

# Code of Federal Regulations



effective April 13, 1977

## 11

### Federal Elections

Revised as of May 1977

**CONTAINING  
A CODIFICATION OF DOCUMENTS  
OF GENERAL APPLICABILITY  
AND FUTURE EFFECT  
AS OF MAY 1, 1977**

*With Ancillaries*

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# Explanation

The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas.

## ISSUE DATES

Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

Title 1 through Title 16	-----	as of January 1
Title 17 through Title 27	-----	as of April 1
Title 28 through Title 41	-----	as of July 1
Title 42 through Title 50	-----	as of October 1

The appropriate revision date is printed on the cover of each volume.

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To determine whether there have been any amendments since the revision date of the Code volume in which the user is interested (in this case, May 1, 1977) the following two lists must be consulted: the "Cumulative List of CFR Sections Affected" issued monthly and the "Cumulative List of Parts Affected" which appears daily in the Federal Register. These two lists will refer the user to the Federal Register page where he may find the latest amendment of any given rule.

## EFFECTIVE DATES

Each volume of the Code contains amendments published in the Federal Register since the last revision of that volume of the Code. Source citations for the regulations are referred to by volume number and page number of the Federal Register and date of publication. Publication dates and effective dates are usually not the same and care must be exercised by the user in determining the actual effective date. In instances where the effective date is beyond the cut-off date for the Code a note has been inserted to reflect the future effective date.

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An index to the text of Presidential documents appears at the end of each compilation of Title 3, The President.

The Federal Register Index is issued monthly, quarterly, and annually. This index is based on a consolidation of the "Contents" entries in the daily Federal Register.

A Cumulative List of CFR Sections Affected is published monthly, keyed to the revision dates of the 50 CFR titles.

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FRED J. EMERY,  
*Director,*  
*Office of the Federal Register.*

*May 1, 1977.*

## THIS TITLE

Title II—FEDERAL ELECTIONS is composed of one volume. The contents of this volume represent all current regulations issued by the Federal Election Commission codified under this title of the CFR as of May 1, 1977.

Other regulations implementing section 401 of the Federal Election Campaign Act of 1971 are contained in Supplement A of this volume as follows: Civil Aeronautics Board, 14 CFR Part 374a; Federal Communications Commission, 47 CFR Part 64 (Subpart H), Parts 73 and 76; and Interstate Commerce Commission, 49 CFR Part 1325.

An index to regulations for Parts 100—115 and an appendix to the List of CFR Sections Affected containing changes to Title 11 prior to the reconstitution of the Federal Election Commission by the Federal Election Campaign Act amendments of 1976 also appear in this volume.

The Code of Federal Regulations is published under the editorial direction of Robert E. Lewis, assisted by Pearl Einhorn. For this volume, Kathryn M. English was Chief Editor and Michael T. Lesar, Associate Editor.

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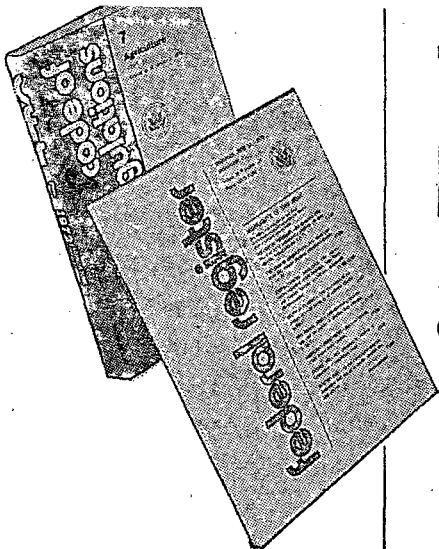
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# Title 11—Federal Elections

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CHAPTER 1—Federal Election Commission . . . . .	<i>Part</i> 1
Supplement A—Other regulations implementing section 401 of the Federal Election Campaign Act of 1971.	

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**PART 1—PRIVACY ACT**

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1.4	Times, places, and requirements for identification of individuals making requests.
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**AUTHORITY:** 5 U.S.C. 552a.

**SOURCE:** 41 FR 43064, Sept. 29, 1976, unless otherwise noted.

**§ 1.1 Purpose and scope.**

(a) The purpose of this part is to set forth rules informing the public as to what information is maintained by the Federal Election Commission about identifiable individuals and to inform those individuals how they may gain access to and correct or amend information about themselves.

(b) The regulations in this part carry out the requirements of the Privacy Act of 1974 (Pub. L. 93-579) and in particular 5 U.S.C. Section 552a as added by that Act.

(c) The regulations in this part apply only to records disclosed or requested under the Privacy Act of 1974, and not to requests for information made pursuant to 5 U.S.C. 552, the Freedom of Information Act, or requests for reports and statements filed with the Federal Election Commission which are public records and available for inspection and copying pursuant to 2 U.S.C. 437g(a)(6)(C) and 438(a)(4).

**§ 1.2 Definitions.**

As defined in the Privacy Act of 1974 and for the purposes of this part, unless otherwise required by the context, the following terms shall have these meanings:

“Individual” means a citizen of the United States or an alien lawfully admitted for permanent residence.

“Maintain” includes maintain, collect, use or disseminate.

“Record” means any item, collection, or grouping of information about an individual that is maintained by an agency, including but not limited to his or her education, financial transactions, medical history, and criminal or employment history and that contains his or her name, or the identifying number, symbol or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

“Systems of Records” means a group of any records under the control of the Federal Election Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

“Routine use” means the use of such record for a purpose compatible with the

purpose for which the information was collected.

"Commission" means the Federal Election Committee, its Commissioners and employees.

"Commissioners" means the six appointees confirmed by the Senate who are voting members of the Commission.

"Act" means the Federal Election Campaign Act of 1971, as amended and Chapters 95 and 96 of the Internal Revenue Code of 1954.

### § 1.3 Procedures for requests pertaining to individual records in a record system.

(a) Any individual may request the Commission to inform him or her whether a particular record system named by the individual contains a record pertaining to him or her. The request may be made in person or in writing at the location and to the person specified in the notice describing that record system.

(b) An individual who believes that the Commission maintains records pertaining to him or her but who cannot determine which record system contains those records, may request assistance by mail or in person from the Staff Director, Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463 during the hours of 9 a.m. to 5:30 p.m.

(c) Requests under paragraphs (a) or (b) of this section shall be acknowledged by the Commission within 15 days from the date of receipt of the request. If the Commission is unable to locate the information requested under paragraphs (a) or (b) of this section, it shall so notify the individual within 15 days after receipt of the request. Such acknowledgement may request additional information to assist the Commission in locating the record or it may advise the individual that no record or document exists about that individual.

### § 1.4 Times, places, and requirements for identification of individuals making requests.

(a) After being informed by the Commission that a record system contains a record pertaining to him or her, an individual may request the Commission to disclose that record in the manner described in this section. Each request for the disclosure of a record or a copy of it shall be made at the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463 and to the system

manager identified in the notice describing the systems of records, either in writing or in person. Requests may be made by specifically authorized agents or by parents or guardians of individuals.

(b) Each individual requesting the disclosure of a record or copy of a record shall furnish the following information with his or her request:

(1) The name of the record system containing the record;

(2) Proof as described in paragraph (c) of this section that he or she is the individual to whom the requested record relates;

(3) Any other information required by the notice describing the record system.

(c) Proof of identity as required by paragraph (b) (2) of this section shall be provided as described in paragraph (c) (1) and (2) of this section. Requests made by an agent, parent, or guardian, shall be in accordance with the procedures described in § 1.10.

(1) Requests made in writing shall include a statement, signed by the individual and either notarized or witnessed by two persons (including witnesses' addresses). If the individual appears before a notary, he or she shall submit adequate proof of identification in the form of a drivers license, birth certificate, passport or other identification acceptable to the notary. If the statement is witnessed, it shall include a sentence above the witnesses' signatures that they personally know the individual or that the individual has submitted proof of his or her identification to their satisfaction. In any case in which, because of the extreme sensitivity of the record sought to be seen or copied, the Commission determines that the identification is not adequate, it may request the individual to submit additional proof of identification.

(2) If the request is made in person, the requestor shall submit proof of identification similar to that described in paragraph (c) (1) of this section, acceptable to the Commission. The individual may have a person of his or her own choosing accompany him or her when the record is disclosed.

### § 1.5 Disclosure of requested information to individuals.

(a) Upon submission of proof of identification as required by § 1.4, the Commission shall allow the individual to see and/or obtain a copy of the requested record or shall send a copy of the record

to the individual by registered mail. If the individual requests to see the record, the Commission may make the record available either at the location where the record is maintained or at a place more suitable to the requestor, if possible. The record shall be made available as soon as possible but in no event later than 15 days after proof of identification.

(b) The Commission must furnish each record requested by an individual under this part in a form intelligible to that individual.

(c) If the Commission denies access to a record to an individual, he or she shall be advised of the reason for the denial and advised of the right to judicial review.

(d) Upon request, an individual will be provided access to the accounting of disclosures from his or her record under the same procedures as provided above and in § 1.4.

**§ 1.6 Special procedure: medical records. [Reserved]**

**§ 1.7 Request for correction or amendment to record.**

(a) Any individual who has reviewed a record pertaining to him or her that was furnished under this part, may request the Commission to correct or amend all or any part of that record.

(b) Each individual requesting a correction or amendment shall send the request to the Commission through the person who furnished the record.

(c) Each request for a correction or amendment of a record shall contain the following information:

(1) The name of the individual requesting the correction or amendment;

(2) The name of the system of records in which the record sought to be amended is maintained;

(3) The location of the system of records from which the individual record was obtained;

(4) A copy of the record sought to be amended or corrected or a sufficiently detailed description of that record;

(5) A statement of the material in the record that the individual desires to correct or amend;

(6) A statement of the basis for the requested correction or amendment including any material that the individual can furnish to substantiate the reasons for the correction or amendment sought.

**§ 1.8 Agency review of request for correction or amendment of record.**

(a) The Commission shall, not later than ten (10) days (excluding Saturdays, Sundays and legal holidays) after the receipt of the request for a correction or amendment of a record under § 1.7, acknowledge receipt of the request and inform the individual whether information is required before the correction or amendment can be considered.

(b) If no additional information is required, within ten (10) days from receipt of the request, the Commission shall either make the requested correction or amendment or notify the individual of its refusal to do so, including in the notification the reasons for the refusal, and the appeal procedures provided in § 1.9.

(c) The Commission shall make each requested correction or amendment to a record if that correction or amendment will tend to negate inaccurate, irrelevant, untimely, or incomplete matter in the record.

(d) The Commission shall inform prior recipients of any amendment or correction or notation of dispute of such individual's record if an accounting of the disclosure was made. The individual may request a list of prior recipients if an accounting of the disclosure was made.

**§ 1.9 Appeal of initial adverse agency determination on amendment or correction.**

(a) Any individual whose request for a correction or amendment has been denied in whole or in part, may appeal that decision to the Commissioners no later than one hundred eighty (180) days after the adverse decision is rendered.

(b) The appeal shall be in writing and shall contain the following information:

(1) The name of the individual making the appeal;

(2) Identification of the record sought to be amended;

(3) The record system in which that record is contained;

(4) A short statement describing the amendment sought; and

(5) The name and location of the agency official who initially denied the correction or amendment.

(c) Not later than thirty (30) days (excluding Saturdays, Sundays and

legal holidays) after the date on which the Commission receives the appeal, the Commissioners shall complete their review of the appeal and make a final decision thereon. However, for good cause shown, the Commissioners may extend that thirty (30) day period. If the Commissioners extend the period, the individual requesting the review shall be promptly notified of the extension and the anticipated date of a decision.

(d) After review of an appeal, the Commission shall send a written notice to the requestor containing the following information:

(1) The decision and, if the denial is upheld, the reasons for the decision;

(2) The right of the requestor to institute a civil action in a Federal District Court for judicial review of the decision; and

(3) The right of the requestor to file with the Commission a concise statement setting forth the reasons for his or her disagreement with the Commission denial of the correction or amendment. The Commission shall make this statement available to any person to whom the record is later disclosed, together with a brief statement, if appropriate, of the Commission's reasons for denying the requested correction or amendment. The Commission shall also send a copy of the statement to prior recipients of the individual's record if an accounting of the disclosures was made.

#### § 1.10 Disclosure of record to person other than the individual to whom it pertains.

(a) Any individual who desires to have a record covered by this Part disclosed to or mailed to another person may designate such person and authorize such person to act as his or her agent for that specific purpose. The authorization shall be in writing, signed by the individual and notarized or witnessed as provided in § 1.4(c).

(b) The parent of any minor individual or the legal guardian of any individual who has been declared by a court of competent jurisdiction to be incompetent, due to physical or mental incapacity or age, may act on behalf of that individual in any matter covered by this part. A parent or guardian who desires to act on behalf of such an individual shall present suitable evidence of parentage or guardianship, by birth certifi-

cate, certified copy of a court order, or similar documents, and proof of the individual's identity in a form that complies with § 1.4(c) of this Part.

(c) An individual to whom a record is to be disclosed in person, pursuant to this part may have a person of his or her own choosing accompany him or her when the record is disclosed.

#### § 1.11 Fees.

(a) The Commission shall not charge an individual for the costs of making a search for a record or the costs of reviewing the record. When the Commission makes a copy of a record as a necessary part of the process of disclosing the record to an individual, the Commission shall not charge the individual for the cost of making that copy.

(b) If an individual requests the Commission to furnish a copy of the record, the Commission shall charge the individual for the costs of making the copy. The fee that the Commission has established for making a copy is ten cents (\$.10) per page.

#### § 1.12 Penalties.

Any person who makes a false statement in connection with any request for a record, or an amendment or correction thereto, under this part, is subject to the penalties prescribed in 18 U.S.C. 494 and 495.

#### § 1.13 General exemptions. [Reserved]

#### § 1.14 Specific exemptions.

(a) No individual, under the provisions of these regulations, shall be entitled to access to materials compiled in its systems of records identified as FEC audits and investigations (FEC 2) or FEC compliance actions (FEC 3). These exempted systems relate to the Commission's power to exercise exclusive civil jurisdiction over the enforcement of the Act under 2 U.S.C. 437d(a)(6) and (e); and to defend itself in actions filed against it under 2 U.S.C. 437d(a)(6). Further the Commission has a duty to investigate violations of the Act under 2 U.S.C. 437g(a)(2); to conduct audits and investigations pursuant to 2 U.S.C. 437d(a)(10), 438(a)(8); 26 U.S.C. 9007 and 9038; and to refer apparent violations of the Act to the Attorney General or other law enforcement authorities under 2 U.S.C. 437g(a)(5) and 438(a)(9). Information contained in

FEC systems 2 and 3 contain the working papers of the Commission staff and form the basis for either civil and/or criminal proceedings pursuant to the exercise of the powers and duties of the Commission. These materials must be protected until such time as they are subject to public access under the provision of 2 U.S.C. 437g(a)(6)(C) or 5 U.S.C. § 552, or other relevant statutes.

(b) The provisions of paragraph (a) of this section shall not apply to the extent that application of the subsection would deny any individual any right, privilege or benefit to which he or she would otherwise be entitled to receive.

## PART 2—SCOPE AND DEFINITIONS

Sec.

- 2.1 Scope.
- 2.2 Commission.
- 2.3 Commissioner or member.
- 2.4 Person.
- 2.5 Meeting.

AUTHORITY: Sec. 3(a), Pub. L. 94-409.

SOURCE: 42 FR 13202, Mar. 9, 1977, unless otherwise noted.

### § 2.1 Scope.

These regulations are promulgated pursuant to the directive of 5 U.S.C. 552b(g) which was added by section 3(a) of Pub. L. 94-409, the Government in the Sunshine Act and specifically implement subsections (b) through (f) of that Act.

### § 2.2 Commission.

"Commission" means the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463.

### § 2.3 Commissioner or member.

"Commissioner" or "member" means an individual appointed to the Federal Election Commission pursuant to 2 U.S.C. 437(a) and 101(e) of Pub. L. 94-283 and shall also include ex-officio non-voting Commissioners or members, the Secretary of the Senate and the Clerk of the House, but does not include a proxy or other designated representative of a Commissioner.

### § 2.4 Person.

"Person" includes an individual, partnership, corporation, association, or public or private organization, other than an agency of the United States Government.

### § 2.5 Meeting.

"Meeting" means the deliberation, including those conducted through confer-

ence telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, of at least four voting members of the Commission in collegia where such deliberations determine or result in the point conduct or disposition of official Commission business, but does not include deliberations to schedule a meeting, to take action to open or close a meeting, or to release or withhold information, or to change the subject matter of a meeting under §§ 3.2 and 3.3 of this chapter.

## PART 3—MEETINGS

Sec.

- 3.1 General rules.
- 3.2 Exempted meetings.
- 3.3 Procedure for closing meetings.
- 3.4 Transcripts, recordings and minutes.
- 3.5 Announcement of meetings and schedule changes.
- 3.6 Annual report.

AUTHORITY: Sec. 3(a), Pub. L. 94-409.

SOURCE: 42 FR 13202, Mar. 9, 1977, unless otherwise noted.

### § 3.1 General rules.

(a) Commissioners shall not jointly conduct, determine or dispose of Commission business other than in accordance with this part.

(b) Except as provided in § 3.2, every portion of every Commission meeting shall be open to public observation.

### § 3.2 Exempted meetings.

(a) (1) As required by 2 U.S.C. 437g(a)(3)(B), all Commission meetings, or parts of meetings, pertaining to the notification or investigation of a complaint that the Act has been violated, shall be closed to the public, and the requirements of §§ 3.3 and 3.5 shall not apply.

(2) For the purposes of this section, "notification or investigation of a complaint" means, inter alia, determinations pursuant to 2 U.S.C. 437g(a), the issuance of subpoenas, discussion of civil actions or proceedings, formal agency adjudication pursuant to section 5 of the Administrative Procedure Act, discussion of referrals to the Department of Justice, or any other matter related to the Commission's enforcement activity.

(b) The requirement of open meetings shall not apply where the Commission finds, (1) pursuant to § 3.3, that an open meeting is more likely than not to result in the disclosure of:

(i) Matters that relate solely to the Commission's internal personnel decisions, rules and practices, except that exemption does not extend to Commission discussions regarding employees' dealings with the public, such as personnel manuals or Commission directives setting forth job functions or procedures;

(ii) Matters which involve the consideration of a proceeding of a formal nature by the Commission against a specific person or the formal censure of any person;

(iii) Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(iv) Financial information obtained from any person and which is privileged or confidential;

(v) Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action as long as the Commission has not already disclosed the content on nature of its proposed action, or is not required by law to disclose it prior to final action; and

(2) The public interest does not require the meeting to be open.

### § 3.3 Procedure for closing meetings.

(a) No meeting or portion of a meeting may be closed pursuant to § 3.2(b) to public observation unless a majority of the Commissioners (not including the ex-officio non-voting Commissioners) vote to take such action.

(b) A Commission vote to close a meeting shall be taken upon the motion of any member, other than the ex-officio non-voting members. A single vote may be taken with respect to a series of meetings, all or a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than 30 days after the initial meeting in such series.

(c) Although no meeting need be held to consider closing a meeting each vote taken pursuant to paragraph (b) of this section shall be recorded by the Secretary to the Commission. No proxies, written or otherwise, shall be counted.

(d) (1) If the Commission votes to close a meeting, or any portion or portions thereof, to the public, then within 24 hours it shall make publicly available a written statement with respect to such vote. The written statement shall contain:

(i) A citation to the section of these regulations pursuant to which the meeting was closed to public observation together with an explanation as to why the specific discussion comes within the cited exemption;

(ii) The vote of each Commissioner on the motion to close the meeting;

(iii) A list of the names of all persons expected to attend the closed meeting and their affiliations. For purposes of this subdivision (iii) affiliation means title or position, and employer and, in the case of a representative, the name of the person represented, and

(iv) Shall be signed by the Commissioner who presided at the meeting where the vote to close the meeting was taken.

(2) The original copy of the statement shall be maintained in the Commission's Public Records Office.

(e) Each time that the Commission votes, pursuant to paragraph (b) of this section, to close a meeting, the General Counsel shall publicly certify before the meeting may be closed that, in his or her opinion, the meeting may properly be closed to public observation. The certification shall state each relevant exemptive provision. The original copy of such certification shall be attached to, and preserved with, the statement required by paragraph (d) of this section.

### § 3.4 Transcripts, recordings and minutes.

(a) The Secretary to the Commission shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to public observation. An electronic recording of a meeting shall be coded, or other records shall be kept, in a manner adequate to identify each speaker.

(b) In the case of a meeting, or portion of a meeting, closed to public observation because it concerns matters set out in paragraph (a) of § 3.2, the Commission may, in lieu of a complete transcript or electronic recording, maintain a



set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken and the reasons therefor, including a description of each of the views expressed at the meeting on any item by any person attending and shall reflect the vote of each member on any document considered in connection with any action taken at the meeting.

(c) The Commission shall, within a reasonable time not to exceed 30 days, place on file in the Public Records Office of the Commission, a copy of the transcript, recording, or minutes, as appropriate, which reflects matters discussed or information developed, at the meeting which were not within the scope of the exemption provision of § 3.2 pursuant to which the meeting was closed.

(d) A complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of meeting, closed to the public, shall be maintained by the Secretary to the Commission in the confidential files of the Commission, for a period of two years subsequent to such meeting, or until one year after the conclusion of any agency proceeding with respect to which the meeting, or portion of the meeting was held, whichever occurs later.

### § 3.5 Announcement of meetings and schedule changes.

(a) In the case of each meeting, the Commission shall publicly announce and shall submit such announcement for publication in the FEDERAL REGISTER at least seven days prior to the day on which the meeting is to be called to order. Such announcement must contain:

(1) The date of the meeting; (2) the place of the meeting; (3) the subject matter of the meeting; (4) whether the meeting is to be open or closed to the public; and (5) the name and telephone number of the official designated by the agency to respond to requests for information about the meeting.

(b) The public announcement and submission for publication required by paragraph (a) of this section shall be made in the case of every meeting to be held by the Commission unless a majority of the Commissioners decide by recorded vote that the situation requires that a particular meeting be called at an earlier date, in which case the Commission shall make, at the earliest practicable time, the public announcement required by paragraph (a) of this section and a concurrent submission to the FEDERAL REGISTER.

(c) The time or place of a meeting may be changed following the public announcement required by paragraphs (a) and (b) of this section only if the Commission publicly announces such change at the earliest practicable time.

(d) The subject matter of a meeting, or the determination of the Commission to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by paragraphs (a) and (b) of this section only if:

(1) A majority of the entire membership of the Commission determines by a recorded vote that Commission business so requires and that no earlier announcement of the change was possible, and (2) the Commission publicly announces, and concurrently submits for publication in the FEDERAL REGISTER, the change and the vote of each member upon such change at the earliest practicable time.

### § 3.6 Annual report.

The Commission shall report annually to Congress regarding its compliance with such requirements including:

(a) A tabulation of the total number of Commission meetings open to the public; (b) the total number of such meetings closed to the public; (c) the reasons for closing such meetings; and (d) a description of any litigation brought against the Commission under the Act, including any costs assessed against the Commission in such litigation (whether or not paid by the Commission).

## SUBCHAPTER A—GENERAL

### PART 100—SCOPE AND DEFINITIONS

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AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107 (a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a) (8)), and sec. 315(a) (10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208 (a) and (c) (10), and 209 (a) (1) and (b) (1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a) (10)).

SOURCE: 41 FR 35933, Aug. 25, 1976, unless otherwise noted.

### § 100.1 Scope.

This subchapter is issued by the Federal Election Commission under Title III of the Federal Election Campaign Act of 1971 (Pub. L. 92-225), as amended in 1974 (Pub. L. 93-443), and as amended in 1976 (Pub. L. 94-283) and is applicable to campaigns for nomination or election to the offices of President and Vice President of the United States; and Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

### § 100.2 Candidate.

An individual is a candidate for Federal office, whether or not elected, whenever any of the following events occur:

(a) The individual has taken the action necessary, under relevant State law, to qualify in a primary, runoff, special or general election convention or caucus; or

(b) The individual has received contributions or made expenditures, or has given his or her consent for any other person to receive contributions or make expenditures, with a view toward bringing about his or her election; or

(c) If after written notification by the Commission that any other person is receiving contributions or making expenditures on the individual's behalf, the individual fails to disavow this activity by letter to the Commission within 30 days of receipt of the notification.

### § 100.3 Commission.

"Commission" means the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

### § 100.4 Contribution.

(a) "Contribution" means—

(1) A gift, subscription, loan, advance, or deposit of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office; or for the purpose of influencing the results of a primary election, caucus, or convention held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President. For purposes of paragraph (a) of this section,

(i) The term "loan" includes a guarantee, endorsement, and any other form of security where the risk of non-payment rests with the surety, guarantor, or endorser as well as with a political committee, candidate, or other primary obligor. A loan is a contribution to the extent that the obligation remains outstanding.

(ii) The term "money" includes currency of the United States or of any foreign nation; checks, money orders, or any other negotiable instrument payable on demand.

(iii) (A) The term "anything of value" includes securities, goods, facilities, equipment, supplies, personnel, advertising, services, membership lists commonly offered or used commercially, or other in-kind contributions provided without charge (other than volunteer services under § 100.4(b) (2)) or at a charge which is below the usual and normal charge for the items. The amount of a contribution of a thing of value is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount charged the candidate or political committee.

(B) For purposes of this section,

(1) "Usual and normal charge" for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of their contribution.

(2) "Usual and normal charge" for any services, other than those provided by an unpaid volunteer, means the hourly or piecework rate charge for the services prevailing at the time the services were rendered.

(2) The donation of all or a portion of the costs of fundraising, such as the cost of a meal as part of a fundraising dinner.

(3) A written contract, promise, or agreement such as a signed pledge card, whether or not legally enforceable, to make a contribution. The contract, promise, or agreement shall be reported as a debt owed to the candidate or committee until it is honored.

(4) A transfer of funds to a political committee or candidate from another political committee, other political organization, or other similar source whether or not such organization is a political committee. The transfer occurs whenever the treasurer or other designated agent of the transferee committee or the candidate obtains control over the funds.

(5) The payment by any person other than a candidate or political committee of compensation for the personal services of another person which are rendered to a candidate or political committee without charge. No compensation is considered paid to any employee—

(i) (A) Who is paid on an hourly or salaried basis;

(B) Who is expected to perform duties for an employer for a particular number of hours per period; and

(C) Who engages in political activity during what would otherwise be a regular work period;

if the taken or released time is made up or completed by that employee within a reasonable period; or

(ii) Who is paid on a commission or piecework basis, or is paid only for work actually performed, whose time is considered the employee's own to use as he or she sees fit and who engages in political activity during what would otherwise be normal working hours; or

(iii) Where the time used by the employee to engage in political activity is bona fide, although compensable, vacation time or other earned leave time.

(6) The extension of credit for a length of time beyond normal business or trade practice, unless the creditor has made a commercially reasonable attempt to collect the debt (see § 114.10).

(b) The term "contribution" does not include—

(1) Payments made for the purpose of determining whether an individual should become a candidate, such as those incurred in conducting a poll, if the individual does not otherwise become a candidate. If the individual otherwise subsequently becomes a candidate, the payments are contributions, and must be

reported with the first report filed by the candidate or the principal campaign committee of the candidate, as appropriate, regardless of the date the payments were made.

(2) The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee.

(3) The rental value of an individual's residence used for campaign-related activity.

(4) The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided without charge by an individual, in rendering voluntary personal services to a candidate on the individual's residential premises, to the extent that the cumulative value of those activities by the individual on behalf of the candidate do not exceed \$500 with respect to an election. For purposes of this paragraph a contribution by a married individual shall not be attributed to a spouse.

(5) The sale of any food or beverage by a vendor (whether incorporated or not) for use in a candidate's campaign at a charge less than the normal or comparable commercial charge, if the charge for use in a candidate's campaign is at least equal to the cost of food or beverage to the vendor, and the cumulative value of the discounts given by the vendor does not exceed \$500 for an election.

(6) Any unreimbursed payments for transportation expenses made by an individual in volunteering services to a candidate, to the extent that the cumulative value of the payments does not exceed \$500 for an election. Additionally, any unreimbursed payment from a volunteer's personal funds for usual and normal living expenses incident to volunteer activity are not contributions.

(7) The payment of the costs of preparation, display, or mailing or other distribution incurred by a State or local committee of a political party with respect to a printed slate card, sample ballot, palm card, or other printed listing, of three or more candidates for any public office for which an election is held in the State in which the committee is organized. This paragraph shall not apply in the case of costs incurred by the committee with respect to the preparation and display of listings made on broadcasting stations, or in newspapers, magazines, and similar types of general pub-

lic political advertising such as billboards, posters, and signs.

(8) Any news story, commentary, or editorial of any broadcasting station, newspaper, magazine, or other periodical publication unless the facility is owned or controlled by any political party, political committee, or candidate, in which case a news story which (1) represents a bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility, and (2) is part of a general pattern of campaign-related news accounts which give reasonably equal coverage to all opposing candidates in the circulation or listening area, shall not be a contribution.

(9) Any payment made or obligation incurred by a corporation or a labor organization which, under the provisions of Part 114, would not constitute an expenditure by the corporation or labor organization.

(10) An honorarium, and related expenses, within the meaning of § 110.12.

(11) Legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for the services is not the regular employer of the individual rendering the services), other than services attributable to activities which directly further the election of a designated candidate or candidates for Federal office. For purposes of this paragraph and paragraph (b) (12) of this section, a partnership shall be deemed to be the regular employer of a partner.

(12) Legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with this Act or chapter 95 or 96 of the Internal Revenue Code of 1954 (unless the person paying for the services is not the candidate, committee, or other regular employer of the individual rendering the services), but amounts paid or incurred for these services shall be reported in accordance with Part 104.

(13) A loan of money by a national or State bank made in accordance with applicable banking laws and regulations, and in the ordinary course of business, but these loans (i) shall be reported in accordance with Part 104; and (ii) shall be considered a loan by each endorser or guarantor, in that proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors.

(14) A gift, subscription, loan, advance, or deposit of money or anything of value made to a national committee of a political party or a State committee of a political party which is specifically designated for the purpose of defraying any cost incurred with respect to the construction or purchase of any office facility and which is not for the purpose of influencing the election of any candidate in any particular election for Federal office, except that such a transaction shall be reported in accordance with Part 104.

(15) A gift, subscription, loan, advance, or deposit of money or anything of value made with respect to the recount of the results of a Federal election, or an election contest concerning a Federal election, except when made by an organization subject to the prohibitions of § 114.2.

#### § 100.5 Support.

The term "support" means to make a contribution of any amount or value to, or to make an expenditure of any amount or value on behalf of, a candidate or political committee, but see § 102.11(c).

#### § 100.6 Election.

"Election" means the process by which individuals, whether opposed or unopposed, seek nomination for election, or election, to Federal office. Specific types of elections, defined below, are included in this definition.

(a) *General election.* "General election" means—

(1) An election held in even numbered years on the Tuesday next after the first Monday in November, or

(2) An election which is held to fill a vacancy in a Federal office (special election) and which is intended to result in the final selection of a single individual to the office at stake.

(b) *Primary election.* (1) "Primary election" means an election—

(i) Which is held prior to a general election, as a direct result of which candidates are nominated, in accordance with applicable State law, for election to Federal office in a subsequent election, or

(ii) Which is held for the expression of a preference for the nomination of persons for election to the office of President of the United States, or

(iii) Which is held to elect delegates to a national nominating convention.

(2) With respect to individuals seeking Federal office as independent candi-

dates, or without nomination by a major party (as defined in 26 U.S.C. 9002(6)), the primary election is considered to occur, at the choice of the candidate—

(i) The day prescribed by applicable State law as the last day to qualify for a position on the general election ballot, or

(ii) The date of the last major party primary election, caucus or convention in that State, or

(iii) In the case of non-major parties, the date of the nomination by that party.

(c) *Runoff election.* “Runoff election” means the election held after a

(1) Primary election, and prescribed by applicable State law as the means for deciding which candidate(s) should be certified as a nominee for the Federal office sought, or

(2) General election, and prescribed by applicable State law as the means for deciding which candidate should be certified as an officeholder elect.

(d) *Caucus or Convention.* A caucus or convention of a political party which has authority to select a nominee is an election.

(e) *Special election.* “Special election” means an election which is held to fill a vacancy in a Federal office, and which may be a primary, general, or runoff election.

#### § 100.7 Expenditure.

(a) “Expenditure” means—

(1) A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office, or to the office of Presidential or Vice Presidential elector; or for the purpose of influencing the result of a primary election, caucus or convention held for the selection of delegates for a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President. For purposes of paragraph (a)(1) of this section—

(i) The term “payment”

(A) Includes payment of any interest on an obligation; and

(B) Includes a guarantee or endorsement by a candidate or a political committee of a loan;

(C) Does not include the repayment of the principal of an outstanding obligation, the proceeds of which constituted a contribution under these regula-

tions, except that the repayment shall be reported.

(ii) The term “money” includes currency of the United States or of any foreign nation, checks, money orders, or any other negotiable instrument payable on demand.

(iii) The term “anything of value” includes securities, goods, facilities, equipment, supplies, personnel, advertising, services, membership lists commonly offered or used commercially, or other in-kind contributions provided without charge (other than volunteer services under § 100.4(b)(2)) or at a charge which is below the usual and normal charge for the items. The amount of the expenditure of a thing of value is the difference between the usual and normal charge for the goods or services at the time of the expenditure and the amount charged for the candidate or committee. For purposes of this paragraph,

(A) “Usual and normal charge” for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of their contribution.

(B) “Usual and normal charge” for services, other than those provided by an unpaid volunteer, means the hourly or piecework rate charge for the services prevailing at the time the services were rendered.

(2) A written contract, promise, or agreement, whether or not legally enforceable, to make any expenditure.

(3) A transfer of funds by a political committee to another political committee or candidate. A transfer occurs whenever the treasurer or other designated agent of the transferee committee or the candidate obtains control over the funds.

(4) An independent expenditure, which meets the requirements of Part 109, except that such independent expenditure is to be reported by the person making the expenditure as set forth in Part 109.

(b) The term “expenditure” does not include—

(1) Contributions by an individual from personal funds to a political committee or candidate.

(2) Payments made for the purpose of determining whether an individual should become a candidate, such as those incurred in conducting a poll, if the individual does not otherwise subsequently become a candidate. If the individual becomes a candidate, the payments are expenditures, and must be reported with

the first report filed by the candidate or the principal campaign committee of the candidate, as appropriate, regardless of the date the payments were made.

(3) Any news story, commentary, or editorial of any broadcasting station, newspaper, magazine, or other publication, unless the facility is owned or controlled by any political party, political committee or candidate, in which case a news story which (i) represents a bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility, and (ii) is part of a general pattern of campaign-related news accounts which give reasonably equal coverage to all opposing candidates in the circulation or listening area, shall not be an expenditure.

(4) Nonpartisan activity designed to encourage individuals to register to vote or to vote. For purposes of this section, nonpartisan activity means that no effort is made to determine the party or candidate preference of individuals before encouraging them to register to vote or to vote.

(5) Any communication by a membership organization to its members or by a corporation to its stockholders or executive or administrative personnel, so long as the membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to Federal office, except that the costs incurred by a membership organization, including a labor organization, or by a corporation, directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate) shall, if those costs exceed \$2,000 per election, be reported to the Commission on FEC Form 7. For the purposes of this paragraph—

(i) "Labor organization" means an organization of any kind (any local, national, or international union, or any local or State central body of a federation of unions is each considered a separate labor organization for purposes of this section) or any agency or employee representative committee or plan, in which employees participate and which exists for the purpose, in whole or in part, or dealing with employers concerning grievances, labor disputes, wages,

rates of pay, hours of employment, or conditions of work.

(ii) "Stockholder" means a person who has a vested beneficial interest in stock, has the power to direct how that stock shall be voted, if it is voting stock, and has the right to receive dividends.

(iii) "Executive or administrative personnel" means individuals employed by a corporation who are paid on a salary rather than hourly basis and who have policymaking, managerial, professional, or supervisory responsibilities.

(A) This definition includes—

(1) Individuals who run the corporation's business, such as officers, other executives, and plant, division, and section managers; and

(2) Individuals following the recognized professions, such as lawyers and engineers.

(B) This definition does not include—

(1) Professionals who are represented by a labor organization;

(2) Salaried foremen and other salaried lower level supervisors having direct supervision over hourly employees;

(3) Former or retired personnel who are not stockholders; or

(4) Individuals who may be paid by the corporation, such as consultants, but who are not employees, within the meaning of 26 CFR 31.3401(c)-(1) of the corporation for the purpose of the collection of, and liability for, employee tax under 26 CFR 31.3402(a)-1.

(C) Individuals on commission may be considered executive or administrative personnel if they have policymaking, managerial, professional, or supervisory responsibility and if the individuals are employees, within the meaning of 26 CFR 31.3401(c)-(1) of the corporation for the purpose of the collection of, and liability for, employee tax under 26 CFR 31.3402(a)-1.

(D) The Fair Labor Standards Act, 29 U.S.C. 201, *et. seq.* and the regulations issued pursuant to the Act, 29 CFR 541, may serve as a guideline in determining whether individuals have policymaking, managerial, professional, or supervisory responsibilities.

(iv) "Members" means all persons who are currently satisfying the requirements for membership in a membership organization, trade association, cooperative, or corporation without capital stock and in the case of a labor organization, persons who are currently satisfying the requirements for membership in a local, national, or international labor organi-

zation. Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated. A person is not considered a member under this definition if the only requirement for membership is a contribution to a separate segregated fund.

(v) "Election" means two separate processes in a calendar year, to each of which the \$2,000 threshold described above applies separately. The first process is comprised of all primary elections for Federal office, wherever held; the second process is comprised of all general elections for Federal office, wherever held;

(vi) "Corporation" means any separately incorporated entity, whether or not affiliated.

(vii) When the aggregate costs exceed \$2,000 per election, all costs of the communication shall be reported on the filing dates provided in § 104.4, and shall include the total amount expended for each candidate supported.

(6) The rental value of an individual's residence used for campaign-related activity.

(7) The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided without charge by an individual, in rendering voluntary personal services to a candidate on the individual's residential premises, to the extent that the cumulative value of those activities by the individual on behalf of a candidate do not exceed \$500 with respect to an election. For purposes of this paragraph an expenditure by a married individual shall not be attributed to a spouse.

(8) Any unreimbursed payments for transportation expenses made by an individual in volunteering services to a candidate, to the extent that the cumulative value of the payments does not exceed \$500 for an election. Additionally, any unreimbursed payment from a volunteer's personal funds for usual and normal living expenses incident to volunteer activity are not expenditures.

(9) Any communication by a person which is not made for the purpose of influencing the nomination for election, or election, of an individual to Federal office.

(10) Any payments by the candidate from non-campaign funds for routine living expenses of the candidate which

would have been incurred without candidacy, including food and residence.

(11) The payment of the costs of preparation, display, or mailing or other distribution incurred by a State or local committee of a political party with respect to a printed slate card, sample ballot, palm card, or other printed listing, of three or more candidates for any public office for which an election is held in the State in which the committee is organized. This paragraph shall not apply in the case of costs incurred by a committee with respect to the preparation and display of listings made on broadcasting stations, or in newspapers, magazines, and similar types of general public political advertising, such as billboards, posters, and signs.

(12) Any payment made or obligation incurred by a corporation or a labor organization which, under the provisions of Part 114 and 2 U.S.C. 441b, would not constitute an expenditure by the corporation or labor organization.

(13) (i) Any costs incurred by a candidate or his or her authorized committees in connection with the solicitation of contributions by a candidate who has received Presidential Primary Matching Fund Payments (or a minor new party candidate receiving general election public financing under 26 U.S.C. 9004), not exceeding 20% of the expenditure limitation applicable to the candidate, but these costs shall be reported under Part 104.

(ii) For purposes of this paragraph, "in connection with the solicitation of contributions" means any cost reasonably related to fundraising activity, including the costs of printing and postage, the production of and space or air time for, advertisements used for fundraising, and the costs of meals, beverages, and other costs associated with a fundraising reception or dinner.

(iii) The fundraising expenditures need not be allocated on a State by State basis, except where the fundraising activity is aimed at a particular State and takes place within 28 days of a primary election, convention, or caucus, see § 110.8(c).

(14) Legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for the services is not the regular employer of the individual rendering the services), other than services attributable to activities which directly further the election of a desig-

nated candidate or candidates for Federal office. For purposes of this paragraph and paragraph (b) (15) of this section, a partnership shall be deemed to be the regular employer of a partner.

(15) Legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with this Act or chapter 95 or 96 of the Internal Revenue Code of 1954 (unless the person paying for the services is not the candidate, committee, or other regular employer of the individual rendering the services), but amounts paid or incurred for these services shall be reported in accordance with Part 104.

(16) A loan of money by a national or State bank made in accordance with the applicable banking laws, but such a loan shall be made in accordance with § 100.4(b)(13), and shall be reported in accordance with Part 104.

(17) A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made with respect to the recount of the results of a Federal election, or an election contest concerning a Federal election, except when made by an organization subject to the prohibitions of § 114.2.

#### § 100.8 Federal office.

"Federal office" means the office of President, or Vice President of the United States, Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

#### § 100.9 File, filed, or filing.

"File," "filed," and "filing" mean with respect to reports and statements required to be filed under this chapter—

(a) Delivery to the Federal Election Commission, 1325 K Street NW., Washington, D.C. 20463; the Secretary of the Senate, Washington, D.C. 20510; or the Clerk of the House of Representatives, Washington, D.C. 20515, as required by Part 105, by the close of the prescribed filing date; or

(b) (1) deposit as registered or certified mail in an established U.S. Post Office and postmarked no later than midnight of the day of the filing date, except that pre-election reports so mailed must be postmarked not later than midnight of the twelfth day before the date of the election.

(2) Reports and statements sent by first class mail must be received by the

close of business of the prescribed filing date to be timely filed.

#### § 100.10 Identification.

"Identification" means (a) in the case of an individual, his or her full name, including first name, middle name or initial, if available, last name, and full address of his or principal place of residence, and (b) in the case of any other person, the full name and mailing address.

#### § 100.11 Occupation.

"Occupation" means principal job title or position and whether or not self-employed.

#### § 100.12 Principal place of business.

"Principal place of business" means the full name under which the business is conducted and the city and state in which the person is employed or conducts business.

#### § 100.13 Person.

"Person" means an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons.

#### § 100.14 Political committee.

"Political committee" means any committee, club, association, or other group of persons which anticipates receiving, or receives contributions, or makes expenditures, totalling more than \$1,000 in value during a calendar year, and means any principal campaign committee.

(a) The following are political committees:

(1) *Principal campaign committee.* "Principal campaign committee" means the political committee designated by a candidate as his or her principal campaign committee pursuant to § 101.2.

(2) *Single candidate committee.* "Single candidate committee" means a political committee other than a principal campaign committee which makes or receives contributions or makes expenditures on behalf of only one candidate.

(3) *Multicandidate committee.* "Multicandidate committee" means a political committee which (i) has been registered with the Commission, Clerk, or Secretary for at least 6 months; (ii) has received contributions for Federal elections from more than 50 persons; and (iii) (except for any State political party organization) has made contributions to 5 or more Federal candidates, see § 110.2.



(4) *Party committee.* "Party committee" means a political committee which represents a political party and is part of the official party structure at the national, State, or local level.

(b) A political committee is either an authorized committee or an unauthorized committee.

(1) *Authorized committee.* An "authorized committee" is a political committee which is empowered in writing by a candidate to solicit or receive contributions or make expenditures on behalf of the candidate, or has not been disavowed pursuant to § 100.2(c).

(2) *Unauthorized committee.* An "unauthorized committee" is a political committee which has not been authorized in writing by a candidate to solicit or receive contributions or make expenditures on behalf of the candidate, or has been disavowed pursuant to § 100.2(c).

(c) *Affiliated committee.* (1) All authorized committees of the same candidate are affiliated.

(2) All committees (including a separate segregated fund, see Part 114) established, financed, maintained, or controlled by the same corporation, labor organization, person, or group of persons, including any parent, subsidiary, branch, division, department, or local unit thereof, are affiliated.

(i) Application of the rule of this paragraph means that—

(A) All political committees set up by a single corporation and/or its subsidiaries are affiliated;

(B) All political committees set up by a single national or international union and/or its local unions or other subordinate organizations of the national or international union are affiliated;

(C) All of the political committees set up by an organization of national or international unions and all its State and/or local central bodies are affiliated;

(D) All political committees (other than party committees) established by a member organization, including a trade or professional association, see § 114.8 (a), and/or by related State and local entities, are affiliated;

(E) All the political committees established by the same person or group of persons are affiliated.

(ii) For organizations not covered by (i) above, indicia of establishing, financing, maintaining, or controlling, include—

(A) Ownership of a controlling interest in voting shares or securities;

(B) Provisions of bylaws, constitutions, or other documents by which one entity has the authority, power, or ability to direct another entity;

(C) The authority, power, or ability to hire, appoint, discipline, discharge, demote, or remove or otherwise influence the decision of the officers or members of an entity;

(D) Similar patterns of contributions;

(E) The transfer of funds between committees which represent a substantial portion of the funds of either the transferor or transferee committee, other than the transfer of funds between the committees which jointly raised the funds so transferred.

#### § 100.15 Connected organization.

"Connected organization" means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports the registrant such as a corporation (including one without capital stock), a labor organization, a membership organization, a cooperative, or trade association.

#### § 100.16 Political party.

"Political party" means an association, committee, or organization which nominates or selects a candidate for election to any Federal office, whose name appears on an election ballot as the candidate of the association, committee, or organization.

#### § 100.17 National committee.

"National committee" means the organization which, 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.

#### § 100.18 State.

"State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

#### § 100.19 State committee, subordinate committee.

(a) "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of the political party at the State level.

(b) "Subordinate committee of a State committee" means any organization which is responsible for the day-to-day operation of the political party at

the level of city, county, neighborhood, ward, district, precinct, or any other subdivision of a State, or any organization under the control or direction of the State committee.

### § 100.20 Act.

"Act" means the Federal Election Campaign Act of 1971, as amended by the Federal Election Campaign Act Amendments of 1974, and 1976, and, unless specifically excluded, includes chapters 95 and 96 of the Internal Revenue Code of 1954 relating to the public financing of Federal elections.

## PART 101—CANDIDATE STATUS AND DESIGNATIONS

Sec.

- 101.1 Duration of candidate status.
- 101.2 Candidate designations.
- 101.3 Waiver of candidate reporting.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208(a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

**SOURCE:** 41 FR 35938, Aug. 25, 1976, unless otherwise noted.

### § 101.1 Duration of candidate status.

Once an individual becomes a candidate under § 100.2 and does not have a waiver of candidate reporting under § 101.3, he or she continues to be a candidate for reporting purposes until all debts and obligations for which the candidate is personally obligated arising in connection with the election are extinguished. Candidacy then may be terminated by letter, containing the information required by § 102.4; see § 102.4 for termination of committees.

### § 101.2 Candidate designations.

(a) Within 30 days after attaining candidate status an individual is required to file a Statement of a Candidate for Nomination or Election to Federal Office on FEC Form 2, or file by a letter containing the same information in which such candidate shall—

(1) Designate a principal campaign committee in accordance with § 102.11, and

(2) Designate at least one national or State bank as a campaign depository under § 103.1.

(b) The candidate shall file a Statement of Authorization on FEC Form 2a or by letter containing the same information for any political committee other than a principal campaign committee which will be authorized to accept contributions or make expenditures on behalf of that candidate.

(c) The candidate shall commence filing personal reports of receipts and expenditures in accordance with Part 104, unless a waiver of personal reporting is obtained under § 101.3, or unless reporting is exempted under §§ 104.1(c), 104.4(d)(2), or 104.4(f).

(d) If the candidate, or his or her authorized committee(s), receive contributions designated for the general election prior to the date of the primary election, the candidate or his or her authorized committee(s) shall use an acceptable accounting method to distinguish between contributions received for the primary election and contributions received for the general election. Acceptable methods include but are not limited to (1) the designation of separate accounts for each election; caucus, or convention and (2) the establishment of separate books and records for each election.

### § 101.3 Waiver of candidate reporting.

A candidate is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate states on FEC Form 2 or in a letter that—

(a) Within 5 days after personally receiving a contribution, the candidate will surrender possession of the entire contribution to the treasurer of his or her principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's personal funds or accounts. Contributions conveyed by check, money order, or other written instrument shall be assigned directly to the political committee and shall not be cashed or redeemed by the candidate.

(b) The candidate shall not make any unreimbursed expenditures for his or her campaign, except that this paragraph does not preclude a candidate from making an expenditure from personal funds to the candidate's designated principal campaign committee which shall be reported by the committee as a contribution received.

(c) The waiver shall continue in effect as long as the candidate complies with

the conditions under which it was granted.

## PART 102—REGISTRATION AND ORGANIZATION OF POLITICAL COMMITTEES

- Sec.
- 102.1 Registration of political committees.
  - 102.2 Forms and filing.
  - 102.3 Change or correction in information.
  - 102.4 Termination of registration.
  - 102.5 Identification number.
  - 102.6 Federal committees and accounts; separation of Federal and non-Federal funds.
  - 102.7 Organization of political committees.
  - 102.8 Receipt of contributions.
  - 102.9 Accounting for contributions and expenditures.
  - 102.10 Petty cash fund.
  - 102.11 Designation of principal campaign committee.
  - 102.12 Authorization of political committees.
  - 102.13 Notice; solicitations of contributions.
  - 102.14 Records; retention.
  - 102.15 Segregated funds.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a) (8)), and Sec. 315 (a) (10), Pub. L. 92-225, 86 Stat. 16, amended by Secs. 208(a) and (c) (10), and 209(a) (1) and (b) (1), Pub. L. 93-443, 88 Stat. 1279, 1287, and Sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a) (10)).

**SOURCE:** 41 FR 35938, Aug. 25, 1976, unless otherwise noted.

### § 102.1 Registration of political committees.

(a) Each political committee except as specified in paragraphs (b) and (c) of this section, shall file a Statement of Organization with the Federal Election Commission, the Secretary of the Senate, or the Clerk of the House, as appropriate, within 10 days after the date of its organization, or within 10 days after the date on which the committee has information which causes it to anticipate receiving contributions or making expenditures exceeding \$1,000 in a calendar year for Federal candidates, whichever is later, and, in the case of a principal campaign committee, within 10 days of when it is designated by the candidate.

(b) Each authorized committee shall file the Statement of Organization required by paragraph (a) of this section, and any amendment thereto, or termination thereof required by §§ 102.3 or 102.4 of this part, with the affiliated principal

campaign committee. The principal campaign committee shall file a copy of this Statement, amendment, or termination as in paragraph (a) of this section.

(c) A political committee which has previously filed a Statement of Organization with the Commission, the General Accounting Office, the Clerk of the House of Representatives or the Secretary of the Senate, and has not validly terminated is not required to file a new Statement.

### § 102.2 Forms and filing.

(a) The Statement of Organization shall be filed on Federal Election Commission Form 1, which may be obtained from the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463. The Statement, to be signed by the treasurer, shall include the following:

(1) The name, address, and type (see § 100.14) of committee;

(2) The names, addresses, and relationships of affiliated and connected organizations (see paragraph (b) of this section);

(3) The area, scope, or jurisdiction of the committee;

(4) The name, address, and committee position of the custodian of books and accounts;

(5) The name, address, and committee position of other principal officers, including the assistant treasurer and assistant chairman (if any) and the officers and members of the finance committee, if any;

(6) (i) The name, address, office sought, and party affiliation of (A) each candidate for Federal office whom the committee is supporting and (B) each candidate whom the committee is supporting for nomination or election to any other public office; or if the committee is supporting the entire ticket of any party, the name of the party and the State in which the election is held.

(ii) If a committee wishes to terminate support, it shall amend its statement of organization;

(7) A statement whether the committee's existence will continue beyond the calendar year;

(8) The disposition of residual funds which will be made in the event of dissolution;

(9) A listing of all banks, safety deposit boxes, or other repositories used;

(10) A statement listing any reports (other than those required by these reg-

ulations) regarding candidates for Federal office filed under State or local law by the committee with State or local officers, and the names, addresses, and positions of such officers. See 2 U.S.C. 453, and § 108.7 of these regulations.

(b) (1) "Affiliated organization" means an affiliated committee as defined in § 100.14(c).

(i) Only a principal campaign committee is required to disclose the name and address of all other authorized committees of its candidate; other authorized committees need only disclose the name of their principal campaign committee.

(ii) (A) Only political committees established by a single parent corporation, a single national or international union, a single organization or federation of national or international unions; a single national membership organization or trade association, or any other similar group of persons (other than political party organizations) are required to disclose the names and addresses of all political committees established by any subsidiary, or by any State, local, or other subordinate unit of a national or international union or federation thereof, or by any subordinate units of a national membership organization, trade association, or other group of persons (other than political party organizations).

(B) Political committees established by subsidiaries of State, local, or other subordinate units are only required to disclose the name and address of each political committee established by their parent or superior body, *e.g.*, parent corporation, national or international union or organization or federation of such unions, or national organization or trade association.

(2) "Connected organization" includes any organization defined in § 100.15.

#### § 102.3 Change or correction in information.

Any change or correction in the information previously filed in the Statement of Organization shall be reported within 10 days following the date of the change or correction by filing an amended Statement of Organization or by filing a letter noting the change(s). The amendment need list only the change or correction.

#### § 102.4 Termination of registration.

(a) Any political committee (except a principal campaign committee) not having outstanding debts or obligations owed to or by it incurred on behalf of

Federal candidates which, after having filed one or more Statements of Organization, seeks to disband or determines that it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding \$1,000, shall file a notice of termination on FEC Form 3, FEC Form 6 or by letter containing the same information with the Commission, the Clerk of the House or the Secretary of the Senate, as appropriate. The notice shall contain a final report of receipts and disbursements, including a statement as to the disposition of residual funds if the committee is disbanding.

(b) A principal campaign committee may not terminate until—

(1) All debts of other authorized committees of the candidate have been extinguished, and,

(2) The candidate has terminated candidate status under § 101.1.

#### § 102.5 Identification number.

Upon receipt of a Statement of Organization under this Part, or upon Commission review of statements already filed, an identification number shall be assigned to the statement, receipt shall be acknowledged, and the political committee shall be notified of the number assigned. This identification number shall be entered by the political committee on all subsequent reports or statements filed under the Act, as well as on all communications concerning reports and statements.

#### § 102.6 Federal committees and accounts; separation of Federal and non-Federal funds.

(a) (1) Each State committee, and each subordinate committee of the State committee (see § 100.19), which intends to solicit, receive, or make contributions or expenditures, in excess of \$1,000, to, for, or on behalf of, any candidate for Federal office, or

(2) Any political committee which has solicited or received contributions for or on behalf of, or made expenditures or transfers to or on behalf of, any candidate for Federal office, shall either—

(i) Establish a separate Federal campaign committee which shall register as a political committee. The Federal campaign committee shall establish a segregated Federal account in either a national or State bank; or

(ii) Establish a single committee with a single account to make contributions to

Federal and non-Federal candidates, but only if all contributions received are permissible under the Act, and all contributors are informed that all contributions are subject to the limitations of §§ 110.1, 110.2, and 110.5.

(b) The accounts and committees in (a) (2) (i), and (ii) of this section—(1) may not receive contributions other than contributions designated for the Federal committee or account, contributions received as a result of a solicitation which expressly states that the contribution will be used for Federal elections, or contributions from contributors who are informed that all contributions are subject to the limitations of §§ 110.1, 110.2, and 110.5; or (2) may not receive transfers from an account or committee established by a State committee, subordinate committee of a State committee, or another political committee, except from a committee or account set out in paragraph (a)(1) and (ii) of this section.

(c) The Federal campaign committee or account may make transfers for any lawful purpose. The committee shall file a Statement of Organization and shall file reports and statements pursuant to Part 104.

#### § 102.7 Organization of political committees.

(a) Every political committee shall have a chairman and a treasurer, who shall not be the same individual.

(b) A political committee may designate—

(1) A vice chairman who shall assume the duties and responsibilities of the chairman in the event of a temporary or permanent vacancy in the office;

(2) An assistant treasurer who shall assume the duties and responsibilities of the treasurer in the event of a temporary or permanent vacancy in the office.

(c) No contribution or expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of the chairman or the treasurer.

(d) No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or an agent authorized orally or in writing by the chairman or treasurer.

#### § 102.8. Receipt of contributions.

Every person who is not an authorized agent of the treasurer or candidate, and

who receives contributions aggregating in excess of \$50 on behalf of a political committee or candidate shall, on demand of the treasurer or candidate, and in any event within 5 days after receipt, render to the treasurer or an authorized agent or the candidate an accounting thereof, which shall include—

(a) The exact amount of the contribution and the date received, and

(b) The identification of the contributor and, in the case of a contribution with a value in excess of \$100, the occupation and principal place of business or employment, if any.

#### § 102.9 Accounting for contributions and expenditures.

It shall be the duty of a candidate (not having received a waiver under § 101.3) and of the treasurer of a political committee or an agent authorized by the treasurer to receive contributions and/or make expenditures to—

(a) Keep an account of all contributions made to or for the committee or candidate, and record

(1) The identification of every person making a contribution in excess of \$50;

(2) The occupation and principal place of business of individuals whose contributions aggregate in excess of \$100 in a calendar year;

(3) The date received; and

(4) The amount of the contribution.

(b) Keep an account of all expenditures made by or on behalf of the committee or candidate, and record

(1) The identification of every person to whom any expenditure is made;

(2) The date of the expenditure;

(3) The amount of the expenditure;

(4) The name and address of each candidate on whose behalf the expenditure was made; and

(5) The office sought by the candidate.

(c) Obtain and keep a receipted bill from the person to whom the expenditure is made for every expenditure made by or on behalf of the committee or candidate—

(1) In excess of \$100;

(2) In a lesser amount if the aggregate amount of expenditures during a calendar year to the same person exceeds \$100;

(3) The receipted bill shall contain—

(i) The identification of the person to whom the expenditure is made;

(ii) The amount of the expenditure;

(iii) The particulars of the expenditures; and  
 (iv) The date the expenditure was made.

(4) When a receipted bill is not available, the treasurer may keep—

(i) The canceled check(s) showing payment(s) of the bill; and

(ii) The bill, invoice or other contemporaneous memorandum of the transaction supplied to the committee by the payee containing the same information as referred to in paragraph (3) of this paragraph.

(d) Keep full and complete records of proceeds from the sale of tickets and mass collections at each dinner, luncheon, rally, and other fundraising events, including the date, location, and nature of each event. He or she shall also keep full and complete records of the proceeds from the sale of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, jewelry, and similar materials, and these records shall reflect the cost of the items to the committee, the sale price, and the total volume sold. These records shall be preserved in accordance with Part 104.

(e) Use his or her best efforts to obtain the required information, and shall keep a complete record of the efforts to do so. If there is a showing that best efforts have been made, the reporting candidate or committee shall be deemed to be in compliance with this section.

[41 FR 35938, Aug. 25, 1976, as amended at 42 FR 19324, Apr. 13, 1977]

#### § 102.10 Petty cash fund.

A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of \$100 to any person in connection with a single purchase or transaction. If a petty cash fund is maintained, it shall be the duty of the treasurer of the political committee to keep and maintain a written journal of all disbursements, including the particulars of each disbursement from the fund. Such a change would make this section consistent with § 102.9(c) (3) (iii) as revised in subparagraph (1) above. The treasurer need not preserve receipts or invoices in connection with the transaction except as provided in § 102.9(c). A check made payable to "cash" shall not be made in excess of \$100 except to replenish a petty cash fund.

[41 FR 35938, Aug. 25, 1976, as amended at 42 FR 19324, Apr. 13, 1977]

#### § 102.11 Designation of principal campaign committee.

(a) Each candidate for Federal office (other than for election to the office of Vice President of the United States), shall designate a political committee as his or her principal campaign committee (see § 101.2), even if the candidate does not plan to use the committee to receive or expend funds. Each principal campaign committee shall register and report, whether or not otherwise required to do so under § 102.1(a).

(b) No political committee may be designated as the principal campaign committee of more than one candidate.

(c) No political committee which supports more than one candidate may be designated as a principal campaign committee, except that, after nomination, a candidate for the office of President of the United States may designate the national committee of a political party as his or her principal campaign committee.

(1) For purposes of this paragraph, any occasional, isolated, or incidental support of a candidate shall not be construed as "support" of that candidate.

(2) For purposes of this paragraph, "occasional, isolated, or incidental support" means making contributions to, or expenditures on behalf of, a candidate from another candidate's principal campaign committee not exceeding \$1000 for any election when combined with any personal contributions from the contributor candidate, except that the national committee of a political party which has been designated as the principal campaign committee of that party's Presidential candidate may contribute to another candidate. See Part 110.

#### § 102.12 Authorization of political committees.

(a) (1) Any political committee authorized by a candidate to receive contributions or make expenditures shall be authorized in writing by the candidate. The authorization shall include a designation of campaign depositories to be used by such political committee in accordance with § 101.2 and Part 103.

(2) If an individual fails to disavow activity pursuant to § 100.2(c) and is therefore a candidate upon notice by the Commission, he or she shall authorize the committee in writing and designate a campaign depository in accordance with § 101.2 and Part 103.

(b) A candidate is not required to authorize a national, State or subordinate State party committee which solicits funds to be expended on the candidate's behalf pursuant to § 110.7.

**§ 102.13 Notice; solicitations of contributions.**

Each political committee shall include on the face or front page of all printed literature and advertisements soliciting contributions and at the beginning or end of any broadcast solicitation the following notice:

"A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D.C."

**§ 102.14 Records; retention.**

The treasurer of a political committee shall preserve all receipts, bills, accounts, and all other records in accordance with the requirements of § 104.12.

**§ 102.15 Segregated funds.**

All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of that committee.

**PART 103—CAMPAIGN DEPOSITORIES**

Sec.

- 103.1 Notification of the Commission.
- 103.2 Depositories.
- 103.3 Deposits and expenditures.
- 103.4 Vice-Presidential candidate campaign depositories.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208 (a) and (c) (10), and 209(a) (1) and (b) (1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a) (10)).

**SOURCE:** 41 FR 35940, Aug. 25, 1976, unless otherwise noted.

**§ 103.1 Notification of the Commission.**

Each committee shall notify the Commission of the banks it has designated as its depositories, pursuant to §§ 101.2 and 102.3.

**§ 103.2 Depositories.**

Only national or State banks chartered by the United States or a State may be designated as campaign depositories. One or more depositories may be established

in one or more States. One or more accounts may be established in a depository.

**§ 103.3 Deposits and expenditures.**

(a) All contributions received by a candidate, his or her authorized political committee(s), and any other political committee(s) shall be deposited in a checking account in the appropriate campaign depository by the candidate, or by the treasurer of the committee or his or her agent, within 10 days of the candidate's or treasurer's receipt thereof. An expenditure may be made by a candidate or committee only by check drawn on an account in a designated campaign depository, except for expenditures of \$100 or less made from a petty cash fund maintained pursuant to § 102.10. Funds may be transferred from the depository for investment purposes, but shall be returned to the depository before expenditures are made.

(b) Contributions which appear to be illegal shall be, within 10 days—

- (1) Returned to the contributor; or
- (2) Deposited into the campaign depository, and reported in which case the treasurer shall make and retain a written record noting the basis for the appearance of illegality. The treasurer shall make his or her best efforts to determine the legality of the contribution. Refunds shall be made when a contribution cannot be determined to be legal within a reasonable time, and the treasurer shall so note by amending the current report or noting the change on the candidate's or committee's next required report.

**§ 103.4 Vice-Presidential candidate campaign depositories.**

The campaign depository(ies) designated by a political party's candidate for President shall be the campaign depository(ies) of that political party's candidate for the office of Vice President.

**PART 104—REPORTS BY POLITICAL COMMITTEES AND CANDIDATES**

Sec.

- 104.1 General.
- 104.2 Form and content of reports.
- 104.3 Disclosure of receipt and consumption of in-kind contributions.
- 104.4 Filing dates.
- 104.5 Uniform reporting of contributions.
- 104.6 Uniform reporting of expenditures.
- 104.7 Allocation of expenditures among candidates.
- 104.8 Continuous reporting of debts and obligations.
- 104.9 Waiver of reporting requirements.

- Sec.  
 104.10 Political committees; cash on hand.  
 104.11 Members of Congress; reporting exemption.  
 104.12 Formal requirements regarding reports and statements.  
 104.13 Sale or use restriction.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208 (a) and (c) (10), and 209(a) (1) and (b) (1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(19)).

**SOURCE:** 41 FR 35941, Aug. 25, 1976, unless otherwise noted.

### § 104.1 General.

(a) Each political committee registered with the Commission, the Clerk of the House, the Secretary of the Senate, or with a principal campaign committee (see Part 102 of this subchapter) shall file quarterly reports of contributions and expenditures (unless waived) until—

(1) All debts and obligations relating to that committee's Federal election activity are extinguished; and

(2) The committee has filed a valid Notice of Termination, see § 102.4.

(b) Each candidate for Federal office (other than a Vice-Presidential candidate) shall file quarterly reports of contributions and expenditures until all debts and obligations relating to that candidacy on which he or she is personally obligated are extinguished, unless the candidate is granted a waiver pursuant to § 101.3, or has terminated candidate status under § 101.1.

(c) (1) (i) A political committee or candidate is exempt from filing a quarterly report if the political committee or candidate did not receive contributions in excess of \$1,000 or make expenditures in excess of \$1,000 in that quarter.

(ii) In an election year, a candidate or committee with outstanding debts and obligations shall file a 4th quarter report, even if contributions or expenditures do not exceed \$1,000.

(2) In any non-election year the candidate and his or her authorized committees shall only be required to file quarterly reports for a calendar quarter in which the candidate and his or her authorized committees received contributions or made expenditures, or both, the total amount of which, taken together, exceeds \$5,000.

(3) (i) The political committee or candidate shall notify the Commission on FEC Form 3a or by letter containing the same information at the close of the first quarter in which the exemption applies; and

(ii) The political committee or candidate shall continue to file the pre-election, post-election and annual reports required by § 104.4 until terminated or waived.

(4) Notwithstanding paragraphs (c) (1) and (2) of this section, if the candidate's authorized committees (including a principal campaign committee) in the aggregate receive or expend in excess of \$1,000 (or in a non-election year \$5,000), all authorized committees shall file reports with the principal campaign committee, which shall file the consolidated report pursuant to § 104.2(c).

### § 104.2 Form and content of reports.

(a) Except as noted below, each report filed by a political committee or candidate under this part shall be on FEC Form 3. For candidates having only one authorized committee which neither receives contributions nor makes expenditures in excess of \$50,000 for an election and does not make independent expenditures, see Part 109, the report may be on FEC Form 6. Either reporting form shall reflect all receipts and disbursements of a candidate or committee. Each authorized committee shall file its reports with its principal campaign committee, which shall file a consolidated report with the Commission, Clerk, or Secretary as appropriate. Forms may be obtained from the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

(b) Each report filed under this part shall include all receipts and disbursements from the close of the last period reported to the close of the current reporting period, and shall disclose—

(1) The amount of cash on hand at the beginning of the calendar year and at the beginning of the reporting period, including currency, balance on deposit in banks and savings and loan institutions, checks, negotiable money orders, and other paper commonly accepted by a bank in a deposit;

(2) The identification, occupation, and principal place of business, if any, of each person who has made a contribution to or for the committee or candidate during the reporting period in an amount or value in excess of \$100, or in an amount of less than \$100 if the person's



contributions within a calendar year total more than \$100, together with the amount and date of such contributions;

(3) (i) The total of contributions made to or for a committee or candidate during the reporting period and not reported under paragraph (b) (2) of this section;

(ii) Candidates and committees, which, in addition to the required totals, choose to itemize contributions not in excess of \$100, shall itemize these by attaching a separate schedule. Contributions of \$100 or less shall not be reported on the same schedule with the required itemized contributions in excess of \$100;

(4) The identification of each political committee or other political organization from which the reporting committee or the candidate received, or to which the reporting committee or the candidate made, any transfer of funds in any amount during the reporting period, together with the amounts and dates of all transfers, including aggregate year to date transfers, received from non-affiliated committees, and complete disclosure, pursuant to §110.6 of each transaction involving earmarked funds;

(5) Each loan—

(i) (A) To or from any political committee; or

(B) To a candidate or his or her authorized committees which is—

(ii) (A) Over \$100 in value and made during the reporting period; or

(B) Less than \$100 in value and the total of the loans from one person is over \$100 shall be reported together with the identification, occupation, and principal place of business, if any, of each lender, endorser, or guarantor, as the case may be. The report shall include the date and amount of the loan;

(6) The total amount of proceeds from—

(i) The sale of tickets to each dinner, luncheon, rally, and other fundraising event;

(ii) Mass collections made at these events; and

(iii) Sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, jewelry, and similar materials, as long as the items are sold by the candidate or an authorized committee;

(7) Each receipt in excess of \$100 received during the reporting period, not otherwise listed under paragraphs (b) (2) through (6) of this section, together with the identification, date and amount received, occupation, and principal place

of business of each such person from whom such receipts have been received during the reporting period; including—

(i) The interest or other proceeds from the investment, in an interest-bearing account, note, bill, stock, bond, or other similar device, of funds transferred out of a checking account in a campaign depository; and

(ii) Rebates and refunds received by the candidate or committee;

(8) (i) The total of all receipts by or for the committee or candidate during the reporting period and the calendar year; and

(ii) Total receipts less transfers between affiliated political committees (as defined in § 100.14(c));

(9) The identification of each person to whom expenditures have been made by or on behalf of the committee or candidate within the reporting period which total more than \$100, or in an amount less than \$100 if the total exceeds \$100 within a calendar year, together with the amount, date and particulars of each such expenditure and the name, address of, and office sought by, each candidate on whose behalf such expenditures were made.

(10) The total of expenditures made by or on behalf of the committee or candidate during the reporting period and the calendar year together with total expenditures less transfers between affiliated political committees (as defined in § 100.14(c)) of the candidate;

(11) The amount and nature of outstanding debts and obligations owed by or to the committee including any written contracts, agreements, or promises to make contributions or expenditures, see § 104.8;

(12) Independent expenditures, see Part 109.

(c) (1) Except as noted in paragraph (2) of this paragraph, each principal campaign committee shall consolidate in its report for each election the reports required to be filed with it, including (i) the candidate's report (unless waived) and (ii) reports submitted to it by any authorized committees and (iii) the principal campaign committee's own report. The consolidation shall be made on FEC Form 3b and submitted with the reports of the principal campaign committee and the reports or applicable portions of the reports of the committees shown on the consolidation.

(2) For pre-election reports, the principal campaign committee may, if nec-

essary, file the consolidated report disclosing the total receipts and expenditures by all authorized committees with respect to that election without including all of the detailed reports of committees required to file with it.

(i) Committees required to file with a principal campaign committee shall file a copy of their report with the Commission, the Clerk of the House, or the Secretary of the Senate, as custodian for the Commission by the 10th day preceding the election, in addition to filing with the principal campaign committee, unless the principal campaign committee files a complete consolidated report 10 days prior to the election under paragraph (c) (1) of this section.

(ii) The principal campaign committee shall then file a consolidated report no later than 5 days before the election, the report to include the detailed reports from committees required to file with it, if the detailed report was not filed 10 days prior to the election.

[41 FR 35941, Aug. 25, 1976, as amended at 42 FR 19324, Apr. 13, 1977]

#### § 104.3 Disclosure of receipt and consumption of in-kind contributions.

(a) (1) Each in-kind contribution shall be valued at the usual and normal charge on the date received and reported if in excess of \$100 on the appropriate schedule of receipts, identified as to its nature and listed as an "in-kind contribution."

(2) Except for items noted in paragraph (b) of this section, each contribution shall be reported as an expenditure at the same usual and normal charge and reported on the appropriate expenditure schedule, identified and listed as an "in-kind contribution."

(b) Contributions of stocks, bonds, art objects, and other similar items to be liquidated shall be reported as follows:

(1) If the item has not been liquidated at the close of a reporting period, the committee or candidate shall record as a memo entry (not as cash) the item's fair market value on the date received, including the identification (and where in excess of \$100, occupation and principal place of business) of the contributor.

(2) When the item is sold, the committee or candidate shall record the proceeds. It shall also report the (i) identification (and where in excess of \$100, the occupation and principal place of business) of the purchaser, if purchased directly from the candidate or committee, in which case he or she shall be

considered to have made a contribution, and (ii) the identification of the original contributor.

#### § 104.4 Filing dates.

(a) Except as provided otherwise in this section, each treasurer of a political committee supporting a candidate or candidates for election to Federal office, and each candidate for election to that office shall file the reports of receipts and expenditures required under this part.

(b) *Pre-Election and Post-Election Reports.*

(1) Candidates.

(i) Pre-election report.

(A) Individuals not having a waiver under § 101.3 shall file a pre-election report no later than the 10th day before every election in which they are a candidate.

(B) Each report filed by registered or certified mail shall be postmarked not later than the 12th day before the election.

(C) This report shall disclose all receipts and disbursements as of the 15th day before the election.

(ii) Post-election report.

(A) Individuals required to file a pre-election report shall also file a post-election report no later than the 30th day after the election.

(B) This report shall include all receipts and disbursements as of the 20th day after the election.

(2) Principal campaign committees. The principal campaign committee of every candidate shall file pre- and post-election reports in the same manner as specified for candidates by subparagraph (1). The pre-election report shall be a consolidated report of all authorized political committees of the candidate or a detailed report, see § 104.2(c).

(3) Authorized political committees. Authorized political committees shall file pre- and post-election reports with the principal campaign committee, the Commission, the Clerk of the House, or the Secretary of the Senate, as custodian for the Commission pursuant to § 104.2(c) (2) (i).

(4) All other political committees. All other political committees shall file pre- and post-election reports for each election for which the committee has supported a candidate, unless granted monthly reporting status.

(5) Contributions to Presidential candidates from political committees which are not reporting monthly—

(i) Political committees which make a contribution to a Presidential primary candidate shall file pre- and post-election reports relating to the election next occurring after the contribution is made. A political committee which makes a contribution to a Presidential candidate in the general election shall file a pre- and post-general election report.

(ii) If the contribution is made less than 15 days before an election, the contribution shall be reported on the post-election report relating to that election.

(iii) For purposes of this paragraph, contributions to the principal campaign committee of a Presidential candidate are considered contributions relating to the next election in which that candidate is on the ballot or has a slate of authorized delegates on the ballot. If two or more elections are held on one day, the contribution shall be considered to relate to each election on that day in which the candidate is a candidate.

(c) *Annual Report.* In any calendar year in which an individual is a candidate but there is no election for the office sought, an annual report shall include all transactions as of December 31 and shall be filed by January 31 of the following year.

(d) *Quarterly Report.* A report shall be filed on April 10, July 10, October 10, and January 31 following the close of the immediately preceding calendar quarter in which the candidate or political committee received contributions in excess of \$1,000 or made expenditures in excess of \$1,000, or, in non-election years, when contributions and expenditures to or by candidates and their authorized committees together exceed \$5,000, see § 104.1.

(1) These reports shall include all receipts and disbursements from the close of the last reporting period to the close of the calendar quarter.

(2) When the last day for filing any quarterly report required by this paragraph (d) occurs within 10 days before or after an election, the quarterly report need not be filed so long as the pre-election reports required by paragraph (b) (1) of this section are timely filed.

(e) If any contribution of \$1,000 or more is received by a candidate, his or her authorized committee or agent subsequent to the 15th day, but more than 48 hours before 12:01 a.m. of the day on which an election is to be conducted, the identification, occupation and principal place of business of the contributor shall be reported to the Commission, the Clerk

of the House, or Secretary of the Senate, as custodian for the Commission, within 48 hours of receipt, and included in the post-election report. For purposes of this paragraph, report means—

(1) A letter signed by the treasurer or his or her agent, hand delivered within 48 hours of the receipt of the contribution, or

(2) A telegram, followed by a letter signed by the treasurer or his or her agent, sent registered or certified mail and postmarked within 48 hours of the receipt of the contribution.

(3) For purposes of this paragraph (e) only, "election" means an election for which the ballot bears the name of the candidate, or delegates committed to the candidate who received (or one of whose authorized committees received) the contribution, or an election for which a candidate is conducting a write-in campaign.

(f) *Monthly Reporting.* (1) In any calendar year after 1976 in which a general election is held, and except as otherwise provided in subparagraph (2) of this paragraph, each Presidential candidate who makes contributions or expenditures in more than one State, and his or her principal campaign committee and any other authorized committee, shall file the reports required by this Part 104 by the 20th day of the month in each month except January, November, and December of the calendar year, instead of pre- and post-secondary reports and quarterly reports. These reports shall include all receipts and disbursements as of the last day of the month immediately preceding the month in which the report is filed.

(2) The pre- and post-election reports required to be filed under paragraph (b) of this section relating to a general election, the 4th quarterly reports required to be filed under paragraph (d) of this section and the reports required to be filed prior to an election under paragraph (e), shall nevertheless be filed.

(3) For candidates, the monthly reporting requirement shall continue until a candidate files with the Commission a statement that his or her name will not appear on any ballot in a primary or the general election. Any candidate filing this statement shall thereafter file reports pursuant to paragraphs (c) and (d) of this section.

(4) Political committees which make contributions or expenditures in more than one State, may, upon request to

and approval by the Commission, file monthly reports as set out above.

**§ 104.5 Uniform reporting of contributions.**

(a) Each contributor of an amount in excess of \$100 shall be disclosed by identification, occupation, and principal place of business, if any. If a contributor's name or address is known to have changed since an earlier contribution reported during the calendar year, the exact name or address previously used shall be noted with the first subsequent entry.

(b) In each case when a contribution received from a person in a reporting period is added to previously unitemized contributions from the same person and the aggregate exceeds \$100 within a calendar year, the identification, occupation, and principal place of business, if any, of that contributor shall then be listed on the prescribed reporting forms.

(c) Absent evidence to the contrary, any contribution made by check, money order, or other written instrument shall be reported as a contribution by the last person signing the instrument prior to delivery to the candidate or committee.

(d) All contributions from the same person during the calendar year shall be listed under the same name.

(e) A contribution which represents contributions by more than one person shall indicate on the written instrument or on an accompanying writing signed by all contributors, the amount to be attributed to each contributor.

**§ 104.6 Uniform reporting of expenditures.**

(a) A candidate and his or her authorized committees shall report each expenditure by or on behalf of a candidate or committee in excess of \$100, and shall include the identification of the recipient.

(b) In each case when an expenditure made to a recipient in a reporting period is added to previously unitemized expenditures to the same recipient and the total exceeds \$100 for the calendar year, the identification of that recipient shall be listed on the prescribed reporting forms.

**§ 104.7 Allocation of expenditures among candidates.**

A political committee making an expenditure on behalf of more than one candidate for Federal office or for Federal and non-Federal office shall allocate the expenditure(s) among the candidates

on a reasonable basis pursuant to Part 106, and report the allocation for each Federal candidate. The treasurer shall retain all documents supporting the allocation in accordance with § 104.12.

**§ 104.8 Continuous reporting of debts and obligations.**

(a) Debts and obligations which remain outstanding after the election shall be continuously reported until extinguished, see § 104.1(b). These debts and obligations shall be reported on separate schedules together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished.

(b) A debt, obligation, or other promise to make an expenditure of \$500 or less, shall be reported as of the time payment is made or no later than 60 days after incurrence, whichever comes first. A loan of money in the ordinary course of business and any debt or obligation over \$500 shall be reported as of the time of the transaction.

**§ 104.9 Waiver of reporting requirements.**

Upon application to the Commission, a political committee may be relieved, at the discretion of the Commission, of the duty to file reports of receipts and disbursements if the treasurer of that political committee certifies that the political committee—

(a) Primarily supports persons seeking State or local office; and

(b) Does not operate in more than one State or does not operate on a statewide basis.

**§ 104.10 Political committees; cash on hand.**

Political committees and candidates which have cash on hand at the time of registration (which the committee or candidate anticipates using in an election) shall disclose on their first report the source(s) of these funds, including the information required by § 104.2. The cash balances are assumed to be composed of those contributions most recently received by the committee or candidate. The committee shall exclude from funds to be used for Federal elections any contributions not permissible under the Act, see Parts 110, 114, and 115.

**§ 104.11 Members of Congress; reporting exemption.**

(a) Except as provided in paragraph (b) of this section a Member of the Con-

gress is not required to report, as contributions received or as expenditures made, the value of photographic, matting, or recording services furnished to him by the Senate Recording Studio, the House Recording Studio, or by an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives and who furnishes such services as his primary duty as an employee of the Senate or House of Representatives, or if the services were paid for by the Republican or Democratic Senatorial Campaign Committee, the Democratic National Congressional Committee, or the National Republican Congressional Committee.

(b) (1) The cost of recording services furnished during the calendar year before the year in which the Member's term expires, shall be reported by letter, attached to the principal campaign committee's next report, but shall not be included in the summary of expenditures on FEC Form 3 or Form 6.

(2) A Member who is not a candidate has no reporting obligation under this paragraph, except that a Member who subsequently becomes a candidate shall report as set forth in paragraph (b) (1) of this section, regardless of the dates the funds were expended in that year.

**§ 104.12 Formal requirements regarding reports and statements.**

(a) Each individual having the responsibility to file a report required under this subchapter shall sign the original report.

(b) Each candidate, political committee, or other person required to file any report or statement under this subchapter shall—

(1) Maintain records with respect to the matters required to be reported, including vouchers, worksheets, receipts, bills and accounts, which shall provide in sufficient detail the necessary information and date from which the filed reports and statements may be verified, explained, clarified, and checked for accuracy and completeness;

(2) Preserve a copy of each report or statement filed; and

(3) Keep those records and reports available for audit, inspection, or examination by the Commission or its authorized representatives for a period of not less than 3 years from the end of the year in which the report or statement was filed.

(c) Acknowledgments by the Commis-

sion, the Clerk of the House, or the Secretary of the Senate, of the receipt of Statements of Organization or reports or statements filed under this subchapter are intended solely to inform the person filing the report of its receipt and neither the acknowledgment nor the acceptance of a report or statement shall constitute express or implied approval, or in any manner indicate that the contents of any report or statement fulfill the filing or other requirements of the Act or of these regulations.

(d) Each treasurer of a political committee, each candidate, and any other person required to file any report or statement under these regulations and under the Act shall be personally responsible for the timely and complete filing of the report or statement and for the accuracy of any information or statement contained in it.

**§ 104.13 Sale or use restriction.**

Any information copied, or otherwise obtained, from any report or statement, or copy, reproduction, or publication thereof, filed with the Commission, Clerk of the House, Secretary of the Senate, or any Secretary of State or other equivalent chief State election officer, shall not be sold or utilized by any person for the purpose of soliciting contributions, or any commercial purpose. For purposes of this section, "any commercial purpose" does not include the sale of newspapers, magazines, books, or other similar communications, the principal purpose of which is not to communicate lists or other information obtained from a report filed as noted above.

**PART 105—DOCUMENT FILING**

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|-------|--|
| Sec.  |  |
| 105.1 | Place of filing; House candidates and committees.  |
| 105.2 | Place of filing; Senate candidates and committees.   |
| 105.3 | Place of filing; Presidential candidates and committees.   |
| 105.4 | Place of filing; committees and others.  |
| 105.5 | Transmittal of microfilm copies and photocopies of original reports filed with the Clerk of the House and the Secretary of the Senate to the Commission. |

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a) (8)), and sec. 315 (a) (10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208(a) and (c) (10), and 209(a) (1) and (b) (1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105,

Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438 (a) (10)).

SOURCE: 41 FR 35944, Aug. 25, 1976, unless otherwise noted.

#### § 105.1 Place of filing; House candidates and committees.

Reports and statements and any modifications or amendments thereto, required to be filed under Parts 101, 102, and 104 of these regulations by a candidate for nomination or election to the office of Representative in or Delegate or Resident Commissioner to the Congress of the United States, and by the candidate's principal campaign committee shall be filed in original form with and received by the Clerk of the House of Representatives, as custodian for the Federal Election Commission.

#### § 105.2 Place of filing; Senate candidates and committees.

Reports and statements and any modifications or amendments thereto, required to be filed under Parts 101, 102, and 104 of these regulations by a candidate for nomination or election to the office of United States Senator and by the candidate's principal campaign committee shall be filed in original form with and received by the Secretary of the Senate, as custodian for the Federal Election Commission.

#### § 105.3 Place of filing; Presidential candidates and committees.

Reports and statements and any modifications or amendments thereto, required to be filed under Parts 101, 102, and 104 of these regulations by a candidate for nomination or election to the office of President or Vice President of the United States, and by the candidate's principal campaign committee shall be filed in original form with the Federal Election Commission.

#### § 105.4 Place of filing; committees and others.

(a) Reports and statements, and any modifications or amendments thereto, required to be filed under Parts 101, 102, 104 of these regulations by political committees (other than a candidate's principal campaign committee and other authorized committees of a candidate) —

(1) Which support only candidates for nomination or election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress of the United States, shall be filed in original form with and received by the Clerk

of the House of Representatives, as custodian for the Federal Election Commission.

(2) Which support only candidates for nomination or election to the office of United States Senator, shall be filed in original form with, and received by the Secretary of the Senate, as custodian for the Federal Election Commission.

(b) Reports and statements, and any modifications or amendments thereto, required to be filed under Parts 101, 102, and 104 of these regulations by all other political committees, and all persons (other than political committees) making independent contributions or expenditures, shall be filed in original form with the Federal Election Commission.

#### § 105.5 Transmittal of microfilm copies and photocopies of original reports filed with the Clerk of the House and the Secretary of the Senate to the Commission.

(a) Upon receiving a report or statement filed under § 105.1, § 105.2, and § 105.4(a), the Secretary of the Senate and the Clerk of the House shall each initiate a process to assure prompt transmittal to the Commission of a microfilm copy and a photocopy of each report and statement filed with each of them.

(b) The Secretary of the Senate and the Clerk of the House shall place on each report and statement received a time and date stamp reflecting the time and date the original report or statement was received.

### PART 106—ALLOCATIONS OF CANDIDATE AND COMMITTEE ACTIVITIES

- Sec.
- 106.1 Allocation of expenditures among (or between) candidates and activities.
  - 106.2 Allocation of expenditures among States by candidates for Presidential nomination.
  - 106.3 Allocation of expenses between campaign and non-campaign related travel.
  - 106.4 Allocation of polling expenses.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a) (8)), and sec. 315 (a) (10), Pub. L. 92-225, 86 Stat. 18, amended by secs. 208(a) and (c) (10), and 209(a) (1) and (b) (1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a) (10)).

SOURCE: 41 FR 35944, Aug. 25, 1976, unless otherwise noted.

**§ 106.1 Allocation of expenditures among (or between) candidates and activities.**

(a) General Rule: Expenditures, including independent expenditures, made on behalf of more than one candidate shall be attributed to each candidate in proportion to, and shall be reported to reflect, the benefit reasonably expected to be derived.

(b) An authorized expenditure made by a candidate or political committee on behalf of another candidate shall be reported as a contribution in-kind (transfer) to the candidate on whose behalf the expenditure was made, except that expenditures made by party committees pursuant to § 110.7 need only be reported as an expenditure.

(c) Exceptions: (1) Expenditures for rent, personnel, overhead, general administrative, fund-raising, and other day-to-day costs of political committees need not be attributed to individual candidates, unless these expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate.

(2) Expenditures for educational campaign seminars, for training of campaign workers, and for registration or get-out-the-vote drives of committees need not be attributed to individual candidates unless these expenditures are made on behalf of a clearly identified candidate, and the expenditure can be directly attributed to that candidate.

(d) For purposes of this section, "clearly identified" means—

(1) The candidate's name appears;

(2) A photograph or drawing of the candidate appears; or

(3) The identity of the candidate is apparent by unambiguous reference.

(e) Party committees and other political committees which have established Federal campaign committees pursuant to § 102.6 shall allocate administrative expenses on a reasonable basis between their Federal and non-Federal accounts in proportion to the amount of funds expended on Federal and non-Federal elections, or on another reasonable basis.

**§ 106.2 Allocation of expenditures among States by candidates for Presidential nomination.**

(a) Expenditures made by a candidate or his or her authorized committee(s) which seek to influence the nomination of a candidate for the office of

President of the United States in a particular State shall be attributed to that State. This allocation of expenditures shall be reported on FEC Form 3c.

(b) Expenditures for administrative, staff, and overhead costs directly relating to the national campaign headquarters shall be reported but need not be attributed to individual States. Expenditures for staff, media, printing, and other goods and services used in a campaign in a specific State shall be attributed to that State.

(c) An expenditure by a Presidential candidate for use in two or more States, which cannot be attributed in specific amounts to each State, shall be attributed to each State based on the voting age population in each State which can reasonably be expected to be influenced by such expenditure.

(1) Expenditures for publication and distribution of newspaper, magazine, radio, television, and other types of advertisements distributed in more than one State shall be attributed to each State in proportion to the estimated viewing audience or readership of voting age which can reasonably be expected to be influenced by these advertisements.

(2) Expenditures for travel within a State shall be attributed to that State. Expenditures for travel between States need not be attributed to any individual State.

**§ 106.3 Allocation of expenses between campaign and non-campaign related travel.**

(a) All expenditures for campaign-related travel paid for by a candidate from a campaign account or by his or her authorized committees or by any other political committee shall be reported.

(b) (1) Travel expenses paid for by a candidate from personal funds, or from a source other than a political committee, shall constitute reportable expenditures if the travel is campaign-related.

(2) Where a candidate's trip involves both campaign-related and non-campaign-related stops, the expenditures allocable for campaign purposes are reportable, and are calculated on the actual cost-per-mile of the means of transportation actually used, starting at the point of origin of the trip, via every campaign-related stop and ending at the point of origin.

(3) Where a candidate conducts any campaign-related activity in a stop, the stop is a campaign-related stop and

travel expenditures made are reportable. Campaign-related activity shall not include any incidental contacts.

(c) (1) Where an individual, other than a candidate, conducts campaign-related activities on a trip, the portion of the trip attributed to each candidate shall be allocated on a reasonable basis.

(2) Travel expenses of a candidate's spouse and family are reportable as expenditures only if the spouse or family members conduct campaign-related activities.

(d) Costs incurred by a candidate for the United States Senate or House of Representatives for travel between Washington, D.C., and the State or district in which he or she is a candidate need not be reported herein unless the costs are paid by a candidate from authorized committee(s), or by any other political committee(s). If these costs are paid from an office account, they shall be reported under Part 113.

(e) Notwithstanding paragraphs (b) and (c) of this section, the reportable expenditure for a candidate who uses government conveyance or accommodations for travel which is campaign-related is the rate for comparable commercial conveyance or accommodation. In the case of a candidate authorized by law or required by national security to be accompanied by staff and equipment, the allocable expenditures are the cost of facilities sufficient to accommodate the party, less authorized or required personnel and equipment. If such a trip includes both campaign and noncampaign stops, equivalent costs are calculated in accordance with paragraphs (b) and (c) of this section.

#### § 106.4 Allocation of polling expenses.

(a) The purchase of opinion poll results by a candidate or a candidate's authorized political committee or agent is an expenditure by the candidate. Regarding the purchase of opinion poll results for the purpose of determining whether an individual should become a candidate, see § 100.7(b) (2).

(b) The purchase of opinion poll results by a political committee or other person not authorized by a candidate to make expenditures and the subsequent acceptance of the poll results by a candidate or a candidate's authorized political committee or agent or by another unauthorized political committee is a contribution in-kind by the purchaser to the

candidate or other political committee and an expenditure by the candidate or other political committee. Regarding the purchase of opinion poll results for the purpose of determining whether an individual should become a candidate, see § 100.4(b) (1). The poll results are accepted by a candidate or other political committee if the candidate or the candidate's authorized political committee or agent or the other unauthorized political committee—

(1) Requested the poll results before their receipt;

(2) Uses the poll results; or

(3) Does not notify the contributor that the results are refused.

(c) The acceptance of any part of a poll's results which part, prior to receipt, has been made public without any request, authorization, prearrangement, or coordination by the candidate-recipient or political committee-recipient, shall not be treated as a contribution in-kind and expenditure under paragraph (b) of this section.

(d) The purchase of opinion poll results by an unauthorized political committee for its own use, in whole or in part, is an overhead expenditure by the political committee under § 106.1(c) (1) to the extent of the benefit derived by the committee.

(e) The amount of a contribution under paragraph (b) of this section or of any expenditure under paragraphs (a) and (b) of this section attributable to each candidate-recipient or political committee-recipient shall be—

(1) That share of the overall cost of the poll which is allocable to each candidate (including State and local candidates) or political committee, based upon the cost allocation formula of the polling firm from which the results are purchased. Under this method the size of the sample, the number of computer column codes, the extent of computer tabulations, and the extent of written analysis and verbal consultation, if applicable, may be used to determine the shares; or

(2) An amount computed by dividing the overall cost of the poll equally among candidates (including State and local candidates) or political committees receiving the results; or

(3) A proportion of the overall cost of the poll equal to the proportion that the number of question results received by the candidate or political committee bears to the total number of question results received by all candidates (in-



cluding State and local candidates) and political committees; or

(4) An amount computed by any other method which reasonably reflects the benefit derived.

(f) The first candidate(s) or committee(s) receiving poll results under paragraph (b) or (d) of this section and any candidate or political committee receiving poll results under paragraph (b) of this section within 15 days after receipt by the initial recipient(s) shall compute the amount of the contribution in-kind and the expenditure as provided in paragraph (e) of this section.

(g) The amount of the contribution and expenditure reported by a candidate or a political committee receiving poll results under paragraph (b) of this section more than 15 days after receipt of such poll results by the initial recipient(s) shall be—

(1) If the results are received during the period 16 to 60 days following receipt by the initial recipient(s), 50 percent of the amount allocated to an initial recipient of the same results;

(2) If the results are received during the period 61 to 180 days after receipt by the initial recipient(s), 5 percent of the amount allocated to an initial recipient of the same results;

(3) If the results are received more than 180 days after receipt by the initial recipient(s), no amount need be allocated.

(h) A contributor of poll results under paragraph (b) of this section shall maintain records sufficient to support the valuation of the contribution(s) in-kind and shall inform the candidate-recipient(s) or political committee-recipient(s) of the valuation of the contribution(s).

**PART 107—CONVENTION REPORTS**

Sec.

107.1 Reports by municipal and private host committees.

107.2 Reports by political parties.

107.3 Convention reports; time and content of filing.

107.4 Convention expenses; definitions.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107 (a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208 (a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec.

105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

**SOURCE:** 41 FR 35946, Aug. 25, 1976, unless otherwise noted.

**§ 107.1 Reports by municipal and private host committees.**

Each committee or other organization which represents a State, a political subdivision thereof, or any other group of persons, in dealing with officials of a national political party with respect to matters involving a Presidential nominating convention held in that State, shall file reports with the Commission as set out in § 107.3 below.

**§ 107.2 Reports by political parties.**

(a) Each committee or other organization, including a national committee, which represents a national major, minor, or new political party in making arrangements for the convention of that party held to nominate a candidate for the office of President or Vice President shall file reports with the Commission as set out in § 107.3 below.

(b) A State party committee or a subordinate committee of a State party committee which assists delegates and alternates to the convention from that State with travel expenses and arrangements, or which sponsors caucuses, receptions, and similar arrangements, or which sponsors, caucuses, receptions, and similar activities at the convention site need not report under this Part 107.

**§ 107.3 Convention reports; time and content of filing.**

(a) Each committee organization required to file under §§ 107.1-2 shall, within 60 days following the last day the convention is officially in session, but not later than 20 days prior to the date of the general election, file with the Commission a convention report on FEC Form 4, which shall contain all receipts and disbursements in connection with the convention and shall be complete as of 50 days following the convention.

(b) If the committee spends or receives any funds after 60 days following the convention, the committee shall file, no later than 10 days after the end of the next calendar quarter, a report disclosing all transactions completed as of the close of that calendar quarter and shall continue to file quarterly reports until all debts and obligations have been extinguished.

(c) Each committee shall file a final report with the Commission not later

than 10 days after it ceases activity, unless such status is reflected in either of the reports submitted pursuant to §§ 107.3 (a) or (b).

**§ 107.4 Convention expenses; definitions.**

For purposes of this part, receipts and disbursements in connection with a convention, means convention expenses as defined in Part 120 of these regulations.

**PART 108—FILING COPIES OF REPORTS AND STATEMENTS WITH STATE OFFICERS**

Sec.

- 108.1 Filing requirements.
- 108.2 Filing copies of reports of Presidential and Vice Presidential candidates.
- 108.3 Filing copies of reports by other Federal candidates and committees.
- 108.4 Filing copies of reports by committees supporting Presidential candidates.
- 108.5 Time and manner of filing copies.
- 108.6 Duty of State officers.
- 108.7 Effect on State law.
- 108.8 Exemption for the District of Columbia.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by sec. 208; Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107 (a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a) (8)), and sec. 315(a) (10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208 (a) and (c) (10), and 209(a) (1) and (b) (1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a) (10)).

**SOURCE:** 41 FR 35946, Aug. 25, 1976, unless otherwise noted.

**§ 108.1 Filing requirements.**

A copy of each statement and report required to be filed under this subchapter shall be filed with the Secretary of State (or, if there is no office of Secretary of State, the equivalent State officer) of the appropriate State. For purposes of this part, the term "appropriate State" means the State or jurisdiction designated in § 108.2 or § 108.3.

**§ 108.2 Filing copies of reports by Presidential and Vice Presidential candidates.**

A copy of each report and statement required to be filed under this subchapter shall be filed by a candidate for President or Vice President or his or her authorized committees, or by the person making an expenditure or contribution pursuant to Part 109 with the State office of each

State or other jurisdiction in which an expenditure is made, the report to contain at least all transactions pertaining to that State during that reporting period.

**§ 108.3 Filing copies of reports by other Federal candidates and committees.**

A copy of each report and statement required to be filed under this subchapter by other candidates and political committees shall be filed for each reporting period during which an expenditure is made in that State with the State officer of each State or other jurisdiction in which the candidate, other than for President or Vice President, seeks election.

**§ 108.4 Filing copies of reports by committees supporting Presidential candidates.**

Committees, other than a Presidential candidate's principal campaign committee and other authorized committees, which make contributions to or expenditures on behalf of Presidential candidates, shall file a copy of reports and statements only in the State(s) in which the recipient and contributing committees have their headquarters.

**§ 108.5 Time and manner of filing copies.**

A copy required to be filed with a State officer under this part shall be filed at the same time as the original report is filed. Each copy of a report or statement shall be a complete, true, and legible copy of the original report or statement filed.

**§ 108.6 Duties of State officers.**

It is the duty of the Secretary of State, or the equivalent State officer—

(a) To receive and maintain in an orderly manner all reports and statements required to be filed;

(b) To preserve such reports and statements for a period of 10 years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives need be preserved for only 5 years from the date of receipt;

(c) To make the reports and statements filed available for public inspection and copying during regular office hours commencing as soon as practicable but not later than the end of the day on which it was received and to permit copying of any such report or statement by

hand or by duplicating machine, requested by any person, at the expense of such person, such per copy expense to be reasonable; and

(d) To compile and maintain a current list of all statements or parts of statements pertaining to each candidate.

§ 108.7 Effect on State law.

(a) The provisions of the Federal Election Campaign Act of 1971, as amended, and rules and regulations issued thereunder, supersede and preempt any provision of State law with respect to election to Federal office.

(b) Federal law supersedes State law concerning the—

(1) Organization and registration of political committees supporting Federal candidates;

(2) Disclosure of receipts and expenditures by Federal candidates and political committees; and

(3) Limitation on contributions and expenditures regarding Federal candidates and political committees.

(c) The Act does not supersede State laws which provide for the—

(1) Manner of qualifying as a candidate or political party organization;

(2) Dates and places of elections;

(3) Voter registration;

(4) Prohibition of false registration, voting fraud, theft of ballots, and similar offenses; or

(5) Candidate's personal financial disclosure.

§ 108.8 Exemption for the District of Columbia.

Any copy of a report required to be filed with the equivalent officer in the District of Columbia shall be deemed to be filed if the original has been filed with the Clerk, Secretary, or the Commission, as appropriate.

PART 109—INDEPENDENT EXPENDITURES

Sec.

109.1 Definitions.

109.2 Reporting of independent expenditures.

109.3 Certification of independent expenditures.

109.4 Non-authorization notice.

109.5 Reporting of independent contributions.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107 (a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a) (8)), and sec. 315(a) (10), Pub. L.

92-225, 86 Stat. 16, amended by secs. 208 (a) and (c) (10), and 209 (a) (1) and (b) (1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a) (10)).

SOURCE: 41 FR 35947, Aug. 25, 1976, unless otherwise noted.

§ 109.1 Definitions.

(a) "Independent expenditure" means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate.

(b) For purposes of this definition—

(1) "Person" means an individual, partnership, committee, association, or any organization or group of persons, including a separate segregated fund established by a labor organization, corporation, or national bank (see Part 114) but does not mean a labor organization, corporation, or national bank.

(2) "Expressly advocating" means any communication containing a message advocating election or defeat, including but not limited to the name of the candidate, or expressions such as "vote for," "elect," "support," "cast your ballot for," and "Smith for Congress," or "vote against," "defeat," or "reject."

(3) "Clearly identified candidate" means that the name of the candidate appears, a photograph or drawing of the candidate appears, or the identity of the candidate is otherwise apparent by unambiguous reference.

(4) "Made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of the candidate" means—

(i) Any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication. An expenditure will be presumed to be so made when it is—

(A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents, with a view toward having an expenditure made;

(B) Made by or through any person who is, or has been, authorized to raise

or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent;

(ii) But does not include providing to the expending person upon request, Commission guidelines on independent expenditures.

(5) "Agent" means any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position within the campaign organization where it would reasonably appear that in the ordinary course of campaign-related activities he or she may authorize expenditures.

(c) An expenditure not qualifying under this section as an independent expenditure shall be a contribution in-kind to the candidate and an expenditure by the candidate, unless otherwise exempted.

(d) (1) The financing of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered a contribution for the purpose of contribution limitations and reporting responsibilities by the person making the expenditure but shall not be considered an expenditure by the candidate or his authorized committees unless made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any authorized agent or committee thereof.

(2) This paragraph does not affect the right of a State or subordinate party committee to engage in such dissemination, distribution, or republication as agents designated by the national committee pursuant to § 110.7(a) (4).

(e) No expenditure by an authorized committee of a candidate on behalf of that candidate shall qualify as an independent expenditure.

#### § 109.2 Reporting of independent expenditures.

(a) Every political committee making an independent expenditure shall report on Schedule E each such expenditure

or contribution to the Commission, Clerk, or Secretary, as appropriate.

(1) The report shall contain, for each expenditure in excess of \$100, the identification of the person to whom it was made, the amount and date of the expenditure, the name of the candidate with respect to whom the expenditure was made and the office the candidate seeks, and whether the expenditure was in support of or in opposition to that candidate.

(2) This information shall be filed on Schedule E as part of a report (monthly, quarterly, pre-election, post-election, or annual) covering any period in which any independent expenditure exceeding \$100 is made. Schedule E shall also include the total of all expenditures of \$100 or less.

(3) Political committees not required to report under § 104.1(c) shall nonetheless report each independent expenditure in excess of \$100 on Schedule E at the time the report for that period would have been filed.

(b) Every other person who makes independent expenditures aggregating in excess of \$100 during a calendar year shall file a report with the Commission on FEC Form 5.

(1) The report shall contain the reporting person's identification, occupation, and principal place of business, if any, the identification of the person to whom the expenditure was made, the amount and date of the expenditure, the candidate's name and the office the candidate seeks, and whether the expenditure was in support of or in opposition to that candidate.

(2) The report shall be filed at the end of the reporting period (quarterly, pre-election, post-election, annual) during which the expenditure is made and in any reporting period thereafter in which additional independent expenditures are made.

(c) Independent expenditures by any person or any political committee of \$1,000 or more made after the fifteenth day, but more than 24 hours, before any election shall be reported within 24 hours of such independent expenditures pursuant to § 104.4(e).

#### § 109.3 Certification of independent expenditures.

Each report of independent expenditures shall be signed and shall include a notarized certification under the penalty of perjury that the expenditure was not

made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, any candidate or any agent or authorized committee of the candidate.

**§ 109.4 Non-authorization notice.**

(a) (1) Whenever any person makes an independent expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, but not on a bumper strip, a pin, button, pen, and similar small items upon which the disclaimer cannot be conveniently printed, the communication shall clearly and conspicuously state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, in the case of a political committee, the name of any affiliated or connected organization required to be listed under § 102.2(a)(2).

(2) For purposes of this section, "clearly and conspicuously" means—

(i) On the face or front page of printed matter, or at the beginning or end of a broadcast or telecast matter and shall include the name of the committee; and

(ii) In a manner calculated to provide actual notice to a reader, listener, or viewer.

**§ 109.5 Reporting of independent contributions.**

Every person (other than a political committee or candidate) who makes a contribution for the purpose of expressly advocating the election or defeat of a clearly identified candidate, other than by contributing to a political committee or candidate, in an aggregate amount in excess of \$100 during a calendar year shall file reports in the same manner as is required with respect to independent expenditures under § 109.2.

**PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS**

Sec.

- 110.1 Contributions by persons.
- 110.2 Contributions by multicandidate committees.
- 110.3 Affiliated committees; transfers.
- 110.4 Prohibited contributions.
- 110.5 Annual contribution limitation.
- 110.6 Earmarked contributions.

Sec.

- 110.7 Party committee expenditures.
- 110.8 Presidential candidate expenditure limitations.
- 110.9 Miscellaneous provisions.
- 110.10 Expenditures by candidates.
- 110.11 Communications; advertising.
- 110.12 Honorariums.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107 (a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by Secs. 208(a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and Sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

**SOURCE:** 41 FR 35948, Aug. 25, 1976, unless otherwise noted.

**§ 110.1 Contributions by persons.**

(a) (1) No person (except multicandidate committees under § 110.2) shall make contributions to any candidate, his or her authorized political committees or agents with respect to any election to Federal office which in the aggregate exceed \$1,000.

(2) "With respect to any election" means—

(i) In the case of a contribution designated in writing for a particular election, the election so designated, except that a contribution made after a primary election, caucus or convention, and designated for the primary election, caucus or convention shall be made only to the extent that the contribution does not exceed net debts outstanding from the primary election, caucus or convention.

(ii) In the case of a contribution not designated in writing for a particular election,

(A) For a primary election, caucus or convention, if made on or before the date of the election, caucus or convention, or

(B) For a general election if made after the date of the primary election.

(b) (1) No person (except multicandidate committees under § 110.2) shall make contributions to the political committees established and maintained by a national political party, which, in the aggregate, exceed \$20,000 in any calendar year.

(2) For purposes of this section, "political committees established and maintained by a national political party" means—

(i) The national committee; (ii) the House campaign committee; and (iii) the Senate campaign committee. Each

may receive up to the \$20,000 limitation from a contributor, see § 110.5.

(3) The recipient committee shall not be an authorized committee of any candidate.

(c) No person (except multicandidate committees under § 110.2) shall make contributions to any other political committee which in the aggregate exceed \$5,000 in any calendar year.

(d) The limitations in paragraphs (b) and (c) of this section also apply to contributions made to committees making independent expenditures, see Part 109.

(e) A contribution by a partnership shall—

(1) Be attributed to each partner in direct proportion to his or her share of the partnership profits, according to instructions which shall be provided by the partnership to the committee or candidate; or

(2) Be attributed by agreement of the partners, as long as—

(i) Only the profits of the partners to whom the contribution is attributed are reduced (or losses increased), and

(ii) These partners' profits are reduced (or losses increased) in proportion to the contribution attributed to each of them; and

(3) Not exceed the limits in paragraphs (a), (b), and (c) of this section.

(f) If an individual is a candidate for more than one Federal office, a person may contribute not more than \$1,000 to the candidate, or his or her authorized committees for each election for each office, as long as—

(1) The contributor clearly designates in writing for which office each contribution is intended;

(2) The candidate maintains separate campaign organizations, including separate principal campaign committees and separate accounts; and

(3) No funds are transferred, loaned, or otherwise contributed between or among the separate campaigns and no expenditures are made by one campaign on behalf of the other campaign except as provided in § 110.3(a) (2) (iv).

(g) (1) Contributions made to retire debts resulting from elections held prior to January 1, 1975 are not subject to the limitations of this Part 110, as long as contributions and solicitations to retire these debts are clearly designated and used for that purpose.

(2) Contributions made to retire debts resulting from elections held after De-

cember 31, 1974 are subject to the limitations of this Part 110.

(h) A person may contribute to a candidate or his or her authorized committee with respect to a particular election and also contribute to a political committee which has supported, or anticipates supporting, the same candidate in the same election, as long as—

(1) The political committee is not the candidate's principal campaign committee or other authorized committee or a single candidate committee;

(2) The contributor does not give with the knowledge that a substantial portion will be contributed to, or expended on behalf of, that candidate for the same election; and

(3) The contributor does not retain control over the funds.

(i) (1) Even though a spouse in a single income family has contributed \$1,000 to a candidate for an election, the other spouse may similarly contribute \$1,000 to the same candidate for the same election, see § 104.5 (e).

(2) Minor children (children under 18 years of age) may contribute up to \$1,000 to a candidate for an election, see § 104.5 (e), if—

(i) The decision to contribute is made knowingly and voluntarily by the minor child;

(ii) The funds, goods, or services contributed are owned or controlled exclusively by the minor child, such as income earned by the child, the proceeds of a trust for which the child is the beneficiary, or a savings account opened and maintained exclusively in the child's name; and

(iii) The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another individual.

(j) (1) The limitations on contributions in this section shall apply separately with respect to each election, except that all elections held in a calendar year for the office of President of the United States (except a general election for that office) shall be considered to be one election.

(2) An election in which a candidate is unopposed is a separate election.

(3) If no primary election is held because a candidate is unopposed, the date on which the primary would have been held shall be deemed to be the date of the primary for purposes of the contribution limitations.

**§ 110.2 Contributions by multicandidate committees.**

(a) No multicandidate political committee shall make contributions—

(1) To any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000; “with respect to any election” has the same meaning as in § 110.1(a) (2);

(2) To the political committees established and maintained by a national political party in any calendar year which, in the aggregate, exceed \$15,000;

(i) The recipient committee shall not be an authorized committee of any candidate;

(ii) “Political committees established and maintained by a national political party” means (A) the national committee; (B) Senate campaign committee; and (C) the House campaign committee. Each may receive up to the \$15,000 limitation from a contributor;

(3) To any other political committee in any calendar year which, in the aggregate, exceed \$5,000.

(b) “Multicandidate political committee” has the same meaning as in § 100.14(a) (3).

(c) Notwithstanding any other provision of the Act, the Republican and Democratic Senatorial campaign committees, or the national committee of a political party, may contribute not more than a combined total of \$17,500 to a candidate for nomination or election to the Senate during the calendar year of the election for which he or she is a candidate. Any contribution made by the committees to a Senate candidate in a year other than that election year shall be considered to be part of the \$17,500 total contribution limit for that election year.

(d) (1) The limitations on contributions in this section (other than paragraph (c) of this section) shall apply separately with respect to each election, except that all elections held in a calendar year for the office of President of the United States (except a general election for that office) shall be considered to be one election.

(2) An election in which a candidate is unopposed is a separate election.

(3) If no primary election is held because a candidate is unopposed, the date on which the primary would have been held shall be deemed to be the date of the primary for purposes of the contribution limitations.

**§ 110.3 Affiliated committees; transfers.**

(a) (1) (i) For purposes of the limitations in §§ 110.1 and 110.2, contributions shall be considered to be made by a single political committee (including a single separate segregated fund) if made by more than one political committee (including a separate segregated fund) established, financed, maintained, or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit thereof, or by a group of those persons, see affiliated committees, § 100.14(c).

(ii) Application of the rule of this paragraph means—

(A) All of the political committees set up by a single corporation and/or its subsidiaries are treated as a single political committee;

(B) All of the political committees set up by a single national or international union and/or its local unions or other subordinate organizations are treated as a single political committee;

(C) All of the political committees set up by an organization of national or international unions and/or all its State and local central bodies are treated as a single political committee;

(D) All of the political committees (other than party committees, see paragraph (b) of this section set up by a membership organization, including trade or professional associations, see § 114.8(a), and/or by related State and local entities of that organization or group, are treated as a single political committee;

(E) All of the political committees set up by the same group of persons are treated as a single political committee.

(iii) For organizations not described by (i) or (ii) above, indicia of establishing, financing, maintaining, or controlling may include—

(A) Ownership of a controlling interest in voting shares or securities;

(B) Provisions of by-laws, constitutions, or other documents by which one entity has the authority, power, or ability to direct another entity;

(C) The authority, power, or ability to hire, appoint, discipline, discharge, demote, or remove or otherwise influence the decision of the officers or members of an entity;

(D) Similar patterns of contributions;

(E) The transfer of funds between committees which represent a substantial portion of the funds of either the transferor or transferee committee, other than the transfer of funds between the committees which jointly raised the funds so transferred.

(2) This Part shall not limit transfers between—

(i) Political committees of the funds raised through joint fundraising;

(ii) Authorized committees of the same candidate, or between the candidate and his or her authorized committees, if the candidate has not received a waiver from reporting;

(iii) The primary campaign and general election campaign of a candidate, of funds unused for the primary;

(iv) A candidate's previous campaign committee and his or her currently registered principal campaign committee or other authorized committee, as long as none of the funds transferred contain contributions which would be in violation of the Act; or

(v) The principal campaign committees of a candidate seeking nomination or election to more than one Federal office, as long as—

(A) The transfer is made when the candidate is not actively seeking nomination or election to more than one office. For purposes of this paragraph, "not actively seeking" means a principal campaign committee has filed a termination report with the Commission, or has notified the Commission that the candidate and his authorized committees will make no further expenditure, except in connection with the retirement of debts outstanding at the time of the notification;

(B) The limitations on contributions by persons are not exceeded by the transfer. To assure this, the contributions making up the funds transferred shall be reviewed, beginning with the last received and working back until the amount transferred is reached. A person's contribution or any portion thereof, shall be excluded if, when added to contributions already made to the transferee principal campaign committee, it causes the contributor to exceed his or her limitation; and

(C) The candidate has not received funds under 26 U.S.C. 9006 or 9037.

(b) (1) For purposes of the limitations in § 110.1 and § 110.2,

(i) All contributions made by the national committee of a political party, and any political committees established, financed, maintained, or controlled by the same national committee; and

(ii) All contributions made by the State committee of a political party, shall be considered to be made by separate political committees.

(2) For purposes of this section,

(i) The House campaign committee of each political party shall be considered separate from the national committee of that party, giving the national committee and the House campaign committees separate limitations;

(ii) All contributions made by the political committees established, financed, maintained, or controlled by a State party committee and by subordinate State party committees shall be presumed to be made by one political committee. This presumption shall not apply if—

(A) The political committee of the party unit in question has not received funds from any other political committee established, financed, maintained, or controlled by any party unit; and

(B) The political committee of the party unit in question does not make its contributions in cooperation, consultation or concert with, or at the request or suggestion of any other party unit or political committee established, financed, maintained, or controlled by another party unit.

(3) For example, as a result of paragraph (b) (1) of this section,

(i) The national committee of a party and that party's House campaign committee may each contribute a total of \$1,000 (\$5,000 if a multicandidate committee) and the State committee of a party and each of its independent subordinate committees, may each contribute a total of \$1,000 (\$5,000 if a multicandidate committee) to a candidate for nomination for President of the United States, or to a candidate for the House for each election;

(ii) A State committee and any subordinate committee able to demonstrate independence under the criteria of § 110.3(b) (2) (ii) may each contribute \$1,000 (\$5,000 if a multicandidate committee) to a candidate for each election.

(4) The national committee of a political party and the Senate campaign committee have special limitations regarding Senate candidates, see § 110.2(c).



(c) Transfers between and among political committees which are national, State, district, or local committees, and subordinate committees thereof, of the same political party are unlimited.

**§ 110.4 Prohibited contributions.**

(a) (1) A foreign national shall not directly or through any other person make a contribution, or expressly or impliedly promise to make a contribution, in connection with a convention, caucus, primary, general, special, or runoff election in connection with any local, State or Federal public office.

(2) No person shall solicit, accept, or receive a contribution as set out above from a foreign national.

(3) For purposes of this section, "foreign national" means—

(i) A foreign principal, as defined in 22 U.S.C. 611(b); or

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

(iii) Except that "foreign national" shall not include any individual who is a citizen of the United States.

(b) (1) No person shall—

(i) Make a contribution in the name of another;

(ii) Knowingly permit his or her name to be used to effect that contribution; or

(iii) Knowingly accept a contribution made by one person in the name of another.

(2) Examples of "contribution in the name of another" include—

(i) Giving money or anything of value, all or part of which was provided to the contributor by another person (the true contributor) without disclosing the source of money or the thing of value to the recipient candidate or committee at the time the contribution is made, see § 110.6; or

(ii) Making a contribution of money or anything of value and attributing as the source of the money or the thing of value another person when in fact the contributor is the source.

(c) (1) With respect to any campaign for nomination for election, or election, to Federal office, no person shall make contributions to a candidate or political committee of currency of the United States,

or of any foreign country, which in the aggregate exceed \$100.

(2) A candidate or committee receiving a cash contribution in excess of \$100 shall promptly return the amount over \$100 to the contributor.

(3) A candidate or committee receiving an anonymous cash contribution in excess of \$50 shall promptly dispose of the amount over \$50. The amount over \$50 may be used for any lawful purpose unrelated to any Federal election, campaign, or candidate.

**§ 110.5 Annual contribution limitation.**

(a) No individual shall make contributions aggregating more than \$25,000 in any calendar year.

(b) For purposes of this section,

(1) Any contribution made in a year other than in the calendar year in which an election is held shall be considered to be made during the calendar year in which the election is held, as long as the contribution is made with respect to a particular candidate and election;

(2) An individual's contribution to a political committee in a non-election year shall not be attributable to the calendar year in which an election is held, as long as the political committee is not the principal campaign committee, or other authorized committee of a candidate, or a single candidate committee supporting the candidate and as long as the contribution is not otherwise designated for a particular election.

(c) The limitation in (a) also applies to contributions made to a person who is making independent expenditures, see Part 109.

**§ 110.6 Earmarked contributions.**

(a) All contributions by a person made on behalf of or to a candidate, including contributions which are in any way earmarked or otherwise directed to the candidate through an intermediary or conduit, are contributions from the person to the candidate.

(b) For purposes of this section, earmarked means a designation, instruction, or encumbrance (including those which are direct or indirect, express or implied, oral or written) which results in all or any part of a contribution or expenditure being made to, or expended on behalf of, a clearly identified candidate or a candidate's authorized committee.

(c) The intermediary or conduit of the earmarked contribution shall report the original source and intended recipient of the contribution to the Commission, the Clerk of the House of Representatives, or the Secretary of the Senate, as appropriate (see Part 105), and to the intended recipient.

(1) The report to the Commission, Clerk, or Secretary shall be included in the conduit or intermediary's next due quarterly, pre- or post-election, or annual report, or, if the conduit is not a reporting entity, by letter to the Commission, and shall—

(i) If the contribution passed through the conduit's account, disclose each contribution, regardless of amount, on schedules of itemized receipts and expenditures;

(ii) If the contribution was passed on in the form of the contributor's check, disclose each contribution on a separate schedule attached to the conduit's next report, or attached to the letter to the Commission.

(2) The report to the intended recipient shall be made when the contribution is passed on to the intended recipient.

(3) The intended recipient shall disclose on his next report each conduit through which the contribution passed.

(4) The reports in paragraph (c) (1) and (2) of this section shall contain—

(i) The identification of the contributor, and if the contribution exceeds \$100, the contributor's occupation and principal place of business;

(ii) The amount of the contribution, the date received by the conduit, and the intended recipient as designated by the contributor;

(iii) The date the contribution was passed on to the intended recipient, and whether the contribution was passed on in cash, by the contributor's check, or by the conduit's check.

(5) This section shall not apply to occasional, isolated, or incidental physical transfers of checks or other written instruments payable to a candidate or his or her authorized committees. For purposes of this paragraph, "occasional, isolated, or incidental" means no more than \$1,000 is conveyed to any one candidate or committee in a calendar year.

(d) (1) A conduit or intermediary's contribution limits are not affected by

passing on earmarked contributions, except where the conduit exercises any direction or control over the choice of the recipient candidate.

(2) If a conduit exercises any direction or control over the choice of the recipient candidate, the contribution shall be considered a contribution by both the original contributor and the conduit, and shall be so reported by the conduit to the Commission, Clerk, or Secretary, as appropriate, or, if the conduit is not a reporting entity, by letter to the Commission, and to the recipient. The recipient candidate or committee shall report it in its reporting of contributions received, indicating that the contribution is made by both the original contributor and the conduit, but that the actual cash received does not reflect the two contributions.

#### § 110.7 Party committee expenditures.

(a) (1) The national committee of a political party may make expenditures in connection with the general election campaign of any candidate for President of the United States affiliated with the party.

(2) The expenditures shall not exceed an amount equal to 2 cents multiplied by the voting age population of the United States.

(3) Any expenditure under paragraph (a) shall be in addition to—

(i) Any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for President of the United States; and

(ii) Any contribution by the national committee to the candidate permissible under §§ 110.1 or 110.2.

(4) The national committee of a political party may make expenditures authorized by this section through any designated agent, including State and subordinate party committees.

(5) The national committee of a political party may not make independent expenditures (see Part 109) in connection with the general election campaign of a candidate for President of the United States.

(b) (1) The national committee of a political party, and a State committee of a political party, including any subordinate committee of a State committee,

may each make expenditures in connection with the general election campaign of a candidate for Federal office in that State who is affiliated with the party.

(2) The expenditures shall not exceed—

(i) In the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

(A) Two cents multiplied by the voting age population of the State; or

(B) Twenty thousand dollars; and

(ii) In the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, \$10,000.

(3) Any expenditure under paragraph (b) shall be in addition to any contribution by a committee to the candidate permissible under §§ 110.1 or 110.2.

(4) The party committees identified in (b) (1) shall not make independent expenditures in connection with the general election campaign of candidates for Federal office.

(5) Any expenditure by a State, county, city, or congressional district committee of a political party, the primary purpose of which is to further the general election campaign of that party's nominee or nominees, that also furthers the general election campaign of that party's candidates for President and Vice President shall not constitute the making of a contribution or expenditure to a Federal candidate as long as the expenditure does not exceed \$1,000 per such committee. Such expenditures shall not count toward the limits of § 110.7(a), (b) (1) and (b) (2).

(c) For limitation purposes, State committee includes subordinate State committees. State committees and subordinate State committees combined shall not exceed the limits in paragraph (b) (2) of this section. To ensure compliance with the limitations, the State committee shall administer the limitation in one of the following ways:

(1) The State central committee shall be responsible for insuring that the expenditures of the entire party organization are within the limitations, including receiving reports from any subordinate committee making expenditures under paragraph (b) of this section, and filing consolidated reports showing all expenditures in the State with the Commission; or

(2) (i) The State committee shall file with the Commission an allocation statement setting forth the amounts each subordinate committee in the State will expend on which Federal candidate, as agreed upon by the State committee and the subordinate committees;

(ii) The State committee shall file with the allocation statement a list of participating subordinate committees which have filed a Statement of Organization with the Commission, Clerk, or Secretary, and for those subordinate committees which have not filed a Statement of Organization, the information required in a Statement of Organization, see Part 102;

(iii) Each subordinate committee will be responsible for ensuring that it does not exceed its allocated limitation, and shall register with and report to the Commission as if it were a political committee if its expenditures exceed \$100 in a calendar year. If its expenditures in the aggregate exceed \$1,000, it shall register as a political committee pursuant to Part 102 and report pursuant to Part 104; or

(3) Any other method, submitted in advance and approved by the Commission which permits control over expenditures.

**§ 110.8 Presidential candidate expenditure limitations.**

(a) No candidate for the office of President of the United States who is eligible under 26 U.S.C. 9003 (relating to conditions for eligibility for payments) or under 26 U.S.C. 9033 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury and has received payments, may make expenditures in excess of—

(1) \$10,000,000 in the case of a campaign for nomination for election to the office, except the aggregate of expenditures under this paragraph in any one State shall not exceed the greater of 16 cents multiplied by the voting age population of the State or \$200,000; or

(2) \$20,000,000 in the case of a campaign for election to the office.

(b) The expenditure limitations shall not be considered violated if, after the date of the primary or general election, convention or caucus, receipt of refunds and rebates causes a candidate's expenditures to be within the limitations.

(c) For the State limitations in paragraph (a) (1) of this section—

(1) Expenditures made in a State after the date of the primary election, con-

vention or caucus relating to the primary election, convention or caucus count toward that State's expenditure limitation;

(2) Expenditures for fundraising activities targeted at a particular State and occurring within 28 days before that state's primary election, convention, or caucus shall be presumed to be attributable to the expenditure limitation for that State, § 100.7(b) (13) (relating to the 20% fundraising exemption) notwithstanding.

(d) (1) If an individual is a candidate for more than one Federal office, or for a Federal office and a State office, he or she must designate separate principal campaign committees and establish completely separate campaign organizations.

(2) No funds, goods, or services, including loans and loan guarantees, may be transferred between or used by the separate campaigns, except as provided in § 110.3(a) (2) (iv).

(3) Except for Presidential candidates receiving Presidential Primary Matching Funds, see 26 U.S.C. 9032, or General Election Public Financing, see 26 U.S.C. 9002, campaigns may share personnel and facilities, as long as expenditures are allocated between the campaigns, and the payment made from each campaign account reflects the allocation.

(e) (1) A political party may make reimbursement for the expenses of a candidate who is engaging in party-building activities, without the payment being considered a contribution to the candidate, and without the unreimbursed expense being considered an expenditure counting against the limitations in paragraph (a) (1) or (2) of this section, as long as—

(i) The event is, a bona fide party event or appearance; and

(ii) No aspect of the solicitation for the event, the setting of the event, and the remarks or activities of the candidate in connection with the event were for the purpose of influencing the candidate's nomination or election.

(2) (i) An event or appearance meeting the requirements of paragraph (e) (1) of this section and occurring prior to January 1 of the year of the election for which the individual is a candidate is presumptively party-related;

(ii) Notwithstanding the requirements of paragraph (e) (1) of this sec-

tion, an event or appearance occurring on or after January 1 of the year of the election for which the individual is a candidate is presumptively for the purpose of influencing the candidate's election, and any contributions or expenditures are governed by the contribution and expenditure limitations of this Part 110.

(iii) The presumptions in (i) and (ii) may be rebutted by a showing to the Commission that the appearance or event was, or was not, party-related, as the case may be.

(f) (1) Expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States.

(2) Expenditures from personal funds made by a candidate for Vice President shall be considered to be expenditures by the candidate for President, if the candidate is receiving General Election Public Financing, see § 141.2(c).

(g) An expenditure is made on behalf of a candidate, including a Vice-Presidential candidate, if it is made by—

(1) An authorized committee or any other agent of the candidate for purposes of making any expenditure;

(2) Any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate to make the expenditure; or

(3) A committee not authorized in writing, so long as it is requested by the candidate, an authorized committee of the candidate, or an agent of the candidate to make the expenditure.

#### § 110.9 Miscellaneous provisions.

(a) *Violation of Limitations.* No candidate or political committee shall accept any contribution or make any expenditure in violation of the provisions of Part 110. No officer or employee of a political committee shall accept a contribution made for the benefit or use of a candidate, or make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this Part 110.

(b) *Fraudulent Misrepresentation.* No person who is a candidate for Federal office or an employee or agent of such a candidate shall—

(1) Fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

(2) Willfully and knowingly participate in or conspire to participate in any plan or design to violate paragraph (b) (1) of this section.

(c) *Price Index Increase.* (1) Each limitation established by § 110.7 and § 110.8 shall be increased by the annual percent difference of the price index, as certified to the Commission by the Secretary of Labor. Each amount so increased shall be the amount in effect for that calendar year.

(2) For purposes of paragraph (c) (1) of this section, the term "price index" means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

(d) *Voting Age Population.* The Commission shall assure that there is annually published in the FEDERAL REGISTER an estimate of the voting age population based on an estimate of the voting age population of the United States, of each State, and of each congressional district. The term "voting age population" means resident population, 18 years of age or older.

**§ 110.10 Expenditures by candidates.**

(a) Except as provided in subchapters C and D of this chapter pertaining to Presidential candidates, candidates for Federal office may make unlimited expenditures from personal funds.

(b) For purposes of this section, "personal funds" means—

(1) Any assets to which at the time he or she became a candidate the candidate had legal and rightful title, or with respect to which the candidate had the right of beneficial enjoyment, under applicable State law, and which the candidate had legal right of access to or control over, including funds from immediate family members; and

(2) Salary and other earned income from bona fide employment; dividends and proceeds from the sale of the candidate's stocks or other investments; bequests to the candidate; income from

trusts established before candidacy; income from trusts established by bequest after candidacy of which the candidate is the beneficiary; gifts of a personal nature which had been customarily received prior to candidacy; proceeds from lotteries and similar legal games of chance.

**§ 110.11 Communications; advertising.**

(a) (1) Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, but not on a bumper strip, pin, button, pen and similar small items upon which the disclaimer cannot be conveniently printed, the communication—

(i) If authorized by a candidate, his or her authorized political committees, or their agents, shall clearly and conspicuously state that the communication has been authorized on behalf of that candidate;

(ii) If not authorized by a candidate, his authorized political committees, or their agents, shall clearly and conspicuously state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, in the case a political committee, the name of any affiliated or connected organization required to be listed under § 102.2(a) (2).

(2) For purposes of this section, "clearly and conspicuously" means—

(i) On the face or front page of printed matter, or at the beginning or end of a broadcast or telecast matter, and shall include the name of the committee; and

(ii) In a manner calculated to provide actual notice to a reader, listener, or viewer.

(b) (1) No person who sells space in a newspaper or magazine to a candidate, an authorized committee of a candidate, or an agent of the candidate, for use in connection with the candidate's campaign for nomination or for election, shall charge an amount for the space which exceeds the comparable rate for the space for non-campaign purposes.

(2) For purposes of this section, "comparable rate" means the rate charged to a national or general rate advertiser, and shall include discount privileges usually and normally available to a national or general rate advertiser.

(c) Each political committee shall include on the face or front page of all printed literature and advertisements soliciting contributions and at the beginning or end of any broadcast solicitation the following notice:

"A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D.C."

### § 110.12 Honorariums.

(a) No person while an elected or appointed officer or employee of any branch of the Federal government shall accept—

(1) Any honorarium of more than \$2,000;

(2) Honorariums (not prohibited by paragraph (a) (1) of this section) aggregating more than \$25,000 in any calendar year.

(b) The term "honorarium" means a payment of money or anything of value received by an officer or employee of the Federal government, if it is accepted as consideration for an appearance, speech, or article. An honorarium does not include payment for or provision of actual travel and subsistence, including transportation; accommodations, and meals for the officer or employee and spouse or an aide, and does not include amounts paid or incurred for any agents' fees or commissions.

(1) *Officer or Employee.* The term "officer or employee of the Federal government," or "officer or employee" means any person appointed or elected to a position of responsibility or authority in the United States government, regardless of whether the person is compensated for this position; and any other person receiving a salary, compensation, or reimbursement from the United States government, who accepts an honorarium for an appearance, speech, or article. Included within this class is the President; the Vice President; any Member of Congress; any judge of any court of the United States; any Cabinet officer; and any other elected or appointed officer or employee of any branch of the Federal government.

(2) *Appearance.* "Appearance" means attendance at a public or private conference, convention, meeting, social event, or like gathering, and the incidental conversation or remarks made at that time.

(3) *Speech.* "Speech" means an address, oration, or other form of oral

presentation, regardless of whether presented in person, recorded, or broadcast over the media.

(4) *Article.* "Article" means a writing other than a book, which has been or is intended to be published.

(5) *Accepted.* "Accepted" means that there has been actual or constructive receipt of the honorarium and the Federal officeholder or employee exercises dominion or control over it. A Federal officeholder or employee is considered to have accepted an honorarium (i) if he or she actually receives it and determines its subsequent use, or (ii) he or she directs that the organization offering the honorarium give the honorarium to a charity or other beneficiary which he or she names, but (iii) an honorarium is not accepted if he or she makes a suggestion that the honorarium be given to a charity or other like beneficiary of the organization's own choosing. Nothing in this paragraph shall be construed as an interpretation of relevant provisions of the Internal Revenue Code.

(c) The term "honorarium" does not include—

(1) *An award.* An award is a gift of money or anything of value given—

(i) Primarily in recognition of religious, charitable, scientific, educational, artistic, literary, or civil achievement;

(ii) Based on a selection process with established criteria and which does not require the officer or employee to apply for or take any other action in the way of competition for the award;

(iii) Gratuitously under circumstances which do not require the recipient to make an appearance or speech, or write an article as a condition for receiving the award; and

(iv) Which is not made to serve in place of an honorarium or a contribution.

(2) *A gift.* A gift is a voluntary conveyance of real or personal property which is made gratuitously, and is not supported by consideration, and is not made to serve in place of an honorarium or a contribution.

(3) *A stipend.* A stipend is a payment for services on a continuing basis, including a salary or other compensation paid by news media for commentary on events other than the campaign of the individual compensated. A stipend cannot be paid by a political committee other than a candidate's principal campaign committee or other authorized committee to that candidate.

**PART 111—COMPLIANCE PROCEDURE**

- Sec. 111.1 Scope.
- 111.2 Complaint; filing.
- 111.3 Initial processing.
- 111.4 Notification.
- 111.5 Investigation.
- 111.6 Commission action.
- 111.7 Conciliation.
- 111.8 Disclosure of Commission action.
- 111.9 Civil proceedings.
- 111.10 Issuance of subpoenas and subpoenas duces tecum.
- 111.11 Depositions.
- 111.12 Service of subpoenas and notices of depositions.
- 111.13 Motions to quash.
- 111.14 Witness fees and mileage.
- 111.15 Ex parte communications.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a) (8)), and Sec. 315(a) (10), Pub. L. 92-225, 86 Stat. 16, amended by Secs. 208(a) and (c) (10), and 209(a) (1) and (b) (1), Pub. L. 93-443, 88 Stat. 1279, 1287, and Sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438 (a) (10)).

**SOURCE:** 41 FR 35953, Aug. 25, 1976, unless otherwise noted.

**§ 111.1 Scope.**

These regulations provide procedures for processing possible violations of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431, *et seq.*) and chapters 95 and 96 of the Internal Revenue Code of 1954 (26 U.S.C. 9001, *et seq.* and 9031 *et seq.*).

**§ 111.2 Complaint; filing.**

(a) Any person may file a complaint with the Commission setting forth grounds for believing that a person has violated the Act or chapter 96 of the Internal Revenue Code of 1954. A complaint shall be in writing and signed, and shall be sworn to and notarized.

(b) A complaint shall contain—

(1) The full name, address, and telephone number of the complainant;

(2) A clear and concise statement of the acts which are alleged to constitute a violation of the Act;

(3) Any documentation of allegations of the complaint available to the complainant; and

(4) An assertion that the person complaining, if not a candidate, is not filing the complaint on behalf of or at the request or suggestion of a candidate, unless such is the fact, in which case it shall be set forth.

**§ 111.3 Initial processing.**

The General Counsel shall review the complaint and all relevant material filed with the Commission and report to the Commission on the factual and legal bases for the possible violation. On the basis of the General Counsel's report and the relevant materials, the Commission shall determine by the agreement of at least four of its members whether it has "reason to believe" that the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 have been or will be violated and order any investigation it believes necessary.

**§ 111.4 Notification.**

Upon determination by agreement of at least four members of the Commission that it has reason to believe that a violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred or will occur, the General Counsel shall notify respondent of that determination, providing a copy of the complaint or summary of the matters brought into question and advising respondent that he or she should submit any factual or legal information which he or she believes demonstrates that no action should be taken against him or her. Such notification shall be confidential as required by 2 U.S.C. 437g(a) (3) (B).

**§ 111.5 Investigation.**

(a) In any case in which the Commission finds it has reason to believe that a violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred or will occur, it shall order an investigation into those matters about which it believes it needs further information.

(b) If a complaint is filed by a candidate, any investigation shall include an investigation of the reports and statements filed by the complaining candidate, pursuant to 2 U.S.C. 437g(a) (3).

**§ 111.6 Commission action.**

After review of the relevant materials obtained during the investigation, the Commission by agreement of at least four of its members shall determine whether there is reasonable cause to believe that respondent has committed or is about to commit a violation of the Act or of chapter 95 or 96 of the Internal Revenue Code of 1954. In the event that the Commission so determines, it shall inform the respondent of its decision and seek voluntary compliance by the respondent.

**§ 111.7 Conciliation.**

(a) Within a reasonable time after the Commission has determined that it has reasonable cause to believe that the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has been or will be violated, the General Counsel shall attempt to correct or prevent the violation by informal methods of conference, conciliation, and persuasion.

(b) If a tentative conciliation agreement is reached with respondent, the General Counsel shall submit it to the Commission for approval by agreement of at least four members.

(c) If, after attempting conciliation for the appropriate period of time (see 2 U.S.C. 437g(a)(5)(A)), the General Counsel concludes that no acceptable conciliation agreement can be reached, he or she shall prepare a report for the Commission which sets forth the reasons for the inability to obtain a conciliation agreement.

**§ 111.8 Disclosure of Commission action.**

(a) If the Commission has notified respondent of its decision that he or she has not violated the Act or chapter 95 or 96 of the Internal Revenue Code of 1954, it shall make available to the public its determination and the basis for it.

(b) After the Commission has concluded any conciliation attempts, it shall make available the results of any such attempts, including any conciliation agreement entered into.

**§ 111.9 Civil proceedings.**

The Commission, on the recommendation of the General Counsel, after attempts to correct or prevent any violation by informal methods of conference, conciliation, or persuasion have been unsuccessful, may determine by the agreement of at least four of its members that there is probable cause to believe that a violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred or will occur and may direct the General Counsel to commence civil proceedings and seek appropriate relief.

**§ 110.10 Issuance of subpoenas and subpoenas duces tecum.**

(a) The Chairman or the Vice Chairman shall issue subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other tangible evidence upon request by the General Counsel.

(b) Any party may request the General Counsel to subpoena particular persons or evidence, but such subpoenas shall not be obtainable as a matter of right.

**§ 111.11 Depositions.**

In any proceeding or investigation, the Commission, upon written notice, may order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths.

**§ 111.12 Service of subpoenas and notices of depositions.**

(a) Service of a subpoena or notice of deposition upon a person named therein shall be made by delivering a copy to that person in the manner described by paragraphs (b), (c), and (d). Fees for one day's attendance and mileage shall be tendered as specified in § 111.14.

(b) Whenever service is to be made upon a person who is represented in the pending proceeding by an attorney, the service may be made upon the attorney.

(c) Delivery of a copy of a subpoena or notice of deposition and tender of the fees to a natural person may be made by handing them to the person; or leaving them at his office with the person in charge thereof; or leaving them at his dwelling place or usual place of abode with some person of suitable age and discretion then residing therein; or mailing them by registered or certified mail to him at his last known address; or by any method whereby actual notice is given to him and the fees are made available prior to the return date.

(d) When the person to be served is not a natural person, delivery of a copy of the subpoena or notice of deposition and tender of the fees may be effected by handing them to a registered agent for service, or to any officer, director, or agent in charge of any office of such person; or by mailing them by registered or certified mail to such representative at his last known address; or by any method whereby actual notice is given to such representative and the fees are made available prior to the return date.

**§ 111.13 Motions to quash.**

(a) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 5 days after the date of service of such subpoena, apply to the Commission to quash or modify such sub-



poena, accompanying such application with a brief statement of the reasons therefor.

(b) The Commission upon the agreement of at least four of its members may deny the application, or, upon granting notice and an opportunity for reply to the person upon whose request the subpoena was issued, may—

- (1) Deny the application;
- (2) Quash the subpoena; or
- (3) Modify the subpoena.

**§ 111.14 Witness fees and mileage.**

(a) Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(b) Witness fees and mileage shall be paid by the party at whose instance the witnesses appear.

**§ 111.15 Ex parte communications.**

(a) In order to avoid the possibility of prejudice, real or apparent, to the public interest in enforcement actions pending before the Commission pursuant to 2 U.S.C. 437g(a) (1) or (2), except to the extent required for the disposition of ex parte matters as required by law (for example, during the normal course of an investigation or a conciliation effort), no interested person outside the agency shall make or cause to be made to any Commissioner or any member of the Commission's staff involved in handling enforcement actions any ex parte communication relative to the factual merits of any enforcement action, nor shall any Commissioner or member of the Commission's staff involved in the decisional process make or entertain any such ex parte communications.

(b) The prohibition of this regulation shall apply from the time a complaint is filed with the Commission pursuant to 2 U.S.C. 437g(a) (1) or from the time that the Commission determines on the basis of information ascertained in the normal course of its supervisory responsibilities that it has reason to believe that a violation has occurred or may occur pursuant to 2 U.S.C. 437g(a) (2), and remains in force until the Commission has finally concluded all action with respect to the enforcement matter in question.

**PART 112—ADVISORY OPINION PROCEDURE**

Sec.

- 112.1 Requests for advisory opinions.
- 112.2 Public availability of requests.
- 112.3 Written comment on requests.
- 112.4 Issuance of advisory opinions.
- 112.5 Reliance on advisory opinions.
- 112.6 Reconsideration of advisory opinions.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107 (a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a) (8)), and Sec. 315(a) (10), Pub. L. 92-225, 86 Stat. 16, amended by Secs. 208(a) and (c) (10), and 209(a) (1) and (b) (1), Pub. L. 93-443, 88 Stat. 1279, 1287, and Sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a) (10)).

**SOURCE:** 41 FR 35954, Aug. 25, 1976, unless otherwise noted.

**§ 112.1 Requests for advisory opinions.**

- (a) Any—
  - (1) Holder of Federal office;
  - (2) Candidate for Federal office;
  - (3) Political committee;
  - (4) National committee of a political party; or

(5) Authorized agent of any of the foregoing persons (if the agent discloses the identity of his or her principal)

may request in writing, an advisory opinion concerning application of a general rule of law (i) stated in the Federal Election Campaign Act of 1971, as amended, or chapter 95 or 96 of the Internal Revenue Code of 1954, or (ii) duly prescribed as a rule or regulation by the Commission, to a specific factual situation that involves the requesting person.

(b) Requests shall include all facts relevant to the specific factual situation with respect to which the request is made. Hypothetical questions will not be treated as advisory opinion requests.

(c) Advisory opinion requests may be sent to the Federal Election Commission, Office of General Counsel, Advisory Opinion Section, 1325 K Street, NW., Washington, D.C. 20463.

(d) Upon receipt by the Commission, each advisory opinion request (AOR) shall be assigned an AOR number for reference purposes.

**§ 112.2 Public availability of requests.**

(a) Advisory opinion requests submitted under § 112.1 shall promptly be made public at the Commission.

(b) A copy of the original request shall be available for public inspection and

purchase, except when it involves a compliance action (see Part 111), at the Federal Election Commission, Public Records Division, 1325 K Street, NW., Washington, D.C. 20463.

(c) Advisory opinion requests may be made public through other means, and publication in those cases shall be either in the form originally submitted or in an edited or paraphrased form as the Commission considers appropriate.

### § 112.3 Written comment on requests.

(a) Interested persons are invited to submit written comments concerning advisory opinion requests.

(b) Written comments may be submitted within 10 calendar days of the date the request is made public at the Commission. The Commission may in its discretion shorten or extend the comment period on a particular request where there is reasonable cause for doing so.

(c) Comments on advisory opinion requests should refer to the AOR number of the request, and statutory references should be to the United States Code citations, rather than to Public Law citations.

(d) Additional time in which to comment may be granted upon written request or in the discretion of the Commission.

(e) Written comments and requests for additional time to comment shall be sent to the Federal Election Commission, Office of General Counsel, Advisory Opinion Section, 1325 K Street, NW., Washington, D.C. 20463.

(f) Before it issues an advisory opinion the Commission shall consider all timely comments received.

### § 112.4 Issuance of advisory opinions.

(a) Within a reasonable time after receiving a written request properly made under § 112.1 the Commission shall issue a written advisory opinion.

(b) The Commission may issue advisory opinions pertaining only to the Federal Election Campaign Act of 1971, as amended, chapter 95 or 96 of the Internal Revenue Code of 1954, or rules or regulations duly prescribed under those statutes.

(c) No advisory opinion may state a general rule of law, other than one which is stated in the Federal Election Campaign Act of 1971, as amended, or chapter 95 or 96 of the Internal Revenue

Code of 1954, until that general rule is prescribed by the Commission as a rule or regulation pursuant to 2 U.S.C. 438 (c).

(d) No opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with the provisions of this § 112.4; however, this paragraph does not preclude distribution by the Commission of information consistent with the Act and chapter 95 or 96 of the Internal Revenue Code of 1954.

(e) When issued by the Commission each advisory opinion shall be made public and sent by mail, or personally delivered, to the person who requested the opinion.

### § 112.5 Reliance on advisory opinions.

(a) An advisory opinion rendered by the Commission under this Part 112 may be relied upon by:

(1) Any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered, and

(2) Any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(b) Notwithstanding any other provision of law, any person who relies upon any provision or finding of an advisory opinion in accordance with paragraph (a) of this § 112.5 and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by the Federal Election Campaign Act of 1971, as amended, or by chapter 95 or 96 of the Internal Revenue Code of 1954.

### § 112.6 Reconsideration of advisory opinions.

The Commission may reconsider advisory opinions upon written request by the party originally submitting the request and upon request of a Commissioner who voted with the majority that approved the opinion.

## PART 113—OFFICE ACCOUNTS: EXCESS CAMPAIGN FUNDS

Sec.

113.1 Definitions.

113.2 Use of funds.

113.3 Deposits of funds donated to a Federal or State officeholder.

Sec.

- 113.4 Reports of office accounts.
- 113.5 Contribution and expenditure limitations.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107 (a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a) (8)), and Sec. 315 (a) (10), Pub. L. 92-225, 86 Stat. 18, amended by Secs. 208(a) and (c) (10), and 209(a) (1) and (b) (1), Pub. L. 93-443, 88 Stat. 1279, 1287, and Sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a) (10)).

**SOURCE:** 41 FR 35955, Aug. 25, 1976, unless otherwise noted.

§ 113.1 Definitions.

When used in this Part—

(a) *Funds donated.* "Funds donated" means all funds, including, but not limited to, gifts, loans, advances, credits or deposits of money which are donated for the purpose of supporting the activities of a Federal or State officeholder; but does not mean funds appropriated by Congress, a State legislature, or another similar public appropriating body, or personal funds of the officeholder donated to an account containing only those personal funds.

(b) *Office account.* "Office account" means an account established for the purposes of supporting the activities of a Federal or State officeholder which contains excess campaign funds and funds donated, but does not include an account used exclusively for funds appropriated by Congress, a State legislature, or another similar public appropriating body, or an account of the officeholder which contains only the personal funds of the officeholder, or an account containing only appropriated funds and only personal funds of the officeholder.

(c) *Federal officeholder.* "Federal officeholder" means an individual elected to or serving in the office of President or Vice President of the United States; or a Senator or a Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

(d) *State officeholder.* "State officeholder" means an individual elected to or serving in any elected public office within a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any subdivision thereof.

(e) *Excess campaign funds.* "Excess campaign funds" means amounts received by a candidate as contributions which he or she determines are in excess

of any amount necessary to defray his or her campaign expenditures.

§ 113.2 Use of funds.

Excess campaign funds and funds donated—

(a) May be used to defray any ordinary and necessary expenses incurred in connection with the recipient's duties as a holder of Federal office, if applicable; or

(b) May be given to any organization described in section 170(c) of Title 26, of the U.S. Code; or

(c) May be used for any other lawful purpose, including contributions to a political party or to another candidate, in which case the contributions shall be considered personal contributions by the officeholder, subject to the limitations of Part 110.

§ 113.3 Deposits of funds donated to a Federal or State officeholder.

All funds donated to a Federal officeholder, or State officeholder who is a candidate for Federal office, shall be deposited into one of the following accounts:

(a) An account of the officeholder's principal campaign committee or other authorized committee pursuant to Part 103; or

(b) An office account.

§ 113.4 Reports of office accounts.

(a) All Federal officeholders having office accounts shall report on April 15 and October 15 of each year. The April 15 report shall disclose all receipts and disbursements from October 1 of the preceding year through March 30 of the year in which the report is filed. The October 15 report shall disclose all receipts and disbursements from April 1 through September 30 of the year the report is filed.

(b) A Federal officeholder shall file the reports required by § 113.4(a) with the Clerk of the House of Representatives in the case of a Representative in, or Delegate or Resident Commissioner to, the Congress of the United States, or with the Secretary of the Senate in the case of a United States Senator, or with the Commission in the case of the President or Vice President.

(c) When a State officeholder having an office account becomes a candidate for Federal office, pursuant to 2 U.S.C. 431(b), he or she shall file the reports provided for in paragraph (b) of this

section. The reports shall contain a report of all receipts and disbursements, including the same information required to be reported by a political committee regarding contributions and expenditures, see § 104.2, except that the identification, occupation, and principal place of business of donors of in excess of \$50 in cash shall be reported.

### § 113.5 Contribution and expenditure limitations.

(a) Any contributions to, or expenditures from, an office account which are made for the purpose of influencing a Federal election shall be subject to 2 U.S.C. 441a and Part 110 of these regulations.

(b) If any treasury funds of a corporation or labor organization are donated to an office account, no funds from that office account may be used in connection with a Federal election.

## PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

Sec.

- 114.1 Definitions.
- 114.2 Prohibitions on contributions and expenditures.
- 114.3 Partisan communications.
- 114.4 Nonpartisan communications.
- 114.5 Separate segregated funds.
- 114.6 Twice yearly solicitations.
- 114.7 Membership organizations, cooperatives, or corporations without capital stock.
- 114.8 Trade associations.
- 114.9 Use of corporate or labor organization facilities and means of transportation.
- 114.10 Extension of credit and settlement of corporate debts.
- 114.11 Employee participation plans.
- 114.12 Miscellaneous provisions.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107 (a) (1), Pub. L. 94-283, 90 Stat. 481; (2 U.S.C. 437d(a) (8)), and Sec. 315 (a) (10), Pub. L. 92-225, 86 Stat. 16, amended by Secs. 208(a) and (c) (10), and 209(a) (1) and (b) (1), Pub. L. 93-443, 88 Stat. 1279, 1287, and Sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438 (a) (10)).

**SOURCE:** 41 FR 35955, Aug. 25, 1976, unless otherwise noted.

### § 114.1 Definitions.

(a) For purposes of Part 114 and section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 797(h))—

(1) The term "contribution or expenditure" shall include any direct or indi-

rect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan by a National or State bank made in accordance with the applicable banking laws and regulations; and in the ordinary course of business) to any candidate, political party or committee, organization, or any other person in connection with any election to any of the offices referred to in § 114.2(a) or (b) as applicable.

(2) The term "contribution or expenditure" shall not include—

(i) Communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject;

(ii) Nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families or by a labor organization aimed at its members and their families;

(iii) The establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock;

(iv) An honorarium, including actual travel and subsistence, as defined in § 110.12;

(v) The sale of any food or beverage by a corporate vendor for use in a candidate's campaign at a charge less than the normal or comparable commercial charge, if the amount charged by the vendor is at least equal to the cost of food or beverage to the vendor, except that the cumulative value of discounts given by the vendor may not exceed \$500 per candidate, per election;

(vi) The payment for legal or accounting services rendered to or on behalf of the national committee of a political party other than services attributable to activities which directly further the election of a designated candidate or candidates for Federal office if the corporation or labor organization paying for the services is the regular employer of the individual rendering the services. This exclusion shall not be applicable if additional employees are hired for the purpose of rendering services or if additional employees are hired in order to make regular employees available;

(vii) The payment for legal or accounting services rendered to or on behalf

of a candidate or political committee solely for the purpose of ensuring compliance with this Act or chapter 95 or 96 of the Internal Revenue Code of 1954 if the corporation or labor organization paying for the services is the regular employer of the individual rendering the services, but amounts paid or incurred for these services shall be reported in accordance with Part 104. This exclusion shall not be applicable if additional employees are hired for the purpose of rendering services or if additional employees are hired in order to make regular employees available;

(viii) Activity with respect to a national nominating convention allowed under § 121.5;

(ix) A gift, subscription, loan, advance, or deposit of money or anything of value to a national committee of a political party or a State committee of a political party which is specifically designated for the purpose of defraying any cost incurred with respect to the construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office, except that any gift, subscription, loan, advance, or deposit of money or anything of value, and any such cost, shall be reported in accordance with Part 104; or

(x) Any activity which is specifically permitted by Part 114.

(b) "Establishment, administration, and solicitation costs" means the cost of office space, phones, salaries, utilities, supplies, legal and accounting fees, fundraising and other expenses incurred in setting up and running a separate segregated fund established by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock.

(c) "Executive or administrative personnel" means individuals employed by a corporation who are paid on a salary rather than hourly basis and who have policymaking, managerial, professional, or supervisory responsibilities.

(1) This definition includes—

(i) The individuals who run the corporation's business such as officers, other executives, and plant, division, and section managers; and

(ii) Individuals following the recognized professions, such as lawyers and engineers.

(2) This definition does *not* include—

(i) Professionals who are represented by a labor organization;

(ii) Salaried foremen and other salaried lower level supervisors having direct supervision over hourly employees;

(iii) Former or retired personnel who are not stockholders; or

(iv) Individuals who may be paid by the corporation, such as consultants, but who are not employees, within the meaning of 26 CFR 31.3401(c)-1 of the corporation for the purpose of income withholding tax on employee wages under Internal Revenue Code of 1954, 3402.

(3) Individuals on commission may be considered executive or administrative personnel if they have policymaking, managerial, professional, or supervisory responsibility and if the individuals are employees, within the meaning of 26 CFR 31.3401(c)-1 of the corporation for the purpose of income withholding tax on employee wages under the Internal Revenue Code of 1954, 3402.

(4) The Fair Labor Standards Act, 29 U.S.C. 201, et seq. and the regulations issued pursuant to that Act, 29 CFR 541, may serve as a guideline in determining whether individuals have policymaking, managerial, professional, or supervisory responsibilities.

(d) "Labor organization" means any organization of any kind, or any agency or employee representative committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(e) "Members" means all persons who are currently satisfying the requirements for membership in a membership organization, trade association, cooperative, or corporation without capital stock and in the case of a labor organization, persons who are currently satisfying the requirements for membership in a local, national, or international labor organization. Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated. A person is not considered a member under this definition if the only requirement for membership is a contribution to a separate segregated fund.

(f) "Method of facilitating the making of contributions" means the manner in which the contributions are received or collected such as, but not limited to, payroll deduction or checkoff systems, other

periodic payment plans, or return envelopes enclosed in a solicitation request.

(g) "Method of soliciting voluntary contributions" means the manner in which the solicitation is undertaken including, but not limited to, mailings, oral requests for contributions, and hand distribution of pamphlets.

(h) "Stockholder" means a person who has a vested beneficial interest in stock, has the power to direct how that stock shall be voted, if it is voting stock, and has the right to receive dividends.

(i) "Voluntary contributions" are contributions which have been obtained by the separate segregated fund of a corporation or labor organization in a manner which is in compliance with § 114.5(a) and which is in accordance with other provisions of the Act.

#### § 114.2 Prohibitions on contributions and expenditures.

(a) National banks, or corporations organized by authority of any law of Congress, are prohibited from making a contribution or expenditure, as defined in § 114.1(a), in connection with election to any political office, including local, State and Federal offices, or in connection with any primary election or political convention or caucus held to select candidates for any political office, including any local, State or Federal office.

(1) Such national banks and corporations may engage in the activities permitted by this Part, except to the extent that such activity is foreclosed by provisions of law other than the Act.

(2) The provisions of this Part apply to the activities of a national bank or corporation organized by any law of Congress in connection with both State and Federal elections.

(b) Any corporation whatever or any labor organization is prohibited from making a contribution or expenditure, as defined in § 114.1(a), in connection with any Federal election.

(c) A candidate, political committee, or other person is prohibited from knowingly accepting or receiving any contribution prohibited by this section.

(d) No officer or director of any corporation or any national bank, and no officer of any labor organization shall consent to any contribution or expenditure by the corporation, national bank, or labor organization prohibited by this section.

#### § 114.3 Partisan communications.

(a) A corporation may make partisan communications in connection with a Federal election to its stockholders and executive or administrative personnel and their families. A labor organization may make partisan communications in connection with a Federal election to its members and their families.

(b) Expenditures for partisan communications which expressly advocate the election or defeat of a clearly identified candidate must be reported in accord with § 100.7(b)(5).

(c) The manner in which partisan communications may be made includes, but is not limited to—

(1) The distribution of printed material of a partisan nature by a corporation to its stockholders and executive or administrative personnel and their families, or by a labor organization to its members and their families. Provided:

(i) That the material is produced at the expense of the corporation or labor organization or the separate segregated fund of either; and

(ii) That the material constitutes a communication of the views of the corporation or the labor organization, and is not simply the republication or reproduction in whole or in any part, of any broadcast transcript or tape or any written, graphic, or other form of campaign materials prepared by the candidate, his or her campaign committees, or their authorized agents.

(2) Allowing a candidate or party representative to address the stockholders and executive or administrative personnel of the corporation and their families at a meeting, convention, or other regularly scheduled function of the corporation which is primarily held for other purposes or allowing a candidate or party representative to address the members of a labor organization and their families at a meeting, convention, or other regularly scheduled function of the labor organization which is primarily held for other purposes. The candidate or party representative may ask for contributions to his or her campaign or party at the time of the appearance, ask that contributions be sent to his or her campaign or party, or ask that contributions to the separate segregated fund of the corporation or labor organization be designated for his or her campaign or party.

(3) The establishment and operation of phone banks by a corporation to communicate with its stockholders and executive or administrative personnel and their families urging them to register and/or vote for a particular candidate or candidates, and the establishment and operation of phone banks by a labor organization to communicate with its members and their families urging them to register and/or vote for a particular candidate or candidates.

(4) Registration and get-out-the-vote drives, as by providing transportation to the polls, by a corporation aimed at its stockholders and executive or administrative personnel and their families or by a labor organization aimed at its members and their families. Such drives may be partisan in that individuals may be urged to register with a particular party or to vote for a particular candidate or candidates, but assistance in registering or voting may not be withheld or refused on a partisan basis, and if transportation or other services are offered in connection with a registration or get-out-the-vote drive, such transportation or services may not be withheld or refused on a partisan basis.

#### § 114.4 Nonpartisan communications.

(a) *Communications by a corporation to its stockholders and executive or administrative personnel and by a labor organization to its members.* (1) A corporation may make nonpartisan communications on any subjects to its stockholders and executive or administrative personnel. A labor organization may make nonpartisan communications to its members on any subject.

(2) A corporation may engage in nonpartisan registration and get-out-the-vote activity aimed at its stockholders and executive or administrative personnel and their families. A labor organization may engage in nonpartisan registration and get-out-the-vote activity aimed at its members and their families.

(b) *Candidate and party appearances.*—(1) *Corporations.* Under the following circumstances, corporations may permit candidates (or their representatives) or representatives of political parties on corporate premises to address or meet employees in addition to stockholders and executive or administrative personnel:

(i) If a candidate for the House or Senate is permitted on the premises to address or meet employees, all candidates

for that seat who request to appear must be given the same opportunity to appear;

(ii) If a Presidential candidate is permitted on the premises, all candidates for that office who request to appear must be given the same opportunity to appear;

(iii) If representatives of political parties are permitted on the premises, representatives of all political parties which had a candidate or candidates on the ballot in the last general election or which anticipate having or will have a candidate or candidates on the ballot in the next general election which request to appear must be given the same opportunity to appear.

(iv) A corporation, its stockholders, executive or administrative personnel, or other employees of the corporation or its separate segregated fund shall make no effort, either oral or written, to solicit or direct or control contributions by members of the audience or group to any candidate or party in conjunction with any appearance by any candidate or party representative under this section; and

(v) A corporation, its stockholders, executive or administrative personnel or other employees of the corporation or its separate segregated fund shall not, in conjunction with any candidate or party representative appearances under this section, endorse or otherwise support one particular candidate or group of candidates or one particular political party over another political party.

(2) *Labor organizations.* A labor organization may permit candidates (or their representatives) or representatives of political parties on the organization's premises to address employees of the labor organization in addition to members of the labor organization if the conditions in paragraph (b) (1)(i) through (iii) of this section are met.

(i) An official, member, or employee of a labor organization or its separate segregated fund shall not make any effort, either oral or written, to solicit or direct or control contributions by members of the audience to any candidate or party representative under this section.

(ii) An official, member, or employee of a labor organization or its separate segregated fund shall not, in conjunction with any candidate's or party representative's appearance under this section, endorse or otherwise support one particular candidate or group of candidates over another candidate or group of candidates or one particular political party over another political party.

(c) *Nonpartisan registration and voting information.* (1) A corporation or labor organization may, by posters or in newsletters or other communications, urge the employees of the corporation or of the labor organization to register or to vote or to otherwise participate in the political process if—

(i) The communication mentions no political affiliation (except as permitted by (ii)) and is restricted to urging acts such as contributing, voting, and/or registering and, describing the hours and places of registration and voting; and

(ii) Information about particular candidates or political parties is not included in the communication, except that the corporation or labor organization may reprint the entire list of names and political affiliations of candidates on the official ballot.

(2) A corporation or labor organization may distribute or reprint (in whole) any registration or voting information, such as instructional materials, which have been produced by the official election administrators for distribution to the general public. A corporation or labor organization may distribute official registration-by-mail forms to the general public if permitted by the applicable State law. The registration forms must be distributed in a nonpartisan manner, and the corporation or labor organization may not, in connection with the distribution, endorse, support, or otherwise promote registration with a particular party.

(3) A corporation or labor organization may distribute voter guides or other types of brochures describing the candidates and their positions if—

(i) The materials do not favor one candidate or political party over another; and

(ii) The materials are obtained from a civic or other nonprofit organization which does not endorse or support or is not affiliated with any candidate or political party.

(d) *Nonpartisan registration and get-out-the-vote drives.* (1) A corporation may support nonpartisan registration and get-out-the-vote drives, as by transporting people to the polls, which are not restricted to its stockholders and executive or administrative personnel and their families, and a labor organization may support such drives which are not restricted to its members and their families if:

(i) The corporation or labor organization jointly sponsors the drives with a civic or other nonprofit organization which does not support or endorse candidates or political parties and if the activities are conducted by the other organization; and

(ii) These services are made available without regard to the voter's political preference.

(2) A corporation or labor organization may donate funds to be used for nonpartisan registration and get-out-the-vote drives to civic and other nonprofit organizations which do not endorse candidates or political parties.

(3) The civic or nonprofit organization, in conducting the nonpartisan registration and get-out-the-vote activities, may utilize the employees and facilities of a corporation or the employees or members and facilities of a labor organization.

[41 FR 35955, Aug. 25, 1976, as amended at 42 FR 19324, Apr. 13, 1977]

#### § 114.5 Separate segregated funds.

(a) *Voluntary contributions to a separate segregated fund.* (1) A separate segregated fund is prohibited from making a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment or by monies obtained in any commercial transaction. For purposes of this section, fees or monies paid as a condition of acquiring or retaining membership or employment are monies required as a condition of membership or employment even though they are refundable upon request of the payor.

(2) A guideline for contributions may be suggested by a corporation or a labor organization, or the separate segregated fund of either, provided that the person soliciting or the solicitation informs the persons being solicited—

(i) That the guidelines are merely suggestions; and

(ii) That an individual is free to contribute more or less than the guidelines suggest and the corporation or labor organization will not favor or disadvantage anyone by reason of the amount of their contribution or their decision not to contribute.



A corporation or labor organization or the separate segregated fund of either may not enforce any guideline for contributions.

(3) Any person soliciting an employee or member for a contribution to a separate segregated fund must inform such employee or member of the political purposes of the fund at the time of the solicitation.

(4) Any persons soliciting an employee or member for a contribution to a separate segregated fund must inform the employee or member at the time of such solicitation of his or her right to refuse to so contribute without any reprisal.

(5) Any written solicitation for a contribution to a separate segregated fund which is addressed to an employee or member must contain statements which comply with the requirements of paragraphs (a) (3) and (4) of this section, and if a guideline is suggested, statements which comply with the requirements of paragraph (a) (2) of this section.

(b) *Use of treasury monies.* Corporations, labor organizations, membership organizations, cooperatives, or corporations without capital stock may use general treasury monies, including monies obtained in commercial transactions and dues monies or membership fees, for the establishment, administration, and solicitation of contributions to its separate segregated fund. A corporation, labor organization, membership organization, cooperative, or corporation without capital stock may not use the establishment, administration, and solicitation process as a means of exchanging treasury monies for voluntary contributions.

(1) A contributor may not be paid for his or her contribution through a bonus, expense account, or other form of direct or indirect compensation.

(2) A corporation, labor organization, membership organization, cooperative, or corporation without capital stock may, subject to the provisions of 39 U.S.C. 3005 and Chapter 61, Title 18, United States Code, utilize a raffle or other fund-raising device which involves a prize, so long as State law permits and the prize is not disproportionately valuable. Dances, parties, and other types of entertainment may also be used as fund-raising devices. When using raffles or entertainment to raise funds, a reasonable practice to follow is for the separate segregated fund to reimburse the corporation or labor organization for costs

which exceed one-third of the money contributed.

(c) *Membership in separate segregated funds.* (1) A separate segregated fund established by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock may provide that persons who contribute a certain amount to its separate segregated fund will become "members" of its separate segregated fund, so long as—

(i) The fund accepts contributions of all amounts, subject to the limitations of Part 110;

(ii) Subject to subsection (iii), nothing of value may be given in return for or in the course of membership;

(iii) The fund may use membership status for intangible privileges such as allowing members only to choose the candidates to whom the fund will contribute.

(2) The fact that the separate segregated fund of a corporation, labor organization, membership organization, cooperative, or corporation without capital stock is a "membership group" does not provide the corporation, labor organization, membership organization, cooperative, or corporation without capital stock with any greater right of communication or solicitation than the corporation, labor organization, membership organization, cooperative, or corporation without capital stock is otherwise granted under this Part.

(d) *Control of funds.* A corporation, membership organization, cooperative, corporation without capital stock, or labor organization may exercise control over its separate segregated fund.

(e) *Disclosure.* Separate segregated funds are subject to the following disclosure requirements:

(1) A corporation or labor organization is not required to report any payment made or obligation incurred which is not a contribution or expenditure, as defined in § 114.1(a), except those reporting requirements specifically set forth in this section.

(2) A membership organization or corporation is not required to report the cost of any communication to its members or stockholders or executive or administrative personnel, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any person to Federal office, except that—

(i) The costs incurred by a membership organization, including a labor organization, or by a corporation, directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate) shall, if those costs exceed \$2,000 per election, be reported in accordance with § 100.7(b)(5); and

(ii) The amounts paid or incurred for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 paid by a corporation or labor organization which is the regular employer of the individual rendering such services, shall be reported in accordance with the provisions of Part 104.

(3) A separate segregated fund is subject to all other disclosure requirements of political committees as set forth in Part 104.

(f) *Contribution limits.* Separate segregated funds are subject to the contribution limitations for political committees set forth in Part 110. (See particularly § 110.3).

(g) *Solicitations.* Except as specifically provided in §§ 114.6, 114.7, and 114.8, a corporation and/or its separate segregated fund or a labor organization and/or its separate segregated fund is subject to the following limitations on solicitations:

(1) A corporation, or a separate segregated fund established by a corporation is prohibited from soliciting contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families. A corporation may solicit the executive or administrative personnel of its subsidiaries, branches, divisions, and affiliates and their families.

(2) A labor organization, or a separate segregated fund established by a labor organization is prohibited from soliciting contributions to such a fund from any person other than its members and their families.

(h) *Accidental or inadvertent solicitation.* Accidental or inadvertent solicitation by a corporation or labor organization, or the separate segregated fund of either, of persons apart from and be-

yond those whom it is permitted to solicit will not be deemed a violation, provided that such corporation or labor organization or separate segregated fund has used its best efforts to comply with the limitations regarding the persons it may solicit and that the method of solicitation is corrected forthwith after the discovery of such erroneous solicitation.

(i) *Communications paid for with voluntary contributions.* A separate segregated fund may, using voluntary contributions, communicate with the general public, except that such communications may not solicit contributions to a separate segregated fund established by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock, unless such solicitation is permitted under paragraph (g) of this section.

(j) *Acceptance of contributions.* A separate segregated fund may accept contributions from persons otherwise permitted by law to make contributions.

(k) *Availability of methods.* Any corporation, including its subsidiaries, branches, divisions, and affiliates, that uses a method of soliciting voluntary contributions or facilitating the making of voluntary contributions from its stockholders or executive or administrative personnel and their families, shall make that method available to a labor organization representing any members working for the corporation, its subsidiaries, branches, divisions, and affiliates for soliciting voluntary contributions or facilitating the making of voluntary contributions from its members and their families. Such method shall be made available on the written request of the labor organization and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby. For example—

(1) If a corporation, including its subsidiaries, branches, divisions, or affiliates utilizes a payroll deduction plan, check-off system, or other plan which deducts contributions from the dividend or payroll checks of stockholders or executive or administrative personnel, the corporation shall, upon written request of the labor organization, make that method available to members of the labor organization working for the corporation, its subsidiaries, branches, divisions, or affiliates, who wish to contribute to the separate segregated fund of the labor organization representing any members

working for the corporation, or any of its subsidiaries, branches, divisions, or affiliates. The corporation shall make the payroll deduction plan available to the labor organization at a cost sufficient only to reimburse the corporation for the actual expenses incurred thereby.

(2) If a corporation uses a computer for addressing envelopes or labels for a solicitation to its stockholders or executive or administrative personnel, the corporation shall, upon written request, program the computer to enable the labor organization to solicit its members. The corporation shall charge the labor organization a cost sufficient only to reimburse the corporation for the actual expenses incurred in programming the computers and the allocated cost of employee time relating to the work, and the materials used.

(3) If a corporation uses corporate facilities, such as a company dining room or cafeteria, for meetings of stockholders or executive or administrative personnel at which solicitations are made, the corporation shall upon written request of the labor organization allow that labor organization to use existing corporate facilities for meetings to solicit its members. The labor organization shall be required to reimburse the corporation for any actual expenses incurred thereby, such as any increase in the overhead to the corporation and any cost involved in setting up the facilities.

(4) If a corporation uses no method to solicit voluntary contributions or to facilitate the making of voluntary contributions from stockholders or executive or administrative personnel, it is not required by law to make any method available to the labor organization for its members. The corporation and the labor organization may agree upon making any lawful method available even though such agreement is not required by the Act.

(5) The availability of methods of twice yearly solicitations is subject to the provisions of § 114.6(e).

(1) *Methods permitted by law to labor organizations.* Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members.

#### § 114.6 Twice yearly solicitations.

(a) A corporation and/or its separate segregated fund may make a total of two written solicitations for contributions to its separate segregated fund per calendar year of its employees other than stockholders, executive or administrative personnel, and their families. Employees as used in this section does not include former or retired employees who are not stockholders. Nothing in this paragraph shall limit the number of solicitations a corporation may make of its stockholders and executive or administrative personnel under § 114.5(g).

(b) A labor organization and/or its separate segregated fund may make a total of two written solicitations per calendar year of employees who are not members of the labor organization, executive or administrative personnel, or stockholders (and their families) of a corporation in which the labor organization represents members working for the corporation. Nothing in this paragraph shall limit the number of solicitations a labor organization may make of its members under § 114.5(g).

(c) Written solicitation. A solicitation under this section may be made only by mail addressed to stockholders, executive or administrative personnel, or employees at their residences. All written solicitations must inform the recipient—

(1) Of the existence of the custodial arrangement described hereinafter;

(2) That the corporation, labor organization, or the separate segregated fund of either cannot be informed of persons who do not make contributions; and

(3) That persons who, in a calendar year, make a single contribution of \$50 or less or multiple contributions aggregating \$100 or less may maintain their anonymity by returning their contributions to the custodian.

(d) The custodial arrangement. In order to maintain the anonymity of persons who do not wish to contribute and of persons who wish to respond with a single contribution of \$50 or less or multiple contributions aggregating \$100 or less in a calendar year, and to satisfy the recordkeeping provisions, the corporation, labor organization, or separate segregated fund of either shall establish a custodial arrangement for collecting the contributions under this section.

(1) The custodian for a separate segregated fund established by a corporation shall not be a stockholder, officer,

executive or administrative personnel, or employee of the corporation, or an officer or employee of its separate segregated fund. The custodian for a separate segregated fund established by a labor organization shall not be a member, officer or employee of the labor organization or its separate segregated fund.

(2) The custodian shall keep the records of contributions received in accordance with the requirements of Part 102 and shall also—

(i) Establish a separate account and deposit contributions in accordance with the provisions of Part 103;

(ii) Provide the fund with the identification of any person who makes a single contribution of more than \$50 and the identification, occupation, and principal place of business of any person who makes multiple contributions aggregating more than \$100. The custodian must provide this information within a reasonable time prior to the reporting date of the fund under Part 104;

(iii) Periodically forward all funds in the separate account, by check drawn on that account, to the separate segregated fund; and

(iv) Treat all funds which appear to be illegal in accordance with the provisions of § 103.3(b).

(3) The custodian shall not—

(i) Make the records of persons making a single contribution of \$50 or less or multiple contributions aggregating \$100 or less, in a calendar year, available to any person other than representatives of the Federal Election Commission, the Clerk of the House or the Secretary of the Senate, as appropriate, and law enforcement officials or judicial bodies.

(ii) Provide the corporation or the labor organization or the separate segregated fund of either with any information pertaining to persons who, in a calendar year, make a single contribution of \$50 or less or multiple contributions aggregating \$100 or less, except that the custodian may forward to the corporation, labor organization, or separate segregated fund of either the total number of contributions received, or

(iii) Provide the corporation, labor organization, or the separate segregated fund of either with any information pertaining to persons who have not contributed.

(4) The corporation, labor organization, or the separate segregated fund of either shall provide the custodian with a

list of all contributions, indicating the contributor's identification and amount contributed, which have been made directly to the separate segregated fund by any person within the group of persons solicited under this section.

(5) Notwithstanding the prohibitions of paragraph (d)(1), the custodian may be employed by the separate segregated fund as its treasurer and may handle all of its contributions, provided that the custodian preserves the anonymity of the contributors as required by this section. The custodian shall file the required reports with the Federal Election Commission, the Clerk of the House, or the Secretary of the Senate, as appropriate. A custodian who serves as treasurer is subject to all of the duties, responsibilities, and liabilities of a treasurer under the Act, and may not participate in the decision making process whereby the separate segregated fund makes contributions and expenditures.

(e) Availability of methods. (1) A corporation or labor organization or the separate segregated fund of either may not use a payroll deduction plan, a check-off system, or other plan which deducts contributions from an employee's paycheck as a method of facilitating the making of contributions under this section.

(2) The twice yearly solicitation may only be used by a corporation or labor organization to solicit contributions to its separate segregated fund and may not be used for any other purpose.

(3) A corporation is required to make available to a labor organization representing any members working for the corporation or its subsidiaries, branches, divisions, or affiliates the method which the corporation uses to solicit employees under this section during any calendar year.

(i) If the corporation uses a method to solicit any employees under this section, the corporation is required to make that method available to the labor organization to solicit the employees of the corporation who are not represented by that labor organization, and the executive or administrative personnel and the stockholders of the corporation and their families.

(ii) If the corporation does not wish to disclose the names and addresses of stockholders or employees, the corporation shall make the names and addresses of stockholders and employees available to an independent mailing service which

shall be retained to make the mailing for *both* the corporation and the labor organization for any mailings under this section.

(iii) If the corporation makes no solicitation of employees under this section during the calendar year, the corporation is not required to make any method or any names and addresses available to any labor organization.

(4) The corporation shall notify the labor organization of its intention to make a solicitation under this section during a calendar year and of the method it will use, within a reasonable time prior to the solicitation, in order to allow the labor organization opportunity to make a similar solicitation.

(5) If there are several labor organizations representing members employed at a single corporation, its subsidiaries, branches, divisions, or affiliates, the labor organizations, either singularly or jointly, may not make a combined total of more than two written solicitations per calendar year. A written solicitation may contain a request for contributions to each separate fund established by the various labor organizations making the combined mailing.

#### § 114.7 Membership organizations, cooperatives, or corporations without capital stock.

(a) Membership organizations, cooperatives, or corporations without capital stock, or separate segregated funds established by such persons may solicit contributions to the fund from members of the organization, cooperative, or corporation without capital stock.

(b) Nothing in this section waives the prohibition on contributions to the separate segregated fund by corporations, national banks, or labor organizations which are members of a membership organization, cooperative, or corporation without capital stock.

(c) A trade association whose membership is made up in whole or in part of corporations is subject to the provisions of § 114.8 when soliciting any stockholders or executive or administrative personnel of member corporations. A trade association which is a membership organization may solicit its noncorporate members under the provisions of this section.

(d) The question of whether a professional organization is a corporation is determined by the law of the State in

which the professional organization exists.

(e) There is no limitation upon the number of times an organization under this section may solicit its members.

(f) There is no limitation under this section on the method of solicitation or the method of facilitating the making of voluntary contributions which may be used.

(g) A membership organization, cooperative, or corporation without capital stock and the separate segregated funds of the organizations are subject to the provisions in § 114.5(a).

(h) A membership organization, cooperative, or corporation without capital stock may communicate with its members under the provisions of § 114.3.

(i) A mutual life insurance company may solicit its policyholders if the policyholders are members within the organizational structure.

(j) A membership organization, including a trade association, cooperative, or corporation without capital stock or a separate segregated fund established by such organization may not solicit contributions from the separate segregated funds established by its members. The separate segregated fund established by a membership organization, including a trade association, cooperative, or corporation without capital stock may, however, accept unsolicited contributions from the separate segregated funds established by its members.

#### § 114.8 Trade associations.

(a) *Definition.* A trade association is generally a membership organization of persons engaging in a similar or related line of commerce, organized to promote and improve business conditions in that line of commerce and not to engage in a regular business of a kind ordinarily carried on for profit, and no part of the net earnings of which inures to the benefit of any member.

(b) *Prohibition.* Nothing in this section waives the prohibition on contributions by corporations which are members of a trade association.

(c) *Limitations.* A trade association or a separate segregated fund established by a trade association may solicit contributions from the stockholders and executive or administrative personnel of the member corporations of such trade association and the families of such stockholders and personnel if—

(1) The member corporation involved has separately and specifically approved the solicitations; and

(2) The member corporation has not approved a solicitation by any other trade association during the calendar year.

(d) *Separate and specific approval.*

(1) The member corporation must knowingly and specifically approve any solicitation for a trade association, whether the solicitation is done by the trade association, its separate segregated fund, or the corporation or any of its personnel, for contributions to the trade association's separate segregated fund.

(2) A copy of each approved request received by a trade association or its separate segregated fund shall be maintained by the trade association or its fund for three years from the date the approval is given.

(3) The request for approval may contain a copy of solicitation materials which will be used if approval is granted. Such a mailing must specifically indicate the requirement of approval and the limitation of (c) (2), and approval must be granted to the trade association or its separate segregated fund prior to the time any solicitation is made of the stockholders or executive or administrative personnel by the trade association, its separate segregated fund, or by the corporation for contributions to the separate segregated fund of the trade association. (The request for approval may be sent to the representatives of the corporation with whom the trade association normally conducts the association's activities.)

(4) A separate authorization specifically allowing a trade association to solicit its corporate member's stockholders and executive or administrative personnel applies through the calendar year in which it is obtained. A separate authorization must be obtained each year.

(5) In its request to a member corporation, a trade association may indicate that it intends to solicit, for example, a limited class of the executive or administrative personnel of the member corporation; or only the executive or administrative personnel but not the stockholders of the member corporation. Moreover, in its approval, a member corporation may similarly limit any solicitation by the trade association or its separate segregated fund. In any event, a member corporation, once it has approved any solicitation—even to a limited

extent—of its personnel or stockholders by a trade association or its separate segregated fund, is precluded from approving any such solicitation by another trade association or its separate segregated fund and the corporation and its personnel are precluded from soliciting the corporation's executive or administrative personnel or stockholders on behalf of another trade association or its separate segregated fund.

(e) *Solicitation.* (1) After a trade association has obtained the approval required in paragraph (c), there is no limit on the number of times the trade association or its separate segregated fund may solicit the persons approved by the member corporation during the calendar year to which the approval applies. The member corporation may, however, in its approval limit the number of times solicitations may be made.

(2) A member corporation which grants permission to a trade association to solicit is in no way restricted in its rights under § 114.5(g) to solicit its stockholders or executive or administrative personnel and their families for contributions to the corporation's own separate segregated fund.

(3) There is no limitation on the method of soliciting voluntary contributions or the method of facilitating the making of voluntary contributions which a trade association may use. The member corporation may not use a payroll deduction or checkoff system for executive or administrative personnel contributing to the separate segregated fund of the trade association.

(4) A trade association and/or its separate segregated fund is subject to the provisions of § 114.5(a).

(f) *Solicitation of a subsidiary corporation.* If a parent corporation is a member of the trade association, but its subsidiary is not, the trade association or its separate segregated fund may only solicit the parent's executive or administrative personnel and shareholders and their families; and no personnel of the subsidiary may be solicited. If a subsidiary is a member, but the parent is not, the trade association or its separate segregated fund may solicit the subsidiary's personnel and their families; it may not solicit the parent's shareholders. If both parent and subsidiary are members, executive and administrative personnel and stockholders of each and their families may be solicited.

(g) *Federations of trade associations.* (1) A federation of trade associations is an organization representing trade associations involved in the same or allied line of commerce. Such a federation may, subject to the following limitations, solicit the members of the federation's regional, State, or local affiliates or members, provided that all of the political committees established, financed, maintained, or controlled by the federation and its regional, State, or local affiliates or members are considered one political committee for the purposes of the limitations in §§ 110.1 and 110.2.

(i) The federation and its member associations may engage in a joint solicitation; or

(ii) The member association may delegate its solicitation rights to the federation.

(2) A federation is subject to the provisions of this section when soliciting the stockholders and executive or administrative personnel of the corporate members of its member associations.

(h) *Communications other than solicitations.* A trade association may make communications, other than solicitations, to its members under the provisions of § 114.3. When making communications to a member which is a corporation, the trade association may communicate with the representatives of the corporation with whom the trade association normally conducts the association's activities.

(i) *Trade association employees.* (1) A trade association may communicate with its executive or administrative personnel under the provisions of § 114.3; a trade association may communicate with its other employees under the provisions of § 114.4.

(2) A trade association may solicit its executive or administrative personnel under the provisions of § 114.5(g); a trade association may solicit its other employees under the provisions of § 114.6.

**§ 114.9 Use of corporate or labor organization facilities and means of transportation.**

(a) *Use of corporate facilities for individual volunteer activity by stockholders and employees.* (1) Stockholders and employees of the corporation may, subject to the rules and practices of the corporation, make occasional, isolated, or incidental use of the facilities of a corporation for individual volunteer activity

in connection with a Federal election and will be required to reimburse the corporation only to the extent that the overhead or operating costs of the corporation are increased. As used in this paragraph, "occasional, isolated, or incidental use" generally means—

(i) When used by employees during working hours, an amount of activity during any particular work period which does not prevent the employee from completing the normal amount of work which that employee usually carries out during such work period; or

(ii) When used by stockholders other than employees during the working period, such use does not interfere with the corporation in carrying out its normal activities; but

(iii) Any such activity which does not exceed one hour per week or four hours per month, regardless of whether the activity is undertaken during or after normal working hours, shall be considered as occasional, isolated, or incidental use of the corporate facilities.

(2) A stockholder or employee who makes more than occasional, isolated, or incidental use of a corporation's facilities for individual volunteer activities in connection with a Federal election is required to reimburse the corporation within a commercially reasonable time for the normal and usual rental charge, as defined in § 100.4(a)(1)(iii)(B), for the use of such facilities.

(b) *Use of labor organization facilities for individual volunteer activity by officials, members and employees.* (1) The officials, members, and employees of a labor organization may, subject to the rules and practices of the labor organization, make occasional, isolated, or incidental use of the facilities of a labor organization for individual volunteer activity in connection with a Federal election and will be required to reimburse the labor organization only to the extent that the overhead or operating costs of the labor organization are increased. As used in this paragraph, "occasional, isolated, or incidental use" generally means—

(i) When used by employees during working hours, an amount of activity during any particular work period which does not prevent the employee from completing the normal amount of work which that employee usually carries out during such work period; or

(ii) When used by members other than employees during the working period,

such use does not interfere with the labor organization in carrying out its normal activities; but

(iii) Any such activity which does not exceed one hour per week or four hours per month; regardless of whether the activity is undertaken during or after normal working hours, shall be considered as occasional, isolated, or incidental use of the labor organization facilities.

(2) The officials, members, and employees who make more than occasional, isolated, or incidental use of a labor organization's facilities for individual volunteer activities in connection with a Federal election are required to reimburse the labor organization within a commercially reasonable time for the normal and usual rental charge, as defined in § 100.4(a) (1) (iii) (B), for the use of such facilities.

(c) *Use of corporate or labor organization facilities to produce materials.* Any person who uses the facilities of a corporation or labor organization to produce materials in connection with a Federal election is required to reimburse the corporation or labor organization within a commercially reasonable time for the normal and usual charge for producing such materials in the commercial market.

(d) *Use or rental of corporate or labor organization facilities by other persons.* Persons, other than those specifically mentioned in paragraphs (a) and (b), who make any use of corporate or labor organization facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a Federal election are required to reimburse the corporation or labor organization within a commercially reasonable time in the amount of the normal and usual rental charge, as defined in § 100.4(a) (1) (iii) (B), for the use of the facilities.

(e) *Use of airplanes and other means of transportation.* (1) A candidate, candidate's agent, or person traveling on behalf of a candidate who uses an airplane which is owned or leased by a corporation or labor organization other than a corporation or labor organization licensed to offer commercial services for travel in connection with a Federal election must, in advance, reimburse the corporation or labor organization—

(i) In the case of travel to a city served by regularly scheduled commercial service, the first class air fare;

(ii) In the case of travel to a city not served by a regularly scheduled commercial service, the usual charter rate.

(2) A candidate, candidate's agent, or person traveling on behalf of a candidate who uses other means of transportation owned or leased by a corporation or labor organization must reimburse, within a commercially reasonable time, the corporation or labor organization at the normal and usual rental charge.

#### § 114.10 Extension of credit and settlement of corporate debts.

(a) A corporation may extend credit to a candidate, political committee, or other person in connection with a Federal election provided that the credit is extended in the ordinary course of the corporation's business and the terms are substantially similar to extensions of credit to nonpolitical debtors which are of similar risk and size of obligation. Nothing in this section modifies regulations prescribed by the Civil Aeronautics Board, the Federal Communications Commission or the Interstate Commerce Commission issued pursuant to 2 U.S.C. 451 or any other regulations prescribed by other Federal agencies with regard to credit extended by the regulated corporations.

(b) Except as specifically provided in paragraph (c), a corporation may not forgive prior debts or settle debts which have been incurred by a candidate or political committee or other person for use in connection with a Federal election for less than the amount owed on the debt.

(c) A corporation may settle or forgive a debt if the creditor has treated the outstanding debt in a commercially reasonable manner. A settlement will be considered commercially reasonable if—

(1) The initial extension of credit was made in accordance with regulations issued pursuant to 2 U.S.C. 451 or paragraph (a).

(2) The candidate or political committee or person has undertaken all commercially reasonable efforts to satisfy the outstanding debt; and

(3) The corporate creditor has pursued its remedies in a manner similar in intensity to that employed by the corporation in pursuit of a non-political debtor, including lawsuits if filed in similar circumstances.

The corporation and/or the debtor must file a statement of statement with



the Commission including the initial terms of credit, the steps the debtor has taken to satisfy the debt, and remedies pursued by the creditor. This statement must be filed prior to the termination of the reporting status of the debtor and the settlement is subject to Commission review.

#### § 114.11 Employee participation plans.

(a) A corporation may establish and administer an employee participation plan (i.e. a "trustee plan") which is a political giving program in which a corporation pays the cost of establishing and administering separate bank accounts for any employee who wishes to participate. The cost of administering and establishing includes the payment of costs for a payroll deduction or check-off plan and the cost of maintaining the separate bank accounts.

(1) The employees must exercise complete control and discretion over the disbursement of the monies in their accounts.

(2) The trustee, bank, or other administrator shall not provide the corporation or its separate segregated fund any report of the source or recipient of any contribution(s) or donation(s) into or out of any account or of the amount any employee has in an account.

(3) The trustee, bank, or other administrator may provide the corporation or its separate segregated fund with a periodic report limited to information about the total number of employees in the program, the total number of funds in all the accounts combined, and the total amount of contributions made to all candidates and committees combined.

(4) No stockholder, director, or employee of the corporation or its separate segregated fund may exert pressure of any kind to induce participation in the program.

(5) No stockholder, director, or employee of the corporation or its separate segregated fund may exercise any direction or control, either oral or written, over contributions by participants in the program to any candidate, group of candidates, political party, or other person.

(b) An employee participation plan must be made available to all employees including members of a labor organization who are employees of the corporation. Communications about participation in the plan may be conducted by either the corporation or the labor organization or both.

(c) A labor organization may establish and administer an employee participation plan subject to the above provisions, except that the cost shall be borne by the labor organization.

(d) The method used to transmit employee or member contributions to the candidate or political committee may not in any manner identify the corporation or labor organization which established the employee participation plan.

#### § 114.12 Miscellaneous provisions.

(a) An organization may incorporate and not be subject to the provisions of this Part if the organization incorporates for liability purposes only, and if the organization is a political committee as defined in § 100.14. Notwithstanding the corporate status of the political committee, the chairman and the treasurer of an incorporated political committee remain personally responsible for carrying out their respective duties under the Act.

(b) Notwithstanding any other provision of Part 114, a corporation or a labor organization which customarily makes its meeting rooms available to clubs, civic or community organizations, or other groups may make such facilities available to a political committee or candidate if the meeting rooms are made available on a nonpartisan basis and on the same terms given to other groups using the meeting rooms.

(c) (1) A corporation of labor organization may not pay the employer's share of the cost of fringe benefits, such as health and life insurance and retirement, for employees or members on leave-without-pay to participate in political campaigns of Federal candidates. The separate segregated fund of a corporation or a labor organization may pay the employer's share of fringe benefits, and such payment would be a contribution in-kind to the candidate. An employee or member may, out of unreimbursed personal funds, assure the continuity of his or her fringe benefits during absence from work for political campaigning, and such payment would not be a contribution in-kind.

(2) Service credit for periods of leave-without-pay is not considered compensation for purposes of this section if the employer normally gives identical treatment to employees placed on leave-without-pay for nonpolitical purposes.

(d) A corporation which, prior to May 11, 1976, had solicited employees other than stockholders or executive or administrative personnel for voluntary

contributions to its separate segregated fund and had offered such employees the opportunity to enroll in a payroll deduction plan may, until December 31, 1976, unless the employee withdraws before that date, continue to deduct contributions from the checks of employees who signed up prior to May 11, 1976. Any solicitation of such employees after May 11, 1976, is subject to the provisions of 2 U.S.C. 441b(b) (4) (B) and § 114.6 when prescribed.

## PART 115—FEDERAL CONTRACTORS

Sec.

115.1 Definitions.

115.2 Prohibition.

115.3 Corporations, labor organizations, membership organizations, cooperatives, and corporations without capital stock.

115.4 Partnerships.

115.5 Individuals and sole proprietors.

115.6 Employee contributions or expenditures.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107 (a) (1), Pub. L. 94-283, 90 Stat. 481 (2) U.S.C. 437d(a) (8), and Sec. 315(a) (10), Pub. L. 92-225, 86 Stat. 16, amended by Secs. 208 (a) and (c) (10), and 209 (a) (1) and (b) (1), Pub. L. 93-443, 88 Stat. 1279, 1287, and Sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a) (10)).

**SOURCE:** 41 35963, Aug. 25, 1976, unless otherwise noted.

### §.115.1 Definitions.

(a) "A Federal contractor" means a person, as defined in § 100.13 who—

(1) Enters into any contract with the United States or any department or agency thereof either for—

(i) The rendition of personal services; or

(ii) Furnishing any material, supplies, or equipment; or

(iii) Selling any land or buildings;

(2) If the payment for the performance of the contract or payment for the material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress.

(b) The period during which a person is prohibited from making a contribution or expenditure is the time between the earlier of the commencement of negotiations or when the requests for proposals are sent out, and the later of—

(1) The completion of performance under; or

(2) The termination of negotiations for, the contract or furnishing of material, supplies, equipment, land, or buildings, or the rendition of personal services.

(c) For purposes of this Part, a contract includes

(1) A sole source, negotiated, or advertised procurement conducted by the United States or any of its agencies;

(2) A written (except as otherwise authorized) contract, between any person and the United States or any of its departments or agencies, for the furnishing of personal property, real property, or personal services; and

(3) Any modification of a contract.

(d) The basic contractual relationship must be with the United States or any department or agency thereof. A person who contracts with a State or local jurisdiction or entity other than the United States or any department or agency thereof is not subject to this Part, even if the State or local jurisdiction or entity is funded in whole or in part from funds appropriated by the Congress. The third party beneficiary of a Federal contract is not subject to the prohibitions of this Part.

(e) The term labor organization has the meaning given it by § 114.1(a).

### § 115.2 Prohibition.

(a) It shall be unlawful for a Federal contractor, as defined in § 115.1(a), to make, either directly or indirectly, any contribution or expenditure of money or other thing of value, or to promise expressly or impliedly to make any such contribution or expenditure to any political party, committee, or candidate for Federal office or to any person for any political purpose or use. This prohibition does not apply to contributions or expenditures in connection with State or local elections.

(b) This prohibition runs for the time period set forth in § 115.1(b).

(c) It shall be unlawful for any person knowingly to solicit any such contribution from a Federal contractor.

### § 115.3 Corporations, labor organizations, membership organizations, cooperatives, and corporations without capital stock.

(a) Corporations, labor organizations, membership organizations, cooperatives, and corporations without capital stock to which this Part applies may expend treasury monies to establish, administer,

and solicit contributions to any separate segregated fund subject to the provisions of Part 114. Each specific prohibition, allowance, and duty applicable to a corporation, labor organization, or separate segregated fund under Part 114 applies to a corporation, labor organization, or separate segregated fund to which this Part applies.

(b) The question of whether a professional organization is a corporation is determined by the law of the State in which the professional organization exists.

**§ 115.4 Partnerships.**

(a) The assets of a partnership which is a Federal contractor may not be used to make contributions or expenditures in connection with Federal elections.

(b) Individual partners may make contributions or expenditures in their own names from their personal assets.

(c) Nothing in this part prohibits an employee of a partnership which is a Federal contractor from making contri-

butions or expenditures from his or her personal assets.

**§ 115.5 Individuals and sole proprietors.**

Individuals or sole proprietors who are Federal contractors are prohibited from making contributions or expenditures from their business, personal, or other funds under their dominion or control. The spouse of an individual or sole proprietor who is a Federal contractor is not prohibited from making a personal contribution or expenditure in his or her name.

**§ 115.6 Employee contributions or expenditures.**

Nothing in this part shall prohibit the stockholders, officers, or employees of a corporation, the employees, officers, or members of an unincorporated association, cooperative, membership organization, labor organization, or other group or organization which is a Federal contractor from making contributions or expenditures from their personal assets.

**SUBCHAPTER B—PRESIDENTIAL ELECTION CAMPAIGN FUND, FEDERAL FINANCING OF CONVENTIONS**

**PART 120—GENERAL PROVISIONS**

Sec.

120.1 Scope.

120.2 Definitions.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107 (a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

**§ 120.1 Scope.**

(a) This part interprets 2 U.S.C. 437 and 26 U.S.C. § 9008. Section 9008 of Title 26 authorizes the Federal Election Commission to certify to the Secretary of the Treasury for payments of the amounts to which the national committee of any major or minor party is entitled under 26 U.S.C. 9008 with respect to a Presidential nominating convention, but the entitlement of each major party may not exceed the aggregate amount of \$2,000,000, adjusted by the Consumer Price Index. Section 437 of Title 2 requires certain organizations to file convention reports.

(b) Under 26 U.S.C. 9008(b) the national committees of both major and minor parties are entitled to payments

from public funds to defray expenses which they incurred with respect to a Presidential nominating convention. These expenses are limited to \$2,000,000, as adjusted by the Consumer Price Index. New parties are exempt from any expenditure limitation and are not entitled to any public funds. For a minor party to be entitled to its proportionate share of public funds for convention expenses, its Presidential candidate in the last election must have received (as the Presidential candidate of that party) at least 5 percent of the total popular vote received by all Presidential candidates in such election.

[41 FR 35963, Aug. 25, 1976]

**§ 120.2 Definitions.**

The following definitions shall apply for the purposes of this subchapter:

(a) "Commission" means the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

(b) "Fund" means the Presidential Election Campaign Fund established by 26 U.S.C. 9006(a).

(c) "Major party" means, with respect to any Presidential election, a political party whose candidate for the office of

President in the preceding Presidential election received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office.

(d) "Minor party" means, with respect to any Presidential election, a political party whose candidate for the office of President in the preceding Presidential election received, as the candidate of such party, 5 percent or more, but less than 25 percent, of the total number of popular votes received by all candidates for such office.

(e) "New party" means, with respect to any Presidential election, a political party which is neither a major party nor a minor party.

(f) "Convention expenses" or "expenses or expenditures incurred with respect to a Presidential nominating convention" means expenses incurred for the purpose of conducting a presidential nominating convention or convention-related activities (including the payment of deposits) by or on behalf of the national committee of a political party, including—

(1) Any expense for preparing, maintaining, and dismantling the physical site of the convention, including rental of the hall, platforms and seating, decorations, telephones, security, and convention hall utilities;

(2) Salaries and expenses of personnel whose responsibilities are planning, managing, or conducting the convention, including staff members of convention committees or arrangements committees and similar personnel;

(3) Any expenses of those persons employed by the national committee of a political party which were incurred in the performance of personal services for the convention that were in addition to their normal duties to the national committee, such as travel expenses to and from or at the convention city or other locations specified in subsection (4); but excluding any portion of the person's salary paid by the national committee, provided that the services of that person were incidental to the convention and not performed as a major responsibility;

(4) The expense of conducting meetings, whether or not at the convention site, of or related to convention policy committees, such as rules, credentials, and platform committees, including costs of renting meeting space, and

printing materials (except for certain legal and accounting expenses, see § 121.10(b)).

(5) The expenses incurred in securing a convention city and facility;

(6) The expense of providing a transportation system in a convention city for the use of delegates and other persons attending or otherwise connected with the conventions;

(7) The expenses of entertainment activities which are part of official convention activity sponsored by the national committee, including but not limited to dinners, concerts, and receptions, but not including entertainment activities sponsored by or on behalf of candidates for nomination to the office of President or Vice President, or State delegations, or activities sponsored by the national committee if the purpose of the activity is solely for national committee business, such as fundraising events, selecting new officers for the national committee, or entertainment activities sponsored by persons other than the national committee, not otherwise prohibited;

(8) The expenses of printing official convention programs, a journal of proceedings, agendas, tickets, badges, passes, and other official publications;

(9) The administrative and office expenses of conducting the convention such as stationery and office supplies, office machines, and telephone charges; but excluding the cost of any such services supplied by the national committee at its headquarters or principal office so long as such services are incidental to the convention and not utilized primarily for the convention;

(10) The interest on loans the proceeds of which are used to defray convention expenses; and

(11) The expenses of any candidate or delegate participating in the national nominating convention, subject to the provisions of §§ 121.10 and 122.5.

(g) "Secretary" means the Secretary of the Treasury of the United States.

(h) "Host committee" means a local organization such as a local civic association, business league, chamber of commerce, real estate board, board of trade, or convention bureau.

(i) Not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual, and

(2) A principal objective of which is the encouragement of commerce in the convention city, as well as projecting a favorable image of the city to convention attendees.

[41 FR 35963, Aug. 25, 1976]

**PART 121—LIMITATION OF EXPENDITURES**

**Subpart A—National Party Limitations**

Sec.

- 121.1 Major parties.
- 121.2 Minor parties.
- 121.3 Exception.
- 121.4 Expenditures by agencies and municipal corporations.

**Subpart B—In-Kind Contributions by Businesses**

- 121.5 Discounts by retail business concerns.
- 121.6 Samples and promotional material.
- 121.7 In-kind contributions to the host committee.

**Subpart C—Donation of Funds by Local Businesses and Labor Organizations; Advertising**

- 121.8 Donation of funds to host committee.
- 121.9 Use of funds by host committee.
- 121.10 Expenditures by individuals and groups.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107 (a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a) (8)), and Sec. 404(c) (13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

**SOURCE:** 41 FR 35964, Aug. 25, 1976, unless otherwise noted.

**Subpart A—National Party Limitations**

**§ 121.1 Major parties.**

Except as provided by § 121.3, the national committee of a major party may not incur convention expenses with respect to a Presidential nominating convention which, in the aggregate, exceed the amount of payments to which such committee is entitled under § 122.1, whether or not the national committee elects to receive any of its entitled funds.

**§ 121.2 Minor parties.**

Except as provided by § 121.3, the national committee of a minor party may not incur convention expenses with respect to a Presidential nominating convention which, in the aggregate, exceed the amount of the entitlement of the national committee of a major party under § 122.1, whether or not the national committee elects to receive any of its entitled funds.

**§ 121.3 Exception.**

The Commission may authorize the national committee of a major party or minor party to make expenditures for convention expenses which, in the aggregate, exceed the limitation established by § 121.1 or § 121.2. This authorization shall be based upon a determination by the Commission that, due to extraordinary and unforeseen circumstances, the expenditures are necessary to assure the effective operation of the Presidential nominating convention by the committee. In no case, however, will such authorization entitle the national committees to receive public funds greater than the amount the national committees are entitled to under § 122.1 or § 122.2.

**§ 121.4 Expenditures by agencies and municipal corporations.**

(a) Expenditures with respect to a Presidential nominating convention incurred by Federal and local governmental agencies and municipal corporations will not be considered either as expenditures made by a national party or as illegal corporate contributions under 2 U.S.C. 441b. These expenditures will therefore not be subject to the national party's expenditure limitations of §§ 121.1 and 121.2, provided that the facilities or services supplied at no charge or less than the normal charge to the national committee were not leased or bought from corporations, national banks, labor organizations, or any other person for less than their fair market value.

(b) Expenditures made under paragraph (a) are reportable under § 125.1.

**Subpart B—In-Kind Contributions by Businesses**

**§ 121.5 Discounts by retail business concerns.**

(a) Private retail business concerns (whether incorporated or not) may sell, lease, or rent, or offer to sell, lease, or rent to the national party for the convention any services, materials, space, or goods that the business normally deals in, at less than the fair market value; For example, the business may provide discounts in standard rates of any goods or services, provided that the discounts are offered in the ordinary course of business and are standard practice based upon the quantity of similar goods and services sold, leased, or rented in similar transactions.

(b) As long as the discount does not exceed the amounts specified in paragraph (a), will not count toward the national party expenditure limitation under §§ 121.2 and 121.2.

#### § 121.6 Samples and promotional material.

(a) Private business concerns may sell at nominal cost or provide at no charge any of their products or services in the form of samples or discount coupons, or provide promotional items of nominal value, such as maps, pens, or pencils, with the business's name imprinted on the item, to those attending the convention functions, provided that—

(1) The samples and the like are solely for bona fide advertising or promotional purposes and are not provided for the purpose of influencing any delegate's or alternate vote;

(2) The activity is in the ordinary course of business as evidenced by past practice with other political and non-political conventions.

(b) The samples, coupons, and promotional material may be distributed by or with the help of persons employed by the business, the national party, or a citizen host committee.

(c) The value of the benefits provided will not count toward the national party's expenditure limitation under §§ 121.1 and 121.2.

#### § 121.7 In-kind contributions to the host committee.

Local private businesses and labor organizations may donate or offer at a reduced rate to the host committee office space, supplies, furniture, transportation, and the like for use by the host committee for administrative purposes.

#### Subpart C—Donation of Funds by Local Businesses and Labor Organizations; Advertising

#### § 121.8 Donation of funds to host committee.

(a) Local businesses (whether incorporated or not) and labor organizations may donate funds to a citizen's host committee.

(b) Subject to § 121.9, the use of the funds may be restricted by the donor in any manner agreeable between the donor and the recipient host committee, such as earmarking the funds for a particular project or purpose, or having the contribution acknowledged as "Courtesy of

X, Y and Z Companies," so long as any restrictions are commercially motivated and are non-political.

#### § 121.9 Use of funds by host committee.

(a) Funds donated to the host committee may be used—

(1) To defray those expenses incurred for the purpose of promoting the suitability of the city as a convention site;

(2) To defray those expenses incurred for welcoming the convention attendees to the city, such as expenses for information booths, receptions, and tours;

(3) To defray those expenses incurred in facilitating commerce, such as providing the convention and attendees with shopping and entertainment guides and distributing the discount coupons and samples specified in § 121.6; and

(4) To defray the administrative expenses incurred by the host committee, such as salaries, rent, travel, and liability insurance.

(b) If the host committee has received funds from an incorporated local retail business in an amount proportionate to the commercial return reasonably expected by that business during the life of the convention, and if the committee maintains such funds in a separate account (along with funds donated by unincorporated businesses, if any), the funds may be used to pay for what would otherwise be a convention expense by the national committee, such as the renting or refurbishing of the convention hall or the rental of seats, lights, and like equipment. No other corporate funds may be used to pay such expenses.

#### § 121.10 Expenditures by individuals and groups.

(a) (1) For purposes of this part, expenditures made by Presidential candidates from campaign accounts, by delegates, or by any other individual out of his or her personal funds for the purpose of attending and participating in the convention or convention-related activities, or made on his or her behalf by State or local committees of a political party, will not be considered as expenditures made by or on behalf of the national party, and are therefore not subject to the overall expenditure limitations of §§ 121.1 and 121.2.

(2) Expenditures made under paragraph (a) (1) by candidates from campaign accounts, or by State and local party committees or any other political

committee or person shall be reported pursuant to Part 104.

(b) *Legal and accounting services.* For purposes of this section—

(1) The payment by any person (other than the national committee of a political party) of compensation to any individual for legal or accounting services rendered to, or on behalf of, the national committee is not an expenditure counting against the expenditure limitation for a Presidential nominating convention, as long as the person paying is the regular employer of the individual rendering the service.

(2) The payment by the national committee of compensation to any individual for legal and accounting services rendered to, or on behalf of, the national committee is an expenditure counting against the expenditure limitation for a Presidential nominating convention, whether paid from funds received by the national committee from the Presidential Election Campaign Fund or from private contributions.

**PART 122—ENTITLEMENT TO AND DISPOSITION OF PAYMENTS FROM THE FUND**

- Sec.
- 122.1 Major parties.
- 122.2 Minor parties.
- 122.3 Adjustment of entitlements.
- 122.4 Investment of funds.
- 122.5 Use of funds; candidate and delegate expenses.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a) (8)), and Sec. 404(c) (13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

**SOURCE:** 41 FR 35965, Aug. 25, 1976, unless otherwise noted.

**§ 122.1 Major parties.**

Subject to the provisions of this part, the national committee of a major party shall be entitled to receive payments under § 123.4, with respect to any Presidential nominating convention, in amounts which, in the aggregate, shall not exceed \$2 million, as adjusted by the Consumer Price Index.

**§ 122.2 Minor parties.**

Subject to the provisions of this part, the national committee of a minor party shall be entitled to payments under § 123.4, with respect to any Presidential nominating convention, in amounts

which, in the aggregate, shall not exceed an amount which bears the same ratio to the amount the national committee of a major party is entitled to receive under § 122.1, as the number of popular votes received by the candidate for President of the minor party, as such candidate, in the preceding Presidential election bears to the average number of popular votes received by the candidates for President of the United States of the major parties in the preceding Presidential election.

**§ 122.3 Adjustment of entitlements.**

(a) The entitlements established by this part shall be adjusted in the same manner as expenditure limitations established by section 441a(b) of Title 2, United States Code are adjusted pursuant to the provisions of section 441a(c) of such title.

(b) The entitlements established by this part shall be decreased by the amount of income generated by the investment of public funds under § 122.4.

(c) The entitlements established by this part shall be adjusted so as not to exceed the difference between the expenditure limitations of Part 121 and the amount of private contributions received under § 123.1 by the national committee of a political party and used to defray convention expenses.

**§ 122.4 Investment of funds.**

Any investment of public funds or their use in any other way which generates income is permissible only if the income so generated is used for the purposes described in § 122.5. This income will be applied against the national committee's entitlement, and where appropriate, the Commission may determine that a repayment is required because of excess payment under § 124.1 (a).

**§ 122.5 Use of funds; candidate and delegate expenses.**

(a) (1) No part of any payment made under § 123.4 shall be used to defray the expenses of any candidate, delegate, or alternate delegate who is participating in any Presidential nominating convention.

(2) The expenses of a person participating in the convention as official personnel of the national party may be defrayed with public funds even though that person is simultaneously participating as a delegate or candidate to the convention. Public funds shall not be used to defray any expense the incur-

ring or payment of which violates any law of the United States or of the State in which such expense is incurred or paid.

(b) Any payment shall be used only—

(1) To defray convention expenses incurred (including the payment of deposits) by or on behalf of the national committee receiving such payments; or

(2) To repay the principal and interest on loans the proceeds of which were used to defray convention expenses; or

(3) To restore funds (other than contributions to defray convention expenses received by the committee under § 123.1) used to defray convention expenses.

#### PART 123—PAYMENT PROCEDURE FOR PRESIDENTIAL NOMINATING CONVENTIONS

Sec.

123.1. Optional payments; private contributions.

123.2. Transfer to the fund.

123.3. Information required to qualify for public funds.

123.4. Payment schedule.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481 (2, U.S.C. 437d(a) (8)), and Sec. 404(c) (13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

**SOURCE:** 41 FR 35966, Aug. 25, 1976, unless otherwise noted.

#### § 123.1. Optional payments; private contributions.

(a) A major or minor party may elect to receive all, part, or none of the amounts to which it is entitled under §§ 122.1 and 122.2.

(b) A major party electing to receive part or none of the amounts to which it is entitled under § 122.1 may receive and use private contributions for the nominating convention, so long as the sum of the contributions which are used to defray convention expenses and the amount of entitlements elected to be received does not exceed the total expenditure limitation under § 121.1.

(c) A minor party electing to receive all, part, or none of the amounts to which it is entitled under § 122.2 may receive and use private contributions for the nominating convention, so long as the sum of the contributions which are used to defray convention expenses and the amount of entitlements elected to be received does not exceed the total expenditure limitation under § 121.2.

#### § 123.2. Transfer to the fund.

If, after the close of a Presidential nominating convention and after the national committee of the political party involved has been paid the amount to which it is entitled under Part 122, there are moneys remaining in the account maintained by the Secretary of the Treasury for such national committee because of the adjustment due to § 122.3 (b) or (c) (interest received on investments and acceptance of private contributions), the Secretary will transfer the moneys so remaining to the Presidential Election Campaign Fund.

#### § 123.3. Information required to qualify for public funds.

(a) To qualify for public financing of their conventions, the national committees of the major and minor parties shall file an application statement and agreements containing the information in paragraphs (b) and (c) of this section with the Federal Election Commission.

(b) This application statement shall be filed no earlier than June 1 of the calendar year preceding the year in which a Presidential nominating convention of a political party is held and shall include—

(1) The name and address of the national committee;

(2) The name and address of the convention arrangements committee of the national committee or such similar committee in charge of the national convention;

(3) The name of the city where the convention is to be held and the approximate dates;

(4) The name, address, and position of the officers and members of the convention arrangements committee;

(5) The name, address, and position of the party officials designated by the national committee to sign requests for payment;

(6) The name and address of the commercial bank to be used as the depository of the convention arrangements committee; and

(7) Signature cards, available from the Commission, signed by the designated party officials authorized to request payments.

(c) If the application statement is filed before the cost of living increase is able to be determined for the year preceding the convention, that amount determined before the end of such period



terminated by the increase shall be paid to the national committee promptly after the increase has been determined.

(d) The national committees of the major and minor parties shall agree to limit the expenditures for their convention to the amount specified in Part 121.

(e) Any change in the information required by paragraph (c) shall be reported to the Commission within a 10-day period following the change.

§ 123.4 Payment schedule.

After a national committee has properly submitted its application statement under § 123.1, payments will be disbursed upon the receipt of a payment request in installments in the manner specified in paragraphs (a)–(e).

(a) Initial payment. (1) A written request for an initial payment shall—

(i) Be signed by the authorized individual(s) whose name appears on the signature card;

(ii) Specify an amount to be received, not to exceed 30 percent of the aggregate amount to which the committee is entitled;

(iii) Specify one or more accounts established solely for the purpose of depositing therein and drawing therefrom all public funds received for convention financing, or certify that such account(s) will be established;

(iv) Specify one or more accounts established solely for the purpose of depositing therein and drawing therefrom all private contributions to defray convention expenses, or certify that such account(s) will be established if the national committee decides to receive such contributions; and

(v) Be supported by a statement projecting and describing estimated convention expenses and those already incurred, if any, through and including the last day of the calendar quarter in which the request is made, except that projected expenditure categories need not be itemized in specific dollar figures.

(2) A request for an initial payment may be submitted to the Commission simultaneously with the application statement required under § 123.3 or at any time thereafter.

(3) A properly submitted request for initial payment shall be reviewed and certified by the Commission to the Secretary for payment not later than 5 working days after being received by the Commission, or July 1 of the calendar

year preceding the calendar year of the convention, whichever is later.

(b) Quarterly payment requests. (1) Requests for disbursements after the national committee has qualified for public financing under § 123.3 and received its initial disbursement under § 123.4(a) shall be submitted quarterly commencing with October 1 of the year prior to the year in which the convention will be held.

(2) The written requests shall—

(i) Be signed by the authorized individuals(s);

(ii) Be accompanied by a statement of projected convention expenses estimated through the close of the quarterly period, except that no specific dollar figure need be assigned to the various expenditure categories;

(iii) Specify an amount to be received which shall reflect the amount of the projected expenses; and

(iv) Be submitted to the Commission anytime during the quarter to which the request relates.

(c) Special certification for accelerated payment schedule. The Commission may certify more than one disbursement per quarter where a showing is made that a deficit is likely to be incurred unless a further disbursement is made. Any payment request for such further disbursement should be supported by a summary of actual convention expenses previously incurred for the quarter, together with the projected convention expenses which will occasion the deficit if a further disbursement is not forthcoming.

(d) Amount of disbursement.

Each disbursement certification to the Secretary will be based upon the convention expenses projected for the requesting period, subject to any deductions as the Commission may determine under paragraph (e) of this section and § 124.1(f).

(e) Post-convention disbursements.

(1) Notwithstanding the payment request for the last quarter preceding the convention, the Commission may, in its discretion and upon appropriate notice to the committee, certify to the Secretary for an amount less than the amount requested, but in no case may the amount of such adjustment downward exceed 10 percent of the total entitlement of that party.

(2) Funds withheld under this paragraph, if any, shall be disbursed after the convention upon the proper submission of a post-convention payment request ac-

complicated by the convention financing report required under Part 125.

(3) Post-convention payments shall be subject to audit by the Commission and deductions computed under § 124.1(f) in addition to other requirements imposed by law.

(f) Properly submitted requests for quarterly, accelerated, and post-convention payments shall be certified by the Commission to the Secretary for disbursement within five working days after being received by the Commission.

## PART 124—POST-DISBURSEMENT PROCEDURES

Sec.

124.1 Repayments.

124.2 Notification of need for repayment.

124.3 Examinations and audits.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a) (8)), and Sec. 404(c) (13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

**SOURCE:** 41 FR 35967, Aug. 25, 1976, unless otherwise noted.

### § 124.1 Repayments.

(a) If the Commission determines that any portion of the payments to the national committee under § 123.4 was in excess of the aggregate payments to which the national committee was entitled, it shall so notify the national committee, and such national committee shall pay to the Secretary an amount equal to such portion.

(b) If the Commission determines that the national committee incurred convention expenses in excess of the aggregate payments to which the national committee of a major party was entitled, it shall notify such national committee of the amount of such excess, and such national committee shall pay to the Secretary an amount equal to that amount.

(c) If the Commission determines that the national committee of a major party accepted contributions to defray convention expenses which, when added to the amount of payments received, exceeds the expenditure limitation of such party, it shall notify such national committee of the amount of the contributions so accepted, and such national committee shall pay to the Secretary an amount equal to that amount.

(d) If the Commission determines that any amount of any payment to the national committee under § 123.4 was used for any purpose other than those author-

ized by § 122.5, it shall notify such national committee of the amount so used, and such national committee shall pay to the Secretary the amount so specified.

(e) No repayment shall be required from the national committee under this section, which, when added to other repayments required from such national committee under this section, exceeds the amount of payments received by such national committee under § 123.4.

(f) Subject to § 124.2, the Commission may obtain repayment by authorizing the Secretary to deduct the repayable amount determined under paragraphs (a)-(e) from the amount otherwise due the national committee for its next payment. All other repayments shall be made payable to the Secretary and deposited by him in the general fund of the Treasury.

### § 124.2 Notification of need for repayment.

(a) If the Commission determines that repayment is required under § 124.1, it shall give written notification to the affected national committee of the amounts required to be paid and the reasons thereof.

(b) No notification shall be made by the Commission under this section more than 3 years after the last day of the Presidential nominating convention.

(c) The national party shall repay to the Secretary, within 90 days of the notice, the amount of the repayment. Upon application submitted by the national party, the Commission may grant a 90-day extension of the repayment period.

(d) If the national committee disputes the Commission's determination that a repayment is required, it shall notify the Commission within 30 days of receipt of the Commission's notification.

(1) The Commission, or its designee, shall conduct a hearing at a mutually agreeable time and place, at which the representative of the national committee may make a showing of where the Commission erred in its determination of repayment.

(2) Based on the hearing, the Commission shall reaffirm or modify its initial determination, which shall constitute a final and conclusive determination, and shall so notify the national committee.

### § 124.3 Examinations and audits.

The Commission shall conduct an examination and audit of the convention expenses of the national party no later than December 31 of the calendar year of the convention and may at any time

conduct other examinations and audits as it deems necessary.

**PART 125—CONVENTION REPORTS**

Sec.

- 125.1 Reports by municipal and private host committees.
- 125.2 Reports by political parties.
- 125.3 Post-convention reports; content and time of filing.
- 125.4 Committees receiving Federal funds; quarterly reports.
- 125.5 Convention expenses; definition.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a) (8)), and Sec. 404(c) (13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

**SOURCE:** 41 FR 35967, Aug. 25, 1976, unless otherwise noted.

**§ 125.1 Reports by municipal and private host committees.**

(a) Each committee or other organization which represents a State, a political subdivision thereof, or any other group of persons in dealing with officials of a national political party with respect to matters involving a Presidential nominating convention held in that State or political subdivision shall file reports with the Commission as set out in § 125.3 below.

(b) Each committee or other organization specified in paragraph (a) of this section need not report its unsuccessful efforts to attract the convention to its city.

**§ 125.2 Reports by political parties.**

(a) Each committee or other organization, including a national committee, which represents a national major, minor, or new political party in making arrangements for the convention of that party held to nominate a candidate for the office of President or Vice President, shall file reports with the Commission as set out in § 125.3 below.

(b) A State party committee or a subordinate committee of a State party committee which only assists delegates and alternates to the convention from that State with travel expenses and arrangements, or which sponsors caucuses, receptions, and similar activities at the convention site, need not report under this Part.

**§ 125.3 Post-convention reports; content and time of filing.**

(a) Each committee or organization required to file a financial statement

shall within 60 days following the last day the convention is officially in session, but not later than 20 days prior to the date of the general election, file with the Commission a convention report on FEC Form 4 which shall contain all receipts and disbursements in connection with the convention and shall be complete as of 45 days following the convention.

(b) If the committee spends or receives any funds after 45 days following the convention, the committee shall begin to file no later than 10 days after the end of the next calendar quarter a report disclosing all transactions completed as of the close of that calendar quarter and shall continue to file quarterly reports thereafter until the committee ceases activity.

(c) Each committee shall file a final report with the Commission not later than 10 days after it ceases activity, unless such status is reflected in either of the reports submitted pursuant to § 125.3(a) or (b).

**§ 125.4 Committees receiving Federal funds; quarterly reports.**

Any national committee of a major or minor party which receives, directly or indirectly, all or part of the payment for Presidential nominating conventions under 26 U.S.C. 9008, shall, in addition to the post-convention reports required to be filed under § 125.3, file quarterly reports as follows:

(a) The quarterly report shall be filed no later than 10 days after the end of the calendar quarter in which the committee receives payment under 26 U.S.C. 9008 and after each subsequent quarter in which the committee receives or expends any funds until the date of the convention, except that any quarterly report due 20 days or less before or after the convention shall be suspended and need not be filed until 30 days after the close of the convention.

(b) The reports shall contain the same information as required under § 125.3 and shall disclose all transactions as of the end of the calendar quarter.

**§ 125.5 Convention expenses; definition.**

For the purposes of this part, "receipts and disbursements in connection with a convention" means convention expenses as defined in Part 120 of these regulations.

## SUBCHAPTER C—PRESIDENTIAL ELECTION CAMPAIGN FUND; PRESIDENTIAL PRIMARY MATCHING FUND

### PART 130—DEFINITIONS

- Sec. 130.1 Authorized committee.  
130.2 Political committee.  
130.3 Candidate.  
130.4 Commission.  
130.5 Matching payment account.  
130.6 Matching payment period.  
130.7 Primary election.  
130.8 Matchable campaign contribution.  
130.9 Nonmatchable contributions.  
130.10 Qualified campaign expense.  
130.11 State.

**AUTHORITY:** Sec. 310(6), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481; (2 U.S.C. 437d(a) (8)), and Sec. 408(c), Pub. L. 93-443, 88 Stat. 1297; (26 U.S.C. 9039(b)).

**SOURCE:** 41 FR 35968; Aug. 25, 1976, unless otherwise noted.

#### § 130.1 Authorized committee.

"Authorized committee" means any political committee which is authorized in writing by a candidate to solicit or receive contributions or to make expenditures on behalf of the candidate. This authorization shall be addressed to the authorized political committee, and a copy of the authorization shall be filed by the candidate with the Commission. A withdrawal of authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

#### § 130.2 Political committee.

"Political committee" means any individual, committee, association, or organization (whether or not incorporated) which accepts contributions or incurs qualified campaign expenses for the purpose of influencing, or attempting to influence, the nomination of any individual for election to the office of President of the United States.

#### § 130.3 Candidate.

(a) "Candidate" means an individual who seeks nomination for election to be President of the United States. An individual is considered to seek the nomination for election if he or she—

(1) Takes the action necessary under the law of a State to qualify for nomination for election; or

(2) Receives contributions or incurs qualified campaign expenses; or

(3) Gives consent for any other person to receive contributions or to incur quali-

fied campaign expenses on his or her behalf.

(b) "Candidate" shall not include any individual who is not actively conducting campaigns in more than one State in connection with seeking nomination for election to be President of the United States.

#### § 130.4 Commission.

"Commission" means the Federal Election Commission, 1325 K Street, NW, Washington, D.C. 20463.

#### § 130.5 Matching payment account.

"Matching payment account" means the Presidential Primary Matching Payment Account established by the Secretary of the Treasury under 26 U.S.C. 9037(a).

#### § 130.6 Matching payment period.

"Matching payment period" means the period beginning January 1 of the year in which a general election for the office of President of the United States is held and ending on the date on which the national convention of the party whose nomination a candidate seeks nominates its candidate for the office of President of the United States, or, in the case of a party which does not make such nomination by national convention, the last day for the matching period shall be the earlier of (a) the date the party nominates its candidates for the office of President of the United States or (b) the last day of the last national convention held by a major party.

#### § 130.7 Primary election.

"Primary election" means an election, including a runoff election, or a nominating convention or a caucus held by a political party—

(a) For the selection of delegates to a national nominating convention of a political party; or

(b) For the expression of a preference for the nomination of candidates for election to the office of President of the United States; or

(c) Which is an election that combines the features of both paragraphs (a) and (b); or

(d) To nominate a candidate for election to the office of President of the United States.

**§ 130.8 Matchable campaign contribution.**

(a) "Matchable campaign contribution" means a gift of money made by a written instrument identifying the individual making the contribution by full name and mailing address and made for the purpose of influencing the result of a primary election.

(1) Gifts of money will be considered matchable campaign contributions only to the extent of the first \$250 contributed by an individual.

(2) The amount of the contribution which is submitted for matching shall be actually received by the candidate or any of the candidate's authorized committees and deposited in a designated campaign depository maintained by the principal campaign committee.

(3) The contribution shall be received and deposited by the candidate or authorized committee on or after the first day of the calendar year immediately preceding the calendar year of the Presidential election, but no later than December 31 following the matching payment period.

(b) For purposes of this section the term "money" means checks, money orders, or any other negotiable instrument payable on demand.

(c) For purposes of this section "written instrument" means a check written on a personal, escrow, or trust account, a money order, or any other negotiable instrument payable on demand and to the order of, or specially endorsed without qualification to, the Presidential candidate or to his or her principal campaign committee. The candidate's name shall be included by the contributor on the face or endorsement of the written instrument, which shall contain the full name and signature of the contributor, the amount and date of the contribution, and the mailing address of the contributor.

(1) In cases of a check drawn on a joint checking account, the contributor is considered to be the owner whose signature appears on the check. To be attributed equally to other joint tenants of the account, the check or other written instrument shall contain the other individual's signature(s).

(2) Checks drawn on escrow or trust accounts can only be a contribution from the person who has beneficial ownership of the account and therefore must be signed by that person with the state-

ment that the giving of the contribution does not violate the conditions of the trust or escrow agreement.

(3) Contributions in the form of checks written on partnership accounts or accounts of unincorporated associations or businesses are matchable contributions, so long as—

(i) The checks are accompanied by documentation which specifies that the contribution is made by a specific individual or individuals;

(ii) Such documentation is signed by the individual or individuals; and

(iii) The aggregate amount of the contributions drawn on a partnership or unincorporated association or business account does not exceed \$1,000 to any one Federal candidate for an election.

**§ 130.9 Nonmatchable contributions.**

A contribution to a candidate other than by a gift of money under § 130.8 is not matchable. Contributions which are not matchable include—

(a) In-kind contributions of real or personal property;

(b) A subscription, loan, advance, or deposit of money, or anything of value;

(c) A contract, promise, or agreement, whether or not legally enforceable, such as a pledge card or credit card transaction, to make a contribution for any such purpose;

(d) Funds from a corporation, labor organization, government contractor, political committee as defined in § 100.14 or any group of persons other than those under § 130.8(c) (3);

(e) Contributions which are illegally made or accepted, such as contributions in the name of another;

(f) Contributions in the form of a check drawn upon the account of a committee, corporation, union, or government contractor even though the funds represent personal funds earmarked by a contributing individual to a Presidential candidate;

(g) Contributions in the form of the purchase price paid for an item with significant intrinsic and enduring value, such as a watch;

(h) Contributions in the form of the purchase price paid for a chance to participate in a raffle, lottery, or a similar drawing for valuable prizes;

(i) Contributions in the form of the purchase price paid for the admission to any activity that primarily confers private benefits in the form of entertainment to the contributor, such as a con-

cert, motion picture, or theatrical performance, in which case the amount of the matchable contribution shall include only the excess of the amount paid for admission over the fair market value of all the benefits available to the purchaser of the ticket, using a good faith reasonable estimate.

(l) The fair market value and any amount in excess of the fair market value of the benefits conferred shall be clearly and separately indicated on the promotional material and the tickets for the event, and a copy of such material and of a ticket shall accompany the submission of documentation under §§ 131.2 and 132.2.

(m) A contribution in the form of the purchase price paid for admission to an activity that is essentially political is fully matchable. An "essentially political" program is one the principal purpose of which is political speech or discussion, such as the traditional political dinner or reception;

(n) Contributions which are made by persons without the necessary donative intent to make a gift or made for any purpose other than to influence the result of a primary election; and

(o) Contributions of currency of the United States or currency of any foreign country.

#### § 130.10. Qualified campaign expense.

(a) "Qualified campaign expense" means a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value—

(1) Incurred by a candidate or by the candidate's authorized committees no later than the last day of the candidate's eligibility as determined under § 133.2 and made in connection with his or her campaign for nomination for election; and

(2) Neither the incurrence nor payment of which constitutes a violation of any law of the United States or of any State in which the expense is incurred or paid, except that any State law which has been preempted by the Federal Election Campaign Act of 1971, as amended, shall not be considered a State law for purposes of this paragraph.

(b) For purposes of this section, an expense is incurred by a candidate or by an authorized committee if it is incurred by a person specifically authorized in writing by the candidate or committee, as the case may be, to incur such expense on behalf of the candidate or committee.

#### § 130.11 State.

"State" means each State of the United States and the District of Columbia.

### PART 131—ELIGIBILITY FOR PAYMENTS

Sec.

- 131.1 Candidate agreements.
- 131.2 Candidate certifications; threshold amount.
- 131.3 Matching payment threshold requirements.
- 131.4 Matching payments in excess of threshold.
- 131.5 Candidate entitlements.
- 131.6 Expenditure limitation.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 408(c), Pub. L. 93-443, 88 Stat. 1297 (26 U.S.C. 9039(b)).

**SOURCE:** 41 FR 35969, Aug. 25, 1976, unless otherwise noted.

#### § 131.1 Candidate agreements.

(a) A candidate seeking to become eligible to receive Presidential primary matching fund payments shall agree in a letter to the Commission, signed by the candidate, that the candidate and his or her principal campaign committee will—

(1) Obtain and furnish to the Commission any evidence the Commission may request regarding qualified campaign expenses, including expenses made by all authorized committees of a candidate;

(2) Keep, and furnish to the Commission any books, records, or other information that the Commission may request, including copies of books and records maintained by all authorized committees of the candidate;

(3) Permit an audit and examination by the Commission, pursuant to Part 134, and pay any amounts required to be paid under that Part. In addition, the candidate shall submit the name and mailing address of the person to whom the payment should be sent and the name and address of the national or State bank designated by the candidate as a campaign depository as required in Part 103 of this chapter and § 132.3(c); and

(4) Comply with the applicable requirements of Title 2, United States Code and Parts 100-108 of these regulations.

(b) Failure by the candidate or the candidate's principal campaign committee to comply with the agreements in

paragraph (a) may result in the suspension of the certification process under § 133.7.

**§ 131.2 Candidate certifications; threshold amount.**

A candidate seeking to become eligible to receive Presidential primary matching fund payments shall certify to the Commission, in a written statement signed by the candidate, that—

(a) He or she is seeking nomination by a political party to the office of President of the United States in more than one State;

(b) The candidate and his or her authorized committee(s) will not incur qualified campaign expenses in excess of the limitation on such expenses under § 131.6;

(c) The candidate and his authorized committees have received matchable campaign contributions which, in the aggregate, exceed \$5,000 in contributions from individuals who are residents of each of at least 20 States, and which in respect to any individual do not exceed \$250. For each State in which the candidate certifies he or she has met this requirement, the candidate shall—

(1) Submit an alphabetical list of contributors showing each contributor's full name and residential address, the date of the receipt of each contribution by the candidate or his or her committee and of the deposit into the designated campaign depository, the dollar amount of each contribution submitted for matching purposes, the matchable portion thereof, the total amount of all matchable contributions submitted, and a notation as to whether the contribution was received as a result of an entertainment activity under § 130.9(i); and

(2) Submit a photocopy of each check or other written instrument for each contribution which the candidate submits to receive matching funds. The photocopies shall be segregated alphabetically by deposit, and shall be accompanied by copies of the relevant deposit slip.

(d) The Commission may conduct audits of candidate records to determine eligibility and shall notify candidates if it chooses to conduct the audits. In that case, the Commission may at its own discretion waive the submission requirement of paragraphs (c) (1) and (c) (2) of this section.

(e) If a candidate is not active in more than one State, matching payments will be terminated under § 133.4.

(f) If a candidate knowingly exceeds the expenditure limitation in any State after he or she has accepted matching funds, the candidate is disqualified from receiving further matching funds with respect to that Presidential election.

**§ 131.3 Matching payment threshold requirements.**

During the matching payment period, the Commission shall, as soon as practicable and generally within 5 working days, examine the submission under § 131.1 and § 131.2 (a), (b), and (c) and shall either—

(a) Make a preliminary determination that the candidate has satisfied the requirement of raising an amount in excess of \$5000 in contributions from individuals who are residents of each of at least 20 States, which in respect to any individual do not exceed \$250; or

(b) Promptly notify the candidate giving a detailed explanation of the reasons for the Commission's conclusion that the candidate has failed to satisfy the matching payment threshold requirements.

**§ 131.4 Matching payments in excess of threshold.**

(a) After a preliminary determination has been made that the candidate has successfully satisfied the threshold requirement under § 131.3, the Commission shall so notify the candidate and request the submission in good order of the necessary documentation of all contributions received and deposited by a date specified by the Commission.

(b) Contributions which have been submitted for matching purposes after notification that the candidate has met the threshold requirement need not be segregated by State, including any re-submission of the threshold contributions. Each submission shall include an aggregate total of each individual's contributions submitted for matching purposes.

**§ 131.5 Candidate entitlements.**

A candidate who is certified by the Commission under § 132.1 below as eligible to receive payments is entitled to payments in an amount equal to the amount of each matchable campaign contribution, as defined in § 130.8, provided that the total amount of payments to a candidate shall not exceed 50 percent of the total expenditure limitation applicable under 2 U.S.C. 441a(b)(1)(A) as adjusted by 2 U.S.C. 441a(c).

**§ 131.6 Expenditure limitation.**

(a) No candidate who has accepted matching funds shall knowingly—

(1) Incur qualified campaign expenses in excess of the expenditure limitation applicable under 2 U.S.C. 441a.(b) (1) (A); and

(2) Make expenditures from his or her personal funds, or funds of his or her immediate family, in connection with his or her campaign for nomination for election to the office of President in excess of, in the aggregate, \$50,000.

(b) For purposes of this section, the term "immediate family" means a candidate, spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.

(c) For purposes of applying paragraph (a) (2) of this section, expenditures made by an individual after January 29, 1976, and before May 11, 1976, shall not be taken into account.

(d) For purposes of this section, "personal funds" has the same meaning as specified in § 110.10.

**PART 132—CERTIFICATION AND DISBURSEMENT**

Sec.

- 132.1 Initial certification.
- 132.2 Additional certifications.
- 132.3 Payments and deposits of Presidential primary matching funds.
- 132.4 Insufficient documentation.
- 132.5 Certification review and notice.
- 132.6 Resubmissions and hearing opportunity.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 408(c), Pub. L. 93-443, 88 Stat. 1297 (26 U.S.C. 9039(b)).

**SOURCE:** 41 FR 35970, Aug. 25, 1976, unless otherwise noted.

**§ 132.1 Initial certification.**

Within 10 calendar days after the Commission formally determines that a candidate has established his or her eligibility under Part 131 to receive payments, the Commission shall certify to the Secretary of the Treasury for payment of the amount to which such candidate is entitled.

**§ 132.2 Additional certifications.**

(a) To obtain subsequent certifications following the initial certification and payment, a candidate shall file all

information required for the initial eligibility under Part 131, except that—

(1) The alphabetical listing of contributors need not be segregated by State; and

(2) The candidate need not resubmit the agreements under § 131.1 and the certifications under § 131.2.

(b) Requests for additional certifications may be submitted on dates to be determined and publicized by the Commission from time to time.

(c) Except as provided by § 132.4, requests for additional certification shall be made for those contributions received by the candidate after the close of the period for which the previous submission was made.

(d) The Commission shall certify to the Secretary of the Treasury any additional amount to which a candidate is entitled within 15 calendar days of receipt of information submitted under paragraph (a).

**§ 132.3 Payments and deposits of Presidential primary matching funds.**

(a) Upon receipt of a written certification from the Commission, but not before the beginning of the matching payment period, the Secretary of the Treasury or his or her delegate will promptly transfer the amount certified from the matching payment account to the candidate.

(b) In making such transfers to candidates of the same political party, the Secretary or his or her delegate will seek to achieve an equitable distribution of funds available in the matching payment account, and the Secretary or his or her delegate will take into account, in seeking to achieve an equitable distribution, the sequence in which such certifications are received.

(c) Upon receipt of any matching funds, the candidate shall deposit the full amount received into a checking account maintained by the candidate's principal campaign committee in the depository designated by the candidate.

**§ 132.4 Insufficient documentation.**

Contributions which are otherwise matchable may be rejected for matching purposes because of insufficient supporting documentation. These contributions may become matchable if there is a proper resubmission in accordance with §§ 132.5 and 132.6. Insufficient documentation includes—

(a) Discrepancies in the written instruments, such as—



(1) Instruments drawn on other than personal accounts of contributors and not signed by the contributing individual;

(2) Signature discrepancies; and

(3) Lack of the contributor's signature, the amount of the contribution, or the listing of the committee or candidate as payee;

(b) Discrepancies between listed contributions and supporting documentation, such as—

(1) The contributor's name is misspelled;

(2) The listed amount requested for matching exceeds the amount contained on the written instrument; and

(3) A written instrument has not been submitted to support a listed contribution;

(c) Discrepancies within or between contribution lists submitted, such as—

(1) The address of the contributor is missing or incomplete, or the contributor's name is alphabetized incorrectly, or more than one contributor is listed per item; and

(2) A discrepancy in aggregation within or between submissions, or a listing of a contributor more than once within the same submission.

**§ 132.5 Certification review and notice.**

(a) The Commission will review the submission to determine if the submission meets acceptable standards of good order. Those submissions not meeting the standards will not be certified, and the candidate will be requested to resubmit the documentation. Submissions of a sufficient size will be reviewed using statistical sampling, and the candidate will be given the option of correcting and resubmitting the documentation or of accepting a dollar reduction in the amount requested for matching based on the results of the sample. If the Commission certifies to the Treasury for payment an amount which is less than the amount requested by the candidate, the Commission shall notify the candidate in writing which notice or notices shall include—

(1) The amount less than the full amount requested for certification;

(2) The amount of the contribution and the name of the contributor which the Commission considers not matchable and the reasons therefore, or, if statistical sampling is used, the estimated amount of contributions by type and the reasons for rejection;

(3) The amount of matchable contributions that are not in dispute which the Commission will certify to the Treasury for payment; and

(4) A statement that the candidate has the opportunity to supply the Commission with additional documentation or other explanation in the form of a resubmission under § 132.6 so as to make the disputed contributions matchable.

(b) In any case where the candidate or his or her committee has knowledge that a contribution which has been submitted for matching purposes does not so qualify, such as a check returned to the committee for insufficient funds, the Commission shall be notified as soon as possible so that a proper adjustment may be made in the amount to be certified.

**§ 132.6 Resubmissions and hearing opportunity.**

(a) Contributions which were submitted and rejected under § 132.5(a) may be resubmitted with the necessary information.

(b) In order to be reviewed, the resubmission of disputed contributions shall be made on a separate list identifying the submission in which the contributions were originally submitted.

(c) Resubmissions must be presented to the Commission at a time specified and, to the extent approved, will be certified to the Secretary of the Treasury within 15 calendar days.

(d) If the candidate chooses to make a resubmission and the Commission determines that the disputed contribution is still unmatchable, the Commission will notify the candidate in writing of such action and the reasons therefor and will accord the candidate an opportunity for a hearing if he or she so requests within 7 days from the receipt of this second notification.

(e) The hearing shall be informal and shall be held before the Commission or a designee of the Commission who shall not have been responsible for the certification in question. The candidate or his or her representative shall bring to the hearing all documents relevant to the disputed contributions.

(f) The Commission shall certify for payment the amount of the disputed contributions which have been found at the hearing to be matchable. Failure of the Commission to certify unresolved disputed contributions shall constitute a final and conclusive determination by the Commission. The Commission shall

so notify the candidate of its determinations.

### PART 133—TERMINATIONS OF PAYMENTS

- Sec.  
 133.1 Continuation of certification.  
 133.2 Ineligibility dates defined.  
 133.3 Use of matching payment; net outstanding campaign obligations.  
 133.4 Determination of inactive candidacy.  
 133.5 Determination of active candidacy.  
 133.6 Reestablishment of eligibility dates.  
 133.7 Suspension of payments.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a) (8)), and Sec. 408(c), Pub. L. 93-443, 88 Stat. 1297 (26 U.S.C. 9039(b)).

**SOURCE:** 41 FR 35971, Aug. 25, 1976, unless otherwise noted.

#### § 133.1 Continuation of certification.

Except as provided by § 133.3,

(a) ~~Candidates who have received matching funds may continue to submit contributions to the Commission to be certified for matching through January 21 of the year following the election.~~

(b) ~~No contribution will be matched if it is submitted after this period, regardless of the date the contribution was deposited.~~

#### § 133.2 Ineligibility dates defined.

The ineligibility date of a candidate is determined by paragraph (a) or (b), whichever occurs first.

(a) The day on which an individual ceases to be a candidate because the candidate is not actively conducting campaigns in more than one State in connection with seeking the nomination for election to the office of President of the United States. That date shall be the earlier of—

(1) The date the candidate publicly announces to be the date that he or she will not be actively conducting campaigns in more than one State; or

(2) The date which the Commission determines under § 133.4 to be the date that the candidate is not actively seeking election in more than one State; or

(b) The 30th day following the date of the second consecutive primary election in which such individual receives less than 10 percent of the number of popular votes cast for all candidates of the same party for the same office in such primary election, if such individual permitted or authorized the appearance of his name on the ballot, unless such individual cer-

tifies to the Commission at least 15 days prior to the primary that he will not be an active candidate in the primary involved.

(1) For purposes of this paragraph, if the primary elections involved are held in more than one State on the same date, the highest percentage of votes a candidate receives in any one State will govern. Separate primary elections held in more than one State on the same date are not deemed to be consecutive primaries. If two primary elections are held on the same date in the same State (e.g., a primary to select delegates to a national nominating convention and a primary for the expression of preference for the nomination of candidates for election to the office of President), the highest percentage of votes a candidate receives in either election will govern.

(2) For purposes of this paragraph, the Commission may determine that, notwithstanding the certification by the candidate that he is not an active candidate in the primary involved, he will be deemed to be an active candidate if the Commission so finds under § 133.5.

#### § 133.3 Use of matching payment; net outstanding campaign obligations.

(a) Matching payments shall be used only to defray qualified campaign expenses.

(b) If either § 133.2(a) or § 133.2(b) becomes applicable to a candidate, any expenses incurred after that date are *not* qualified campaign expenses. Matching payments made to a candidate, after the date he or she becomes ineligible under § 133.2 (a) or (b) may only be used to defray net outstanding campaign obligations as of the date determined by § 133.2 (a) or (b).

(c) Net outstanding campaign obligations are total outstanding obligations for qualified campaign expenses as of the close of business on the last date of candidate eligibility less the amount of cash on hand and less the total of any debts owed to the campaign in the form of returns or rebates of qualified campaign expenses (telephone deposits, reimbursements for the press or Secret Service for travel, etc.).

(d) If a campaign has no net outstanding campaign obligations—

(1) The ineligible candidate may not receive further matching payments regardless of the date of deposit of the underlying contributions; and

(2) Any surplus on the date of ineligibility shall be returned to the Treasury in

an amount determined by the formula specified in § 134.3(c).

(e) If a campaign has net outstanding campaign obligations, the candidate may, subject to § 130.6, submit contributions for matching, regardless of the date of deposit, but in no event will the Commission certify for matching an amount which exceeds outstanding campaign obligations.

#### § 133.4 Determination of inactive candidacy.

(a) The Commission may make an initial determination that a candidate is no longer actively seeking nomination for election in more than one State, unless the candidate chooses to send a letter to the Commission indicating an inactive status.

(b) A notice of initial determination shall be sent to the candidate, which determination shall become final if the candidate fails to respond within 10 business days.

(c) The candidate will be afforded an opportunity to make a showing that he or she is an active candidate.

(d) After a proper hearing, the Commission may make a final determination that the candidate is inactive.

(e) The Commission may consider, but is not limited to, the following factors in making its determination:

(1) The frequency and type of public appearances, speeches, and advertisements;

(2) Campaign activity with respect to soliciting contributions or purchasing campaign materials;

(3) Continued payment and employment of personnel and use of volunteers; or

(4) The release of committed delegates, or permitting an opponent to seek their support.

#### § 133.5 Determination of active candidacy.

If a candidate certifies to the Commission that he will not be an active candidate in the primary involved under § 133.2(b), the Commission may nevertheless determine that the candidate is active in the primary involved based upon the same criteria and procedure outlined in § 133.4.

#### § 133.6 Reestablishment of eligibility dates.

(a) If a candidate is not actively conducting campaigns in more than one

State, the Commission may subsequently find that such individual is actively seeking election to the office of President of the United States in more than one State. The Commission shall make this finding without requiring such individual to reestablish his eligibility to receive payments under § 131.2. This finding will be based upon a showing that the candidate is making a bona fide effort to campaign in more than one State. The Commission may consider, but is not limited to, the following factors in making its determination:

(1) The frequency and type of public appearances, speeches, and advertising;

(2) Campaign activity with respect to soliciting contributions or purchasing campaign materials; and

(3) Continued payment and employment of personnel and the use of volunteers, and the continued existence of a campaign organization in a State. The day which the Commission determines to be the day the candidate became active again is the reestablishment of eligibility date.

(b) If it has been determined that § 133.2(b) applies to a candidate, the reestablishment of eligibility date shall be the day on which the candidate receives 20 percent or more of the total number of votes cast for candidates of the same party in a primary election held after the date on which the election was held which was the basis for terminating payments to him.

(c) If the candidate is reestablished under § 133.6(a) or (b), contributions which were not matched during the ineligibility period may be matched, and the payment received may be used to defray expenses incurred during the ineligible period and during the ensuing period of eligibility.

#### § 133.7 Suspension of payments.

If the Commission determines that a candidate or his principal campaign committee substantially failed to comply with § 131.1(a) (4), no certifications will be made until the Commission determines that § 131.1(a) (4) has been substantially complied with. Before suspending payments, the Commission shall notify the candidate and afford him or her an opportunity to demonstrate that the requirements of Title 2 have been substantially complied with.

### PART 134—EXAMINATIONS AND AUDITS; REPAYMENTS

- Sec.  
134.1 Audit.  
134.2 Repayments.  
134.3 Liquidation of obligations; repayment.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a) (8)), and Sec. 408(c), Pub. L. 93-443, 88 Stat. 1297 (26 U.S.C. 9039(b)).

#### § 134.1 Audit.

(a) After the close of a matching payment period, the Commission shall conduct an audit of the qualified campaign expenses of every candidate and his or her authorized committees who received Presidential primary matching funds.

(b) In addition, the Commission may conduct other examinations and audits from time to time as it deems necessary to carry out the provisions of this subchapter.

[41 FR 35972, Aug. 25, 1976]

#### § 134.2 Repayments.

(a) If the Commission determines that—

(1) Any portion of the payments made to a candidate from the matching payment account was in excess of the aggregate amount to which such candidate was entitled; or

(2) Any amount of any payment made to a candidate from the matching payment account was used for any purpose other than—

(i) To defray qualified campaign expenses; or

(ii) To repay loans which were used to defray qualified campaign expenses; or

(3) Any portion of any payment made to a candidate on the basis of contributions received after the ineligibility date in § 133.2 was used for any purpose other than to defray qualified campaign expenses incurred before the ineligibility date;

The Commission shall so inform the candidate as soon as possible, but no later than 3 years after the end of such matching payment period, and the candidate shall repay to the Secretary of the Treasury, within 90 days of the notice, an amount equal to the excess payments, or an amount equal to the amount expended for nonqualified campaign expenses. Upon application submitted by the candi-

date, the Commission may grant a 90-day extension of the repayment period.

(b) If the candidate disputes the Commission's determination that a repayment is required, he or she shall notify the Commission within 30 days of receipt of the Commission's notification to the candidate.

(1) The Commission, or its designee, shall conduct a hearing at a mutually agreeable time and place, at which the candidate may make a showing of where the Commission erred in its determination requiring repayment.

(2) Based on the hearing, the Commission shall reaffirm or modify its initial determination, which shall constitute final and conclusive determination, and shall so notify the candidate.

[41 FR 35972, Aug. 25, 1976]

#### § 134.3 Liquidation of obligations; repayment.

(a) Qualified campaign expenses may be liquidated through use of matching payment funds during a period up to 6 months after the end of the matching payment period.

(b) After all obligations have been liquidated, the candidate shall so inform the Commission in writing.

(c) (1) If on the last day of candidate eligibility the net outstanding campaign obligations of the candidate, as defined in § 133.3(c), reflect a surplus, the candidate shall repay to the Secretary of the Treasury an amount equal to that portion of the surplus which bears the same ratio to the total surplus that the total amount received from the matching payment account bears to the aggregate of all contributions and matching funds deposited in all the candidate's depositories from the first day of the matching payment period through the last day of candidate eligibility. Repayment shall be made within 30 days after the liquidation of all outstanding campaign obligations, but no later than 6 months after the end of the matching payment period.

(2) If on the last day of candidate eligibility there are net outstanding campaign obligations, any matching funds received thereafter may be retained for a period not exceeding 6 months after the end of the matching payment period in order to liquidate those obligations. However, as of the date when the amount, or amounts, of matching funds received after ineligibility equal(s) the amount of the candidate's net outstanding cam-

campaign obligations, the candidate shall be obliged to repay to the Treasury that portion of any unexpended balance remaining on that date in the candidate's accounts (less the matching payments so received) which bears the same ratio to such balance as the total amount received from the matching payment account bears to the aggregate of all contributions and matching funds deposited in all

the depositories through that date. Repayment shall be made within 30 days thereafter, but not later than 6 months after the end of the matching payment period.

(d) All payments received by the Secretary under §§ 134.2 or 134.3 shall be deposited in the matching payment account.

[41 FR 35972, Aug. 25, 1976, as amended at 42 FR 19324, Apr. 13, 1977]

**SUBCHAPTER D—PRESIDENTIAL ELECTION CAMPAIGN FUND,  
GENERAL ELECTION FINANCING**

**PART 140—DEFINITIONS**

- Sec. 140.1 Authorized committee.
- 140.2 Candidate.
- 140.3 Commission.
- 140.4 Eligible candidates.
- 140.5 Fund.
- 140.6 Major party.
- 140.7 Minor party.
- 140.8 New party.
- 140.9 Political committee.
- 140.10 Presidential election.
- 140.11 Qualified campaign expense.
- 140.12 Expenditure report period.
- 140.13 Contribution, exclusions.
- 140.14 Secretary.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c) (13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

**SOURCE:** 41 FR 35972, Aug. 25, 1976, unless otherwise noted.

**§ 140.1 Authorized committee.**

"Authorized committee" means, with respect to the candidates of a political party for President and Vice President of the United States, any political committee which is authorized in writing by such candidates to incur expenses to further the election of such candidates. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall be filed by such candidates with the Commission. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

**§ 140.2 Candidate.**

(a) "Candidate" means, with respect to any Presidential election, an individual who—

(1) Has been nominated for election to the office of President of the United

States or the office of Vice President of the United States by a major party; or

(2) Has qualified to have his name on the election ballot (or to have the names of electors pledged to him on the election ballot) as the candidate of a political party for election to either such office in 10 or more States.

(b) For purposes of §§ 140.6, 140.7, and 142.2 the term "candidate" means, with respect to any preceding Presidential election, an individual who received popular votes for the office of President in such election.

(c) The term "candidate" shall not include any individual who has ceased actively to seek election to the office of President of the United States or to the office of Vice President of the United States in more than one State.

**§ 140.3 Commission.**

"Commission" means the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

**§ 140.4 Eligible candidates.**

"Eligible candidates" means the candidates of a political party for President and Vice President of the United States who have met all applicable conditions for eligibility to receive payments under this chapter set forth in Part 141.

**§ 140.5 Fund.**

"Fund" means the President Election Campaign Fund established by 26 U.S.C. § 9006(a).

**§ 140.6 Major party.**

"Major party" means, with respect to any Presidential election, a political party whose candidate for the office of President in the preceding Presidential election received, as the candidate of such party, 25 percent or more of the total

number of popular votes received by all candidates for such office.

#### § 140.7 Minor party.

"Minor party" means, with respect to any Presidential election, a political party whose candidate for the office of President in the preceding Presidential election received, as the candidate of such party, 5 percent or more, but less than 25 percent, of the total number of popular votes received by all candidates for such office.

#### § 140.8 New party.

"New party" means, with respect to any Presidential election, a political party which is neither a major party nor a minor party.

#### § 140.9 Political committee.

"Political committee" means any committee, association, or organization (whether or not incorporated) which accepts contributions or makes expenditures for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals to Federal, State, or local elective public office.

#### § 140.10 Presidential election.

"Presidential election" means the election of Presidential and Vice-Presidential electors.

#### § 140.11 Qualified campaign expense.

"Qualified campaign expense" means an expense—

(a) incurred—

(1) By the candidate of a political party for the office of President to further his election to such office or to further the election of the candidate of such political party for the office of Vice President, or both;

(2) By the candidate of a political party for the office of the Vice President to further his election to that office or to further the election of the candidate of the political party for the office of President, or both;

(3) By an authorized committee of the candidates of a political party for the offices of President and Vice President to further the election of either or both of the candidates to the respective offices; or

(4) By a person authorized by the Presidential or Vice-Presidential candidate or any of their authorized committees, as the case may be, to incur an ex-

pense on behalf of the candidate or committee;

(b) Incurred within the expenditure report period or incurred before the beginning of such period to the extent such expense is for property, services, or facilities used during such period; or

(c) Incurred for travel, such as renting airplanes and buses, but only to the extent of the greater of—

(1) Gross transportation expenses, less Secret Service and media reimbursements; or

(2) The product of (i) the highest rate for which reimbursement is sought by the candidate from any person for transportation, multiplied by (ii) the total persons transported, less the number of—

(A) Airline or bus company employees;

(B) Secret Service; and

(C) Media personnel;

(d) Neither the incurring nor payment of which constitutes a violation of any law of the United States or of the State in which the expense is incurred or paid.

(e) "Qualified campaign expense" does not include, inter alia, amounts paid by a campaign for—

(1) Expenses incurred after the expenditure report period;

(2) Legal and accounting services paid for by the lawyer's or accountant's regular employers or by the candidate or his or her committee and rendered solely for the purposes of insuring compliance with this Act or chapter 95 of the Internal Revenue Code of 1954, except if the candidate wishes to treat those expenses as qualified campaign expenses, and, in any event, amounts paid or incurred for these services shall be reported in accordance with Part 104.

#### § 140.12 Expenditure report period.

"Expenditure report period" with respect to any Presidential election means—

(a) In the case of a major party, the period beginning with the first day of September before the election, or, if earlier, with the date on which such major party at its national convention nominated its candidate for election to the office of President of the United States, and ending 30 days after the date of the Presidential election; and

(b) In the case of a party which is not a major party, the same period as the expenditure report period of the major party which has the shortest expendi-

ture report period for such Presidential election under paragraph (a).

**§ 140.13 Contribution; exclusions.**

For purposes of this subchapter—

(a) "Contribution" is given the meaning in § 100.4; and

(b) "Contribution" does not include

(1) A loan of money by a national or State bank made in accordance with applicable banking laws and regulations and in the ordinary course of business and not endorsed or guaranteed by any person other than the candidate to the extent that the amount so endorsed by the candidate, when added to all other expenditures made from his personal funds and those of his immediate family, does not exceed \$50,000;

(2) Reimbursements to the candidate or his or her authorized committee from members of the press, the Secret Service, or other persons for air and surface transportation; or

(3) Contributions made to a candidate or his or her committees to defray non-qualified campaign expenses (see § 140.11(e)). These contributions are subject to the limitations of Part 110, and shall be deposited in, and disbursed from, a separate account and not commingled with any money from the fund.

**§ 140.14 Secretary.**

"Secretary" means the Secretary of the Treasury.

**PART 141—ELIGIBILITY FOR PAYMENTS**

Sec.

141.1 Candidate agreements.

141.2 Candidate certifications.

141.3 Allowable contributions.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

**SOURCE:** 41 FR 35974, Aug. 25, 1976, unless otherwise noted.

**§ 141.1 Candidate agreements.**

In order to be eligible to receive any payments under § 143.2, the candidates of a political party in a Presidential election shall, in writing—

(a) Agree to obtain and furnish to the Commission such evidence as it may request of the qualified campaign expenses of such candidates;

(b) Agree to keep and furnish to the Commission such records, books, and other information as it may request;

(c) Agree to an audit and examination by the Commission under Part 145 and to pay any amounts required to be paid under that section; and

(d) Provide the Commission with the name and mailing address of the person to whom the payment should be sent and the name and address of the national or State bank designated by the candidate as a campaign depository.

**§ 141.2 Candidate certifications.**

(a) Major parties. In order to be eligible to receive any payments under § 143.2, the candidates of a major party in a Presidential election shall certify to the Commission, under penalty of perjury, that—

(1) The candidates and their authorized committees will not incur qualified campaign expenses in excess of the aggregate payments to which they will be entitled under § 142.1; and

(2) No contributions to defray qualified campaign expenses have been or will be accepted by such candidates or any of their authorized committees, except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of 26 U.S.C. 9006(d), and no contributions to defray expenses which would be qualified campaign expenses but for § 140.11(c) have been or will be accepted by such candidates or any of their authorized committees.

(b) Minor and new parties. In order to be eligible to receive any payments under § 143.2, the candidates of a minor or new party in a Presidential election shall certify to the Commission, under penalty of perjury, that—

(1) Such candidates and their authorized committees will not incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party are entitled under § 142.1; and

(2) Such candidates and their authorized committees will accept and expend or retain contributions to defray qualified campaign expenses only to the extent that the qualified campaign expenses incurred by such candidates and their authorized committees certified to under paragraph (1) exceed the aggregate payments received by such candidates out of the fund pursuant to § 143.2.

(c) All parties. In order to be eligible to receive any payment under § 143.2, the candidate of a major, minor, or new party in an election for the office of President shall certify to the Commission, under penalty of perjury, that such candidate will not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, \$50,000. For purposes of this paragraph, expenditures from personal funds made by a candidate of a major, minor, or new party for the office of Vice President shall be considered to be expenditures by the candidate of such party for the office of President.

(1) For purposes of this paragraph the term "immediate family" means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.

(2) For purposes of this paragraph expenditures made by an individual after January 29, 1976, and before May 11, 1976, shall not be taken into account.

(3) Expenditures from personal funds made under this paragraph shall not count toward the expenditure limitations.

(d) The certifications in paragraphs (a)–(c) shall be made no sooner than the day upon which the individual became a nominee and no later than 14 days after the nomination.

#### § 141.3 Allowable contributions.

Candidates for the office of President and Vice President may accept contributions to defray the expenses specified in § 140.11 (e) (1) and (2), provided that—

(a) No donations are made by an organization prohibited from contributing by Parts 114 and 115, and contributions from other persons do not exceed the limitations set forth in Part 110;

(b) The contributions shall be deposited and maintained in an account separate from that described in § 143.2, and shall not be commingled with the money paid to the candidates by the Secretary pursuant to § 143.2;

(c) Receipt of any and all of these contributions shall be reported in a report separate from, and in addition to, the report required by § 144.1;

(d) Any solicitation for these contributions must clearly state the purpose to which the contributions are to be applied; and

(e) Any excess of the contributions may not be used to retire debts remaining from the Presidential primaries.

### PART 142—ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS; USE OF PAYMENTS

Sec.

142.1 Major parties.

142.2 Minor parties.

142.3 Minor and new parties; post-election payments.

142.4 Use of payments.

142.5 Withdrawal by candidate.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d (a) (8)), and Sec. 404(c) (13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

SOURCE: 41 FR 35974, Aug. 25, 1976, unless otherwise noted.

#### § 142.1 Major parties.

The eligible candidates of each major party in a Presidential election shall be entitled to equal payments under § 143.2 in an amount which, in the aggregate, shall not exceed the expenditure limitations applicable to such candidates under 2 U.S.C. 441a(b) (1) (B).

#### § 142.2 Minor parties.

(a) The eligible candidates of a minor party in a Presidential election shall be entitled to payments under § 143.2 equal, in the aggregate, to an amount which bears the same ratio to the amount allowed under § 142.1 for a major party as the number of popular votes received by the candidate for President of the minor party, as such candidate, in the preceding Presidential election bears to the average number of popular votes received by the candidates for President of the major parties in the preceding Presidential election.

(b) If the candidate of one or more political parties (not including a major party) for the office of President was a candidate for such office in the preceding Presidential election and received 5 percent or more, but less than 25 percent, of the total number of popular votes received by all candidates for such office, such candidate and his running mate for the office of Vice President, upon compliance with the provisions of



§§ 141.1 and 141.2, shall be treated as eligible candidates entitled to payments under § 142.1 in an amount computed as provided in paragraph (a) by taking into account all the popular votes received by such candidate for the office of President in the preceding Presidential election. If eligible candidates of a minor party are entitled to payments under this paragraph, such entitlement shall be reduced by the amount of the entitlement allowed under paragraph (a).

**§ 142.3 Minor and new parties; post-election payments.**

(a) The eligible candidates of a minor party or a new party in a Presidential election whose candidate for President in such election receives, as such candidate, 5 percent or more of the total number of popular votes cast for the office of President in such election shall be entitled to payments under this part equal, in the aggregate, to an amount which bears the same ratio to the amount allowed under § 142.1 for a major party as the number of popular votes received by such candidate in such election bears to the average number of popular votes received in such election by the candidates for President of the major parties.

(b) In the case of eligible candidates entitled to payments under § 142.2 the amount allowable under this paragraph shall be limited to the amount, if any, by which the entitlement under the preceding sentence exceeds the amount of the entitlement under § 142.2.

**§ 142.4 Use of payments.**

(a) The eligible candidates of a political party shall be entitled to payments only—

(1) To defray qualified campaign expenses incurred by such eligible candidates or their authorized committees; or

(2) To repay bank loans in the case of a major party candidate, and all other loans in the case of a minor or new party candidate, the proceeds of which were used to defray such qualified campaign expenses or otherwise to restore funds (other than contributions to defray qualified campaign expenses received and expended by minor or new party candidates or committees) used to defray such qualified campaign expenses.

(b) Payments may be invested by an eligible candidate or his or her authorized committee, but any income derived

from an investment, such as interest on a certificate of deposit, shall be returned to the Secretary.

**§ 142.5 Withdrawal by candidate.**

In any case in which an individual ceases to be a candidate as a result of the operation of the last sentence of § 140.2(c) such individual—

(a) Shall no longer be eligible to receive any payments under § 143.2, except that such individual shall be eligible to receive payments under such section to defray qualified campaign expenses incurred while actively seeking election to the office of President of the United States or to the office of Vice President of the United States in more than one State; and

(b) Shall pay to the Secretary or his delegate, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under § 143.2 which are used to defray qualified campaign expenses.

**PART 143—CERTIFICATION BY COMMISSION**

Sec.

143.1 Initial certification.

143.2 Payments from the fund.

143.3 Finality of certification; hearings.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d (a) (8)), and Sec. 404(c) (13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009 (b)).

**SOURCE:** 41 FR 35975, Aug. 25, 1976, unless otherwise noted.

**§ 143.1 Initial certification.**

Not later than 10 days after both of the candidates of a political party for President and Vice President of the United States have met all applicable conditions for eligibility to receive payments under Part 141, the Commission shall certify to the Secretary for payment to the eligible candidates under § 143.2 payment in full of amounts to which the candidates are entitled under Part 142.

**§ 143.2 Payments from the fund.**

(a) Upon receipt of a certification from the Commission under § 143.1 for payment to the eligible candidates of a political party, the Secretary shall pay to Presidential and Vice-Presidential candidates out of the fund the amount certified by the Commission.

(b) Payment received by the Presidential candidate shall be deposited in a separate account maintained by his principal campaign committee. The Presidential candidate nominated by a political party may designate the national committee of that political party as the candidate's principal campaign committee.

(c) Payment received by the Vice-Presidential candidate may be deposited in a separate account other than the Presidential account in paragraph (b) as long as that account is in the same depository as that maintained by the Presidential candidate.

(d) No funds other than the payments received from the Treasury and the reimbursements described in § 140.11(c) may be deposited in the accounts described in paragraphs (b) and (c).

(e) Except as provided by this subchapter, amounts paid to any candidate shall be under control of that candidate.

#### § 143.3 Finality of certification; hearings.

(a) Certifications by the Commission under § 143.1, and all determinations made by it under this subchapter shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under Part 145 and judicial review under 26 U.S.C. 9011.

(b) (1) If the candidate disputes any determination made by the Commission under § 143.1, the candidate shall notify the Commission within 15 days of the determination in order to request a re-determination.

(2) Upon receipt of the request for a re-determination, the Commission shall afford the candidate an opportunity to be heard and to present supporting evidence.

### PART 144—REPORTS AND RECORD-KEEPING

Sec.

144.1 Separate reports.

144.2 Allocation of administrative expenses.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d (a) (8)), and Sec. 404(c) (13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

**SOURCE:** 41 FR 35975, Aug. 25, 1976, unless otherwise noted.

#### § 144.1 Separate reports.

(a) The principal campaign committee of any Presidential candidate of a major party, the candidate himself, unless waived, and all authorized committees shall report all expenditures with respect to the general election separately from any other monthly or quarterly reports, as if the general election were the only election activity engaged in by the committees and the candidate.

(b) In addition to the requirements in paragraph (a), minor and new parties shall report the receipt of any private contributions for the general election.

#### § 144.2 Allocation of administrative expenses.

If an authorized committee (including the national committee if authorized) of the candidates of a political party for President and Vice President of the United States also incurs expenses to further the election of one or more other individuals to Federal, State, or local elective public office, expenses incurred by such committee which are not specifically to further the election of such other individual or individuals shall be considered as incurred to further the election of such candidates for President and Vice President in proportion to the number of other candidates supported. For example, if an authorized committee supports the Presidential candidate, the Vice-Presidential candidate, 5 congressional candidates, and 9 State candidates, the total number of candidates supported is 16. The amount of overhead and administrative expenses incurred by the authorized committee for the Presidential and Vice-Presidential candidates is  $\frac{2}{16}$  or  $\frac{1}{8}$ .

### PART 145—EXAMINATIONS AND AUDITS; REPAYMENTS

Sec.

145.1 Audits, records, and investigations.

145.2 Repayments.

145.3 Notification.

**AUTHORITY:** Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d (a) (8)), and Sec. 404(c) (13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

**SOURCE:** 41 FR 35975, Aug. 25, 1976, unless otherwise noted.

#### § 145.1 Audits, records, and investigations.

(a) After each Presidential election, the Commission shall conduct a thorough

examination and audit of the qualified campaign expenses of the candidates of each political party for President and Vice President.

(b) In addition, the Commission may conduct other examinations and audits or investigations and require the keeping and submission of books, records, and information as it deems necessary to carry out the functions and duties imposed on it by this subchapter.

**§ 145.2 Repayments.**

(a) If the Commission determines that—

(1) Any portion of the payments made to the eligible candidates of a political party under § 143.2 was in excess of the aggregate payments to which candidates were entitled under Part 142;

(2) The eligible candidates of a political party and their authorized committees incurred qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party were entitled under Part 142;

(3) The eligible candidates of a major party or any authorized committee of such candidates accepted contributions (other than contributions to make up deficiencies in payments out of the fund on account of the application of 26 U.S.C. 9006(c) or loans from a bank) to defray qualified campaign expenses (other than those excess qualified campaign expenses with respect to which repayment is already required under paragraph (a) (2) of this section); or

(4) Any amount of any payment made to the eligible candidates of a political party under § 143.2 was used for any purpose other than—

(i) To defray qualified campaign expenses with respect to which the payment was made; or

(ii) To repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions received by a minor or new party candidate to defray qualified campaign expenses which were received and expended) which were used, to defray qualified campaign expenses;

The Commission shall notify such candidates of the amount so used, and such candidates shall pay to the Secretary an amount equal to the amount determined under paragraphs (a) (1)–(4).

(b) Any portion of the payment under § 143.2 which remains unpaid after all

qualified campaign expenses have been paid shall be returned to the Secretary.

(c) No repayment shall be required from the eligible candidates of a political party under § 145.2 to the extent that any repayment, when added to other repayments required from the candidates under § 145.2, exceeds the amount of payments received by the candidates under § 143.2.

(d) (1) The candidates shall repay to the Secretary within 90 days of the notice in paragraph (a) an amount equal to the excess payments or an amount equal to the amount expended for nonqualified campaign expenditures. Upon application submitted by the candidate, the Commission may grant a 90-day extension of the repayment period.

(2) If the candidates dispute the Commission's determination that a repayment is required, they shall notify the Commission within 30 days of receipt of the Commission's notification to the candidates.

(i) The Commission, or its designee, shall conduct a hearing at a mutually agreeable time and place, at which the candidate may make a showing of where the Commission erred in its determination of repayment.

(ii) Based on the hearing, the Commission shall reaffirm or modify its initial determination, which shall constitute final and conclusive determination, and shall so notify the candidate.

**§ 145.3 Notification.**

No notification shall be made by the Commission under § 145.2(a) with respect to a Presidential election more than 3 years after the day of the election.

**PART 146—OTHER EXPENDITURES**

**§ 146.1 Expenditures by political party committees.**

Notwithstanding the expenditure limitation applicable to the candidates, national, State, and subordinate committees of a political party may make expenditures in connection with a Presidential general election in amounts that do not exceed those specified in § 110.7.

(Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a) (8)), and Sec. 404(c) (13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)))

[41 FR 35976, Aug. 25, 1976]

# SUPPLEMENT A—OTHER REGULATIONS IMPLE- MENTING SECTION 401 OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971

## CIVIL AERONAUTICS BOARD

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## FEDERAL COMMUNICATIONS COMMISSION

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## CIVIL AERONAUTICS BOARD

### PART 374a—REGULATIONS PURSUANT TO SECTION 401 OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 WITH RESPECT TO EXTENSION OF CREDIT BY AIR CARRIERS TO POLITICAL CANDIDATES

- Sec.
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  - 374a.2 Applicability.
  - 374a.3 Definitions.
  - 374a.4 Conditions governing extension of unsecured credit.
  - 374a.5 Exemption authority.
  - 374a.6 Reporting requirements.
  - 374a.7 Record retention requirements.
  - 374a.8 Prospective application of part.

**AUTHORITY:** The provisions of this Part 374a are issued under secs. 204 (a), 401, 403, 404 (b), 407, and 416 of the Federal Aviation Act of 1958; as amended, 72 Stat. 743, 754 [as amended by 76 Stat. 143, 82 Stat. 867], 758 [as amended by 74 Stat. 445], 760, 766 [as amended by 83 Stat. 103], 771; 49 U.S.C. 1324, 1371, 1373, 1374, 1377, 1386; and sec. 401 of the Federal Election Campaign Act of 1971, Pub. L. 92-225; 86 Stat. 19, 2 U.S.C. 451.

**SOURCE:** Part 374a contained in CAB Reg. SPR-53, 37 FR 9388, May 10, 1972, unless otherwise noted.

**EDITORIAL NOTE:** This part also codified as 14 CFR Part 374a.

**§ 374a.1 Purpose.**

Section 401 of the Federal Election Campaign Act of 1971 (Pub. L. 92-225, 86 Stat. 19, 2 U.S.C. 451, enacted February 7, 1972, and hereafter referred to as the "Election Campaign Act") directs the Civil Aeronautics Board to promulgate, within 90 days after enactment, regulations with respect to the extension of unsecured credit by any person regulated by the Board to any candidate for Federal office, or to any person on behalf of such a candidate, for goods furnished or services rendered in connection with the campaign of such candidate for nomination for election, or election, to such office. The purpose of this part is to issue rules pursuant to said section 401 of the Election Campaign Act in accordance with the Civil Aeronautics Board's responsibility thereunder.

**§ 374a.2 Applicability.**

This regulation shall be applicable to all air carriers as defined in this part.

**§ 374a.3 Definitions.**

"Adequate security" means (a) a bond, issued by a surety meeting the standards prescribed for sureties in Part 378 of the Board's Special Regulations (14 CFR, Part 378), in an amount not less than one hundred and fifty percent (150%) of the credit limit established by the air carrier for the candidate, or the person acting on behalf of a candidate, as the case may be, by the terms of which bond the surety undertakes to pay to the air carrier any and all amounts (not exceeding the face amount of the bond) for which the assured candidate or the assured person acting on behalf of a candidate, as the case may be, is or may become legally liable to the air carrier for transportation, as defined in this part; or (b) collateral with a market value equal to one hundred and fifty percent (150%) of the established credit limit for such account, which collateral must be deposited in escrow and must consist of Federal, State, or municipal bonds or other negotiable securities which are publicly traded on a securities exchange.

"Air carrier" means any air carrier holding a certificate of public convenience and necessity issued under section 401 of the Federal Aviation Act of 1958, as amended.

"Candidate" means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected. For purposes of this part, an individual shall be deemed to seek nomination for election, or election, if he has (a) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office; or (b) received contributions or made expenditures, or given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office.

"Election" shall have reference to (a) a general, special, primary, or runoff election; (b) a convention or caucus of a political party held to nominate a candidate; (c) a primary election held for the selection of delegates to a national nominating convention of a political party; or (d) a primary election held for the expression of a preference for the nomination of persons for election to Federal office.

"Established credit limit" means the dollar limit of credit established by the carrier extending credit.

"Federal office" means the office of President or Vice President of the United States, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

"Person acting on behalf of a candidate" means (a) a political committee acting on behalf of, or a person employed by such candidate or by such political committee or by such political committee to act on behalf of, such candidate in connection with such candidate's campaign for nomination for election, or election, to Federal office; (b) a person's acting under a contract with, or as an agent of, such candidate or political committee to engage in activities in connection with such candidate's campaign for nomination for election, or election, to Federal office; or (c) a person for whom such candidate or political committee pays, directly or indirectly, for services purchased by such person. The term includes persons acting on behalf of more than one candidate.

"Payment in advance" means payment by cash, check, money order, or by credit card (if the issuer of such card is not an air carrier or a subsidiary, parent, or affiliate thereof) prior to performance of such transportation by an air carrier.

"Political committee" means any committee, association, corporation, or organization which accepts contributions, or makes expenditures, for the purpose of

supporting a candidate or candidates for nomination for election, or election, to Federal office.

"Transportation" means (a) the carriage of persons or property (including services connected therewith) for compensation or hire to or from any place in the United States, or (b) the lease or rental of aircraft, with or without crew.

**§ 374a.4 Conditions governing extension of unsecured credit.**

(a) Unless adequate security is posted, a full payment in advance is made, no air carrier shall provide transportation to any person it knows, or has reasons to know, is a candidate or a person acting on behalf of such candidate, in connection with the campaign of such candidate, except in accordance with, and subject to the following conditions:

(1) At least once a month the air carrier shall submit to each such candidate or person, a statement covering all unsecured credit, extended to such candidate or person, as the case may be (whether in connection with the campaign of such candidate or otherwise): *Provided*, That, during the months of September and October prior to each election, statements shall be submitted on no less than a semimonthly basis.

(2) Such statements shall be mailed no later than the second business day following the last day of the billing period covered by the statement.

(3) The amount of indebtedness shown on each such statement shall be payable in full no later than 14 days after the last day of the billing period, after which time the indebtedness shall be overdue.

(4) (i) Unsecured credit shall not be extended by an air carrier to a candidate, or to any person acting on his behalf in connection with the campaign of such candidate, so long as any overdue indebtedness of such candidate to such air carrier shall remain unpaid, in whole or in part, or so long as such air carrier shall know that any overdue indebtedness of such candidate to any other air carrier remains unpaid, in whole or in part.

(ii) Unsecured credit shall not be extended by an air carrier to a person acting on behalf of a candidate, for transportation in connection with the campaign of such candidate, so long as any overdue indebtedness of such person to such carrier shall remain unpaid, in whole or in part, or so long as such air carrier shall know that any overdue indebtedness of such person to any other air carrier remains unpaid, in whole or in part.

(5) (i) With respect to transportation in connection with the campaign of any candidate to be performed after June 1, 1972, unsecured credit shall not be extended by an air carrier to any person acting on behalf of a candidate unless the carrier is authorized in writing by such candidate to extend such credit. The foregoing sentence shall not be construed as requiring the candidate to assume liability to the carrier for credit so extended.

(ii) Within 7 days after indebtedness becomes overdue for any unsecured credit extended by an air carrier to a person acting on behalf of a candidate in accordance with subdivision (i) of this subparagraph, the carrier shall notify such candidate in writing of the amount of such overdue indebtedness, and, unless paid in full within 14 days after the date of such notice, such overdue indebtedness shall be deemed to be the overdue indebtedness of such candidate, for the purposes of subparagraph (4) (i) of this paragraph.

(b) It shall be presumed that a candidate or person acting on behalf of a candidate intends to use transportation in connection with the campaign of such candidate for nomination for election, or election, to Federal office.

**§ 374a.5 Exemption authority.**

Air carriers are exempt from the following provisions of title IV of the Federal Aviation Act of 1958, as amended: (a) Section 403, (b) section 404(b), and any and all other provisions of title IV of the Federal Aviation Act of 1958, as amended, to the extent necessary to enable air carriers to comply with the provisions of this Part.

**§ 374a.6 Reporting requirements.**

(a) Air carriers shall make monthly reports to the Board with respect to the extension of credit for transportation furnished to candidates, or persons acting on behalf of candidates, during the period from 6 months before nomination, if any, or from 6 months before election, until the date of election. After such described period, monthly reports shall also be filed until the air carrier has filed a negative report; thereafter, no further monthly report need be filed until the commencement of the next such described period.

(b) (1) A separate report shall be filed for each candidate with an aggregate indebtedness balance of over \$5,000 on the last day of the month to which the report pertains. The report shall cover all debts incurred by the candidate, whether or not incurred in connection with his campaign, and all debts incurred by persons acting on his behalf in connection with such campaign. The indebtedness accounts reported shall be those which the air carrier knows, or has reason to know, have been incurred by or on behalf of a candidate; and it shall be presumed that the transportation for which the indebtedness has been incurred is intended to be used in connection with the campaign of such candidate for nomination for election, or election, to Federal office.

(2) The report required by this paragraph (b) shall be filed with the Board's Bureau of Accounts and Statistics not later than the 20th day following the end of the calendar month to which the report pertains. They shall include the following data: (i) Name of account; (ii) the credit limit established for such account; (iii) the balance, if any, of the amount payable for transportation not paid for in advance; (iv) any unpaid balance of the charges for such transportation as of the last day of the month covered by the report, and the length of time that such balance has remained unpaid; and (v) a description of the type and value of any bond, collateral, or other security securing such unpaid balance.

(3) The report required by this paragraph (b) shall be in the form attached hereto as Appendix A.<sup>1</sup>

(c) A separate report shall be filed for each person acting on behalf of any candidate, if the aggregate indebtedness balance of such person to the reporting air carrier (including all debts incurred by such person, whether or not incurred in connection with the campaign of a candidate, as defined in this part) is over \$5,000 on the last day of the month to which the report pertains. The report shall be filed with the Board's Bureau of Accounts and Statistics not later than the 20th day following the end of the calendar month to which the report pertains and shall include (1) the credit limitation established for such person; (2) the balance, if any, of the amount payable for transportation not paid in advance; (3) any unpaid balance of the charges for such transportation as of the last day of the month covered by the report, and the length of time that such balance has remained unpaid; and (4) a description of the type and value of any bond, collateral, or other security securing such unpaid balance.

#### § 374a.7 Record retention requirements.

(a) Every air carrier subject to the part shall retain for 2 years after a Federal election true copies of the following documents at its principal or general office in the United States.

(1) All documents which evidence or reflect the furnishing of transportation to a candidate for political office or a person acting on his behalf;

(2) All statements, invoices, bills, and receipts with respect to the furnishing of such transportation referred to in subparagraph (1) of this paragraph.

(b) Every air carrier shall make the documents listed in this section available in the United States upon request by an authorized representative of the Board and shall permit such representative to make such notes and copies thereof as he deems appropriate.

#### § 374a.8 Prospective application of part.

The provisions of this part shall apply only to the extension of credit by an air carrier to a candidate, or to a person acting on his behalf, which is made subsequent to the effective date of this part, and shall not be applicable to debts incurred prior to such date but which are unpaid as of the effective date of this part. The provisions of this part will be applicable, however, to all credit transactions which occur subsequent to the effective date of the part even though the credit account in which the transaction takes place was opened prior to the effective date of the part.

NOTE: The reporting requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

<sup>1</sup> Filed as part of the original document.

## FEDERAL COMMUNICATIONS COMMISSION

## PART 64—EXTENSION OF UNSECURED CREDIT FOR INTERSTATE AND FOREIGN COMMUNICATIONS SERVICES TO CANDIDATES FOR FEDERAL OFFICE

Sec.

64.801 Purpose.

64.802 Applicability.

64.803 Definitions.

64.804 Rules governing the extension of unsecured credit to candidates or persons on behalf of such candidates for Federal office for interstate and foreign common carrier communication services.

**AUTHORITY:** The provisions of this Part 64.H issued under sections 4(i), 201(b), 202(a), 203, 218, and 219 of the Communications Act of 1934, as amended, and section 401 of the Federal Campaign Act of 1971.

**SOURCE:** The provisions of this Part 64 contained in FCC 72-390, 37 FR 9393, May 10, 1972, unless otherwise noted.

**EDITORIAL NOTE:** This part also codified as 47 CFR Part 64, Subpart H.

## § 64.801 Purpose.

Pursuant to section 401 of the Federal Election Campaign Act of 1971, Pub. L. 92-225, these rules prescribe the general terms and conditions for the extension of unsecured credit by a communication common carrier to a candidate or person on behalf of such candidate for Federal office.

## § 64.802 Applicability.

These rules shall apply to each communication common carrier subject to the whole or part of the Communications Act of 1934, as amended.

## § 64.803 Definitions.

For the purposes of this subpart:

(a) "Candidate" means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and an individual shall be deemed to seek nomination for election, or election, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office.

(b) "Election" means (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, and (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President.

(c) "Federal office" means the office of President or Vice President of the United States; or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

(d) "Person" means an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons.

(e) "Unsecured credit" means the furnishing of service without maintaining on a continuing basis advance payment, deposit, or other security, that is designed to assure payment of the estimated amount of service for each future 2 month period, with revised estimates to be made on at least a monthly basis.

**§ 64.804 Rules governing the extension of unsecured credit to candidates or persons on behalf of such candidates for Federal office for interstate and foreign common carrier communication services.**

(a) There is no obligation upon a carrier to extend unsecured credit for interstate and foreign communication services to a candidate or person on behalf of such candidate for Federal office. However, if the carrier chooses to extend such unse-



secured credit, it shall comply with the requirements set forth in paragraphs (b) through (g) of this section.

(b) If a carrier decides to extend unsecured credit to any candidate for Federal office or any person on behalf of such candidate, then unsecured credit shall be extended on substantially equal terms and conditions to all candidates and all persons on behalf of all candidates for the same office, with due regard for differences in the estimated quantity of service to be furnished each such candidate or person.

(c) Before extending unsecured credit, a carrier shall obtain a signed written application for service which shall identify the applicant and the candidate and state whether or not the candidate assumes responsibility for the charges, and which shall also expressly state as follows:

(1) That service is being requested by the applicant or applicants and that the person or persons making the application will be individually, jointly and severally liable for the payment of all charges; and

(2) That the applicant(s) understands that the carrier will (under the provisions of paragraph (d) of this section) discontinue service upon written notice if any amount due is not paid upon demand.

(d) If charges for services rendered are not paid to the carrier within 15 days from rendition of a bill therefor, the carrier shall forthwith at the end of the 15-day period serve written notice on the applicant of intent to discontinue service within 7 days of date of such notice for nonpayment and shall discontinue service at the end of the 7-day period unless all such sums due are paid in full within such 7-day period.

(e) Each carrier shall take appropriate action at law to collect any unpaid balance on an account for interstate and foreign communication services rendered to a candidate or person on behalf of such candidate prior to the expiration of the statute of limitations under section 415(a) of the Communications Act of 1934, as amended.

(f) The records of each account, involving the extension by a carrier of unsecured credit to a candidate or person on behalf of such candidate for common carrier communications services shall be maintained by the carrier so as to show separately, for interstate and foreign communication services all charges, credits, adjustments, and security, if any, and balance receivable.

(g) On or before January 31 and July 31, 1973, and corresponding dates of each year thereafter, each carrier which had operating revenues in the preceding year in excess of \$1 million shall file with the Commission a report by account of any amount due and unpaid, as of the end of the month prior to the reporting date, for interstate and foreign communication services rendered to a candidate or person on behalf of such candidate when such amount results from the extension of unsecured credit. Each report shall include the following information:

- (1) Name of candidate.
- (2) Name and address of person or persons applying for service.
- (3) Balance due carrier.
- (4) Reason for nonpayment.
- (5) Payment arrangements, if any.
- (6) Date service discontinued.
- (7) Date, nature and status of any action taken at law in compliance with paragraph (e) of this section.

## PART 73—RADIO BROADCAST SERVICES

### Subpart A—Standard Broadcast Stations

- Sec.  
73.120 Broadcasts by candidates for public office.  
73.123 Personal attacks; political editorials.

### Subpart B—FM Broadcast Stations

- 73.290 Broadcasts by candidates for public office.  
73.300 Personal attacks; political editorials.

### Subpart C—Noncommercial Educational FM Broadcast Stations

- 73.590 Broadcasts by candidates for public office.  
73.598 Personal attacks.

### Subpart D—[Reserved]

## Subpart E—Television Broadcast Stations

Sec.

73.657 Broadcasts by candidates for public office.

73.679 Personal attacks; political editorials.

**AUTHORITY:** The provisions of this Part 73 issued under secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301; 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended; 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

**EDITORIAL NOTE:** These provisions are also codified in 47 CFR Part 73.

## Subpart A—Standard Broadcast Stations

## § 73.120 Broadcasts by candidates for public office.

(a) *Definitions.*—A “legally qualified candidate” means any person who has publicly announced that he is a candidate for nomination by a convention of a political party or for nomination or election in a primary, special, or general election, municipal, county, State or national, and who meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate, so that he may be voted for by the electorate directly or by means of delegates or electors, and who either:

(1) Has qualified for a place on the ballot, or

(2) Has publicly committed himself to seeking election by the write-in method, and is eligible under the applicable law to be voted for by sticker, by writing in his name on the ballot, or other method; and makes a substantial showing that he is a bona fide candidate for nomination or office.

(b) *General requirements.* No station licensee is required to permit the use of its facilities by any legally qualified candidate for public office, but if any licensee shall permit any such candidate to use its facilities, it shall afford equal opportunities to all other such candidates for that office to use such facilities: *Provided*, That such licensee shall have no power of censorship over the material broadcast by any such candidate.

(c) *Rates and practices.* (1) The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means direct or indirect. A candidate shall, in each case, be charged no more than the rate the station would charge if the candidate were a commercial advertiser whose advertising was directed to promoting its business within the same area as that encompassed by the particular office for which such person is a candidate. All discount privileges otherwise offered by a station to commercial advertisers shall be available upon equal terms to all candidates for public office.

(2) In making time available to candidates for public office no licensee shall make any discrimination between candidates in charges, practices, regulations, facilities, or services for or in connection with the service rendered pursuant to this part, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any licensee make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to broadcast to the exclusion of other legally qualified candidates for the same public office.

(d) *Records, inspection.* Every licensee shall keep and permit public inspection of a complete record (political file) of all requests for broadcast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if request is granted. In addition, where a license provides free time for use by or on behalf of such candidates within 72 hours prior to the day of the election, the licensee shall immediately place a record of any free time provided in the station's political file. All records required by this paragraph shall be retained for a period of two years.

**NOTE:** See § 1.526 of this chapter.

(e) *Time of request.* A request for equal opportunities must be submitted to the licensee within 1 week of the day on which the first prior use, giving rise to the right to equal opportunities, occurred: *Provided, however*, That where a person was not a candidate at the time of such first prior use, he shall submit his request

within 1 week of the first subsequent use after he has become a legally qualified candidate for the office in question.

(f) *Burden of proof.* A candidate requesting such equal opportunities of the licensee, or complaining of non-compliance to the Commission shall have the burden of proving that he and his opponent are legally qualified candidates for the same public office.

(Sec. 315, 48 Stat. 1088, as amended, 47 U.S.C. 315) [28 F.R. 13574, Dec. 14, 1963, as amended at 35 F.R. 7120, May 6, 1970; 41 FR 32220, Aug. 2, 1976; 41 FR 33272, Aug. 9, 1976]

### § 73.123 Personal attacks; political editorials.

(a) When, during the presentation of views on a controversial issue of public importance, an attack is made upon the honesty, character, integrity or like personal qualities of an identified person or group, the licensee shall, within a reasonable time and in no event later than 1 week after the attack, transmit to the person or group attacked (1) notification of the date, time and identification of the broadcast; (2) a script or tape (or an accurate summary if a script or tape is not available) of the attack; and (3) an offer of a reasonable opportunity to respond over the licensee's facilities.

(b) The provisions of paragraph (a) of this section shall not be applicable (1) to attacks on foreign groups or foreign public figures; (2) to personal attacks which are made by legally qualified candidates, their authorized spokesmen, or those associated with them in the campaign, on other such candidates, their authorized spokesmen, or persons associated with the candidates in the campaign; and (3) to bona fide newscasts, bona fide news interviews, and on-the-spot coverage of a bona fide news event (including commentary or analysis contained in the foregoing programs, but the provisions of paragraph (a) of this section shall be applicable to editorials of the licensee).

NOTE: The fairness doctrine is applicable to situations coming within § 72.123(b) (3), above, and, in a specific factual situation, may be applicable in the general area of political broadcasts § 72.123(b) (2), above. See, section 315(a) of the Act, 47 U.S.C. 315(a); Public Notice: *Applicability of the Fairness Doctrine in the Handling of Controversial Issues of Public Importance*, 29 F.R. 10415. The categories listed in § 72.123(b) (3) are the same as those specified in section 315(a) of the Act.

(c) Where a licensee, in an editorial, (1) endorses or (2) opposes a legally qualified candidate or candidates, the licensee shall, within 24 hours after the editorial, transmit to respectively (i) the other qualified candidate or candidates for the same office or (ii) the candidate opposed in the editorial (A) notification of the date and the time of the editorial; (B) a script or tape of the editorial; and (C) an offer of a reasonable opportunity for a candidate or a spokesman of the candidate to respond over the licensee's facilities: *Provided, however*, That where such editorials are broadcast within 72 hours prior to the day of the election, the licensee shall comply with the provisions of this paragraph sufficiently far in advance of the broadcast to enable the candidate or candidates to have a reasonable opportunity to prepare a response and to present it in a timely fashion.

NOTE: Inasmuch as no noncommercial educational broadcasting station may engage in editorializing or may support or oppose any candidate for political office (Sec. 399(a) Communications Act), the provisions of subparagraph (b) (3) of § 72.123 referring to "editorials of the licensee" and paragraph (c) of § 72.123 in its entirety do not apply to such stations.

[32 F.R. 10305, July 13, 1967; as amended at 33 F.R. 5364, Apr. 4, 1968; 41 FR 17551, Apr. 27, 1976]

## Subpart B—FM Broadcast Stations

### § 73.290 Broadcasts by candidates for public office.

(a) *Definitions.*—A "largely qualified candidate" means any person who has publicly announced that he is a candidate for nomination by a convention of a political party or for nomination or election in a primary, special, or general election, municipal, county, State or national, and who meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate, so that he may be voted for by the electorate directly or by means of delegates or electors, and who either:

- (1) Has qualified for a place on the ballot, or

(2) Has publicly committed himself to seeking election by the write-in method, and is eligible under the applicable law to be voted for by sticker, by writing in his name on the ballot, or other method; and makes a substantial showing that he is a bona fide candidate for nomination or office.

(b) *General requirements.* No station licensee is required to permit the use of its facilities by any legally qualified candidate for public office, but if any licensee shall permit any such candidate to use its facilities, it shall afford equal opportunities to all other such candidates for that office to use such facilities: *Provided*, That such licensee shall have no power of censorship over the material broadcast by any such candidate.

(c) *Rates and practices.* (1) The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means direct or indirect. A candidate shall, in each case, be charged no more than the rate the station would charge if the candidate were a commercial advertiser whose advertising was directed to promoting its business within the same area as that encompassed by the particular office for which such person is a candidate. All discount privileges otherwise offered by a station to commercial advertisers shall be available upon equal terms to all candidates for public office.

(2) In making time available to candidates for public office no licensee shall make any discrimination between candidates in charges, practices, regulations, facilities, or services for or in connection with the service rendered pursuant to this part, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any licensee make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to broadcast to the exclusion of other legally qualified candidates for the same public office.

(d) *Records, inspection.* Every licensee shall keep and permit public inspection of a complete record (political file) of all requests for broadcast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if request is granted. In addition, where a licensee provides free time for use by or on behalf of such candidates within 72 hours prior to the day of the election, the licensee shall immediately place a record of any free time provided in the station's political file. All records required by this paragraph shall be retained for a period of two years.

Note: See § 1.526 of this chapter.

(e) *Time of request.* A request for equal opportunities must be submitted to the licensee within 1 week of the day on which the first prior use, giving rise to the right to equal opportunities, occurred: *Provided, however*, That where a person was not a candidate at the time of such first prior use, he shall submit his request within 1 week of the first subsequent use after he has become a legally qualified candidate for the office in question.

(f) *Burden of proof.* A candidate requesting such equal opportunities of the licensee, or complaining of non-compliance to the Commission shall have the burden of proving that he and his opponent are legally qualified candidates for the same public office.

(Sec. 315, 48 Stat. 1088, as amended; 47 U.S.C. 315) [28 F.R. 13623, Dec. 14, 1963, as amended at 35 FR 7120, May 6, 1970; 41 FR 32220, Aug. 2, 1976; 41 FR 33272, Aug. 9, 1976]

### § 73.300 Personal attacks; political editorials.

(a) When, during the presentation of views on a controversial issue of public importance, an attack is made upon the honesty, character, integrity or like personal qualities of an identified person or group, the licensee shall within a reasonable time and in no event later than 1 week after the attack, transmit to the person or group attacked (1) notification of the date, time and identification of the broadcast; (2) a script or tape (or an accurate summary if a script or tape is not available) of the attack; and (3) an offer of a reasonable opportunity to respond over the licensee's facilities.

(b) The provisions of paragraph (a) of this section shall not be applicable (1) to attacks on foreign groups or foreign public figures; (2) to personal attacks which are made by legally qualified candidates, their authorized spokesmen, or those associated with them in the campaign, on other such candidates, their authorized spokesmen, or persons associated with the candidates in the campaign; and (3)

to bona fide newscasts, bona fide news interviews, and on-the-spot coverage of a bona fide news event (including commentary or analysis contained in the foregoing programs, but the provisions of paragraph (a) of this section shall be applicable to editorials of the licensee).

**NOTE:** The fairness doctrine is applicable to situations coming within § 72.300(b) (3), above, and, in a specific factual situation, may be applicable in the general area of political broadcasts § 72.300(b) (2), above. See, section 315(a) of the Act, 47 U.S.C. 315(a); Public Notice: *Applicability of the Fairness Doctrine in the Handling of Controversial Issues of Public Importance*, 29 F.R. 10415. The categories listed in § 72.300(b) (3) are the same as those specified in section 315(a) of the Act.

(c) Where a licensee, in an editorial, (1) endorses or (2) opposes a legally qualified candidate or candidates, the licensee shall, within 24 hours after the editorial, transmit to respectively (i) the other qualified candidate or candidates for the same office or (ii) the candidate opposed in the editorial (3) notification of the date and the time of the editorial; (4) a script or tape of the editorial; and (5) an offer of a reasonable opportunity for a candidate or a spokesman of the candidate to respond over the licensee's facilities: *Provided, however,* That where such editorials are broadcast within 72 hours prior to the day of the election, the licensee shall comply with the provisions of this paragraph sufficiently far in advance of the broadcast to enable the candidate or candidates to have a reasonable opportunity to prepare a response and to present it in a timely fashion.

**NOTE:** Inasmuch as no noncommercial educational broadcasting station may engage in editorializing or may support or oppose any candidate for political office (Sec. 399(a) Communications Act), the provisions of subparagraph (b) (3) of § 72.300 referring to "editorials of the licensee" and paragraph (c) of § 72.300 in its entirety do not apply to such stations.

[32 F.R. 10305, July 12, 1967, as amended at 33 F.R. 5364, Apr. 4, 1968; 41 FR 17551, Apr. 27, 1976]

#### Subpart C—Noncommercial Educational FM Broadcast Stations

##### § 73.590 Broadcasts by candidates for public office.

(a) *Definitions.*—A "legally qualified candidate" means any person who has publicly announced that he is a candidate for nomination by a convention of a political party or for nomination or election in a primary, special, or general election, municipal, county, State or national, and who meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate, so that he may be voted for by the electorate directly or by means of delegates or electors, and who either:

(1) Has qualified for a place on the ballot, or

(2) Has publicly committed himself to seeking election by the write-in method, and is eligible under the applicable law to be voted for by sticker, by writing in his name on the ballot, or other method; and makes a substantial showing that he is a bona fide candidate for nomination or office.

(b) *General requirements.* No station licensee is required to permit the use of its facilities by any legally qualified candidate for public office, but if any licensee shall permit any such candidate to use its facilities, it shall afford equal opportunities to all other such candidates for that office to use such facilities: *Provided,* That such licensee shall have no power of censorship over the material broadcast by any such candidate.

(c) *Practices.* No licensee shall make any discrimination in practices, regulations, facilities, or services for or in connection with the service rendered pursuant to this part, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any licensee make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to broadcast to the exclusion of other legally qualified candidates for the same public office.

(d) *Records, inspection.* Every licensee shall keep and permit public inspection of a complete record (political file) of all requests for broadcast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if request is granted. In addition, where a licensee provides free time for use by or on behalf of such candidates within 72 hours prior to the day of the election, the licensee shall immediately place a record of any free time provided in the station's political file. All records required by this paragraph shall be retained for a period of two years.

**NOTE:** See § 1.526 of this chapter.

(e) *Time of request.* A request for equal opportunities must be submitted to the licensee within 1 week of the day on which the first prior use, giving rise to the right to equal opportunities, occurred: *Provided, however,* That where a person was not a candidate at the time of such first prior use, he shall submit his request within 1 week of the first subsequent use after he has become a legally qualified candidate for the office in question.

(f) *Burden of proof.* A candidate requesting such equal opportunities of the licensee, or complaining of non-compliance to the Commission shall have the burden of proving that he and his opponent are legally qualified candidates for the same public office.

(Sec. 315, 48 Stat. 1088, as amended; 47 U.S.C. 315) [28 F.R. 13651, Dec. 14, 1963, as amended; at 35 F.R. 7120, May 6, 1970; 41 FR 32220, Aug. 2, 1976; 41 FR 33272, Aug. 9, 1976]

### § 73.598 Personal attacks.

(a) When, during the presentation of views on a controversial issue of public importance, an attack is made upon the honesty, character, integrity or like personal qualities of an identified person or group, the licensee shall, within a reasonable time and in no event later than 1 week after the attack, transmit to the person or group attacked (1) notification of the date, time and identification of the broadcast; (2) a script or tape (or any accurate summary if a script or tape is not available) of the attack; and (3) an offer of a reasonable opportunity to respond over the licensee's facilities.

(b) The provisions of paragraph (a) of this section shall not be applicable (1) to attacks on foreign groups or foreign public figures; (2) to personal attacks which are made by legally qualified candidates, their authorized spokesmen, or those associated with them in the campaign, on other such candidates, their authorized spokesmen, or persons associated with the candidates in the campaign; and (3) to bona fide newscasts, bona fide news interviews, and on-the-spot coverage of a bona fide news event (including commentary or analysis contained in the foregoing programs).

NOTE: The fairness doctrine is applicable to situations coming within § 73.598(b) (3), above, and, in a specific factual situation, may be applicable in the general area of political broadcasts (b) (2), above. See section 315(a) of the Act, 47 U.S.C. 315(a); Public Notice: *Applicability of the Fairness Doctrine in the Handling of Controversial Issues of Public Importance.* 29 F.R. 10415. The categories listed in (b) (3) of § 73.598 are the same as those specified in section 315(a) of the Act.

[32 F.R. 10305, July 12, 1967, as amended at 33 F.R. 5364, Apr. 4, 1968; 38 F.R. 18378, July 10, 1973; 41 FR 17551, Apr. 27, 1976]

### Subpart D—[Reserved]

### Subpart E—Television Broadcast Stations

### § 73.657 Broadcasts by candidates for public office.

(a) *Definitions.* A "legally qualified candidate" means any person who has publicly announced that he is a candidate for nomination by a convention of a political party or for nomination or election in a primary, special, or general election, municipal, county, State or national, and who meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate, so that he may be voted for by the electorate directly or by means of delegates or electors, and who either:

(1) Has qualified for a place on the ballot, or

(2) Has publicly committed himself to seeking election by the write-in method, and is eligible under the applicable law to be voted for by sticker, by writing in his name on the ballot, or other method; and makes a substantial showing that he is a bona fide candidate for nomination or office.

(b) *General requirements.* No station licensee is required to permit the use of its facilities by any legally qualified candidate for public office, but if any licensee shall permit any such candidate to use its facilities, it shall afford equal opportunities to all other such candidates for that office to use such facilities: *Provided,* That such licensee shall have no power of censorship over the material broadcast by any such candidate.

(c) *Rates and practices.* (1) The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means direct or indirect. A candidate shall, in each case, be charged no more than the rate the

station would charge if the candidate were a commercial advertiser whose advertising was directed to promoting its business within the same area as that encompassed by the particular office for which such person is a candidate. All discount privileges otherwise offered by a station to commercial advertisers shall be available upon equal terms to all candidates for public office.

(2) In making time available to candidates for public office no licensee shall make any discrimination between candidates in charges, practices, regulations, facilities, or services for or in connection with the service rendered pursuant to this part, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any licensee make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to broadcast to the exclusion of other legally qualified candidates for the same public office.

(d) *Records, inspection.* Every licensee shall keep and permit public inspection of a complete record (political file) of all requests for broadcast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if request is granted. In addition, where a licensee provides free time for use by or on behalf of such candidates within 72 hours prior to the day of the election, the licensee shall immediately place a record of any free time provided in the station's political file. All records required by this paragraph shall be retained for a period of two years.

NOTE.—See § 1.526 of this chapter.

(e) *Time of request.* A request for equal opportunities must be submitted to the licensee within 1 week of the day on which the first prior use, giving rise to the right to equal opportunities, occurred: *Provided, however,* That where a person was not a candidate at the time of such first prior use, he shall submit his request within 1 week of the first subsequent use after he has become a legally qualified candidate for the office in question.

(f) *Burden of proof.* A candidate requesting such equal opportunities of the licensee, or complaining of non-compliance to the Commission shall have the burden of proving that he and his opponent are legally qualified candidates for the same public office.

(Sec. 315, 48 Stat. 1088, as amended; 47 U.S.C. 315) [28 F.R. 13660, Dec. 14, 1963, as amended at 35 F.R. 7120, May 6, 1970; 41 FR 32220, Aug. 2, 1976; 41 FR 33272, Aug. 9, 1976]

### § 73.679 Personal attacks; political editorials.

(a) When, during the presentation of views of a controversial issue of public importance, an attack is made upon the honesty, character, integrity or like personal qualities of an identified person or group, the licensee shall, within a reasonable time and in no event later than 1 week after the attack, transmit to the person or group attacked (1) notification of the date, time and identification of the broadcast; (2) a script or tape (or an accurate summary if a script or tape is not available) of the attack; and (3) an offer of a reasonable opportunity to respond over the licensee's facilities.

(b) The provisions of paragraph (a) of this section shall not be applicable (1) to attacks on foreign groups or foreign public figures; (2) to personal attacks which are made by legally qualified candidates, their authorized spokesmen, or those associated with them in the campaign, on other such candidates, their authorized spokesmen, or persons associated with the candidates in the campaign; and (3) to bona fide newscasts, bona fide news interviews, and on-the-spot coverage of a bona fide news event (including commentary or analysis contained in the foregoing programs, but the provisions of paragraph (a) of this section shall be applicable to editorials of the licensee).

NOTE: The fairness doctrine is applicable to situations coming within § 73.679(b) (3), above, and, in a specific factual situation, may be applicable in the general area of political broadcasts § 73.679(b) (2), above. See, section 315(a) of the Act, 47 U.S.C. 315(a); Public Notice: *Applicability of the Fairness Doctrine in the Handling of Controversial Issues of Public Importance*, 29 F.R. 10415. The categories listed in (b)(3) of § 73.679 are the same as those specified in section 315(a) of the Act.

(c) Where a license, in an editorial, (1) endorses or (2) opposes a legally qualified candidate or candidates, the licensee shall, within 24 hours after the editorial, transmit to respectively (i) the other qualified candidate or candidates for the same office or (ii) the candidate opposed in the editorial (A) notification of the date and the time of the editorial; (B) a script or tape of the editorial; and (C) an offer of a reasonable opportunity for a candidate or a spokesman of the candidate to respond over the licensee's facilities: *Provided, however*, That where such editorials are broadcast within 72 hours prior to the day of the election, the licensee shall comply with the provisions of this paragraph sufficiently far in advance of the broadcast to enable the candidate or candidates to have a reasonable opportunity to prepare a response and to present it in a timely fashion.

NOTE: Inasmuch as no noncommercial educational broadcasting station may engage in editorializing or may support or oppose any candidate for political office (Sec. 399(a) Communications Act), the provisions of subparagraph (b) (3) of § 73.679 referring to "editorials of the licensee" and paragraph (c) of § 73.679 in its entirety do not apply to such stations.

[32 FR 10305, July 12, 1967, as amended at 33 FR 5364, Apr. 4, 1968; 41 FR 17552, Apr. 27, 1976]

### PART 76—CABLE TELEVISION SERVICE

#### § 76.209 Fairness doctrine; personal attacks; political editorials.

(a) A cable television system engaging in origination cablecasting shall afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

NOTE: See public notice, "Applicability of the Fairness Doctrine in the Handling of Controversial Issues of Public Importance," 29 F.R. 10415.

(b) When, during such origination cablecasting, an attack is made upon the honesty, character, integrity, or like personal qualities of an identified person or group, the cable television system operator shall, within a reasonable time and in no event later than one (1) week after the attack, transmit to the person or group attacked: (1) Notification of the date, time, and identification of the cablecast; (2) a script or tape (or an accurate summary if a script or tape is not available) of the attack; and (3) an offer a reasonable opportunity to respond over the system's facilities.

(c) The provisions of paragraph (b) of this section shall not be applicable: (1) To attacks on foreign groups or foreign public figures; (2) to personal attacks which are made by legally qualified candidates, their authorized spokesmen, or those associated with them in the campaign, on other such candidates, their authorized spokesmen, or persons associated with the candidates in the campaign; and (3) to bona fide newscasts, bona fide news interviews, and on-the-spot coverage of a bona fide news event (including commentary or analysis contained in the foregoing programs, but the provisions of paragraph (b) of this section shall be applicable to editorials of the cable television system).

(d) Where a cable television system operator, in an editorial, (1) endorses or (2) opposes a legally qualified candidate or candidates, the system operator shall, within 24 hours of the editorial, transmit to respectively (i) the other qualified candidate or candidates for the same office, or (ii) the candidate opposed in the editorial, (a) notification of the date, time, and channel of the editorial; (b) a script or tape of the editorial; and (c) an offer of a reasonable opportunity for a candidate or spokesman of the candidate to respond over the system's facilities: *Provided, however*, That where such editorials are cablecast within 72 hours prior to the day of the election, the system operator shall comply with the provisions of this paragraph sufficiently far in advance of the broadcast to enable the candidate or candidates to have a reasonable opportunity to prepare a response and to present it in a timely fashion.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat. as amended 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; 47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317.)

[[37 FR 3278 Feb. 12, 1972, as amended at 42 FR 19347, Apr. 13, 1977]]

EDITORIAL NOTE: This section is also codified in 47 CFR Part 76.



**INTERSTATE COMMERCE COMMISSION**

**PART 1325—EXTENSION OF CREDIT TO CANDIDATES FOR FEDERAL OFFICE  
OR THEIR REPRESENTATIVES**

Sec.

1325.1 Extension of unsecured credit prohibited.

1325.2 Credit agreements.

1325.3 Federal office.

**AUTHORITY:** The provisions of this Part 1325 issued under Pub. L. 92-225, the Federal Election Campaign Act of 1971, enacted Feb. 7, 1972.

**SOURCE:** The provisions of this Part 1325 contained in ICC Ex Part 283, 37 FR 10446, May 23, 1972, unless otherwise noted.

**EDITORIAL NOTE:** This part also codified as 49 CFR Part 1325.

**§ 1325.1 Extension of unsecured credit prohibited.**

Persons subject to regulations by the Interstate Commerce Commission shall not knowingly and willfully provide, for candidates for Federal office or their representatives, service or goods related to their campaign without obtaining either prepayment or a binding guarantee of payment through a sufficient deposit, bond, collateral, or other means of security. The extension of credit to such persons shall not exceed the amount of the security posted.

**§ 1325.2 Credit agreements.**

(a) All agreements to extend credit to candidates for Federal office or their representatives by person subject to regulation by the Interstate Commerce Commission, (1) must be in writing, (2) must contain a detailed description of the deposit, bond, collateral, or other means of security, used to secure payment of the debt, and (3) must be signed by all parties to the agreement. A copy of each such agreement must be filed with this Commission's Bureau of Operations in Washington, D.C., within 20 days of the date of its execution.

**§ 1325.3 Federal office.**

For the purposes of this section, "Federal office" means the office of the President or Vice President of the United States; or of a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

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