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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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For the meeting of September 30, 2021

August 24, 2021

MEMORANDUM

TO: The Commission

THROUGH: Alec Palmer AP
Staff Director

FROM: Greg Scott GS
Assistant Staff Director
Information Division

George Smaragdis GS
Deputy Staff Director, Publications
Information Division

Zainab Smith ZS
Communications Specialist
Information Division

SUBJECT: Campaign Guide for Congressional Candidates and Committees

Please find attached the 2021 edition of the Campaign Guide for Congressional Candidates and Committees, which is being circulated for a 72-hour tally vote This draft has been reviewed for legal accuracy by the Office of General Counsel and reflects expert staff input from throughout the agency. It also includes suggestions from Commissioners' offices. The layout will be adjusted to accommodate tables, charts and reporting examples prior to publication.

Should you have any questions or concerns, please contact Greg Scott, George Smaragdis or Zainab Smith.

Congressional Candidates and Committees

XXXXX 2021

About this guide

This Campaign Guide for Congressional Candidates and Committees replaces the July 2014 edition. It summarizes the federal campaign finance laws applicable to candidate committees as of XXXX 2021.

Federal Election Commission

Washington, DC 20463

Commissioners:

Shana M. Broussard, Chair

Allen Dickerson, Vice Chair

Sean J. Cooksey

James E. "Trey" Trainor III

Steven T. Walther

Ellen L. Weintraub

Staff Director:

Alec Palmer

Prepared by the

Information Division of the Office of Communications

Greg J. Scott, Director

George J. Smaragdis, Deputy Assistant Staff Director for Publications

Zainab S. Smith, Editor

James Landon Jones, Layout and Design

INTRODUCTION

This guide was written to help U.S. House and Senate candidates comply with the Federal Election Campaign Act and FEC regulations. It may be used by committees supporting Presidential candidates who are not seeking public funding; however, special reporting rules apply to Presidential candidates, as explained in footnotes to the reporting chapters.

This publication provides guidance on certain aspects of federal campaign finance law. It is not intended to replace the law or to change its meaning, nor does this publication create or confer any rights for or on any person or bind the Federal Election Commission (Commission) or the public. The reader is encouraged also to consult the Federal Election Campaign Act of 1971, as amended (52 U.S.C. §30101 et seq.), Commission regulations (Title 11 of the Code of Federal Regulations), Commission advisory opinions and applicable court decisions. For further information, please contact:

Federal Election Commission
1050 First Street, NE
Washington, DC 20463
800/424-9530 (toll free)
202/694-1100 (local)
202/219-3336 (for the hearing impaired)

info@fec.gov (email)
www.fec.gov (website)

Using this guide

Citations

Authorities primarily cited in this guide include the Federal Election Campaign Act, FEC regulations and FEC Advisory Opinions (AOs). All regulatory citations are to Title 11 of the Code of Federal Regulations (CFR), Parts 100–116, 300, 400 and 9001–9039 (2020). Statutory citations are to Titles 26 and 52 of the United States Code (U.S.C.). Copies of AOs may be obtained from the FEC's Public Records Office (800/424-9530 or 202/694-1120) or the FEC website. In addition, each AO is summarized in the Commission's online newsletter, the Record.

Getting more help

(Note that congressional campaign committees have to comply with other laws outside the FEC's jurisdiction; see Appendix G.)

Advisory opinions

Any person or group requiring a clarification of the election law with regard to an activity that they plan to undertake or are presently undertaking and intend to undertake in the future may request an advisory opinion from the FEC. Individuals and organizations involved in the activity specifically addressed in an

AO (or in an activity that is materially indistinguishable) may rely on the opinion. Advisory opinion requests may be addressed to the Office of General Counsel at:

Federal Election Commission
1050 First Street, NE
Washington, DC 20463

For more information on how to request an AO, consult the FEC's website at www.fec.gov/legal-resources/advisory-opinions-process.

Toll-free line

Many questions about federal campaign finance law do not require formal advisory opinions. Such questions may be addressed to trained FEC staff members by calling the FEC's 800 number. Persons in the Washington, DC area may call locally.

The numbers are:

800/424-9530
202/694-1100
202/219-3336 (for the hearing impaired)

Hearing-impaired persons may reverse the charges when calling long distance.
Questions may also be submitted by email to info@fec.gov.

Free publications

In addition to this guide, the FEC publishes a series of brochures and other publications on several aspects of the campaign finance and election laws. Email or call the FEC for a list of publications currently available, or visit the FEC website.

Website

Visit the FEC's home page at www.fec.gov. Information on the site includes campaign finance statistical data; committee reports for candidates, parties and PACs; FEC news releases; reporting dates; forms; the Record newsletter; brochures and campaign guides.

The FEC website also offers the capability to search the Commission's legal resources. Users can perform full text searches of Commission advisory opinions (AOs) (1977-present) using the name of a requestor or other keyword information. In addition, the FEC's Enforcement Query System allows users to search closed enforcement cases by such search criteria as respondent name or case number. SERS, the FEC's Searchable Electronic Rulemaking System, allows searches of completed and ongoing rulemakings, Commission regulations and Explanations and Justifications. Users can also use SERS to submit comments to ongoing rulemakings.

Compliance with Small Business Regulatory Enforcement Fairness Act of 1996

This guide serves as the small entity compliance guide for congressional candidates and committees, as required by Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, Title II, Stat. 857 (1996).

CHAPTER 1

TESTING THE WATERS

Before deciding to campaign for federal office, an individual may want to "test the waters" to explore the feasibility of becoming a candidate. For example, an individual may want to conduct polls or travel around the state or district to see if there is sufficient support for his or her candidacy.

An individual who merely tests the waters, but does not campaign for office, does not have to register or report to the FEC. This is the case even if the funds raised and spent to test the waters exceed the $5,000 candidate registration threshold. Nevertheless, all funds raised and spent during the testing the waters period must comply with the Federal Election Campaign Act's contribution limits and prohibitions. 100.72(a) and 100.131(a); see also AO 1985-40 (Republican Majority Fund).

Once an individual begins to campaign or decides to become a candidate, the testing the waters period ends, and any funds that were raised or spent to test the waters apply to the $5,000 threshold for qualifying as a candidate. 100.72(a) and 100.131. After exceeding the threshold, the individual must register with the FEC as a candidate, designate and register a principal campaign committee, and begin to file reports. The first report must include all activity that occurred during the testing the waters period. 100.72(a) and 100.131(a).

1. TESTING THE WATERS VS. CAMPAIGNING

Testing the waters

An individual may conduct a variety of activities to test the waters. Examples of permissible testing the waters activities include conducting polls, travelling and making telephone calls to determine whether the individual should become a candidate. 100.72(a) and 100.131(a).

Campaigning

Certain activities, however, indicate that the individual has decided to become a candidate and is no longer testing the waters. In that case, once the individual has raised or spent more than $5,000, he or she must register as a candidate. As mentioned earlier, when an individual decides to run for office, funds that were raised and spent to test the waters apply to the $5,000 threshold.

Campaigning (as opposed to testing the waters) is apparent, for example, when individuals:

- Make or authorize statements that refer to themselves as candidates ("Smith in 2024" or "Smith for Senate");

- Use general public political advertising to publicize their intention to campaign;
- Inform the media (either directly or through an advisor) that they will announce their candidacy on a certain date;
- Raise more money than what is reasonably needed to test the waters or amass funds (seed money) to be used after candidacy is established;
- Conduct activities over a protracted period of time or shortly before the election; or
- Take action to qualify for the ballot.

100.72(b) and 100.131(b); see AO 2015-09 (Senate Majority PAC and House Majority PAC).

Also, once an individual files an FEC Form 2 (Statement of Candidacy), he or she is no longer considered to be "testing the waters" and must file FEC Form 1 (and subsequently file financial reports) under the rules described in Chapter 2, "Starting the Campaign." AO 1979-51 (Edgar).

2. CONTRIBUTION LIMITS AND PROHIBITIONS

Funds raised to test the waters are subject to the Act's contribution limits and source prohibitions. 100.72(a) and 100.131(a). The limits apply, for example, to:

- Gifts of money, goods and services;
- Loans (except bank loans);
- Certain staff advances until repaid (see Chapter 3 for more information on staff advances);
- Endorsements and guarantees of bank loans; and
- Funds given or personally loaned to the individual to pay for his or her living expenses during the testing the waters period (AO 1978-40 (Kogovsek)).

See 100.52(a). See Chapter 4 for more information on contribution limits.

In observing the law's prohibitions, the individual may not accept money from foreign nationals, federal government contractors, corporations or labor organizations. (However, funds from a separate segregated fund—also called a PAC— established by a corporation or labor organization are permissible.)

See Chapter 5 for more information on contribution prohibitions.

3. RECORDKEEPING AND ACCOUNTING

Recordkeeping

An individual who tests the waters must keep financial records. If he or she later becomes a candidate, the money raised and spent to test the waters must be reported by the campaign as contributions and expenditures. 101.3. See Chapter 11 for more information on recordkeeping.

Separate bank account

Another consideration, though not a requirement, is the segregation of testing the waters funds from personal funds. The FEC recommends that the individual set up a separate bank account for the deposit of receipts and the payment of expenses. If the individual later becomes a candidate, a campaign account must be established to keep the campaign funds separate from the individual's personal funds. 102.10, 102.15, 103.2 and 103.3(a).

EXAMPLE

Mr. Jones is interested in running for a seat in the U.S. House of Representatives but is unsure whether he has enough support within his district to make a successful bid. He therefore accepts up to $2,900 from each of several relatives and friends and raises $30,000. He uses the money to pay for an opinion poll. He sees that good records are kept on the money raised and spent in his testing the waters effort. The poll results indicate good name recognition in the community, and Jones decides to run.

By making this decision, Jones has crossed the line from testing the waters to campaigning. The funds he raised earlier now automatically become contributions, and the funds he spent, including the polling costs, are now expenditures. Since his contributions or expenditures exceed $5,000, he becomes a candidate and must register with the FEC. The money raised and spent for testing the waters must be disclosed on the first report his principal campaign committee files.

Had Jones decided not to run for federal office, there would have been no obligation to report the monies received and spent for testing the waters activity, and the donations made to help pay for the poll would not have counted as contributions.

4. ORGANIZING A TESTING THE WATERS COMMITTEE

An individual may organize a "committee" for testing the waters. An "exploratory committee" (or "testing-the-waters committee") is not considered a political committee and does not have to register or report to the FEC as long as its activities are limited to testing the waters and it does not engage in campaigning.

The name of the exploratory committee, and statements by committee staff, must not refer to the individual as a candidate. For example, an exploratory committee could not be called "Sam Jones for Congress," which would indicate that Jones had already decided to run for federal office. (See Section 1.) Instead, the committee could be called "Sam Jones Congressional Exploratory Committee." See AO 1981-32 (Askew).

If the individual decides to run for federal office and becomes a candidate under the Act, then he or she may designate the exploratory committee as the principal campaign committee and change the name of the committee as appropriate.

CHAPTER 2

STARTING THE CAMPAIGN

1. CANDIDATE REGISTRATION THRESHOLD

An individual triggers registration and reporting requirements with the FEC when campaign activity exceeds $5,000 in either contributions or expenditures.[1] The $5,000 threshold is reached when:

The individual and/or persons he or she has authorized to conduct campaign activity receive over $5,000 in contributions or make over $5,000 in expenditures; or

The individual fails to disavow unauthorized campaign activity by writing a letter to the FEC within 30 days after being notified by the agency that another person or group has received contributions or made expenditures of more than $5,000 on the individual's behalf. 100.3(a)(1)-(3) and 102.13(a)(2).

2. CANDIDATE AND COMMITTEE REGISTRATION

The registration forms mentioned in this section (FEC Forms 1 and 2) are available from the FEC, posted on the Commission website, and are part of the agency's FECFile software.[2] Federal candidates and their committees should also contact the government offices and agencies listed in Appendix G for additional reporting requirements that are not within the FEC's jurisdiction.

Candidate

Within 15 days after an individual becomes a candidate as described in Section 1, he or she must designate a principal campaign committee. This designation is made by filing either a Statement of Candidacy (FEC Form 2) or a letter with the same information.[3] 101.1(a) and 102.12(a).

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[1] Money raised and spent to test the waters does not count toward this dollar threshold until the individual decides to run for federal office or conducts activities that indicate he or she is actively campaigning rather than testing the waters. See Chapter 1, "Testing the Waters."

[2] See Section 6 for information on where to file FEC registration forms.

[3] A candidate required to file electronically cannot designate a principal campaign committee with a written letter but must instead file Form 2. See the section "Where to file reports."

Principal campaign committee

Within 10 days after it has been designated by the candidate, the principal campaign committee must register with the FEC by filing a Statement of Organization (FEC Form 1). 52 U.S.C. §§ 30102(g), 30103(a); 102.1(a).[4]

Candidates must register for each election cycle

A candidate (including an incumbent) must file a FEC Form 2 for each election cycle in which he or she is a candidate. For example, if Mr. Jones, who was a candidate for the U.S. House of Representatives in 2020, wishes to run again in 2022, he must amend his FEC Form 2 within 15 days after crossing the $5,000 registration threshold for the 2022 election cycle.[5]

Principal campaign committee

Using Form 2, the candidate may either redesignate his or her previous campaign committee (if it has not been terminated) or designate a new principal campaign committee.

If the candidate redesignates an existing committee, the committee need only amend its Statement of Organization (FEC Form 1) within 10 days to reflect any new information (e.g., a change in the committee's name or address). 102.2(a)(2). The redesignated committee will retain its original FEC identification number.[6]

If the candidate designates a new principal campaign committee, the committee must file a new Statement of Organization (FEC Form 1) within 10 days after being designated. 102.1(a). The newly designated committee will receive a new FEC identification number.

Other authorized committees

In addition to the principal campaign committee, the candidate may designate other authorized committees to receive contributions or make expenditures on his or her behalf. The following steps must be taken:

Action by candidate
The candidate designates the authorized committee by filing a statement (either FEC Form 2 or a letter) with the principal campaign committee. 101.1(b) and 102.13(a)(1).

Action by authorized committee

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[4] Copies of FEC Forms 1 and 2 must also be filed with the appropriate office in Guam, Northern Mariana Islands or Puerto Rico for candidates running for office in those territories. 108.1.

[5] In addition, a separate Form 2 must be filed for any special election in which the candidate is running. For example, if Mr. Jones is also participating in the 2021 special election in his district, he must file a Form 2 for the 2021 election year.

[6] Redesignated committees are reminded that, if outstanding debts remain from the previous election, the committee must continue to report the debts as well as the contributions that have been designated by contributors to retire them. 104.11, 110.1(b)(3) and (4) and 110.2(b)(3) and (4). See Chapter 13, Section 19 on reporting outstanding debt.

Within 10 days after being designated by the candidate, the authorized committee must file a Statement of Organization (FEC Form 1) with the candidate's principal campaign committee. 102.1(b) and 102.13(a)(1).

Action by principal campaign committee
The principal campaign committee, in turn, files the documents with the FEC. 101.1(b).

3. TREASURER

Treasurer required

The committee must have a treasurer before it accepts contributions or makes expenditures. 102.7(a) and (b). The committee may also designate an assistant treasurer to assume the treasurer's duties when the treasurer is unavailable. 102.7(a) and (b). Only a treasurer or designated assistant treasurer or agent may sign FEC reports and statements. 102.2(a) and 104.14(a). The candidate may act as the committee's treasurer.

Treasurer's duties

The treasurer (or designated assistant treasurer) is responsible for:

- Filing complete and accurate reports and statements on time. 104.14(d).
- Signing all reports and statements. 102.2(a) and 104.14(a).
- Depositing receipts in the committee's designated bank within 10 days of receipt. 103.3(a).
- Authorizing expenditures or appointing an agent (either orally or in writing) to authorize expenditures. 102.7(c).
- Monitoring contributions to ensure compliance with the law's limits and prohibitions. 103.3(b).
- Keeping the required records of receipts and disbursements for three years from the filing date of the report to which they relate. 102.9(c) and 104.14(b).

Treasurer's liability

A committee's treasurer is personally responsible for carrying out the duties listed in the previous section and should understand these responsibilities as well as his or her personal liability for fulfilling them.

When the Commission brings an enforcement action against a political committee, the treasurer is usually named as a respondent along with the committee itself. The treasurer can be named and found liable in an official capacity as a representative of the committee. Also, the treasurer can be named and found liable in a personal capacity if there is a knowing and willful violation of the Act or an intentional deprivation of the operative facts giving rise to the violation.

Even when an enforcement action alleges violations that occurred during the term of a previous treasurer, the Commission usually names the current treasurer as a respondent in the action. See the "Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings," 70 Fed. Reg. 3 (January 3, 2005).

Vacancy in office

A committee cannot raise or spend funds when there is a vacancy in the office of treasurer. For that reason, the Commission urges every committee to name (on its Statement of Organization (FEC Form 1) under "Designated Agent") an assistant treasurer who may assume the treasurer's duties when the treasurer's office becomes temporarily vacant or when the treasurer is unavailable. 102.7(a) and (b). The assistant treasurer should be apprised of any filing requirements and, if the committee files electronically, should obtain an electronic filing password as well. The committee must report any change in the treasurer's status within 10 days by filing an amendment to the Statement of Organization. 102.2(a)(2).

Committees typically disclose a treasurer's resignation by naming a replacement. The committee informs the FEC of a change in treasurer by filing an amended FEC Form 1, which is signed by the new treasurer. However, in some circumstances a treasurer simply resigns without the appointment of a replacement by submitting a letter of resignation to the FEC. (Electronic filers use Form 99.) The letter's stated purpose is to amend the committee's Statement of Organization to reflect the resignation of the treasurer as of a particular date.

4. STATEMENT OF CANDIDACY

Line-by-line instructions

Line 1. Name and address of the candidate

Enter the name and mailing address of the candidate.

Line 2. Candidate's FEC identification number

A candidate who has never run before, is running in a different district or is seeking a different federal office should leave this line blank. The FEC will assign a candidate identification number upon receipt of Form 2.

Candidates who are seeking reelection, and candidates who have terminated a previous candidacy but are now running again for the same seat, should use their original identification number.

Line 3. Is this statement new or amended?

Check "New" if you are filing Form 2 for the first time for this particular office and cycle.

Otherwise, check "Amended."

Lines 4-6. Party affiliation, office sought, state & district of candidate

Provide the requested information.

Line 7. Principal campaign committee

Each candidate for federal office (other than a nominee for the office of Vice President) must designate in writing a political committee to serve as his or her principal campaign committee. The name of the principal campaign committee must include the name of the candidate. 52 U.S.C. § 30102(e)(4). On Line 7, the candidate must indicate the year of the election and the full name and street address of the candidate's principal campaign committee. 101.1(a)

Line 8. Other authorized committees

For Line 8, the candidate must fill in the name and address of any other authorized committees. 101.1(b). An authorized committee is any political committee, including the principal campaign committee, authorized in writing by a federal candidate to receive contributions and make expenditures on his or her behalf. 100.5(f)(1). This includes joint fundraising representatives.

Note that the name of any committee authorized by the candidate must include the name of the candidate. 52 U.S.C. § 30102(e)(4).

The candidate must sign and date the Statement of Candidacy.

5. STATEMENT OF ORGANIZATION

When registering, a committee must include basic information on the Statement of Organization (FEC Form 1). See examples 2–2 through 2–4. The registration statement also serves as the official designation of the treasurer and custodian of records, the only two committee officers required under the law. 102.2(a)(1).

Line-by-line instructions

Line 1. Name and address of committee

Enter the full, official name of the committee. The name of a principal campaign committee and any other authorized committee must include the name of the candidate.[7] 52 U.S.C. § 30102(e)(4).

The address provided on this line is considered the committee's address of record. 102.2(a)(1)(i).

If the committee is the principal campaign committee of a candidate for the House or the Senate, it must disclose its email address. 102.2(a)(1)(viii). In addition, all committees required to file electronically must disclose their email addresses. 102.2(a)(1)(vii). A committee may list up to two email addresses on the form. The Commission sends courtesy reporting reminders and other correspondence to the email address(es) listed on Form 1.

The committee must disclose the URL for its website, if one exists. 102.2(a)(1)(vii).

Line 2. Date

Enter the date when the committee officially became a political committee—that is, the date when the committee exceeded the registration threshold.

Line 3. FEC identification number

The FEC assigns each committee an identification number after the committee has filed a Statement of Organization.[8] Only committees that have previously filed a Statement of Organization should fill in this

[7] By contrast, an unauthorized committee (such as a PAC or party committee) may not use the name of a candidate in its name. 52 U.S.C. § 30102(e)(4).

[8] This number is used by the FEC for computer indexing and is not the taxpayer identification number required by the Internal Revenue Service. See Appendix G for information on contacting the IRS.

block with the number that was originally assigned to the committee. New committees should leave this line blank—they will be assigned identification numbers when the completed statement has been received. Thereafter, the committee must enter the number on all statements and reports. 102.2(c).

Line 4. Is this statement new or an amendment?

Check "New" if you are filing Form 1 for the first time. Otherwise, check "Amended." (Amendments are discussed in the section "Changes in committee and/or contact information.")

Line 5. Type of committee

The committee must identify itself as either a principal campaign committee or other authorized committee.[9] The committee must choose only one committee type.

The committee must also disclose the following information about the candidate who authorized it: name, party affiliation, office sought and state and congressional district (if applicable) in which the candidate seeks election. 102.2(a)(1)(v).[10]

Line 6. Affiliated committees

A principal campaign committee lists the names and addresses of all other committees authorized by the candidate as affiliated committees. Other authorized committees list only the principal campaign committee as an affiliated committee. 102.2(b)(1)(i).

Line 7. Custodian of records

Enter the name, address and committee position of the individual who has actual possession of the committee's financial records. 102.2(a)(1)(iii). The committee's treasurer, assistant treasurer or another person (such as an accountant or bookkeeper) may serve as the custodian of records. (Recordkeeping rules are discussed in Chapter 11.)

Line 8. Treasurer and assistant treasurer

Provide the name and mailing address of the treasurer. 102.2(a)(1)(iv). The Commission also urges all political committees to name an assistant treasurer (or "designated agent"). Only a registered assistant treasurer may sign FEC reports and statements in the treasurer's absence. 102.7(a). (The treasurer's responsibilities are discussed in detail in Section 3.)

Line 9. Campaign depository

A committee must list the name and address (but not the account number) of the campaign depositories it maintains for depositing receipts and making disbursements. 102.2(a)(1)(vi); 103.1. Each political committee must maintain at least one checking account or transaction account at one of its depositories. 103.2. (At least one depository is required.) The following institutions may be designated: state banks, national banks and depositories insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration. 52 U.S.C. §30102(h)(1).

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[9] See Appendix H, Glossary for distinction.

[10] Joint fundraising representatives should refer to Appendix C, Section 5 for information on filing Form 1.

6. FILING REGISTRATION FORMS

Where to file

Hard copy
Principal campaign committees of House, Senate and Presidential candidates may mail in their original Forms 1 and 2 to the Federal Election Commission, 1050 First Street, NE, Washington, DC 20463. 52 U.S.C. §30102(g); 1.2, 105.1, 105.3. The address for courier or express delivery is 1050 First Street, NE, Washington, DC 20002.

Online
Alternatively, principal campaign committees may submit their Forms 1 and 2 electronically using the Commission's online webform system. Note that filing registration forms through this system constitutes an electronic filing. Committees that are not required to file electronically, but choose to do so, must continue to file electronically for that calendar year. 104.18

Mandatory electronic filing

Under FEC regulations, the Statement of Organization (FEC Form 1) and Statement of Candidacy (Form 2) must be filed electronically if the campaign raises or spends more than $50,000 in any calendar year, or has reason to expect to do so. 52 U.S.C. §30102(g); 104.18(a).

Committees required to file electronically under Section 104.18 must also include their email address on their Statement of Organization. 102.2(a)(1)(vii).

Registration confirmation

The FEC processes each committee's Form 1 upon receipt and sends a confirmation email to the address(es) provided on the form. The email provides the committee's FEC identification number, identifies the Campaign Finance Analyst assigned to review the committee's reports and provides links to helpful compliance information available on the FEC's website. Committees that do not provide an email address receive comparable information by postal mail.

7. AMENDMENTS

Changes in committee officers and/or contact information

A committee must report any change or correction of information contained in its Statement of Organization within 10 days after the change. 102.2(a)(2). A committee may have to file an amendment, for example, to report a new treasurer, a new assistant treasurer, a new email address, a change of address

or a new campaign depository. The committee must indicate on FEC Form 1 (or in a letter, if the committee does not file electronically) that the statement is an amendment to its registration.

The amount of information required on an amended Statement of Organization depends on whether the committee files on paper or electronically. If the committee files electronically, it must submit a fully completed Form 1.

In the case of paper filers, the Form 1 or letter needs to include only:

- The name and address of the committee (Form 1, Line 1);
- The date the change took effect (Line 2);
- The FEC ID number (Line 3);
- An indication that the statement is an amendment to the Statement of Organization (Line 4);
- The changed information (appropriate line number); and
- The name and signature of the treasurer (or assistant treasurer) and the date signed. 102.2(a)(2).

CHAPTER 3

UNDERSTANDING CONTRIBUTIONS

1. WHAT IS A CONTRIBUTION

A contribution is anything of value given, loaned or advanced to influence a federal election. It is important to understand which receipts are considered contributions because:

- Contributions count toward the threshold that determines whether an individual has qualified as a candidate under the Federal Election Campaign Act (the Act). 100.3(a).
- Contributions are subject to the Act's source prohibitions.
- Contributions are subject to the Act's amount limitations.

Like all receipts, contributions are also subject to the Act's recordkeeping and reporting requirements.

The next section describes different types of contributions. (Contribution limits and prohibitions are discussed in the chapters that follow.)

2. TYPES OF CONTRIBUTIONS

Gifts of money

A contribution of money may be made by check, cash (currency), credit card or other written instrument. See 100.52(c). See also AOs 1999-22 (Aristotle Publishing) (contributions made over the internet), 1995-09 (NewtWatch) (contributions made over the internet), 1991-01 (Deloitte & Touche PAC) (contributions by credit card), 1990-04 (American Veterinary Medical Association) (contributions by credit card) and 1978-68 (Seith for Senate Committee) (contributions by credit card).

In-kind contributions

Definition

Goods or services offered free or at less than the usual charge result in an in-kind contribution. 100.52(d)(1). Similarly, when a person pays for goods or services on the committee's behalf, the payment is an in-kind contribution. 100.54; 100.52(d)(1). An expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of a candidate's campaign is also considered an in-kind contribution to the candidate. 109.20. See Appendix D, "Communications."

Limits
The value of an in-kind contribution—the usual and normal charge—counts against the contribution limit as a gift of money does. 100.52(a), (d)(1). Additionally, like any other contribution, in-kind contributions count against the contributor's limit for the next election, unless they are otherwise designated. See Chapter 4, Section 4 for more information on designating contributions.

Value
Goods (such as facilities, equipment, supplies or mailing lists) are valued at the price the item or facility would cost if purchased or rented at the time the contribution is made. For example, if someone donates a personal computer to the campaign, the contribution equals the ordinary market price of the computer at the time of the contribution.

Services (such as advertising, printing or consultant services) are valued at the prevailing commercial rate at the time the services are rendered. 100.52(d)(2) and 100.111(e)(2).

Notifying recipient
The contributor needs to notify the recipient candidate committee of the value of an in-kind contribution. The committee's treasurer needs this information in order to monitor the contributor's aggregate contributions and to report the correct amount.

In-kind contributions designated for more than one election in an election cycle
In Advisory Opinion 1996-29 (Cannon), the Commission determined that the value of an in-kind contribution of used computer equipment, received before the primary and designated in writing by the contributors for all elections in the cycle, could be allocated among all elections in the same election cycle. The contribution was distinguishable from the type of in-kind contribution that is used for one particular election (such as printing or mailing costs related to a general election fundraiser). If the candidate had lost the primary election, the committee would have had to refund the amount designated for the general election. (In this case, the candidate was active in each election within the election cycle.) The total value of the contribution could not exceed the contributor's combined limit for all the elections in the cycle. (The Commission did not address the issue of allocating an in-kind contribution over more than one election cycle.)

Exceptions
Under limited exemptions, persons may provide certain goods and services to a committee without making contributions. For example, when services are volunteered—not paid for by anyone—the activity is not considered a contribution. 100.74. See Chapter 7 for more information.

Bitcoin

The Commission has determined that contributions of bitcoins are "money or anything of value" within the meaning of the Act. AO 2014-02 (Make Your Laws PAC).

Value
The value of bitcoin contributions are based on the market value of bitcoins at the time the contribution is received. To determine the market value, the committee should first rely on any contemporaneous determination provided by the entity that processes the bitcoin contribution. If, however, the contribution

is made through an entity that does not provide an exchange rate for that contribution (or if no processor is involved in the transaction), then the recipient committee may value the contribution using another reasonable exchange rate of bitcoins for dollars. See AO 2014-02 (Make Your Laws PAC).
See Chapter 13 for information on reporting contributions of bitcoin.

Proceeds from sales

The entire amount paid to attend a political fundraiser or other political event or to purchase a fundraising item sold by a political committee is a contribution and counts against the individual's contribution limit. 100.53. For example, if a contributor pays $100 to buy a ticket to a fundraising dinner, the entire $100 is considered a contribution to the committee, even though the meal may have cost the committee $30. Similarly, if a contributor spends $20 to buy a campaign t-shirt that cost the campaign $5, the contributor has made a $20 contribution. See also Chapter 14, Section 4, "Sale of Campaign Assets."

Loans

A loan, including a loan to the campaign from a member of the candidate's family, is considered a contribution to the extent of the outstanding balance of the loan. (Bank loans, however, are not considered contributions if made in the ordinary course of business and on a basis that assures repayment. 100.82. See Chapter 6, Section 1.) An unpaid loan, when added to other contributions from the same contributor, must not exceed the contribution limit. Repayments made on the loan reduce the amount of the contribution. Once repaid in full, a loan no longer counts against the contributor's contribution limit. However, a loan exceeding the limit is unlawful even if it is repaid in full. Besides being reported as a contribution, a loan must be continuously reported as a debt until it is fully repaid. 100.52(a) and (b), 100.111(a) and 104.3(d). See Chapter 13, Section 20, for more information on reporting loans.

Endorsements and guarantees of loans

An endorsement or guarantee of a loan, including a loan derived from a candidate's brokerage account or other line of credit, counts as a contribution from the endorser or guarantor to the extent of the outstanding balance of the loan. Repayments made on the loan reduce the amount of the contribution. Once the loan is repaid in full, the endorsement or guarantee no longer counts against the endorser's or guarantor's contribution limit. If a written loan agreement does not stipulate the portion for which each endorser or guarantor is liable, then individual contributions are calculated by dividing the amount of the loan by the number of persons who have endorsed or guaranteed it. 100.52(b)(3).

Candidate's use of jointly held collateral

A limited exception to this rule is provided when a candidate uses property jointly held with the candidate's spouse to guarantee a bank loan to the campaign and the bank requires the spouse's signature. Note that this exception applies only if the value of the candidate's share of the property exceeds or equals the amount of the loan. This exception also applies when the candidate's spouse is the endorser, guarantor or co-signer of a loan derived from a candidate's brokerage account, credit card account or other line of credit. For unsecured loans, the spouse would not be considered a contributor if the candidate

uses, in connection with the campaign, only one-half of the available credit. 100.52(b)(4), 100.82(c), 100.83(b). For more information, see Chapter 4, Section 9.

Extensions of credit

An extension of credit outside of a creditor's ordinary course of business is considered a contribution. 100.55. If the creditor is incorporated, an extension of credit beyond the ordinary course of business would result in a prohibited contribution. For more information on when an extension of credit is considered a contribution, see Chapter 14, Section 6, "Settling Debts."

Personal funds of individuals

Funds from the candidate

Unlike the other types of contributions listed here, contributions (including in-kind contributions, loans, and advances) made from the candidate's personal funds to his or her campaign are not subject to any limits, though they must still be reported. 110.10; AOs 1991-09 (Hoagland), 1990-09 (Mueller) and 1985-33 (Collins). For more information, see Chapter 4, Section 9, "Candidate's Personal Funds."

Unearned income and fringe benefits

A candidate's salary or wages earned from bona fide employment are considered his or her personal funds. 100.33. However, compensation paid to a candidate in excess of actual hours worked is generally considered a contribution from the employer. See AO 2000-01 (Taveras). Moreover, under FEC regulations barring personal use of campaign funds, a third party's payment of a candidate's personal expenses is considered a contribution, unless the payment would have been made irrespective of the candidacy.

To be paid "irrespective of the candidacy," and thus not considered a contribution, compensation must:

- Result from bona fide employment that is genuinely independent of the candidacy;
- Be exclusively made in consideration for services provided by the employee; and
- Not exceed the amount paid to any other similarly qualified person for the same work over the same period of time.

113.1(g)(6). See AOs 2006-13 (Spivack), 2004-17 (Klein), 2004-08 (American Sugar Cane League), 1980-115 (O'Donnell) and 1979-74 (Emerson).

Note that when a candidate is on leave without pay, the continued payment of fringe benefits (such as health insurance and retirement) may also result in contributions from the employer to the campaign. 114.12(c). (The Commission has made an exception to this rule for employers who had pre-existing policies providing for a limited extension of benefits for individuals who take unpaid leave. See AOs 2014-14 (Trammell), 2014-15 (Brat), 1992-03 (Reynolds Metal).)

Advances by individuals

General rule

When an individual uses personal funds (or personal credit) to pay for a campaign expense, that payment is generally an in-kind contribution from that individual. 100.52(a), 116.5(b). For example, an in-kind

contribution results if a campaign staff member pays for postage, office supplies or campaign materials with personal funds. This rule also applies to payments made by volunteers and by the candidate.

Although such advances are considered in-kind contributions until reimbursed, special reporting rules apply when individuals pay for campaign expenses and later receive reimbursement from the committee. See Chapter 13, Section 13, "Reporting Reimbursed Advances of Personal Funds (Non-Travel)." Travel expenses later reimbursed by the committee are treated differently. 116.5. See next section and Chapter 7, Section 4, "Travel Cost Exemptions" for more information.

Travel exception

When a campaign staff member, volunteer or the candidate uses personal funds to pay for that individual's own travel expenses (transportation, meals and lodging) incurred on behalf of a candidate, the payments are not considered contributions if they fall under one of two exceptions:

- **Exempt unreimbursed travel**: An individual may spend up to $1,000 per candidate, per election, on transportation expenses without making a contribution, and volunteers may spend unlimited amounts on meals and lodging in connection with volunteer activity. 100.79.
- **Reimbursed travel**: Any other payments by individuals for travel expenses are not considered contributions if the committee reimburses them within specified time limits. 116.5(b). See Chapter 7, Section 4, "Travel Cost Exemptions" for more information.

Congressional staff

The official staff of members of Congress cannot contribute to their employing member's campaign. See 18 U.S.C. §603. As such, it is important for those individuals to avoid advancing any funds to the campaign (e.g., buying stamps for a campaign mailing). See also 18 U.S.C. §602.

For more information, contact the Senate Select Committee on Ethics or the House Committee on Ethics (see Appendix G). For information about political activity by federal employees, contact the U.S. Office of Special Counsel at (202) 254-3600.

Coordinated communications

If a committee, group or individual pays for a communication that is coordinated with a campaign or a candidate, the communication may result in an in-kind contribution to the campaign committee. For more information on determining whether a communication is coordinated, see Appendix D.

Earmarked contributions and bundling

An earmarked contribution is one which the contributor directs (either orally or in writing) to a candidate through an intermediary or conduit. 110.6(b). Special rules govern this type of transaction; see Appendix A. Contributions bundled by lobbyists require additional disclosure, as described in Appendix F.

CHAPTER 4

CONTRIBUTION LIMITS

Under the Federal Election Campaign Act (the Act) contributions are subject to limits. This chapter examines the rules concerning the limits placed on contributions to a candidate's campaign. The limits apply to all types of contributions (except contributions made from a candidate's personal funds, as explained in Chapter 3).

The chart on the next page summarizes the Act's contribution limits. It is important to note that a campaign is prohibited from retaining contributions that exceed the limits. 110.9. In the event that a campaign receives excessive contributions, it must follow special procedures for handling such funds. See "Remedying an Excessive Contribution" in Section 7 of this chapter.

1. OVERVIEW OF LIMITS

This section outlines the limits the Act places on contributions to a candidate's campaign. The term campaign is used in this guide to mean a candidate for a specified federal office, his or her authorized agents, the principal campaign committee and any other authorized committees.

$2,900[1] per election

Under the Act, individuals and groups (such as partnerships, sole proprietorships, certain LLCs, Indian tribes and other groups that are not prohibited from making contributions to candidates) may contribute a maximum of $2,900 per election to a candidate's campaign. This limit also applies to:

- contributions from nonmulticandidate and nonfederal political committees;
- contributions from the members of a candidate's family (e.g., spouse, parent) (110.1(a) and (b)(1)); and
- contributions from nonfederal campaign committees (see "Contributions from other candidates").

$5,000 per election—multicandidate committees

Political committees that qualify as multicandidate committees have a higher contribution limit of $5,000 per election to a candidate's campaign. 110.2(a) and (b)(1). To qualify as a multicandidate committee, a political committee must have:

Been registered with the FEC for at least six months;

Received contributions for federal elections from more than 50 contributors; and

[1] The limit is indexed for inflation in odd-numbered years. 110.1(a) and (b)(1); 110.17(b).

Made contributions to at least five candidates for federal office.[2] 100.5(e)(3).

When making a contribution to a candidate's campaign, a multicandidate PAC or party committee must notify the campaign in writing that it has qualified for multicandidate committee status. 110.2(a)(2). (The notice may be pre-printed on the committee's checks, letterhead or other appropriate materials.[3]) If the contributing committee fails to provide this notification, the candidate committee's treasurer should verify whether that committee has qualified in order to avoid accepting an excessive contribution. 103.3(b). Multicandidate status can be verified by consulting the FEC's campaign finance data website. Committees that have satisfied the criteria for multicandidate status and have filed FEC Form 1M (Notification of Multicandidate Status) will be identified as "qualified."

$51,200 national party committee limit for Senate candidates

A national party committee and its Senatorial campaign committee (if applicable) may contribute up to $51,200 combined per campaign to each Senate candidate. Unlike other candidate contribution limits, this limit applies to the total contributions made to a Senate candidate by those party committees for the entire campaign period (the primary and general elections). 110.2(e). This limit is indexed for inflation in odd-numbered years.

$100 limit on cash contributions

A campaign may not accept more than $100 in cash from a particular source with respect to any campaign for nomination for election, or election to federal office. 110.4(c).

$50 limit on anonymous contributions

An anonymous contribution of cash is limited to $50. Any amount in excess of $50 must be promptly disposed of and may be used for any lawful purpose unrelated to any federal election, campaign or candidate. 110.4(c)(3).

Contributions from other candidates

A candidate's authorized committees may accept a contribution of up to $2,000 per election from the authorized committee of another federal candidate. 102.12(c)(2) and 102.13(c)(2).

The contribution limit for contributions from a nonfederal candidate's campaign is $2,900 per election. See 110.1(b)(1); 110.17(b). However, a contribution of more than $1,000 may trigger registration by the nonfederal campaign as a federal political committee. 100.5(a). For more information and other

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[2] State party organizations are not required to meet this third requirement. Also, principal campaign committees of active candidates cannot qualify as multicandidate committees. 102.12(c) and 102.13(c). The principal campaign committee of a former candidate may, however, become a multicandidate committee. AOs 2004-03 (Dooley for the Valley), 1993-22 (Roe), 1988-41 (Stratton) and 1985-30 (Holt).

[3] See the Explanation and Justification to Rules on Contributions by Multicandidate Political Committees, 58 Fed. Reg. 42172, 42173 (August 6, 1993), available on FEC.gov.

applicable restrictions (such as the requirement that the funds given be federally permissible), see "Contributions from Unregistered Organizations" in Chapter 10, Section 1.

Affiliated committees—shared limit

Political committees established, financed, maintained or controlled by the same person, organization or group are affiliated. 110.3(a) and (b). This definition applies to all types of political committees, including nonconnected committees, party committees, corporate/labor PACs and authorized committees. This is important because affiliated committees that make contributions to candidate committees share one overall contribution limit, per candidate, per election. See 110.3(a).

Party committees

Each state party committee has its own contribution limit, but local party committees within a state are presumed to be affiliated with the state party committee.[4] This means that contributions from those local party committees that are required to register as federal political committees count against the state committee's limit. 110.3(b)(1)(ii) and (3). See AOs 2005-02 (Corzine II) and 1999-04 (Republican Party of Minnesota).

Note, however, that the national party committee, the House campaign committee and the Senate campaign committee are each considered a separate committee, with separate contribution limits (except for the special national party committee limit of $51,200 for Senate candidates, as explained previously). 110.2(e) and 110.3(b)(2).

Corporate/labor/membership organization PACs

All separate segregated funds (also called political action committees or PACs) established, financed, maintained or controlled by the same corporation or labor organization are affiliated. For example:

- PACs established by a parent corporation and its subsidiaries are affiliated.
- PACs established by a national or international union and its local unions are affiliated.
- PACs established by a federation of national or international unions and the federation's state and local central bodies are affiliated.
- PACs established by an incorporated membership organization and its related state and local entities are affiliated.

100.5(g)(2) and (3); 110.3(a)(1)(ii) and (2).

When committees are not automatically affiliated under these conditions, the Commission may nevertheless conclude that two or more committees are affiliated based on factors listed in the regulations. 100.5(g)(4)(ii)(A)-(J) and 110.3(a)(3)(ii)(A)-(J). The Commission makes these decisions, through advisory opinions, on a case-by-case basis. For examples, see AOs 2009-18 (Penske Truck Leasing), 2006-12 (IAM), 2005-03 (ACOG), 2004-32 (Spirit), 2002-11 (Mortgage Bankers) and 2001-07 (NMC PAC) (plus opinions cited within those AOs).

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[4] A local party committee may be considered independent of the state party committee if it can meet certain standards. See 110.3(b)(3)(i) and (ii). See also AOs 1999-04 (Republican Party of Minnesota) and 1978-09 (Republican State Central Committee of Iowa).

Authorized committees

An authorized committee, however, can be affiliated only with another authorized committee of the same candidate. 100.5(g)(5) and 110.3(a)(1)(i). Note that, by definition, an unauthorized committee sponsored by an officeholder (i.e., a "leadership PAC") is not considered to be affiliated with any authorized committees sponsored by the same individual. 100.5(e)(6) and (g)(5).

Unregistered local party organizations

Local party organizations may contribute an aggregate of $1,000 to federal candidates (assuming no other federal expenditures are made) without triggering a registration requirement with the FEC. 100.5(a).The organization must be able to show that the contribution was made with funds permissible under the Federal Election Campaign Act. 102.5. Prior to crossing the registration threshold, the local organization does not share a contribution limit with the state party committee. AOs 2005-02 (Corzine II) and 1999-04 (Republican Party of Minnesota).

Partnerships

Partnerships are permitted to make contributions up to $2,900 per candidate per election according to special rules. 110.1(e) and (k)(1). For details, see Appendix B.

Limited liability companies

Corporation vs. partnership

For purposes of contribution limitations and prohibitions, a limited liability company (LLC) is treated as either a corporation or a partnership.

An LLC is treated as a corporation if:
- It has chosen to file, under Internal Revenue Service (IRS) rules, as a corporation; or
- It has publicly traded shares. 110.1(g)(3).

An LLC is treated as a partnership if:
- It has chosen to file, under IRS rules, as a partnership; or
- It has made no choice, under IRS rules, as to whether it is a corporation or a partnership. 110.1(g)(2).

If an LLC is treated as a corporation, it is prohibited from making contributions to candidate committees, but it can establish an SSF (see Chapter 5 for general information on the corporate prohibition). It may also give money to Independent expenditure-only PACs. If it is considered a partnership, it is subject to the contribution limits for partnerships outlined in Appendix B. 110.1(g).

Single member LLC

If an LLC with a single natural person member has not chosen corporate tax treatment, it may make contributions; the contributions will be attributed to the single member, not the LLC. 110.1(g)(4).

Notifying recipient committee

An LLC must, at the time it makes a contribution, notify the recipient committee:

That it is eligible to make the contribution; and

How the contribution is to be attributed among members.

This requirement will prevent the recipient committee from inadvertently accepting an illegal contribution. 110.1(g)(5).

Minors

An individual who is under 18 years old may make contributions to candidates and political committees, subject to the limit of $2,900 per election, if:

The decision to contribute is made knowingly and voluntarily by the minor;

The funds, goods or services contributed are owned or controlled by the minor, proceeds from a trust for which he or she is a beneficiary, or funds withdrawn by the minor from a financial account opened and maintained in his or her name; and

The contribution is not made using funds given to the minor as a gift for the purpose of making the contribution, and is not in any way controlled by another individual. 110.19.

Trusts

A political committee may accept contributions from an individual's estate made through a testamentary trust, subject to the same limitations and prohibitions that were applicable to the decedent during the decedent's lifetime.[5] Note that the committee must disclose the name of the both the trust and the name of the decedent on its report. See AO 2004-02 (NCEC).

Contributions may be made from a living (inter vivos) trust as long as the trust's beneficial owner has control over the use of the trust funds. The contribution should be reported as a contribution from the beneficial owner (as signor on the contribution), rather than from the trust. See AO 1999-19 (Andrea Ellis).[6]

[5] A political committee may only accept contributions from trusts in which neither the committee nor any officer, director, employee, member, agent, or affiliated organization of the political committee serves as a trustee or exercises any control over any undistributed trust corpus or interest amount.

[6] Special requirements apply to contributions from trusts to Presidential campaigns that are eligible for federal matching payments. 9034.2(c)(2).

2. HOW LIMITS WORK

The limits on contributions to candidates apply separately to each federal election in which the candidate participates. A primary, general, runoff and special election are each considered a separate election with a separate limit.[7] 100.2.

Under certain circumstances, additional elections may be called that bring about additional per election contribution limits. For example, a separate election may occur when a judicial decision creates a new election. See AOs 2016-09 (Martins for Congress); 2016-03 (Holding for Congress); 2006-26 (Texans for Henry Bonilla). A special election may also involve separate primary, general and/or runoff elections, each with a separate contribution limit.[8] And in some cases, a party caucus or convention is considered an election, as explained in the next section. Each of these elections would be considered a separate election with a separate contribution limit.

Party caucus or convention

A party caucus or convention constitutes an election only if it has the authority under relevant state law to select a nominee for federal office. (Notable examples of these types of conventions are those held in Connecticut, Utah and Virginia.) Otherwise, there is no separate limit for a caucus or convention; it is considered part of the primary process. When the caucus or convention does constitute a primary election, reports must be filed for the convention as they would for the primary. 100.2(c)(1) and (e). See also, for example, AOs 1992-25 (Owens), 1986-21 (Owens) and 1986-17 (Green); cf. AO 1979-71 (PASPAC). See Chapter 12 for information on filing reports.

Candidates who lose in the primary

A candidate is entitled to an election limit only if he or she seeks office in that election. Thus, a candidate who loses the primary (or otherwise does not participate in the general election) does not have a separate limit for the general. If a candidate accepts contributions for the general election before the primary is held and loses the primary (or does not otherwise participate in the general election), the candidate's principal campaign committee must refund, redesignate or reattribute the general election contributions within 60 days of the primary or the date that the candidate publicly withdraws from the primary race.[9] 110.1(b)(3) and 110.2(b)(5). See also in this chapter, Section 4, "Designated and Undesignated Contributions" and Section 8, "Contributions to Retire Debts."

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[7] Presidential campaigns should note that all Presidential primary elections held during a calendar year are considered one election for the purposes of the contribution limits. 110.1(j)(1).

[8] In AO 2009-15 (Bill White for Texas), the Commission concluded that under certain circumstances an authorized committee may accept contributions that may be used in a special or emergency election or runoff, even though an election has not been scheduled and may not occur.

[9] In AO 2008-04 (Dodd for President), the Commission determined that the authorized committee of a Presidential candidate receiving primary matching funds may issue refunds or obtain redesignations to his or her Senate campaign for contributions made in connection with the general election.

Independent and non-major party candidates

Even when independent and non-major party candidates are not involved in an actual primary, they are entitled to a primary limit. They may choose one of the following dates to be their "primary" date, and, until that date, they may collect contributions that count towards the contributor's primary limits.

- The last day on which, under state law, a candidate may qualify for a position on the general election ballot; or
- The date of the last major primary election, caucus or convention in that state.

Non-major party candidates may also choose the date of the nomination by their party as their primary date. 100.2(c)(4). Whichever date they choose, the candidate's campaign must file all pre-election reports and notices associated with that election date.

Primary vs. general election

Campaigns must adopt an accounting system to distinguish between contributions made for the primary election and those made for the general election, as discussed in Chapter 10, Section 1, "Fundraising." 102.9(e). [10] As previously noted, should the candidate lose the primary election, contributions accepted for the general election must be refunded, redesignated or reattributed within 60 days and may not be used to repay primary election debt. AO 1986-17 (Green). Therefore, candidate committees should ensure they have enough cash on hand to make those refunds if needed.

Candidates running in the general election, however, may spend unused primary contributions for general election expenses. The contributions would continue to apply toward the contributors' limits for the primary. 110.3(c)(3). In addition, the campaign of a candidate running in the general election may use general election contributions for primary election debts; the contributions would still count against the contributor's general election limits. 110.1(b)(3)(iv).

Unopposed candidates; elections not held

A candidate is entitled to a separate contribution limit even if:

- The candidate is unopposed in an election;
- A primary or general election is not held because the candidate is unopposed;[11] or
- The general election is not held because the candidate received a majority of votes in the previous election.

The date on which the election would have been held is considered the date of the election. 110.1(j)(2) and (3).

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[10] In AO 2007-03 (Obama), the Commission concluded that a Presidential candidate could solicit and receive private contributions for the 2008 Presidential general election without losing eligibility to receive public funding if the candidate received his party's nomination for President, provided that the campaign (1) deposited and maintained all private contributions designated for the general election in a separate account; (2) refrained from using these contributions for any purpose; and (3) refunded the private contributions in full if the candidate ultimately decided to receive public funds.

[11] A primary election that is not held because the candidate was nominated by a caucus or convention with authority to nominate is not a separate election with a separate contribution limit. 110.1(j)(4).

The campaign must file pre-election reports and, in the case of a general election, a post-election report. AO 1986-21 (Owens). See also Chapter 12, Section 3, “When to Report.”

Recounts

A federal campaign may establish a recount fund either as a separate bank account of the candidate’s authorized committee or as a separate entity. Although they are not considered contributions under the Act, any funds solicited, received, directed, transferred or spent in connection with a recount are subject to the amount limitations, source prohibitions and reporting requirements of the Act. See 52 U.S.C. §30125(e). This means that the normal contribution limits, reporting requirements and source restrictions apply.

The Commission has addressed the use of funds raised for recount purposes in AO 2010-14 (DSCC) (permitting the use of such funds before an election for certain recount-related purposes), AO 2010-18 (DFL) (permitting the redesignation of excess recount funds to a state party committee’s federal account), and AO 2019-02 (Nelson) (permitting donation of excess recount funds to charity and national party’s recount account). Committees must disclose funds received for a recount as “Other Receipts” and funds spent as “Other Disbursements.” For more information and reporting instructions, see AO 2006-24 (Republican and Democratic Senatorial Committees) and Chapter 13, “Completing FEC Reports.”

3. CONTRIBUTIONS TO UNAUTHORIZED COMMITTEES

If a contributor makes a contribution to a committee not authorized by any candidate and knows that a substantial portion of the contribution will be contributed to or spent on behalf of a particular candidate, the contribution counts against the contributor’s per election limit with respect to that candidate. 110.1(h).

4. DESIGNATED AND UNDESIGNATED CONTRIBUTIONS

The Commission strongly recommends that campaigns encourage contributors to designate their contributions for specific elections. Designated contributions ensure that the contributor’s intent is conveyed to the candidate’s campaign. In the case of contributions from political committees, written designations also promote consistency in reporting and thereby avoid the possible appearance of excessive contributions on reports.

Effect of designating vs. not designating

Designated contributions count against the donor’s contribution limits for the election that is named. Undesignated contributions count against the donor’s contribution limits for the candidate’s next election. 110.1(b)(2). For example:

An undesignated contribution made[12] after the candidate has won the primary, but before the general election, applies toward the contribution limit for the general election.

In the case of the candidate who has lost the primary, an undesignated contribution made after the primary automatically applies toward the limit for the next election in which the candidate runs for federal office.

If the candidate does not plan to run for federal office in the future, the committee may:

Presumptively redesignate the contribution to retire any net primary debts it may have (110.1(b)(5)(ii)(C); see "Remedying excessive contributions" for proper procedure); or

Request a written redesignation from the contributor to retire net debts from a previous election cycle.[13]

Otherwise, the committee must return or refund the contribution.

For additional information on presumptive redesignation, see Section 7 of this chapter, "Remedying an excessive contribution." See Section 8 for information on calculating net debts.

How contributions are designated

Contributors designate contributions by indicating in writing the specific election to which they intend a contribution to apply. 110.1(b)(2)(i). Contributors may make this written designation on the check (or other signed written instrument) or in a signed statement accompanying the contribution. 110.1(b)(4). A designation also occurs when the contributor signs a form supplied by the candidate. 110.1(b)(4); see also AO 1990-30 (Helms).

Campaign must retain designations

The campaign must retain copies of contribution designations for three years. If the designation appears on the check (or other written instrument), the campaign must retain a full-size photocopy. 102.9(c) and (f); 110.1(l)(1).

5. DATE CONTRIBUTION IS MADE VS. DATE OF RECEIPT

The date a contribution is made by the contributor and the date the contribution is received by the campaign are significant for purposes of the contribution limits. It is important to understand the distinction.

Date contribution is made

[12] See Section 5 for an explanation of when a contribution is "made."

[13] Note that if a contribution designated to retire the net debt of a previous campaign exceeds the amount of the net debt, the contribution must be returned, refunded, redesignated or reattributed. Contributions can be designated for debt retirement only if net debt exists and if the contributor has not already met the contribution limit for that election. 110.1(b)(3)(i).

The date a contribution is made is the date the contributor relinquishes control over it. 110.1(b)(6). For example:

- A hand-delivered contribution is considered made on the date it is delivered by the contributor to the campaign. 110.1(b)(6).
- A mailed contribution is made on the date of the postmark. 110.1(b)(6). (If a campaign wishes to rely on a postmark as evidence of the date a contribution was made, it must retain the envelope or a copy of it.) 110.1(l)(4).
- An in-kind contribution is made on the date that the goods or services are provided by the contributor. 110.1(b)(6). See AOs 2004-36 (Risley) and 1996-29 (Cannon).
- A contribution made via the internet is considered made on the date the contributor electronically confirms making the transaction. AO 1995-09 (NewtWatch).
- An earmarked contribution is considered made during the election cycle in which the contribution is actually made, regardless of the year in which the election is held. See AOs 2008-08 (Zucker) and 2006-30 (footnote 5) (ActBlue). (The conduit must forward this information to the campaign. See Appendix A for more information.)

Date contribution is received

The date of receipt is the date the campaign (or a person acting on the campaign's behalf) actually receives the contribution. 102.8(a). This is the date used by the campaign for reporting purposes, but it also affects the application of the net debts outstanding rule (discussed in Section 8 of this chapter).

Contributions charged on credit cards

When the committee receives contributions through credit card charges, the date of receipt is the date on which the committee receives the contributor's signed authorization to charge the contribution. The treasurer should retain a copy of the authorization form in the committee's records. See AOs 1995-09 (NewtWatch) and 1990-04 (American Veterinary Medical Association).

In-kind contributions

The date of receipt for an in-kind contribution is the date the goods or services are provided to the committee, even if the contributor pays the bill for the goods or services after they are provided. See 110.1(b)(6).

Effect of dates on undesignated contributions

The date an undesignated contribution is made determines which election limit it counts against. The date of receipt, however, does not affect the application of the contribution limits. An undesignated contribution made on or before Election Day counts against the donor's limit for that election, even if the date of receipt is after the election and even if the campaign has no net debts outstanding. On the other hand, an undesignated contribution made after an election counts against the donor's limit for the candidate's next election. 110.1(b)(2)(ii).

Effect of dates on designated contributions

Both the date a contribution is made and the date of receipt affect the application of the net debts outstanding rule to a designated contribution. The date the contribution is made determines whether the

rule will apply, while the date of receipt governs whether the contribution is acceptable under the rule. For example, a contribution designated for the primary and made before that election will not be subject to the net debts outstanding rule, even if the campaign receives the contribution after the primary. By contrast, a contribution designated for—but made after—the primary is acceptable only to the extent the campaign has net debts outstanding for the primary on the date of receipt. 110.1(b)(3)(i) and (iii). See Section 8 of this chapter.

Date of deposit

While all contributions must be deposited within 10 days, the date of deposit is not used for reporting or contribution limit purposes.

6. JOINT CONTRIBUTIONS

A joint contribution is a contribution that is made by more than one person using a single check or other written instrument. Although each individual has a separate contribution limit, joint contributors may combine their contributions in a joint contribution (for example, one check for $5,800 representing contributions from two individuals for a candidate's primary election) as long as both contributors sign the check or an attached statement. 110.1(k). Note that a joint contribution must represent the personal funds of each contributor because contributions made in the name of another are prohibited. See 110.4(b).

Each contributor must sign the check

When making a joint contribution, each contributor must sign the check (or other written instrument) or a statement that accompanies the contribution. 110.1(k)(1). If the check or an accompanying statement of attribution is not signed by each contributor, the entire contribution will be attributed only to the party who signed the check. 104.8(c). However, under certain circumstances the committee may presumptively reattribute the excessive portion of a contribution. See section on "Reattribution."

Exception: partnerships and LLCs

Contributions from partnerships and certain LLCs are not considered joint contributions but do trigger special attribution requirements. See Appendix B.

Attribution

If the check or statement does not indicate how much should be attributed to each donor, the recipient committee must attribute the contribution in equal portions. 110.1(k)(1) and (2). For example, if a committee receives a $1,000 joint contribution signed by two individuals but with no written attribution, the committee must attribute a $500 contribution to each donor.

A campaign may request that a contribution be reattributed, as explained in next section.

7. REMEDYING AN EXCESSIVE CONTRIBUTION

When a committee receives an excessive contribution—one which exceeds the contributor's limit or the campaign's net debts outstanding for an election—the committee may remedy the violation by refunding the excessive amount or by seeking a redesignation or reattribution of it within 60 days.
Step-by-step procedures for obtaining a redesignation or reattribution are explained in this section.

Redesignation

By contributor

With a redesignation, the contributor instructs the committee to use the excessive portion of a contribution for an election other than the one for which the funds were originally given. For example, the contributor may redesignate the excessive portion of a contribution made for the primary election so that it counts against his or her limit with respect to the general election (provided the contributor has not already contributed the maximum for the general election).

When requesting a redesignation, the committee must inform the contributor that he or she may, alternatively, request a refund of the excessive amount. 110.1(b)(5).

Presumptive redesignation by committee

Under certain circumstances, the committee may make a presumptive redesignation of an excessive contribution. When an individual or a non-multicandidate committee makes an excessive contribution to a candidate's authorized committee, the campaign may presumptively redesignate the excessive portion to the general election if the contribution:

Is made before that candidate's primary election;
Is not designated in writing for a particular election;
Would be excessive if treated as a primary election contribution; and
As redesignated, does not cause the contributor to exceed any other contribution limit.
110.1(b)(5)(ii)(B)(1)-(4).

Also, the excessive portion of an undesignated contribution made after the primary, but before the general election, may be automatically applied to the primary if the campaign's net debts outstanding from the primary equal or exceed the amount redesignated. 110.1(b)(5)(ii)(C). See Section 8 in this chapter. Note that a contribution that is designated in writing for a particular election may not be presumptively redesignated to another election. In this case, the committee must request a written redesignation.

The committee is required to notify the contributor in writing of the presumptive redesignation within 60 days of the treasurer's receipt of the contribution and must offer the contributor the option to receive a refund instead. 110.1(b)(5)(ii)(C).

It is important to note that presumptive redesignations may be made only within the same election cycle. Also, presumptive redesignation is not an option when the contributor is a multicandidate committee.

Reattribution

By contributor

With a reattribution, the contributor instructs the committee in writing to attribute the excessive portion of a joint contribution to another individual. For example, if the committee receives an excessive

contribution drawn on a joint checking account, but signed by only one account holder, the committee may seek a reattribution signed by each contributor of the excessive amount to the other account holder. 110.1(k)(3). (A joint contribution may also be reattributed so that a different amount is attributed to each contributor.[14]) Note that a joint contribution must represent the personal funds of each contributor because contributions made in the name of another are prohibited. See 110.4(b).

When requesting reattributions, the committee must also inform contributors that they may, alternatively, ask for a refund of the excessive portions of their contributions. 110.1(k)(3).

Presumptive reattribution by committee

When a committee receives an excessive contribution made via a written instrument with more than one individual's name imprinted on it, but only one signature, the committee may attribute the permissible portion to the signer. The committee may make a presumptive reattribution of the excessive portion to the other individual whose name is imprinted on the written instrument, without obtaining a second signature, so long as the reattribution does not cause the contributor to exceed any other contribution limit. 110.1(k)(3)(ii)(B)(1).

The committee is required to notify the contributors in writing of the presumptive reattribution within 60 days of the treasurer's receipt of the contribution, and must offer the contributors the option to receive a refund if it was not intended to be a joint contribution. 110.1(k)(3)(ii)(B)(2)-(3).

When to request redesignations and reattributions

In many circumstances, the committee will be able to presumptively redesignate or reattribute contributions. For all other circumstances, contributions can be redesignated or reattributed only by the individual contributor.

A committee may ask a contributor to redesignate and/or reattribute a contribution, for example, when the committee receives:

- A designated or undesignated contribution that exceeds the donor's limit. 110.1(b)(5)(i)(A) and (C).
- A designated or undesignated contribution for an election in which the candidate is not running. For example, a contribution that was designated for the general but was received before the primary may be redesignated for a future primary if the candidate loses the primary or otherwise does not run in the general election. See 102.9(e); see also AOs 1996-29, fn. 5 (Cannon), 1992-15 (Russo) and 1986-17 (Green).
- A contribution that is designated for, but made after, an election and that exceeds the campaign's net debts outstanding for that election. 110.1(b)(3)(i) and (5)(i)(B).
- An undesignated contribution (which normally applies to the candidate's upcoming election) that the committee wants to use to retire debts of a previous election. Note that, if it is redesignated, the

[14] See the Explanation and Justification published with the final rule, Contribution and Expenditure Limitations and Prohibitions; Contributions by Persons and Multicandidate Political Committees, 52 Fed. Reg. 760, 765-766 (Jan. 9, 1987), available on FEC.gov.

contribution then counts against the donor's contribution limits for that previous election. 110.1(b)(5)(i)(D).

Procedures for obtaining redesignations and reattributions from contributors

The committee treasurer is the person ultimately responsible for complying with the procedures outlined in this section. 103.3(a) and (b).

Step 1: Deposit contribution

A committee must deposit contributions within 10 days of the treasurer's receipt. (If a contribution is not deposited, it must be returned to the contributor within 10 days of receipt.) 103.3(a).

Step 2: Determine whether excessive

The committee must determine whether a contribution exceeds the donor's limit or the campaign's net debts outstanding. The Commission encourages committees to make this determination within 30 days of receiving the contribution. This allows a committee sufficient time to request and receive a redesignation and/or reattribution within the 60-day limit, as explained in the next step.

Step 3: Be prepared to make refund

When a committee deposits contributions that may exceed the limits or net debts outstanding for an election, the committee must not spend the funds because they may have to be refunded. To ensure that the committee will be able to refund the contribution in full, the committee may either maintain sufficient funds in its regular campaign depository or establish a separate account used solely for the deposit of possibly illegal contributions. 103.3(b)(4). Furthermore, the committee must keep a written record noting the reason a contribution may be excessive and must include this information when reporting the receipt of the contribution. 103.3(b)(5).

Step 4: Request redesignation and/or reattribution

When requesting a redesignation, the committee asks the contributor to provide a written, signed redesignation of the contribution for another election. The request must also state that the donor may receive a refund of the excessive portion of the contribution if he or she does not wish to redesignate it. 110.1(b)(5)(ii)(A).[15]

When requesting a reattribution, the committee asks the contributor whether the contribution was intended to be a joint contribution from more than one person. Alternatively, if the original contribution was a joint contribution, the committee requests that the contributors adjust the amount attributable to each.[16] In either case, the committee should inform the contributors that they must each sign the

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[15] Redesignations may be made electronically provided that the method offers a sufficient degree of assurance of the contributor's identity and intent to redesignate, and the committee retains a record of the redesignation in a manner consistent with the recordkeeping requirements in 110.1(1). For more information, see the FEC's Interpretive Rule Regarding Electronic Contributor Redesignations, (76 Fed. Reg. 16233 (March 23, 2011)) on FEC.gov.

[16] See the Explanation and Justification published with the final rule, Contribution and Expenditure Limitations and Prohibitions; Contributions by Persons and Multicandidate Political Committees, 52 Fed. Reg. 760, 766 (Jan. 9, 1987), available on FEC.gov.

reattribution. The request must notify each contributor that, instead of reattributing the contribution, he or she may seek a refund of the portion of the contribution that exceeds the limits or the campaign's net debts outstanding. 110.1(k)(3)(ii)(A).

Step 5: Redesignation/reattribution made or make refund within 60 days

Within 60 days after the date of the committee's receipt of the contribution either:

The contributor must provide the committee with a redesignation or reattribution, or

The committee must refund the excessive portion of the contribution.

103.3(b)(3).

A contribution is properly redesignated if, within the 60-day period, the contributor provides the committee with a written, signed statement redesignating the contribution for a different election. 110.1(b)(5)(ii)(A).

A contribution is properly reattributed if, within the 60-day period, the contributors provide the committee with a written statement reattributing the contribution. The statement must be signed by all contributors and must indicate the amount attributable to each donor. (If the contributors do not specify how to divide the contribution, the committee must attribute the contribution equally among the contributors.) 110.1(k)(2) and (3)(ii)(A).

Step 6: Keep records and report

The committee must keep documentation for each redesignation and reattribution to verify that it was received within the 60-day time limit. Documentation for a redesignation or reattribution must include one of the following:

A copy of the postmarked envelope bearing the contributor's name, return address or other identifying code;

A copy of the signed statement redesignating or reattributing the contribution with a date stamp showing the date of the committee's receipt; or

A copy of the written redesignation or reattribution dated by the contributor.

110.1(l)(6).

The documentation relating to a redesignation or reattribution must be retained for three years. 102.9(c).

8. CONTRIBUTIONS TO RETIRE DEBTS

If a committee has net debts outstanding after an election is over, a campaign may accept contributions made after the election to retire the debts provided that:

The contribution is designated for that election[17];

The contribution does not exceed the contributor's limit for the designated election; and

[17] An undesignated contribution made after an election counts toward the limit for the candidate's upcoming election, unless the campaign requests its redesignation.

The campaign has net debts outstanding for the designated election on the day it receives the contribution.

110.1(b)(3)(i) and (iii).

How to calculate net debts outstanding

A campaign's net debts outstanding consist of unpaid debts incurred with respect to the particular election minus the sum of cash on hand and the total amounts owed to the campaign.[18] 110.1(b)(3)(ii).

Unpaid debts

Unpaid debts include the following:

All outstanding debts and obligations;

The estimated cost of raising funds to liquidate the debts; and

If the campaign is terminating, estimated winding down costs (for example, office rental, staff salaries and office supplies).

110.1(b)(3)(ii).

Cash on hand and amounts owed to the campaign

Cash on hand consists of the resources available to pay the campaign's total debts, including currency, deposited funds, traveler's checks, certificates of deposit, treasury bills and any other investments valued at fair market value. 110.1(b)(3)(ii)(A).

For the purpose of calculating net debts outstanding for the primary, cash on hand need not include contributions designated for the general.[19].

Amounts owed to the campaign include credits, refunds of deposits, returns and receivables or a commercially reasonable estimate of the collectible amount, and the outstanding balance of candidate personal loans [20]exceeding $250,000 per election.

Adjustment to net debts total

A campaign first calculates its net debts outstanding as of the day of the election. Thereafter, the campaign continually recalculates its total net debts outstanding as additional funds are received for, or spent on, the election for which the debt remains. 110.1(b)(3)(ii) and (iii).

Contributions exceeding net debts

If, on the same day, a campaign receives several contributions made after the election that, together, exceed the amount needed to retire its debts, the campaign may:

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[18] For an illustration of how the net debts outstanding calculation is performed, see the Explanation and Justification published with the final rule, Contribution and Expenditure Limitations and Prohibitions; Contributions by Persons and Multicandidate Political Committees, 52 Fed. Reg. 760, 762 (Jan. 9, 1987), available on FEC.gov.

[19] See the Explanation and Justification published with the final rule, Contribution and Expenditure Limitations and Prohibitions; Contributions by Persons and Multicandidate Political Committees, 52 Fed. Reg. 760, 762 (Jan. 9, 1987), available on FEC.gov.

[20] The definition of a candidate "personal loans" includes bank loans guaranteed by the candidate as well as loans from the candidate's personal funds. 116.11(a).

Accept a proportionate amount of each contribution and either refund the remaining amount or ask contributors to redesignate the excessive portions for another election; or

Accept some contributions in full and either return or refund the others or seek redesignations or reattributions for them. (See “Redesignations” and “Reattributions” in Section 7.)

110.1(b)(3).

9. CANDIDATE’S PERSONAL FUNDS

When candidates use their personal funds for campaign purposes, they are making contributions to their campaigns. Candidate contributions to their own campaigns are not subject to any limits. 110.10; AOs 1991-09 (Hoagland), 1990-09 (Mueller), 1985-33 (Collins) and 1984-60 (Mulloy). They must, however, be reported (as discussed in next section).

Contributions from members of the candidate’s family are subject to the same limits that apply to any other individual. For example, a candidate’s parent or spouse may not contribute more than $2,900 per election to the candidate.

DEFINITION OF A CANDIDATE’S “PERSONAL FUNDS”

The personal funds of a candidate include:

Assets which the candidate has a legal right of access to or control over, and which he or she has legal title to or an equitable interest in, at the time of candidacy;

Income from employment;

Dividends and interest from, and proceeds from sale or liquidation of, stocks and other investments;

Income from trusts, if established before the election cycle;

Income from trusts established by bequests (even after candidacy);

Bequests to the candidate;

Personal gifts that had been customarily received by the candidate prior to the beginning of the election cycle; and

Proceeds from lotteries and similar games of chance.

100.33(a) and (b).

Assets jointly held with spouse

A candidate may also use, as personal funds, his or her portion of assets owned jointly with a spouse (for example, a checking account or jointly owned stock). If the candidate’s financial interest in an asset is not specified, then the candidate’s share is deemed to be half the value. 100.33(c).

Some banks may require a spouse to cosign a loan obtained by the candidate using jointly held assets as collateral. While an endorsement or guarantee of a loan normally constitutes a contribution, in this instance the spouse is not considered a contributor as long as the candidate’s share in the collateral equals or exceeds the amount of the loan. 100.52(b)(4); AO 1991-10 (Guernsey).

EXAMPLE:

A candidate obtains a $5,000 bank loan for his campaign using, as collateral, property valued at $20,000 held jointly (in equal shares) with his spouse. Both co-sign the loan. Because the candidate's interest in the property is $10,000, which exceeds the amount of the loan, his spouse has not made a contribution by co-signing it.

What are not considered personal funds

Personal gifts and loans

If any person, including a relative or friend of the candidate, gives or loans the candidate money "for the purpose of influencing any election for federal office," the funds are not considered personal funds of the candidate even if they are given to the candidate directly. Instead, the gift or loan is considered a contribution from the donor to the campaign, subject to the per election limit and reportable by the campaign. 100.52. See AOs 2000-08 (Harvey); 1985-33 (Collins) and 1982-64 (Hein); see also AO 1987-01 (Dawson).

Bank loans used in connection with campaign

Bank loans are not considered contributions from the bank if they comply with FEC regulations on bank loans. (See "Bank Loans" in Chapter 6.)

When a candidate obtains a bank loan for use in connection with his or her campaign, the loan is considered to be from the bank and not from the candidate's personal funds. The candidate is acting as the agent of the campaign. 102.7(d) and AO 1985-33 (Collins).

10. REPAYMENT OF PERSONAL LOANS FROM CANDIDATE

For personal loans (including advances of personal funds or endorsements of bank loans to the committee) from the candidate to his or her authorized committee, that aggregate more than $250,000 per election, the following rules apply[21]:

- The committee may use contributions to repay the candidate for the entire amount of the loan or loans only if those contributions were made on or before the day of the election; and
- The committee may use contributions to repay the candidate only up to $250,000 of the personal loans from contributions made after the date of the election. 116.11(b).
- Furthermore, if the committee uses the amount of cash-on-hand as of the date of the election to repay the candidate for loans in excess of $250,000, it must do so within 20 days of the election. 116.11(c). Within that time, the committee must treat the portion of candidate loans that exceed $250,000, minus the amount of cash-on-hand as of the day after the election used to repay the loan, as a contribution by the candidate. 116.11(c). AO 2003-30 (Fitzgerald). See also AOs 2008-22 (Lautenberg) and 2008-09 (Lautenberg).

Note that a runoff election has a separate limit for the purposes of repaying candidate loans. For example, if a candidate loaned the committee $345,000 for the primary election, the committee could repay the

[21] These rules apply to personal loans from candidates that were made on or after November 6, 2002.

candidate up to $250,000 from contributions made after the date of the primary election. Similarly, if the candidate loaned $300,000 for a primary runoff election, the committee could repay the candidate up to $250,000 from contributions made after the date of the runoff election. See 116.11(d).

CHAPTER 5

PROHIBITED CONTRIBUTIONS

Campaigns are prohibited from accepting contributions from certain sources. See 110.9, 110.20, 114.2(c) and 115.2. If a committee is uncertain whether a contribution comes from a prohibited source, it must follow the procedures described in Section 2, "Questionable Contributions."

1. PROHIBITED SOURCES

Corporations, labor organizations, national banks

Campaigns may not accept contributions made from the general treasury funds of corporations, labor organizations or national banks.[1] 114.2(a), (b) and (d). This prohibition applies to any incorporated organization, including a nonstock corporation, a trade association, an incorporated membership organization and an incorporated cooperative.[2]

EXAMPLE

The owner of an incorporated "mom and pop" grocery store is not permitted to use a business account to make contributions. Instead, the owner would have to use a personal account.

A campaign may, however, accept contributions from separate segregated funds (PACs) established by corporations, labor organizations, incorporated membership organizations, trade associations and national banks. 114.2 and 114.5. Moreover, the Federal Election Campaign Act permits corporations, labor organizations, incorporated membership organizations, trade associations and national banks to use their treasury funds for certain election-related activities that benefit candidates. 114.5. See also Chapter 7, Sections 8 and 9 for more information.

Federal government contractors

Campaigns may not accept or solicit contributions from federal government contractors. 115.2. Since corporate contributions are already prohibited, the government contractor ban applies primarily to

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[1] National banks and federally chartered corporations may not make contributions in connection with any election—federal, state or local. 114.2(a).

[2] However, a political committee that has incorporated for liability purposes only is not considered a prohibited source. 114.12(a).

contributions from a partnership (or a limited liability company) with a government contract. It also applies to the personal and business funds of (1) individuals under contract to the federal government and (2) sole proprietors of businesses with federal contracts. 115.4 and 115.5.

The spouses of individuals and sole proprietors who are federal government contractors, and employees of federal government contractors, however, may make contributions from their personal funds. 115.5 and 115.6.

Foreign nationals

Federal law prohibits contributions, donations, expenditures (including independent expenditures), and disbursements solicited, directed, received or made directly or indirectly by or from foreign nationals in connection with any federal, state or local election. 110.20(b)-(g). This prohibition includes advances of personal funds, contributions or donations made to political party committees and organizations, state or local party committees for the purchase or construction of an office building funds under 11 CFR 300.35, and contributions or disbursements to make electioneering communications.[3]

In addition, foreign nationals are prohibited from participating in decisions involving election-related activities. A foreign national may not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person (such as a corporation, labor organization, political committee, or political organization) with regard to the person's Federal or non-Federal election-related activities. 110.20(i). This includes decisions concerning the making of contributions, donations, expenditures, or disbursements in connection with any federal state or local election or decisions concerning the administration of a political committee. 110.20(i).

Furthermore, it is a violation of federal law to knowingly provide substantial assistance in the making, acceptance or receipt of contributions or donations in connection with federal, state, or local elections, to a political party committee, or for the purchase or construction of an office building by a state or local party committee. 110.20(h)(1). Similarly, it is a violation to provide substantial assistance in the making of a disbursement to make electioneering communications, or an expenditure, independent expenditure or disbursement in connection with a federal, state, or local election. This prohibition includes, but is not limited to, acting as a conduit or intermediary for foreign national contributions and donations. 110.20(g) and (h)(2). See also, 300.2(d) and (e).

For the purposes of this section, knowingly means that a person must:

- Have actual knowledge that the source of the funds solicited, accepted or received is a foreign national;
- Be aware of facts that would lead a reasonable person to conclude that there is a substantial probability that the source of the funds solicited, accepted or received is a foreign national; or

[3] Foreign nationals are also prohibited from, directly or indirectly, donating to an inaugural committee; and it is a violation of federal law to knowingly accept such donations from a foreign national. 110.20(j).

- Be aware of facts that would lead a reasonable person to inquire whether the source of the funds solicited, accepted or received is a foreign national, but the person failed to conduct a reasonable inquiry.

110.20(a)(4).

Pertinent facts that satisfy the "knowing" requirement include knowledge of:

- Use of a foreign passport or passport number for identification purposes;
- Use of a foreign address;
- A check or other written instrument drawn on an account or wire transfer from a foreign bank; or
- Contributor or donor living abroad.

110.20(a)(5)(i)-(iv).

Definition of foreign national

A foreign national is:

An individual who is: (1) not a citizen of the United States and (2) not lawfully admitted for permanent residence (as defined in 8 U.S.C. §1101(a)(20)); or

A foreign principal, as defined in 22 U.S.C. §611(b). Section 611(b) defines a foreign principal as a foreign government or political party; or a partnership, association, corporation, organization, or other combination of persons organized under the laws of a foreign country or whose principal place of business is in a foreign country. 110.20(a)(3).

"Green Card" exception

An individual who is not a citizen of the United States is eligible to make a contribution if he or she has a "green card" indicating that he or she is lawfully admitted for permanent residence in the United States. 110.20(a)(3)(ii).

Determining nationality of contributor

In AO 1998-14 (Douglass), the Commission stated that the use of any surname on a contribution check (or similar instrument) would not, by itself, give any reason to inquire as to the person's nationality. Nonetheless, the Commission advised the committee to take the following minimally intrusive steps to ensure that the contributions it received did not come from foreign nationals:

Ensure that public political ads and solicitations directed to audiences outside the U.S. contain a summary of the foreign national prohibition of 52 U.S.C. § 30121.

Make further inquiry into the nationality of the contributor if the committee receives a contribution postmarked from any non U.S. territory.

Make further inquiry into the nationality of the contributor if the committee receives a contribution indicating that either the bank or the account owner has a foreign address.

In all of these instances, if the contribution is submitted along with credible evidence (e.g., a copy of a valid U.S. passport) that the contributor is a U.S. citizen, a U.S. national or a permanent resident alien, no further inquiry need be made. However, if the committee has actual knowledge that the contributor is a foreign national, it may not rely on these documents as a defense. 110.20(a)(7). See also AO 2016-10 (Parker) (setting forth the duty of an individual fundraiser to determine the nationality of contributors).

Domestic subsidiaries of foreign corporations

The Commission has said that a foreign corporation may not establish and administer a separate segregated fund. However, a United States domestic corporation that is a subsidiary of a foreign corporation may establish and administer a separate segregated fund which can make contributions to federal candidates as long as:

- The domestic corporation is a discrete entity incorporated under the laws of any state within the United States, and its principal place of business is within the United States.
- The foreign parent does not finance election-related contributions or expenditures either directly or through the subsidiary, including through subsidizing the subsidiary's business operations, unless the subsidiary can demonstrate by a reasonable accounting method that it has sufficient funds from its own domestic operations to make any contributions or expenditures.
- All decisions concerning the administration of the domestic subsidiary's separate segregated fund are made by U.S. citizens or permanent residents. *See* 11 CFR 110.20(i).

See also AOs 2009-14 (Mercedes-Benz USA/Sterling), 2006-15 (TransCanada), 2000-17 (Extendicare Health Services, Inc.), 1995-15 (Allison Engine PAC), 1992-16 (Nansay Hawaii), 1990-08 (CIT) and 1985-03 (Diridon).

Contributions in the name of another

A contribution made by one person in the name of another is prohibited. 52 U.S.C. §30122; 110.4(b)[4]. For example, an individual who has already contributed up to the limit to the campaign may not give money to another person to make a contribution to the same candidate. Similarly, a corporation is prohibited from using bonuses or other methods of reimbursing employees for their contributions. 114.5(b)(1).

Candidate employed by prohibited source

As noted in Chapter 4, Section 9, a candidate's salary or wages earned from bona fide employment are considered his or her personal funds. 100.33(b). However, compensation paid to a candidate in excess of actual hours worked, or in consideration of work not performed, is generally considered a contribution from the employer. 113.1(g)(6)(iii). If the employer is a corporation, federal government contractor, or another prohibited source, the excess payment would result in a prohibited contribution under the regulations applicable to that employer. See 110.20 (foreign nationals), 114.2(c) (corporations and labor organizations) and 115.2 (federal contractors).

[4] In *FEC v. Johnson, et al.*, a federal district court struck 11 C.F.R. 110.4(b)(1)(iii) holding that it exceeds the Commission's authority. The stricken paragraph provided that the Act's ban on contributions in the name of another included knowingly helping or assisting any person in making a contribution in the name of another.

2. QUESTIONABLE CONTRIBUTIONS

If a committee receives a contribution of questionable legality, it must follow the procedures described in this section.[5] 103.3(a) and (b).

Return or deposit contribution

When receiving a contribution of questionable legality, a committee must, within 10 days of the treasurer's receipt, take one of two steps:

Return the contribution to the donor without depositing it; or

Deposit the contribution. 103.3(b)(1).

Be prepared to make refund

If it decides to deposit the questionable contribution, the committee must make sure that the funds are not spent because they may have to be refunded. To ensure this, the committee may either maintain sufficient funds in its regular campaign depository or establish a separate account used solely for the deposit of possibly illegal contributions. 103.3(b)(4).

Document the possibility of illegal contribution

The committee must keep a written record noting the reason why a contribution may be prohibited and must include this information when reporting the receipt of the contribution. 103.3(b)(5). See also Chapter 11, Section 2, "Recording Receipts," under the subheading "Possibly Illegal Contributions."

Seek evidence of legality

Within 30 days of the treasurer's receipt of a possibly prohibited contribution, the committee must make at least one written or oral request for evidence that the contribution is legal. Evidence of legality includes, for example, a written statement from the contributor explaining why the contribution is legal, or an oral explanation that is recorded by the committee in a memorandum. 103.3(b)(1) and AO 1995-19 (Indian-American Leadership Investment Fund).

Confirm legality or refund contribution

Within these 30 days, the committee must either:

Confirm the legality of the contribution; or

Refund the contribution. 103.3(b)(1).

Disgorge prohibited contribution discovered late

If a committee deposits a contribution that appears to be legal and later discovers that it is prohibited (based on new information not available when the contribution was deposited), the committee must disgorge the contribution within 30 days of making the discovery. 103.3(b)(2). For example, if the

[5] Note that procedures for handling contributions that exceed the contribution limits or the campaign's net debts outstanding are described in Chapter 4, Sections 7 and 8.

committee finds out that a corporation reimbursed employees for their contributions to the committee (and had thus made corporate contributions and contributions in the name of another).

Contributor known

If the identity of the original contributor is known, the committee must refund the funds to the source of the original contribution. 103.3(b)(2). Alternatively, the committee may pay the funds to the U.S. Treasury. AO 1996-05 (Kim); but see *Fireman v. United States*, 44 Fed. Cl. 528 (1999).[6] To do so, send the funds to:

Department of the Treasury
Bureau of the Fiscal Service
PO Box 1328
Parkersburg, WV 26106-1328
Attn: Agency Cash Branch, Avery 3G

The committee should include a cover letter that explains that the funds being sent represent potential violations of the Federal Election Campaign Act and requests that the funds be placed in the "general fund account."

Contributor unknown

If, however, the identity of the original contributor cannot be determined or is in question, the committee may disburse the funds to a governmental entity (federal, state or local), or to a qualified charitable organization described in 26 U.S.C. §170(c). AOs 1995-19 (Indian-American Leadership Investment Fund) and 1991-39 (D'Amato).

Prohibited in-kind contribution

If the prohibited contribution was an in-kind contribution, the committee should disgorge an amount equal to the value of the contribution to the appropriate party.

Insufficient funds

If the committee does not have sufficient funds to disgorge the contribution when the illegality is discovered, the committee must use the next funds it receives. 103.3(b)(2).

Reporting

For instructions on reporting disgorged contributions, see Chapter 13, Section 22.

[6] In *Fireman*, the Court of Federal Claims ruled that a contributor of illegal contributions has a right to have the contributions refunded to him rather than disgorged to the U.S. Treasury.

CHAPTER 6

OTHER REPORTABLE RECEIPTS

This chapter describes campaign receipts that are not considered contributions and, therefore, are not subject to contribution limits. Nevertheless, all receipts must be reported by the campaign.

1. BANK LOANS

Conditions

A candidate or his or her campaign committee may obtain a loan, including a line of credit, from a bank, provided that the loan:

Bears the bank's usual and customary interest rate for the category of loan involved;
Is evidenced by a written instrument;
Is subject to a due date or amortization schedule; and
Is made on a basis which assures repayment.

100.82(a).

If a loan fails to meet any of these conditions, then a prohibited contribution from the lending institution results.

Methods of assuring repayment

A loan is made on a basis which assures repayment if it is obtained using one or more of the following authorized methods of securing the loan:

Traditional methods

A committee may use one of the following traditional methods of securing the loan, or a combination of the two:

Collateral. A loan may be secured using assets of the candidate or the committee, such as real estate, personal property, cash on deposit, certificates of deposit and stocks. The fair market value of the assets must, on the date of the loan, equal or exceed the amount of the loan and any senior liens. The committee must ensure that the bank has established a "perfected security interest" in the collateral (that is, has taken steps to legally protect its interest in the collateral in the event that the committee defaults on the loan). 100.82(e)(1)(i).

Note that if a candidate obtains a loan using assets jointly owned with his or her spouse, the amount of the loan may not be greater than the candidate's share of the property (usually one half); otherwise, a

contribution from the spouse results. 100.52(b)(4). (See Chapter 4, Section 9, under the subheading, "Assets Jointly Held with Spouse" for a narrow exception to this rule.)

Guarantees or endorsements. An endorsement or guarantee of a bank loan is considered a contribution by the endorser or guarantor and is thus subject to the law's contribution limits and prohibitions. 100.52(b)(3) and 100.82(e)(1)(ii).

Pledge of future receipts

If the committee pledges its future receipts as security for the loan, then the amount loaned by the bank may not exceed a reasonable estimate of anticipated receipts, based on documentation provided by the candidate or committee (such as cash flow charts or fundraising plans). 100.82(e)(2)(i) and (ii). Future receipts might include, for example, anticipated contributions or interest income.

The committee must also set up a separate account for the receipt of funds pledged for the repayment of the loan. The account may be established with either the lending institution or a different depository. If the account is established at a depository other than the lending institution, then the committee must execute an assignment of the account's funds to the lending institution and notify the depository of the assignment. The loan agreement must require the committee to deposit the pledged funds into the account established for this purpose. 100.82(e)(2)(iii) and (iv).

Other methods of assuring repayment

The Commission may, on a case-by-case basis, approve methods of assuring repayment other than those previously described. 100.82(e)(3). See, for example, AO 1994-26 (Cunningham). A committee should request an advisory opinion from the Commission before entering into a loan agreement that relies on alternative sources of repayment.

Schedule C-1/C-P-1

When a committee obtains a loan from a bank or other permissible lending institution (or the candidate obtains one on behalf of his or her committee), the committee must file Schedule C-1 (or Schedule C-P-1 for Presidential candidates) with the report covering the period in which the loan was obtained. 104.3(d)(1).

If the loan is obtained by the committee (rather than by the candidate), the treasurer must sign the schedule and attach a copy of the loan or line of credit agreement. See Chapter 13. Both Schedule C-1 and Schedule C-P-1 (for Presidential candidates) include a statement to be signed by an officer of the lending institution certifying that the information provided by the committee is accurate and that the terms and conditions of the loan comply with FEC rules.

2. BROKERAGE LOANS AND OTHER LINES OF CREDIT OBTAINED BY CANDIDATE

Candidates may use funds derived from an advance on their brokerage account, credit card account or other line of credit to finance their campaigns, if the extension of credit is:

In accordance with applicable law;
Under commercially reasonable terms; and
Made by persons who make such loans in the normal course of their business.
100.83(a).

The candidate's authorized committee has the option of repaying loans derived from a candidate's brokerage account or other line of credit directly to the lending institution or to the candidate. 100.83(d). All such loans to the committee derived by these methods must be reported by the committee. 100.83(e). The committee must report the loan from the candidate as a receipt and repayment of the loan to the candidate as a disbursement. 104.3(a)(3)(vii) and (b)(2)(iii)(A). See Chapter 13, Section 21.

3. OVERDRAFTS

If a bank honors a check written by a political committee with insufficient funds in its checking or savings account, no contribution from the bank results as long as the overdraft:
Is made on an account subject to automatic overdraft protection;
Is subject to a definite interest rate which is the usual and customary rate; and
Is subject to a definite repayment schedule.
100.82(d).

An overdraft that does not meet these conditions is a prohibited contribution. 100.82(d); 114.2. Note that if the overdraft protection is based on a line of credit extended by the bank, draws on that line of credit must be disclosed on Schedule C-1.

4. INVESTMENT INCOME

Interest earned on investments, such as interest earned on invested funds and dividends earned on securities, are not considered contributions. Such funds, however, must be transferred back into the main campaign depository before being disbursed by the campaign. Additionally, tax laws apply. If a committee receives interest from a bank it must list that bank on the committee's Form 3. See 103.3(a); AOs 1999-08 (Specter), 1997-06 (Hutchison), 1986-18 (Bevill) and 1980-39 (Fluor Public Affairs Committee), as well as Appendix G, "Compliance with other laws."

5. OFFSETS TO OPERATING EXPENDITURES

Offsets to operating expenditures, such as returns by vendors of deposits, reimbursements for expenses shared by committees, refunds and rebates, are not considered contributions. Note, however, that rebates

to campaigns must be offered in the ordinary course of business and on the same terms and conditions as those offered to nonpolitical entities. Otherwise, the rebate may be considered a contribution—a prohibited contribution if a corporation pays the rebate. See, for example, AOs 2004-37 (Waters) (see responses to questions 2 and 4), 1996-02 (Compuserve), 1994-10 (Franklin National Bank), 1987-24 (Hyatt) and 1986-22 (WREX-TV).

6. LEGAL AND ACCOUNTING SERVICES

The value of legal and accounting services provided without charge in accordance with the guidelines described in section 2 of the next chapter is not a contribution. 100.86; 114.1(a)(2)(vii). See, e.g. AO 2012-16 (King; Pierce Atwood LLP).

CHAPTER 7

SOURCES OF SUPPORT

1. CONTRIBUTIONS

Contributions are the most common source of campaign support. Earlier chapters explain the Federal Election Campaign Act's (the Act) limits and prohibitions on contributions. See Chapter 3, Section 2, "Types of Contributions," and Chapter 4, Contribution Limits." Remember that all contributions are reportable. See Chapter 13.

2. FREE LEGAL AND ACCOUNTING SERVICES

Any entity (e.g., a committee, a corporation, a union, a partnership) may provide a campaign with free legal and accounting services as long as:

- The services are provided only for the purpose of ensuring the campaign's compliance with the Act;
- The entity paying for the service is the regular employer of the individual performing the service;
- The employer does not hire additional employees to render the services or to free regular employees to perform the service; and
- The campaign reports the value of the service (the amount paid by the employer), as well as the name of each person who performed the service and the date the service was provided.

100.86, 100.146 and 114.1(a)(2)(vii). See AO 2006-22 (Wallace).
For more information on reporting free legal and accounting services, see Chapter 13, Section 9.

Use of equipment

This exemption covers only the services provided to ensure compliance. The employer cannot donate equipment, such as computers, to the campaign without making a contribution (a prohibited contribution if the employer is an incorporated entity). However, the use of the employer's resources, such as computer equipment, necessary to enable the employee to provide the service is not considered a contribution by the employer. AOs 1989-13 (IBM) and 1980-137 (Richardson).

Volunteer services

If an individual personally volunteers legal or accounting services without compensation, the work is considered personal volunteer activity, and the restrictions in this section do not apply. (See "Volunteer Activity, Personal services.")

3. VOLUNTEER ACTIVITY

Personal services

An individual may volunteer personal services to a campaign without making a contribution as long as the individual is not compensated by anyone for the services. 100.74. Volunteer activity is not reportable.

EXAMPLE

An attorney, working as a volunteer (i.e., he receives no compensation from anyone for his volunteer services), writes policy papers for the campaign.

If volunteers are, in fact, paid by any person for their services, then the activity is no longer considered volunteer activity. If the payment is made by someone other than the campaign itself, then an in-kind contribution results, and the campaign must report it. 100.54. (Exception: "Free Legal and Accounting Services," in Section 2.) See AOs 2007-08 (King), 1982-04 (Apodaca) and 1980-42 (Hart).

Foreign national as campaign volunteer

Although foreign nationals may not make contributions or expenditures in connection with any federal, state, or local election (see Chapter 5, Section 1), an individual who is a foreign national may participate in campaign activities as an uncompensated volunteer. In doing so, the volunteer must be careful not to participate in the decision-making process of the campaign. The Act and Commission regulations specifically prohibit foreign nationals from participating in the decisions of any person involving election-related activity. 52 U.S.C. §30121; 110.20(i). See AO 2004-26 (Weller). For example, a foreign national volunteer may attend committee events and campaign strategy meetings but may not be involved in the management of the committee. 110.20(i); see AOs 2014-20 (Make Your Laws PAC), 2007-22 (Hurysz), 2004-26 (Weller) and 1987-25 (Otaola).

Incidental volunteer activity at corporate/labor facilities

Generally, if an individual provides services to a campaign during paid working hours, the employer makes a contribution to the campaign. See 100.54. However, an employee, stockholder or member of a corporation or labor organization may make occasional, isolated or incidental use of corporate/labor organization facilities for his or her own individual volunteer activities on behalf of a campaign. "Incidental use" is considered the use of facilities for no longer than one (1) hour per week or four (4) hours per month. 114.9(a)(2) and (b)(2). For example, an employee may use an office phone to make calls that pertain to political volunteer work. If the volunteer activity is limited to "incidental use" of the facilities, the volunteer does not have to reimburse the organization for use of the facilities (only for any increased overhead or operating costs).

When use of the facilities exceeds "incidental use," the volunteer must reimburse the organization the usual and normal rental fee within a commercially reasonable time. The reimbursement is considered an in-kind contribution from the volunteer and must be reported by the benefiting campaign committee.

100.52(d) and 114.9(a)(3) and (b)(3). For information on the use by a volunteer of an employer's computer and internet access, see "Internet volunteer activity."

Note that if any person (including an employee, stockholder or member) uses the facilities of a corporation or union to produce campaign materials, reimbursement is required regardless of how much time is spent on the activity. 114.9(c). For information on a campaign's use of corporate or labor facilities, see Section 9, "Use of Corporate/Labor Transportation and Facilities," later in this chapter.

Use of real or personal property: activities in home, church, community room

Individuals, in the course of volunteering personal services, may use their homes—or the recreation room of the residential complex where they live—for campaign-related activities without making a contribution. A nominal fee paid by an individual volunteer for the use of a recreation room is not considered an in-kind contribution to the campaign and is not, therefore, reportable. For rules concerning the use of a home computer, see "Internet volunteer activity."

Volunteers may use a church or community room for campaign activities as long as the facility is regularly used for noncommercial purposes by members of the community, without regard to political affiliation. Again, a nominal fee paid by an individual volunteer for the use of the room is not a contribution. 100.75 and 100.76.

Food, drink, invitations for home, church or community room event

When holding a campaign-related activity in his or her home, church or community room, an individual may spend up to $1,000 per candidate, per election for food, beverages and invitations for the event without making a contribution. (For example, two individuals living together may spend up to $2,000 per candidate, per election.) Any amount spent in excess of $1,000, however, must be reported by the campaign as an in-kind contribution. 100.77. If an individual co-hosts an event held in someone else's home, any expenses paid by the nonresident co-host are considered contributions to the campaign benefiting from the event. AO 1980-63 (Wirth).

Internet volunteer activity

General exception

An uncompensated individual or group of uncompensated individuals may engage in certain voluntary internet activities for the purpose of influencing a federal election without restriction. These exempted internet activities would not result in a contribution or an expenditure under the Act and would not trigger any registration or reporting requirements with the FEC. This exemption applies to individuals acting with or without the knowledge or consent of a campaign or a political party committee. 100.94 and 100.155. Exempted internet activities include, but are not limited to, sending or forwarding electronic mail, providing a hyperlink to a website, creating, maintaining or hosting a website and paying a nominal

fee for the use of a website, and any other form of communication distributed over the internet. *See e.g.,* Advisory Opinion 2018-13 (OsiaNetwork); Advisory Opinion 2011-14 (Utah Bankers Association).

Use of employer's computer and internet access

A corporation or a labor organization may permit its employees, shareholders, officials and members to use its facilities for individual volunteer internet activity, without making a prohibited contribution. The individual volunteer must comply with the corporation's or labor organization's internal policies for computer and internet use, and must complete the normal amount of work for which the employee is paid, or is expected to perform. Also, the activity must not increase the overhead or operating costs of the organization, and the activity must not be coerced. The organization may not condition the availability of the internet or the computer on their being used for political activity or for support for or opposition to any particular candidate or political party. 114.9(a) and (b). (For rules on communications by a corporation or labor organization using a computer or the internet, see Section 8, "Corporate/Labor Exceptions," later in this chapter.)

Not exempt: paid web communications

If an individual or group of individuals pays a fee to place a communication on another person or entity's website, the communication is considered general public political advertising, and thus qualifies as a public communication.[1] 100.26. As such, it may require a disclaimer, and/or reporting, and may count as a contribution and/or expenditure. See Appendix D, "Communications."

4. TRAVEL COST EXEMPTIONS

Unreimbursed travel expenses

The exemptions described in this section apply only to an individual's payments for his or her own travel expenses; if an individual uses personal funds to pay the travel expenses of another, an in-kind contribution results. 100.93(b). For the general rules concerning campaign travel, including the rules for using non-commercial transportation, see Chapter 10, Section 4, "Campaign Travel."

$1,000 transportation exemption

An individual (including the candidate, a paid staff member or a volunteer) may voluntarily spend up to $1,000 for unreimbursed transportation expenses on behalf of the campaign without making a contribution. However, when an individual's payments for such transportation expenses exceed $1,000 per candidate, per election, the payments are considered contributions, unless they are reimbursed by the candidate's committee in a timely manner (see next section). 100.79(a)(1).

Volunteer's exemption for meals and lodging

[1] At the time of this publication, the Commission was considering proposals to amend the definition of "public communication" and its regulations concerning disclaimers on certain internet communications. The proposed rules on Internet Communication Disclaimers and Definition of ''Public Communication'' and Technological Modernization are available on FEC.gov. Any updates to these rules will be announced and posted there.

A campaign volunteer may spend unlimited amounts for his or her own meals and lodging without making a contribution, as long as the expenses are incidental to volunteer activity. 100.79(b).

Reimbursed travel expenses

When the candidate or an individual working on behalf of the candidate pays any other travel expense, no contribution will result if the committee reimburses the individual within the following time limits:

If the expense was paid with cash or a personal check, within 30 days from the date the expense was incurred.

If the expense was paid with a credit card, within 60 days of the closing date on the credit card billing statement where the charge first appears.

Outside of these time limits, the payments are in-kind contributions. 116.5(b); AO 2003-31 (Dayton). See Chapter 13, Section 14, "Reporting Travel Expenses" for reporting rules. For reimbursement for non-commercial travel see Chapter 10, Section 4, "Campaign Travel."

5. VENDOR DISCOUNTS

Food and beverages for campaigns

A vendor of food or beverages (even if incorporated) may sell food and beverages to a campaign at a discount. The amount charged must at least equal the vendor's cost for the items. If the value of the discount—the difference between the normal charge and the amount paid by the campaign—does not exceed $1,000 per candidate, per election, the discount is not considered a contribution. Discounts exceeding $1,000, however, are in-kind contributions and must be reported as such. A corporate vendor may not exceed the $1,000 discount limit since corporate contributions are prohibited. 100.78 and 114.1(a)(2)(v).

Discounts in the ordinary course of business

Discounts given in the ordinary course of business and on the same terms and conditions offered to a vendor's other (non-political committee) customers do not result in contributions. See, e.g., AOs 2004-18 (Lieberman), 1989-14 (Anthony's Pier 4). In a recent example, the Commission determined that a corporate vendor may offer its cybersecurity services to federal candidates and political committees at the same "low or no cost" tier that it offers to all qualified customers without making an impermissible in-kind contribution. The vendor must offer the services in the ordinary course of business, on the same terms and conditions and at the same rate that it offers to non-political clients. AO 2019-12 (Area 1 Security).

6. SUPPORT FROM OTHER CAMPAIGNS

This section describes ways in which campaigns may assist one another without making a contribution. For the rules on campaign-to-campaign contributions, see Chapter 4, Section 1, “Contributions from Other Candidates.”

Shared expenses

Campaigns may share common expenses (e.g., rent for a shared headquarters or printing for a brochure that promotes each campaign) without a contribution resulting, as long as each committee pays its attributed portion of the costs. If one committee pays a bill, the other committees involved in the expense must reimburse that committee for their portion of the expense within a reasonable period of time to avoid a contribution. See AOs 2007-24 (Burkee / Walz), 2004-37 (Waters) and 2004-36 (Risley). Payments by nonfederal campaigns for shared expenses involving certain public communications must be made from funds that are subject to the limitations, prohibitions and reporting requirements of the Act. 300.71.

“Coattail” support in campaign materials

Under the “coattail” provision of the Act, a federal candidate may be mentioned in campaign materials produced by another federal candidate’s campaign or by the campaign of a nonfederal candidate. The committee making the expenditure must report it, but the candidate named in the ad has no reporting responsibility. The payment for the materials is not a contribution to the referenced federal candidate provided that these guidelines are met:

- The materials must be limited to items such as pins, bumper stickers, handbills, brochures, posters and yard signs;
- The materials must be distributed by volunteers (for example, by hand) or by mail using lists developed by the candidate’s campaign (but not by direct mail); and
- The materials may not be distributed through public political advertising such as broadcast media, newspapers, magazines, billboards or direct mail (a mailing by a commercial vendor or made from a commercial list).

The portion of the cost allocable to a federal candidate must be paid from funds subject to the limits and prohibitions of the Act, even if a nonfederal campaign pays for the materials. 100.88(a) and (b) and 100.148.

EXAMPLE

A U.S. House campaign may produce a yard sign that includes the name of a U.S. Senate candidate without allocating a portion of the cost as an in-kind contribution to that candidate (as long as the guidelines are met).

Endorsements and solicitations by federal candidates

A public communication in which a federal candidate endorses, or solicits funds for, another candidate for federal or nonfederal office does not result in a contribution to the endorsing (or soliciting) candidate

unless the communication promotes or supports the endorsing (or soliciting) candidate or attacks or opposes his opponent in the election. 109.21(g). For more information, see Appendix D, "Communications." See also Appendix E for further information on soliciting funds for other candidates.

EXAMPLE

Candidate X, a candidate for the U.S. Senate, appears in a commercial for Candidate Y, a candidate for county prosecutor. In the commercial, Candidate X states, "Candidate Y is one of the best courtroom prosecutors we've ever had in this country. Vote for Candidate Y!" Candidate X makes no mention of her own campaign and does not attack or oppose any of the candidates she's running against.

As long as the commercial neither promotes or supports Candidate X nor attacks or opposes her opponents, the cost of the commercial will not result in an in-kind contribution to Candidate X's campaign.

7. PARTY SUPPORT

In addition to making contributions, party committees may support a candidate through other activities as described in this section. These other activities are reportable by the political party committee but not by the campaign of the candidate receiving the support. Note that some of these activities may trigger additional reporting responsibilities or funding provisions for the party committee. For detailed information, see Chapter 7 of the Campaign Guide for Political Party Committees.

Coordinated party expenditures

The Act creates a special exception to the contribution limits for certain party activities supporting candidates. 52 U.S.C. §30116(d)[2]. The national party committee and the state party committee each have an additional special contribution limit for coordinated party expenditures made in connection with the general election campaigns of U.S. House and Senate candidates. 109.32(b).

Although these expenditures may be coordinated with a campaign, the party committee must actually make the expenditure on behalf of the campaign; money given directly to the candidate's campaign is not a coordinated party expenditure.

Coordinated party expenditure limits

The party's national committee has a coordinated spending limit for each U.S. Senate and House nominee in the general election. See 109.32(b). The national committee may designate (in writing) the party's

[2] In the past, coordinated party expenditures were often called "441a(d) expenditures" because they were provided for in 2 U.S.C. §441a(d) of the Act. In September, 2014, the Office of Law Revision Counsel to the United States House of Representatives made editorial reclassifications to the United States Code to create a new Title 52, Voting and Elections which recodifies the Act (and this provision) from Title 2 to Title 52.

national senatorial committee or national congressional committee to spend its allowance with respect to a particular nominee, but those committees do not have separate spending limits. 109.32(b) and 109.33; see also AO 1976-108 (Cleveland). The national committee may also designate a state or local party committee to make its expenditures. 109.33(a).

A state party committee has a separate coordinated spending limit for each Senate and House general election nominee seeking election in that state. The state committee may designate (in writing) another party committee to spend its allowance with respect to a particular nominee. 109.32(b) and 109.33(a).

Although local party committees have no separate coordinated spending allowance, they may be designated in writing by either the national committee or the state committee to make coordinated party expenditures. 109.33(a) and (b)(1). When making coordinated party expenditures, party organizations that are not federal political committees must nevertheless use funds that are permissible under the Act. 102.5(b).

Coordinated party expenditure limits for Senate and House candidates are calculated as follows[3]:

Senate candidate: State voting age population x 2 cents, multiplied by the Cost of Living Adjustment (COLA); or $20,000 multiplied by the COLA, whichever is greater.

House candidate[4]: $10,000 multiplied by the COLA, or, in states with only one representative, the same as the Senate limit.

The Commission publishes the dollar amounts of the coordinated party expenditure limits in the Federal Register, the FEC Record and on the Commission's website. 110.17(e).

Coordinated party expenditures vs. in-kind contributions

When making either coordinated party expenditures or in-kind contributions, a party committee purchases goods or services for the benefit of a campaign. The party committee may decide whether to treat an expenditure made on behalf of the candidate as a coordinated party expenditure or as an in-kind contribution. 109.37(b). (As previously noted, monetary contributions given directly to the campaign do not qualify as coordinated party expenditures.)

Despite their similarity, coordinated party expenditures differ from in-kind contributions in several ways:

- Coordinated party expenditures may be made in connection with the general election only (although they may be made during the primary period—see 109.34), whereas in-kind contributions may be made for any election.[5]

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[3] The Cost of Living Adjustment (COLA) has a considerable effect on party spending limits. For example, the spending limit for a House candidate running in an election in 2021 is $52,500 (or $105,000 for House candidates in states with only one representative).

[4] The limit applies to candidates for Delegate (American Samoa, District of Columbia, Guam, Northern Mariana Islands, U.S. Virgin Islands) and Resident Commissioner (Puerto Rico). 109.32(b)(2)(ii).

[5] A post general runoff does not constitute a general election triggering an additional coordinated party expenditure allowance.

Coordinated party expenditures count against the special spending limits, whereas in-kind contributions count against the committee's per candidate, per election limits on contributions (e.g., $5,000).

Coordinated party expenditures are reported by the party committee only, whereas in-kind contributions and party coordinated communications are reported by both the party committee and the recipient campaign.

Party independent expenditures

Party committees may make independent expenditures on behalf of, or in opposition to, candidates. Such expenditures are not subject to contribution or coordinated party expenditure limits.[6]

Permissible sources

Since independent expenditures expressly advocate the election or defeat of federal candidates, they must be financed with funds from the party's federal account. For more information regarding independent expenditures, see Section 11, and Appendix D, "Communications."

Exempt party activities

Two types[7] of grassroots activities—preparation, display and distribution of campaign materials and slate cards—undertaken by state and local party committees in support of specific federal candidates are unlimited because they are exempt from the definition of contribution. Although they are exempt from contribution limitations, such activities often qualify as federal election activity (FEA) and thus may be subject to certain funding restrictions. Moreover, payments made by an unregistered party organization for such materials count towards the organization's FEC registration threshold. For more information on exempt activities, FEA and party committee registration thresholds, see the Campaign Guide for Political Party Committees.

Campaign materials

A state or local party committee or organization may prepare and distribute campaign materials such as pins, bumper stickers, handbills, brochures, posters or yard signs. The payments for such items are not considered contributions or expenditures if the following conditions are met:

The activity is conducted on behalf of the party's nominees for the general election.

The materials are distributed by volunteers, not through public advertising such as broadcast media, newspapers, magazines or billboards or by direct mail (that is, a mailing by a commercial vendor or from commercial lists).

The party committee does not use materials purchased by the national party committee or money transferred from the national party committee specifically to purchase the materials.

The party committee does not use funds designated by a donor for a particular candidate.

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[6] See *FEC v. Colorado Republican Federal Campaign Committee*, 518 U.S. 604 (1996).

[7] There is a third type of exempt activity for registration and GOTV activity conducted by a state or local party committee on behalf of the Presidential and Vice-Presidential nominees of that party. 100.89. For the conditions and details regarding this type of exempt activity, see the Campaign Guide for Political Party Committees.

A payment from a state or local candidate to help pay for the materials does not exceed his or her share of the expenses.

100.87; See AOs 2010-01 (Nevada State Democratic Party) and 2008-06 (Virginia Democrats).

Slate cards and sample ballots

A state or local party committee or organization may prepare and distribute a slate card, sample ballot, palm card or other printed list naming candidates for any public office. The payments are not considered contributions or expenditures on behalf of any federal candidate listed as long as the following conditions are met:

- The list names at least three candidates running for election to any public office for which an election is held in the state.
- The list is not distributed through public advertising such as broadcast media, newspapers, magazines or billboards. Note, however, that it may be distributed by direct mail (that is, a mailing by a commercial vendor or from a commercial list).[8] 100.80 and 100.140.
- The content is limited to the identification of each candidate (pictures may be used), the office or position currently held, the office sought and party affiliation. The list must exclude any additional biographical data on candidates and their positions on issues as well as statements on party philosophy. Certain voting information, however, may be given, such as time, place and instructions on voting a straight party ticket. AO 1978-89 (Withers).

See AO 2008-06 (Virginia Democrats).

Sources of funds

Many local party organizations are not registered political committees under the Act and some may, under state law, accept donations that would be prohibited or excessive under the Act. These funds may not be used to pay for exempt party activities. Instead, the party must use funds that are permissible under federal law. 100.80 and 100.87(b); 100.140 and 100.147(b); 102.5(b).

Reporting

Campaign committees are not required to report exempt party activities. If exempt party activities are conducted by a federally registered party committee, the party committee must report them. As previously stated, exempt activities may trigger federal registration and reporting obligations for a local party organization. 100.5(c).

8. CORPORATE/LABOR EXCEPTIONS

Although corporations (including incorporated trade associations and membership organizations) and labor organizations are generally prohibited from using their treasury funds to make contributions in connection with federal elections[9], they are permitted to:

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[8] See the Explanation and Justification at 45 Fed. Reg. 15080, 15081-15082 (March 7, 1980) available on FEC.gov.

[9] They may, however, fund independent expenditures, contribute to political committees established solely to make only independent expenditures (e.g., Super PACs), contribute to the non-contribution accounts of Hybrid PACs, and establish separate segregated funds (SSFs). See *Citizens United v. FEC*, 558 U.S. 310 (2010); *SpeechNow.org v. FEC* 599 F.3d 686 (D.C. Cir. 2010) (en banc), and *Carey v. FEC*, 791 F.Supp.2d 121 (D.D.C. 2011).

Sponsor communications to their "restricted class" that contain express advocacy and may be coordinated with a candidate; and

Sponsor election-related communications to other employees and/or the general public as long as they are not coordinated with a candidate, a candidate's authorized committee, a party committee or any of their agents. See *Citizens United v. FEC*;

Establish separate segregated funds (popularly referred to as PACs), which can support federal candidates (114.1(a)(2)(iii));

Provide certain free legal and accounting services to a campaign (see Section 2);

Provide vendor discounts on food and beverages (see Section 5);

Allow employees, stockholders and members to make incidental use of their facilities for volunteer campaign work (see Section 3).[10]

This section focuses on the first two items.

Restricted class

A corporation's restricted class consists of its executive and administrative personnel, its stockholders and the families of those two groups. A labor organization's restricted class consists of its members, executive and administrative personnel and the families of those two groups. A membership organization's restricted class generally includes the executive and administrative personnel of the organization, the organization's members and the families of those two groups.[11] 114.1(j)

Coordination with the candidate

An expenditure is coordinated if it is made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents, or a political party committee or its agents.[12] 109.20(a). FEC regulations provide for a three-part test to determine whether a communication is coordinated. See 109.21 and Appendix D, "Communications." An expenditure that is coordinated between a candidate or the candidate's campaign and a third party is considered an in-kind contribution to the candidate, which the candidate must report as a contribution received and an expenditure made. 104.13(a), 109.20(b) and 109.21(b). Because the Act prohibits corporations and labor organizations from making contributions to campaign committees, it is important to avoid coordination with corporations and labor organizations regarding communications outside the restricted class except to the extent permitted under FEC regulations, as described in the next section.

Communications to restricted class

[10] For information on a campaign's use of corporate/labor facilities, see Section 9, this chapter.

[11] If a member is incorporated, a membership organization or trade association would communicate with the personnel of the member corporation with whom they normally conduct business. See the Campaign Guide for Corporations and Labor Organizations for more information.

[12] For the purposes of 11 CFR part 109 only, "agent" is defined at 11 CFR 109.3.

When a corporation or labor organization communicates with its restricted class, it may issue express advocacy communications and solicitations for candidates. It may also coordinate its communications with a candidate.[13] Communications to the restricted class include, but are not limited to the examples listed in this section. See generally 114.3.

Candidate appearances before the restricted class

Location of appearance

The corporation or labor organization may allow a candidate to appear at a meeting, convention, via a teleconference or at some other function of the corporation or labor organization. 114.3(c)(2)(i) and AO 2007-14 (ABC/NFIB/NRA).

Express advocacy

Both the candidate and the corporation or labor organization may expressly advocate the election or defeat of the candidate, other candidates or the party. See 114.3(a) and (c).

Coordination with the candidate

A corporation or labor organization may confer with the candidate on the structure, format and timing of the appearance.[14] 114.3(a)(1); 114.4(b)(1)(vii).

Solicitations

The candidate may solicit and accept contributions from the restricted class before, during or after the appearance. 114.3(c)(2)(ii). This includes giving out telephone numbers and addresses, and leaving campaign materials and mailing envelopes at the appearance site.[15] The corporation or labor organization may also suggest that its restricted class make contributions to a candidate, but may not collect any contributions before, during or after the meeting. 114.3(c)(2)(iii).

In addition to soliciting contributions to be sent directly to the candidate, a corporation or labor organization may solicit contributions earmarked for a particular candidate. These earmarked contributions must be collected by and forwarded through the SSF of the corporation or labor organization and must be considered contributions both to and from the SSF. The contribution will count, therefore, against the limits of both the contributor and the SSF. 114.2(f)(2)(iii). For information about the solicitation and collection of earmarked contributions, see Appendix A.

Presence of people outside of the restricted class

The corporation or labor organization may allow, to a limited degree, the attendance of the following individuals who are outside of the restricted class at the appearance:

- Employees who are outside the restricted class but who are necessary to administer the meeting;

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[13] While this coordination does not transform the restricted class communication into an in-kind contribution, it may provide evidence that could jeopardize the independence of future communications to those outside the restricted class by the organization or its SSF. 114.2(c).

[14] However, coordination with the candidate may compromise the independence of future communications (such as independent expenditures or electioneering communications) to individuals beyond the restricted class by either the corporation, labor organization or its SSF. See 114.2(c), 114.3(a)(1) and 109.21.

[15] See the Explanation and Justification for 114.3(c)(2) at 60 Fed. Reg. 64266 (December 14, 1995), available on FEC.gov.

- Other guests who are being honored, are speaking or are participating in the event; and
- News media (see "Allowing Media Coverage"). 114.3(c)(2)(i) and (iv).

Appearances by other candidates or party representatives
The corporation or labor organization may grant or deny other candidates and parties the opportunity to appear, as the organization desires. 114.3(c)(2)(i).

Allowing media coverage
If the corporation or labor organization allows more than one candidate for the same office to appear and permits the media to cover the appearance of one candidate, it must permit media coverage of the other candidate(s) for that office as well. Similarly, if one party's representative is permitted media coverage, then an appearance by any other party's representative must also be permitted media coverage. 114.3(c)(2)(iv).

Appearances before all employees and their families

Who may attend
A corporation or labor organization may sponsor candidate appearances that are attended by all members of the restricted class (including their families), as well as all other employees and their families, other honored guests, speakers, participants and the news media (if invited). 114.4(b)(1) and (e). See AO 2007-14 (ABC/NFIB/NRA).

Location of appearance
The corporation or labor organization may allow the appearance at a meeting, at a convention or at some other function of the corporation or labor organization. 114.4(b)(1) and (2). Alternatively, the appearance may take the form of a teleconference. AO 2007-14 (ABC/NFIB/NRA).

Express advocacy
The candidate may expressly advocate his or her election, but the corporation or labor organization may not do so in conjunction with a candidate appearance, nor may it encourage its employees to do so. Such communications to an audience beyond the restricted class will result in a prohibited contribution to the candidate. 114.4(b)(1)(v) and (b)(2)(ii).

Coordination with the candidate
The corporation or labor organization may coordinate with the candidate concerning the timing, structure and format of the appearance, and on the candidate's position on issues. Coordination regarding the campaign's plans, projects and needs, however, will result in a prohibited in-kind contribution. 109.21, 114.2(c) and 114.4(b)(1)(vii).

Solicitations
A corporation (including its SSF or any employee) or labor organization (including its SSF, any official, member or employee) may not solicit, direct or control contributions in conjunction with any candidate appearance before those outside the restricted class. 114.4(b)(1)(iv) and (b)(2)(i).

While attending the event, the candidate may solicit but may not accept contributions before, during or after the appearance. The candidate may, however, leave envelopes and campaign materials for members of the audience. 114.4(b)(1)(iv) and (b)(2)(i).

Equal opportunity
The organization also must allow other candidates for the same office to appear, if they request to do so. The following guidelines apply:

- If a candidate for the House or Senate is allowed to make an appearance, all other candidates for that seat must be given a similar opportunity upon request. 114.4(b)(1)(i).
- If a Presidential or Vice Presidential candidate is allowed to make an appearance, all candidates for that office meeting the pre-established objective criteria for candidate debates under 110.13(c) must be given a similar opportunity upon request. 114.4(b)(1)(ii).
- If representatives of a political party are allowed to make an appearance, representatives of all political parties that either had a candidate on the ballot in the last general election, will have a candidate on the ballot in the next general election or are actively engaged in placing a candidate on the ballot in the next general election must be given a similar opportunity upon request. 114.4(b)(1)(iii).
- Candidates should be provided with similar amounts of time and similar locations as other candidates are provided. 114.4(b)(1)(vi).

Publications

A corporation or labor organization may distribute election related publications (e.g., print, broadcast, video, e-mail and web-based) to its restricted class.

Distribution of publications to restricted class

Express advocacy
A corporation or labor organization may distribute publications to its restricted class on any subject. This includes publications expressly advocating the election or defeat of a clearly identified candidate or a party's candidate. 114.3(a). See "Endorsements" in the next section.

Coordination with candidate
The corporation or labor organization may discuss campaign issues at length with the candidate; however, discussion concerning how to contour a communication for the benefit of the campaign would constitute coordination and may jeopardize the independence of future corporate/labor organization communications to individuals beyond the restricted class. 109.21 and 114.2(c). See also AO 1996-01 (Trial Lawyers of America).

Solicitation
The publication may solicit contributions for a candidate or a party. The rules for soliciting contributions from the restricted class through a publication are the same as those for soliciting during a candidate appearance before the restricted class. See "Candidate appearances before the restricted class" in this chapter. 114.2(f)(4)(ii).

Content
The views communicated in the publication must be those of the corporation or labor organization and must not be a republication or reproduction of the candidate's campaign materials including broadcasts and written or graphic materials. The corporation or labor organization may, however, use brief quotations from candidate materials and speeches that demonstrate the candidate's position as part of the corporation's or labor organization's expression of its own views. 114.3(c)(1)(ii).

Endorsements
A corporation or labor organization may announce its candidate endorsement at an appearance by a candidate before, or in a publication sent to, its restricted class (no more than a de minimis number of copies of the publication that includes the endorsement may be distributed beyond the restricted class). These communications may be coordinated with candidates. 114.4(c)(6)(iii); 114.3(a). For examples, see AOs 1997-22 (Business Council of Alabama), 1997-16 (ONRC Action), 1996-21 (Business Council of Alabama) and 1996-01 (Trial Lawyers of America).

Communications to those outside the restricted class

Candidate appearances
A corporation or labor organization may pay for a candidate or a candidate's representative to appear before the general public in the following situations:
- Officeholder/professional (i.e., noncampaign-related) appearances;
- Public debates; and
- Public appearances at educational institutions.

Officeholder/professional appearance at corporation or labor organization
Under certain circumstances, a corporation or labor organization may sponsor an appearance by a candidate before the general public. For example, the Commission has permitted the following appearances:
- Incumbent officeholders giving a speech to a nonprofit organization regarding its main issue (AO 1996-11 (NRL)); and
- A non-incumbent, who had in prior speeches to college and university audiences discussed his ideas regarding current statutes and future legislation, giving a college lecture on a topic that reflected his career as a state legislator (AO 1992-06 (Duke)).

In these advisory opinions, the Commission noted these important points:
- The speaker did NOT appear in his capacity as a federal candidate but rather as a current federal officeholder or as a lecturer;
- The speaker could speak about issues of interest to the sponsoring organization, including legislative issues, but was required to avoid referring to the campaign;
- Neither the speaker nor the organization would expressly advocate the election or defeat of a clearly identified candidate;

- Neither the speaker nor the organization would solicit contributions before, during or after the event; and
- Any contribution from the organization's political committee to the speaker's political committee would not be in consideration for the speaker's appearance.

Payment of travel expenses
A corporation or labor organization may pay the speaker's travel expenses as long as no part of the trip is campaign related. If any campaign related activity is conducted at a stop, the entire stop is campaign related and travel expenses must not be paid by the sponsoring organization. AO 1996-11 (NRL).[16]

Public debates

Sponsorship
A tax-exempt nonprofit organization (a 501(c)(3) or 501(c)(4)) that does not endorse, support, or oppose candidates or parties may stage candidate debates. 110.13(a)(1) and 114.4(f)(1).

Candidate debates may also be staged by a broadcaster, a bona fide newspaper, a magazine or other periodical publication as long as they are not owned or controlled by a political party, committee, or candidate. 110.13(a)(2) and 114.4(f)(2).

Corporate/labor donations permitted
A corporation or labor organization may donate funds to a tax-exempt nonprofit organization that does not endorse, support, or oppose any candidate or party to defray the cost of staging a candidate debate. 114.4(f)(1) and (3).

Debate structure
The debate must include at least two candidates and must be structured so that it does not promote or advance one candidate over another. 110.13(b).

Candidate selection
The organization staging the debate must select the candidates based on pre-established objective criteria. For primary elections, the organization may restrict candidates to those seeking the nomination of one party. For general elections, the staging organization may not use nomination by a particular party as the sole objective criterion. 110.13(c).

Appearance at educational institutions

Candidates or party representatives may make appearances at educational institutions (any school, college or university, including both an incorporated nonprofit tax exempt private school

[16] In AO 1996-11 (NRL), the corporation sponsoring the appearances of two officeholders who were running for re-election could not pay the officeholders' travel expenses because the organization had knowledge that the officeholders' campaigns were planning campaign-related events at the site of the appearance. Payment of their travel expenses would have constituted a prohibited corporate contribution.

and an unincorporated tax exempt public school [17]). The institution may make its facilities available at either the usual and normal cost for campaign events, or at a discount or for free for academic events. If the institution makes its facilities available at a discount or for free, the institution must:

- make reasonable efforts to ensure that the appearance constitutes a speech, question and answer session, or similar communication and not a campaign appearance or event;
- not expressly advocate the election or defeat of any federal candidate or candidates of any political party in conjunction with the appearance; and
- not favor any candidate or party in allowing the appearance. See 110.12(a)-(b) and 114.4(c)(7)(i)-(ii).

Other election related communications

A corporation or labor organization may prepare and distribute other election-related communications (e.g., print, broadcast, video, e-mail and web-based) to the general public. A non-exhaustive list of possible communications is provided in the Campaign Guide for Corporations and Labor Organizations.

These communications may contain express advocacy but must not be coordinated with any candidates or political parties (except as provided by law). In addition, the communications must not solicit contributions for a candidate or party. Either of these actions would result in a prohibited contribution. See 114.4(c)(1), 114.2(f). Finally, if any of these communications meet the definition of an independent expenditure or electioneering communication (see Sections 11 and 12), then they must be reported as such.

9. USE OF CORPORATE/LABOR FACILITIES AND RESOURCES

When using the facilities and resources of a corporation (including an incorporated trade association or membership organization) or labor organization, a campaign must pay the organization according to the rules described in this section. Otherwise, the use may result in a prohibited contribution from the corporation or labor organization.

Facilities

If a campaign uses the facilities of a corporation or labor organization, the campaign must reimburse the organization within a commercially reasonable time and at the usual and normal rental charge. Use of facilities may include, for example, the use of telephones, typewriters or office furniture. 114.9(d). If another political committee or an individual reimburses a corporation or labor organization for the campaign-related use of its facilities, the payment is considered an in-kind contribution from that

[17] Tax exempt nonprofit institutions are advised to review the Internal Revenue Service requirements regarding the effect of political activity and continuing nonprofit status.

committee or individual to the campaign. (In the case of a political committee sponsored by the organization providing the facilities, it is also advisable that payment be made to the organization in advance in order to avoid a prohibited contribution from the organization.) Note, however, that employees, stockholders and members of a corporation or labor organization may make incidental use of an organization's facilities, subject to the corporation or labor organization's own rules, for volunteer work without having to reimburse the organization (except for any increased overhead), as explained in Section 3 of this chapter. 114.9(a) and (b).

Meeting rooms

Usual and normal rental rate

Candidates and political parties may, at the discretion of the organization, rent a corporation or labor organization's meeting rooms at the usual and normal rate, provided reimbursement is made within a commercially reasonable time. 114.9(d).

Provided by organization's political committee

As with other facilities, if the organization's political committee pays for the room as an in-kind contribution, it is advisable that payment be made in advance to avoid a prohibited contribution from the organization.

For free or at a discount

A candidate may be able to use the rooms for free or at a discount under the following conditions:

- The corporation or labor organization customarily makes its meeting rooms available to civic and community groups;
- The corporation or labor organization makes the rooms available to other candidates upon request; and
- The corporation or labor organization makes the rooms available to the candidates on the same terms given to other groups (i.e., for free or at a discount if those are the terms offered to other groups).

114.13.

Use of corporate/labor name or trademark

A corporation or a labor organization may not use the corporation's names, trademarks or service marks to facilitate the making of contributions to a federal political committee, and a federal political committee may not knowingly accept or receive such facilitated contributions. For example, a campaign may not recognize the corporate (or labor) employers of individual contributors in connection with a fundraising event. These restrictions do not apply to the use of a name as part of the name of a political committee. 114.2(d) and (f). See AO 2007-10 (Reyes).

10. FUNDRAISERS FOR CANDIDATES

Restricted class events

Under the exemptions at 114.3(c)(2) permitting candidate appearances before the restricted class (summarized in Section 8 of this chapter), the corporation or labor organization may allow a candidate to

solicit its restricted class at an event without the related costs for the event counting as a contribution. The candidate may also collect funds at the appearance. However, corporate or labor organization staff are prohibited from collecting funds for the campaign, with a limited exception discussed in the next paragraph. 114.2(f) and 114.3(c)(2)(ii) and (iii).

Collection of funds

An exception to the general prohibition on corporate or labor organization staff's collection of funds at a candidate's fundraising event exists in cases where the fundraiser is a restricted-class only event and the funds collected are treated not only as contributions to the candidate, but also as contributions both to and from the SSF of the corporation/labor organization. 114.2(f)(2)(iii) and (4)(iii). In this case, the event may not raise funds in excess of the SSF's candidate contribution limit ($5,000 for a multicandidate PAC). Alternatively, the campaign may collect the funds.

Events beyond the restricted class

Event sponsored by corporate/labor SSF

The organization's SSF may sponsor fundraising events for candidates and invite outside individuals and political committees. 114.5(i). All related costs paid for by the SSF, including staff time, mailing, room rental and catering charges, may count as an-kind contribution to the candidate, depending on whether the event is coordinated with the candidate or campaign. 109.20(b) and 100.52(d). Note that, as with other uses of corporate/labor facilities, the SSF must pay in advance for any use of corporate/labor staff, food service or mailing lists. Additionally, it is advisable that the SSF pay for rooms and equipment in advance to avoid a prohibited contribution from the organization.

Use of corporate/labor staff, food services and mailing lists for events beyond the restricted class

A corporation or labor organization may only allow its food services and mailing lists to be used for candidate fundraisers if it receives payment in advance at the fair market value for the goods or services. 114.2(f)(1) and (2). Likewise, a corporation or labor organization may direct its personnel to work on these fundraisers, so long as employees are not coerced into providing on-the-job fundraising services if they do not wish to perform them. In all cases, advance payment by a source that may legally make a contribution or expenditure (such as the campaign or the organization's SSF) is required in order to avoid a prohibited contribution by the organization. FEC regulations specifically require advance payments for:

- The services of corporate or labor personnel directed to carry out candidate fundraising activities as part of their job;
- The use of the organization's list of clients, customers, vendors or other persons outside the restricted class for purposes of soliciting contributions or distributing invitations; and
- The use of catering or other food services arranged for or provided by the corporation or labor organization.

114.2(f)(2)(i)(A), (C) and (E).

Note, however, that if a corporation is providing the services (such as catering or personnel) in its ordinary course of business as a commercial vendor, payment does not have to be made in advance as long as: (1) the payment is at the usual and normal charge; and (2) the payment schedule conforms to

normal business practice. Otherwise, a prohibited contribution results. 100.52(d)(1) and (2); 114.2(f)(1); 116.3; see also, for example, AOs 1994-33 (VITEL) and 1991-18 (New York Democrats).

Collection of funds

As with restricted-class only events, corporate or labor organization staff may not collect contributions at an event that is coordinated, unless the funds collected are treated not only as contributions to the candidate, but also as contributions both to and from the SSF of the corporation/labor organization. 114.2(f)(2)(iii) and (4)(iii). Alternatively, the campaign may collect the funds.

Reporting

If the campaign makes the advance payment for the costs of the event, it must report the cost as a campaign expenditure. If the advance payment is made by any other source, such as the corporation or labor organization's SSF or an individual, the campaign must report it as an in-kind contribution received, where the event's costs are required to be treated as an in-kind contribution. 104.3(a) and (b).

11. INDEPENDENT EXPENDITURES

An independent expenditure is an expenditure for a communication that expressly advocates the election or defeat of a clearly identified candidate and which is not made in coordination with any candidate or his or her campaign or political party. 100.16, 109.21 and 109.37. Independent expenditures are not subject to any amount limitations but may be subject to reporting requirements. (The campaign of a candidate benefiting from an independent expenditure has no reporting obligation.) See *Citizens United v. FEC* and AOs 2010-11 (Commonsense Ten) and 2010-09 (Club for Growth).

Appendix D provides detailed information on independent expenditures. The appendix may be reproduced and distributed by a campaign to anyone who requests FEC guidelines on independent spending. Campaign staff should pay special attention to the section "Coordinated communications" which explains when the independence of an expenditure is compromised through contact with a campaign and thus results in an in-kind contribution, subject to contribution limits, to the campaign. If a corporation or labor organization funds the coordinated expenditure, it results in a prohibited contribution.

12. ELECTIONEERING COMMUNICATIONS

Any broadcast, cable or satellite communication that is publicly distributed within 30 days of a primary or 60 days of a general election, refers to a clearly identified federal candidate and is targeted to the relevant electorate is an electioneering communication. 100.29(a).

If a registered political committee makes an electioneering communication, it must report it as it reports an expenditure or independent expenditure under the Act. 104.20(b).

Coordination of electioneering communications

If a communication is considered coordinated under the Commission's three-part test, it results in an in-kind contribution subject to contribution limitations, source prohibitions and reporting. To avoid receiving an illegal excessive or prohibited contribution, campaigns should avoid certain interactions with those making electioneering communications. See 109.21(d) and Appendix D, Section 2 for more information.

CHAPTER 8

EXPENDITURES AND OTHER USES OF CAMPAIGN FUNDS

The Federal Election Campaign Act (the Act) places certain restrictions on the use of campaign funds, as explained in this section.

For reporting purposes, it is important to understand the term "expenditure," because expenditures count toward the threshold that determines whether an individual is a candidate under the Act. 100.3(a). An expenditure is a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made to influence a federal election. 100.111(a).

"Disbursement" is a broader term that covers both expenditures and other kinds of payments (those not made to influence a federal election). All disbursements must be reported by the campaign.

1. PERMISSIBLE USES OF CAMPAIGN FUNDS[1]

Campaign-related expenses

The Act allows campaign funds to be used for purposes in connection with the campaign to influence the federal election of the candidate. 52 U.S.C. §30114(a); 113.2.

Operating expenditures

Payments for day-to-day expenses, such as staff salaries, rent, travel, advertising, telephones, office supplies and equipment, fundraising, etc., are permissible operating expenditures. Interest paid on a loan is also considered an operating expenditure. AO 1991-09 (Hoagland).

Certain other expenses are considered to be permissible operating expenditures on a case-by-case basis, including meal, travel, vehicle and legal expenses.[2] For example, if a campaign pays for the candidate's travel and subsistence in connection with his or her campaign activities, those payments are also considered operating expenditures. Generally, as long as such expenses would not exist irrespective of the

[1] Note that the use of campaign funds is also addressed in House and Senate rules, over which the Commission has no jurisdiction (see Appendix G).

[2] However, using campaign funds to pay for a candidate's living expenses is prohibited. See 113.1(g)(1)(ii); "Personal Use of Campaign Funds."

candidate's campaign or duties as a federal officeholder, they are considered permissible. See Section 2, "Case-by-case determination of personal use," for more information.

Loan repayments

The repayment of both the principal and the interest of a loan owed by the committee are permissible expenses. Repayments of the principal are not considered to be a "payment" for the purposes of the definition of expenditure, and thus are itemized separately on the FEC report. 100.111(c). Repayments of the interest on a loan are considered operating expenditures for reporting purposes. See Chapter 13, Section 20, "Reporting Loans," for information on reporting loan repayments.

Transfers to other authorized committees

Funds may be transferred between authorized committees of the same candidate (for example, from a previous campaign committee to a current campaign committee) without limit as long as the committee making the transfer has no net debts outstanding. 110.3(c) and 116.2(c)(2). See, for example, AO 1987-04 (Glenn). See Chapter 9, "Transfers," and Chapter 13 (reporting transfers) for more information.

Alternatively, a candidate may redesignate a former campaign committee as the principal campaign committee of his or her current campaign and use the excess funds of the previous campaign in the current campaign. AO 1980-30 (Askin).

Refunds of contributions

Campaigns may refund any contribution but must refund (or otherwise disgorge) a contribution that is from a prohibited source or in excess of the contribution limits. See Chapter 5, Section 2, "Questionable Contributions," for more information. For information on reporting refunds, see Chapter 13, Section 22, "Reporting Refunds, Returns, Bounced or Unchashed Checks and Disgorged Contributions."

In-kind contributions

Any in-kind contribution received by a committee must be reported as an operating expenditure (even though money has not been expended by the committee) in addition to being reported as a contribution received. 104.13(a). This reporting adjustment allows the committee to balance its cash on hand. For more information and an example of reporting in-kind contributions, see Chapter 13, "Completing FEC Reports."

Written agreements to make expenditures

A written agreement to make an expenditure, such as a media contract, constitutes an expenditure. 100.112. For information on reporting expenditures and debts incurred, see Chapter 13, "Completing FEC Reports."

Ballot initiatives and other nonfederal communications

A campaign may support or oppose ballot initiatives as permissible campaign-related expenses. For example, payments for ads in which a candidate endorses a ballot initiative on an issue with which he or she is closely associated are expenditures in connection with the campaign. AOs 2006-04 (Tancredo) and 2004-29 (Akin). A campaign may also make donations to committees that support or oppose ballot initiatives under state election laws. Such donations are considered expenditures under the Act. See AO 2004-29 (Akin). Special rules apply to a federal candidate or officeholder's fundraising for such organizations, see Appendix E, Section 1.

A campaign may also make expenditures for communications that expressly advocate for both the federal candidate and nonfederal candidates. The Commission concluded in AO 2014-03 (Lindsey for Congress) that a campaign's expenditures for advertisements that support the federal candidate as well as nonfederal candidates who share the federal candidate's policy positions and values further the federal candidate's own candidacy and are "in connection with" a federal election.

Non-campaign related expenses

Additionally, campaign funds may be used for the following purposes that are not related to the candidate's campaign for federal office:

To defray the ordinary and necessary expenses incurred in connection with an individual's duties as a federal officeholder[3], such as:

- Travel expenses for a federal officeholder and his or her accompanying spouse and children, provided that the travel is undertaken to participate in a function that is directly connected to the officeholder's bona fide official responsibilities. 113.2(a)(1). See, for example, AOs 2005-09 (Dodd) and 1997-02 (Skaggs / LaHood);
- Winding down costs of a federal officeholder's office for a period of six months after leaving office. 113.2(a)(2). See, for example, AOs 1996-44 (Wilson) and 1996-14 (de la Garza) (House and Senate rules may apply); see AOs 2000-37 (Udall) and 1996-45 (Roybal-Allard); and see Appendix G);

Donations to charities (organizations defined in 26 U.S.C. §170(c) of the Internal Revenue Code).[4] 113.2(b). See, for example, AO 2005-06 (McInnis);

Unlimited transfers to any national, state or local party committee. 113.2(c). See, for example, AO 2004-22 (Bereuter);

Donations to state and local candidates, subject to the provisions of state law. 113.2(d). See 52 U.S.C. §30114(a)(5); and

Any other lawful purpose, unless expressly prohibited by the Act. 113.2(e). See 52 U.S.C. §30114(a)(6). (Prohibited purposes are summarized in the next section.)

Contributions to other federal and nonfederal candidates

A federal candidate committee may contribute up to $2,000 per election to the committee of another federal candidate. 102.12(c)(2) and 102.13(c)(2).

Donations from federal candidate committees to state, local or foreign candidates are permissible uses of campaign funds but are subject to the relevant state or foreign laws. See 113.2(d), 300.62; AO 2015-06 (Maxine Waters).

For information on reporting contributions and donations to other candidates, see Chapter 13, Section 17.

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[3] House and Senate rules may apply; see Appendix G.

[4] Campaign funds may not be converted to personal use. Commission regulations state that donations of campaign funds to a charitable organization do not constitute the personal use of campaign funds unless the candidate (former or current) receives compensation from the donee organization before the organization has expended, for purposes unrelated to the candidate's personal benefit, the entire amount donated by the campaign. 113.1(g)(2). See Section 2.

2. PROHIBITED USES OF CAMPAIGN FUNDS

Certain air travel

Title VI, Section 601 of the Honest Leadership and Open Government Act of 2007[5] (HLOGA) significantly restricts the use of campaign funds for air travel by federal candidates and officeholders.[6] In general, expenditures from campaign funds for non-commercial air travel are prohibited unless they are in accordance with 100.93. 113.5. See Chapter 10, Section 4, "Campaign Travel" for further information.

Personal use of campaign funds

Using campaign funds for personal use is prohibited. 52 U.S.C. §30114(b)(1) and 113.1(g). Commission regulations provide a test, called the "irrespective test," to differentiate legitimate campaign and officeholder expenses from personal expenses. Under the "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 responsibilities as a federal officeholder. 113.1(g). More simply, if the expense would exist even in the absence of the candidacy or even if the officeholder were not in office, then the personal use ban applies. Conversely, any expense that results from campaign or officeholder activity falls outside the personal use ban.

EXAMPLE

A candidate may not make tuition payments with campaign funds, unless the costs are associated with training campaign staff. See 113.1(g)(1)(i)(D).

What is not personal use

In addition to the "irrespective test," Commission regulations include other uses of funds that do not constitute personal use and thus are permissible uses of campaign funds. 113.1(g) and 113.2.

Charitable donations

Gifts to charity are not considered personal use expenses as long as neither the candidate nor any member of the candidate's family receives compensation from the charitable organization before it has expended the entire amount donated. Note that the amount donated must have been used for purposes that do not personally benefit the candidate. 113.1(g)(2). See also AOs 2005-06 (McInnis), 1997-01 (Bevill), 1996-40 (Hancock) and 1994-20 (Charlie Rose).

Transfer of campaign assets

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[5] Pub. L. No. 81, 121 Stat.735.

[6] The provisions of HLOGA also apply to nonconnected committees (known as "leadership PACs") sponsored by candidates for the House of Representatives.

The sale or transfer of a campaign asset (see Chapter 14, “Winding Down the Campaign”) to either the candidate or a third party does not constitute personal use as long as the transaction is made at the fair market value. 113.1(g)(3).

Gifts

On special occasions, campaign funds may be used to purchase gifts or make donations of nominal value to persons other than the members of the candidate’s family. 113.1(g)(4).

Candidate salary

The candidate may receive a salary from his or her campaign committee only under the following conditions:

- The salary must be paid by the principal campaign committee;
- The salary must not exceed the lesser of the minimum annual salary for the federal office sought or the earned income that the candidate received during the year prior to becoming a candidate;
- Individuals who elect to receive a salary from their campaign committees must provide income tax records and additional proof of earnings from relevant years upon request from the Commission;
- Payments of salary from the committee must be made on a pro-rata basis (i.e., a candidate may not receive a whole year’s salary if he or she is not a candidate for an entire twelve-month period);
- Incumbent federal officeholders may not receive a salary payment from campaign funds; and
- The first payment of salary shall be made no sooner than the filing deadline for access to the primary election ballot in the state in which the candidate is running for office, or, in those states that do not conduct primaries, on January 1 of each even-numbered year.

Salary payments may continue until the date when the candidate is no longer considered a candidate for office or until the date of the general election or general election runoff. For special elections that occur in odd numbered years, payments may continue from the date that the special election is set until the date of the special election. 113.1(g)(1)(i)(I).

Automatic personal use

The regulations list some expenses that are automatically considered to be personal use. Based on these rules, the following paragraphs discuss what kinds of expenses the campaign can and cannot pay for.

Household food items and supplies

The candidate cannot use campaign funds to pay for food purchased for daily consumption inside the home or supplies needed to maintain the household. The campaign may, however, pay for food and supplies for fundraising activities and campaign meetings (even when they take place in the candidate’s home). 113.1(g)(1)(i)(A).

Funeral, cremation and burial expenses

Campaign funds cannot be used to cover expenses related to deaths within the candidate’s family. They may, however, be used to cover funeral, cremation and burial expenses for a candidate or campaign worker whose death arises out of, or in the course of, campaign activity. 113.1(g)(1)(i)(B).

Clothing

The campaign cannot pay for attire for political functions (for example, a new tuxedo or dress), but it can pay for clothing of de minimis value that is used in the campaign, such as T-shirts or caps imprinted with a campaign slogan. 113.1(g)(1)(i)(C).

Tuition payments

Campaign funds may not be used for tuition payments unless the payments are associated with training campaign staff. 113.1(g)(1)(i)(D). In AO 1997-11 (Roybal-Allard), the Commission allowed a federal officeholder to use campaign funds to cover her costs for a Spanish immersion class that she took to better communicate with her constituents.

Mortgage, rent or utility payments

The campaign may not pay for mortgage, rent or utilities for the personal residence of the candidate or the candidate's family even if part of the residence is being used by the campaign. 113.1(g)(1)(i)(E).

For example, a campaign committee may not rent space in the candidate's home, but it may rent part of an office building owned or leased by the candidate for use in his or her campaign, as long as it pays no more than the fair market value for the space. AO 1995-08 (Stupak). See also AO 2000-02 (Hubbard).

However, the Commission has allowed the use of campaign funds to pay for home security enhancements made in response to threats to an officeholder's safety. In these cases, the security upgrades were not considered personal use because the threats and need for security upgrades would not exist irrespective of the officeholders' candidacy or duties as an officeholder. AOs 2017-07 (Sergeant at Arms), 2011-17 (Giffords), 2011-05 (Terry) and 2009-08 (Gallegly). Campaign funds may also be used to pay for security measures to protect an officeholder's personal electronic devices and accounts from cyber threats that result from the officeholder's role as an elected official. AO 2018-15 (Wyden).

In addition, the campaign may pay for long distance calls made for campaign purposes from the candidate's residence or the residence of his or her family.

Investment expenses

The campaign may not pay for investment expenses such as acquiring securities on margin unless all of the investment and its proceeds are used for the purpose of influencing the candidate's election for federal office or for one of the permissible non-campaign uses of funds discussed in Section 1.

Entertainment

The campaign may not pay for admission to sporting events, concerts, theater and other forms of entertainment. Campaign funds may be used, however, if the entertainment is part of a specific officeholder or campaign activity. They may not be used for a leisure outing at which the discussion occasionally focuses on the campaign or official functions.[7] 113.1(g)(1)(i)(F).

Dues, fees and gratuities

[7] See the Explanation and Justification for the final rules, 60 Fed. Reg. 7866, February 9, 1995 available at FEC.gov.

Campaign funds may not be used to pay for dues to country clubs, health clubs, recreational facilities or other nonpolitical organizations unless the payments are made in connection with a specific fundraising event that takes place on the organization's premises. See, for example, AO 1995-26 (Murkowski). However, campaign funds may be used for membership dues in an organization that may have political interests. 113.1(g)(1)(i)(G).

EXAMPLE

A candidate or officeholder may use campaign funds to pay for a membership in a civic or community group in his or her district in order to maintain political contacts with constituents or the business community.[8]

Salary payments to candidate's family

Campaign funds may be used to make salary payments to members of the candidate's family only if:

The family member is providing a bona fide service to the campaign; and

The payments reflect the fair market value of those services. 113.1(g)(1)(i)(H). See also AOs 2001-10 (Jackson) and 1992-04 (Cortese).

Any salary payments to family members in excess of the fair market value constitute personal use.

Case-by-case determination of personal use

For other expenses not mentioned in the previous section, the Commission will determine, on a case-by-case basis through the advisory opinion process, whether the expense is one that would exist irrespective of the candidate's campaign or duties as a federal officeholder and would be considered a personal use expense. For example, the Commission addresses payments for meals, childcare, travel, vehicles, mixed-use and legal expenses on a case-by-case basis. 113.1(g)(1)(ii).

Meal expenses

Campaign funds may be used to pay for meals during face-to-face fundraising events. By contrast, a candidate may not use campaign funds to take his or her family out to dinner. 113.1(g)(1)(ii)(B).

Childcare expenses

Campaign funds may be used to pay for a candidate's childcare expenses that are incurred as a direct result of campaign activity. AOs 2019-13 (MJ for Texas), 2018-06 (Liuba), 1995-42 (McCrery).

Travel expenses

Campaign funds may be used to pay the costs of travel to an activity that is related to the campaign or to the candidate's duties as a federal officeholder. (Note, however, that 2007 changes to the statute mandate specific conveyances and payments. See "Certain Air Travel" in this chapter, and Chapter 10, Section 4 for more information.) Thus, campaign funds may be used to pay for the costs of travel for a candidate (and the candidate's spouse and minor children) to functions directly related to the campaign or those directly connected to the individual's official responsibilities as a federal officeholder. 113.2(a)(1); see AO 2005-09 (Dodd). The regulations, however, prohibit the use of campaign funds for personal expenses

[8] From the Explanation and Justification for the final rules, 60 Fed. Reg. 7867, February 9, 1995 available FEC.gov.

collateral to travel—either campaign or officeholder—unless personal funds are used to reimburse the committee. 113.1(g)(1)(ii)(C). See, for example, AOs 2002-05 (Hutchinson), 2000-37 (Udall) and 1996-19 (Walsh). See also "Mixed Use" for trips that involve both official/campaign and personal travel.

Vehicle expenses

Campaign funds may be used to pay for a vehicle that is used for campaign-related purposes, assuming that the costs related to the personal use of the vehicle are de minimis, that is, such costs are insignificant in relation to the overall vehicle use. AO 2001-03 (Meeks); 113.1(g)(1)(ii)(D). See also "Mixed Use" for vehicle use that involves both official/campaign and personal travel.

Mixed use

In the event of travel or vehicle expenses that commingle personal and campaign or officeholder activity, the beneficiary of the personal use expenses must reimburse the committee within thirty days for the entire amount associated with the personal activities (the amount over and above what the cost would have been had the trip/vehicle use been solely for campaign/officeholder-related purposes). The reimbursement does not constitute a contribution. See, for example, AOs 1992-12 (LaRocco) and 1984-59 (Russo). The committee must maintain logs of the expenses to help the Commission determine on a case-by-case basis what portion was for personal use rather than for campaign-related activity or officeholder duties. 113.1(g)(8). AO 2001-03 (Meeks).

Legal expenses

Using the "irrespective test" summarized in the previous section, the Commission decides on a case-by-case basis through the advisory opinion process whether legal expenses are considered "personal use" and thus are expenses that a candidate may not pay for using campaign funds. 113.1(g)(1)(ii)(A).

Relating to campaign or officeholder activity

In several advisory opinions, the Commission has said that campaign funds may be used to pay for up to 100 percent of legal expenses related to campaign or officeholder activity, where such expenses would not have occurred had the individual not been a candidate or officeholder.

EXAMPLES

Legal expenses incurred in seeking ballot access in an upcoming congressional election (AO 2018-09 (Clements));

Litigation expenses where the candidate/officeholder was the plaintiff, provided he derived no financial benefit from court awards (AO 1997-27 (Boehner));

Litigation expenses where the candidate/officeholder was the defendant and the litigation arose directly from campaign activity or the candidate's status as a candidate (AOs 2009-10 (Visclosky), 2003-17 (Treffinger) and 1995-23 (Shays));

Expenses incurred in connection with investigations pertaining to the candidate/officeholder's role as a candidate or officeholder (AOs 2009-12 (Coleman), 2005-11 (Cunningham), 1998-01 (Hilliard) and 1997-12 (Costello));

Expenses incurred in connection with investigations by the House or Senate pertaining to any activity conducted by the candidate/officeholder (AOs 2009-12 (Coleman), 2008-07 (Vitter) and 1998-01 (Hilliard));

Expenses incurred in responding to press inquiries pertaining to any of the previous (AOs 2009-12 (Coleman), 2008-07 (Vitter), 2006-35 (Kolbe), 2005-11 (Cunningham), 2001-09 (Kerrey for U.S. Senate), 1998-01 (Hilliard) and 1997-12 (Costello));

Use of campaign funds to post a deposit with which to pay opponent's attorney fees pending the candidate's appeal in a lawsuit arising directly from candidacy (AO 2013-11 (Miller)); and

Litigation expenses arising from litigation involving former and current staff members of the candidate/officeholder, which relate to the candidate's campaign and duties as a federal officeholder (AO 2009-20 (Visclosky)).

Relating to other activity

In specific situations, the Commission has concluded that campaign funds may be used to pay for up to 50 percent of legal expenses that do not relate directly to allegations arising from campaign or officeholder activity (e.g. activity prior to becoming a candidate or officeholder or activity of a business owned by the candidate/officeholder) if the candidate or officeholder is required to provide substantive responses to the press regarding the allegations of wrongdoing. See, for example, AOs 2005-11 (Cunningham), 1998-01 (Hilliard) and 1997-12 (Costello). However, the Commission did not allow campaign funds to be used to pay the legal expenses of voters who brought a lawsuit concerning special election scheduling because such expenses would exist irrespective of the candidate's campaign for federal office. AO 2018-03 (Committee to Elect Michael Gilmore).

Salary, compensation and other payments made on behalf of candidates

General rule

Generally, when a third party (not the candidate or the candidate's committee) pays for personal use expenses, the third party makes a contribution, subject to the restrictions and limitations of the Act. 113.1(g)(6).

Exceptions

No contribution will result, however, if the payment would have been made irrespective of the candidacy. For example, a third party may make the following payments on behalf of a candidate without making a contribution:

Payments to a legal expense trust fund established under House and Senate rules (see 113.1(g)(6)(i));

Payments for personal living expenses made from funds that are the candidate's personal funds, including an account the candidate holds jointly with a family member (see 100.153, and 113.1(g)(6)(ii)); and

Payments that began prior to candidacy. For example, if the candidate's parents had been making college tuition payments for the candidate's children, the parents could continue to do so during the campaign without making a contribution. See 100.153 and 113.1(g)(6)(iii).

Salary or compensation paid to candidate

Compensation paid to a candidate by a third party as a continuation of payments made prior to candidacy (for example, payments of salary) are not considered contributions as long as such payments:

Result from bona fide employment independent of the candidacy;

Are exclusively in consideration of the services provided as part of this employment; and

Represent pay not in excess of that normally received for such services. 113.1(g)(6)(iii). See also AOs 2006-13 (Spivack) and 2004-17 (Klein).

Promotion of candidate's books

Generally, the expense of marketing a book would exist irrespective of a candidate's campaign, and thus a campaign cannot ordinarily use its funds to pay such an expense. In limited situations, however, the Commission has permitted the use of campaign funds to promote a candidate's book, as follows:

A campaign could purchase bulk copies of the candidate's book where the purchase is solely for the purpose of distributing books to campaign contributors and supporters, and the candidate would not receive any royalties attributable to the purchase. AOs 2014-10 (Farr), 2014-06 (Ryan).

A campaign could incur de minimis costs to post on its website material promoting the book's release and linking to an online bookseller. AO 2011-02 (Brown), 2006-07 (Hayworth).

A campaign could incur costs for planning book-related events and handling press and public inquiries where the candidate donates royalties to charitable organizations and thus does not personally gain from the use of campaign assets to promote the book. AO 2006-18 (Granger).

See also AO 2008-17 (KITPAC), however, where the Commission concluded that payments to a co-author by the principal campaign committee would constitute personal use.

CHAPTER 9

TRANSFERS

This chapter describes the different types of transfers that authorized committees may receive and make. Transfers of funds and assets between federal committees authorized or established by the same candidate are generally unlimited because the committees are considered affiliated committees. However, an authorized committee of a federal candidate may not accept any transfers of funds or assets from a committee established by the same candidate for a nonfederal election. See Section 3.

1. TRANSFERS BETWEEN CANDIDATE'S COMMITTEES FOR SAME OFFICE

In the same election

Funds and assets may be transferred without limit between a candidate's principal campaign committee and the candidate's other authorized committees for the same office during the same election. However, an authorized committee may not transfer funds to another authorized committee of the same candidate if the transferring committee has net debts outstanding. 110.3(a)(1)(i) and 116.2(c)(2).

Between primary and general election campaign in same election cycle

Funds that went unused in the primary election may be transferred without limit to a candidate's general election campaign. 110.3(c)(3).

In different elections

Funds and assets may be transferred without limit between committees authorized by a candidate for the same office in different elections as long as the transferring committee does not have net debts outstanding. 110.3(c)(4) and 116.2(c)(2). Note that, for the purposes of the contribution limits, contributions transferred from the previous campaign to the current campaign must be aggregated with contributions by the same contributors to the current campaign only if the transferred contributions were originally made:

After the previous election was held; or

After the candidate withdrew or otherwise ceased to be a candidate in the previous election.[1] 110.3(c)(4)(iii) and (iv).

See Chapter 4, Section 5, for information on how to determine the date when a contribution is made. Other rules also apply to contributions that a committee receives after an election; see Chapter 4, Section 4, "Designated and Undesignated Contributions."

2. TRANSFERS BETWEEN COMMITTEES OF CANDIDATE SEEKING MORE THAN ONE OFFICE

In the same election cycle

When an individual seeks election to more than one federal office during the same election cycle or overlapping election cycles, he or she must establish separate principal campaign committees and must maintain completely separate campaign organizations. 110.8(d)(1). Contributors also have separate limits with respect to the separate campaigns of the same candidate. Special transfer rules apply to transfers between these committees.

EXAMPLES

Candidate A runs for both the House and the Presidency in the 2024 primary election (as permitted by state law).

Candidate B begins the 2022 election cycle as a House candidate, but later begins a campaign for a Senate seat in 2022.

Prohibited while "actively seeking" more than one office

No transfers of funds or assets may be made between a candidate's separate campaign committees while the candidate is "actively seeking" more than one office at the same time. 110.3(c)(5) and 110.8(d)(2). In the previous examples, Candidate A would be prohibited from transferring funds because he was "actively seeking" two offices at the same time.

Additional rules prohibit any transfers to or from a campaign account of a Presidential candidate who has accepted public financing, regardless of the timing or amount of the transfer. 110.3(c)(5)(iii). This restriction would apply to Candidate A if he received public funds for his Presidential campaign. See AO 1995-03 (Gramm '96).

Definition of no longer "actively seeking"

Under FEC rules, a candidate is no longer "actively seeking" nomination or election to a particular office once he or she:

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[1] An individual ceases to be a candidate in an election as of the earlier of the following dates: the date on which the candidate publicly announces that he or she will no longer be a candidate in that election for that office and ceases to conduct campaign activities with respect to that election; or the date on which the candidate is or becomes ineligible for nomination or election to that office by operation of law. 110.3(c)(4)(iv).

Becomes ineligible for nomination or election to that office by operation of law;
Publicly announces that he or she is withdrawing from one race and ceases to campaign for that election, other than fundraising to retire outstanding debts;
Has filed a termination report (see Chapter 14, Section 1, "Terminating the Committee"); or
Has notified the Commission in writing that his or her campaign will conduct no further activities with respect to that election, other than fundraising to retire outstanding debts. 110.3(c)(5)(i).

Guidelines for transfers when no longer "actively seeking" multiple offices

Once a candidate is no longer "actively seeking" election to more than one federal office, transfers between the two campaigns are permissible, within the following guidelines:

The transferor committee's available funds should be viewed as those contributions most recently received that add up to the amount of the transfer from cash on hand.
The transferor committee must be able to demonstrate that such cash on hand contains sufficient funds at the time of the transfer that comply with the limitations and prohibitions of the Act to cover the amount transferred.
Contributions transferred must be aggregated with any contributions made by the same contributor to the committee receiving the transfer. Amounts that would cause a contributor to exceed his or her per election contribution limit must be excluded from the transfer, i.e., the funds available for transfer would be reduced by such amounts.

110.3(c)(5)(ii).

By taking these steps, Candidate B in the previous example could transfer funds between her two campaigns once she was no longer "actively seeking" two offices at the same time. Note that the recipient committee will need to identify the contributors whose contributions are included in the transfer by using memo entries.

In different election cycles

When an individual seeks different offices in different election cycles, surplus funds from the earlier campaign that remain after the general election may be transferred to the later campaign without aggregating the contributions of the original contributor to the two committees.

Any funds transferred must not be composed of contributions that would be in violation of the Act. Also, the transferring committee must be able to demonstrate that its cash on hand contains sufficient funds at the time of the transfer that comply with the limitations and prohibitions of the Act to cover the amount transferred. 110.3(c)(4).

EXAMPLE

Candidate X runs for the House in 2022, and for the Senate in 2024. Any surplus funds for the 2022 House campaign that remain after the 2022 general election may be transferred to the 2024 Senate campaign. The 2024 Senate Committee would not have to disclose those contributors whose contributions to the 2022 House Committee were included in the transfer.

3. TRANSFERS FROM CANDIDATE'S NONFEDERAL COMMITTEE ARE PROHIBITED

A candidate's authorized (federal) committee may not accept funds or assets transferred from a committee established by the same candidate for a nonfederal election campaign. At its option, however, a nonfederal committee of the same candidate may refund its leftover funds to its contributors and may coordinate arrangements with the federal campaign for a solicitation of those same persons. The full cost of this solicitation must be paid by the federal committee. 110.3(d). See also AO 1996-33 (Colantuono).

4. TRANSFERS OF JOINT FUNDRAISING RECEIPTS

Organizations or committees participating in joint fundraising activity may make unlimited transfers of joint fundraising proceeds, provided that no committee or organization receives more than its allocated share of the funds raised. 102.6(a)(1)(iii) and 110.3(c)(2). A committee receiving such a transfer must not only report the total amount transferred but must also itemize, as necessary, its share of gross proceeds as contributions from the original contributors. 102.17(c)(8)(i)(B). For more information, see Appendix C.

5. TRANSFERS TO PARTY COMMITTEE

Campaign committees may make unlimited transfers to any national, state or local party committee. 113.2(c). They may also transfer excess recount funds to a recount account of a national party committee. See AO 2019-02 (Nelson for Senate).

6. WHAT IS NOT A TRANSFER

While each of the previous sections discusses transfers between committees, not all receipts or disbursements to other committees are transfers. The following are not transfers:

- Contributions to or from other candidates (federal or nonfederal);
- Contributions to or from PACs; and
- Contributions from party committees, although an authorized committee may make unlimited transfers to party committees. 113.2(c).

These transactions must not be reported as transfers. For information on reporting, see Chapter 13, "Completing FEC Reports".

CHAPTER 10

CONDUCTING THE CAMPAIGN

This chapter outlines the rules that apply to three areas of campaign activity: fundraising, advertising and travel. It also details the rules that apply to disclaimer notices for communications by an authorized committee.

1. FUNDRAISING

Fundraising notices

Certain statements by the campaign must be present on solicitations, as follows:

Authorization notice

When a campaign solicits contributions through public communications, or on a campaign website, it must include a clear and conspicuous notice on the solicitation stating that it was authorized and paid for by the campaign. For example: "Paid for by the Sam Jones for Congress Committee." 110.11(a)(1) and (b)(1). See "Disclaimer Notices" later in this chapter for more information.

"Best efforts" rules

When making solicitations, committees and their treasurers must make "best efforts" to obtain, maintain and report the name, address, occupation and employer of each contributor who gives more than $200 in an election cycle. In order to show that the committee has made "best efforts," solicitations must specifically request that information and inform contributors that the committee is required by law to use its best efforts to collect and report it. This request must be clear and conspicuous. 104.7(b). For details, see Chapter 11, Section 5, "Treasurer's Best Efforts."

IRS notice requirements

Section 6113 of the Internal Revenue Code requires political committees whose gross annual receipts normally exceed $100,000 to include a special notice on their solicitations to inform solicitees that contributions are not tax deductible. There are substantial penalties for failure to comply with this provision. Contact the IRS for more information (see Appendix G, Section 4, "Tax laws," for contact information).

Fundraising on the internet

Campaign committees may solicit contributions over the internet as long as the solicitation includes the proper disclaimers. See 110.11, and "Disclaimer Notices," later in this chapter; see also 104.7(b)(1) and Chapter 11, Section 5 on "Treasurer's best efforts" for a discussion of obtaining contributors' information. Committees may satisfy these requirements by online confirmation that the contribution

complies with the federal limits and prohibitions and is not from a prohibited source. See, e.g., AOs 2011-13 (DSCC), 2007-30 (Dodd), 1995-09 (NewtWatch).
Committee treasurers are also responsible for examining all contributions received for evidence of illegality and compliance with contribution limits. 103.3(b).

Joint fundraising

Campaigns may engage in joint fundraising with other committees. 102.17. For the rules that govern this special activity, see Appendix C.

Transmitting contributions

Forwarding contributions

Every person who receives contributions for a campaign must forward them to the treasurer of the candidate's authorized committee within 10 days of receipt. The date of receipt is the date the person acting as a conduit obtains possession of a contribution. 102.8(a). See also Appendix A, "Earmarked Contributions."

Forwarding records

A person receiving contributions for a campaign must also forward the following recordkeeping information along with the contributions:

- For contributions exceeding $50, the amount, date of receipt and the contributor's name and address.
- For contributions exceeding $200, the complete identification of the contributor (full name and mailing address, occupation and employer), as well as the amount and date of receipt of the contribution.

102.8(a).

Timely forwarding of recordkeeping information to the recipient campaign committee is essential for proper reporting and disclosure, especially of last-minute earmarked contributions received during the 48-Hour Notice period. For more information about filing 48-Hour Notices, see Chapter 12, Section 3, "When to Report".

No commingling

Campaign receipts must not be commingled with personal funds of any individual, such as by depositing contributions in a personal account. 102.15.

Accepting contributions

General rule

A campaign is prohibited from knowingly accepting any contributions from prohibited sources. 52 U.S.C. §30116(f), 110.9, 110.20(g), 114.2(d).The treasurer of a political committee is responsible for examining all contributions to make sure they are not illegal (i.e., prohibited or excessive). See "Questionable Contributions," Chapter 5, Section 2. 103.3(b).

Contributions from unregistered organizations

When campaigns accept contributions from groups that are not political committees registered with the FEC (such as state PACs, unregistered local party committees or nonfederal campaigns), they must make sure that the funds are permissible under the Act. See 300.61. This is important because campaign laws in some states permit nonfederal political groups to accept funds that would violate the limits and prohibitions of the

Act. To avoid a possible violation of the Act, a campaign must be certain that an unregistered group making a contribution:

Can demonstrate through a reasonable accounting method that it has sufficient federally permissible funds to cover the amount of the contribution or expenditure at the time it is made; or

Has established a separate account containing only funds permissible under the Act. 102.5(b).

See also AOs 1982-38 (Moynihan) and 2007-26 (Schock).

When itemizing a contribution from an unregistered organization in its report, a campaign should note that the contribution contains only federally permissible funds. Contributions from such unregistered organizations are subject to the $2,900 per election limit.[1] 110.1(b). These organizations should be aware, however, that making contributions to federal campaigns and political committees may trigger their own registration as a federal political committee. State political action committees sponsored by corporations, labor organizations or trade associations, in particular, must register as federal separate segregated funds within 10 days of the decision to make a contribution to a federal candidate. Additional requirements regarding their solicitations also apply. See 100.5(b) and 102.1(c); see also AOs 2003-29 (Fraternal Order of Police), 1985-18 (Michigan Auto Club PAC) and 1982-40 (Ohio Farm Bureau Federation).[2] Contributions by other types of unregistered organizations (for example, local party organizations or committees not sponsored by an incorporated entity or labor organization) count against the $1,000 per year aggregate registration threshold. See 100.5(a) and (c), 102.1(d).

Depositing funds

Within 10 days of receiving a contribution (or any receipt of money), the treasurer must deposit it in the campaign depository. 103.3(a). See Chapter 5, Section 2, “Questionable Contributions,” for information on depositing or returning questionable contributions.

Accounting for primary and general election contributions

If, before the primary election, a campaign receives contributions designated for the general election, it must use an acceptable accounting method to distinguish between primary contributions and general election contributions. Commission regulations suggest two accounting methods that are acceptable:

Maintaining separate accounts for each election; or

Maintaining separate books and records for each election.

102.9(e).

If the candidate does not advance to the general election, all general election contributions received by the committee must be refunded, redesignated or reattributed. See AO 1986-17 (Green).

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[1] As noted in Chapter 4, Section 1, this limit is indexed for inflation and adjusted in odd-numbered years.

[2] Authorized committees may want to refer state political action committees of corporations, labor organizations and trade associations to these citations. These state committees are advised to register a federal separate segregated fund with the FEC before soliciting or making any contributions in connection with a federal election.

2. DISCLAIMERS

Disclaimer notices inform the public of who pays for certain communications, and whether or not a communication has been authorized by a candidate or candidate's committee. Disclaimers must be presented in a clear and conspicuous manner to give the reader, observer, or listener adequate notice of the identity of the person or political committee that paid for the communication. 110.11(c)(1). See AO 2017-05 (Great America PAC).

Disclaimer notices are required for any public communication made by a political committee, electronic mail of more than 500 substantially similar communications sent by a political committee, and all websites of political committees available to the general public. [3] 110.11(a)(1).

Public communications

A public communication is a communication made by means of:

Any broadcast, cable or satellite communication;
Newspaper;
Magazine;
Outdoor advertising facility;
Mass mailing (more than 500 pieces of substantially similar mail within any 30-day period);
Telephone bank (more than 500 substantially similar telephone calls within any 30-day period);
An advertisement placed for a fee on another person's website; or
Any other form of general public political advertising.[4] 100.26, 100.27 and 100.28.

Any public communication made by a political committee, even those that do not contain a solicitation or express advocacy, must include a disclaimer. 52 U.S.C. §30120(a); 110.11(a)(1).

Wording of disclaimer notice

Authorized and financed by campaign

If the candidate or campaign authorizes and finances a covered communication (including any solicitation), the notice must state that the communication was paid for by the authorized committee. Additional requirements apply for print, television and radio ads (see "Special rules for printed communications" and "Special rules for television and radio ads").

EXAMPLE

[3] At the time of this publication, the Commission was considering proposals to amend the definition of "public communication" and its regulations concerning disclaimers on certain internet communications. The proposed rules on Internet Communication Disclaimers and Definition of ''Public Communication'' and Technological Modernization are available on FEC.gov. Any updates to these rules will be announced and posted there. .

[4] The term "general public political advertising" does not include any internet communication except for a communication placed for a fee on another person's website.

"Paid for by the Sam Jones for Congress Committee." 110.11(b)(1).

Authorized but not financed by campaign

If a covered communication, including any solicitation, is authorized by the candidate or campaign but paid for by another person, the communication must identify the person who paid for it and state that it was authorized by the candidate or campaign. Additional requirements apply for print, television and radio ads.

EXAMPLE

"Paid for by the XYZ Committee and authorized by the Sam Jones for Congress Committee." 110.11(b)(2).

Not authorized or financed by campaign

If a covered communication, including any solicitation, is paid for by another person and not authorized by the candidate or campaign, the communication must state that it was not authorized by any candidate or candidate's committee, identify the entity that paid for the communication and provide at least one of the following: the payor's permanent street address, telephone number, or website address. 110.11(a) and (b)(3). See AO 2017-05 (Great America PAC). Additional requirements apply for print, television and radio ads (see Appendix D, Section 7).

EXAMPLE

"Paid for by the XYZ PAC (www.xyzpac.org) and not authorized by any candidate or candidate's committee."

This type of notice must be used on independent expenditures and electioneering communications that are not authorized by a candidate or a candidate's campaign. 110.11(b)(3), (c)(4) and (d)(3).

Party coordinated communications on behalf of candidate

A party committee that pays for a communication that is a coordinated party expenditure must identify the party committee as the payor in the disclaimer. Prior to the date the party's candidate is nominated, it is sufficient for the party committee to state who has paid for the communication. After the nomination, the disclaimer must state that it was paid for by the party committee and authorized by the candidate. 110.11(d)(1) and (2).

Preemption of state law

An authorization notice does not have to comply with state or local disclaimer laws if the communication is made only with respect to federal candidates and elections. 108.7. See for example, AO 1986-11 (Mueller). However, state or local laws governing the placement or location of signs on roads are not superseded by federal law. See AO 1981-27 (Archer).

Clear and conspicuous placement of disclaimer notice

A disclaimer notice must be clearly and conspicuously displayed. A notice is not clearly and conspicuously displayed if the print is difficult to read or if the placement is easily overlooked. 110.11(c)(1).

Special rules for printed communications

In printed communications, the disclaimer must be contained within a printed box set apart from the contents of the communication. The print of the disclaimer must be of sufficient size to be "clearly readable" by the recipient of the communication, and the print must have a reasonable degree of color contrast between the background and the printed statement. 110.11(c)(2). Black text in 12-point font on a white background is one way to satisfy this requirement for printed material measuring no more than 24 inches by 36 inches.

Multiple-paged document

A disclaimer need not appear on the front page or cover of a multiple-paged document, as long as the disclaimer appears within the communication. 110.11(c)(2)(iv).

Package of materials

Each communication that would require a disclaimer if distributed separately must still display the disclaimer when included in a package of materials. 110.11(c)(2)(v). For example, if a campaign poster is mailed with a solicitation for contributions, a separate disclaimer must appear on the solicitation and the poster.

Special rules for television and radio ads

Authorized by candidate's committee – the "stand by your ad" provision

In addition to the requirements noted under "Wording of Disclaimer Notice," radio and television communications (or any broadcast, cable or satellite transmission) that are authorized or paid for by a campaign require additional language. For such ads, the candidate must deliver an audio statement identifying himself or herself and stating that he or she has approved of the communication. For example: "I am [candidate's name], a candidate for [federal office sought], and I approved this advertisement." [5]

In a television ad, the disclaimer must be conveyed by:

- A full-screen view of the candidate making the statement; or
- A voiceover by the candidate with an image of the candidate occupying no less than 80% of the vertical screen height.

110.11(c)(3). See also AO 2007-33 (Club for Growth PAC).

Additionally, television communications must contain a clearly readable written statement of approval, similar to what is spoken, that appears at the end of the communication for a period of at least four seconds with a reasonable degree of color contrast between the background and the disclaimer statement (e.g., black text on white background). The written statement must occupy at least four percent of the vertical picture height. 110.11(c)(3)(iii).

When disclaimer not required

[5] Under the Communications Act, administered by the Federal Communications Commission, candidates must also satisfy other requirements in order to be entitled to the lowest unit charge. See 47 U.S.C. §315(b) and AO 2004-43 (Missouri Broadcasters).

A disclaimer is not required when:

It cannot be conveniently printed (e.g., pens, bumper stickers, campaign pins, campaign buttons and similar small items);

Its display is not practicable (e.g., wearing apparel, water towers and skywriting); or

The item is of minimal value, does not contain a political message and is used for administrative purposes (e.g., checks and receipts). 110.11(f); See also AOs 2010-19 (Google), 2004-10 (Metro Networks) and 2002-09 (Target Wireless).

3. RATES FOR POLITICAL ADVERTISEMENTS

Rates charged by newspapers and magazines for campaign advertising must be comparable to those charged for noncampaign advertisements. 110.11(g). Rates charged for radio and television advertisements are regulated by the Federal Communications Commission. See Appendix G.

4. CAMPAIGN TRAVEL

This section explores rules for travel payments. Generally, campaigns may pay for campaign-related travel as operating expenditures. As explained in Chapter 7, "Sources of Support," an in-kind contribution generally results from the source of payment for the travel unless an exemption for individual travel applies or the campaign pays for its own campaign travel. 100.93. See Chapter 7, Section 4, "Travel cost exemptions," for details on when payments for campaign travel by individuals are considered exempt.

Commercial transportation

If a campaign uses an aircraft that is operated for commercial air service, such as a commercial airline or charter service, or another means of commercial transportation, the campaign must pay the usual and normal charge for that service to avoid receiving an in-kind contribution from the service provider. See 100.52(a) and (d).

Non-commercial air travel

The Honest Leadership and Open Government Act of 2007 (HLOGA) (Pub. L. No. 110-81, 121 Stat. 735) amended the Act to restrict campaign-related travel on non-commercial aircraft. Under HLOGA, candidates for the U.S. House of Representatives, their authorized committees, and their leadership PACs are prohibited from making any expenditure for non-commercial air travel, with an exception for travel on government aircraft and on aircraft owned or leased by the candidate or an immediate family member of the candidate. 52 U.S.C. §30114(c)(2) and (3).[6] HLOGA also specified new reimbursement rates that

[6] The provisions of HLOGA also apply to nonconnected committees sponsored by candidates for the House of Representatives ("leadership PACs").

Senate, Presidential and Vice-Presidential candidates and their authorized committees must pay when making expenditures for flights aboard non-commercial aircraft. Rules governing the use of non-commercial aircraft by "campaign travelers" are described in the next sections.

Commission regulations define the term "campaign traveler" as any individual traveling in connection with an election for federal office on behalf of a candidate or political committee, and candidates who travel on behalf of their own campaigns. The term campaign traveler also includes any member of the news media traveling with a candidate. Candidates are only considered campaign travelers when they are traveling in connection with an election for federal office. This term does not include Members of Congress when they engage in personal travel or any other travel that is not in connection with an election for federal office. 100.93(a)(3)(i).

Presidential, Vice-Presidential and Senate candidate travel

Candidates for President, Vice-President and the Senate pay the pro rata share of the fair market value on non-commercial flights. 100.93(c)(1). The pro rata share is determined by dividing the fair market value of the normal and usual charter fare or rental charge for a comparable aircraft of comparable size by the number of campaign travelers flying on behalf of each candidate on the flight.[7] The pro rata share is calculated based on the number of candidates represented on a flight, regardless of whether the individual candidate is actually present on the flight. A candidate is represented on a flight if a person is traveling on behalf of that candidate or the candidate's authorized committee.

Travel on behalf of leadership PACs of Senate, Presidential and Vice-Presidential candidates

For non-commercial travel on behalf of leadership PACs of Senate, Presidential and Vice-Presidential candidates, the reimbursement for that travel is the responsibility of the committee on whose behalf the travel occurs. The reimbursement rates are as follows:

- The lowest unrestricted and non-discounted first-class airfare in the case of travel between cities served by regularly scheduled first-class commercial airline service;
- The lowest unrestricted and non-discounted coach airfare in the case of travel between a city served by regularly scheduled coach commercial airline service, but not regularly scheduled first-class commercial airline service, and a city served by regularly scheduled coach commercial airline service (with or without first-class commercial airline service); or
- The normal and usual charter fare or rental charge for a comparable commercial aircraft of sufficient size to accommodate all campaign travelers and security personnel, if applicable, in the case of travel to or from a city not served by regularly scheduled commercial airline service 100.93(c)(1).

To avoid the receipt of an in-kind contribution, the committee must reimburse the service provider no later than seven calendar days after the date the flight began. 100.93(c).

Travel on behalf of House candidates and House leadership PACs

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[7] The term "comparable aircraft" means an aircraft of similar make and model as the aircraft that actually makes the trip, with similar amenities as that aircraft. The Commission's regulations interpret HLOGA to include helicopters when determining "comparable aircraft." 100.93(a)(3)(vi). See also Campaign Travel, 74 Fed. Reg. 63953-54 (Dec. 7, 2009), available on FEC.gov.

House candidates, individuals traveling on behalf of House candidates, their authorized committees, or the leadership PACs of House candidates are generally prohibited from engaging in non-commercial campaign travel on aircraft.[8] 100.93(c)(2). This prohibition cannot be avoided by payments to the service provider, even if the payments derive from the personal funds of a House candidate.

Travel on behalf of other committees

The reimbursement rate structure for campaign travelers who are traveling on behalf of political party committees, separate segregated funds (SSFs), nonconnected committees and certain leadership PACs is the same reimbursement rate structure described under the section "Travel on behalf of Leadership PACs of Senate, Presidential and Vice-Presidential Candidates."

Aircraft owned or leased by candidate or immediate family

Expenditures are allowed for travel aboard aircraft that are "owned or leased" by a candidate or a candidate's immediate family, including an aircraft owned or leased by any entity in which the candidate or a member of the candidate's immediate family has an ownership interest provided that 1) the entity is not a public corporation, and 2) the use of the aircraft is not more than the candidate's or immediate family member's proportionate share of ownership allows. 100.93(g). However, if the candidate seeks to avoid receiving an in-kind contribution from the service provider (candidates, members of their immediate family or entities in which either owns an interest) for the candidate's use of the aircraft, the candidate must reimburse the service provider. Although federal candidates may make unlimited contributions to their campaigns, such contributions must be reported by their authorized committees. 110.10. Contributions from all other persons, including family members, are subject to the applicable amount limits and source prohibitions. 110.1.

In instances where the candidate uses the aircraft within the limits of a shared-ownership arrangement, the candidate's committee must reimburse the candidate, the candidate's immediate family member or the administrator of the aircraft for the applicable rate charged to the candidate, immediate family member, or corporation or other entity through which the aircraft is ultimately available to the candidate. Alternatively, the candidate's committee may treat this amount as a personal contribution from the candidate if the candidate is the owner or lessee. House candidates are prohibited from exceeding the candidate's proportional share of ownership interest in the aircraft. For Senate, Presidential and Vice-Presidential candidates, the reimbursement rate would be based upon the pro rata share of the charter rate where the proportional share of the ownership interest is exceeded. 100.93(c)(1).

In instances where a candidate or a candidate's immediate family member wholly owns the aircraft, the candidate's authorized committee must reimburse the pro rata share per campaign traveler of the costs associated with the trip.[9] 100.93(g)(1)(iii).

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[8] This prohibition does not apply when the travel would be considered an expenditure by someone other than the House candidate, the House candidate's authorized committee or the House candidate's leadership PAC (for example, if the House candidate were traveling on behalf of a Senate candidate instead of on behalf of his or her own campaign).

[9] Such costs include, but are not limited to, the cost of fuel and crew and a proportionate share of annual and recurring maintenance costs. 100.93(g)(1)(iii).

Repayment must be made by the candidate's committee in accordance with the normal business practices of the entity administering the shared-ownership or lease agreements.

Other non-commercial transportation

For non-commercial travel via other means, such as limousines and all other automobiles, trains and buses, a political committee must pay the service provider the normal and usual fare or rental charge for a comparable commercial conveyance of sufficient size to accommodate all campaign travelers, including members of the news media traveling with a candidate and security personnel, if applicable. Payment for the travel must be made within 30 days from the receipt of the invoice, but no more than 60 days following the date the travel commenced. 100.93(d).

Government conveyances

Candidates and representatives of political committees may make campaign travel via governmental conveyances, such as government aircraft, subject to specific reimbursement requirements. Candidates, their authorized committees or House candidate leadership PACs must reimburse the federal, state or local government entity providing the aircraft at either of the two following rates:

- "Per candidate campaign traveler" reimbursement rate, which is the normal and usual charter fare or rental charge for a comparable aircraft of sufficient size to accommodate all of the campaign travelers. The pro rata share is calculated by dividing the normal and usual charter fare or rental charge by the number of campaign travelers on the flight that are traveling on behalf of candidates, authorized committees or House candidate leadership PACs, including members of the news media, and security personnel. No portion of the normal and usual charter fare or rental charge may be attributed to any other passengers, except for members of the news media and government-provided security personnel, as provided in 100.93(b)(3). 100.93(e)(1)(i); or
- "Private traveler reimbursement rate," as specified by the governmental entity providing the aircraft, per campaign traveler. 100.93(e)(1)(ii).

For campaign travelers who are traveling on government aircraft, but are not traveling with or on behalf of a candidate or candidate's committee, the reimbursement must be equal either to the lowest unrestricted and non-discounted first-class commercial airline service that is geographically closest to the military airbase or other location actually used, or, for all other travel, the applicable rate from among the rates specified in 100.93(c)(3). 100.93(e)(2).

Members of the news media who are traveling with a candidate on government aircraft and security personnel not provided by a government entity must be included in the number of campaign travelers for the purposes for identifying a comparable aircraft of sufficient size to accommodate all campaign travelers.

A political committee must reimburse the governmental entity providing the conveyance within the time frame specified by the governmental entity. 100.93(e)(1).

Reporting and recording travel costs

Payments for campaign-related travel are generally reported as operating expenditures when they are paid with campaign funds or by an individual from personal funds. 106.3(a) and (b)(1). Special rules apply,

however, when the candidate or another individual uses his or her personal funds to pay for travel expenses and is later reimbursed. See Chapter 13 for more information.

The campaign must keep in its records an itinerary showing the departure and arrival cities and the dates of departure and arrival; a list of all passengers on such trip, along with a list of which passengers are and are not campaign travelers or security personnel; and the commercial fare or rental charge available for a comparable conveyance of sufficient size. 100.93(j).

Mixed travel

When a candidate makes a trip involving both campaign and noncampaign stops, only the travel costs related to the campaign are expenditures. If, however, a candidate conducts any campaign activity at a given stop, that stop is considered campaign related, unless the campaign activity is merely incidental. In no case, however, may campaign funds be used for non-travel expenses that are not related to official or campaign-related activity. See AO 2002-05 (Hutchinson).

EXAMPLE

If a candidate makes a noncampaign speech at a civic association luncheon and, on the way out, chats with a few attendees about his campaign in response to their questions, the conversation does not convert the appearance into a campaign-related event. On the other hand, if a candidate flew into a city for a trip that involved both personal vacation days and days spent campaigning, an incremental approach to paying for the trip would be required, to avoid the campaign paying the lodging, subsistence and sightseeing expenses on the vacation days—an expense that would be considered an impermissible personal use of campaign funds. Because of the non-incidental nature of the campaign days, the airfare would be considered a campaign-related expense.

Expenditures for campaign-related stops are calculated on an actual cost-per-mile basis, starting at the point of origin of the trip, including each campaign-related stop, and ending at the point of origin. 106.3(b)(2) and (3).

As explained in Chapter 8, campaign funds may be used for mixed use travel; however, the committee must be reimbursed within 30 days for the entire amount associated with the personal activities (the amount over and above what the cost would have been had the trip/vehicle use been solely for campaign/officeholder-related purposes). 113.1(g)(1)(ii)(C). Individuals other than candidates must allocate their mixed campaign and noncampaign travel expenses on a reasonable basis. 106.3(c)(1).

EXAMPLE

A candidate travels by plane from Philadelphia to Las Vegas for a campaign speech. While in Nevada, the candidate travels by plane from Las Vegas to Reno for a personal trip. The candidate then flies back to Philadelphia from Reno. To determine the candidate’s campaign-related travel expenses, the committee must create a fictional itinerary from Philadelphia to Las Vegas and back. Thus the campaign would derive the cost-per-mile of campaign travel from the commercial rate for a round-trip flight from Philadelphia to Las Vegas, and the candidate must reimburse the committee for

the difference in costs between the fictional trip and the actual trip. See the Explanation and Justification for 113.1 at 60 FR 7869 (February 9, 1995).

On February 6, 2002, the Commission adopted an interpretive rule to clarify that the travel allocation and reporting requirements of 11 CFR 106.3(b) do not apply to the extent that a candidate[10] pays for certain travel expenses using funds authorized and appropriated by the federal government. 67 FR 5445 (February 6, 2002). Candidates should consult with the House Committee on Ethics or the Senate Select Committee on Ethics regarding the use of appropriated funds for travel expenses.

Travel to and from Washington, DC

Costs for travel between Washington, DC, and the state or congressional district in which an individual is a candidate are not reportable unless paid for by the campaign (or another political committee) in connection with campaign-related travel. 106.3(d). Consult the House and Senate rules for further guidance; see Appendix G.

[10] This interpretive rule does not apply to Presidential or Vice-Presidential campaigns that are covered by the Presidential Campaign Fund Act. 26 U.S.C. §9001 et seq.

CHAPTER 11

KEEPING RECORDS

In order to comply fully with the reporting requirements of the Federal Election Campaign Act (the Act), a committee must keep detailed records. The recordkeeping requirements for a committee's receipts and disbursements are explained in this chapter.

1. RECORD RETENTION

Treasurers of authorized committees (and other political committees) are responsible for keeping copies of each statement and report, together with original back-up records, for three years after the report or statement is filed. 102.9(c); 104.14(b)(2) and (3).

2. RECORDING RECEIPTS

With respect to receipts, the Act requires that records be kept for contributions and disbursements. 52 U.S.C. §30102(c)-(d). The treasurer of a political committee shall keep these records and copies of all reports filed for three years after the report is filed. 52 U.S.C. §30102(d).

Total contributions

Records must show figures for total contributions received using any acceptable accounting method. 102.9(a).

Identifying contributors

Contributions of $50 or less

In advisory opinions, the Commission has recommended two possible accounting methods that satisfy recordkeeping requirements for contributions of $50 or less:

- Keep the same information required for identifying contributions that exceed $50 (amount, date of receipt and contributor's name and mailing address); or
- In the case of small contributions collected at a fundraiser (such as gate receipts, cash contributions), keep records of the name of the event as well as the date and the total amount of contributions received on each day of the event. AOs 1981-48 (Muskegon County Republican Party) and 1980-99 (Republican Round-Up Committee).

These amounts are reported under the category "unitemized contributions from individuals." See Chapter 13.

Contributions exceeding $50

Records must identify each contribution of more than $50 by:

Amount;
Date of receipt; and
Contributor's name and mailing address.

102.9(a)(1).

Furthermore, political committees must maintain either a full-size photocopy or digital image of each check or written instrument by which a contribution of more than $50 is made. 102.9(a)(4).

Contributions aggregating over $200

For each contribution that exceeds $200, either by itself or when added to the contributor's previous contributions made during the same calendar year, records must identify that contribution by:

Amount;
Date of receipt; and
Contributor's full name and mailing address, occupation and employer.

If a person has already contributed an aggregate amount of over $200 during a calendar year, each subsequent contribution, regardless of amount, must be identified in the same way. 102.9(a)(2).

Contributions to authorized committees are aggregated on a calendar-year basis for recordkeeping purposes, but are aggregated on a per election basis for purposes of monitoring contribution limits, and on an election-cycle basis for reporting purposes. See 102.9(a)(2), 104.3(a)(4), 110.1(b) and 110.2(b) and Chapter 4 of this guide.

Contributions by text message

Recipient committees are solely responsible for ensuring that contributions sent by text messages are lawful under the Act and Commission regulations. Committees should work with the text messaging application provider or connection aggregator to collect the name, address, occupation and employer of individuals making contributions that aggregate over $200 in a calendar year, and must return or refund any contribution that comes from a prohibited source. For more information on contributions by text, see AOs 2012-17 (Red Blue T LLC, ArmourMedia, Inc., and m-Qube, Inc.), 2012-26 (Cooper for Congress, ArmourMedia, Inc., and m-Qube, Inc.), 2012-28 (CTIA), and 2012-30 (Revolution Messaging, LLC).

Designated, redesignated and reattributed contributions

A committee must retain the written copies of contributors' designations, redesignations and reattributions. 102.9(f). Also, for any contributions presumptively redesignated or reattributed, the committee must retain any writings from contributors that accompany the contribution and any notices sent from the committee to the contributor. 110.1(l)(4)(ii). Records of redesignations obtained electronically may be retained in a database in a manner consistent with the recordkeeping requirements for signed written redesignations under 110.1(l).[1]

[1] For more information about electronic redesignations, see the FEC's Interpretive Rule on Electronic Redesignations (76 FR 16233 (March 23, 2011)) atFEC.gov.

Contributions from political committees

Records must identify each contribution from a political committee, regardless of amount, by:

Amount;

Date of receipt; and

Name and address of the political committee. 102.9(a)(3).

Possibly illegal contributions

As noted in earlier chapters, when a committee has reason to question the legality of a contribution, it has specific time frames in which to clarify whether the contribution is permissible. While investigating a contribution, the committee must keep a written record noting the basis of concern for each deposited contribution which:

Requires a written redesignation and/or reattribution from the contributor (see Chapter 4). (For presumptive redesignations and reattributions, see "Designated, Redesignated and Reattributed Contributions."); or

Requires confirmation that it is not from a prohibited source (see Chapter 5).

103.3(b)(1) and (5).

See Chapter 5, Section 2, "Questionable Contributions," for more information on the committee's responsibility to determine the legality of possibly illegal contributions.

Acceptable accounting method

If a committee receives contributions designated for use in the general election, prior to the primary election, then the committee must use an acceptable accounting method to distinguish between contributions received for the primary election and contributions received for the general election. Acceptable accounting methods include designating separate accounts for each election, or establishing separate books and records for each election. 102.9(e)(1).

The committee's records must demonstrate that, prior to the primary election, recorded cash on hand was at all times greater than or equal to the sum of general election contributions received minus the sum of general election disbursements made. 102.9(e)(2).

Date of receipt

General rule

A contribution's date of receipt is the date on which the person receiving the contribution on behalf of the committee obtains possession of it. 102.8(a). This is the date used for recordkeeping and reporting.[2]

The date of receipt may be earlier than the date the committee treasurer receives the money, since a person collecting contributions (other than an authorized agent) has 10 days (or 30 days for contributions of $50 or less) in which to forward them to the treasurer. 102.8(a).

Contributions charged on credit cards

When the committee receives contributions through credit card charges, the date of receipt is the date on which the committee receives the contributor's signed authorization to charge the contribution. The

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[2] Compare with the date contribution is made, which is the date a contributor relinquishes control over a contribution 110.1(b)(6). This date determines the election limit against which an undesignated contribution counts. See Chapter 4, Section 5.

treasurer should retain a copy of the authorization form in the committee's records. See AOs 1995-09 (NewtWatch) and 1990-04 (American Veterinary Medical Association).

Contributions sent by text message

The date of receipt for contributions sent by text message is the date the contributor "opts-in," or confirms that he or she intends to make the contribution, and certifies his or her eligibility. AO 2012-17 (Red Blue T LLC, ArmourMedia, Inc., and m-Qube, Inc.).

In-kind contributions

The date of receipt for an in-kind contribution is the date the goods or services are provided to the committee, even if the contributor pays the bill for the goods or services after they are provided. See 110.1(b)(6).

(For information on how to determine the value of an in-kind contribution, see Chapter 3, Section 2.)

Deposit of receipts

Once the treasurer (or authorized agent) receives a contribution or other receipt, he or she must deposit it within 10 days. Contributions not deposited within 10 days must be returned to their donors. 103.3(a)

3. RECORDING DISBURSEMENTS

Check and cash disbursements

Disbursements must be made by check or similar draft drawn on an account maintained at the committee's designated depository. 102.10 and 103.3(a); See also AOs 1993-04 (Cox) and 1982-25 (Sigmund).

However, the committee may maintain a petty cash fund for small disbursements. A written record of petty cash disbursements must be kept if a petty cash fund is maintained. Payments from petty cash to one person for any one purchase or transaction may not exceed $100. 102.11.

Regardless of whether a disbursement is made by check or from a petty cash fund, the required recordkeeping information must be maintained.

Recording disbursements

All disbursements

The committee must keep a record of each disbursement, including:

Amount;
Date;
Name and address of payee;[3] and

[3] Except in the case of travel advances of $500 or less, the payee is the person providing the goods or services to the committee. In the case of such travel advances, the payee is the person receiving the advance. 102.9(b)(2)(i)(A) and AO 1984-08 (Duncan).

Purpose, a brief but specific description of why the disbursement was made, such as "dinner expense" or "postage."[4]

102.9(b)(1).

Disbursements exceeding $200

For each single disbursement that exceeds $200, the committee must keep a receipt, invoice or canceled check (in addition to the previous information). 102.9(b)(2).

Advances for travel and subsistence

When a committee advances $500 or less to the candidate, staff members or volunteers for travel expenses—including transportation, food and lodging—the committee must retain:

The expense voucher or other expense account documentation; and

The canceled check made out to the individual receiving the payment.

102.9(b)(2)(i)(B).

When a committee advances more than $500 for travel and subsistence expenses, the committee must obtain and retain:

A receipt (or invoice) from the person providing goods or services in excess of $200 per transaction to the person requesting the advance;

A cancelled check from the person requesting the advance showing payment to the person providing goods or service; or

A monthly credit card billing statement or customer receipt from the person requesting the advance, and that person's cancelled check showing payment of such bill.

AO 1984-08 (Duncan).

Credit card transactions

For credit card transactions, the committee must retain:

A monthly billing statement; or

The customer receipt for each transaction; and

The canceled check used to pay the credit card account.

102.9(b)(2)(ii).

Credit union checks or share drafts

Carbon copies of share drafts or checks drawn on credit union accounts may be used as records, provided the monthly account statement (showing that the draft or check was paid by the credit union) is also retained. 102.9(b)(2)(iii).

Best efforts to document disbursements

[4] A list of acceptable/unacceptable descriptions of "purpose" was published in a Policy Statement at 75 FR 887 (January 9, 2007). This notice and an updated list of unacceptable "purpose" statements are available on FEC.gov.

If a treasurer fails to receive a receipt, invoice or canceled check (required for disbursements exceeding $200), he or she can demonstrate his or her best efforts to obtain the information by making at least one written effort per transaction to obtain a duplicate copy of the needed documentation. 102.9(d).

4. RECORDING DEBTS AND LOANS

Although the Act does not contain specific recordkeeping requirements for debts and loans owed by (or to) the campaign, committees are required to keep detailed records of transactions required to be disclosed on the committee's FEC reports. See 104.14(b).

5. TREASURER'S BEST EFFORTS

Committees and their treasurers must make best efforts to obtain and maintain (and ultimately report) the information required by law with respect to itemized receipts and disbursements. When reporting information is incomplete, the committee and the treasurer will be in compliance with the law if they can demonstrate that they used "best efforts" in trying to obtain, maintain and report the needed information. 102.9(d) and 104.7(a). The criteria for making "best efforts" vary, depending on the type of transaction.

Contributor information

If an individual who has contributed more than $200 during the election cycle fails to provide the required recordkeeping information (i.e., name, mailing address, occupation and employer), the committee must be able to show that it made "best efforts" to obtain, maintain and report that information. To demonstrate "best efforts," the committee must be able to show that it requested the information—first, in the solicitation materials that prompted the contribution and, second, if the information is not obtained, in a follow-up request. 104.7(b)(1) and (2). Furthermore, if the requested information is not received until after the contribution has been reported, the committee must report the information using one of the procedures described under "File Amendments if Necessary." 104.7(b)(4).

Solicitation materials[5]

To satisfy the "best efforts" standard, the solicitation must include a statement explaining that the campaign is required to use its best efforts to obtain and report certain information from the contributor. This statement is referred to as the "best efforts" notification. Examples include:

[5] Any contribution which is reported by a committee with all required contributor information will meet the reporting requirements, whether or not the committee asked for the information or used the language specified under "Solicitation Materials." See the Explanation and Justification published with the final rule, 58 Fed. Reg. 57725, 57727 (October 27, 1993) on FEC.gov.

"Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose contributions exceed $200 in an election cycle;" or

"To comply with Federal law, we must use our best efforts to obtain, maintain and submit the name, mailing address, occupation and name of employer of individuals whose contributions exceed $200 per election cycle."

104.7(b)(1)(i)(B).

The request for the information and the best efforts notification must be clear and conspicuous. If the solicitations include response materials, the best efforts notice and the request for the contributor information must be placed on these materials. The notice will not be considered to be "clear and conspicuous" if:

The notification is printed in smaller type than the solicitation and response materials;

The printing is difficult to read; or

The notification is placed where it can be easily overlooked. 104.7(b)(1)(ii).

Follow-up request within 30 Days

If the contributor does not provide sufficient reporting information when making a contribution, the committee must make at least one request for the information after the contribution is received. This follow-up request must be made for any contribution that exceeds the $200 threshold and lacks the necessary information. See "Contributions Aggregating over $200" in Section 2 of this chapter.

The request must be made within 30 days of receipt of the contribution; it may not include an additional solicitation or material on any other subject, but it may thank the contributor. The follow-up request may be made orally or in writing, but a written request must be accompanied by a pre-addressed postcard or envelope for the response. Oral requests must be documented in a memorandum. 104.7(b)(2). A political committee may also use e-mail to request missing contributor information. AOs 1999-17 (Bush Exploratory Committee) and 1995-09 (NewtWatch). Committees must retain records of follow-up requests. 102.9(d).

Use of information from prior records

If the contributor does not respond to the follow-up request, but the committee possesses the information in its contributor records, fundraising records or prior reports filed during the same two-year election cycle, then the committee must use that information when disclosing the contribution. 104.7(b)(3).

File amendments if necessary

If requested information about a contribution is received after the contribution has been disclosed on a report, the committee must either:

File a Schedule A with its next regularly scheduled report, containing memo entries listing all contributions for which new contributor information has been received; or

File amendments to the original reports.

In either case, the entries must cross-reference the prior reports to which they relate. However, the committee is only required to submit the information for contributions received during the current two-year election cycle. 104.7(b)(4)(ii). See Chapter 13, Section 29, "Filing Amendments," for instructions on filing amendments.

CHAPTER 12

FILING REPORTS

1. WHO REPORTS

Principal campaign committee

The principal campaign committee must file periodic reports on financial activity until the committee has retired any debts,[1] filed a termination report and received notification from the FEC that the committee's termination report has been accepted. 102.3(b) and 104.1(a). See Chapter 14, Section 1.

Treasurer's duties

A committee treasurer is responsible for signing and filing timely, complete and accurate reports and statements. 104.14(d). See Chapter 2, Section 3 for a complete summary of the treasurer's duties. Treasurers are considered in compliance with the Federal Election Campaign Act (the Act) when they have made their "best efforts" to obtain, maintain and report required information. If a treasurer is unable to obtain information after making his or her best efforts, that fact should be noted on the report where the information is incomplete. See Section 3, "When to Report," later in this chapter and Section 5, "Treasurer's Best Efforts," in Chapter 11.

When filing electronically, a committee treasurer must verify that all electronically filed documents have been examined by the treasurer and are accurate and complete to the best of that person's knowledge. In order to verify electronically filed documents, the treasurer must either:

- Obtain a personal password (which serves as the treasurer's electronic signature) from the FEC (available through the electronic filing office at 202/694-1307 or online at FEC.gov); or
- File on a compact disc (CD) and include, as a separate file, a digitized copy of a signed certification, or a signed certification on paper along with the CD. (For specific instructions on how to file electronically using a CD, see the Electronic Filing section of the FEC website,

104.18(g).

For more information on electronic filing, see Section 5 in this chapter.

Other authorized committees

[1] Neither the committee seeking to terminate nor any other authorized committee of the same candidate may have any outstanding debts or obligations. 102.3(b).

Only principal campaign committees file reports and statements with the Federal Election Commission. Other authorized committees of the candidate file along with the principal campaign committee, as explained in Section 2. Joint fundraising committees must file reports according to special rules. See Appendix C.

Candidate does not report campaign activity

Apart from filing a Statement of Candidacy (FEC Form 2), a candidate has no personal reporting obligation under the Act. If a candidate receives contributions, obtains loans for campaign activity or makes disbursements, he or she is acting as a campaign agent. The transactions are reported by the principal campaign committee. 101.2 and 102.7(d).

Candidate must file personal financial reports

Under the Ethics in Government Act, candidates for federal office must file personal financial reports. See 5 U.S.C. App. 4 §§ 101-111. House candidates file such reports with the Clerk of the House of Representatives and Senate candidates file those reports with the Secretary of the Senate. Candidates for President and Vice President (except the incumbent President and Vice President) file their personal financial disclosure forms with the FEC, and the Commission is the agency responsible for public disclosure of those forms. However, detailed review and approval of those forms is the responsibility of the Office of Government Ethics. See Appendix G.

2. WHERE TO FILE REPORTS

Filing with the Federal Election Commission

Principal campaign committees of House, Senate and Presidential candidates file reports and statements with the Federal Election Commission, 1050 First Street, NE, Washington, DC 20463. 52 U.S.C. 30102(g); 105.1

Committees may also be required to file reports and statements with the filing office of the state in which the committee has headquarters, unless that state received a waiver from the requirement to maintain copies of FEC statements and reports. 108.1. As of 2021, all 50 states, American Samoa and the U.S. Virgin Islands have been granted waivers from the Commission.[2]

Filing with the principal campaign committee

[2] Copies of reports for House and Senate candidates running for federal office in Guam, Northern Mariana Islands or Puerto Rico must be filed with the appropriate office in those territories. Presidential committees must file a copy of each report in Guam, Northern Mariana Islands or Puerto Rico if the campaign makes an expenditure in those territories during the reporting period. 108.1 and 108.2.

Authorized committees of a campaign other than the principal campaign committee submit their reports and statements to the principal campaign committee. The principal campaign committee, in turn, files these reports and statements, along with its own, with the appropriate federal and state offices. When filing reports of receipts and disbursements (FEC Form 3), the principal campaign committee must also file a consolidated report (FEC Form 3Z), which summarizes information included in its own report and those filed by other authorized committees. See 102.1(b) and 104.3(f). Note that only authorized committees of the current campaign need to be included in the consolidated report.

3. WHEN TO REPORT

This section summarizes filing requirements applicable to all authorized committees of House and Senate campaigns. Presidential committees file reports according to a different schedule than the one presented in this section. See 104.5(b). The FEC sends more detailed reporting information to treasurers by e-mail shortly before reports are due. (For this reason, it is especially important to list a current e-mail address on the committee's FEC Form 1.) Additionally, the FEC Record, the FEC's online newsletter, publishes reporting announcements, as does the FEC's "Dates and Deadlines" website.

Committee treasurers must file reports on time as the Commission does not have legal authority to grant extensions. Also, authorized campaign committees must continue to file quarterly reports even if their candidate is no longer active (for example, if the candidate retires, withdraws, loses the primary or otherwise drops out of the race before the general election). Generally, committees must continue to file reports until the committee completes the termination process (see Chapter 14).

Quarterly reports

Once an individual has become a candidate, his or her principal campaign committee (and other authorized committees) must file quarterly reports. 104.5(a). Quarterly reports cover activity through the end of the calendar quarter and are due on April 15, July 15 and October 15. The fourth quarterly report—called the year-end report—is due on January 31 of the following year. The Commission may waive a quarterly report if a pre-election report is due during the period beginning on the 5th day and ending on the 15th day after the close of the calendar quarter. 104.5(a)(1)(iii). (See next section for information on additional election year reporting.)

Election year reporting

Election years are years in which regularly scheduled federal elections are held (even-numbered years).

Pre-election reports

In addition to quarterly reports, a committee must file pre-election reports:

- A pre-primary report must be filed before the election in which the candidate seeks nomination.
- A pre-general report must be filed if the candidate runs in the general election.
- A pre-runoff report must be filed when a candidate is involved in a runoff election. (Note: this may be either a primary or a general election.)

A pre-election report is due 12 days before the election and covers activity through the 20th day before the election. If sent by registered or certified mail, priority mail with a delivery confirmation, express mail with a delivery confirmation, or overnight delivery service with an online tracking system, the report must be postmarked no later than the 15th day before the election. [3] 104.5(a)(2)(i).

Authorized committees must file appropriate pre- and post-election reports even if the candidate is unopposed or if the election is not held. AO 1986-21 (Owens).

Post-general election reports

There is no requirement for post-primary reports, but a committee must file a post-general report if the candidate runs in the general election. A post-general election report covers activity through the 20th day after the election and is due 30 days after the election. 104.5(a)(2)(ii). Committees filing the post-general report must include the Post-Election Detailed Summary Page. See Chapter 13, Section 27, for more information. (Committees of campaigns not running in the general election include this form with the year-end report following the election.)

Last-minute contributions (48-hour notice)

Campaign committees must file special notices regarding contributions of $1,000 or more received less than 20 days but more than 48 hours before 12:01 a.m. of the day of any election in which the candidate is running. 104.5(f). (These are called "48-hour notices.") This rule applies to all types of contributions to any authorized committee of the candidate, including:

Contributions from the candidate;
Loans from the candidate and other non-bank sources; and
Endorsements or guarantees of loans from banks. See Chapter 3, Section 2.

Visit FEC.gov for a list of 48-hour notice periods.

Committees filing electronically must file their 48-hour notices electronically. See Section 5, "Electronic Filing." Paper-filing committees may file their 48-hour notices using FEC Form 6. Alternatively, a paper-filing committee may file online using the FEC's web-based forms, or may use its own paper or stationery for the notice, provided that it contains the following information:

The candidate's name and the office sought;
The identification of the contributor; and
The amount and date of receipt of the contribution.

Committees filing paper forms may fax the notice to 202/219-0174. The committee should keep fax receipts of all transmissions.

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[3] In several instances, the Commission has been asked to determine a state's primary date for purposes of the Act. In those states in which a party caucus or convention has authority to select a nominee (Virginia) or has authority to select a nominee and is held in addition to a primary (Connecticut and Utah), pre-election reports must be filed for the caucus or convention. See AOs 2004-20 (Farrell), 1992-25 (Owens), 2000-29 (Louisiana Congressional Delegation) and "Party Caucus or Convention" in Chapter 4. See also, the Commission's Interpretive Rule on the Date of Political Party Nominations of Candidates for Special Primary Elections in New York, and *FEC v. Citizens for Senator Wofford*, No. 1: CV-94-2057, slip op.at 8-10 (M.D. Pa. Sept. 27, 1995) (holding that state party convention constituted a "primary election" under the Act and Commission regulations even though state law required the party to file a subsequent certificate of nomination with the state.)

The FEC must receive the notice within 48 hours of the committee's receipt of the contribution. The committee must itemize all last-minute contributions in the committee's next scheduled report. 52 U.S.C. §30102(g); 104.5(f). See reporting example in Chapter 13, Section 15.

For information on when to report last-minute contributions received as part of a joint fundraising transfer, see Appendix C, Section 13.

Special elections

Filing dates for special elections are published on the FEC's website, in the FEC Record and in the Federal Register. The Commission also notifies the principal campaign committees of candidates who are on the ballot in a special election. If a regularly scheduled report is due within 10 days of the date a special election report is due, the Commission may waive the regular report. 104.5(h).

Nonelection year reporting

Nonelection years are years in which there is no regularly scheduled federal election (odd-numbered years). Authorized campaign committees must continue to file quarterly reports, even during nonelection years. See "Quarterly reports," above.

Meeting the filing deadline

By registered mail, certified mail, priority mail with delivery confirmation, express mail with delivery confirmation or overnight delivery

If a statement or report is sent by registered mail, certified mail or overnight mail with an online tracking system,[4] it is considered filed on the date of the U.S. postmark. (Note the special rule for pre-election reports, above.) 100.19. The committee should retain evidence that it delivered the report to the U.S. Postal Service or the overnight delivery service, in the event of a delivery failure.

By first class mail

If a statement or report is sent by first class mail, it is considered filed on the date it is received by the FEC. 52 U.S.C. §30102(g); 100.19(b)(2) and 104.5(e). The risk of timely delivery is on the filer.

By electronic filing

An electronic report is considered "filed" when it is received and validated by the Commission's computer system on or before 11:59 p.m. (Eastern Time) on the filing date. Incomplete or inaccurate reports that do not pass the FEC's validation program will not be considered filed. The Commission will notify the filer that the report has not been accepted. 100.19(c) and 104.18(e)(2).

By CD

While most electronic filers find it more convenient to file through the internet, the Commission also accepts properly formatted electronic reports on CDs either hand delivered or sent by other delivery means, such as the U.S. Postal Service. It is important to note that all mail sent to the FEC through the

[4] Overnight mail is often used to refer to priority mail having a delivery confirmation, express mail having a delivery confirmation, or an overnight delivery service with an online tracking system.

U.S. Postal Service undergoes special processing which might damage the information on a CD. For specific instructions on how to file electronically using a CD, see the Electronic Filing section of the FEC website.

Mandatory electronic filing

Some committees must file electronically (See Section 5, "Electronic Filing"). If a committee required to file electronically files a paper report instead of an electronic report, the report will be considered not filed. The committee may be subject to the Commission's enforcement process for nonfilers and may have its name published as a nonfiler. See 104.18(a)(2).

4. ADMINISTRATIVE FINES FOR LATE FILERS AND NONFILERS

The Administrative Fine Program, which is based on amendments to the Federal Election Campaign Act,[5] assesses civil money penalties for violations involving:

- Failure to file reports on time;
- Failure to file reports at all;
- Failure to file 48-hour notices.

If the Commission finds "reason to believe" (RTB) that a committee violated the law, the Commission will notify the committee in writing of its finding and the amount of the civil money penalty. 111.32. The committee will have 40 days to either pay the civil money penalty or submit a written challenge to the Commission action. If the committee challenges the finding, it will be reviewed by an independent reviewing officer who was not involved in the RTB finding. After the Commission considers the reviewing officer's recommendation and the committee's response, if any, the Commission will determine whether the committee violated 52 U.S.C. §30104(a) and, if so, will assess a civil money penalty based on the schedules of penalties. The committee will then have 30 days to pay the penalty or seek court review of the case.[6] See 111.34 and 111.35.

Respondents must demonstrate one of the following situations in their challenge:

- The RTB filing is based on factual errors;
- The RTB civil money penalty is improperly calculated; or
- They could not file due to reasonably unforeseen circumstances beyond their control, and they filed the late report within 24 hours after those circumstances ended (also called the "best efforts" defense).

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[5] Pub. L. No. 106-58, 106th Cong., § 640, 113 Stat. 430, 476-77 (1999); Commission authority extended in Pub. L. No. 106-67, 107th Cong., § 642, 115 Stat. 514, 555 (2001); in Pub. L. No. 108-199, 108th Cong., § 639, 118 Stat 3 (2004); in Pub. L. No. 109-115, § 721, 119 Stat. 2396, 2493-2494 (2006); in Pub. L. No. 113-72, § 721, 119 Stat. 2396, 2493-2494 (2013); and in Pub. L. No. 115-386, §1(a), 132 Stat. 5161 (2018).

[6] For more information on the Administrative Fine Program, see 11 CFR 111.30 to 111.46 and the Commission's website at FEC.gov.

Excuses involving negligence, illness, inexperience, unavailability of committee staff or treasurer, failure to know filing dates, failure to use Commission software properly, delays caused by vendors or failure of the committee's computers, software or internet service provider do not qualify for the "best efforts" defense. 111.35(c) and (d).

5. ELECTRONIC FILING

Campaign committees of House, Senate and Presidential candidates must file all reports and statements electronically if their total contributions or total expenditures exceed, or are expected to exceed, $50,000 in a calendar year. 104.18(a).[7]

Committees that are required to file electronically, but that file on paper or fail to file, may be subject to enforcement action as nonfilers. 104.18(a)(2). See the previous section, "Administrative Fines for Late Filers and Nonfilers."

Because electronic filing is more efficient and cost effective than paper filing, the FEC encourages campaign committees that do not meet the $50,000 threshold requirement to voluntarily file their reports electronically. Note, however, that voluntary electronic filers must continue to file electronically for the remainder of the calendar year unless the Commission determines that extraordinary and unforeseeable circumstances make continued electronic filing impractical. 104.18(b).

Methods of electronic filing

Most committees filing electronically find it convenient to do so via an internet connection with a password. Committees may, however, submit their electronic reports on CDs, either hand delivered or sent by other means such as the U.S. Postal Service. Electronic filers must file all their reports, notices, designations and statements electronically, and the reports must adhere to the FEC's electronic filing specifications requirements.[8] 104.18(d).

Calculating the threshold

Committees should use the following formulas to determine whether their total expenditures or total contributions are over $50,000 per calendar year:

Total Contributions Received[9]
- Refunds of Contributions

[7] As of September 21, 2018, Senate candidates are subject to the FEC's electronic filing requirements if they meet the electronic filing threshold.

[8] The FEC offers a free Windows-based software system that committees can use for electronic filing. To download the FECFile software, visit FEC.gov.

[9] Including the outstanding balance of any loans made, guaranteed or endorsed by the candidate or other person.

= Total Contributions

or

Total Operating Expenditures
+ Contributions Made
= Total Expenditures

Have reason to expect to exceed the threshold

Once committees actually exceed the $50,000 yearly threshold they have "reason to expect to exceed" the threshold in the following two calendar years. 104.18(a)(3)(i). Consequently, committees must continue to file electronically for the next two calendar years (January through December).

Exception

A campaign committee that met or exceeded the $50,000 threshold and began filing electronically is not required to file electronically for the following two calendar years if it meets all three of the following requirements:

- Has $50,000 or less in net debts outstanding on January 1 of the year following an election;
- Anticipates terminating prior to the next election year; and
- Supports a candidate who has not qualified for the next election and does not intend to become a candidate in the next election.

104.18(a)(3)(i).

Note that such committees must finish filing electronically for the calendar year in which they exceeded the threshold.

Committees with no history

New committees with no history of campaign finance activity on which to base their expectations have reason to expect to exceed the $50,000 yearly threshold if:

- The committee receives contributions or makes expenditures that exceed one-quarter of the threshold amount in the first calendar quarter of the calendar year (i.e., exceeds $12,500 by the end of March); or
- The committee receives contributions or makes expenditures that exceed one-half of the threshold amount in the first half of the calendar year (i.e., exceeds $25,000 by the end of June).

104.18(a)(3)(ii).

Verification requirements

The political committee's treasurer must verify the electronically filed reports by submitting either:

- A signed, written certification along with the CD; or
- A digitized copy of the signed certification as a separate file in an electronic (i.e., not transmitted by CD) submission.

The signed verification must certify that the treasurer or assistant treasurer has examined the submitted report, and that, to the best of his or her knowledge, the report is true, correct and complete. 104.18(g).

Obtaining a password

Requesting a password

Only the committee's treasurer or assistant treasurer of record (as listed on the committee's Statement of Organization) can obtain an electronic filing password. Committees may obtain or change their password online at FEC.gov.

An entity or person(s) other than a political committee can obtain an electronic filing password by emailing a password request letter to the Electronic Filing Office. For more information and further instructions, visit FEC.gov.

Lost or forgotten password

If a treasurer loses or forgets the electronic filing password, the treasurer must request a new password.

New treasurers and new e-filers

In some cases, a committee may have a new treasurer who has been neither assigned a password nor has a signature on file and, due to the requirement that all filing information be submitted electronically, cannot amend the Statement of Organization to indicate the change of position. Under these circumstances, the new treasurer must submit a password request letter which contains the sentence "I represent that I am the duly appointed treasurer and have authority as such to sign FEC reports for the above committee." Once a password is received, an amended Form 1 must be filed to indicate the change of position.

Special requirements

The following documents have special signature and submission requirements:

Schedule C1 (Loans and Line of Credit), including copies of loan agreements; and
Form 8 (Debt Settlement Plan).

These two forms, in addition to being included in the electronic report, must be submitted on paper or in a digitized format (submitted as a separate file in the electronic report). 104.18(h).

6. PUBLIC INSPECTION OF REPORTS

All reports filed by political committees are available for public inspection and copying (for a minimal fee) in the FEC's Public Records Office. They are also available on the Commission's website.

Copies of reports may also be purchased by mail. For more information, call 800/424-9530 (press 2 when prompted) or 202/694-1120.

"Sale or use" restriction

The Act prohibits anyone from selling or using the names and addresses of individual contributors, copied from FEC reports, for commercial purposes or for the purpose of soliciting funds. This "sale or use" restriction, however, does not apply to the names and addresses of political committees that are listed in FEC reports. 52 U.S.C. §30111(a)(4); 104.15; see also AO 2003-24 (NCTFK).

"Salting" reports to detect misuse

When preparing a report to be filed, a committee may “salt” the report with up to 10 fictitious names in order to detect impermissible uses of individual contributor information by other organizations. 104.3(e).

Salting can be done by taking a portion of the subtotal for unitemized contributions and allocating it, as itemized contributions, among several fictitious contributors. The committee itemizes each fictitious contribution on a Schedule A, providing a real address (such as the address of a campaign staff member) for each fictitious contributor. The committee must adjust its subtotals for itemized and unitemized contributions accordingly on the Detailed Summary Page. If a solicitation or commercial mailing is sent to one of the fictitious names, the committee will know that someone has illegally used the names of contributors disclosed on its reports. The committee may then file a complaint with the FEC.

When a committee files a report containing fictitious names, a list of the fictitious names should be sent under separate cover directly to the FEC’s Reports Analysis Division. The list will be kept confidential.

Sale or use of committee’s contributor list

The sale or use restriction does not prevent a committee from compiling its own list of contributors and distributing it to others. Under certain conditions, a committee may donate, sell, trade or rent its own contributor list to other committees and organizations. AOs 2002-14 (Libertarian National Committee), 1982-41 (Dellums) and 1981-53 (Frazier).

CHAPTER 13

COMPLETING FEC REPORTS

1. REPORTING FORMS AND FORMATS

FEC reports are filed either electronically or on paper, as explained in the previous chapter. This section explains each format's requirements. All FEC forms (including schedules and instructions) are available on the FEC's website.

Form 3

FEC Form 3 (or an electronic version) must be used by principal campaign committees and other authorized committees of candidates for the U.S. House of Representatives and U.S. Senate to disclose receipts and disbursements.[1]

Form 3 booklet

The Form 3 booklet contains Form 3 (Summary Page and Detailed Summary Page), Schedules A-D and Form 3Z.

Schedules

Committees may be required to file the following schedules as attachments to Form 3:

- Schedule A—Itemized Receipts
- Schedule B—Itemized Disbursements
- Schedule C—Loans
- Schedule C-1—Loans and Lines of Credit from Lending Institutions
- Schedule D—Debts and Obligations

Form 3Z

If a candidate has more than one authorized committee for the same campaign, the principal campaign committee must also file Form 3Z. The one-page form, which consolidates information for the entire campaign, contains information taken from the current reports of the principal campaign committee and all other authorized committees. The principal campaign committee files Form 3Z along with its own report and those of the other authorized committees. 104.3(f).

Requirements for electronic filers

[1] Presidential campaign committees use FEC Form 3P and its supporting schedules (or an electronic version). Form 3P and instructions are available on FEC.gov.

Committees that receive contributions or make expenditures of more than $50,000 in any calendar year, or have reason to expect to do so, must file all reports and statements electronically. Committees that are required to file electronically, but that file on paper or fail to file, may be subject to enforcement action as nonfilers. 104.18(a)(2). See Chapter 12, Section 4, "Administrative Fines for Late Filers and Nonfilers." FECFile software, available free from the FEC, generates Form 1, Form 3 and Form 6. Filers can download the software from the FEC's website. Filers can also use other software as long as it meets FEC format specifications. For more information about the electronic filing requirement, see Section 5 of the preceding chapter.

Requirements for paper filers

FEC forms filed on paper should be typed (either on a typewriter or on a computer—see the section "computerized forms" for additional information); printing in ink is also acceptable (but not recommended) as long as the forms are legible. Because filings will be imaged and photocopied several times before being placed on the public record, it is required that committees submit the original report—not a copy—with an original signature. 104.14. Committees submitting illegible documents will be required to refile.

Reporting instructions

Instructions for filling out each form and schedule are available on FEC.gov. Although written specifically for paper filers, the instructions contain information that is useful for electronic filers as well.

Online web forms

Online filing is available for FEC Form 6 (48-hour notices of last minute contributions) at FEC.gov.

Computerized forms

A committee that files on paper may develop its own computer-produced forms, reduced to the size of FEC forms, but it must submit them for approval by the FEC prior to using them. The submission must include sample formats of each applicable schedule (with sample data). The proposed format (and accompanying cover letter) should be mailed or hand delivered to the attention of the Reports Analysis Division. 104.2(d); FEC Directive 37. Note that this is not an option for committees required to file electronically.

How to obtain paper forms

FEC website
All FEC reporting forms and instructions, including Form 1, Form 2 and Form 3, are available on the Commission's website.

2. SPECIAL RULES FOR FIRST REPORT

When filing the first report due after registering as a political committee, the principal campaign committee (and other authorized committees of the campaign) must disclose all financial activity that occurred before registration and before the individual became a candidate (including any testing the waters activity), beginning with the first date of activity through the end of the current reporting period. 101.2(b), 101.3, 104.3(a) and (b).

3. CATEGORIZING RECEIPTS

Committees must report receipts under the different categories listed on the Detailed Summary Page of Form 3. These categories are:

- Lines 11(a)(i) and (ii), Contributions from Individuals/Persons Other Than Political Committees;
- Line 11(b), Contributions from Political Party Committees;
- Line 11(c), Contributions from Other Political Committees (e.g., PACs);
- Line 11(d), Contributions from the Candidate;
- Line 12, Transfers from Other Authorized Committees;
- Lines 13(a) and (b), Loans;
- Line 14, Offsets to Operating Expenditures; and
- Line 15, Other Receipts.

For detailed information describing each category, see "The Detailed Summary Page" section later in this chapter.

For each category, a committee must disclose the total for the current reporting period and the cumulative election-cycle total. In addition to reporting these totals, a committee often has to itemize receipts by providing supplemental information on supporting Schedule As. 104.3(a)(3) and (4). A committee must use a separate Schedule A for each category of receipts that must be itemized, i.e., the committee may not mix different categories of receipts on the same schedule. Electronic filers must input all data for each contributor or payer separately so that the software can properly generate the required information, including the aggregated election-cycle-to-date total. It is recommended that committees filing on paper complete the supporting schedules first before transferring totals to the Detailed Summary Page.

4. HOW TO ITEMIZE RECEIPTS

For each receipt to be itemized, the committee must report the:

- Name of source of receipt (i.e., the name of the person who gave something of value or paid money to the candidate or the committee);
- Mailing address of source;
- Employer of source (if source is an individual contributor);
- Occupation of source (if source is an individual contributor);

Election to which a contribution or loan was designated (indicated by checking “primary,” “general” or “other” in the election designation box; for more information on designating contributions for a specific election, see Chapter 4, Section 4, “Designated and Undesignated Contributions”);
Date of receipt;
Amount of receipt; and
Aggregate election-cycle-to-date total of all receipts (within the same category) from the same source.
100.12, 104.3(a)(4) and 104.8(a).

Note that the date of receipt for both recordkeeping and reporting purposes is the date that the campaign, or a person who receives a contribution on behalf of the campaign, first receives a contribution, rather than the date on the check or the date of deposit. 102.8(a). (See Chapter 4, Section 5, “Date Contribution is Made v. Date of Receipt” for more information.)

If a contributor is self-employed, that should be stated in the “Employer” space on Schedule A. If he or she is not employed, the space may be left blank, but the “Occupation” space should still be completed (e.g., “unemployed,” “retired,” “homemaker.”) See Chapter 11, Section 5, “Treasurer’s Best Efforts” regarding steps that must be taken to obtain information about contributors.

5. WHEN TO ITEMIZE RECEIPTS

Some receipts must be itemized regardless of their amount, while others need not be itemized until their aggregate election-cycle-to-date total exceeds a threshold dollar value.

Regardless of amount

Within the following four categories of receipts listed on the Detailed Summary Page, every receipt must be itemized regardless of amount:

Contributions from party committees and organizations (including those that do not qualify as political committees under the Federal Election Campaign Act (the Act)) (Line 11(b));
Contributions from other political committees and organizations (including all committees that are political committees under the Act) (Line 11(c). See example 13–1);
Transfers from affiliated committees (Line 12); and
Loans (Lines 13(a) and 13(b)).

See 104.3(a)(4)(ii), (iii)(A) and (iv).

Itemization threshold exceeded

Within the other categories, receipts from each source must be itemized if they:

Exceed $200; or

Aggregate over $200 when added to other receipts (within the same category) received from the same source during an election cycle.

The categories of receipts that are subject to this $200 threshold for itemization are:

Contributions from individuals/persons other than political committees;[2]

Contributions from the candidate;

Offsets to operating expenditures; and

Other receipts. See 104.3(a)(4)(i), (v) and (vi).

Aggregation: election cycle vs. per election

Note that authorized committees must aggregate contributions on a per election basis when monitoring contribution limits. See Chapter 4. For purposes of reporting, however, committees aggregate contributions and other receipts on an election-cycle basis.

Election cycle

An election cycle begins the day after the general election for a seat or office and ends on the day of the next general election for that seat or office. 100.3(b). The length of the election cycle, thus, depends on the office sought. The election cycle is two years for House candidates, four years for Presidential candidates and six years for Senate candidates.

To illustrate:

The two-year election cycle for 2022 House candidates began on November 4, 2020 and ends on November 8, 2022;

The four-year election cycle for 2024 Presidential candidates began on November 4, 2020 and ends on November 5, 2024;

The six-year election cycle for 2026 Senate candidates began on November 4, 2020 and ends on November 3, 2026.

EXAMPLE

Suppose an individual makes two contributions to a principal campaign committee during an election cycle.

Primary election contribution

The individual contributes $75 just before the candidate's primary election. Because it is undesignated, the contribution automatically applies to the primary limit. The contribution does not exceed $200 and is the contributor's first contribution to the candidate, so the committee includes the amount in its total of unitemized contributions (Line 11(a)(ii) on the Detailed Summary Page).

General election contribution

During the following reporting period, but after the primary election, the same contributor makes a $185 contribution. This contribution must be itemized since the aggregate total of the donor's contributions for

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[2] Contributions from individuals/persons other than political committees that do not meet the $200 itemization threshold must be reported online 11(a)(ii), "Unitemized Contributions."

the election cycle ($260) now exceeds the $200 threshold for itemization. When itemizing the $185 contribution on Schedule A, the committee checks "General" in the election designation box and reports the donor's aggregate election-cycle total as $260, even though $75 applies to the primary and $185 to the general. (See example 13–2.)

6. REPORTING CONTRIBUTIONS, LOANS AND ADVANCES FROM CANDIDATE

Contributions (including loans and advances) from the candidate must be reported by the campaign as follows:

Contributions from candidate

Personal funds contributed to the campaign are reported on Line 11(d) as contributions from the candidate. (See example 13–3.)

Expenditures by candidate

Campaign expenditures made by the candidate from personal funds that are not to be reimbursed are reported similar to in-kind contributions from the candidate. See "Reporting In-kind Contributions" later in this chapter for more information on reporting these expenditures by candidates. If, on the other hand, a personal expenditure by the candidate is intended to be reimbursed, it is treated as an advance from the candidate for reporting purposes. See Sections 13 and 14 on reporting advances.

Loans from candidate's personal funds

The candidate may loan personal funds to the committee and may charge interest at a commercially reasonable rate, provided the committee reports the loan and the interest rate from the outset on Schedule C. The committee continues to report the loan until it is repaid. See 110.10, 100.111(b), 116.11, 116.12, and AOs 1991-09 (Hoagland) and 1986-45 (Bingaman). See also Section 19 of this chapter, "Reporting Loans."

Bank loans obtained by candidate for campaign related purposes

If a candidate obtains a bank loan for campaign-related purposes, the committee must report the loan from the candidate as a receipt and repayment of the loan to the candidate as a disbursement 104.3(a)(3)(vii)(B) and (b)(2)(iii)(A) and 100.82(c). In addition, both the original loan and payments to reduce principal must be reported on Schedule C each reporting period until the loan is repaid. Furthermore, a committee that obtains a loan from a bank must also file Schedule C-1 with the first report due after the new loan. 104.3(d). See also Section 20, "Reporting Loans."

Contributions intended to be loans

Receipts that are intended as contributions (rather than loans) from the candidate may not later be converted into loans. For that reason, the campaign should initially report such transactions as loans to be repaid. AOs 2006-37 (Kissin for Congress) and 1997-21 (Firebaugh).

Last-minute contributions or loans from candidate
Contributions or loans from the candidate of $1,000 or more, received less than 20 days but more than 48 hours before any election in which the candidate is running, must be reported on a "48-Hour Notice." (See "Last-Minute Contributions" in Chapter 12, Section 3 and Section 15 of this chapter.)

7. REPORTING JOINT CONTRIBUTIONS[3]

Absent written instructions to the contrary, a committee must treat a joint contribution as though the individuals participating in the contribution made their contributions separately, and itemize them separately on Schedule A as required. (See example 13–4.) See 110.1(k)(1) and (2). For example, if a committee receives a $300 check with two signatures but with no written attribution, the committee attributes the contribution equally between the donors—$150 to each contributor. (Note that the committee must record each contribution according to the rules set out in Chapter 11.) If neither contributor has previously contributed to the committee during the year, the committee does not have to itemize either contribution; nor does it have to itemize the $300 total joint contribution. If, on the other hand, the $300 check is accompanied by a signed statement attributing $250 to one individual and $50 to the other, the $250 contribution must be itemized. The $50 contribution is included in the total of unitemized contributions reported on Line 11(a)(ii) of the Detailed Summary Page.[4]

8. REPORTING REDESIGNATIONS AND REATTRIBUTIONS

Receipt of original contribution

When itemizing a contribution that must first be redesignated or reattributed before it is legally acceptable, a committee must include a statement on Schedule A noting that the legality of the contribution is in question.[5] See 103.3(b)(5).

Receipt of redesignation or reattribution

A committee must also comply with special procedures when reporting the receipt of reattributions and redesignations of contributions that were originally itemized on previous reports. (There is no need to report a reattribution or redesignation if the original contribution was not itemized.[6]) On the report covering the period during which the committee received the redesignation or reattribution, the committee

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[3] See also Chapter 4 for more information on joint contributions.

[4] As explained in the Explanation and Justification to revised rules on contribution limits, prescribed April 8, 1987, 52 Fed. Reg. 760 (January 9, 1987).

[5] The procedure described in 103.3(b)(5) applies to any contribution that appears to be illegal or that is questionable.

[6] As explained in the Explanation and Justification to revised rules on contribution limits, prescribed April 8, 1987, 52 Fed. Reg. 760 (January 9, 1987).

must disclose, as a memo entry, information on both the original contribution and the redesignation or reattribution. The memo entry appears on a Schedule A for the category of contribution involved. (For example, a reattribution would appear with other itemized contributions on a Schedule A used for "Contributions from Individuals/Persons other than Political Committees.")

The first part of the memo entry discloses all the information on the contribution as it was originally reported on Schedule A. The second part of the memo entry discloses as a negative entry the amount of the redesignation or reattribution. The third part discloses information on the contribution as it was redesignated or reattributed, including the date the redesignation or reattribution was received and, in the case of a redesignation, the election for which the contribution was redesignated. 104.8(d)(2) and (3). (See examples 13–5 and 13–6.)

Refund of excessive portion

If a committee requests a redesignation or reattribution but does not receive it within 60 days of the contribution's receipt, the committee must refund the excessive portion of the contribution within 60 days of the treasurer's receipt of the contribution and disclose the refund on its next report. (See Section 22 of this chapter.) 103.3(b)(3) and 104.8(d)(4).

9. REPORTING FREE LEGAL AND ACCOUNTING SERVICES

An authorized committee may receive free legal and accounting services provided solely to help the committee comply with the Act, as explained in Chapter 7. If the value of services paid for by one person (the employer) exceeds $200 or aggregates over $200 during an election cycle, the committee must itemize the following information as a memo entry on a separate Schedule A:

The name of each employee performing the services;
The name and address of the employer of the person providing the services;
The amounts paid for the services by the employer; and
The dates the services were performed. 100.86 and 104.3(h). The Schedule A should be clearly labeled as exempt legal or accounting services. (See example 13–7.)

10. REPORTING IN-KIND CONTRIBUTIONS

Schedules A and B

When determining whether to itemize an in-kind contribution, a committee should treat it the same as a monetary contribution. The only difference is that the amount of an in-kind contribution must also be included in the committee's total operating expenditures in order to avoid inflating cash on hand. An in-kind contribution must be itemized as an operating expenditure on Schedule B only if it has to be itemized

as a contribution on Schedule A. (For information on how to value an in-kind contribution, see Chapter 3, Section 2.) (See examples 13–8 and 13–9.)

Unreimbursed disbursements by candidates

Campaign expenditures made by the candidate from personal funds that are not to be reimbursed are reported as in-kind contributions from the candidate. If the candidate makes unreimbursed payments on behalf of the committee to any single vendor that exceed $200 for the election cycle, the committee must identify the ultimate payee (i.e., the vendor) in a separate memo entry on Schedule B.[7] Each memo entry must include the name and address of the vendor to which payment was made, as well as the date, amount and purpose of the payment. (See examples 13–10 and 13–11.)

Advances of personal funds

Although an advance of personal funds by an individual to purchase goods and services (with the exception of some travel costs) is considered an in-kind contribution, special reporting rules apply if it is to be reimbursed. For more information, see the next sections on reporting advances and travel expenses.

Reporting appreciated goods as contributions

When a committee receives an in-kind contribution whose value may appreciate over time, such as stock or artwork, special reporting rules apply:

- Itemize the initial gift, if necessary, as a memo entry on Schedule A (see "When to Itemize Receipts"). Under "Amount," report the fair market value of the contribution on the date the item was received. Do not include that amount in the total for the appropriate contribution Line 11(a), 11(b), 11(c) or 11(d) on the Detailed Summary Page. No itemization on Schedule B is necessary. (See example 13–12.)
- Once the item is sold, report the sale price as a contribution on the appropriate line if the purchaser is known or as an "other receipt" on Line 15 if the purchaser is unknown. Itemize the transaction on Schedule A if necessary. (See example 13–13.) Also, if the purchaser is known, then the amount of the purchase, when aggregated with other contributions by the purchaser, must fall within the contribution limits.

104.13(b). See also AOs 2000-30 (PAC.com) and 1989-06 (Boehlert).

11. REPORTING BITCOIN CONTRIBUTIONS

Schedules A and B

[7] See the Interpretive Rule on Reporting Ultimate Payees of Political Committee Disbursements (July 8, 2013) available on FEC.gov.

Contributions of bitcoins should be reported like an in-kind contribution. The committee should disclose the receipt of the contribution on Schedule A and also report the bitcoins as a disbursement on Schedule B. These offsetting entries allow the committee's reported cash-on-hand to remain unchanged while holding the bitcoins outside of a campaign depository. The value of a bitcoin contribution is the market value of the bitcoins at the time the contribution is received.

The line number on Schedule A used to report a bitcoin contribution depends on who is giving the contribution. Use:

- Line 11(a) if the contribution is from an individual
- Line 11(b) if it comes from a party committee, and
- Line 11(c) if it comes from another type of political committee, such as a PAC.

It is recommended to include a notation or memo text indicating the number of bitcoins that the committee received and that the bitcoins were not liquidated. The corresponding entry on Schedule B should be reported on Line 17 with the same notation or memo text.

Any usual and nominal fees that the processor charges should not be deducted from the reported value of the contribution. The committee should report the usual and nominal fees and commissions that it pays to an online processor as an operating expenditure. 104.13(a); AO 2014-02 (Make Your Laws PAC).

12. REPORTING RECOUNT-RELATED DONATIONS AND DISBURSEMENTS

A federal campaign may establish a recount fund either as a separate bank account of the candidate's authorized committee or as a separate entity. In either case, the receipts and disbursements for recount expenses must be reported on the authorized committee's reports as "Other Receipts" and "Other Disbursements." See AO 2006-24 (Republican and Democratic Senatorial Committees).

Reporting recount donations

A campaign must include amounts received for a recount in its total for "Other Receipts," recorded on Line 15 of the Form 3 Detailed Summary Page (or of the Post-Election Detailed Summary Page, when filing the Post-General report). As illustrated in example 13–14, the campaign must itemize the donation on Schedule A for Line 15 if the aggregate receipts from that donor exceed $200 for the election cycle.

Reporting recount disbursements

A campaign must include amounts spent on a recount in its total for "Other Disbursements," recorded on Line 21 of the Form 3 Detailed Summary Page (or of the Post-Election Detailed Summary Page when

filing the Post-General report). As illustrated in the following sections, the campaign must itemize the disbursements on Schedule B for Line 21 if payments to the same payee aggregate more than $200 for the election cycle. (Note: For purposes of aggregation, the election cycle begins the day after the general election.)

13. REPORTING OFFSETS TO OPERATING EXPENDITURES

For each person who provides rebates, refunds and other offsets to operating expenditures aggregating in excess of $200 during the election cycle, the committee must provide on Schedule A the identification of the person, the date and amount of each receipt aggregating in excess of $200 during the election cycle and the aggregate election cycle-to-date total. The total amount of offsets to operating expenditures (including refunds, rebates, and returns of deposits) should be reported on Line 14 of the Detailed Summary Page.

14. REPORTING RECEIPT OF REFUNDS OF CONTRIBUTIONS MADE BY THE COMMITTEE

Refunds received by a committee for contributions it made to other political committees or candidates should be reported on Line 15 of the Detailed Summary Page and itemized on a supporting Schedule A if they aggregate over $200 in an election cycle.

15. REPORTING REIMBURSED ADVANCES OF PERSONAL FUNDS (NON-TRAVEL)

As explained in Chapter 7 and in the previous section, when any individual, including a volunteer, a committee staff member or the candidate, uses his or her personal funds or personal credit to pay a vendor for a campaign expense and is later reimbursed by the committee, special reporting rules apply.

Non-travel advances made and reimbursed within same reporting period

Non-travel advances that are made and reimbursed within the same reporting period are considered contributions and must be reported as follows:

- Do not report the original advance unless, at the end of the reporting period, the amount of previous contributions in the election cycle from the person making the advance plus the amount of the advance minus the amount of the reimbursement is greater than $200 (i.e., previous contributions + the advance - the reimbursement > $200). In that case, report the advance as a memo entry contribution on Schedule A; and
- Report the reimbursement as an operating expenditure and, if reimbursements to that person exceed $200 in the election cycle, itemize it on Schedule B (with a cross-reference to the memo entry on Schedule A for the advance, if the advance was itemized). AO 1992-01 (Faulkner).
- If an individual's payment on behalf of the committee exceeds $200 in an election cycle to any single vendor, then the committee must identify the ultimate payee (the vendor) in a separate memo entry on Schedule B.[8] (See example 13–16.)

Non-travel advances made and reimbursed in different reporting periods

Non-travel advances that are to be reimbursed in a later reporting period must be reported as follows:

- Do not report the original advance unless, at the end of the reporting period in which the advance was made, the amount of previous contributions in the election cycle from the person making the advance plus the amount of the advance minus the amount of the reimbursement is greater than $200 (i.e. previous contributions + the advance - the reimbursement > $200). In that case, report the advance as a memo entry contribution on Schedule A;
- Report the amount of the advance outstanding at the end of the reporting period as a debt on Schedule D if it exceeds $500 or has been outstanding for more than 60 days (see example 13–17); and
- Report the reimbursement, once made, as an operating expenditure and, if reimbursements to that person exceed $200 in the election cycle, itemize it on Schedule B (with a cross-reference to the memo entry on Schedule A for the advance, if the advance was itemized).

See AO 1992-01 (Faulkner).

As mentioned previously, if an individual's payment on behalf of the committee exceeds $200 in an election cycle to any single vendor, then the committee must identify the ultimate payee (the vendor) in a separate memo entry on Schedule B.

16. REPORTING TRAVEL EXPENSES

[8] See the Interpretive Rule on Reporting Ultimate Payees of Political Committee Disbursements (July 8, 2013) available on FEC.gov.

As explained in Chapter 10, when a committee pays for its own travel expenses, it reports the payment as an operating expenditure. In certain situations, the payment may be made by a campaign traveler. In that case, no contribution results if the individual is reimbursed by the committee within certain time periods.

Travel expenses reimbursed within 30 or 60 days

As explained in Chapter 7, no contribution results when the committee reimburses an individual for travel expenses within the following time periods:

- If the individual paid with cash or a personal check, within 30 days from the date the expense was incurred.
- If the individual paid with a credit card, within 60 days of the closing date on the credit card billing statement. 116.5(b). (See Chapter 7, Section 4, "Reimbursed Travel Expenses," for more information.)

Reimbursed within time limit and in same reporting period

When the committee makes a reimbursement within these time limits, the committee reports the advance and reimbursement as follows:

- The original advance is not reported; and
- The reimbursement is reported as an operating expenditure on Line 17. AO 1992-01 (Faulkner).
- If an individual's payment on behalf of the committee exceeds $200 in an election cycle to any single vendor, then the committee must identify the ultimate payee (the vendor) in a separate memo entry on Schedule B.

Reimbursed within time limit but in later reporting period

If the reimbursement is made within the appropriate time limit but not within the reporting period in which the advance was made, the committee must report the advance on Schedule D as a debt if it exceeds $500. Once the reimbursement is actually made, the committee reports it as an operating expenditure and itemizes it on Schedule B if reimbursements to any one person exceed $200 for the election cycle.

Travel advances not reimbursed within 30 or 60 days

Not reimbursed within time limit but within same reporting period

Travel advances that are not reimbursed within the appropriate 30 or 60 day time limit (116.5(b)) but that are reimbursed within the reporting period in which the advance is made are considered in-kind contributions. 100.93(i). Such advances must be reported as follows:

- Report the original advance as a memo entry contribution on Schedule A if the total of the advance plus any other contributions made by the same person within the election cycle, minus any reimbursements made in the reporting period, exceeds $200; and
- Report the reimbursement as an operating expenditure and, if reimbursements to that person exceed $200 in the election cycle, itemize it on Schedule B (with a cross-reference to the memo entry on Schedule A for the advance—if the advance was itemized).

Not reimbursed within time limit and not within same reporting period

Travel advances that are not reimbursed within the appropriate 30 or 60 day time limit (116.5(b)) and that are not reimbursed within the reporting period in which the advance was made must be reported as follows:

- Report the original advance as a memo entry contribution on Schedule A if the total of the advance plus any other contributions made by the same person within the election cycle, minus any reimbursements made in the reporting period, exceeds $200;
- Report the amount of the advance outstanding at the end of the reporting period as a debt on Schedule D if it exceeds $500 or has been outstanding for more than 60 days; and
- Report the reimbursement as an operating expenditure and, if reimbursements to that person exceed $200 in the election cycle, itemize it on Schedule B (with a cross-reference to the memo entry on Schedule A for the advance—if the advance was itemized).

Special rule for reporting reimbursements (for travel and subsistence advances)

If the total amount reimbursed for a travel or subsistence expense is $500 or less, the committee should report the individual receiving the reimbursement as the payee. If the total amount exceeds $500 and payments to any one vendor used for the expenses total over $200 for the election cycle, additional information is required to achieve full disclosure. In this instance the committee must:

- Report the individual receiving reimbursement as payee; and
- Report the payments aggregating over $200 to any one vendor as memo entries on Schedule B. See AO 1996-20 (Lucas), footnote 3. Each memo entry must include the name and address of the vendor, as well as the date, amount and purpose of the payment.[9]
  (See example 13–18.)
- If the individual's payment was made using a personal credit card, the memo entry must include the name and address of the vendor that provided the goods or services to the political committee (rather than the credit card company that processed the payment).[10]

17. REPORTING LAST-MINUTE CONTRIBUTIONS (48-HOUR NOTICE)

As explained in Chapter 12, campaign committees must file a 48-Hour Notice for any contribution of $1,000 or more, including in-kind contributions, loans, earmarked contributions, and contributions received through joint fundraising representatives, received less than 20 days but more than 48 hours before 12:01

[9] See the Interpretive Rule on Reporting Ultimate Payees of Political Committee Disbursements (July 8, 2013) available on FEC.gov.

[10] See the Interpretive Rule on Reporting Ultimate Payees of Political Committee Disbursements (July 8, 2013) available on FEC.gov.

a.m. of the day of any election in which the candidate is running. 104.5(f). The FEC must receive the notice within 48 hours of the committee's receipt of the contribution. 52 U.S.C. §30102(g). The committee must also itemize these last-minute contributions in the committee's next scheduled report. 104.5(f).

Committees filing electronically must file their 48-Hour Notices electronically. Paper-filing committees may file their 48-Hour Notices using FEC Form 6 or may file online using the FEC's web-based forms. Paper-filing committees may use their own paper or stationery for the notice, provided that the notice contains the following information:

The committee's name and address;
The candidate's name and the office sought;
The identification of the contributor, including employer and occupation; and
The amount and date of receipt of the contribution.

(See example 13–19.)

48-Hour Notices for partnership contributions

If a campaign receives a partnership contribution of $1,000 or more during the 48-Hour Notice period, the committee must file a notice for the contribution. There is no need to report the individual attribution on the 48-Hour Notice.

48-Hour Notices for contributions received through joint fundraisers

If a campaign receives a joint fundraising transfer during the 48-Hour Notice period, the committee must file notices for all contributions of $1,000 or more included as part of the transfer. There is no need to report the transfer itself on the 48-Hour Notice.

48-Hour Notices for contributions received through a conduit

If a campaign receives contributions given through a conduit during the 48-Hour period, the committee must file the notices for the original contributions of $1,000 or more. There is no need to report the entity serving as a conduit on the 48-hour Notice.

18. CATEGORIZING DISBURSEMENTS

Like receipts, disbursements are divided into several categories on the Detailed Summary Page of Form 3. These categories are:

Line 17, Operating Expenditures
Line 18, Transfers to Other Authorized Committees
Line 19(a), Repayments of Loans Made or Guaranteed by the Candidate
Line 19(b), Repayments of All Other Loans
Line 19(c), Total Loan Repayments
Line 20(a), Refunds of Contributions (made by) Individuals/Persons Other than Political Committees
Line 20(b), Refunds of Contributions (made by) Political Party Committees

Line 20(c), Refunds of Contributions (made by) Other Political Committees (such as PACs)
Line 20(d), Total Contribution Refunds
Line 21, Other Disbursements

For detailed information describing each category, see "The Detailed Summary Page" section later in this chapter.

For each category, a committee must disclose the total for the current reporting period and the election-cycle-to-date total. In addition to reporting these totals, a committee often has to itemize disbursements by providing supplemental information on supporting Schedules B. 104.3(b)(2) and (4). A committee must use a separate Schedule B for each category of disbursements that must be itemized; the committee may not mix different categories of disbursements on the same schedule. Electronic filers must separately enter each disbursement when entering data in order to correctly generate the report. Paper-filing committees should complete the supporting schedules first so that they may transfer totals from these schedules to the Detailed Summary Page.

19. HOW TO ITEMIZE DISBURSEMENTS

For each disbursement that must be itemized, the committee must include the following information:

Name of payee;
Address of payee;
Purpose of disbursement (a brief description of why the disbursement was made);
Category/Type of disbursement (numbered categories detailed on the Instructions for Schedule B, Itemized Disbursements), (filling in this category is optional);
Date of disbursement; and
Amount of disbursement.

104.3(b)(4) and 104.9.

Purpose

For reporting purposes, the "purpose" of disbursement refers to a brief statement or description about the reason for the disbursement. The description must be sufficiently specific, when considered within the context of the payee's identity, to make the reason for the disbursement clear. 104.3(b)(4)(i)(A) and (B). The Commission has published a non-exhaustive list of acceptable and unacceptable purpose descriptions at FEC.gov.

Election designation

When itemizing a disbursement, the committee does not need to check the box designating it for a particular election ("primary," "general" or "other"), unless the entry relates to a contribution to another candidate. In that case, the committee must indicate the election to which it relates. (See example 13–20.)

Contributions to other candidates

Contributions to other candidates are included in the total for Line 21 (“Other Disbursements”) and are itemized on Schedule B for that line if they are made to a federal candidate for any amount or are made to a nonfederal candidate and exceed $200 for the election cycle to date. When itemizing a contribution to another candidate (either federal or nonfederal, e.g., state or local), the committee must report the purpose and indicate the election designation. See 104.3(b)(4)(vi).

Additional information required for contributions to other federal candidates

If the contribution is to a federal candidate, the committee must also itemize:

- The recipient candidate’s name;
- The office sought by checking the appropriate box;
- The state and, if applicable, congressional district; and
- The election for which the contribution was made (by checking the appropriate box: “primary,” “general” or “other”). It is recommended that the committee designate any contributions it makes. (See example 13–21.)

20. WHEN TO ITEMIZE DISBURSEMENTS

Regardless of amount

Three categories of disbursements must be itemized regardless of amount:

- Transfers (Line 18);
- Loan Repayments (Lines 19(a) and 19(b)); and
- Contributions to other federal candidates (Line 21)

Refunds of contributions must be itemized only if the incoming contribution had to be itemized on Schedule A. See 104.3(b)(4)(ii), (iii), (v) and (vi).

Itemization threshold exceeded

Two categories of disbursements are subject to the $200 election cycle threshold for itemization:

- Operating Expenditures (Line 17); and
- Other Disbursements (encompassing all disbursements that do not fit into the other categories) (Line 21). 104.3(b)(4)(i) and (vi).

A disbursement under these categories must be itemized if it:

- Exceeds $200; or
- Aggregates over $200 when added to other disbursements (within the same category) made to the same payee during an election cycle.

Credit card transactions

In the case of operating expenditures charged on a credit card, a committee must itemize a payment to a credit card company if the payment exceeds the $200 aggregate threshold for itemization explained previously. The committee must also itemize, as a memo entry, any specific transaction charged on a credit card if the payment to the actual vendor exceeds the $200 threshold. The memo entry must include the name and address of the vendor, the purpose of the disbursement and the amount of the disbursement.

Finally, any credit card debt must be reported following the procedures outlined in the next section.[11] 102.9(b)(2) and 104.9. (See examples 13–22 and 13–23.)

21. REPORTING DEBTS OTHER THAN LOANS

Schedule D: continuous reporting

Debts and obligations must be reported continuously until repaid. 104.3(d) and 104.11. Unpaid bills and written contracts or agreements to make expenditures are considered debts. See 100.112. Debts and obligations (other than loans—see Section 20 for reporting loans) are reported on Lines 9 and 10 of the Summary Page and itemized on Schedule D according to the following rules:

- A debt of $500 or less is reportable once it has been outstanding 60 days from the date incurred (the date of the transaction, not the date the bill is received). The debt is disclosed on the next regularly scheduled report.
- A debt exceeding $500 must be reported in the report covering the date on which the debt was incurred. 104.3(d), 104.11 and 116.6(c).

The committee must use separate Schedule D forms for debts owed by the committee (Line 10) versus debts owed to the committee (Line 9). Paper filers must label each schedule accordingly by checking the appropriate box at the top of the form; electronic filing programs will label the schedules for you.

Exception

Regularly recurring administrative expenses such as rent, utilities and salaries are not considered to be debts until they are past due. 104.11(b).

Debts owed by the committee

The committee reports the total of outstanding debts (from Schedule D) plus the balance of loans owed by the committee (from Schedule C) on Line 10 of the Summary Page.

Itemizing debts owed

Schedule D is used to report:

- The outstanding amount owed on a debt or obligation;
- Payments made to reduce the debt;
- Complete name and address of creditor; and
- The nature and purpose of the debt.

The instructions for Schedule D explain what additional information is required. Note that payments to reduce debts must also be reported under the appropriate category of disbursement, on the Detailed Summary Page (for example, Line 17 for a payment on a bill for an operating expenditure). (See examples 13–24 and 13–25.)

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[11] See also, the Interpretive Rule on Reporting Ultimate Payees of Political Committee Disbursements (July 8, 2013) available on FEC.gov.

Settlement of debts

Special rules apply to debts that are forgiven or settled for less than their full amount. See Chapter 14 for more information.

Special debt reporting problems

Debts of unknown amount

If the exact amount of a debt is not known, the committee reports an estimated amount. The committee must either amend the report (and all subsequent reports) to indicate the correct amount, once a correct figure is known, or include the correct figure, along with an explanation of the change, in the report for the reporting period during which the amount is determined. 104.11(b).

Unpayable debts

If a debt cannot be paid because the creditor has gone out of business or cannot be located, the treasurer may write to the FEC to request permission to discontinue reporting the debt. The letter must demonstrate that the debt is at least two years old and that efforts to ascertain the current address of the creditor and to reach the creditor have been made by registered or certified letter and either in person or by phone. The committee must continue to report the debt until the Commission determines that the debt is unpayable. 116.9.

Disputed debts

A disputed debt is a bona fide disagreement between the creditor and the committee as to the existence of a debt or the amount owed by the committee. 116.10. If the creditor provided something of value, notwithstanding the disputed amount, then the committee must disclose:

The amount the committee admits it owes;

The amount the creditor claims is owed; and

Any amounts the committee has paid the creditor.

The committee may also note on the report that disclosure of a disputed debt is not an admission of liability or a waiver of any claims against the creditor. Once a disputed debt is resolved, the committee should report the correct amount on the next report, along with a statement explaining that the dispute was resolved.

Debts owed to the committee

The committee must continuously report a debt owed to the committee on Schedule D if the debt exceeds $500 or has been outstanding 60 days. 104.3(d) and 104.11. Payments received on the debt are also reported on Schedule D until the debt is retired. The debt repayments received must also be reported on the appropriate line number of the Detailed Summary Page and itemized on Schedule A if necessary. On Line 9 of the Form 3 Summary Page, the committee enters the total of outstanding debts owed to it (from Schedule D), plus the balance of outstanding loans owed to it (from Schedule C). Paper filers must be sure to label the Schedule D as “debt owed to the committee” by checking the box for Line 9 at the top of Schedule D.

22. REPORTING LOANS

All loans received by a committee must be itemized and continuously reported until extinguished. 104.3(a)(4)(iv) and (d); 104.11. All repayments made on a loan must also be itemized. 104.3(b)(4)(iii). Procedures for reporting loans and loan repayments are explained in this section. See also "Reporting Contributions, Loans and Advances from Candidate" in Section 6 of this chapter.

Schedule A: Initial receipt of loan

A committee must itemize the receipt of a loan, regardless of amount, on a separate Schedule A for the appropriate loan category ("made/guaranteed by the candidate" or "all other loans"). (See examples of Schedule A.) 104.3(a)(4)(iv).

Schedule B: Interest and principal payments

A committee must report interest paid on a loan as an operating expenditure, itemizing the payment on a Schedule B for operating expenditures once interest payments to one payee aggregate over $200 in an election cycle.

Payments to reduce principal must be itemized, regardless of amount, on a Schedule B for the appropriate category of loan repayment ("made/guaranteed by the candidate" or "all other loans"). 104.3(b)(4)(iii). (See example 13–27.)

Schedule C: continuous reporting

In addition, both the original loan and payments to reduce principal must be reported on Schedule C each reporting period (see examples) until the loan is repaid.

Committee has no other debts or obligations

If the committee has no other debts, the Schedule C balance of the total amount owed on loans is entered on Line 10 of the Form 3 Summary Page ("Debts and Obligations Owed by the Committee").

Committee has other debts or obligations (reported on Schedule D)

If the committee has other debts or obligations that are reported on Schedule D, the total amount owed on loans is entered on Line 3 at the bottom of Schedule C and is carried over to the last page of Schedule D along with the other debts and obligations. The total from Schedule D is then entered on Line 10 of the Form 3 Summary Page reflecting all outstanding debts or obligations.

Schedule C-1: Additional information for loans from lending institutions

A committee that obtains a loan from a bank or other permissible lending institution must also file Schedule C-1 with the first report due after a new loan or line of credit has been established. 104.3(d)(1). A new Schedule C-1 must also be filed with the next report if the terms of the loan or line of credit are restructured. Additionally, in the case of a committee that has obtained a line of credit, a new Schedule C-1 must be filed with the next report whenever the committee draws on the line of credit. 104.3(d)(1) and (3). (See 13–34 for example of C-1.) For loans derived from a candidate loan, the reporting on Schedule C-1 is simplified. See the next section for more information.

Line-by-line instructions for filling out the schedule appear in the Form 3 instruction booklet. The committee treasurer or designated assistant treasurer must sign the schedule on Line G and attach a copy of the loan agreement. 104.3(d)(2).

Finally, an authorized representative of the lending institution must sign the statement on Line I.

23. REPORTING BANK LOANS, BROKERAGE LOANS AND OTHER LINES OF CREDIT WHEN MADE TO CANDIDATES

Bank loans to candidates and loans derived from advances on a candidate's brokerage accounts, credit cards, home equity line of credit, or other lines of credit obtained for use in connection with his or her campaign must be reported by the committee. 100.83. The committee must report the loan from the candidate as a receipt and repayment of the loan to the candidate as a disbursement. 104.3(a)(3)(vii)(B) and (b)(2)(iii)(A).

Schedule A

The candidate may choose either to loan or to contribute the loan proceeds to the authorized committee. If the candidate treats the funds as a personal contribution, the receipt of the contribution from the candidate must be reported on Schedule A for Line 11(d). If the candidate treats the funds as a loan, the receipt of the loan must be reported on Schedule A for Line 13(a). (See example 13–28.) If the funds are designated as a contribution, then the committee cannot repay the underlying loan to the financial institution. AO 2006-37 (Kissin for Congress).

Schedule B

If the funds are designated as a loan, the committee's repayment to the lending institution or the candidate is reported as an itemized entry on Schedule B. 104.3(b)(4)(iii). The committee is not required to report repayments by the candidate to the lending institution. The loan must also be continually reported on Schedule C or C-P until it is extinguished. (See example 13–31.)

Schedule C

The committee need only list the candidate as the source of the loan on Schedule C. However, the type of loan the candidate receives (i.e. bank loan, brokerage account, credit card, home equity line of credit, other line of credit) must also be disclosed in either the first box for endorsers and guarantors with a notation for loan type or in the box for "Loan Source" after the candidate's name. (See example 13–33.)

Schedule C-1

The committee must disclose, in the report covering the period when the loan was obtained, the following information on Schedule C-1 (see example 13–34):

The date, amount, and interest rate of the loan, advance or line of credit;

The name and address of the lending institution; and

The types and value of collateral or other sources of repayment that secure the loan, advance or line of credit. 104.3(d)(1).

Unlike loans to committees, when reporting bank loans obtained by the candidate or loans derived from the candidate's brokerage account, credit card, home equity line of credit or other line of credit, the committee is not required to submit the loan agreement to the Commission. Note, however, that Schedule C-1 must still be filed when the candidate obtains a loan and then contributes the proceeds to the committee. 104.3(d)(4).

Keeping records

The committee must retain records relating to the loan for three years after the date of the election in which the candidate ran. Additionally, the candidate must preserve the following records for three years after the election for which he or she was a candidate:

- Records to demonstrate the ownership of the accounts or assets securing the loans;
- Copies of the executed loan agreements and all security and guarantee statements;
- Statements of account for all accounts used to secure any loan for the period the loan is outstanding, such as brokerage accounts or credit card accounts and statements on any line of credit that was used for the purpose of influencing the candidate's election for federal office;
- Documentation to establish the source of the funds in the account and the time of the loan; and
- Documentation for all payments made on the loan by any person. 104.14(b)(3) and (4).

24. REPORTING LIQUIDATED BITCOINS

Reporting for liquidating bitcoins received as contributions depends on whether the committee sells to a known purchaser or to an unknown purchaser.

Selling to a known purchaser

If the committee sells the bitcoins directly to a purchaser, and therefore knows the identity of the purchaser, the purchaser is considered to have made a contribution to the committee.

The committee should report the purchaser's name, address, occupation and employer information on Schedule A, Line 11a. The committee must also report the date of the purchase, amount the bitcoin were sold for, election designation, and the contributor's aggregate election cycle-to-date total. Next, the committee must create a memo entry disclosing the original contributor's information, date of contribution, original value of the bitcoins, and the number of bitcoins originally given to the committee. See example XXX.

Selling to an unknown purchaser

If the committee sells the bitcoins through an established market mechanism where the purchaser is not known, the purchaser is not considered to have made a contribution to the committee.

The committee should report the market or exchange's name on Schedule A, Line 15. The committee will also report the address information for the exchange, as well as the date of the purchase, the amount the

bitcoins were sold for, and the aggregate election cycle-to-date total for the exchange. The committee includes how many bitcoins were sold, where they were sold, and that the purchaser is unknown. The committee will also report a memo entry disclosing the original contributor's information, date of contribution, original value of the bitcoins and the number of bitcoins originally given to the committee. See example XXXX. 104.13(b); AO 2014-02 (Make Your Laws PAC).

25. REPORTING REFUNDS, RETURNS, BOUNCED OR UNCASHED CHECKS AND DISGORGED CONTRIBUTIONS

Refunds and returns

A refund occurs when the committee has actually deposited a contribution in its bank depository and then pays it back to the contributor by issuing a check. When a committee refunds a contribution to a donor, the committee must include the refund in the total for the appropriate category of refund on the Detailed Summary Page (Lines 20(a), (b) or (c)). If the committee previously itemized the incoming contribution on Schedule A, then it must itemize the refund on a Schedule B for the appropriate category of refund. 104.8(d)(4). (See examples 13–35 and 13–36.)

Alternatively, a committee may return a contribution to the donor without depositing it, although the return must be made within 10 days of the treasurer’s receipt of the contribution. 103.3(a). In this case, the committee does not have to report either the receipt or the return of the contribution.

Checks returned due to insufficient funds

If a committee reports the receipt of a check and later finds it cannot be negotiated because of insufficient funds in the donor’s account, the committee should deduct the amount of the check in its next report as follows:

- If the committee did not itemize the receipt on a previous report, it subtracts the amount of the check from the total for the appropriate category of receipts. The reduced total is entered on the Detailed Summary Page.
- If the committee previously itemized the receipt, it itemizes the return of the check as a negative entry on the appropriate Schedule A. (See example 13–37.)

Checks received and returned by the bank in the same reporting period do not need to be reported.

Checks never cashed by the recipient

A check issued by a committee that was never cashed by the recipient should be reported as a negative entry on Schedule B supporting the line on which the disbursement was originally disclosed if the

disbursement required itemization. The committee should include memo text explaining that the check was not cashed. For disbursements not requiring itemization, the amount of the uncashed check should be subtracted from the unitemized total for the applicable line.

Disgorged contributions

As explained in Chapter 5, if a committee deposits a contribution that appears to be legal and later discovers that it is prohibited, the committee must refund the contribution to the original contributor (if known) within 30 days of making the discovery. 103.3(b)(2). Alternatively, the committee may disgorge the funds to the U.S. Treasury. AO 1996-05 (Kim). This disgorgement should be reported as follows:

- Report the payment to the U.S. Treasury on Schedule B supporting Line 21 as an "Other Disbursement," if payments to the U.S. Treasury exceed $200 in the election cycle. Report the purpose as "disgorgement."
- If the identity of the original contributor is known and the contribution required itemization, report the original contribution as a memo entry on Schedule B supporting Line 21, with a cross-reference to the entry for the payment to the U.S. Treasury. (See example 13–38.)

For more information about disgorging contributions, see Chapter 5, Section 2.

26. REPORTING TRANSFERS BETWEEN AUTHORIZED COMMITTEES

As explained in Chapter 9, authorized committees may make and receive transfers to and from other federal authorized committees of the same candidate. The following sections explain the rules for reporting the permissible transfers discussed in Chapter 9.

Transfers between candidate's committees for the same office

In the same election cycle

Transfers between a candidate's authorized committees for the same election are reported by the transferring committee on Line 18 of the Form 3 Detailed Summary Page, and by the committee receiving the transfer on Line 12 of the Form 3 Detailed Summary Page. 104.3(a)(3)(vi) and (b)(2)(ii). The receiving committee does not need to reitemize the sources of the funds transferred (e.g., contributions that comprise the transfer) because the transferring committee has already itemized them in its report to the principal campaign committee, which is attached to the principal campaign committee's consolidated report (Form 3Z). 110.3(c). (See example 13–39.)

In different election cycles

The receiving committee also does not have to itemize contributions transferred between committees authorized by one candidate for two different election cycles as long as the original contributions count against the limits for the election for which the contributions were intended. 110.3(c)(4).

EXAMPLE

A 2020 House candidate has a surplus from that campaign. The candidate may roll over that amount to his or her committee for reelection in 2022 without again itemizing the contributions that make up the transfer, provided that:

He or she did not become a candidate for the 2022 election before the 2020 general election; and

The surplus transferred from the 2020 committee consists of contributions that count against the 2020 limits rather than the 2022 limits (i.e., were designated for or made prior to the 2020 general election).

Transfers between candidate's committees for multiple offices

In the same/overlapping election cycle(s)

A candidate's authorized committee for one office (e.g., a Senate campaign) receiving a transfer from that candidate's authorized committee for another office (e.g., a House campaign) for which the candidate is running in the same or overlapping[12] election cycle(s) must report the total transfer on Line 12 of the Form 3 Detailed Summary Page and must itemize the transfer on Schedule A, regardless of amount. 104.3(a)(4)(iii)(A). (See Chapter 9 for information on when such transfers are permissible.) In addition, as discussed in Chapter 9, the receiving committee must aggregate the contributions that make up the transfer with any other contributions it receives from the same contributor. 110.3(c)(5).

If the aggregate contributions from one contributor exceed $200 in the election cycle, the receiving committee must itemize the contributions as memo entries on a Schedule A. The recipient committee must also report the total transfer on Line 12 of the Form 3 Detailed Summary Page and must itemize the source of the transfer on Schedule A, regardless of amount. See AO 1984-38 (Oberstar).

The committee making the transfer must report the transfer on Line 18 of the Form 3 Detailed Summary Page and must itemize the disbursement on Schedule B, regardless of amount. 104.3(b)(4)(ii).

In different election cycles

When an individual seeks different offices in different election cycles, surplus funds from the earlier campaign that remain after the general election may be transferred to the later campaign without aggregating the contributions of the original contributor to the two committees. 110.3(c)(4).

Transfers of joint fundraising receipts

For information on reporting transfers of joint fundraising receipts, see Appendix C, "Joint Fundraising."

27. REPORTING INVESTMENTS

[12] For example, a candidate initially ran for 2020 House but then suspended the campaign to run for 2022 Senate. In this case, the two-year 2020 House election cycle (November 7, 2018 through November 3, 2020) overlaps with the six-year 2022 Senate election cycle (November 9, 2016 through November 8, 2022).

A committee that has invested its funds—for example, in a savings account, money market fund or certificate of deposit—must include the total amount invested in its cash on hand (Line 27 of the Form 3 Detailed Summary Page). Since investment money is not actually spent, it is considered a committee asset and should not be reported as a disbursement. See 104.3(a)(1).

Reporting additional depository

Funds invested with banks

If a committee invests the funds in a bank that was not previously identified as a campaign depository on the Statement of Organization, the committee must file an amended Statement of Organization disclosing the name and address of the new depository. The amendment must be filed within 10 days of making the investment. 102.2(a)(2).

Funds invested with other establishments

If committee funds are invested in a fund that is not operated by a bank (such as a money market fund operated by a brokerage firm), no amendment to the Statement of Organization is required. Before using the funds (principal or interest) to make expenditures, the committee must first transfer them to a designated campaign checking account. 103.3(a). See, for example, AO 1986-18 (Bevill).

Note, however, that interest or other income earned on these investment accounts need not be placed in the campaign depository account before they are reinvested. As noted previously, investments are not expenditures; they are simply a conversion of assets from one form to another. The committee must report the reinvested income from investments by following the rules explained in this section. AO 1997-06 (Hutchison).

Bitcoin as an Investment

In AO 2014-02 (Make Your Laws PAC), the Commission concluded that a committee can purchase bitcoins with funds from its campaign depository for investment purposes. The bitcoins do not need to be deposited in a campaign depository within 10 days of receipt. Bitcoins may be received into and held in a bitcoin wallet until the committee liquidates them.

Reporting investment income and loss

Report investment income received or lost during the reporting period in the “Other Receipts” category (Line 15) of the Detailed Summary Page. If investment income from one source aggregates over $200 during an election cycle, itemize the interest on a Schedule A for Line 15. 104.3(a)(4)(vi). Losses are indicated by negative entries.

Reporting income tax

A committee must report, as an operating expenditure, income tax paid on investment income. Income tax payments must be itemized on a Schedule B for Line 17 (Operating Expenditures) only if the payments aggregate over $200 during an election cycle to the same payee (the local, state or federal government).

28. COMPLETING THE REPORT

As noted previously, paper filers should complete the itemization schedules first so that they may accurately complete the Summary Page and the Detailed Summary Page. After completing the schedules, transfer the totals, plus other relevant totals derived from the committee's records, to the Detailed Summary Page. Calculations from the Detailed Summary Page and from Schedules C and D are then transferred to the Summary Page. Paper filers should refer to the next two sections for detailed information. Note that electronic filing software completes these tasks automatically.

29. THE DETAILED SUMMARY PAGE

The Detailed Summary Page lists the totals for various categories of receipts and disbursements. Some of the figures are taken from the totals listed on the attached Schedules A and B, some are totals of figures that are not itemized on these schedules and some are combined totals of itemized figures from the schedules plus some unitemized figures. (See example of Detailed Summary Page 13–40.)

Column A and Column B

Note that Column A is for the figures relating to amounts received and disbursed during the reporting period covered by the report. Column B lists totals for the election cycle to date.

Line 11. Contributions

Line 11(a). Contributions from individuals/persons other than political committees (i.e. individuals and other groups that are not political committees)

Use Line 11(a), to report contributions from individuals and groups other than political committees (such as partnerships, sole proprietorships and certain LLCs and Indian tribes).

Enter the total of itemized contributions from individuals and other groups (not political committees) on Line 11(a)(i).

On Line 11(a)(ii), enter the total amount of unitemized contributions.

On Line 11(a)(iii), enter the total of itemized and unitemized contributions from individuals/others.

Line 11(b). Contributions from political party committees

On Line 11(b), enter the total amount of contributions from party committees including any party organizations not registered with the FEC. As noted earlier in the chapter, these contributions must be itemized on a Schedule A for this line, regardless of amount. 104.3(a)(3)(iii).

Line 11(c). Contributions from other political committees

On Line 11(c), enter the total amount of contributions from other political committees (such as PACs or other candidates' committees) and other such groups not registered with the FEC, which, as noted earlier in the chapter, must be itemized on a Schedule A for this line, regardless of amount. 104.3(a)(3)(iv).

Line 11(d). Contributions from candidate

On Line 11(d), enter the total contributions from the candidate. This includes any contributions from the candidate that were itemized on Schedule A for this line, as well as any contributions that did not have to be itemized. If the contribution is derived from an underlying loan to the candidate from a lending

institution, or from an advance from the candidate's brokerage account, credit card or line of credit, report the underlying loan on Schedule C-1.

Line 12. Transfers from other authorized committees

On Line 12, enter the total amount of transfers from the candidate's other authorized committees (if there are any such committees) which, as noted earlier in the chapter, must be itemized on a Schedule A for this line, regardless of amount.

Line 13. Loans

Line 13(a). Loans made or guaranteed by the candidate

On Line 13(a), enter the total amount of loans made or guaranteed by the candidate which, as noted earlier in the chapter, must be itemized on a Schedule A for this line, regardless of amount.

Line 13(b). All other loans

On Line 13(b), enter the total of all other loans (i.e., those not made or guaranteed by the candidate) the committee received during the reporting period which, as noted earlier in the chapter, must be itemized on a Schedule A for this line, regardless of amount.

Line 14. Offsets to operating expenditures

On Line 14, enter the total amount of offsets to operating expenditures (such as refunds or rebates) received during the reporting period. The figure might include unitemized offsets as well as itemized offsets, which, as noted earlier, are listed on a Schedule A for this line.

Line 15. Other receipts

On Line 15, enter the total amount of any other receipts—both itemized and unitemized—included for the reporting period. Note that the type of receipts included here may vary widely. Examples of receipts disclosed on Line 15 include dividends, certain sales of campaign assets, recount donations and refunds of contributions made by the committee to other committees or candidates. Remember that those receipts aggregating over $200 from any source during the election cycle must be itemized on a Schedule A for this line.

Line 17. Operating expenditures

On Line 17, enter the total amount of disbursements for operating expenditures—both itemized and unitemized—made during the reporting period. Remember that these disbursements must be itemized when they aggregate over $200 to any one source during the election cycle. Therefore, the amount entered on this line will not match the amount totaled on Schedule B for Line 17, which includes only itemized expenditures (unless the committee chooses to itemize expenditures that it is not required to itemize).

Line 18. Transfers to other authorized committees

On Line 18, enter the total amount of transfers made to the candidate's other authorized committees (if any such committees exist). As noted earlier in the chapter, such transfers must be itemized on a Schedule B for this line, regardless of amount.

Line 19. Loan repayments

Line 19(a). Repayments on loans made or guaranteed by the candidate

On Line 19(a), enter the total of repayments of principal of loans made or guaranteed by the candidate. Such payments of principal must be itemized on a Schedule B for this line, regardless of amount. As noted earlier in the chapter, payments of interest are considered operating expenditures, not repayments on loans, and must be reported on Line 17 (see Section 20, "Reporting Loans").

Line 19(b). Repayments on all other loans

On Line 19(b), enter the total of repayments of principal of all loans not made or guaranteed by the candidate. Such payments of principal must be itemized on a Schedule B for this line, regardless of amount. As noted earlier in the chapter, payments of interest are considered operating expenditures, not repayments on loans, and must be reported on Line 17 (see Section 20, "Reporting Loans").

Line 20. Refunds of contributions

Line 20(a). Refunds of contributions to individuals/persons other than political committees (i.e., individuals and other groups that are not political committees)

On Line 20(a), enter the total amount of contributions refunded to individuals or groups (other than political committees). Remember that contribution refunds need only be itemized (on a Schedule B) if the original contributions were itemized (on a Schedule A). (See Section 22, "Reporting Refunds, Returns, Bounced or Uncashed Checks and Disgorged Contributions.")

Line 20(b). Refunds to political party committees

On Line 20(b), enter the total amount of contributions refunded to political party committees. Remember that, since these contributions must be itemized regardless of amount, the refunds will have to be itemized as well.

Line 20(c). Refunds to other political committees

On Line 20(c), enter the total amount of contributions refunded to other political committees (i.e., other than political party committees). Remember that, since these contributions must be itemized regardless of amount, the refunds will have to be itemized as well.

Line 21. Other disbursements

On Line 21 enter the total of all other disbursements—itemized and unitemized—made during the reporting period. This line may contain a wide array of disbursements, including contributions to other federal candidates, donations to charitable organizations, and recount-related disbursements. Remember that disbursements aggregating over $200 to the same payee during the election cycle must be itemized on a Schedule B for this line.

Line 23. Beginning cash on hand

A committee must report the cash on hand it possessed at both the beginning of the reporting period and the close of the reporting period. Note that the closing cash balance for the current reporting period appears on the next report as the beginning cash on hand. Cash on hand includes petty cash, funds held in checking and savings accounts, traveler's checks, certificates of deposit, treasury bills and other investments valued at cost. 104.3(a)(1).

First report

Beginning cash on hand—i.e., money that the committee had in its possession at the time of registration—is subject to the contribution limits, prohibitions and disclosure requirements of federal law. (The committee must exclude any contributions that are not permissible under federal law.) If the beginning cash-on-hand balance is not $0, then the committee must itemize, as memo entries on Schedule A, contributions and other receipts included in the beginning cash-on-hand balance. (See Section 5 of this chapter, "When to Itemize Receipts.")

Line 24. Total receipts this period

Enter the total receipts figure from Line 16 of the Detailed Summary Page.

Line 26. Total disbursements this period

Enter the amount of total disbursements from Line 22 of the Detailed Summary Page.

Line 27. Cash on hand at close of reporting period

Subtract the total disbursements for the period (Line 26) from the subtotal (entered on Line 25) of beginning cash on hand for the reporting period (Line 23) and the total receipts for the reporting period (Line 24) to derive the closing cash-on-hand balance. (In other words, (Beginning Cash on Hand + Total Receipts for Reporting Period) – (Total Disbursements for Reporting Period = Closing Cash on Hand.) Note that for the next report, this amount must be entered on Line 23 (Cash on Hand at Beginning of Reporting Period).

30. POST-ELECTION DETAILED SUMMARY PAGE

In election years, the reporting period for the Post-General (or, in cases where the candidate was not a candidate in the general election, the Year-End) report will span two election cycles. For this report only, committees must not use the normal Detailed Summary Page; instead, they must use the Post-Election Detailed Summary Page. This form divides the post-election reporting period into two time frames:

From the beginning of the reporting period through the date of the election; and

From the day after the election to the end of the reporting period. (See example 13–42.)

The campaign must divide its records into those two time periods in order to fill out the form. Campaigns that do not participate in the general election must file the Post-Election Detailed Summary Page with their election-year Year-End report. Committees involved in a special general election must also file the Post-Election Detailed Summary Page with any special Post-General report required.

Electronic filers must file this form electronically, and thus must ensure that their filing software is able to generate this form, or use FECFile. Paper filers may download this form from FEC.gov.

31. THE SUMMARY PAGE

After completing the Detailed Summary Page, totals from that page and from Schedules C and D are used to complete the Summary Page. See examples 13–43 and 13–44.

Line 1. Name and address

Fill in the committee's full name and mailing address. If the address has changed, be sure to check the appropriate box.

Line 2. ID number

Enter the committee's FEC identification number on Line 2. If the committee is filing its first report, it may not yet have received an ID number; in that case the committee should leave this space blank.
A committee should include its ID number in all reports, statements, notices and other written communications with the FEC.

Line 3. Original or amended report

Check "amended" only when amending a report that has already been filed with the FEC; otherwise, check "new."

Line 4. Type of report

Check the appropriate box and, if necessary, fill in the appropriate information (for 12-day pre-election, 30-day post-election, special election reports and termination reports).

Line 5. Coverage dates

The period covered by the report begins on the day after the close of books of the last report filed by the committee. If the report is the first one filed by the committee, then the reporting period begins with the date of the committee's first activity.

Line 6. Net contributions (other than loans)

On Line 6(a), enter the amount of total contributions other than loans from Line 11(e) of the Detailed Summary Page.

On Line 6(b), enter the amount of refunds from Line 20(d) of the Detailed Summary Page.

Line 7. Net operating expenditures

On Line 7(a), enter the amount of total operating expenditures from Line 17 of the Detailed Summary Page.

On Line 7(b), enter the amount of total offsets to operating expenditures from Line 14 of the Detailed Summary Page.

Line 8. Cash on hand at close of reporting period

On Line 8, enter the amount of cash on hand at the close of the reporting period from Line 27 of the Detailed Summary Page.

Line 9. Debts owed to committee

On Line 9, transfer the total amount owed to the committee from the appropriate Schedule C and/or D.

Line 10. Debts owed by committee

On Line 10, transfer the total amount owed by the committee from the appropriate Schedule C and/or D.

Treasurer's name and signature

The treasurer must sign and date Form 3 at the bottom of the Summary Page. Only a treasurer or assistant treasurer designated on Form 1 (Statement of Organization) may sign the report. 104.14(a). In the case of electronic filers, the treasurer's password serves as the "signature." See Chapters 2, 11 and 12 for more information on the treasurer's responsibilities.

32. FILING AMENDMENTS

The committee must file an amended report if it:

- Discovers that an earlier report contained erroneous information; or
- Does not obtain all the required information about a particular itemized receipt or disbursement in time to include it in the appropriate report.

Paper filers

When filing an amended Form 3, the committee should complete the Summary Page (including the treasurer's signature), indicating on Line 3 that the document is an amended report.
In addition to the Summary Page (Pages 1 and 2 of Form 3), the committee should file a corrected version of the schedule that contained the incomplete or incorrect itemized information in the earlier report, along with a revised Detailed Summary Page (Pages 3 and 4 of Form 3), if appropriate. Transactions originally reported correctly do not need to be itemized again. The Commission recommends that the treasurer attach a cover letter explaining the change.

Electronic filers

Electronic filers must electronically resubmit the entire report, not just the amended portions. The committee must check the amendment box on the new report before filing. The amendments must be formatted to comply with the Electronic Filing Specifications Requirements mentioned in Chapter 12. 104.18(f).

A Form 99 (Miscellaneous Electronic Submission) may be used for narrative responses that do not affect actual entries within a report, such as when outlining the committee's procedures for making "best efforts" to obtain contributor information.

CHAPTER 14

WINDING DOWN THE CAMPAIGN

This chapter explains the requirements for an authorized committee that wishes to close down its operations at the end of a campaign.[1]

1. TERMINATING THE COMMITTEE

Eligibility

A committee may file a termination report at any time, provided that:

- The committee no longer intends to receive contributions, make expenditures or make any disbursements that would otherwise qualify it as a political committee; and
- Neither the committee seeking to terminate nor any other authorized committee of the same candidate has any outstanding debts or obligations.

102.3 and 116.1. Campaigns with debts or obligations should see "Retiring Debts" and "Settling Debts."

A committee involved in an FEC enforcement action, an FEC audit or litigation with the FEC, however, must continue to file regularly scheduled reports until the matter is resolved.

Termination report

When filing the committee's termination report, the treasurer must check the "Termination Report" box on Line 4 of the Summary Page of Form 3. A termination report may be filed anytime and may be combined with a regularly scheduled report. (For example, a quarterly report may also serve as a termination report if the filer checks the "Termination Report" box.) The termination report must disclose:

- All receipts and disbursements not previously reported, including an accounting of debt retirement (See "Retiring Debts" and "Settling Debts"); and
- The purposes for which any remaining committee funds or assets will be used. (See Chapter 8, "Expenditures and Other Uses of Campaign Funds;" see also "Winding Down Costs" and "Sale of Campaign Assets.") 102.3(a).

Committee no longer required to report once notified

[1] If a candidate wishes to use the committee for a subsequent federal campaign, he or she may redesignate it as an authorized committee using FEC Form 2. See Chapter 2, "Candidate and Committee Registration," for more information.

The committee's reporting obligation ends only when the Commission notifies the committee in writing that the termination report has been accepted. Until the committee receives this notification, it must continue to file reports.

Administrative termination

The FEC, upon its own initiative or at the request of a political committee, may administratively terminate a committee's reporting status. For details on administrative termination, consult Section 102.4 of the regulations.

2. CONVERSION TO MULTICANDIDATE COMMITTEE

In past advisory opinions, the Commission has permitted a principal campaign committee to become a multicandidate committee as an alternative to the committee's termination. In meeting the requirements for multicandidate status, a former principal campaign committee may avail itself of the length of time of its prior registration, the number of contributions it has made in the past and the number of contributions it has received. Note that the prohibition on converting campaign funds to personal use still applies to such a committee. See AOs 2012-06 (RickPerry.org), 2004-03 (Dooley for the Valley), 1993-22 (Roe), and 1985-30 (Holt) and the Campaign Guide for Nonconnected Committees for more information. Principal campaign committees of active candidates cannot qualify as multicandidate committees. 102.12(c) and 102.13(c).

To change the committee type, the committee must amend its Form 1 (Statement of Organization) to:
•Change the committee's name. A PAC's name must not include the candidate's name.
•Update the committee type.
•Amend any other information that has changed.

After the conversion, the committee remains responsible for resolving any outstanding obligations, such as debts and unrefunded impermissible contributions.

3. WINDING DOWN COSTS

Campaign funds may be used to pay ordinary and necessary expenses incurred in connection with one'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. 113.2(a)(2).
Winding down costs include:

Moving expenses. A retiring federal officeholder may use campaign funds to pay for the expenses of moving office and personal furnishings from the congressional office in Washington, DC back to the officeholder's home state. While the costs of transporting an officeholder's personal household effects and furnishings from Washington, DC to the officeholder's home state are not "winding

down costs," such costs are "ordinary and necessary expenses" incurred in connection with ending his or her duties as a federal officeholder. AO 1996-14 (de la Garza). See also AO 1996-44 (Wilson). All such moving expenses should be reported as "other disbursements" by the officeholder's committee, with specific payee(s) and purpose noted. 104.3(b)(2)(vi) and (b)(4)(vi).

Payments to committee staff. See AOs 1976-90 (Randall) and 1978-43 (Jordan).

Gifts. Campaign funds may be used to purchase gifts or make donations of nominal value to persons other than the members of the candidate's family. 113.1(g)(4).

See also AO 2008-04 (Dodd for President).

Other permissible uses of excess campaign funds include:

Donations to charitable organizations defined in 26 U.S.C. §170(c). 113.2(b);

Unlimited transfers to any national, state or local political party committee. 113.2(c);

Donations to state and local candidates, pursuant to state law. 113.2(d); and

Any other lawful purpose, unless such use is personal use under 113.1(g). (See Chapter 8, Section 2, "Prohibited Uses of Campaign Funds.") 113.2(e).

4. SALE OF CAMPAIGN ASSETS

Purchaser makes contribution

Generally, when a campaign sells its property, the purchase is considered a contribution to the campaign by the purchaser. The payment, therefore, must not come from prohibited sources and must not exceed the contribution limits.

Sale of campaign materials

The sale of fundraising items or materials developed uniquely for the committee (such as artwork, publications and opinion polls[2]) results in contributions from the purchasers. 100.53. See, for example, AOs 1982-24 (Phillips) and 1980-19 (Young). (However, note the exception for mailing lists, in this section.)

Commercial ventures

The Commission has determined that when a committee asset is sold or used for an ongoing commercial venture to produce revenue for a committee, the proceeds are considered contributions to the committee. See AOs 1991-34 (West Virginia Republicans) and 1983-02 (Emery).

Purchaser does not make contribution

Under limited circumstances, however, the sale of a campaign asset does not result in a contribution.

Mailing lists

[2] For more information on opinion polls, see Commission regulations at 106.4.

Mailing lists developed by a campaign for its own use may be sold or exchanged at the "usual and normal" charge without the purchaser making a contribution. See, for example, AOs 2002-14 (Libertarian National Committee), 1982-41 (Dellums) and 1981-53 (Frazier).

Liquidation of equipment and supplies

The Commission has said that the sale of campaign equipment and supplies does not result in a contribution under certain conditions. See AOs 2003-19 (DCCC) and 1986-14 (Burton).

5. RETIRING DEBTS

Through contributions

When raising contributions to retire debts after the election is over, a campaign must remember three general rules[3]:

The contributions are still subject to the limits and prohibitions of the Federal Election Campaign Act (the Act), even if the candidate lost the election and does not plan to run for future federal office.

Contributions made after an election to retire debts must, in most cases, be specifically designated for that election by the contributor. See "Designated and Undesignated Contributions," Chapter 4, Section 4.

Contributions designated for, but made after, a particular election may not exceed the campaign's net debts outstanding, as explained in Chapter 4.

110.1(b)(3)(i).[4]

Through sale of assets

A campaign may sell its assets to raise funds to retire debts. Note that the sale or use of assets to retire debts may result in contributions from the purchasers, as explained in Section 4.

Through transfers

A campaign may receive funds to retire debts through transfers of excess funds from the same candidate's federal campaign for a different election cycle, as long as the transferor committee has no outstanding debts. 116.2(c)(2). See Chapter 9, "Transfers." See also AO 1997-10 (Hoke).

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[3] A campaign may raise funds to retire debts through joint fundraising. See Appendix C.

[4] The Commission has determined that a federal officeholder may solicit, receive and expend both federally permissible funds, as well as funds that do not comply with the *Act*, in order to retire existing debt incurred by a previous nonfederal campaign, so long as the fundraising is solely in connection with the nonfederal campaign, refers only to the candidate or to other candidates for that same nonfederal office and is permitted under state law. AOs 2016-25 (Pence), 2007-01 (McCaskill). See also AO 2009-06 (Risch).

Salary owed to campaign staff

Unpaid salary or wages owed to campaign employees are not considered contributions from those employees. Uncompensated services rendered by an employee may be converted to volunteer work, or the amount owed may be treated as a debt. 116.6(a). Note, however, that FEC rules do not require an employee to accept less than full payment for his or her services. 116.6(b).

Treatment as volunteer service

Uncompensated employee service may be considered volunteer service if the employee signs a statement agreeing to the arrangement. 116.6(a). (Services performed by volunteers are exempt from limits and reporting requirements. See Chapter 7.)

Treatment as debt

Alternatively, the committee may treat the unpaid amount of salary as a debt to the employee (see Chapter 13 for reporting information). The committee and the employee may settle the debt for less than the amount owed using the procedures described in the next section. 116.6(b).

6. SETTLING DEBTS

Eligibility for debt settlement

Only a terminating committee may settle a debt for less than the full amount owed to the creditor. A "terminating committee" is one that does not intend to raise contributions or make expenditures—except for the purposes of paying winding-down costs and retiring its debts. 116.1(a) and 116.2(a). An authorized committee may not settle any debts if any other authorized committee of the same candidate has enough permissible cash on hand to pay all or part of the debt. 116.2(c)(1).

Debts subject to settlement

The types of debts that are subject to debt settlement requirements include:

- Amounts owed to commercial vendors;
- Debts arising from advances by individuals (e.g., staff using personal funds or credit to purchase goods and services on behalf of the committee);
- Salary owed to committee employees; and
- Debts arising from loans from political committees or individuals, including candidates. 116.7(b).

The debt settlement rules do not apply to disputed debts, which are covered by other rules 116.7(c)(2).

They also do not apply to bank loans, though the Commission recognizes that under extraordinary circumstances, such as the death or bankruptcy of the candidate, settlement of bank loans may be appropriate. (The Commission will consider specific requests on a case-by-case basis.)

Debt settlement rules

A commercial vendor (incorporated or unincorporated) may forgive or settle a debt owed by a committee without incurring a contribution if:

- Credit was initially extended in the vendor's ordinary course of business, and the terms of the credit were similar to those observed by the vendor when extending a similar amount of credit to a nonpolitical client of similar risk (116.3 and 116.4(d)(1));
- The committee undertook all reasonable efforts to satisfy the outstanding debt, such as fundraising, reducing overhead costs and liquidating assets (116.4(d)(2)); and
- The vendor made the same efforts to collect the debt as those made to collect debts from a nonpolitical debtor in similar circumstances. Remedies might include, for example, late fee charges, referral to a debt collection agency or litigation. 116.4(d)(3).

If the committee or the creditor fails to take these steps, the difference between the amount owed and the amount actually paid may be considered a contribution subject to limits and source prohibitions (i.e., prohibited if the vendor is incorporated). 114.2(b).

Debt settlement plans

After a terminating committee has reached agreements with its creditors, the treasurer must file a debt settlement plan on FEC Form 8. Once the plan has been submitted to the Commission for review, the committee must postpone payment on the debt until the Commission has completed the review. 116.7(a). Payments to creditors must be disclosed in the committee's termination report.

Completing Form 8

Step-by-step instructions for completing Form 8 are included with the form. The Commission recommends that the committee include as many debts as possible in the plan and submit a separate Part II (second page) for each creditor along with Part I (cover page). The treasurer must also submit Part III (third page) to indicate how the committee intends to address other debts not included in the submission. The treasurer must sign and date the first page. The creditor must also sign the form to indicate his or her acceptance of the settlement. As an alternative, the treasurer may attach a signed statement from the creditor containing the same information.

Reporting debts undergoing settlement

Debts undergoing settlement must be continuously reported until the Commission has completed its review of the committee's debt settlement plan. The committee may file a termination report once all debts have been paid, settled, forgiven or otherwise extinguished. 116.4(f), 116.5(e) and 116.6(c).

Disputed debts

A disputed debt is a bona fide disagreement between the creditor and the committee as to the existence of a debt or the amount owed by the committee. When filing a debt settlement plan, a terminating committee must describe any disputed debts and the committee's efforts to resolve them on Part III of Form 8. 116.10(b).

Creditor's rights

No commercial vendor or other creditor is required to forgive or settle debts owed by committees. 116.4(e).

Assigning debts to another committee

To expedite termination, an authorized committee that qualifies as a terminating committee and has no remaining cash on hand may assign its debts to another authorized committee of the same candidate, provided that:

- The committee transferring the debts was organized for an election that has already been held;
- Within 30 days before the assignment takes effect, the transferor committee notifies each creditor in writing of the name and address of the committee assuming the debts; and
- The committee assuming the debts notifies the FEC in writing that it has assumed the obligation to pay the debts. That committee must continue to report the debts until they are retired.

116.2(c)(3).

The committee transferring the debts should report this to the FEC using memo text on the termination report or on a Form 99.

Forgiveness of candidate loans

The candidate may choose to forgive all or a part of a loan from his or her personal funds to the campaign. See 110.10; AOs 1985-10 (Cantrell), 1979-05 (Brathwaite). To report the loan forgiveness, the candidate must file a signed statement with the FEC indicating that he or she forgives the loan. The statement must be filed on paper with the candidate's original signature, even for committees that file reports electronically. The report for the period during which a loan was forgiven should disclose the adjusted outstanding balance on Schedule C with a memo entry text referencing the statement.

Forgiveness of debts owed by ongoing committees

Forgiveness rules

A creditor may forgive a debt owed by an ongoing committee (that is, one that does not qualify as a terminating committee) if the debt has been outstanding at least 24 months and:

- The ongoing committee (1) has insufficient cash on hand to pay the debt, (2) has had receipts of less than $1,000 and disbursements of less than $1,000 during the previous 24 months and (3) owes debts to other creditors of such magnitude that the creditor could reasonably conclude that the ongoing committee will not pay its particular debt; or
- The creditor is unable, after reasonable diligence, to locate the ongoing committee.

116.8(a).

Notification to Commission

A creditor who intends to forgive a debt owed by an ongoing committee must notify the Commission of its intent in writing. The letter must provide the following information:

- The terms of the initial extension of credit and a description of the terms under which the creditor has extended credit to similar nonpolitical debtors;
- A description of the campaign's efforts to satisfy the debt;
- A description of the steps taken by the creditor to obtain payment, along with a comparison of those remedies with others pursued by the creditor under similar circumstances; and
- An indication that the creditor has forgiven other debts involving nonpolitical debtors in similar circumstances.

116.8(b).

Commission review

The Commission will review each proposal to forgive a debt to ensure that the creditor, the ongoing committee and the candidate have complied with the Act's contribution limits and prohibitions. 116.8(c).

Appendix A
Earmarked contributions

An earmarked contribution is one which the contributor directs (either orally or in writing) to a clearly identified candidate or the candidate's authorized committee through an intermediary or conduit. Earmarking may take the form of a designation, instruction or encumbrance and may be direct or indirect, express or implied, written or oral. 110.6(b)(1). Earmarked contributions require additional disclosure, as summarized in this chapter.

In addition, under the provisions of the Honest Leadership and Open Government Act of 2007 (HLOGA), Pub. Law No. 110-81, 121 Stat. 735, signed into law September 14, 2007, certain "bundled" contributions may trigger additional disclosure of the identity of the person who raised the bundled contribution as summarized in Section 6 of this Appendix. See also Appendix F, "Lobbyist Bundled Contributions," for further information.

1. EARMARKED CONTRIBUTIONS

Conduit/intermediary

Anyone who receives and forwards an earmarked contribution to a candidate or candidate's authorized committee is considered a conduit or intermediary. 110.6(b)(2). (The terms "conduit" and "intermediary" are interchangeable; "conduit" will be used in the remainder of this appendix.) Individuals, political committees, unregistered committees and partnerships may act as conduits for earmarked contributions.

Persons not considered conduits

For the purposes of the earmarking rules, certain individuals and organizations are not considered conduits even though they may participate in activities to raise money for a candidate. These persons include:

- An employee or full-time volunteer working for a candidate committee;
- An individual who occupies a significant position in a candidate's campaign and who is expressly authorized to raise money on behalf of the candidate;
- A committee affiliated with the candidate committee; and
- A commercial fundraising firm retained by the candidate committee. 110.6(b)(2)(i).

Prohibitions apply

No corporation, labor organization or other entity prohibited from making contributions in connection with federal elections may act as a conduit for an earmarked contribution. A nonconnected committee or a separate segregated fund (SSF), however, may act as a conduit. 110.6(b)(2)(ii) and 114.2(f)(3)(ii).

Furthermore, no individual may receive a contribution on behalf of a candidate (as a conduit or otherwise) while acting as the representative of a corporation, labor organization or other entity prohibited from making contributions. 110.6(b)(2)(i)(A) and (E) and 114.2(f).

2. EFFECT ON CONTRIBUTION LIMITS

Contributor's limit

An earmarked contribution counts against the contributor's contribution limit for the recipient candidate. 110.6(a).

Conduit's limit

Direction or control

The conduit's limit is affected when the conduit exercises direction or control over the contributor's choice of recipient candidate (see "Contributions Earmarked through SSF"). In that case, the full amount of the contribution counts against the limits of both the original contributor and the conduit, even though the candidate receives only one check. 110.6(d). For examples of how the Commission has viewed the "direction or control" rule in specific situations, see AOs 2019-11 (Pro-Life Democratic Candidate PAC), 2019-01 (It Starts Today), 2014-13 (Act Blue), 2003-23 (WE LEAD), 1986-04 (Armstrong Industries) and, 1981-57 (Coal Miners PAC).

Effect on unregistered organization

An unregistered organization acting as a conduit should be aware that conduit activity could result in a contribution by the organization, under the circumstances previously described. In such a case, the activity may trigger registration requirements for the unregistered organization.

Contributions earmarked through SSF

Unsolicited

As discussed in Section 1, a corporation or labor organization may never act as a conduit for earmarked contributions. A corporation or labor organization's SSF, however, may collect and forward earmarked contributions. An unsolicited earmarked contribution, transmitted to a candidate through the SSF, counts against the original contributor's contribution limits, but it does not count against the limits on the SSF's own contributions to the candidate. 110.6(d)(1).

Solicited

If, however, the earmarked contribution was solicited from the restricted class by a communication from the SSF's connected organization, under 114.3, and was collected by the SSF, it is considered a contribution to both the SSF and the candidate, and from both the individual contributor and the SSF. As such, the earmarked contribution counts against several contribution limits. Note that, under these circumstances, the contribution automatically counts against the SSF's contribution limits regardless of whether the SSF exercised direction or control over the choice of recipient. 114.2(f)(2)(iii) and (f)(4)(iii).

3. FORWARDING EARMARKED CONTRIBUTIONS

10-day limit

The conduit must forward an earmarked contribution, along with a report (see next section) to the recipient candidate committee within 10 days of receiving the contribution. 102.8(a) and (c) and 110.6(c)(1)(iii).

4. TRANSMITTAL TO CAMPAIGN

Along with the funds, the conduit must forward to the recipient candidate committee a transmittal report containing information that the candidate's campaign committee will need for its own records and reports. 110.6(c)(1).

Contributions exceeding $50

When an earmarked contribution exceeds $50, the accompanying transmittal report must contain the name and mailing address of the original contributor, the date the contribution was received by the conduit and the amount. 102.8(a) and 110.6(c)(1)(iv)(A). The report should also state the election designated by the contributor, if any. 110.1(b)(2)(i).

Contributions exceeding $200

When an earmarked contribution exceeds $200, the accompanying report must contain the name and mailing address of the contributor, the contributor's occupation and name of employer, the date the contribution was received by the conduit and the amount. 102.8(a) and 110.6(c)(1)(iv). The report should also state the election designated by the contributor, if any. 110.1(b)(2)(i).

5. REPORTING EARMARKED CONTRIBUTIONS

An earmarked contribution must be reported by both the conduit (political committee or unregistered entity) and the recipient authorized committee. The conduit must comply with special reporting rules, which vary depending on whether the contribution was deposited in the conduit's bank account or was passed on directly to the campaign in the form of the original contributor's check. 110.6(c)(1)(v).

Reports by political committee conduit

A political committee that serves as a conduit of an earmarked contribution must disclose the earmarked contribution, regardless of amount, on two separate reports: the committee's next regularly scheduled FEC report, and a special transmittal report (mentioned in Section 4) sent to the recipient authorized committee. 110.6(c)(1).

Next regular FEC report

The conduit's next regularly scheduled report must indicate whether the earmarked contribution was:

- Transmitted through the conduit's account, in which case each contribution must be reported on the reporting schedules for itemized receipts and disbursements (Schedules A and B); or
- Transmitted in the form of the original contributor's check, in which case each earmarked contribution must be reported as a memo entry on Schedules A and B.

110.6(c)(1)(iv) and (v). For more information, see Appendix D of the Campaign Guide for Nonconnected Committees and Appendix E of the Campaign Guide for Corporations and Labor Organizations.

Reports by unregistered conduit

A conduit that is not a registered political committee (that is, the conduit is an individual, a partnership or a group) must, within 30 days of forwarding the contribution, file a report by letter with the Federal Election Commission and must, when the contribution is forwarded, file a transmittal report by letter with the recipient authorized committee. 52 U.S.C. 30102(g); 110.6(c)(1)(ii).

Contents of reports by conduit

The reports filed by a conduit must contain the following information:

- The name and mailing address of the original contributor and, if the contribution is from an individual and exceeds $200, the contributor's occupation and employer;
- The amount of the earmarked contribution;
- The date the contribution was received by the conduit;
- The recipient of the contribution, as designated by the contributor;
- The date the contribution was forwarded to the recipient; and
- Whether the contribution was passed on in cash, by the contributor's check or by the conduit's check. Note that if the conduit is an individual, he or she may deposit earmarked contributions into a personal bank account. See 110.6(c)(1)(iv). However, contributions may not be commingled with the personal funds of any individual. 102.15.

Report by recipient committee

The recipient of an earmarked contribution also has an obligation to itemize earmarked contributions if the earmarked contributions received from a single conduit exceed $200 in an election cycle. (Earmarked contributions not requiring itemization should be included in the Line 11(a)(ii) total.) If earmarked contributions require itemization on Schedule A, the authorized committee must:

- Identify the conduit by name and address (and occupation and employer if the conduit is an individual);
- Report the date of receipt and total amount of earmarked contributions received from that conduit; and
- Itemize the original contributions from each individual whose total contributions to the committee aggregate over $200 per election cycle (including the full name, mailing address, occupation and employer of the contributor, the amount earmarked and the date the conduit received the

contribution). 110.6(c)(2). (See example A–1.) If appropriate, the campaign must report whether the conduit's limit was affected. See 110.6(d)(2).

Contributions of $1,000 or more earmarked through a conduit and received by a campaign committee less than 20 days but more than 48 hours prior to an election in which the candidate is running must be reported on 48-Hour Notices. (See Chapter 12 for information on reporting last minute contributions.)

6. CONTRIBUTIONS BUNDLED BY LOBBYISTS/REGISTRANTS AND LOBBYIST/REGISTRANT PACS

Under the provisions of HLOGA, additional disclosure is required for certain "bundled contributions." Bundled contributions include contributions collected and forwarded by a lobbyist/registrant or lobbyist/registrant PAC either physically or electronically, as well as contributions for which the lobbyist/registrant or lobbyist/registrant PAC receives credit from the recipient authorized committee, through record, designation or other form of recognition. See Appendix F, "Lobbyist Bundled Contributions" for further information.

Appendix B

Contributions from Partnerships[1]

There are special rules concerning contributions received from partnerships and from limited liability companies taxed as partnerships.

1. CONTRIBUTION LIMITS

Contributions made by partnerships

Contributions received by a candidate's authorized committees from a partnership may not exceed $2,900 per election. In addition, a contribution from a partnership also counts proportionately against each participating partner's own limit with respect to the same candidate. 110.1(b)(1) and (e).

Contributions made by individual partners

Each individual partner may make contributions of $2,900 per election, per candidate. 110.1(b)(1). Although contributions made by the partnership as a whole count proportionately against each participating partner's $2,900 limit, contributions made by individual partners from their own funds do not count against the partnership's limit. 110.1(e). See "Attribution among Partners."

Note, however, that certain partnerships and partners may be prohibited from contributing. See "Prohibited Partnership Contributions."

Limited liability companies

In some cases, limited liability companies (LLCs) are treated as partnerships. For the purposes of contribution limitations and prohibitions, an LLC is treated as a partnership if:

- It does not have publicly traded shares, and
- It has chosen to file, under IRS rules, as a partnership; or
- It has made no choice, under IRS rules, as to whether it is a corporation or a partnership. 110.1(g)(2) and (3).

Under these conditions, an LLC may make contributions to candidates, subject to the rules described in this appendix. See also Chapter 4, Section 10.

[1] For information on contributions from limited liability companies, see Chapter 4, Section 1.

2. ATTRIBUTION AMONG PARTNERS

Formula

A portion of the partnership contribution must be attributed to each contributing partner.[2] If all partners within the organization are contributing, the partnership may attribute the contribution according to each partner's share of the firm's profits.

However, if the partnership attributes a contribution on another basis agreed to by the partners, the following rules must be observed:

- The profits of only the partners to whom the contribution is attributed are reduced (or their losses increased); and
- The profits (or losses) of those partners are reduced (or losses increased) in the amount of the contribution attributed to them.

The portion attributed to each partner must not, when aggregated with other contributions from that person, exceed his or her individual contribution limit. 110.1(e). See also "Partnerships or LLCs with corporate partners or members" in the next section and AO 2009-02 (True Patriot Network, LLC) regarding independent expenditures by single member LLCs.

Notice to recipient committee

Because a contribution from a partnership is a joint contribution, the partnership must provide to the recipient committee, along with the contribution, a written notice listing the names of the contributing partners and the amount to be attributed to each. However, unlike other joint contributions, the signature of each contributing partner is not required. 110.1(k)(1).

3. PROHIBITED PARTNERSHIP CONTRIBUTIONS

Professional corporations

Although law firms, doctors' practices and similar businesses are often organized as partnerships, some of these businesses may instead be professional corporations. Unlike a partnership, a professional corporation is prohibited from making any contributions because contributions from corporations to campaign committees are unlawful. 114.2.

Partnerships or LLCs with corporate partners or members

Because corporations are prohibited from contributing to a campaign committee, a partnership or LLC with corporate partners or members may not attribute any portion of a contribution to the corporate

[2] A portion of a contribution drawn on a partnership account may not be attributed to the spouse of a partner unless the spouse is also a member of the partnership. AO 1980-67 (Long).

partners or members. 110.1(e) and 114.2(b). See also “Contributions from limited liability companies” in Chapter 4, Section 10.

A partnership or LLC composed solely of corporate partners or members may not make any contributions. AOs 2001-07 (NMC PAC) and 1981-56 (Satellite Business Systems); see also AOs 2009-14 (Mercedes-Benz USA / Sterling), 2003-28 (Horizon Lines), 2001-18 (BellSouth) and 1992-17 (DuPont Merck) for a limited exception pertaining to exempt costs for an affiliated corporate partner’s SSF.

Partnerships or LLCs with foreign national members

Similarly, because contributions from foreign nationals are prohibited, a partnership or LLC may not attribute any portion of a contribution to a partner who is a foreign national. 110.20. See Chapter 5, Section 1 for further information on the foreign national prohibition.

Partnerships or LLCs with federal government contracts

A partnership or LLC that is negotiating a contract with the federal government or that has not completed performance of such a contract is prohibited from making contributions. However, an individual partner in such a firm may make contributions from personal funds (rather than from funds drawn on the partnership’s account). 115.4. See also AOs 2005-20 (Pillsbury Winthrop Shaw Pittman), 1991-01 (Deloitte & Touche PAC) and Chapter 5, Section 1.

Also, an individual who is, in his or her own right or as a sole proprietor, a federal government contractor or negotiating a contract with the federal government may not make contributions using any funds (business or personal) under his or her control. 115.5. Note that the spouse of such an individual is not prohibited from making a personal contribution in his or her own name (as long as he or she is not otherwise prohibited from making contributions in connection with a federal election).

4. REPORTING PARTNERSHIP / LLC CONTRIBUTIONS

Included in total figure

Partnership or LLC contributions are included in the total figure reported for “Contributions from Individuals/Persons Other Than Political Committees” on the Detailed Summary Page of Form 3 (Line 11a).

Itemization

If a contribution from a partnership or LLC exceeds $200 or aggregates over $200 during an election cycle, the committee must itemize the contribution on a Schedule A used for “Contributions from Individuals/Persons Other Than Political Committees” (Line 11(a)).

Additionally, if an individual partner’s share of the contribution exceeds $200 when combined with other contributions received from that partner in the same election cycle, the committee must disclose, as a

memo entry, itemized information on the partner (name, address, occupation, date contribution received, partner's share of contribution and aggregate cycle-to-date total of contributions made by that partner). 104.8 and 110.1(e). (See example B–1.)

In-kind contributions

A committee reports the value of an in-kind contribution from a partnership or LLC in the same way it reports a monetary contribution. In addition, as with all in-kind contributions, the committee must report the value of the in-kind contribution as an operating expenditure. Moreover, an in-kind contribution itemized on Schedule A must also be itemized on a Schedule B for operating expenditures. 104.13 and 110.1(e). However, any information about a partner itemized as a memo entry on Schedule A does not have to be reported on Schedule B.

More information on partnership contributions

For more information on partnership-sponsored PACs and partnership contribution plans, see the Campaign Guide for Nonconnected Committees.

Appendix C
Joint Fundraising

1. INTRODUCTION

What is joint fundraising

Joint fundraising is election-related fundraising conducted jointly by a political committee and one or more other political committees or unregistered organizations.

Who must observe joint fundraising rules

The rules described in this appendix apply to political committees and unregistered organizations engaged in joint fundraising.

Note that nothing in the joint fundraising rules supersedes the fundraising restrictions of 11 CFR Part 300. Participants in joint fundraisers should consult those regulations in addition to the following provisions. See Appendix E, "Fundraising by Federal Candidates and Officeholders."

The participants in joint fundraising activity may include:

- Party committees;
- Party organizations not registered as political committees;
- Federal and nonfederal candidate committees;
- Nonparty political committees (except separate segregated funds—SSFs); and
- Unregistered nonparty organizations. 102.17(a)(1)(i) and (2).

The rules described in this appendix do not apply to fundraising by collecting agents and separate segregated funds. 102.17(a)(3). Such organizations may only jointly raise funds with another affiliated organization. For more information, see Chapter 3, Section 15 of the Campaign Guide for Corporations and Labor Organizations.

Overview of rules

All participants in a joint fundraising effort, including unregistered organizations, must:

- Create or select a federal political committee to act as the joint fundraising representative;
- Agree to a formula for allocating proceeds and expenses;
- Sign a written agreement naming the joint fundraising representative and stating the allocation formula;
- Establish a separate account for joint fundraising receipts and disbursements;
- Notify the public of the allocation formula and certain other information (detailed in the next section) when soliciting contributions;

Screen contributions to make sure they comply with the limits and prohibitions of the Federal Election Campaign Act (the Act); and

Report allocated proceeds and expenses (applies to political committees only). 102.17.

The committee named as the fundraising representative has additional responsibilities, as explained in the next section.

2. FUNDRAISING REPRESENTATIVE

Joint fundraising participants must either establish a new political committee (using a Statement of Organization (FEC Form 1)) or select a participating political committee to act as the joint fundraising representative.[1] 102.17(a)(1)(i); see also AO 2007-24 (Burkee/Walz). This committee is responsible for collecting and depositing joint fundraising contributions; paying expenses; allocating proceeds and expenses to each participant; keeping records; and reporting overall joint fundraising activity. 102.17(b)(1)-(2), (c)(4), (c)(6), (c)(8).

A new political committee established for the joint fundraiser must register with the FEC using a Statement of Organization, and must include the name of each participating federal candidate in the new committee's name. 52 U.S.C. §30102(e)(4). (An existing committee would be required to amend its Statement of Organization.) Thus, for example, a joint fundraising committee established to raise funds for a candidate and a party could not be called "Victory '14," but might be called the "John Doe Victory '14" committee. Any federal candidate participating in the fundraiser must designate the fundraising representative as an authorized committee (by amending the Statement of Candidacy, (FEC Form 2)). 102.13(a), 102.17(a)(1)(i), (b)(1) and (b)(2); AO 2007-24 (Burkee/Walz).

Joint fundraising representative

If a new committee is established, it collects all the contributions. 102.17(b)(1). Note that such a committee may not itself be a participant in any other joint fundraising effort, though it may conduct more than one event or activity on behalf of its own participants. 102.17(a)(1)(i). Alternatively, if a committee participating in the fundraiser serves as the joint fundraising representative, it and any other participating committees may collect contributions; however, all contributions received by the other participants must be forwarded to the joint fundraising representative within 10 days of receipt. 102.17(b)(2). Under either option, the joint fundraising procedures explained in this chapter will apply.

Use of commercial firm

Although participants may hire a commercial fundraising firm or other type of agent to assist with organizing and holding the joint fundraiser, they are still required to establish or select a new political committee to serve as the fundraising representative. 102.17(a)(1)(ii).

[1] It is strongly recommended that participants establish a new political committee for ease of compliance with the law.

3. WRITTEN AGREEMENT

Before conducting a joint fundraiser, all participants must enter into a written agreement that identifies the joint fundraising representative and states the allocation formula—the amount or percentage that the participants agree to use for allocating proceeds and expenses. The joint fundraising representative must retain a copy of the written agreement for three years and make it available to the FEC upon request. 102.17(c)(1).

4. SEPARATE DEPOSITORY

Establishing the account

The joint fundraising participants or the joint fundraising representative must establish a separate account solely for the receipt and disbursement of all joint fundraising proceeds. Each participating political committee must amend its Statement of Organization (FEC Form 1) to show the account as an additional depository.[2] 102.17(c)(3)(i).

Depositing contributions

The joint fundraising representative must deposit contributions into the account within 10 days after receiving them. Only contributions permissible under the Act may be deposited in the joint fundraising account. If any participant is an unregistered organization which may, under state law, accept prohibited contributions, the participants may either establish a second account for such contributions or forward them directly to the participants that may accept them. 102.17(c)(3)(i) and (ii).

5. STATEMENTS OF ORGANIZATION

Joint fundraising representatives

As noted in the previous section, the joint fundraising committee must file a Statement of Organization (FEC Form 1). The Statement of Organization must:

Identify the committee as the joint fundraising representative;

List the names and addresses of all federal committees participating in the joint fundraising effort; and

[2] Note that when paper filers amend the Statement of Organization (FEC Form 1), only the committee's name, address and the new or changed information need be included.

Name the depository institution being used by the joint fundraising committee. 102.2. (See examples C–1 and C–2.)

Other joint fundraising participants

Each participant in the joint fundraiser (other than the joint fundraising representative) must amend its Statement of Organization to provide the name and address of the joint fundraising representative—identified as the "JFR"—and to state the name and address of the depository institution holding the joint fundraising account, if it differs from the depository named on its current Statement of Organization. In addition, each federal candidate participating in the fundraiser must amend FEC Form 2 (Statement of Candidacy) to designate the joint fundraising representative as an authorized candidate committee. 102.2(a)(2), 102.17(a)(1)(i), (b)(1), (b)(2) and (c)(3).

6. START-UP COSTS

Participants may advance funds to the joint fundraising representative for start-up costs of the fundraiser. (Note, however, that individuals may not advance such costs or pay for expenses out of pocket to be reimbursed later. See AO 2007-24 (Burkee/Walz).) The amount advanced by a participant should be in proportion to the agreed upon allocation formula. Any amount advanced in excess of a participant's proportionate share is considered a contribution and must not exceed the amount the participant may contribute to the other participants. 102.17(b)(3)(i) and (ii). (However, an exception is made for funds transferred between party committees under 102.6(a)(1)(ii) and 110.3(c)(1). See also Section 14.)

EXAMPLE

Committees A, B and C determine they need $2,000 in start-up costs. According to their allocation formula (Committees A and B, 25 percent each; Committee C, 50 percent), Committees A and B each advance $500 to the joint fundraising representative, and Committee C, $1,000. If, however, Committee C advances the entire $2,000, it has made a $500 contribution to each of the other committees.

Unregistered organizations

An unregistered organization (such as a party organization that has not yet qualified as a political committee) must use permissible funds when advancing money for start-up costs. 102.17(c)(3)(i). If an unregistered participant advances more than its share of start-up costs and thus makes a contribution, the contributed amount may trigger registration and reporting requirements under the Act. 100.5.

7. JOINT FUNDRAISING NOTICE

General rule

In addition to any fundraising or disclaimer notices required (see Chapter 10, Sections 1 and 2; see also, AO 2013-13 (Freshman Hold'em JFC)), a joint fundraising notice must appear with every solicitation for contributions. The notice must contain the following information:

- The names of all participants, regardless of whether they are registered political committees or unregistered organizations;
- The allocation formula (the amount or percentage of each contribution that will be allocated to each participant);
- A statement informing contributors that they may designate contributions for a particular participant (notwithstanding the formula); and
- A statement that the allocation formula may change if any contributor makes a contribution which would exceed the amount he or she may lawfully give to any participant.

102.17(c)(2)(i).

Special situations

In two situations, participants must include additional information in the joint fundraising notice:

- If a participant is engaging in the joint fundraiser to pay off outstanding debts, the notice must state that the allocation formula may change if the participant receives enough funds to pay its debts. See Chapter 4, Section 8, "Contributions to Retire Debts."
- If, under state law, any unregistered participant is permitted to receive contributions prohibited under the Act, the notice must say that such contributions will be given only to participants that may legally accept them.

102.17(c)(2)(ii).

8. SCREENING CONTRIBUTIONS

The fundraising representative and participants must screen all contributions to make sure they are neither prohibited by the Act nor in excess of the Act's contribution limits. The maximum amount a contributor may give to a joint fundraiser is the total amount he or she may contribute to all participants without exceeding any limits.

To facilitate screening, participants must provide the joint fundraising representative with records of past contributions so that the representative may determine whether a donor has exceeded the contribution limits. 102.17(c)(4)(i) and (c)(5).

9. RECORDKEEPING

Receipts

With regard to gross proceeds, the joint fundraising representative must collect the following contributor information and later forward it to the participating political committees:

For contributions exceeding $50, the amount, date of receipt, and the contributor's name and address.

For contributions exceeding $200, the amount, date of receipt, and the contributor's name, address, occupation and employer.

100.12, 102.8(a) and (b) and 102.17(c)(4)(ii).

The date of receipt is the date the joint fundraising representative receives the contribution. 102.17(c)(3)(iii).

Prohibited contributions

The joint fundraising representative must also keep a record of the total amount of prohibited contributions received, if any, and of any transfers containing prohibited funds made to participants that may accept them. 102.17(c)(4)(ii).

Disbursements

The joint fundraising representative must retain, for three years, records on all disbursements made for the joint fundraiser. 102.17(c)(4)(iii) and 102.9. The required recordkeeping information is described under Chapter 11, Section 3, "Recording Disbursements." If a commercial fundraising firm or agent is used, it must forward required records on disbursements to the joint fundraising representative. 102.17(c)(4)(iii).

10. PAYING EXPENSES: STEP 1—ALLOCATING GROSS PROCEEDS

In general, expenses must be paid before proceeds may be transferred to the participants. Thus, the joint fundraising representative may make payments for fundraising expenses from gross proceeds collected at the fundraiser (and from funds advanced by the participants). 102.17(c)(7)(iii). Nevertheless, it must allocate (but not transfer) gross proceeds among the participants.

Generally, the joint fundraising representative must allocate gross proceeds according to the allocation formula. However, as stated in the fundraising notice, the formula may change if the allocation results in:

An excessive contribution from a contributor to one of the participating committees; or

A surplus for a participant raising money solely to pay off campaign debts.

Reallocation under these circumstances must be based on the other participants' proportionate shares under the allocation formula. If reallocation results in a contributor exceeding the contribution limits for the remaining participants, the joint fundraising representative must return the excess amount to the contributor. 102.17(c)(6)(i).

EXAMPLE

Using the same example mentioned previously (allocation formula: Committees A and B, 25 percent each; Committee C, 50 percent), the participants receive a $2,000 contribution from a donor who had previously contributed up to his limit to Committee C. If the fundraising representative were to divide the contribution according to the allocation formula, Committee C would receive an excessive contribution of $1,000. Instead, the excess $1,000 is divided equally between Committees A and B, since their proportionate shares under the allocation formula are equal. Each receives an extra $500, bringing their total allocation to $1,000 apiece.

If, however, Committee A can accept only $800 from the contributor without exceeding the limit, the excess $200 is allocated to Committee B. If Committee B cannot accept the money for the same reason, the $200 must be returned to the contributor.

Designated contributions

Designated or earmarked contributions that exceed the contributor's limit for a participant may not be reallocated without the prior written consent of the contributor. 102.17(c)(6)(ii).

Prohibited contributions

Prohibited contributions must be distributed only to the unregistered participants that may lawfully accept them; they do not have to be distributed according to the allocation formula. 102.17(c)(6)(iii).

11. PAYING EXPENSES: STEP 2—ALLOCATING EXPENSES

After gross proceeds are allocated, the joint fundraising representative must calculate each participant's share of expenses based on its actual share of gross proceeds. This allocation may differ from the original formula. (See example C–3.) (Prohibited contributions may be excluded from the gross proceeds when determining the ratio.) 102.17(c)(7)(i)(A). Expenses for a series of fundraising events must be allocated on a per-event basis. 102.17(c)(7)(i)(C).

EXAMPLE

At the start of the fundraiser, Committees A, B and C agree to allocate 25 percent of proceeds and expenses to Committee A, 25 percent to Committee B and 50 percent to Committee C. However, because the joint fundraising representative must reallocate some contributions, Committee A is actually allocated 20 percent of gross proceeds; Committee B, 35 percent; and Committee C, 45 percent. The fundraising representative must allocate the joint fundraising expenses, $10,000, on the same basis: $2,000 to Committee A, $3,500 to Committee B and $4,500 to Committee C.

Excess payment

If a participant pays for more than its allocated share of expenses, the excess payment is considered a contribution, subject to the Act's limits (see "Start-Up Costs," Section 6 of this chapter). 102.17(c)(7)(i)(B). (Party committees are exempt from this rule when paying for other party committee

participants because, as explained in Section 14, they may make unlimited transfers to other party committees.)

Remember, if an unregistered participant makes such a contribution, the payment may trigger registration and reporting requirements for that organization. 100.5.

12. PAYING EXPENSES: STEP 3—CALCULATING NET PROCEEDS

The joint fundraising representative may delay transferring net proceeds to participants until after it receives all contributions and pays all expenses for the fundraiser. To determine net proceeds, the fundraising representative subtracts the participant's share of expenses from its share of gross proceeds. 102.17(c)(3)(ii) and (c)(7)(i)(A).

EXAMPLE

Committees A, B and C raise $50,000 in gross proceeds and spend $10,000 in expenses, leaving $40,000 in net proceeds. The joint fundraising representative allocates $10,000 (20 percent) in gross proceeds to Committee A and $2,000 (20 percent) in expenses; Committee A's net proceeds equal $8,000.

13. REPORTING

By joint fundraising representative

The joint fundraising representative reports all joint fundraising proceeds in the reporting period in which they are received. If any prohibited contributions are received for a participating unregistered organization, the joint fundraising representative must report them as a memo entry. Any Schedule A used to itemize contributions must clearly indicate on the schedule that the receipts are joint fundraising proceeds. 102.17(c)(3)(iii) and (c)(8)(i)(A).

The joint fundraising representative must also report all disbursements made for the joint fundraiser in the reporting period in which they are made. 102.17(c)(8)(ii). Transfers of net proceeds to the joint fundraising participants are reported as transfers to affiliated committees and itemized on a separate Schedule B for that category.

Joint fundraising representatives that only support federal candidates must file reports using Form 3 and follow the reporting schedule for authorized committees (11 CFR 102.13(c)). Joint fundraising representatives that support at least one party or non-party political committee (such as a PAC) must file reports using Form 3X and follow the filing schedule for unauthorized committees (104.5(a) - (c)).

Reporting last-minute contributions

If a candidate's campaign participates in a joint fundraiser, the joint fundraising representative must notify the campaign if it receives contributions of $1,000 or more less than 20 days but more than 48 hours before 12:01 a.m. of the day of any election in which the candidate is running. It is imperative that the joint fundraising representative quickly notifies the campaign of the receipt since the principal campaign committee is responsible for filing the 48-Hour Notice (FEC Form 6) to disclose those contributions within 48 hours of the receipt. The notice should disclose the information for the original contributor(s) rather than information about the joint fundraiser's total transfer. For more information on 48-Hour Notices, see Chapter 12, Section 3.

Electronic filing

The joint fundraising representative must file electronically if its total yearly contributions or total yearly expenditures exceed, or are expected to exceed, $50,000. 104.18. For more information on electronic filing, see Chapter 12, Section 5.

Participants

After the joint fundraising representative distributes the net proceeds, each participating political committee reports its share as a transfer-in from the joint fundraising representative on Line 12 (Transfers from Other Authorized Committees) and itemizes the transfer on a separate Schedule A for that Line. Using the records received from the joint fundraising representative, a participating committee also must itemize its share of gross receipts as contributions from the original donors on a memo entry Schedule A (to the extent required by the rules on itemization—see Chapter 13, Section 4). When itemizing gross contributions, the participant must report the date of receipt as the day the joint fundraising representative received the contribution. 102.17(c)(3)(iii) and (c)(8)(i)(B).

Termination

The joint fundraising committee should follow the instructions in Chapter 14 for terminating the committee. Note that the joint fundraising account cannot be closed until the Commission notifies the committee in writing that the termination report has been accepted.

14. EXCEPTION FOR PARTY COMMITTEES[3]

Payments made by a party committee (that is a registered federal political committee) on behalf of another party committee are considered transfers of funds rather than contributions. Because there is no limit on transfers between party committees of the same political party, a party committee may pay any amount of another party committee's allocated start-up costs and fundraising expenses. Moreover, if all

[3] This section also applies to nonconnected committees and unregistered political organizations that are affiliated. See Chapter 4, Section 1 for the definition of "affiliated."

the participants in the fundraiser are party committees, start-up costs and fundraising expenses need not be allocated at all. 102.6(a)(1)(i) and (ii); 102.17(b)(3)(iii) and (c)(7)(ii).

Payments by unregistered party organizations

The same exception also applies to unregistered party organizations. They must use funds permissible under the Act when making payments for start-up costs and fundraising expenses. Furthermore, such payments by a party organization on behalf of a registered party committee count against the $1,000 contribution/expenditure threshold for registration as a political committee. 100.5, 102.6(a)(2) and 102.17(c)(7)(ii).

Appendix D
Communications

NOTE: This section discusses communications that are not made by the campaign but that are made by others in support of, or opposition to, a candidate. Candidates and their campaigns may reproduce and distribute this appendix to anyone who requests FEC guidelines on such communications. Citations refer to Federal Election Commission regulations, contained in Title 11 of the Code of Federal Regulations (11 CFR). Advisory opinions (AOs) issued by the Commission are cited as well. If you have any questions after reading this appendix, please call the Commission: 800/424-9530 (toll free) or 202/694-1100.

1. PUBLIC COMMUNICATIONS

It is important to understand how the Federal Election Campaign Act (the Act) and FEC regulations define "public communication" because many of the rules regarding political communications depend upon whether the communication in question is a public communication.

Definition[1]

A public communication is a communication made by means of:

Any broadcast, cable or satellite communication;
Newspaper;
Magazine;
Outdoor advertising facility;
Mass mailing (more than 500 pieces of substantially similar mail within any 30-day period);
Telephone bank (more than 500 substantially similar telephone calls within any 30-day period);
An advertisement placed for a fee on another person's website; or
Any other form of general public political advertising.[2] 100.26, 100.27 and 100.28.

2. COORDINATED COMMUNICATIONS

[1] As noted in Chapter 7, at the time of this publication, the Commission was considering proposals to amend its regulations concerning the definition of "public communication." Any updates to these rules will be announced and posted on the FEC's website. The Notice of Proposed Rulemaking is available on FEC.gov.

[2] The term "general public political advertising" does not include any internet communication except for a communication placed for a fee on another person's website.

When a committee, group or individual pays for a communication that is coordinated with a campaign or a candidate, the communication is either an in-kind contribution or, in some limited cases, a coordinated party expenditure by a party committee.

"Coordinated" defined

Coordinated means made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents, or a political party committee or its agents.[3] 109.20.

Determining coordination

FEC regulations provide for a three-pronged test to determine whether a communication is coordinated. A communication must satisfy all three prongs of the test to be considered a coordinated communication (and as a result, count against contribution limits). 109.21(a).

The three prongs of the test consider:

- The source of payment (payment prong);
- The subject matter of the communication (content prong); and
- The interaction between the person paying for the communication and the candidate or political party committee (conduct prong).

When the payment prong, the content prong and the conduct prong are all satisfied, then the communication is a coordinated communication and results in an in-kind contribution. (See Chapter 13, Section 10 for reporting instructions.)

Payment prong

The payment prong is satisfied when a coordinated communication is paid for, in whole or in part, by a person other than the candidate, an authorized committee or a political party committee with whom the communication is coordinated. 109.21(a)(1).

Content prong

A communication that meets any one of these five standards meets the content prong:

1) A communication that is an electioneering communication (see Section 6 of this appendix);
2) A public communication that republishes, disseminates or distributes candidate campaign materials, unless the activity meets one of the exceptions at 109.23(b);
3) A public communication that expressly advocates the election or defeat of a clearly identified candidate for federal office[4];
4) A public communication that:
   - Refers to a clearly identified House or Senate candidate and is publicly distributed in the identified candidate's jurisdiction within 90 days of the candidate's primary or general election;

[3] For the purposes of 11 CFR Part 109 only, "agent" is defined at 109.3.

[4] A candidate is clearly identified when his or her name, nickname, photograph or drawing appears or when his or her identity is apparent by unambiguous reference such as "the President," "your Congressman," or "the incumbent," or through an unambiguous reference to his or her status as a candidate such as "the Democratic presidential nominee" or "the Republican candidate for Senate in the State of Texas." 100.17; 106.1(d).

Refers to a clearly identified Presidential or Vice Presidential candidate and is publicly distributed in a jurisdiction during the period starting 120 days before the primary election (or nominating convention or caucus) in that jurisdiction and ending on the date of the general election;

Refers to a political party (but not a candidate) in a midterm election cycle, is coordinated with a party committee and is publicly distributed within 90 days of a primary or general election;

Refers to a political party (but not a candidate) in a Presidential election cycle, is coordinated with a party committee and is publicly distributed during the period starting 120 days before the primary in that jurisdiction and ending on the date of the general election;

Refers to a political party (but not a candidate), is coordinated with a House or Senate candidate and is publicly distributed in that candidate's jurisdiction within 90 days of the primary or general election; or

Refers to a political party (but not a candidate), is coordinated with a Presidential candidate and is publicly distributed during the period starting 120 days before the primary until the date of the general election.[5]

5) A public communication that is the functional equivalent of express advocacy.[6] 109.21(c)(5).

Conduct prong

The purpose of the conduct prong is to determine when interaction between the campaign and the person paying for the communication might constitute coordination. A communication that satisfies any one of these conduct standards satisfies the conduct prong:

1) Request or suggestion. This conduct standard has two parts, and satisfying either satisfies the standard. The first part is satisfied if the person creating, producing or distributing the communication does so at the request or suggestion of a candidate, authorized committee, or political party committee or agent of any of these. A communication satisfies the second part of the "request or suggestion" conduct standard if the person paying for the communication suggests the creation, production or distribution of the communication to the candidate, authorized committee, political party committee or agent of any of the above, and the candidate, authorized committee or political party committee assents to the suggestion. 109.21(d)(1).

2) Material involvement. This conduct standard is satisfied if a candidate, candidate committee, political party committee or an agent of any of these was "materially involved in decisions regarding" any of the following aspects of a public communication paid for by someone else:

Content of the communication;

Intended audience;

Means or mode of the communication;

Specific media outlet used;

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[5] For communications that refer to both a party and a clearly identified federal candidate, see 109.21(c)(4)(iv).

[6] A communication is the functional equivalent of express advocacy if it is "susceptible of no reasonable interpretation other than as an appeal to vote for or against a clearly identified federal candidate." This content standard applies without regard to the timing of the communication or the targeted audience. See the Commission's Final Rules on Coordinated Communications published in the September 15, 2010, *Federal Register* (75 FR 55947), available on FEC.gov.

Timing or frequency of the communication; or

Size or prominence of a printed communication or duration of a communication by means of broadcast, cable or satellite. 109.21(d)(2).

3) Substantial discussion. A communication meets this conduct standard if it is created, produced or distributed after one or more substantial discussions between the person paying for the communication, or the person's agents, and the candidate clearly identified in the communication or that candidate's committee, that candidate's opponent or opponent's committee, a political party committee or an agent of the above. A discussion would be "substantial" if information about the plans, projects, activities or needs of the candidate or political party committee that is material to the creation, production or distribution of the communication is conveyed to the person paying for the communication. 109.21(d)(3).

4) Employment of common vendor. The conduct standard provides that the use of a common vendor in the creation, production or distribution of a communication satisfies the conduct standard if:

The person paying for the communication contracts with, or employs, a "commercial vendor" to create, produce or distribute the communication;[7] and

The commercial vendor, including any officer, owner or employee of the vendor, has a previous or current relationship with the candidate or political party committee that puts the commercial vendor in a position to acquire information about the campaign plans, projects, activities or needs of the candidate or political party committee. This previous relationship is defined in terms of nine specific services related to campaigning and campaign communications. (See 109.21(d)(4)(ii).) Note that these services would have to have been rendered within 120 days before the purchase or public distribution of the communication; and

The commercial vendor uses or conveys information about the campaign plans, projects, activities or needs of the candidate or political party committee, or information previously used by the commercial vendor in serving the candidate or political party committee, to the person paying for the communication, and that information is material to the creation, production or distribution of the communication. 109.21(d)(4). See "Safe Harbor for Publicly Available Information" and "Safe Harbor for Use of a Firewall."

5) Former employee/independent contractor. This conduct standard applies to communications paid for by a person or the employer of a person, who has previously been an employee or an independent contractor of a candidate, candidate's campaign committee or a political party committee during the 120 days before the purchase or public distribution of the communication.

This standard requires that the former employee or contractor use or convey information about the plans, projects, activities or needs of the candidate, candidate's opponent, or political party committee, or information used by the former employee or contractor in serving the candidate, candidate's opponent, or political party committee, to the person paying for the communication, and that the information is material to the creation, production or distribution of the communication. 109.21(d)(5).[8] See AO 2016-21

[7] The term "commercial vendor" is defined at 116.1(c).

[8] Under the rules, a candidate or political party committee would not be held responsible for receiving or accepting an in-kind contribution that resulted only from conduct described in the "Employment of common vendor" and "Former

(Great America PAC); "Safe harbor for publicly available information" and "Safe harbor for use of a firewall."

Dissemination, distribution or republication of campaign material

A communication that republishes, disseminates or distributes campaign material only satisfies the first three conduct standards on the basis of the candidate's conduct—or that of his or her committee or agents—that occurs after the original preparation of the campaign materials that are disseminated, distributed or republished. 109.21(d)(6).[9]

Agreement or formal collaboration

Neither agreement (defined as a mutual understanding on any part of the material aspects of the communication or its dissemination) nor formal collaboration (defined as planned or systematically organized work) is necessary for a communication to be a coordinated communication. 109.21(e).

Safe harbor provisions to the conduct prong

Safe harbor for responses to inquiries about legislative or policy issues

A candidate's or political party committee's response to an inquiry about that candidate's or party's positions on legislative or policy issues that does not include discussion of campaign plans, projects, activities or needs will not satisfy any of the conduct standards. 109.21(f).

Safe harbor for publicly available information

The standards for substantial discussion, material involvement, use of a common vendor and involvement of a former employee are not satisfied if the information used in creating or distributing the communication was obtained from a publicly available source. Publicly available sources include, but are not limited to:

Newspaper or magazine articles;
Candidate speeches or interviews;
Transcripts from television shows;
Press releases;
A candidate or political party's website; and
Any publicly available website.

109.21(d)(3).

Safe harbor for use of a firewall

None of the conduct standards are satisfied if the vendor, political committee, former employee or contractor implements a firewall. The firewall must be designed and implemented to prohibit the flow of

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employee/independent contractor" sections. 109.21(d)(4) and (d)(5). However, the person paying for a communication that is coordinated because of conduct described in these sections would still be responsible for making an in-kind contribution for purposes of the contribution limitations, prohibitions and reporting requirements of the Act. 109.21(b)(2).

[9] Note that the financing of the distribution or republication of campaign materials, while considered an in-kind contribution by the person making the expenditure, is not considered an expenditure made or a contribution received by the candidate's authorized committee unless the dissemination, distribution or republication of campaign materials is coordinated. Additionally, republications of campaign materials coordinated with party committees are in-kind contributions to such party committees and are reportable as such. 109.23(a).

information between employees or consultants providing services to the person paying for the communication and those employees or consultants providing services to a political party committee or to the candidate who is clearly identified in the communication or to the campaign of the candidate opposing the candidate clearly identified in the communication. The firewall must be described in a written policy statement that is distributed to all employees, consultants and clients affected by the policy. 109.21(h).

Safe harbor for candidate endorsements and solicitations

A federal candidate may endorse or solicit funds for a candidate for federal or nonfederal office in a public communication without the communication being considered a "coordinated communication" with respect to the endorsing or soliciting candidate, so long as the communication does not promote or support the candidate making the solicitation and does not attack or oppose his/her opponent. The safe harbor described in this paragraph also covers candidate solicitations for other political committees (including party committees) and candidate solicitations for certain tax-exempt organizations as described at 300.65. 109.21(g)(1) and (2).

Safe harbor for certain commercial transactions

A federal candidate may appear in a public communication in which he or she is clearly identified as the owner or operator of a business that existed prior to the candidacy without the communication being considered a "coordinated communication," so long as the public communication does not promote, attack, support or oppose (PASO) that candidate or another candidate who seeks the same office. The communication must also be consistent with other public communications made by the business prior to the candidacy in terms of the medium, timing, content and geographic distribution. 109.21(i).

3. INDEPENDENT EXPENDITURES

Individuals, corporations, labor unions and political committees may support (or oppose) candidates by making independent expenditures. Independent expenditures are not contributions and are not subject to contribution limits. Compare 109.20(b).

Defined

An independent expenditure is an expenditure for a communication that:

- Expressly advocates the election or defeat of a clearly identified federal candidate; and
- Is not coordinated with a candidate, candidate's committee, party committee or their agents. (See Section 2, "Coordinated Communications.") 100.16(a).

Clearly identified candidate

A candidate is "clearly identified" if the candidate's name, nickname, photograph or drawing appears, or the identity of the candidate is otherwise apparent through an unambiguous reference to "the President," "your Congressman," "the Democratic Presidential nominee," "the Republican candidate for Senate in the State of Georgia." 100.17.

Express advocacy

"Express advocacy" means that the communication includes a message that unmistakably urges the election or defeat of one or more clearly identified candidate(s). There are two ways that a communication can be considered express advocacy: by use of certain "explicit words of advocacy of election or defeat" or by the "only reasonable interpretation" test. 100.22.

Explicit words of advocacy of election or defeat

The following words convey a message of express advocacy:

- "Vote for the President," "re-elect your Congressman," "support the Democratic nominee," "cast your ballot for the Republican challenger for the U.S. Senate in Georgia," "Smith for Congress," "Bill McKay in '12;"
- Words urging action with respect to candidates associated with a particular issue, e.g., "vote Pro-Choice"/"vote Pro-Life," when accompanied by names or photographs of candidates identified as either supporting or opposing the issue;
- "Defeat" accompanied by a photograph of the opposed candidate, the opposed candidate's name or "reject the incumbent;" and
- Campaign slogan(s) or word(s), e.g., on posters, bumper stickers and advertisements, that in context can have no other reasonable meaning than to support or oppose a clearly identified candidate, for example, "Nixon's the One," "Carter '76," "Reagan/Bush." 100.22(a).

"Only reasonable interpretation" test

In the absence of such "explicit words of advocacy of election or defeat," express advocacy is found in a communication that, when taken as a whole and with limited reference to external events, such as the proximity to the election, can only be interpreted by a "reasonable person" as advocating the election or defeat of one or more clearly identified candidate(s). 100.22(b). This test requires advocacy of a candidate that is unmistakable, unambiguous and suggestive of only one meaning (that being the election or defeat of a candidate). 100.22(b)(1). Note that the author's intent is irrelevant. The test is how a "reasonable" receiver of the communication objectively interprets the message. If reasonable minds could not differ as to the unambiguous electoral advocacy of the communication, it is express advocacy regardless of what the author intended. 100.22(b)(2).

Disclaimer notice required

A communication representing an independent expenditure must display a disclaimer notice. See "Disclaimers" later in this appendix for more information.

Allocation among candidates

When an independent expenditure is made on behalf of more than one clearly identified candidate, the committee must allocate the expenditure among the candidates in proportion to the benefit that each is expected to receive. For example, in the case of a published or broadcast communication, the attribution must be determined by the proportion of space or time devoted to each candidate in comparison with the total space or time devoted to all the candidates. 104.10 and 106.1(a).

4. REPORTING REQUIREMENTS FOR INDEPENDENT EXPENDITURES

Made by a political committee

A federally registered political committee reports independent expenditures on Schedule E of FEC Form 3X. A political committee must itemize each independent expenditure which exceeds $200 or which, when added to previous independent expenditures made on behalf of (or in opposition to) the same candidate, aggregates over $200 during a calendar year. Schedule E instructions explain what itemized information must be disclosed. (Independent expenditures of $200 or less must be subtotaled and reported as unitemized expenditures on Schedule E.) 104.3(b)(3)(vii) and 104.4(a).

Made by any other person

Any other person (including a corporation or labor organization) must file a report with the FEC on Form 5 at the end of the first reporting period in which independent expenditures aggregate more than $250 and must continue to file quarterly reports in any succeeding reporting period during the same year in which additional independent expenditures of any amount are made. 109.10(b) and (c). Form 5 instructions explain what information must be disclosed. Filers whose independent expenditures exceed, or are expected to exceed, $50,000 in any calendar year must electronically file FEC Form 5. Visit FEC.gov to access this form.

Date made

An independent expenditure is considered made on the date that the communication is publicly distributed or otherwise publicly disseminated. 104.4. Independent expenditures publicly distributed or otherwise publicly disseminated prior to payment should be disclosed as memo entries. Political committees list these entries on Schedule E and on Schedule D as a reportable debt. 104.11. Other filers must disclose this information on Schedule 5-B of Form 5.

Certification

Both Schedule E (used by political committees) and Form 5 (used by others) require a certification, under penalty of perjury, that the expenditure meets the standards for independence. 104.3(b)(3)(vii)(B), 104.4(d) and 109.10(e)(1)(v). See Section 2 of this appendix.

24-hour reports

Any independent expenditure of $1,000 or more (in the aggregate with respect to a given election) that is made after the 20th day, but more than 24 hours, before the day of the election must be reported within 24 hours. 104.4(c).The report must include all the information required on Schedule E or Form 5 and must be received by the FEC within 24 hours after the communication is publicly distributed or otherwise publicly disseminated. 104.4(c) and (e), 105.4 and 109.10(d). A political committee must disclose a last-minute

independent expenditure a second time on a Schedule E filed with its next scheduled report. The committee may, if it wishes, note that the expenditure was previously reported.

48-hour reports

Political committees and other persons who make independent expenditures that aggregate $10,000 or more for a given election at any time during a calendar year—up to and including the 20th day before the election—must disclose this activity within 48 hours of the date that the communication is publicly distributed or otherwise publicly disseminated. 104.4(b)(2) and 109.10(c). Electronic filers must file 48-hour reports electronically and paper filers may file by fax or e-mail. 100.19(d)(3), 104.4(b)(2) and 109.10(c).

Committees must report in their regularly scheduled report on Schedule E of Form 3X, all independent expenditures made for a given election which aggregate over $200 in a calendar year. The report must be filed no later than the filing date of the committee's next regularly scheduled report. 104.4(a) and (b)(1). Other filers must disclose on FEC Form 5 independent expenditures aggregating in excess of $250 with respect to a given election during the calendar year that are made during this time period. The report must be filed by the filing deadline of the next report under the quarterly filing schedule. 109.10(b).

Aggregating independent expenditures for reporting purposes

Independent expenditures are aggregated toward the various reporting thresholds on a per election basis, within the calendar year, per office sought (race). Consider, as examples, the following scenarios, all of which occur outside of the 20-day window before an election when 24-hour reports are required:

- If a committee makes $5,000 in independent expenditures with respect to a Senate candidate and $5,000 in independent expenditures with respect to a House candidate, then the committee is not required to file 48-hour reports but must disclose this activity on its next regularly scheduled report.
- If the committee makes $5,000 in independent expenditures with respect to a clearly identified candidate in the primary and an additional $5,000 in independent expenditures with respect to the same candidate in the general, then no 48-hour report is required and the expenditures are disclosed on the committee's next report.
- If the committee makes $6,000 in independent expenditures supporting a Senate candidate in the primary election and $4,000 opposing that Senate candidate's opponent in the same election, then the committee must file a 48-hour report.

Again, the date that a communication is publicly distributed or otherwise publicly disseminated serves as the date that the independent expenditure is "made" and the date a person or committee must use to determine whether the total amount of independent expenditures has, in the aggregate, reached or exceeded the threshold reporting amounts of $1,000 or $10,000.[10] The calculation of the aggregate

[10] Independent expenditures such as yard signs, mini-billboards, handbills, t-shirts, hats and buttons are "publicly disseminated on any reasonable date starting with the date the filer receives or exercises control over the items in the usual and normal course of dissemination, up to and including the date that the communications are actually disseminated to the public." For more information, see the FEC's Interpretive Rule on when Certain Independent Expenditures are "Publicly Disseminated" for Reporting Purposes on FEC.gov.

amount of the independent expenditures must include both disbursements for independent expenditures and all contracts obliging funds for disbursements of independent expenditures. 104.4(f).

5. PARTY COMMUNICATIONS

In addition to general coordinated communications, there are "party coordinated communications," which are communications paid for by a party and coordinated with a candidate's campaign. Additionally, some communications by party committees may trigger additional requirements for those committees because they qualify as federal election activity.

Determining coordination

Party coordinated communications satisfy a similar three-pronged test for coordination. However, there are two important differences. First, the communication is paid for by a political party committee. Second, electioneering communications do not satisfy the content prong. 109.37(a)(1)-(3).

In-kind contribution vs. party coordinated expenditure

Party coordinated communications must be treated by the party committee as either an in-kind contribution to the candidate or as a coordinated party expenditure in connection with the general election campaign of the candidate. 109.37(b). For more information on the rules for Coordinated Party Expenditures, see Chapter 7 in the Campaign Guide for Political Party Committees.

Party communications as Federal Election Activity

Certain activities are restricted under the Act when they qualify as Federal Election Activity (FEA). If a party committee pays for a public communication (defined in Section 1) that refers to a clearly identified candidate for federal office and that promotes, attacks, supports or opposes any candidate for federal office, the activity qualifies as FEA. 100.24(b)(3). The communication does not need to expressly advocate the election or defeat of the federal candidate to qualify as FEA. FEA requires specific payment methods.

For further information on FEA, see Chapter 8 of the Campaign Guide for Political Party Committees.

6. ELECTIONEERING COMMUNICATIONS

An electioneering communication is any broadcast, cable or satellite communication that 1) refers to a clearly identified federal candidate, 2) is publicly distributed within 60 days of a general election or 30 days of a primary, and 3) is targeted to the relevant electorate, in the case of House and Senate candidates. 100.29(a).

Clearly identified candidate

A candidate is clearly identified if his or her name, nickname, photograph or drawing appears in the ad, or if the ad contains an unambiguous reference to the candidate through titles such as "the President," "your Representative," or "the incumbent." 100.29(b)(2).

Publicly distributed

A communication is "publicly distributed" when it is aired, broadcast, cablecast or otherwise disseminated through the facilities of a radio or television station, cable television system or a satellite system. 100.29(b)(3).[11]

Targeted to the relevant electorate

A communication is "targeted to the relevant electorate" when it is receivable by 50,000 or more persons in the candidate's district (for a House candidate) or state (for a Senate candidate). 100.29(b)(5).

What is not an electioneering communication?

A communication is not an electioneering communication if it:

- Is publicly disseminated through means other than broadcast, cable or satellite media (100.29(c)(1));
- Appears in a news story, commentary or editorial that is distributed by broadcast, cable, or satellite facilities not owned or controlled by any political party or candidate (100.29(c)(2));
- Is a bona fide news story distributed by facilities owned and controlled by a party or candidate (100.29(c)(2) and 100.132);
- Constitutes an expenditure or independent expenditure that is required to be reported as such (100.29(c)(3));
- Constitutes a candidate debate or forum or promotion of such a debate or forum by the sponsor of the event (100.29(c)(4) and 110.13); or
- Is paid for by a candidate for nonfederal office in connection with a nonfederal election, provided that the communication does not promote, support, attack or oppose any federal candidate (100.29(c)(5)).

Who may make electioneering communications?

Individuals and other persons, including corporations and labor organizations, may make electioneering communications. The messages must include disclaimers (as described in Section 7) and are subject to disclosure requirements.

Political committees may make communications that meet the definition of electioneering communications. However, because such communications would be reportable as "expenditures" under the Act, they are not technically considered electioneering communications. 100.29(c)(3) and 114.5(i). If such a communication is coordinated with a campaign, it counts as an in-kind contribution, subject to limitations and reporting requirements. See Section 2 of this appendix.

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[11] In the case of a Presidential or Vice Presidential candidate, publicly distributed means that the communication meets the requirements of 100.29(3)(i) and can be received by 50,000 or more persons in a state within 30 days of a primary, or by 50,000 or more persons anywhere in the U.S. within 30 days of the national nominating convention. 100.29(b)(3)(ii); but see AO 2015-10 (21st Century Fox).

Coordinated electioneering communication

As noted previously, an electioneering communication meets the content and payment tests under the Commission's three-part test for determining whether a communication is coordinated. 109.21(a)(1) and (c)(1). If the conduct prong is met as well, then the electioneering communication would be considered an in-kind contribution subject to contribution limitations, source prohibitions and reporting by both the payor and the campaign. To avoid receiving an illegal excessive or prohibited contribution, campaigns should avoid interacting with those making electioneering communications in the manner noted under "conduct prong" in Section 2 of this appendix.

For more information, see Chapter 7, Section 12 and the Commission's webpage on making electioneering communications.

7. DISCLAIMER NOTICES ON COMMUNICATIONS

Any public communication made by a political committee—including communications that do not expressly advocate the election or defeat of a clearly identified federal candidate or solicit a contribution—must display a disclaimer.[12] Disclaimers must also appear on political committees' internet websites and in certain e-mail communications. 110.11(a)(1). Moreover, all public communications that expressly advocate the election or defeat of a clearly identified candidate, electioneering communications, and all public communications that solicit any contribution require a disclaimer, regardless of who has paid for them. 110.11(a)(2)-(4).

This section focuses on disclaimer requirements for communications that are not paid for by the campaign. For information on disclaimer notices on communications and advertisements paid for by the campaign, see Chapter 10, Section 2. Note that solicitations must meet additional disclaimer requirements. See Chapter 10.

Wording of disclaimer

Communications not authorized by a candidate

Communications not authorized by a candidate or his or her campaign committee, including any solicitation, must disclose the full name and permanent street address, telephone number or website address of the person who paid for the communication, and also state that the communication was not authorized by any candidate. 110.11(b)(3) and (d)(3). See AO 2017-05 (Great America PAC).

EXAMPLE

"Paid for by the Citizens PAC (www.citizenspac.org) and not authorized by any candidate or candidate's committee."

[12]At the time of this publication, the Commission was considering proposals to amend its regulations concerning disclaimers on certain internet communications. Any updates to these rules will be announced and posted on the FEC's website. The Notice of Proposed Rulemaking is available on FEC.gov.

In addition, for a radio or television communication that is not authorized by a candidate or the candidate's authorized committee, a representative of the individual or group paying for the communication must state that "XXX is responsible for this communication," where "XXX" is the name of the political committee or other person who paid for the communication. If applicable, the name of the sponsoring committee's connected organization is also required in the disclaimer.[13] 110.11(c)(4)(i). See "Visibility requirements."

Communications authorized by a candidate

The disclaimer for a communication authorized by a candidate or candidate's committee, but paid for by any other person, must state both who paid for the communication and that it was authorized by that candidate. 110.11(b)(2).

EXAMPLE

"Paid for by the Citizens PAC and authorized by the John Doe for Congress Committee."

Coordinated party expenditures

On a communication that is made as a coordinated party expenditure before a nominee is officially chosen, the disclaimer notice need only identify the committee that paid for the message. 110.11(d)(1)(ii).

EXAMPLE

"Paid for by the XYZ State Party Committee."

Once a candidate has been nominated for the general election, the disclaimer notice must also state who authorized the communication and comply with the other applicable requirements listed in the next section.

EXAMPLE

"Paid for by the XYZ State Party Committee and authorized by John Doe for Congress Committee." 110.11(d)(2).

Exempt party activity

On an exempt activity communication, such as campaign materials, the disclaimer notice must identify the committee that paid for the message but need not state whether the communication is authorized by a candidate. 110.11(e).

EXAMPLE

"Paid for by the XYZ State Party Committee."

Visibility requirements

[13] In addition, communications transmitted through telephone banks, defined by 100.28 as more than 500 substantially similar calls within 30 days, must carry this same disclaimer statement made by a representative of the individual or group paying for the communication. 110.11(a).

All disclaimers must be "clear and conspicuous" regardless of the medium in which the communication is transmitted. A disclaimer is not clear and conspicuous if it is difficult to read or hear, or if its placement is easily overlooked. 110.11(c)(1).

Specific requirements for radio and television communications.

For radio and television communications authorized by a candidate, the candidate must deliver an audio statement identifying himself or herself, and stating that he or she has approved the communication. 110.11(c). For example, the candidate could state "My name is John Doe, and I approved this message." See AO 2004-01 (Bush/Kerr). For a television communication, this disclaimer must be conveyed by either:

- A full-screen view of the candidate making the statement; or
- A "clearly identifiable photographic or similar image of the candidate" that appears during the candidate's voice-over statement. 110.11(c)(3)(ii).

In the case of a televised ad not authorized by a candidate, the disclaimer must include a statement that is conveyed by a full screen view of a representative of the political committee or other person making the statement, or a voice-over by the representative. 110.11(c)(4)(ii).

Both authorized and unauthorized television communications must also contain a "clearly readable" written statement that appears at the end of the communication, with a reasonable degree of color contrast between the background and the disclaimer statement. The written statement must occupy at least four percent of the vertical picture height, and it must be shown for a period of four seconds. 110.11(c)(3)(iii) and (c)(4).

Safe harbor for television communication disclaimers

A still picture of the candidate shall be considered "clearly identifiable" if it occupies at least 80 percent of the vertical screen height. 110.11(c)(3)(ii)(B). Disclaimers that are printed in black text on a white background, as well as disclaimers that have at least the same degree of contrast with the background color as the degree of contrast between the background color and the color of the largest text used in the communication, will be considered "clearly readable." 110.11(c)(3)(iii)(C).

Specific requirements for printed communications.

Printed materials must contain a printed box that is set apart from the contents in the communication. The disclaimer print in this box must be of sufficient type size to be "clearly readable" by the recipient of the communication, and the print must have a reasonable degree of color contrast between the background and the printed statement. 110.11(c)(2)(ii) and (iii).

The regulations contain a safe harbor that establishes a fixed, twelve-point type size as a sufficient size for disclaimer text in newspapers, magazines, flyers, signs and other printed communications that are no larger than the common poster size of 24" x 36." 110.11(c)(2)(i). Disclaimers for larger communications will be judged on a case-by-case basis.

The regulations additionally provide two safe harbor examples that would comply with the color-contrast requirement:

- The disclaimer is printed in black text on a white background; or

The degree of contrast between the background color and the disclaimer text color is at least as great as the degree of contrast between the background color and the color of the largest text in the communication. 110.11(c)(2)(iii).[14]

Multiple-paged document

A disclaimer need not appear on the front page or cover of a multiple-paged document so long as it appears somewhere within the communication. 110.11(c)(2)(iv).

Package of materials

Each communication that would require a disclaimer if distributed separately must still display the disclaimer when included in a package of materials. 110.11(c)(2)(v). For example, if a campaign poster is mailed with a solicitation for contributions, a separate disclaimer must appear on the solicitation and the poster.

When disclaimer is not required

A disclaimer is not required:

When it cannot be conveniently printed (e.g., pens, bumper stickers, campaign pins, campaign buttons and similar small items).

When its display is not practicable (e.g., clothing, water towers and skywriting).

When the item is of minimal value, does not contain a political message and is used for administrative purposes (e.g., checks and receipts). 110.11(f). See AOs 2010-19 (Google) (character-limited text ads), 2002-09 (Target Wireless) (SMS messages), 1980-42 (Hart) (tickets for fundraiser).

[14] Note that these examples do not constitute the only ways to satisfy the color contrast requirement.

Appendix E

Fundraising by Federal Candidates and Officeholders

Prohibition

The Federal Election Campaign Act (the Act) and Commission regulations restrict the ability of federal candidates and officeholders to raise funds. Specifically, federal candidates and officeholders, their agents and entities established, financed, maintained or controlled by them, may not solicit,[1] receive, direct,[2] transfer, spend or disburse funds in connection with a federal election, including funds for federal election activity, unless the funds are within the Act's limits, prohibitions and reporting requirements. 300.61.

In addition, federal candidates and officeholders may solicit, receive, direct, transfer, spend or disburse funds in connection with a nonfederal election only in amounts and from sources that are consistent with state law and that do not exceed the Act's contribution limits or come from prohibited sources. 300.62. The Act and Commission regulations provide for exceptions and clarifications to these general prohibitions, as discussed in this chapter.

1. FUNDRAISING FOR STATE/LOCAL CANDIDATES AND ELECTIONS

Nonfederal elections

A federal candidate, officeholder or his or her agents, and any entity directly or indirectly established, financed, maintained or controlled by, or acting on behalf of, one or more federal candidates or

[1] To solicit means to ask, request or recommend, explicitly or implicitly, that another person make a contribution, donation, transfer of funds or otherwise provide anything of value. A solicitation is an oral or written communication that, construed as reasonably understood in the context in which it is made (including the conduct of the persons involved), contains a clear message asking, requesting or recommending that another person make a contribution, donation, transfer of funds or otherwise provide anything of value. A solicitation may be made directly or indirectly, and does not include mere statements of political support or mere guidance as to the applicability of a particular law or regulation. 300.2(m). See the regulations at 300.2(m)(1)-(3) for examples of communications and statements that do or do not constitute solicitations.

[2] To direct means to guide, directly or indirectly (through a conduit or intermediary), a person who has expressed an intent to make a contribution, donation, transfer of funds or otherwise provide anything of value, by identifying a candidate, political committee or organization for the receipt of such funds or things of value. Direction does not include merely providing information or guidance as to the applicability of a particular law or regulation. 300.2(n).

officeholders, may raise funds in connection with a nonfederal election, but only in amounts consistent with state law and that do not exceed the Act's contribution limits or come from prohibited sources.[3] 300.62; see also 300.64(b)(2).[4]

Ballot initiatives

In AO 2010-07 (Yes on FAIR), the Commission concluded that Members of Congress could solicit funds outside the Act's limits and prohibitions on behalf of a California ballot initiative committee during the time before the initiative qualified for the ballot, and afterward could solicit up to $20,000 from individuals on behalf of the committee.[5] For additional information on ballot initiatives, see AOs 2007-28 (McCarthy/Nunes), 2006-04 (Tancredo), 2005-10 (Berman/Doolittle), 2004-29 (Akin) and 2003-12 (Flake).

Candidates who run for both federal and nonfederal office

Commission regulations provide a limited exception for federal candidates and officeholders who seek state or local office. The restrictions on raising and spending funds outside the Act's limitations and prohibitions do not apply to any federal candidate or officeholder who is or was also a candidate for state or local office so long as the raising or spending of funds is 1) solely in connection with his or her state or local campaign; 2) refers only to him or her or to other candidates for that same state or local office; and 3) is permitted under state law. 300.63.

If the candidate or officeholder is simultaneously running for both federal and state or local offices, then the candidate or his or her agents may only raise and spend funds within the limits, prohibitions and reporting requirements of the Act for the federal election. 300.63; See also AOs 2007-01 (McCaskill), 2005-12 (Fattah) and 2005-02 (Corzine II).[6]

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[3] See 300.2(b) and (c) for a list of the factors considered by the Commission in determining whether an entity is directly or indirectly established, financed, maintained or controlled by, or acting on behalf of, a federal candidate, officeholder or agent. See also AOs 2006-04 (Tancredo), 2005-02 (Corzine II) and 2004-33 (Ripon).

[4] Previously, the Commission had stated in an advisory opinion that federal candidates and officeholders could appear at a fundraising event for a state or local political party and solicit donations not subject to the Act's amount limitations and source prohibitions. AO 2005-02 (Corzine II) (second paragraph in answer to Question 2). The Commission subsequently promulgated a regulation superseding that conclusion. See the Explanation and Justification, Participation by Federal Candidates and Officeholders at Non-Federal Fundraising Events, prescribed June 4, 2010, 75 Fed. Reg. 24375 (May 5, 2010).

[5] The Commission was unable to agree on whether, during the post-qualification period, Members of Congress may solicit donations of more than $20,000 and donations from persons other than individuals. See AO 2010-07 (Yes on FAIR). See also Concurring Opinion (Chairman Petersen and Commissioners Hunter and McGahn) ; and Concurring Opinion (Vice Chair Bauerly and Commissioners Walther and Weintraub).

[6] The Commission superseded the second paragraph in the answer to Question 2 in AO 2005-02 (Corzine II). See the Explanation and Justification, Participation by Federal Candidates and Officeholders at Non-Federal Fundraising Events, prescribed June 4, 2010, 75 Fed. Reg. 24375 (May 5, 2010).

2. NONFEDERAL FUNDRAISING EVENTS

Participation at nonfederal fundraising events

A federal candidate or officeholder may attend, speak at and be a featured guest at a nonfederal fundraiser. 300.64(b)(1). He or she is also free to solicit funds at the fundraising event, provided that the solicitation for funds is within the limitations and prohibitions of the Act and consistent with state law. 300.64(b)(2).

Such a solicitation should either be explicitly limited or should be limited by displaying at the fundraiser a clear and conspicuous written notice, or by making a clear and conspicuous oral statement, that the solicitation is not for Levin funds (when applicable) and does not seek funds in excess of federally permissible amounts or from corporations, labor organizations, national banks, federal government contractors and foreign nationals. 300.64(b)(2)(i-ii). If the federal candidate or officeholder chooses to make an oral statement, it need only be made once.

Publicity for nonfederal fundraising events

FEC regulations also address the publicity for nonfederal fundraisers including, but not limited to, ads, announcements or pre-event invitation materials, regardless of format or medium of the communication. 300.64(c).

If the publicity does not contain a solicitation or solicits only federally permissible funds, then the federal candidate or officeholder (or agent of either) is free to consent to the use of the name or likeness of the federal candidate or officeholder in the publicity for the nonfederal fundraiser. 300.64(c)(1)-(2).

If the publicity contains a solicitation for funds outside the limitations or prohibitions of the Act or for Levin funds, the federal candidate or officeholder (or agent of either) may consent to the use of the name or likeness of the federal candidate or officeholder in the publicity, only if:

- The federal candidate or officeholder is identified in a manner not specifically related to fundraising, such as a featured guest, honored guest, special guest, featured speaker or honored speaker; and
- The publicity includes a clear and conspicuous oral or written disclaimer that the solicitation is not being made by the federal candidate or officeholder. 300.64(c)(3)(i). Examples of disclaimers are provided in the regulation at 300.64(c)(3)(iv).

However, a federal candidate or officeholder (or agent of either) may not agree to the use of his or her name or likeness in publicity that contains a solicitation of funds outside the limitations and prohibitions of the Act or of Levin funds if:

> The federal candidate or officeholder is identified as serving in a manner specifically related to fundraising, such as honorary chairperson or member of a host committee; or is identified in the publicity as extending the invitation to the event; or the federal candidate or officeholder signs the communication. These restrictions apply even if the publicity contains a disclaimer. 300.64(c)(3)(v).

In addition, the federal candidate or officeholder (or their agent) is prohibited from disseminating publicity for nonfederal fundraisers that contains a solicitation of funds outside the limitations or prohibitions of the Act or of Levin funds. 300.64(c)(3)(vi).

3. SUPPORTING INDEPENDENT EXPENDITURE-ONLY POLITICAL COMMITTEES

Political committees that make only independent expenditures may solicit and accept unlimited contributions from individuals, corporations, labor organizations and other political committees. They may not accept contributions from foreign nationals, federal contractors, national banks or federally chartered corporations. These committees, known as Independent Expenditure-Only Political Committees or IEOPCs, must register with the Commission and comply with all applicable reporting requirements of the Act. See AO 2010-11 (Commonsense Ten); see also *Citizens United v. FEC*, 558 U.S. 310, 365 (2010) and *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010).

Federal candidates and officeholders may raise funds on behalf of IEOPCs so long as they only solicit funds subject to the Act's amount limitations and source prohibitions—i.e. up to $5000 from individuals (and any other source not prohibited by the Act from making a contribution to a political committee)[7].

Additionally, federal candidates and officeholders may attend, speak at and be featured guests at fundraisers for IEOPCs at which unlimited individual, corporate and labor organization contributions are solicited, so long as they restrict any solicitation they make to funds subject to the limitations, prohibitions and reporting requirements of the Act. AO 2011-12 (Majority PAC and House Majority PAC). See 300.64(b)(1) and (2).

4. SUPPORTING TAX-EXEMPT ORGANIZATIONS

General rule for solicitations

A federal candidate, officeholder or his or her agents may make solicitations for certain tax-exempt organizations. The regulations regarding solicitations for tax-exempt organizations differ depending on whether the funds solicited will be used for certain federal election activities and whether the organization's principal purpose is to conduct federal election activity.

Limits and prohibitions on solicitations

General solicitations

[7] Individuals who are "agents" of federal candidates may solicit nonfederal funds on behalf of IEOPCs if the individuals act in their own capacities exclusively on behalf of the IEOPC, not on the authority of the candidates, and raise funds on behalf of the candidates and IEOPCs at different times. See AOs 2015-09 (Senate Majority PAC and House Majority PAC) at 7, 2003-10 (Reid), 2007-05 (Iverson).

A federal candidate or officeholder (or individual acting on behalf of either) may make a general solicitation on behalf of a 501(c) tax-exempt organization, or an organization that has applied for this tax status, without limits on the source or amount of funds, if:

- The organization does not engage in activities in connection with elections; or
- It is not the principal purpose of the organization to conduct election activities, including certain federal election activity, and the solicitation is not to obtain funds for activities in connection with an election, including certain federal election activity.

300.65(a) and (c).

Specific solicitations for federal election activity

A federal candidate or officeholder (or individual acting on behalf of either) may also make a specific solicitation explicitly to obtain funds to pay for federal election activities conducted by or for a tax-exempt organization whose principal purpose is to undertake such activities. The federal election activities for which such a specific solicitation may be made are limited to:

Voter registration activity during the period that begins 120 days before the date of a regularly scheduled federal election and ends on the day of that election; and

Voter identification, get-out-the vote or generic campaign activity conducted in connection with an election in which a federal candidate appears on the ballot (regardless of whether a state or local candidate also appears on the ballot). See 100.24, 100.25 and 300.65(c).

When making specific solicitations for a tax-exempt organization, the candidate may solicit only individuals and may solicit no more than $20,000 per calendar year from each contributor. 300.65(b).

General prohibition

Federal law permits solicitations by federal candidates and officeholders only for the specific federal election activities listed in the previous section. These individuals must not make any solicitations on behalf of a 501(c) organization, or an organization that has applied for this tax status, for any other types of election activities, such as public communications promoting, supporting, attacking or opposing federal candidates. 300.65(d).

Safe harbor

To determine whether a 501(c) organization is not one whose principal purpose is to conduct election activities, a federal candidate or officeholder or their agent may obtain and rely upon a written certification, signed by an officer or other authorized representative of the organization with knowledge of the organization's activities, stating that:

It is not the organization's principal purpose to engage in election activities, including the types of election activity previously described; and

The organization does not intend to pay debts incurred from expenditures or disbursements in connection with an election for federal office (including for federal election activities) in a prior election cycle.

If the federal candidate or officeholder (or an agent of either) has actual knowledge that the certification is false, then the certification may not be relied upon. 300.65(e) and (f).

Appendix F

Lobbyist Bundled Contributions

The Honest Leadership and Open Government Act of 2007 (HLOGA),[1] requires candidate committees to disclose information about lobbyists, registrants and lobbyist/registrants PACs that provide two or more bundled contributions that exceed the reporting threshold within a covered period. 104.22(b)(1).[2]

1. WHAT IS A BUNDLED CONTRIBUTION?

A "bundled contribution" is a term of art for a certain type of contribution triggering special reporting requirements. 104.22(a)(6). There are two types of bundled contributions:

Type 1: Contributions forwarded by the lobbyist/registrant or lobbyist/registrant PAC

The first type of bundled contribution is a contribution forwarded from the contributor(s) to the candidate committee by a lobbyist/registrant or lobbyist/registrant PAC. 104.22(a)(6)(i). The contribution may be delivered or transmitted by physical or electronic means to the candidate committee by the lobbyist/registrant or lobbyist/registrant PAC, or by any person that the candidate committee knows to be forwarding such a contribution on behalf of a lobbyist/registrant or lobbyist/registrant PAC. 104.22(a)(6)(i). Contributions forwarded electronically include contributions received by a lobbyist/registrant or lobbyist/registrant PAC in the form of checks that are deposited into the lobbyist/registrant or lobbyist/registrant PAC's account and then transmitted electronically to the candidate committee. A lobbyist/registrant or lobbyist/registrant PAC may also receive contributions via credit card, debit card or electronic check, and then transmit the contributions in the form of a check or via credit card to the candidate committee.[3]

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[1] Honest Leadership and Open Government Act of 2007, Pub. L. No. 110-81, 121 Stat. 735.

[2] Although HLOGA requires all authorized candidate committees, Leadership PACs and party committees (reporting committees) to disclose information about certain lobbyist bundled contributions, this guide will only address candidate committees that receive lobbyist bundled contributions. For more information on party committees and Leadership PACs that receive lobbyist bundled contributions, please consult the FEC website.

[3] See Reporting Contributions Bundled by Lobbyists, Registrants and the PACs of Lobbyists and Registrants, 74 Fed. Reg. 7285, 7292 (Feb. 17, 2009), available on FEC.gov.

Note that a contribution delivered by a lobbyist/registrant's or lobbyist/registrant PAC's employee, colleague, friend or courier service falls under this provision if the candidate committee knows that the contribution is being forwarded on behalf of the lobbyist/registrant or lobbyist/registrant PAC.

Contributions forwarded by a prohibited source

Under the Lobbying Disclosure Act of 1995 (LDA),[4] lobbyist/registrants may include lobbying organizations that would be prohibited sources of contributions under FECA (e.g. corporations, labor organizations, federal government contractors). Candidate committees may not accept contributions from, or that have been forwarded by, a prohibited source; however, candidate committees may give credit to a lobbyist/registrant who is a prohibited source (see "Type 2," next). 110.6(b)(2)(ii), 110.20, 114.2, 115.2.

Type 2: Contributions credited to the lobbyist/registrant or lobbyist/registrant PAC

The second type of bundled contribution covers contributions received by the candidate committee from a contributor but credited to the lobbyist/registrant or lobbyist/registrant PAC through records, designations or other means of recognizing that a certain amount of money has been raised by the lobbyist/registrant or lobbyist/registrant PAC. 104.22(a)(6)(ii). In this case, the contribution must be 1) received by the candidate committee and 2) credited to a lobbyist/registrant or lobbyist/registrant PAC to satisfy the definition of bundled contribution.

Crediting contributions

Crediting recognizes that a certain amount of money has been raised by the lobbyist/registrant or lobbyist/registrant PAC. 104.22(a)(6)(ii). Examples of crediting include:

- Maintaining records or using any method to retain written evidence pertaining to the committee's crediting. Records include paper, electronic, digital, audio, and video records, and records in any other format, including informal items such as hand-written notations on a business card.[5] 104.22(a)(6)(ii)(A).
- Providing designations and other benefits to the lobbyist/registrant or lobbyist/registrant PAC, including giving honorary titles, tracking identifiers, access or invitations to events for people who raised a certain amount of money, mementos such as photographs with the candidate and autographed copies of books authored by the candidate. 104.22(a)(6)(ii)(A).

Crediting a prohibited source

As discussed previously, under the LDA, lobbyist/registrants may include lobbying organizations that would be prohibited sources of contributions under FECA (e.g. corporations, labor organizations, federal government contractors). Candidate committees may give credit to a lobbyist/registrant who is a

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[4] Lobbying Disclosure Act of 1995 (LDA), Pub. L. No. 104-65, 109 Stat. 691.

[5] See Reporting Contributions Bundled by Lobbyists, Registrants and the PACs of Lobbyists and Registrants, 74 Fed. Reg. 7285, 7293 (Feb. 17, 2009), available on FEC.gov

prohibited source, however candidate committees may not accept contributions from, or that have been forwarded by, a prohibited source. 110.6(b)(2)(ii), 110.20, 114.2, 115.2.

Contributions from a lobbyist/registrant or lobbyist/registrant PAC

Note that the definition of "bundled contribution" does not include contributions made by a lobbyist/registrant PAC or from the personal funds of the lobbyist/registrant who forwards or is credited with raising the contributions or from the personal funds of that lobbyist/registrant's spouse. 104.22(a)(6)(iii).

2. WHO ARE LOBBYIST/REGISTRANTS AND LOBBYIST/REGISTRANT PACS?

A lobbyist/registrant is a person who, at the time a contribution is forwarded or received, is a current registrant under Section 4(a) of the LDA; or an individual who is named on a current registration or report filed under Section 4(b)(6) or 5(b)(2)(C) of the LDA.[6] 104.22(a)(2).

A lobbyist/registrant PAC is any political committee that a lobbyist/registrant established or controls. 100.5(e)(7) and 104.22(a)(3). For the purposes of these rules, a lobbyist/registrant "established or controls" a political committee if he or she is required to make a disclosure to that effect to the Secretary of the Senate or Clerk of the House of Representatives under the LDA. 104.22(a)(4)(i). If a political committee is not able to obtain definitive guidance from the Senate or House regarding whether it is established or controlled by a lobbyist or registrant under the LDA, then it must consult additional criteria in FEC regulations at 104.22(a)(4)(ii). Under these criteria, a political committee is a lobbyist/registrant PAC if:

- It is a separate segregated fund whose connected organization is a current registrant under the LDA, 104.22(a)(4)(ii)(A); or
- A lobbyist/registrant had a primary role in the establishment of the committee or directs the governance or operations of the committee. Note that the mere provision of legal compliance services or advice by a lobbyist/registrant would not by itself meet these criteria. 104.22(a)(4)(ii)(B)(1) and (2).

Identifying lobbyists/registrants or lobbyist/registrant PACs

In order for a candidate committee to determine whether a person is reasonably known to be a lobbyist/registrant or a lobbyist/registrant PAC, the candidate committee is required to consult the websites of the Clerk of the House, the Secretary of the Senate and the FEC. 104.22(b)(2)(i).

[6] For more information on the LDA or for registration and filing requirements under the LDA, contact the Secretary of the Senate or the Clerk of the House of Representatives.

If the candidate committee does not find the name of the person for whom it is searching it may retain a computer printout or screen capture from each website indicating that the name of the person or PAC sought was not listed in the results of the search. This will constitute conclusive evidence that the candidate committee consulted the websites and did not find the name sought. 104.22(b)(2)(ii). Note that these are not the exclusive means by which the candidate committee may provide evidence that it has consulted the websites and not found the name of the person sought.

Additionally, a candidate committee is subject to the reporting requirements if it has actual knowledge that, at the time a contribution was forwarded or received, the person whose name is sought was required to be listed on any registration or report under the LDA. 104.22(b)(2)(iii).

3. FILING REPORTS

Reporting threshold

Candidate committees must file Form 3L if they have received two or more bundled contributions (as defined in Section 1), forwarded by or credited to a particular lobbyist/registrant or lobbyist/registrant PAC, that aggregate in excess of the reporting threshold within a covered period. The threshold is indexed for inflation annually. The reporting threshold for 2021 is $19,300. 104.22(b)(1) and (g) and 110.17(e)(2) and (f).

Covered periods

The covered periods for disclosing lobbyist bundling activity include the semi-annual periods of January 1 through June 30, and July 1 through December 31, plus the periods that coincide with a candidate committee's quarterly campaign finance reporting schedule under 104.5. 104.22(a)(5). See chart later in this appendix.

Quarterly filing schedule

Semi-annual periods of January 1 through June 30, and July 1 through December 31;
Quarters beginning on January 1, April 1, July 1, October 1;
Any applicable pre/post-election reporting periods;
Any applicable special election reporting periods; and
A year-end report.

Pre/Post-election reports

A candidate committee must file Form 3L for the pre- and post-election reports if it receives bundled contributions in excess of the reporting threshold during those periods. 104.22(a)(5)(ii).

Special/run-off election reports

Candidate committees that receive two or more bundled contributions from a lobbyist/registrant or lobbyist/registrant PAC in connection with a special or run-off election that aggregate more than the reporting threshold must file FEC Form 3L at the same time that the candidate committee files its report for the special or run-off election. The covered period for reporting bundled contributions in connection with a special or run-off election is the same as the reporting periods for special and run-off elections under 104.5(h). 104.22(a)(5)(v).

Reporting by certain presidential committees

Most candidate committees file on a quarterly schedule in all years. However, presidential campaign committees that have, as of January 1 of the election year, received or anticipate receiving $100,000 or more in contributions or have made or anticipate making $100,000 or more in expenditures file FEC reports on a monthly basis. 104.5(b)(1). For these committees, the covered periods are:

During an election year:

Semi-annual periods of January 1 through June 30, and July 1 through December 31;
Monthly reporting periods (report due on the 20th of each month);
Pre/post-election reporting periods (in lieu of November and December reporting periods);
Any applicable special election reporting periods; and
A year-end report.

During a non-election year:

Semi-annual periods of January 1 through June 30, and July 1through December 31;
Monthly reporting periods (report due on the 20th of each month) or quarterly reporting periods, based on the regular filing schedule under 104.5(b)(2);
Any applicable special election reporting periods; and
A year-end report.

Monthly filers may elect to file form 3L on a quarterly basis by notifying the Commission in writing, but may only change their filing schedule once per year. 104.22(a)(5)(iv). See Chapter 12.

Form 3L

Each candidate committee must file Form 3L if it has received two or more bundled contributions (as described in Section 1), forwarded by or credited to a particular lobbyist/registrant or lobbyist/registrant PAC, aggregating in excess of the reporting threshold during any covered period. 104.22(b)(1). The report must include:

The name and address of the lobbyist/registrant or lobbyist/registrant PAC;
The employer (if an individual); and
The aggregate amount of bundled contributions forwarded by or received and credited to each lobbyist/registrant or lobbyist/registrant PAC during the covered period.

Candidate committees must file Form 3L with the first campaign finance report that they file following the end of each covered period. 104.22(e).

EXAMPLE

Lenny Kosnowski, a registered lobbyist for the Schotz Brewing Company, forwards four checks for $5,800 each (none are from Kosnowski or his spouse) to a candidate committee on July 1, 2021. The committee, a quarterly filer, must file Form 3L because the candidate committee received two or more bundled contributions from a registered lobbyist during the covered period aggregating in excess of the $19,300 disclosure threshold. Note that the committee reports bundled contributions received during the October quarterly period (July 1-September 30) as well as during the second semi-annual covered period (July 1-December 31). The second semi-annual covered period information is reported with the committee's Year-End report.

Returned or refunded contributions

If a bundled contribution is not deposited and is returned, then it does not aggregate toward the reporting threshold for disclosure of bundled contributions and it is not reported on Form 3L. On the other hand, if the bundled contribution is received, deposited and later refunded, then the bundled contribution aggregates toward the reporting threshold for the covered period in which it was received, and must be reported on Form 3L if the reporting threshold is exceeded for that covered period. If the receipt of the bundled contribution is reported on Form 3L, then the refund of the bundled contribution should also be reported on Form 3L for the covered period in which the refund occurred.[7]

Where to file

Candidate committees file reports and statements with the Federal Election Commission, 1050 First Street NE, Washington, DC 20463. 52 U.S.C. § 30102(g); 104.22(d).

Recordkeeping

Candidate committees must maintain records of any bundled contributions forwarded by or received and credited to a lobbyist/registrant or lobbyist/registrant PAC that aggregate in excess of the reporting threshold for any covered period for three years after filing. 104.22(f).

Co-hosted fundraisers

Co-hosted fundraising events will be treated like any other fundraising activity: Candidate committees must disclose the actual amounts of all bundled contributions credited to, or forwarded by, a lobbyist/registrant or lobbyist/registrant PAC, that aggregate in excess of the reporting threshold within the relevant covered period. Note that contributions forwarded by a lobbyist/registrant or lobbyist/registrant PAC at a co-hosted fundraiser count as contributions bundled by the lobbyist/registrant or lobbyist/registrant PAC that forwarded the contributions, regardless of whether the lobbyist/registrant or lobbyist/registrant PAC is a co-host of the fundraiser or an attendee.[8]

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[7] See Reporting Contributions Bundled by Lobbyists, Registrants and the PACs of Lobbyists and Registrants, 74 Fed. Reg. 7285, 7298 (Feb. 17, 2009), available on FEC.gov.

[8] See Reporting Contributions Bundled by Lobbyists, Registrants and the PACs of Lobbyists and Registrants, 74 Fed. Reg. 7285, 7295 (Feb. 17, 2009) available on FEC.gov.

EXAMPLES

Note: In each of these examples, the candidate committee must check the appropriate websites to determine whether the individuals who have forwarded or are credited with raising the funds are lobbyist/registrants.[9] If the candidate committee knows that the person forwarding contributions is doing so on behalf of a lobbyist/registrant or a lobbyist/registrant PAC, disclosure will be triggered where the contributions exceed the threshold in a covered period. Also, where disclosure is triggered in each example, the committee must disclose the bundled contributions on FEC Form 3L twice, once on the report for the monthly or quarterly covered period, as applicable and a second time on the report covering the semi-annual covered period.[10]

A fundraising event is co-hosted by registered Lobbyists A, B and C. The event generates $20,000 in contributions, none of which are forwarded contributions. The candidate committee believes that Lobbyist A raised the entire $20,000 and thus credits Lobbyist A with the entire $20,000 raised at the event, and does not credit Lobbyists B or C. The candidate committee must disclose the $20,000 that has been credited to Lobbyist A. The candidate committee need not disclose any information regarding Lobbyist B and C, because neither Lobbyist B nor C has been credited with any bundled contributions.

A fundraising event is co-hosted by registered Lobbyists A and B, as well as three non-lobbyist hosts. The event generates $20,000 in contributions, none of which are forwarded contributions. The candidate committee gives each host credit for raising $20,000. The candidate committee must disclose the $20,000 of bundled contributions that has been credited to Lobbyist A and also report the $20,000 of bundled contributions that has been credited to Lobbyist B because the candidate committee has credited the full amount to each lobbyist. The candidate committee may, if it chooses, include a memo entry in the space provided on FEC Form 3L to indicate that, although only a total of $20,000 was raised at the event, that full $20,000 was credited to each of the co-hosts.

A fundraising event is co-hosted by registered Lobbyist A and several non-lobbyist hosts. Registered Lobbyist B (who is not a co-host of the fundraiser) approaches the candidate for whom funds are being raised and hands the candidate $20,000 in contributions from other individuals. Because these are contributions that have been "forwarded" by Lobbyist B, the candidate committee must disclose the $20,000 of bundled contributions that were forwarded by Lobbyist B irrespective of any amount of credit given to Lobbyist B. If the candidate committee also credits Lobbyist A, a co-host of the fundraiser, $20,000 for having raised the contributions forwarded by Lobbyist B (because the contributions were received during the fundraising event), the candidate committee must then also disclose that $20,000 of bundled contributions has been credited to Lobbyist A. Even though the candidate committee must disclose the entire $20,000 as having been forwarded by Lobbyist B, the

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[9] Lobbyist/registrants are listed with the Clerk of the House and the Secretary of the Senate. If contributions are forwarded by a PAC, the candidate committee must check the FEC website to determine whether the committee is a lobbyist registrant PAC. See Section 2 for details.

[10] For additional examples, see Reporting Contributions Bundled by Lobbyists, Registrants and the PACs of Lobbyists and Registrants, 74 Fed. Reg. 7285, 7296-7 (Feb. 17, 2009), available on FEC.gov

candidate committee must also report that same $20,000 of bundled contributions has been credited to Lobbyist A.

Lobbyist bundled contributions v. earmarked contributions

Note that the lobbyist bundling regulations do not change a candidate committee's reporting obligations under the rules for earmarked contributions. Candidate committees that receive earmarked contributions through a conduit are still required to report such conduit activity on their regularly scheduled FEC report. 52 U.S.C. § 30102(g); 110.6(c)(1)(ii) and (c)(2). For more information on earmarked contributions, see Appendix A.

In addition to filing regularly scheduled FEC reports, a candidate committee must file Form 3L if it received two or more bundled contributions from a lobbyist/registrant or lobbyist/registrant PAC aggregating in excess of the reporting threshold during the covered periods.

Appendix G

Compliance with Other Laws

In addition to complying with the Federal Election Campaign Act, campaigns must observe laws and rules outside the Commission's jurisdiction. This appendix lists some of the laws that affect the activities of candidates, political committees and federal officeholders. The FEC has no jurisdiction over these laws.

1. ETHICS IN GOVERNMENT ACT/PERSONAL FINANCE REPORTS

The Ethics in Government Act requires all candidates to file reports on personal finances. See 5 U.S.C. App. 4 §§101-111.

Senate candidates file forms with the Senate Select Committee on Ethics, 220 Hart Senate Office Building, Washington, DC 20510 (phone: 202/224-2981).

House candidates file forms with the Clerk of the U.S. House of Representatives, Legislative Resource Center, 135 Cannon House Office Building, Washington, DC 20515-6612. For forms, questions or more information, contact the Committee on Ethics at (202) 225-7103.

Presidential and Vice Presidential candidates (except the incumbent President and Vice President[1]) file their personal financial disclosure forms with the FEC. The Commission is the agency responsible for public disclosure of those forms. However, detailed review and approval of those forms is the responsibility of the Office of Government Ethics (phone: 202/482-9300).

2. HOUSE AND SENATE RULES

The U.S. Senate and House each have rules regulating activity of incumbent Senators and Representatives. Contact the Senate Select Committee on Ethics or the House Committee on Ethics (addresses given in Section 1).

[1] The incumbent President and Vice President file their personal financial disclosure forms directly with the Office of Government Ethics.

3. BALLOT ACCESS RULES

State laws and procedures govern how candidates come to appear on election ballots. For information, individuals should contact the chief election official in their state. (See the FEC's Combined Federal/State Disclosure and Election Directory, available at FEC.gov for contact information.)

4. TAX LAWS

Campaigns should be aware that they have to comply with federal and state laws on income tax. For information on federal tax laws, contact the Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, Attention: EEO (phone: 877/829-5500).

Committees that need to obtain a taxpayer ID number should call 800/TAX-FORM (800/829-3676) or visit IRS.gov for information. Each regional IRS office also has a toll-free number; consult your telephone directory for the number in your state. Campaigns should also consult the appropriate state agency for information on state income tax laws.

5. COMMUNICATIONS ACT

For information on rules concerning rates for purchasing broadcast time, equal access to broadcast media, and procedures for filing complaints in this area, contact the Federal Communications Commission, Mass Media Bureau, Political Programming Staff, 445 12th Street, SW, Washington, DC 20554 (phone: 888/225-5322 or 202/418-1440).

6. HATCH ACT

For information on the Hatch Act, which regulates political activity by federal employees, contact the Office of Special Counsel, U.S. Merit Systems Protection Board, 1730 M Street, NW, Suite 218, Washington, DC 20036-4505 (phone: 800/854-2824 or 202/804-7002).

Appendix H
Glossary

Act – The Federal Election Campaign Act of 1971, as amended (52 U.S.C. §§30101-30145). 100.18. Prior to September 1, 2014, the Act appeared in Title 2 of the U.S. Code. A conversion table is available on FEC.gov.

Advisory opinion (AO) – A formal response from the Commission regarding the legality of a specific activity proposed in an advisory opinion request (AOR). Part 112. For information on requesting an AO, see page ii.

Affiliated committees – Committees and organizations that are considered one committee for purposes of the contribution limits. 110.3(a)(1). Affiliated committees include (1) All committees established or authorized by a candidate as part of his or her campaign for federal or nonfederal office; (2) All committees established, financed, maintained or controlled by the same corporation, labor organization, person, or group of persons. 100.5(g)(1) and (2); 110.3(a)(1).

Agent of federal candidate or officeholder – An agent of a federal candidate or officeholder is any person who has actual authority, either express or implied, to engage in any of the following activities on behalf of the candidate or officeholder:

To request or suggest that a communication be created, produced or distributed;
To make or authorize a communication that meets one or more of the "content standards" for coordination. See Appendix D, Section 2;
To request or suggest that any other person create, produce, or distribute any communication;
To be materially involved in decisions regarding the content, intended audience, means or mode, media outlet, timing, frequency, size, prominence or duration of a communication;
To provide material or information to assist another person in the creation, production or distribution of any communication;
To make or direct a communication that is created, produced or distributed with the use of material or information derived from a substantial discussion about the communication with a different candidate; or
To solicit, receive, direct, transfer or spend funds in connection with any election.

109.3(b) and 300.2(b)(3).

Authorized committee – Any political committee, including the principal campaign committee, authorized in writing by a federal candidate to receive contributions and make expenditures on his or her behalf. 100.5(f)(1). Authorized committees are often called "candidate committees" or "campaign committees."

Bank – A state bank; a federally chartered depository institution (including a national bank); or a depository institution insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration. 52 U.S.C. §30102(h)(1).

BCRA – The Bipartisan Campaign Reform Act of 2002, Pub. Law No. 107-155, 116 Stat. 81, which amended the FECA.

Bundled contribution – A contribution forwarded to a reporting committee by a lobbyist/registrant or lobbyist/registrant PAC, or received by a reporting committee and credited to a lobbyist/registrant or lobbyist/registrant PAC. See 104.22(a)(6). See also Appendix F.

Campaign – A candidate for a federal office, his or her authorized agents, principal campaign committee and any other authorized committees.

Campaign committee – Popular term for an authorized committee.

Candidate – An individual seeking nomination for election, or election, to federal office becomes a candidate when he or she (or agents acting on his or her behalf) raise contributions that exceed $5,000 or make expenditures that exceed $5,000. 100.3(a).

Candidate committee – Popular term for an authorized committee.

Clear and conspicuous – A disclaimer is clear and conspicuous if it gives the observer adequate notice of who paid for the ad, is not difficult to read or hear, and the placement cannot be easily overlooked. The specific requirements depend upon the medium used. 110.11(c)(1).

Clearly identified candidate – A candidate is clearly identified when his or her name, nickname, photograph or drawing appears or when his or her identity is apparent by unambiguous reference such as “the President,” “your Congressman,” or “the incumbent,” or through an unambiguous reference to his or her status as a candidate such as “the Democratic presidential nominee” or “the Republican candidate for Senate in the State of Texas.” 100.17; 106.1(d).

Commercial vendor – Any person providing goods or services to a candidate or political committee whose usual and normal business involves the sale, rental, lease or provision of those goods or services. 116.1(c).

Contribution – A gift, subscription, loan, advance or deposit of money or anything of value given to influence a federal election; or the payment by any person of compensation for the personal services of another person if those services are rendered without charge to a political committee for any purpose. 100.52(a) and 100.54. See Chapter 3, “Understanding Contributions.”

Coordinated – Made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate’s authorized committee or their agents, or a political party committee or its agents. 109.20.

Coordinated communication – A communication that satisfies a three-pronged test:

The communication must be paid for by a person other than a federal candidate, authorized committee, or a political party committee, or any agents of the aforementioned entities with whom the communication is coordinated. (See definition for “Party coordinated communication”);

One or more of the five content standards set forth in 109.21(c) must be satisfied; and
One or more of the five conduct standards set forth in 109.21(d) must be satisfied.
A payment for a communication satisfying all three prongs is an in-kind contribution to the candidate or political party committee with which it was coordinated. 109.21. See Appendix D, Section 2.

Coordinated party expenditure – A special type of coordinated expenditure that can be made only by a national or state political party committee in connection with the general election of a candidate. These coordinated expenditures are subject to a separate set of limits and do not count against the party's normal contribution limits with respect to each candidate. 109.30, and 109.32 through 109.37.

Corporation – Any separately incorporated entity (other than a political committee that has incorporated for liability purposes only). 100.134(l) and 114.12(a). The term corporation covers both for-profit and nonprofit corporations and includes nonstock corporations, incorporated membership organizations, incorporated cooperatives, incorporated trade associations, professional corporations and, under certain circumstances, limited liability companies.

Covered period – For the purposes of 11 CFR 104.22, the covered period for disclosing lobbyist bundling activity generally includes the semiannual periods of January 1 through June 30, and July 1 through December 31, plus the periods that coincide with a reporting committee's regular quarterly or monthly reporting schedule. Note that the covered period may also include the reporting periods for any special or runoff elections. Reporting committees that file campaign finance reports on a monthly basis can choose to file reports pursuant to the quarterly covered period by notifying the commission in writing. For more information, see Appendix F.

Date contribution is made – The date the contributor relinquishes control over a contribution. A contribution that is mailed is considered made on the date of the postmark. In the case of an in-kind contribution, a contribution is made on the date the goods or services are provided by the contributor. This date determines the election limit against which a contribution counts. 110.1(b)(6).

Date contribution is received – The date the campaign (or a person acting on the campaign's behalf) takes possession of the contribution. 102.8(a). This date is used for FEC reporting.

Direct – For purposes of 11 CFR Part 300, to direct means to guide, directly or indirectly, a person who has expressed an intent to make a contribution, donation, transfer of funds or otherwise provide anything of value, by identifying a candidate, political committee or organization for the receipt of such funds or things of value. The contribution, donation, transfer or thing of value may be provided directly or through an intermediary. Direction does not include merely providing information or guidance as to the applicability of a particular law or regulation. 300.2(n). See Appendix E.

Direct mail – Any mailings made by a commercial vendor or made from a commercial list. 100.87(a), 100.89(a), 100.147(a) and 100.149(a).

Disbursement – Any purchase or payment made by a political committee or any other person that is subject to the Act. 300.2(d).

District or local party committee – Any organization that is part of the official party structure, and is responsible for the day-to-day operations of the political party at a level lower than the state level (e.g., city, county, ward). 100.14(b).

Donation – A payment, gift, subscription, loan, advance, deposit or anything of value given to a person but does not include contributions. 300.2(e).

Draft committee – A political committee established solely to draft an individual or to encourage him or her to become a candidate. 102.14(b)(2). See the Campaign Guide for Nonconnected Committees.

Earmarked contribution – A contribution that the contributor directs (either orally or in writing) to or on behalf of a clearly identified candidate or authorized committee through an intermediary or conduit. Earmarking may take the form of a designation, instruction or encumbrance, and it may be direct or indirect, express or implied. 110.6. See also definition for "Bundled contribution" and Appendix A.

Election – Any one of several processes by which an individual seeks nomination for election, or election, to federal office. They include: a primary election, including a caucus or convention that has authority to select a nominee; a general election; a runoff election; and a special election held to fill a vacant seat. 100.2.

Election cycle – The period beginning the day after the previous general election for a given federal office and ending on the date of the general election for that office. The number of years in an election cycle differs according to the federal office sought. The election cycle spans:

Two years for House candidates;
Four years for Presidential candidates; and
Six years for Senate candidates.
See 100.3(b).

Election year – A year in which there are regularly scheduled elections for federal office (i.e., even-numbered years).

"Established, financed, maintained or controlled" – See Appendix E and 300.2(c) for a list of the factors considered by the Commission in determining whether an entity is directly or indirectly established, financed, maintained or controlled by, or acting on behalf of, a federal candidate, officeholder or agent. See also AOs 2006-04 (Tancredo), 2005-02 (Corzine II) and 2004-33 (Ripon).

Electioneering communication – Any broadcast, cable or satellite communication that (1) refers to a clearly identified candidate for federal office; (2) is publicly distributed within certain time periods before an election; and (3) is targeted to the relevant electorate. 100.29. See Appendix D.

Expenditure – A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made for the purpose of influencing a federal election. A written agreement to make an expenditure is also considered an expenditure. 100.111 and 100.112. See Chapter 8.

Express advocacy – Unambiguously advocating the election or defeat of a clearly identified federal candidate. There are two ways that a communication can be defined as express advocacy (candidate

advocacy): by use of certain "explicit words of advocacy of election or defeat" and by the "only reasonable interpretation" test. See 100.22. See Appendix D, Section 3, for a full explanation of the two ways that express advocacy can be defined.

FECA – The Federal Election Campaign Act of 1971, as amended (52 U.S.C. §§ 30101–30145). 100.18. Sometimes referred to as "the Act."

FEC identification number – Number assigned to a political committee upon registration with the FEC. Used for identification purposes with the FEC only, this number is not a taxpayer identification number.

Federal funds – Funds that comply with the limits, prohibitions and reporting requirements of the FECA. 300.2(g). See Chapters 3, 4 and 5.

Federal office – President, Vice President, Senator and the following members of the House of Representatives: Representative, Delegate (the District of Columbia, Guam, American Samoa, Northern Mariana Islands, Virgin Islands) and Resident Commissioner (Puerto Rico). 100.4.

Federal officeholder – An individual elected to or serving in the office of President or Vice President of the United States, or a Senator or Representative in, or a Delegate or Resident Commissioner, to the Congress of the United States. 113.1(c) and 300.2(o).

Federally permissible funds – Contributions or donations that do not exceed the Act's limits or come from sources prohibited by the Act. See definition for "Federal funds."

Foreign national – (1) An individual who is not a citizen of the United States or a national of the United States and has not been lawfully admitted to the U.S. for permanent residence, as defined in 8 U.S.C. §1101(a)(20); or (2) a foreign principal, as defined in 22 U.S.C. §611(b). 110.20(a)(3).

Government contractor – A person who enters into a contract, or is bidding on such a contract, with any agency or department of the United States government and is paid, or is to be paid, for services, material, equipment, supplies, land or buildings with funds appropriated by Congress. 115.1.

HLOGA – The Honest Leadership and Open Government Act of 2007, Pub. Law No. 110-81, 121 Stat. 735, which amended parts of the FECA.

Identification – For purposes of recordkeeping and reporting, a person's full name and address and, in the case of an individual, his or her occupation (principal job title or position) and employer (organization or person by whom an individual is employed) as well. 100.12, 100.20 and 100.21.

Identification number – See definition for "FEC identification number."

Independent expenditure – An expenditure for a communication that expressly advocates the election or defeat of a clearly identified candidate and that is not made in cooperation, consultation or concert with, or at the request or suggestion of, any candidate, or his or her authorized committees or agents, or a political party committee or its agents. 100.16. See Appendix D.

Independent expenditure-only political committees (IEOPCs) – Political committees that make only independent expenditures that may solicit and accept unlimited contributions from individuals, corporations, labor organizations and other political committees. They may not accept contributions from foreign nationals, federal contractors, national banks or federally chartered corporations. See AO 2010-11 (Commonsense Ten). IEOPCs, popularly known as "super PACs," must register with the Commission and comply with all applicable reporting requirements of the Act. See Appendix E.

In-kind contribution – A contribution of goods, services or property offered free or at less than the usual and normal charge. The term also includes payments made on behalf of, but not directly to, candidates and political committees (except for independent expenditures or non-coordinated communications).100.52(d).

Joint contribution – A contribution made by more than one person on a single check or other written instrument. 110.1(k)(1).

Joint fundraising – Fundraising conducted jointly by a political committee and one or more other committees or organizations. See Appendix C.

Labor organization – An organization, agency or employee representative committee or plan, in which employees participate and which exists for the purpose of dealing with employers on grievances, labor disputes, wages, hours of employment or working conditions. 114.1(d).

Leadership PAC – A political committee that is directly or indirectly established, financed, maintained or controlled by a federal candidate or officeholder which is neither an authorized committee nor affiliated with the candidate's authorized committee. The term does not include a political party committee. 100.5(e)(6).

Limited liability company (LLC) – A business entity that is recognized as a limited liability company under the laws of the state in which it is established. LLCs that are treated as partnerships under the IRS code may make contributions. LLCs that have publicly traded stock or are treated as corporations under the IRS code are prohibited from making contributions. 110.1(g) See Appendix B.

Lobbyist/registrant – A person who is:
A current registrant under the Lobbying Disclosure Act, or
An individual who is named on a current registration or report filed under the Lobbying Disclosure Act. See 104.22. See also Appendix F.

Lobbyist/registrant PAC – Any political committee that a lobbyist/registrant "established or controls" as defined in 104.22. See Appendix F.

Local party committee – See definition for "District or local party committee."

Mass mailing – A mailing by U.S. mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period. This does not include electronic mail or other internet communications. 100.27. See definition for "Public communication."

Memo entry – Supplemental or explanatory information on a reporting schedule. The dollar amount in a memo entry is not incorporated into the total figure for the schedule. A memo entry is often used to disclose additional information about an itemized transaction that is included in the total receipts or disbursements for the current report or a previous report.

Memo text – A field offered in FECFile software and some commercial software to allow a committee to provide additional text to describe a particular transaction it is reporting.

Multicandidate committee – A political committee that has been registered sat least 6 months, has more than 50 contributors and, with the exception of state party committees, has made contributions to at least 5 candidates for federal office. 100.5(e)(3).

MUR (Matter Under Review) – An FEC enforcement action, initiated by a sworn complaint or by an internal administrative action.

National committee – An organization that, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of the political party at the national level, as determined by the Commission. 100.13.

National party committees – Political committees established and maintained by a national political party. A party's national committee, House campaign committee and Senate campaign committee are defined as national party committees. 110.1(c)(2). See also AO 2006-36 (Green Senatorial Campaign Committee).

Negative entry – An amount entered on a reporting schedule that is subtracted from the total balance for that schedule. Parentheses around a number indicate a negative entry.

Net debts outstanding – The total of a campaign's unpaid debts incurred with respect to an election plus estimated costs to liquidate the debts plus costs of terminating political activity (if appropriate), minus cash on hand, and receivables and the amount of personal loans aggregating in excess of $250,000 per election. 110.1(b)(3)(ii). See Chapter 4, Section 8, "Contributions to Retire Debts."

Nonconnected committee – Any committee which conducts activities in connection with an election, but which is not a party committee, a candidate's authorized committee, or a separate segregated fund. 106.6(a).

Nonelection year – A year in which there is no regularly scheduled federal election (i.e., odd-numbered years).

Nonfederal election – An election for a state or local office.

Nonfederal funds – Funds that are not subject to the limitations or prohibitions of the Act. 300.2(k).

Nonpartisan, tax-exempt, debate staging organization – An organization staging candidate debates which is exempt from federal taxation under 26 U.S.C. § 501(c)(3) or (4) and which does not support, endorse or oppose candidates or political parties. 110.13(a)(1) and 114.4(f).

Ongoing committee – A political committee that has not terminated and does not qualify as a terminating committee. 116.1(b).

Operating expenditures – A committee's day-to-day expenditures for items such as rent, overhead, administration, personnel, equipment, travel, advertising and fundraising. 106.1(c).

PAC – Acronym for political action committee; see definition for "Political action committee."

Party committee – A political committee that represents a political party and is part of the official party structure at the national, state or local level. 100.5(e)(4).

Party coordinated communication – A communication that satisfies a similar three-pronged test as for a "coordinated communication" (see definition of "Coordinated communication"). The first prong requires that the communication be paid for by a political party committee or its agents, and the second and third prongs require that one of several content and conduct standards be satisfied. A payment for a communication satisfying all three prongs is either an in-kind contribution to, or a "coordinated party expenditure" on behalf of, the candidate with whom it was coordinated. 109.37.

Person – An individual, partnership, political committee, association, corporation, labor organization, or any other organization or group of persons, not including the federal government. 100.10.

Personal funds of candidate – Generally, assets which an individual had at the time he or she became a candidate and had:

Legal right of access to or control over; and either
Legal and rightful title; or
An equitable interest.

Personal funds also include certain categories of income and other funds received by the candidate. 100.33.

Personal use of campaign funds – Any use of funds in a campaign account of a candidate (or former candidate) to pay for a commitment, obligation or expense (of any person) that would exist irrespective of the candidate's campaign or responsibilities as a federal officeholder. 113.1(g). See Chapter 8.

Political action committee (PAC) – Popular term for a political committee that is neither a party committee nor an authorized committee of a candidate. PACs directly or indirectly established, administered or financially supported by a corporation or labor organization are called separate segregated funds (SSFs). PACs without such a corporate or labor sponsor are called nonconnected PACs. See definition for "financially supported" in "Separate segregated fund."

Political committee – An entity that meets one of the following conditions:

An authorized committee of a candidate (see definition for "Candidate").
A state party committee or nonparty committee, club, association or other group of persons that receives contributions or makes expenditures, either of which aggregate over $1,000 during a calendar year.

A local unit of a political party (except a state party committee) that: (1) receives contributions aggregating over $5,000 during a calendar year; (2) makes contributions or expenditures either of which aggregate over $1,000 during a calendar year; or (3) makes payments aggregating over $5,000 during a calendar year for certain activities which are exempt from the definitions of contribution and expenditure (100.80, 100.87 and 100.89; 100.140, 100.147 and 100.149).

Any separate segregated fund upon its establishment. 100.5.

Principal campaign committee – An authorized committee designated by a candidate as the principal committee to raise contributions and make expenditures for his or her campaign for a federal office. 100.5(e)(1). See definition for "Authorized committee."

Prohibited sources – Those entities that are prohibited from making contributions or expenditures in connection with, or for the purpose of influencing, a federal election. 110.4(b), 110.20, 114.2 and 115.2. See Chapter 5.

Public communication – A communication by means of any broadcast, cable or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing or telephone bank to the general public, or any other form of general public political advertising. The term general public political advertising does not include communications made over the internet, except for communications placed for a fee on another person's website. 100.26, 100.27 (definition of "Mass mailing") and 100.28 (definition of "Telephone bank").

Reattributed contribution – The portion of an excessive contribution that has been attributed in writing to another contributor and signed by both contributors. 110.1(k)(3)(ii). See Chapter 4, Section 7.

Receipt – Anything of value (money, goods, services or property) received by a political committee.

Redesignated contribution – The portion of a contribution (usually excessive) that has been designated by the contributor, in writing, to an election other than the one for which the funds were originally given. 110.1(b)(5).

Refunded contribution – A contribution is refunded when the recipient committee first deposits the contribution and later sends the contributor a check for the entire amount (or a portion) of the contribution. See 103.3(b). Compare with definition of "Returned contribution."

Restricted class – Those persons, including the executive and administrative personnel, members or stockholders (and the families of each) within a corporation or labor organization, who may be solicited for contributions to the organization's separate segregated fund at any time and who may receive certain communications from the organization. 114.1(j); 114.3(a); 114.5(g); 114.7(a) and (h); and 114.8(c), (h) and (i).

Returned contribution – A contribution is returned when the recipient committee sends the original check (or other negotiable instrument) back to the contributor, without depositing it. See 103.3(a). Compare with definition of "Refunded contribution."

Runoff election – An election held after a primary or a general election when no candidate wins the previous election. 100.2(d).

Separate segregated fund (SSF) – A political committee established, administered or financially supported by a corporation or labor organization, popularly called a corporate or labor political action committee or PAC. See 114.1(a)(2)(iii). The term "financially supported" does not include contributions to the SSF, but does include the payment of establishment, administration or solicitation costs. 100.6(b).

Solicit – For the purposes of 11 CFR Part 300, to solicit means to ask, request or recommend, explicitly or implicitly, that another person make a contribution, donation, transfer of funds or otherwise provide anything of value. A solicitation is an oral or written communication that, construed as reasonably understood in the context in which it is made, contains a clear message asking, requesting or recommending that a person make a contribution, donation, transfer of funds or otherwise provide anything of value. A solicitation may be made directly or indirectly. The context includes the conduct of persons involved in the communication. A solicitation does not include mere statements of political support or mere guidance as to the applicability of a particular law or regulation. 300.2(m). See Appendix E.

Special election – A primary, general or runoff election that is not a regularly scheduled election and that is held to fill a vacancy in a federal office. 100.2(f).

State party committee – A committee which, by virtue of the bylaws of a political party or the operation of state law is part of the official party structure and is responsible for the day-to-day operation of the party at the state level, including an entity that is directly or indirectly established, financed, maintained or controlled by that organization, as determined by the Commission. 100.14(a).

Telephone bank – More than 500 telephone calls of an identical or substantially similar nature within any 30-day period. This does not include e-mail or other internet communications transmitted over telephone lines. 100.28 See Appendix D.

Terminating committee – A political committee that is winding down its activities in preparation for filing a termination report. A terminating committee has ceased to receive contributions or make expenditures (other than for debt retirement purposes or winding down costs). 116.1(a).

Trade association – A membership organization consisting of persons engaged in a similar or related line of commerce. A trade association is organized to promote and improve business conditions in that line of commerce and not to engage in a regular business for profit. No part of the net earnings of a trade association may inure to the benefit of any member. 114.8(a).

Unauthorized committee – A political committee that has not been authorized in writing by any candidate to solicit or receive contributions or to make expenditures on behalf of a candidate, or that has been disavowed under 100.3(a)(3). 100.5(f)(2).

Unauthorized single-candidate committee – A political committee not authorized by any candidate, which makes contributions or expenditures on behalf of only one candidate. 100.5(e)(2) and (f)(2).

Usual and normal charge – With regard to goods provided to a political committee, the term refers to the price of those goods in the market from which they ordinarily would have been purchased at the time they were provided. With regard to services, the term refers to the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered. 100.52(d)(2).