



Contents

- 1 Commission
- 3 Regulations
- 4 Advisory Opinions
- 6 Litigation
- 6 Reporting
- 9 Outreach

Federal Election Commission
 999 E Street, NW
 Washington, DC 20463

Commissioners:
 Steven T. Walther,
 Chairman
 Caroline C. Hunter,
 Vice Chair
 Lee E. Goodman
 Matthew S. Petersen
 Ann M. Ravel
 Ellen L. Weintraub

Staff Director:
 Alec Palmer

Acting General Counsel:
 Lisa J. Stevenson

The FEC Record is produced
 by the Information Division,
 Office of Communications.

Toll free 800-424-9530
 Local 202-694-1100
 Email info@fec.gov

Greg Scott, Asst. Staff Director
 George Smaragdis, Deputy
 Asst. Staff Director,
 Publications
 Dorothy Yeager, Senior
 Communications Specialist

Commission

Commission Elects Officers for 2017

At its open meeting of December 8, 2016, the Federal Election Commission elected Steven T. Walther as Chairman and Caroline C. Hunter as Vice Chair for 2016.



Steven T. Walther



Caroline C. Hunter

Mr. Walther has served previously as both Chairman and Vice Chairman, as has Ms. Hunter.

Before joining the FEC as a Commissioner in 2006, Mr. Walther practiced law in the Reno, Nevada, firm he co-founded, Walther, Key, Maupin, Oats, Cox & LeGoy, now known as Maupin, Cox & LeGoy.

Mr. Walther is a co-founder and past chair of the American Bar Association (ABA) Center for Human Rights and currently serves as the Special Advisor. He is a former president of the State Bar of Nevada, the Western States Bar Conference, and the National Caucus of State Bar Associations. He has served as past chair of the 6,000-member Fellows of the American Bar Foundation, the legal research arm of the ABA. From 1971 until his FEC appointment, Mr. Walther served as a member of the Nevada State Advisory Committee to the U.S. Commission on Civil Rights. Mr. Walther also served as a member of the Board of Trustees of the National Judicial College. Mr. Walther has lectured extensively, both domestically and internationally, on rule of law, human rights and international law issues, and has served as an official election observer in several countries. He served on the Board of the ABA Rule of Law Initiative (ROLI), which oversees the ABA's democracy-building programs in over 60 countries.

Mr. Walther graduated from Boalt Hall School of Law, University of California, Berkeley, and received his bachelor of arts degree, with a major in Russian, from the University of Notre Dame, Notre Dame, Indiana.

Prior to joining the Commission in 2008, Ms. Hunter served as the Vice Chair of the U.S. Election Assistance Commission. She served previously as deputy director of the White House Office of Public Liaison, and as Executive Officer at the U.S. Department of Homeland Security, Office of Citizenship and Immigration Services Ombudsman.

From 2001 to 2005, Ms. Hunter was Associate Counsel and then Deputy Counsel at the Republican National Committee, where she provided guidance on election law and the implementation of the Help America Vote Act.

Ms. Hunter graduated *cum laude* from the University of Memphis School of Law and received her bachelor of arts degree from The Pennsylvania State University.

(Posted 12/14/2016)

Resources:

- [Press Release \(12/08/2016\)](#)
- [Commissioners](#)

[Commission Amends Directive 52](#)

On December 1, 2016, the Commission voted to amend Directive 52 regarding Commission voting procedures in light of the D. C. Circuit court opinion in *Combat Veterans for Congress PAC v. FEC* and current Commission practice. The amendments clarify the Commission's voting procedures regarding administrative fine matters and in other areas.

Posted 12/07/2016; By: Christopher Berg

Resources:

- Litigation Page: [Combat Veterans for Congress PAC v. FEC](#)
- Draft Directive 52: [Agenda Document No. 16-55-A \(Draft A\)](#) [PDF]
- [Commission consideration of Directive 52](#) 

[Commission Approves Legislative Recommendations](#)

At its open meeting of December 1, 2016, the Commission unanimously approved 13 legislative recommendations to send to Congress for consideration.

The legislative recommendations approved by the Commission are:

- Electronic filing of Senate reports;
- Electronic filing of electioneering communication reports;
- Authority to create Senior Executive Service positions;
- Fraudulent misrepresentation of campaign authority;
- Make permanent the Administrative Fine Program for reporting violations;

- Increase and index for inflation certain registration and reporting thresholds;
- Authority to accept gifts;
- Conversion of campaign funds;
- Permitting political committees to make disbursements by methods other than by check;
- Increasing the in-home event exemption and unreimbursed travel expense exemption for candidates and political parties;
- Prohibiting fraudulent PAC practices;
- Update citations to reflect the recodification of the Federal Election Campaign Act;
- Repeal of convention funding provisions rendered non-operational by the Gabriella Miller Kids First Research Act.

The current Administrative Fine Program only covers violations that relate to reporting periods through December 31, 2018. Congress has approved several extensions of the program since first enacting it in 2000.

(Posted: 12/12/2016; By: Myles Martin)

Resources:

- [2016 Legislative Recommendations](#) [PDF]
- [Commission discussion of 2016 Legislative Recommendations](#) 

Regulations

[Commission Publishes Technical Corrections to CFR](#)

The Commission has published in the *Federal Register* a series of technical changes to various sections of Title 11 of the Code of Federal Regulations (CFR). [81 Fed. Reg. 94238](#) (December 23, 2016). The changes correct typographical and technical errors and remove outdated references.

The changes take effect immediately and will be incorporated into the 2017 print edition of the CFR.

(Posted 12/23/2016; By: Dorothy Yeager)

Resources:

- [Federal Register notice](#) [PDF]
- [Commission consideration of rulemaking](#) 
- [Commission regulations](#)

Advisory Opinions

[AO 2016-22: Libertarian Parties of Georgia and Tennessee Qualify as State Party Committees](#)

The Libertarian Parties of Georgia and Tennessee (the Committees) both qualify as state party committees under the Federal Election Campaign Act (the Act).

Background

Under the Act and Commission regulations, a state party committee is an organization that by virtue of the bylaws of a political party is part of the official party structure and is responsible for the day-to-day operation of a political party at the state level, as determined by the Commission. 52 U.S.C. § 30101(15); 11 CFR 100.14(a). In order for a committee to qualify as a state party committee, there must also be at least one candidate for federal office whose name appears on the ballot as a party candidate.

Analysis

The Commission determined that the Libertarian Party of Michigan Executive Committee meets the three criteria essential to qualify as a state committee: (1) the national Libertarian National Party (LNP) qualifies as a political party; (2) the LPM is part of the official LNP structure; and (3) the LPM is responsible for the day-to-day operations of the LNP at the state level. See also Advisory Opinion (AOs) [2016-17](#) (Libertarian Party of Michigan), [2016-14](#) (11 Libertarian State Committees) and [1975-129](#) (National Committee of the Libertarian Party).

Date Issued: December 8, 2016; 7 pages

(Posted 12/12/2016; By: Jonella Culmer)

Resources:

- [Advisory Opinion 2016-22](#) [PDF]
- [Commission consideration of AO 2016-22](#) 

[AO 2016-24: Independence Party of Minnesota Qualifies as State Party Committee](#)

The Independence Party of Minnesota (IPM) qualifies as a state committee of a political party under the Federal Election Campaign Act (the Act).

Background

Under the Act and Commission regulations, a state committee of a political party is an organization that is part of the official party structure and is responsible for the day-to-day operation of the political party at the state level. 52 U.S.C. § 30101(15); 11 CFR 100.14(a). To qualify as a political party, an organization must nominate at least one federal candidate whose name appears on the ballot. 52 U.S.C. § 30101(16); 11 CFR 100.15.

To qualify as a state committee of a political party, an organization not affiliated with a national political party must (1) itself qualify as a “political party;” (2) possess an official structure; and (3) be responsible for the day-to-day operation of a party at the state level. See Advisory Opinions (AOs) [2012-04](#) (Justice Party of Mississippi); [2008-12](#) (Independent Party of Oregon); and [2007-23](#) (Independence Party of New York).

Analysis

The Commission determined IPM qualifies as a state committee. IPM has placed a number of individuals seeking federal office on the Minnesota general election ballots, including at least one in 2016 who was a “candidate” under the Act. The IPM’s Constitution establishes an official party structure and empowers its officials to govern the day-to-day affairs of the party at the state level.

Date Issued: 12/08/2016; 4 pages

(Posted 12/12/2016; By: Christopher Berg)

Resources:

- [AO 2016-24](#) [PDF]
- [Commission consideration of AO 2016-24](#) 

[Pending Advisory Opinion Requests as of December 31, 2016](#)

Advisory Opinion Requests (AORs) pending before the Commission as of the end of the month are listed below. Procedures for commenting on pending AORs are [described here](#).

- [AOR 2016-21](#) [PDF] Application of the former employee element of the coordinated communications conduct standard (Great America PAC; received September 26, 2016. Extension of time granted through January 31, 2017.)
- [AOR 2016-23](#) [PDF] Renewal of partial reporting exemption for Socialist Workers Party committees (Socialist Workers Party; received November 14, 2016)
- [AOR 2016-25](#) [PDF] Use of nonfederal funds to pay for certain activities by federal candidate’s state campaign committee (Mike Pence for Indiana; received on December 12, 2016)
- [AOR 2016-26](#) [PDF] State party committee status (Green Party of Florida; received on December 12, 2016)

(Posted 01/04/2017; By: Dorothy Yeager)

Resources:

- [Advisory Opinion Search](#)

Litigation

[McChesney v. FEC \(8:16-cv-00168\) \(District Court\)](#)

On December 22, 2016, the United States District Court for the District of Nebraska granted the Commission's motion to dismiss in the matter of *McChesney v. FEC*. Bart McLeay for U.S. Senate, Inc., and Robert McChesney, in his official capacity as Treasurer, had filed suit alleging that a final determination and civil money penalty assessed against them under the Commission's Administrative Fine Program (AFP) were invalid. They alleged that the Commission did not follow proper procedures to extend the AFP penalties schedule that expired on December 31, 2013.

The Court found that there had been "good cause" for the Commission to bypass ordinary notice and comment procedures when extending the AFP regulation, because notice and comment "are unnecessary when the amendments are minor or merely technical," and the AFP regulatory extension "did not make any substantive changes." Instead, the changes made "were mere technical changes and were not an exercise of substantive agency decision-making." It also found that pre-adoption notice and comment procedures would have been contrary to the public interest, because such procedures would have delayed the Commission's extension of its AFP regulation and required prolonged use of the "more extensive" regular enforcement process for routine reporting violations. Further delay in implementing the extension of the AFP would contravene Congress's purpose of establishing streamlined procedures for efficiently imposing fines for certain routine filing and recordkeeping violations, "such as the late filings at issue here." Finally, the Court reviewed the record and found no evidence that the Commission violated the tally vote procedure or the Sunshine Act that would invalidate the AFP extension. And it explained that, in any event, the remedy for such alleged procedural violations would be "increased transparency, not invalidation of agency action."

(Posted 01/04/2017; By: Christopher Berg)

Resources:

- [McChesney v FEC Ongoing Litigation Page](#)

Reporting

[Reports Due in 2017](#)

This article on filing requirements for 2017 is supplemented by the reporting tables linked at http://www.fec.gov/info/report_dates_2017.shtml.

Year-End Reports Covering 2016 Activity

All committees must file a 2016 Year-End Report due January 31, 2017, that covers activity through December 31, 2016. To help committees prepare their reports, the Commission will host [reporting and FECFile webinars](#) for PACs and party committees on January 18 and for candidates on January 25.

Reports Covering 2017 Activity

To find out which reports your committee must file in 2017, check the [Filing Frequency by Type of Filer section of our 2017 Reporting Dates web page](#). Then check the links to tables for various categories of reporting dates. Please note that committees active in special elections in 2017 may have to file additional special election reports. All FEC reporting dates are also available on the Commission's website at http://www.fec.gov/info/report_dates.shtml.

Notification of Filing Deadlines

In addition to publishing this article and the online reporting tables, the Commission notifies committees of filing deadlines through reporting reminders called prior notices. Prior notices are distributed exclusively by electronic mail, so every committee should ensure that the email address on its [Statement of Organization \(FEC Form 1\)](#) is current. Each committee may list up to two email addresses. To amend Form 1, electronic filers must submit Form 1 filled out in its entirety. Paper filers should include only the committee's name, address, FEC identification number and the updated or changed portions of the form. Committees may also use our [online webform](#) to update their information.

Treasurer's Responsibilities

The Commission provides reminders of upcoming filing dates as a courtesy to help committees comply with the filing deadlines set forth in the Federal Election Campaign Act (the Act) and Commission regulations. Committee treasurers are responsible for filing committee reports on time. Not receiving a prior notice does not excuse committee treasurers for failing to comply with any filing deadline.

Filing Electronically

Under the Commission's mandatory electronic filing regulations, individuals and organizations required to file with the FEC that receive contributions or make expenditures, including independent expenditures, aggregating in excess of \$50,000 in a calendar year — or that have reason to expect to do so — must file all reports and statements electronically. ^[FN1]

Reports filed electronically must be received and validated by the Commission by 11:59 p.m. Eastern Time on the filing date. 11 CFR 100.19(c). Electronic filers who file on paper or submit an electronic report that does not pass the Commission's validation program by that time on the filing deadline will be considered nonfilers and may be subject to enforcement actions, including administrative fines. 11 CFR 104.18(a)(2) and (e).

Senate campaigns and other committees that file with the Secretary of the Senate must file their FEC reports on paper, but may file an additional unofficial electronic copy of their report with the Commission in order to enhance disclosure.

¹The regulation covers individuals and organizations required to file reports of contributions and/or expenditures with the Commission, including any person making an independent expenditure. 11 CFR 104.18(a). Disbursements for "electioneering communications" are not considered "expenditures" and thus do not count toward the \$50,000 threshold for mandatory electronic filing. See 11 CFR 104.18(a).

The Commission's electronic filing software, FECFile, is free and can be downloaded at <http://www.fec.gov/electfil/updatelist.html>. All reports filed after October 11, 2016, must be filed in Format Version 8.1.0.6. Reports filed in previous formats will not be accepted. Filers may also use commercial or privately developed software as long as the software meets the Commission's format specifications, which are available on the Commission's website. Committees using commercial software should contact their vendors to ensure their software meets the latest specifications.

Timely Filing for Paper Filers

Registered and Certified Mail. Reports sent by registered or certified mail are considered to be filed on the date of their postmark. 52 U.S.C. § 30104(a)(5) and 11 CFR 104.5(e). Accordingly, quarterly reports sent by registered or certified mail must be postmarked on or before the filing deadline to be considered timely filed. 11 CFR 100.19(b)(1). A committee sending its reports by registered or certified mail should keep its mailing receipt with the U.S. Postal Service (USPS) postmark as proof of mailing because the USPS does not keep complete records of items sent by certified or registered mail. 11 CFR 104.5(i).

Overnight Mail. Reports sent via overnight mail ^[FN2] will be considered timely filed if the report is postmarked on or before the filing deadline. A committee sending its reports by Priority Mail or Priority Express Mail, or by an overnight delivery service, should keep its proof of mailing or other means of transmittal of its reports. See 52 U.S.C. § 30104(a)(5) and 11 CFR 100.19(b)(1) and 104.5(e) and (i).

Other Means of Filing. Reports sent by other means — including first class mail and courier — must be received by the FEC (or the Secretary of the Senate) before close of business on the filing deadline. See 11 CFR 100.19(b)(2) and 104.5(e). (If the deadline falls on a weekend or federal holiday, such filers should plan accordingly and file reports by the close of business on the last business day before the filing deadline.) Forms may be downloaded at <http://www.fec.gov/info/forms.shtml> and are available from FEC Faxline, the agency's automated fax system (202/501-3413).

Authorized Committees of Candidates

House and Senate Candidates. All campaigns that have a reporting obligation must file quarterly reports in 2017. Generally, an individual becomes a candidate for federal office, thus triggering registration and reporting obligations, when his or her campaign exceeds \$5,000 in either contributions received or expenditures made. If the campaign has not exceeded the \$5,000 threshold, it is not required to file reports. See 11 CFR 100.3(a)(1). See also 11 CFR 100.3(a)(2) and (3).

Principal campaign committees of candidates who ran in past elections or are running in future elections must also file quarterly reports in 2017. A committee that wishes to stop filing reports with the FEC must file a termination report with the Commission or the Secretary of the Senate Public Records Office, as appropriate. See 11 CFR 102.3. Committees must continue filing reports until the Commission notifies them in writing that their termination report has been accepted.

²As used here, "overnight mail" includes Priority or Priority Express Mail having a delivery confirmation, or an overnight service with which the report is scheduled for next business day delivery and is recorded in the service's online tracking system. See 11 CFR 100.19(b)(1) and (b)(3)(i). Note that "Express Mail" as referred to in FEC regulations has been renamed "Priority Express Mail" by the USPS.

Presidential Candidates. All presidential committees must file on either a monthly or a quarterly schedule in 2017. Presidential committees able to change their reporting schedule and that wish to do so are required to notify the Commission in writing. Electronic filers must file this request electronically. After filing this notice of change in filing frequency with the Commission and receiving an approval notice from the Commission, all future reports must follow the new filing schedule. 11 CFR 104.5(b)(2). The committee will receive a letter from the Commission approving the frequency change.

State, District and Local Party Committees

State, district and local party committees that engage in reportable "federal election activity" must file on a monthly schedule. See 11 CFR 300.36(b) and (c)(1). Committees that do not engage in reportable "federal election activity" may file on a quarterly basis in 2017. Committees that opt for a quarterly filing schedule would file semi-annual reports during 2017. See 11 CFR 104.5(c)(1)(i).

National Party Committees

National committees of political parties must file on a monthly schedule. 52 U.S.C. § 30104 (a)(4)(B) and 11 CFR 104.5(c)(4).

Political Action Committees

PACs (separate segregated funds, committees with non-contribution accounts (Hybrid PACs), independent expenditure-only committees (Super PACs) and other nonconnected committees) that filed on a quarterly basis during 2016 file on a semi-annual basis in 2017. Monthly filers continue on the monthly schedule. PACs may change their filing schedule, but must first notify the Commission in writing. Electronic filers must file this request electronically. A committee may change its filing frequency only once per calendar year. 11 CFR 104.5(c). The committee will receive a letter from the Commission approving the frequency change.

Additional Information

For more information on 2017 reporting dates:

- Call and request the reporting tables from the FEC at 800/424-9530 or 202/694-1100;
- Fax the reporting tables to yourself using the FEC's Faxline (202/501-3413, document 586);or
- Visit the FEC's web page at http://www.fec.gov/info/report_dates_2017.shtml to view the reporting tables online.

(Posted 01/03/2017; By: Katherine Carothers)

Resources:

- [2017 Reporting Dates](#)
- [Compliance Map](#)
- [FEC Electronic Filing](#)

Outreach

[FEC to Host Year-End Reporting and E-Filing Webinars](#)

The Commission will offer its annual Year-End Reporting and FECFile workshops in January 2017. The webinars for PACs and party committees will be held on January 18, while the webinars for candidates will be offered on January 25.

The reporting session will address common filing problems and provide answers to questions committees may have as they prepare to file their January 31 Year-End Reports. The electronic filing session will demonstrate the Commission's FECFile software and address questions filers may have concerning electronic filing.

Webinar Information. An email containing a link to workshop materials, technical information and additional instructions will be sent to registered participants the day before the webinar.

Registration Information. The registration fee is \$25 per webinar. For the PAC and party webinars, a full refund will be made for all cancellations received before 5 p.m. EST on Friday, January 13; no refunds will be made for cancellations received after that time. For the candidate webinars, a full refund will be made for all cancellations received before 5 p.m. EST on Friday, January 20; no refunds will be made for cancellations received after that time. Complete registration information is available on the FEC's website at <http://www.fec.gov/info/outreach.shtml>.

Registration Questions

Please direct all questions about the roundtable/webinar registration and fees to Sylvester Management at 1-800/246-7277 or email Rosalyn@sylvestermanagement.com. For other questions call the FEC's Information Division at 800/424-9530 (press 6), or send an email to Conferences@fec.gov.

(Posted 12/14/2016; By: Isaac Baker)

Webinar Schedule: Reporting Webinars

January 18, 2017

Online Only

- Reporting for PACs & Party Committees, 1:00 - 2:30 PM EST
- FECFile for PACs & Party Committees 2:45 - 4:15 PM EST

January 25, 2017

Online Only

- Reporting for Candidate Committees, 1:00 - 2:30 PM EST
- FECFile & E-Filing for Candidate Committees, 2:45 - 4:15 PM EST



Resources:

- [FEC Educational Outreach Page](#)
- [Filing Dates](#)

[Using Campaign Funds for Congressional Transition Expenses](#)

This article discusses the use of campaign funds for transition expenses by newly-elected U.S. Representatives and Senators and by members of Congress leaving office due to retirement, election loss or resignation.

Basic Rules for Using Campaign Funds

Campaign funds may be used to pay for campaign-related expenses and for ordinary and necessary expenses incurred in connection with an individual's duties as a federal officeholder. 52 U.S.C. § 30114(a); 11 CFR 113.2. The Federal Election Campaign Act (the Act), however, prohibits the use of campaign funds for an individual's personal expenses. 52 U.S.C. § 30114(b)(1); 11 CFR 113.1(g).

Under the Commission's "irrespective test," personal use is any use of funds in a campaign account of a candidate (or former candidate) to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign or duties as a federal officeholder. 11 CFR 113.1(g). In other words, if the expense would exist even in the absence of the candidacy or even if the officeholder were not in office, then campaign funds may not be used to pay for the expense.

House and Senate Ethics rules, over which the Commission has no jurisdiction, also address the use of campaign funds. See the links under "Resources" below for more information on Ethics rules.

Use of Campaign Funds by Newly-Elected Members

In Advisory Opinions (AOs), the Commission has said that a Member-elect may use campaign funds for certain common transition expenses:

- Salary for support staff. See AOs [1982-57](#) (MacKay), [1980-138](#) (Murkowski) and [Re: AOR 1976-101](#) (Moynihan);
- Winding down a campaign office and maintenance of a transition office. AOs 1982-57 (MacKay), 1980-138 (Murkowski), Re: AOR 1976-101 (Moynihan);
- Travel to DC. AOs 1982-57 (MacKay), 1980-138 (Murkowski);
- Swearing-in reception. [AO 1981-02](#) (Coyne);
- Party to thank campaign workers or kick-off re-election campaign. AO 1981-02 (Coyne); and
- Moving family to DC. AO 1980-138 (Murkowski)

However, use of campaign funds to pay personal living expenses during the transition constitutes prohibited personal use. AO 1980-138.

Use of Campaign Funds by Members Leaving Congress (Due to Retirement, Election Loss or Resignation)

Campaign funds may be used to pay for ordinary and necessary expenses incurred in connection with an individual's duties as a federal officeholder. Such expenses include the costs of winding down the office of a former federal officeholder for a period of six months after he or she leaves office. 11 CFR 113.2(a)(2).

In AOs and regulations, the Commission has permitted the use of campaign funds to pay for:

- Salaries for staff and maintenance of FEC records during winding-down period. [AO 1993-06](#) (Panetta)
- Moving expenses for office and personal furnishings. AOs [1996-44](#) (Wilson), [1996-14](#) (de la Garza); [1987-11](#) (Zorinsky)
- Temporary storage expenses for personal household items while selling house in Washington, D.C.: [AO 2010-26](#) (Baird)
- Temporary storage expenses for officeholder and campaign materials pending their final disposition. [AO 2013-05](#) (Gallegly)
- Hotel and travel expenses related to leaving Congress. AO 1993-06 (Panetta).
- Gifts of nominal value to individuals who are not in the Member's family. 11 CFR 113.1(g)(4). For example, a campaign may use its funds to give a gift card of a small amount as a thank you to a campaign staff person, as long as that individual is not related to the candidate.

For more information

Contact the FEC's Information Division toll-free at 800/424-9530 (press 6) or email at info@fec.gov should you have further questions. Members of Congress and their staff may also contact the FEC's Congressional Affairs office at 202/694-1006. For information on how to report transition expenses, [contact your committee's Campaign Finance Analyst](#).

(Posted 12/20/2016; By: Dorothy Yeager)

Resources:

- [House Ethics Committee](#)
- [U.S. Senate Select Committee on Ethics](#)
- [Campaign Guide for Congressional Candidates](#), Chapters 8 and 14