The FEC and the Federal Campaign Finance Law

Federal Election Commission
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Introduction

The Federal Election Commission (FEC) is the independent regulatory agency charged with administering and enforcing the federal campaign finance law. The FEC has jurisdiction over the financing of campaigns for the U.S. House, the U.S. Senate, the Presidency and the Vice Presidency.

Federal campaign finance law covers three broad subjects, which are described in this brochure:

- Public disclosure of funds raised and spent to influence federal elections;
- Restrictions on contributions and expenditures made to influence federal elections; and
- The public financing of Presidential campaigns.

This brochure provides general information only. The descriptions of the law and the Commission are not intended to be exhaustive.

For more information on the subjects discussed in this brochure, call, write or visit:

Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463
800/424-9530
202/694-1100 (local)
202/219-3336 (for the hearing impaired)
www.fec.gov
info@fec.gov

Historical Background

As early as 1905, President Theodore Roosevelt recognized the need for campaign finance reform and called for legislation to ban corporate contributions for political purposes. In response, Congress enacted several statutes between 1907 and 1966 which, taken together, sought to:

- Limit the disproportionate influence of wealthy individuals and special interest groups on the outcome of federal elections;
- Regulate spending in campaigns for federal office; and
- Deter abuses by mandating public disclosure of campaign finances.

In 1971, Congress consolidated its earlier reform efforts in the Federal Election Campaign Act (FECA), instituting more stringent disclosure requirements for federal candidates, political parties and political action committees (PACs). Still, without a central administrative authority, the campaign finance laws were difficult to enforce.

Following reports of serious financial abuses in the 1972 Presidential campaign, Congress amended the FECA in 1974 to set limits on contributions by individuals, political parties and PACs. The 1974 amendments also established an independent agency—the Federal Election Commission (FEC)—to enforce the law, facilitate disclosure and administer the public funding program. Congress made further amendments to the FECA in 1976, following a constitutional

challenge in the Supreme Court case *Buckley v. Valeo*; major amendments were also made in 1979 to streamline the disclosure process and expand the role of political parties.

The next set of major amendments came in the form of the Bipartisan Campaign Reform Act of 2002 (BCRA). Among other things, the BCRA banned national parties from raising or spending nonfederal funds (often called "soft money"), restricted so-called issue ads, increased the contribution limits and indexed certain limits for inflation.

Public funding of federal elections—originally proposed by President Roosevelt in 1907—began to take shape in 1971 when Congress set up the income tax checkoff to provide for the financing of Presidential general election campaigns and national party conventions. Amendments to the Internal Revenue Code in 1974 established the matching fund program for Presidential primary campaigns.

The FEC opened its doors in 1975 and administered the first publicly funded Presidential election in 1976.

The Commission

Commissioners

The FEC has six voting members who serve staggered six-year terms. The Commissioners are appointed by the President with the advice and consent of the U.S. Senate. No more than three Commissioners may belong to the same political party. The Commissioners elect two members each year to act as Chairman and Vice Chairman.

Public Meetings

The Commission normally holds a public meeting each week. At this meeting, the Commissioners adopt new regulations, issue advisory opinions, approve audit reports concerning Presidential campaign committees, and take other actions to administer the campaign finance law.

In addition, the Commissioners meet regularly in closed sessions to discuss pending enforcement actions, litigation and personnel matters.

The Campaign Finance Law

The Federal Election Campaign Act

The basic provisions of the FECA are described below.

Disclosure

The FECA requires candidate committees, party committees and PACs to file periodic reports disclosing the money they raise and spend. Candidates must identify, for example, all PACs and party committees that give them contributions, and those individuals who give them more than $200 in an election cycle. Additionally, they must disclose expenditures exceeding $200 per election cycle to any individual or vendor.

Contribution Limits

The FECA places limits on contributions by individuals and groups to candidates, party committees and PACs. The chart below shows how the limits apply to the various participants in federal elections.

Chart on Contribution Limits for 2013-2014

	To each candidate or candidate committee per election	**To national party committee per calendar year**	**To state, district & local party committee per calendar year**	**To any other political committee per calendar year[1]**	**Special Limits**
Individual may give	$2,600*	$32,400*	$10,000 (combined limit)	$5,000	No limit
National Party Committee may give	$5,000	No limit	No limit	$5,000	$45,400* to Senate candidate per campaign[2]
State, District & Local Party Committee may give	$5,000 (combined limit)	No limit	No limit	$5,000 (combined limit)	No limit
PAC (multicandidate)[3] may give	$5,000	$15,000	$5,000 (combined limit)	$5,000	No limit
PAC (not multicandidate) may give	$2,600[4]*	$32,400*	$10,000 (combined limit)	$5,000	No limit

* In odd-numbered years, beginning in 2005, these contribution limits have been increased for inflation.

[1] A contribution earmarked for a candidate through a political committee counts against the original contributor's limit for that candidate. In certain circumstances, the contribution may also count against the contributor's limit to the PAC. 11 CFR 110.6. See also 11 CFR 110.1(h).

[2] This limit is shared by the national committee and the Senate campaign committee.

[3] A multicandidate committee is a political committee with more than 50 contributors which has been registered for at least 6 months and, with the exception of state party committees, has made contributions to 5 or more candidates for federal office. 11 CFR 100.5(e)(3).

[4] A federal candidate's authorized committee(s) may contribute no more than $2,000 per election to another federal candidate's authorized committee(s). 11 CFR 102.12(c)(2).

Prohibited Contributions and Expenditures

The FECA places prohibitions on contributions and expenditures by certain individuals and organizations. The following are prohibited from making contributions or expenditures to influence federal elections:

- Corporations;
- Labor organizations;
- Federal government contractors; and
- Foreign nationals.

Furthermore, with respect to federal elections:

- No one may make a contribution in another person's name.
- No one may make a contribution in cash of more than $100.

In addition to the above prohibitions on contributions and expenditures in federal election campaigns, the FECA also prohibits foreign nationals, national banks and other federally chartered corporations from making contributions or expenditures in connection with state and local elections.

Independent Expenditures

Under federal election law, an individual or group (such as a PAC) may make unlimited "independent expenditures" in connection with federal elections.

An independent expenditure is an expenditure for a communication which expressly advocates the election or defeat of a clearly identified candidate for federal office and which is made independently from the candidate's campaign. To be considered independent, the communication may not be made in cooperation, consultation or concert with, or at the request or suggestion of, any candidate or his/her authorized committees or a political party, or any of their agents. While there is no limit on how much anyone may spend on an independent expenditure, the law does require persons making independent expenditures to report them and to disclose the sources of the funds they used. These reports are made public through the FEC's Public Records Office (see section below).

Corporate and Union Activity

Although corporations and labor organizations may not make contributions or expenditures in connection with federal elections, they may establish PACs. Corporate and labor PACs raise voluntary contributions from a restricted class of individuals and use those funds to support federal candidates and political committees.

Apart from supporting PACs, corporations and labor organizations may conduct other activities related to federal elections, within certain guidelines. For more information, call the FEC or consult Commission regulations, contained in title 11 of the Code of Federal Regulations (11 CFR), at Part 114.

Political Party Activity

Political parties are active in federal elections at the local, state and national levels. Most party committees organized at the state and national levels—as well as some committees organized at the local level—are required to register with the FEC and file reports disclosing their federal campaign activities.

Party committees may contribute funds directly to federal candidates, subject to the limits described in the chart on page 3. National and state party committees may make additional

"coordinated expenditures," subject to limits, to help their nominees in general elections. Party committees may also make unlimited "independent expenditures" to support or oppose federal candidates, as described in the section above. National party committees, however, may not solicit, receive, direct, transfer, or spend nonfederal funds. Finally, while state and local party committees may spend unlimited amounts on certain grassroots activities specified in the law without affecting their other contribution and expenditure limits (for example, voter drives by volunteers in support of the party's Presidential nominees and the production of campaign materials for volunteer distribution), they must use only federal funds or "Levin funds" when they finance certain "Federal election activity."

Party committees must register and file disclosure reports with the FEC once their federal election activities exceed certain dollar thresholds specified in the law.

The Presidential Election Campaign Fund Act

Under the Internal Revenue Code, qualified Presidential candidates receive money from the Presidential Election Campaign Fund, which is an account on the books of the U.S. Treasury.

The Fund is financed exclusively by a voluntary tax checkoff. By checking a box on their income tax returns, individual taxpayers may direct $3 of their tax to the Fund (up to $6 for joint filers). Checking the box does not increase the amount a taxpayer owes or reduce his or her refund; it merely directs that three (or six) dollars from the U.S. Treasury be used in Presidential elections. Checkoff funds may not be spent for other federal programs.

The funds are distributed under three programs:

Primary Matching Payments

Eligible candidates in the Presidential primaries may receive public funds to match the private contributions they raise. While a candidate may raise money from many different sources, only contributions from individuals are matchable; contributions from PACs and party committees are not. Furthermore, while an individual may give up to $2,600 to a primary candidate, only the first $250 of that contribution is matchable.

To participate in the matching fund program, a candidate must demonstrate broad-based support by raising more than $5,000 in matchable contributions in each of 20 different states. Candidates must agree to use public funds only for campaign expenses, and they must comply with spending limits. Beginning with a $10 million base figure, the overall primary spending limit is adjusted each Presidential election year to reflect inflation. In 2012, the limit was $45.6 million.

General Election Grants

The Republican and Democratic candidates who win their parties' nominations for President are each eligible to receive a grant to cover all the expenses of their general election campaigns. The basic $20 million grant is adjusted for inflation each Presidential election year. In 2012, the grant was $91.2 million.

Nominees who accept the funds must agree not to raise private contributions (from individuals, PACs or party committees) and to limit their campaign expenditures to the amount of public funds they receive. They may use the funds only for campaign expenses.

A third party Presidential candidate may qualify for some public funds after the general election if he or she receives at least five percent of the popular vote.

Party Convention Grants

Each major political party may receive public funds to pay for its national Presidential nominating convention. The statute sets the base amount of the grant at $4 million for each party, and that amount is adjusted for inflation each Presidential election year. In 2012, the major parties each received $18.25 million.

Other parties may also be eligible for partial public financing of their nominating conventions, provided that their nominees received at least five percent of the vote in the previous Presidential election.

The FEC's Role

Administering the Public Funding Program

The FEC administers the public funding program by determining which candidates are eligible to receive the funds. The Secretary of the Treasury makes the payments.

Committees receiving public funds must keep detailed records of their financial activities. After the elections, the FEC audits each publicly funded committee. If an audit reveals that a committee has exceeded the spending limits or used public funds for impermissible purposes, the committee must pay back an appropriate amount to the U.S. Treasury.

Facilitating Disclosure

Public Records Office

CAMPAIGN FINANCE MATERIALS

Reports filed by registered political committees (such as candidates' campaigns, party committees and PACs) are available for inspection and copying in the FEC's Public Records Office. The Commission makes the reports public within 48 hours after their receipt.

Visitors may access the FEC's computer database, which contains helpful indexes on several types of campaign finance activities (large contributions, PAC contributions, etc.). The agency's database is also accessible from the Secretary of State's office in most state capitals.

Additionally, campaign finance data may be accessed through the FEC's web site at www.fec.gov/disclosure.shtml.

OTHER DOCUMENTS

In addition to campaign finance reports (dating back to 1972), the Public Records Office makes available:

- Statistical summaries of reported campaign activities;
- FEC advisory opinions and advisory opinion requests;
- Files on closed enforcement actions;
- Personal financial statements filed by Presidential candidates;
- Audit reports;
- Rulemaking proposals and related documents;
- Commission meeting agenda items and other public documents.

HOW TO GET COPIES OF DOCUMENTS

The Public Records Office is open from 9 to 5 on weekdays (with extended hours during filing periods). The Office operates as a library facility, and staff members are on hand to assist visitors in locating documents using the computer. Most document requests may also be made by telephone, mail or e-mail (pubrec@fec.gov). See page 1 for the mailing address and phone numbers.

Press Assistance

The FEC's Press Office also promotes disclosure by issuing press releases covering statistical information and the agency's activities.

Reporters inquiring about disclosure, enforcement actions and other aspects of the law should ask for the Press Office when calling or visiting the agency.

Clarifying the Law

Outreach

The FEC places a high priority on helping candidates and committees understand and voluntarily comply with the law. To achieve this goal, the Commission produces a variety of free publications (see page 11) and hosts conferences in major cities to educate campaign workers, PACs and party committees about the law. In addition, anyone may obtain personal assistance by calling the FEC's toll free number (see page 1), sending an e-mail (info@fec.gov) or by visiting the agency's Information Division.

Regulations

The Commission clarifies the FECA and the public funding statutes through regulations, codified in Title 11 of the Code of Federal Regulations. Copies of Title 11 are available from the Commission free of charge and may be viewed on our web site at www.fec.gov/law/cfr/11_cfr.html.

Advisory Opinions

The Commission issues written advisory opinions (AOs) to persons seeking guidance on the application of the campaign finance law to their own specific activities.

Individuals and organizations involved in any activity approved in an AO may rely on the AO without risk of enforcement action by the FEC, provided that they act in accordance with the AO's provisions.

The FEC web site provides a mechanism for searching and viewing AOs online at www.fec.gov/finance_law.html. Click on the link "Advisory Opinions."

Enforcing the Law

Review of Reports

FEC Campaign Finance Analysts review each report filed by federal candidates and committees to ensure that they have complied with the disclosure requirements and the limits and prohibitions on contributions.

In some cases, Analysts refer apparent violations or deficiencies in reporting to the Commission for enforcement action (see below), but reporting problems are often resolved by asking filers to voluntarily correct or clarify something on their reports. These communications are part of the public record and are always on file in the FEC's Public Records Office or may be viewed on the FEC's web site at www.fec.gov/disclosure.shtml.

Enforcement Actions

The Commission has exclusive jurisdiction over the civil enforcement of the federal campaign finance law.

FEC staff generates enforcement actions (called Matters Under Review, or MURs) in the course of reviewing the reports filed by committees. In addition, individuals and groups outside the agency may initiate MURs by filing complaints (see below). Other government agencies may also refer enforcement matters to the FEC.

If four of the six Commissioners vote to find reason to believe that a violation of the law has occurred, the Commission may investigate the matter. If the Commission decides that the investigation by the FEC's Office of General Counsel confirms that the law has been violated, the Commission tries to resolve the matter by reaching a conciliation agreement with the respondents. The agreement may require them to pay a civil penalty and take other remedial steps. If an agreement cannot be reached, however, the Commission may file suit against the appropriate persons in a U.S. District Court.

As required by law, the Commission keeps enforcement matters strictly confidential until they are concluded. Once the Commission has closed a MUR, the pertinent documents are placed on the public record.

Filing a Complaint

Anyone who believes that a violation of the law has occurred may file a complaint with the FEC. The complaint should contain a statement of facts related to the alleged violation and any supporting evidence available.

The complaint must be signed and contain the complainant's name and address. It must also be sworn to and notarized. A step-by-step description of the enforcement process is available in the brochure *Filing a Complaint*.

Administrative Fine Program

The Administrative Fine Program streamlines the enforcement process for violations involving the failure to file disclosure reports on time or at all. Under the program, civil money penalties are assessed based on published schedules of penalties that take into account the number of days a report is late, the election sensitivity of the report, the amount of activity disclosed on the report and the number of past violations (if any) by the filer. For additional information on this program visit the FEC web site at www.fec.gov/af/af.shtml.

Alternative Dispute Resolution

The FEC's Alternative Dispute Resolution (ADR) Office promotes compliance with the federal election law by encouraging settlements outside the traditional enforcement or litigation processes. Additional information about this program is available in the brochure *Alternative Dispute Resolution Program*.

How to Get More Information

Free Publications

- The FEC *Record* (monthly newsletter—automatic subscription for registered committees)
- *Federal Election Campaign Laws*
- FEC Regulations (11 CFR)
- *Campaign Guide* series (*Congressional Candidates; Party Committees; Corporations and Labor Organizations; Nonconnected Committees*)

Visit the FEC's web site to access electronic versions of these and other FEC publications.

Office of Election Administration

The FEC's Office of Election Administration (OEA) serves as a central exchange for information and research on issues related to the administration of federal elections on the state and local level.

The Help America Vote Act of 2002 created the Election Assistance Commission (EAC) and requires the transfer of the OEA and all of its assets to the new EAC. For more information on the EAC, visit their website at www.eac.gov.

Election Law Library

The FEC's depository library, administered by the Office of the General Counsel, is open to the public. The collection includes basic legal research sources and materials emphasizing campaign finance law.

Help from Other Agencies

Many election-related topics are not under the jurisdiction of the FEC. Some of these topics are listed below, for your convenience, along with the appropriate agency or officer to contact for more information. (Consult the FEC's *Combined Federal/State Disclosure Directory*, available from the Public Records Office, or on our website at www.fec.gov/pubrec/cfsdd/cfsdd.shtml, for a more exhaustive list of topics and agencies.)

Ballot Access

Contact the Secretary of State in your state capital for information on how to get your name or party listed on the ballot.

Voter Registration, Polling Times and Places

Contact your city or county clerk. For additional information on registering to vote, visit the Election Assistance Commission's website at www.eac.gov.

Absentee Ballots

Contact your city or county clerk. If you are overseas at election time, your nearest U.S. Consulate can help you get an absentee ballot.

Military personnel should contact the Defense Department's Federal Voting Assistance Program at 703/695-9330.

Voting Rights

If you believe your right to vote has been denied due to racial or ethnic discrimination, contact the U.S. Department of Justice, Civil Rights Division, at 202/307-2767.

Election Fraud

If you believe that a federal election has been administered fraudulently, contact the nearest branch of the Federal Bureau of Investigation (FBI).

Contested Elections

For information on how to challenge the results of a federal election, contact the Secretary of State in your state capital.

TV and Radio Broadcasting

Contact the Media Bureau of the Federal Communications Commission (FCC) at 1-888/225-5322.

Phone Solicitations

Contact the FCC's Common Carrier Branch at 202/632-7553.

Personal Finances of Congressional Candidates

- House: Contact the House Committee on Ethics, 202/225-7103.
- Senate: Contact the Senate Select Committee on Ethics, 202/224-2981.

Tax Questions

To get a taxpayer ID number for a political committee, call 800/TAX-FORM (800/829-3676).

For other tax-related questions, political committees should contact the Exempt Organizations Technical Division of the Internal Revenue Service at 877/829-5500 or visit them on the web at www.irs.gov/polorgs.

Political Activity of Federal/D.C. Government Employees

Contact the U.S. Office of Special Counsel at 800/85-HATCH (800/854-2824).