§ 14-208. Audits and repayments. 1. Audits. (a) The PCFB shall audit and examine all matters relating to the proper administration of this title and shall complete all such audits no later than one and one-half years after the election in question. This deadline shall not apply in cases involving potential campaign-related fraud, knowing and willful violations of this article, or criminal activity; provided, however, the PCFB may at any time audit any participating candidate for which it receives credible reports involving potential campaign-related fraud, knowing and willful violations of this article, or criminal activity, if such reports are related to the receipt or use of program funds.

(b) Every participating candidate for statewide office who receives public funds as provided in this title, and every candidate for any other office who receives five hundred thousand dollars or greater in public funds as provided in this title, shall be audited by the PCFB along with all other candidates in each such race. Such audits shall be completed within one and one-half years of the election in question. Participating candidates who do not receive public matching funds as provided in this title shall not be audited by the PCFB pursuant to this paragraph.

(c) Except as provided in paragraph (b) of this subdivision, the PCFB shall select not more than one-third of all participating candidates in covered elections for audit through a lottery which shall be completed within one year of the election in question. A separate lottery shall be conducted for each office. The PCFB shall select senate and assembly districts to be audited, auditing every candidate in each selected district, while ensuring that the number of audited candidates within those districts does not exceed fifty percent of all participating candidates for the relevant office. The lottery for senate and assembly elections shall be weighted to increase the likelihood that a district for the relevant office is audited based on how frequently it has not been selected for auditing during the past three election cycles. The PCFB shall promulgate rules concerning the method of weighting the senate and assembly lotteries, including provisions for the first three election cycles for each office. The names of candidates selected for an audit shall not be disclosed unless there is a declared finding of wrongdoing by the PCFB.

(d) The cost of complying with a post-election audit shall be borne by

the candidate's authorized committee using public funds, private funds, or any combination of such funds. Candidates who run in any primary or general election must maintain a reserve of three percent of the public funds received to comply with the post-election audit.

(e) The PCFB shall issue to each campaign audited a final audit report that details its findings.

2. Repayments. (a) If the PCFB determines that any portion of the payment made to a candidate's authorized committee from the fund was in excess of the aggregate amount of payments that such candidate was eligible to receive pursuant to this title, it shall notify such committee and such committee shall pay to the PCFB an amount equal to the amount of excess payments. Such committee shall first utilize the surplus for repayment of such sums and then such other funds as it may have. Provided, however, that if the erroneous payment was the result of an error by the PCFB, then the erroneous payment will be deducted from any future payment, if any, and if no future payment is to be made then neither the candidate nor the committee shall be liable to repay the excess amount to the PCFB. The candidate and the candidate's authorized committee are jointly and severally liable for any repayments to the PCFB.

(b) If the PCFB determines that any portion of the payment made to a candidate's authorized committee from the fund was used for purposes other than qualified campaign expenditures and such expenditures were not approved by the PCFB, it shall notify such committee of the amount so disqualified and such committee shall pay to the PCFB an amount equal to such disqualified amount. The candidate, the treasurer, and the candidate's authorized committee are jointly and severally liable for any repayments to the PCFB.

(c) If at the end of an election cycle or following a special election, surplus funds remain in a participating candidate's authorized committee after all liabilities for qualified campaign expenditures for such election cycle or special election have been paid, such candidate and committee shall pay to the fund an amount equal to the surplus, as defined in subdivision nineteen of section 14-200-a of this title; provided, however, such candidate may retain an amount of such surplus that does not include any public matching funds to the extent such

amount does not exceed fifty thousand dollars. No public matching funds shall be eligible to be retained. The surplus repayment shall in no event exceed the total amount of public matching funds received. Any funds raised during any previous election cycle, as described in subparagraph (iii) of paragraph (i) of subdivision one of section 14-203 of this title, shall be excluded from the calculation of surplus funds required by this paragraph and shall not count toward the fifty thousand dollar limit permitted by this paragraph, and such funds may continue to be retained. Participating candidates shall make such surplus payment not later than twenty-seven days after all liabilities for the election have been paid and in any event, not later than the day on which the PCFB issues its final audit report for the participating candidate's authorized committee; provided, however, that all unspent public campaign funds for a participating candidate shall be immediately due and payable to the PCFB upon a determination by the PCFB that the participant has delayed the post-election audit. A participating candidate may make post-election expenditures with public funds only for routine activities involving nominal costs associated with winding up a campaign and responding to the post-election audit. Nothing in this title shall be construed to prevent a candidate or their authorized committee from using campaign contributions received from private contributors for otherwise lawful expenditures. Any amounts retained pursuant to this paragraph in such authorized committee after the payment required by this paragraph has been made, may be used for any lawful purpose.

(d) Candidates shall have thirty days to cure any violations identified by the PCFB in its post-election audit before there may be any declared findings of wrongdoing.

3. Rules and regulations. (a) The PCFB shall promulgate regulations for the certification of the amount of funds payable by the comptroller from the fund established pursuant to section ninety-two-t of the state finance law, to a participating candidate that has qualified to receive such payment. These regulations shall include the promulgation and distribution of forms on which contributions and expenditures are to be reported, the periods during which such reports must be filed, and the verification required. The PCFB shall institute procedures which will

make possible payment by the fund within four business days after receipt of the required forms and verifications.

(b) All rules and regulations promulgated pursuant to this recommendation shall be promulgated pursuant to the state administrative procedure act. The PCFB's determinations pursuant to such regulations and these recommendations shall be deemed final.