

Is there a penalty for circulating or publishing literature or other material concerning a candidate without the required disclaimer?

Yes. The penalty is a Class A misdemeanor, up to a \$5,000 fine or 1 year in jail or both. (IC 3-14-1-3) A civil penalty of up to \$1,000 may also be imposed for a disclaimer which is not presented in a clear and conspicuous manner. (IC 3-9-4-16, 17)

What is the proper procedure to report violations for circulating or publishing materials without a disclaimer?

For local candidates, you must file a written complaint with the appropriate county election board or prosecuting attorney. A written complaint is filed with the Indiana Election Commission for matters involving a statewide or state legislative candidate

May political signs be posted on utility poles or public property?

Political signs may not be posted or placed on **ANY** other person's property, including a highway right-of-way and on utility poles, **without the property owner's permission**. Placing political signs with the approval of the property owner may be subject to local zoning regulations. **Ask your local plan commission for more information.**

An unauthorized sign placed in a highway right-of-way is a public nuisance. The sign may be removed only by the authority having jurisdiction over the highway. (IC 9-21-4-6) Contact the appropriate office (the city or town street department, county highway department or state department of transportation) for assistance.

Inquiries regarding posting political signs and materials on other public property can be directed to the authority having control over the public property, such as the town council, mayor, or the county commissioners' office. Except in voter registration offices, there is no state law that prohibits the display of political signs or literature on public property. However, if political signs or literature are displayed for one candidate or party, then all candidates and parties have the same right to display signs or literature on the public property.

Who has the authority to remove or confiscate materials and literature without a disclaimer?

Only appropriate law enforcement authorities acting under proper legal authority.

Is there a penalty for removing political signs without authority to do so?

Removing signs without the authority to do so may be criminal conversion. (IC 35-43-4-3). *Buzzell v. State*, 636 N.E.2d 158 (1994) Consult your personal attorney if you need information.

When may I begin placing yard signs?

State law does not specify when yard signs may be placed. Instead, this decision is up to counties, cities, and towns. A political subdivision may not enforce an ordinance or a regulation limiting the number or size of signs during the period beginning sixty (60) days before an election and ending the beginning of the sixth day after the election. A political subdivision is not prohibited from enforcing an ordinance or regulation relating to the number or size of signs at any time if necessary to ensure public safety. For purposes of this law, a "sign" has a surface area not greater than thirty-two (32) square feet. (IC 36-1-3-11) There are similar restrictions for homeowner's associations. (IC 32-21-13-4)

NEW! Disclaimers on Mailings that Include an Absentee Application

A mailed communication of more than one hundred (100) substantially similar pieces of mail that includes an Indiana absentee ballot application is required to set forth, in a clear and conspicuous manner, the name and mailing address of the person who mailed the communication in at least twelve (12) point type size that is clearly readable by the recipient of the mailing with a reasonable degree of color contrast between the background and the printed statement. The requirement to include the name and mailing address of the person who mailed the communication that includes an Indiana absentee ballot does not apply to direct mailings of one hundred (100) or less of substantially similar pieces of mail. (IC 3-6-4.9; IC 3-11-4-5.2)

NOTE: A mailing containing an absentee application may be required to have both the "paid for by" disclaimer AND the additional notice of who sent the communication. Please consult your personal attorney to determine if both requirements are necessary.

Political Signs And "Disclaimer" Requirements For Political Literature, Advertisements, And Mailings that Include an Absentee Application



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This brochure discusses requirements governing individuals, organizations, or committees who purchase advertisement time or space or circulate or publish material in support of or in opposition to a candidate, a political party, or a public question. The information in this brochure is based on Indiana law as of November 2019. Where your legal rights are involved, do not rely on this brochure. Instead, review the law yourself or consult your attorney.

WHAT is a “disclaimer”?

A disclaimer identifies **who** paid for certain political material and **whether** any candidate approves of the material if the material is paid for by someone other than the candidate.

Must political messages on radio, television, or cable broadcasts include a disclaimer?

In general, these media are regulated by federal law, not Indiana law. For information about disclaimers for radio, television, or cable, contact the Federal Communication Commission (FCC) at (202) 418-1440 or visit www.fcc.gov. Contact the Federal Election Commission (FEC) at (800) 424-9530 or visit www.fec.gov for information about disclaimers on web sites or when using email lists.

Must political messages in literature or other material concerning candidates for federal offices include a disclaimer?

Disclaimers on this type of literature or material are governed by federal law. Contact the Federal Election Commission for information.

Must political messages concerning candidates for state, local, or school board offices include a disclaimer on literature or material concerning the candidate?

All persons must print a disclaimer on literature and other material if the material clearly identifies a candidate for these offices and expressly advocates the election or defeat of a clearly identified candidate. This requirement applies to all individuals and political organizations, whether or not the individual or organization is required to file campaign finance reports. (IC 3-9-3-1)

Must political messages concerning candidates for selection to fill a vacant office or ballot position at a party caucus include a disclaimer?

Yes. The disclaimer law applies to all caucuses. However, the material must clearly identify a candidate and expressly advocate the selection of a clearly identified candidate to fill an office or ballot vacancy, or the defeat of such a candidate.

What about literature or material supporting or opposing a referendum?

No. A disclaimer is not required on literature or material concerning a public question. (IC 3-9-3-2.5(a)(2))

What about precinct committeemen or state convention delegates elected at a primary?

No. A disclaimer is not required on literature or other material about candidates for political party offices.

WHEN is a disclaimer required on literature or material concerning a “clearly identified” candidate?

A disclaimer is required when the name, or a photograph or drawing of the candidate appears in the material or the identity of the candidate is apparent by unambiguous reference. (IC 3-9-3-2.5)

WHERE must the disclaimer appear?

The disclaimer must appear on the front face of a billboard. However, if a mailing or other communication contains more than one page, the disclaimer can appear on either the front page or an inside page. The disclaimer is not required to be placed on each page of a document.

Are there SIZE and COLOR contrast requirements?

Yes, a disclaimer must be at least 7 point font and the color of the disclaimer must contrast with the background color. The disclaimer cannot be difficult to read or easily overlooked, and must be presented in a clear and conspicuous way.

WHAT does the disclaimer have to state?

The language required for the disclaimer depends on who authorized and who paid for the literature or material. The individual, organization, or committee must include the following statement or the equivalent as a disclaimer:

(1) If both authorized and paid for by the candidate or candidate’s committee or an agent of the committee:

Paid for by Doe for State Senate Committee

(2) If authorized by the candidate but paid for by someone other than the candidate, or the candidate’s committee agents:

Paid for by (ABC PAC, or ABC Political Party, or ABC Corporation, or ABC Labor Union, or ABC Association, or Mary Smith, voter) and authorized by Doe for Sheriff Committee.

(3) If not authorized or paid for by the candidate, the candidate’s committee or its agents:

Paid for by John Doe, Mary Parker and Bill Jones, and not authorized by any candidate or candidate’s committee.

(4) If a regular party committee distributes a slate card, or sample ballot with three or more candidates

listed; campaign materials such as handbills, posters, and brochures to be used by political party volunteers; materials distributed by party volunteers for a get-out-the-vote drive:

Paid for by Tecumseh County ABC Party Committee.

(5) If a political committee (other than a candidate’s committee) solicits contributions from the public:

Paid for by Committee for Good Government PAC.

along with the statement concerning tax deductions in (6) below.

Must a disclaimer appear in all literature and advertisements soliciting contributions?

(6) A communication asking for contributions sent by a committee with gross receipts over \$100,000 in a taxable year must include both the appropriate disclaimer and the following statement concerning income tax deductions:

Contributions or gifts to the _____ (insert the name of the committee) are not deductible as charitable contributions for federal income tax purposes.

However, a political action committee soliciting funds to pay its administrative costs is not required to include the disclaimer required by state law since these “administrative costs” are not “contributions” under Indiana law. (IC 3-5-2-15(e))

What are some examples of political materials and literature requiring disclaimers?

Direct mail pieces sent to more than 100 persons, newspaper advertisements, billboards, signs, posters, **yard signs** (whether homemade or commercially printed), portable billboards, brochures, leaflets, circulars, and letterhead.

Does the disclaimer have to appear on ALL printed materials or campaign items?

No. The disclaimer is not required on bumper stickers, pins, buttons, pens, and similar small items where a disclaimer cannot be conveniently printed. The disclaimer is not required on wearing apparel or on committee checks and receipts. Certain communications (direct mailings of 100 or less similar pieces of mail, or communications by the PAC of a corporation or labor union requesting contributions from stockholders or labor union members) are not required to contain disclaimers.