commentary, or editorial distributed through the facilities of any broadcasting station, cable or satellite unless such publication or facilities are owned or controlled by any political party, political committee or candidate; or

(ii) a communication that constitutes a candidate debate or forum; or

(iii) internal communication by members to other members of a membership organization of not more than five hundred members, for the purpose of supporting or opposing a candidate or candidates for elective

office, provided such expenditures are not used for the costs of campaign material or communications used in connection with broadcasting, telecasting, newspapers, magazines, or other periodical publication, billboards, or similar types of general public communications; or

(iv) internal communications by members to other members of a membership organization of not more than five hundred members or communications by a corporation organized for charitable purposes pursuant to §501(c)(3) of the internal revenue code, within sixty days before a general or special election for the office sought by the candidate or thirty days before a primary election, that includes or references a clearly identified candidate but does not otherwise qualify as an independent expenditure under this section.

(v) a communication published on the Internet, unless the communication is a paid advertisement or a public-facing website paid for, hosted, and/or operated by a political committee.

(c) An independent expenditure committee shall not include payments or expenditures made by a party or constituted committee that is required to file disclosure reports under this chapter.

(d) Independent expenditures shall not include payments or expenditures where coordination occurs in the creation, formation, or operation of the independent expenditure committee making the payment or expenditure.

Coordination shall include:

(i) The candidate or the candidate's authorized committee, or an agent of the candidate or candidate's authorized committee, participated in the creation or formation of the independent expenditure committee within two years of the general election, primary or special election in which the candidate is a candidate for nomination or election and the payment or expenditure made is for the benefit of that candidate.

(ii) The candidate or an agent of the candidate appears at any fundraising event hosted by an independent expenditure committee, or its agent, making a payment or expenditure that benefits that candidate within two years of the general election, primary or special election in which the candidate is a candidate for nomination or election.

(iii) The independent expenditure committee making the payment or

expenditure, or its agent, employed or retained an individual, other than an individual described in subparagraph (viii) of this paragraph, who was employed by the candidate, the candidate's authorized committee or an agent of the candidate or has held a policymaking, non-administrative position in the office of the candidate's elected office within two years of the general election, primary or special election in which the candidate is a candidate for nomination or election, and the payment or expenditure is made for the benefit of that candidate.

(iv) The independent expenditure committee making the payment or expenditure, or its agent, is a member of the candidate's immediate family or is established, directed, or managed by a member of the immediate family of the candidate, and the payment or expenditure is made for the benefit of that candidate.

(v) The independent expenditure committee making the payment or expenditure benefiting the candidate, republishes, disseminates, or distributes, in whole or in part, any video, audio, written, or other campaign-related material prepared by the candidate or the candidate's authorized committee or by an agent of the candidate or the candidate's authorized committee. This paragraph shall not apply if the independent expenditure committee making the payment or expenditure obtains the communication or materials from a publicly available source.

(vi) The candidate or the candidate's authorized committee, or an agent of the candidate or the candidate's authorized committee, shares or rents space for a campaign-related purpose with or from the independent expenditure committee, or its agent, making the payment or expenditure benefitting the candidate.

(vii) The independent expenditure committee, or its agent, making the payment or expenditure benefitting the candidate has participated in strategic discussions with the candidate, the candidate's authorized committee, or an agent of the candidate or the candidate's authorized committee within two years of the general election, primary or special election in which the candidate is a candidate for nomination or election. Discussions shall be deemed strategic if information about the candidate's or opponent's electoral campaign plans, projects, or activities that is not obtained from a publicly available source is conveyed to the independent expenditure committee, or its agent, making

the payment or expenditure. This paragraph shall only apply to discussions occurring after the independent expenditure committee is formed or, one week after the candidate has been certified for that election, whichever occurs first.

(viii) The independent expenditure committee, or its agent, making the payment or expenditure benefitting the candidate, and the candidate or the candidate's authorized committee knowingly retain the same individual or entity to provide professional campaign services within two years of the general election, primary or special election in which the candidate is a candidate for nomination or election, and the professional campaign services provider discloses strategic information regarding one party with the other party. Information shall be deemed strategic if it relates to either party's respective campaign or independent expenditure plans, projects, or activities that are not obtained from a publicly available source. This subparagraph shall not prohibit a candidate, a candidate's authorized committee, or an agent of the candidate or the candidate's authorized committee from retaining the same professional campaign services provider as the independent expenditure committee, or its agent, making the payment or expenditure benefitting the candidate upon the professional campaign services provider entering into a confidentiality agreement with both parties expressly stating that it will not disclose strategic information regarding each party with the other party.

(ix) The independent expenditure committee, or its agent, making the payment or expenditure benefitting the candidate, utilizes strategic information or data related to the candidate, that is not from a publicly available source and is not otherwise available by subscription, from an individual who has been previously compensated, reimbursed or retained by the candidate as a consultant, political, media or fundraising advisor, vendor or contractor within two years of the general election, primary or special election in which the candidate is a candidate for nomination or election.

(e) The following shall not be coordination:

(i) A candidate's or a party or constituted committee's response to an inquiry about that candidate's or party or constituted committee's positions on legislative or policy issues.

(ii) A public communication in which a candidate is clearly identified

only in his or her capacity as the owner or operator of a business that existed prior to the candidacy is not a coordinated communication with respect to the clearly identified candidate if: (A) The medium, timing, content, and geographic distribution of the public communication are consistent with public communications made prior to the candidacy; and (B) The public communication does not promote, support, attack, or oppose that candidate or another candidate in their capacity as candidates who seeks the same office as that candidate.

(f) For purposes of this section, the term "immediate family" means spouse, child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.

(g) For purposes of this section, "agent" means a person authorized by the candidate or the candidate's authorized committee, who acts on behalf of or at the direction of a candidate or the candidate's authorized committee; or a party committee or constituted committee acting on behalf of a candidate; or a person authorized by an independent expenditure committee who acts on behalf of or at the direction of such committee.

2. Whenever any person makes an independent expenditure, such communication shall, in a manner consistent with section 14-106 of this article, clearly state the name of the person who paid for, or otherwise published or distributed the communication and state, with respect to communications regarding candidates, that the communication was not expressly authorized or requested by any candidate, or by any candidate's political committee or any of its agents; provided, however, that paragraphs three and four of section 14-106 of this article shall not apply to the disclosure requirements under this section.

3. Any person prior to making any independent expenditure shall first register with the state board of elections as a political committee and as an independent expenditure committee in conformance with this article provided, however, that no foreign national, government, instrumentality or agent may register as an independent expenditure committee for the purpose of making independent expenditures in any state or local election. Such person shall comply with all disclosure obligations required for political committees by law and shall provide the following

additional information upon registration:

(a) Where the person making the statement is an individual, the name, address, occupation and employer of the person.

(b) Where the person making the statement is an entity, the name and employer of any individual who exerts operational or managerial influence or control over the entity, as well as any salaried employee of the entity. The disclosures required by this paragraph shall include the name of at least one natural person.

(c) Identification of individuals named in paragraphs (a) and (b) of this subdivision who have, during the two-year period before the statement is filed, been employed or retained as a political, media, or fundraising adviser or consultant for a candidate, any entity directly controlled by a candidate, or any party committee or constituted committee, or have held a formal position in the office of a candidate's elected office, or any party committee or constituted committee, and the name of the relevant employer.

(d) Identification of individuals named in paragraphs (a), (b) and (c) of this paragraph who are members of a candidate's immediate family.

(e) The information provided pursuant to this subdivision shall be updated within twenty-four hours of any change in ownership or control of any registered entity.

4. (a) Required disclosures. (i) Any independent expenditure committee who has registered pursuant to subdivision three of this section shall disclose to the state board of elections electronically, once a week on Monday any contribution to such committee of one thousand dollars or more, any expenditures, except paid internet and digital advertisements, made by such committee over five thousand dollars, and any independent expenditure in the form of a paid internet or digital advertisement over five hundred dollars made during the reporting period.

(ii) Any independent expenditure committee who has registered with the state board of elections pursuant to subdivision three of this section shall disclose to the state board of elections electronically, within twenty-four hours, any contribution to such independent expenditure committee of one thousand dollars or more or expenditure made by such committee over five thousand dollars made within thirty days before any

primary, general, or special election.

(b) The disclosures required by paragraph (a) of this subdivision shall include, in addition to any other information required by law:

(i) the name, address, occupation and employer of the person making the statement;

(ii) For each expenditure or payment made: (1) the dollar amount paid for each independent expenditure, the name and address of the person or entity receiving the payment, the date the payment was made and a description of the independent expenditure;

(2) the election to which the independent expenditure pertains and the name of the clearly identified candidate or the ballot proposal referenced and whether the candidate or ballot proposal is supported or opposed; and

(3) A list of all expenditures made by and liabilities incurred for services rendered during the relevant reporting period.

(iii) For each contribution received the name, address, occupation and employer of any person providing a contribution, gift, loan, advance or deposit of one thousand dollars or more for the independent expenditure, or the provision of services for the same and the date it was given.

5. A copy of all political communications paid for by the independent expenditure, including but not limited to broadcast, cable or satellite schedules and scripts, advertisements, pamphlets, circulars, flyers, brochures, letterheads and other printed matter and statements or information conveyed to one thousand or more members of a general public audience by computer or other electronic devices, and paid internet or digital advertisements, shall be filed with the state board of elections with the statements required by this section.

5-a. The state board of elections shall maintain and make available online for public inspection in a machine readable format, a complete record of any independent expenditure in the form of a paid internet or digital advertisement required to be filed under subdivision five of this section. The record shall be maintained for a period no less than five years from the date of filing and contain a digital copy of the independent expenditure and the information provided on the registration form of the independent expenditure committee making such expenditure

pursuant to paragraphs (a) and (b) of subdivision three of this section. The state board of elections shall promulgate rules necessary to comply with the provisions of this subdivision which shall be effective no later than one hundred twenty days after the effective date of this subdivision.

6. Every statement required to be filed pursuant to this section shall be filed electronically with the state board of elections.

7. The state board of elections shall promulgate regulations with respect to the statements required to be filed by this section and shall provide forms suitable for such statements.

8. (a) All criminal liability related to this section shall require knowing and willful violations in accordance with section 14-126 of this article.

(b) A knowing and willful violation of the provisions of subdivisions three and four of this section shall subject the person to a civil penalty equal to five thousand dollars or the cost of the communication, whichever is greater, in a special proceeding or civil action brought by the board.