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Advisory Opinions

[AO 2016-02: PACs of LLC and One of its Joint Venture Owners Not Affiliated](#)

Enable Midstream Services, LLC ("Enable") asked whether a separate segregated fund (SSF) it plans to establish would be affiliated with the SSFs of its joint venture owners, CenterPoint Energy, Inc. ("CNP") and OGE Energy Corporation ("OGE"). The Commission concluded that Enable's SSF would not be affiliated with CNP's SSF, but could not approve a response by the required four affirmative votes on whether it would be affiliated with OGE's SSF.

Background

Enable is a wholly-owned subsidiary of Enable Midstream Partners, LP ("Limited Partnership"). Enable and Limited Partnership are managed by Enable General Partnership, LLC ("General Partnership").

Enable, Limited Partnership and General Partnership were formed as part of a joint venture ("Joint Venture") between CNP, OGE and private investors "to own, operate and develop midstream natural gas and crude oil infrastructure assets." The Joint Venture is managed by the General Partnership through its board of directors ("Board") and executive officers. The Board consists of eight directors: the General Partnership's Chief Executive Officer, two directors representing CNP, two directors representing OGE, and three independent directors. Limited Partnership's formation involved the consolidation of approximately 1,900 employees from CNP, OGE and its various subsidiaries. Enable employs approximately 1,700 of those employees, who conduct the day-to-day operations of Limited Partnership and its subsidiaries. An additional 164 seconded employees work for Enable but receive salaries from OGE and participate under OGE's benefit and retiree medical plans. Enable reimburses OGE for the employment-related expenses of these seconded employees. This temporary arrangement will end once the employees in this group either retire or leave their employment.

Enable plans to establish an SSF that will be overseen by the officers of the Joint Venture, but operated and maintained separately from the SSFs of CNP and OGE.

Analysis

Under the Federal Election Campaign Act and Commission regulations, political committees that are established, financed, maintained, or controlled by the same organization are affiliated. See 52 U.S.C. § 30116(a)(5); 11 CFR 100.5(g)(2), 110.3(a)(1). Certain organizations—including a corporation and its subsidiaries—are per se affiliated, which results in their SSFs being affiliated. See 11 CFR 100.5(g)(3)(i), 110.3(a)(2)(i).

In cases where the relationship of one company to another does not constitute per se affiliation, the Commission will examine various circumstantial factors in the context of the overall relationship to determine whether organizations are affiliated. See 11 CFR 100.5(g)(4)(i)-(ii), 110.3(a)(3)(i)-(ii). Affiliated committees are treated as a single committee and share contribution limits; thus, contributions made by or to affiliated committees are considered to have been made by or to a single committee. 52 U.S.C. § 30116(a)(5); 11 CFR 100.5(g)(2), 110.3(a)(1).

The Commission determined that Enable is not per se affiliated with either CNP or OGE because neither entity holds a majority interest in Enable. (The Commission has long considered a parent company's majority interest ownership of another organization indicative of per se affiliation.) Therefore, the Commission examined the ten circumstantial factors in the context of the overall relationship between the entities to determine affiliation.

The Commission concluded that CNP does not own a controlling interest on the Board, has no hiring authority over Enable's employees, and does not have common employees with Enable, therefore these circumstantial factors weighed against finding affiliation. The Commission found five additional factors either neutral or inapplicable. The only remaining and relevant factor in the Commission's analysis was whether CNP has the authority to direct or participate in the governance of Enable.

Governance

With governance, the Commission considers whether a sponsoring organization has the authority to direct or participate in governance of the sponsoring organization through provisions of constitutions, bylaws, contracts, or other rules, or through formal or informal practices or procedures. 11 CFR 100.5(g)(4)(ii)(B), 110.3(a)(3)(ii)(B).

In this case, Enable is governed by the General Partnership's Board, which manages the day-to-day activities of Enable. Since CNP is entitled to appoint two directors to the eight-member Board, it participates in the governance of Enable. However, the Commission determined that because CNP has only one-quarter representation and control of the Board, it lacks the "authority to direct" the governance of Enable. While CNP's participation on Enable's governing Board weighs in favor of finding affiliation, the Commission concluded that its weak representation and control of the Board does not cause this factor to weigh heavily.

Given the "context of the overall relationship" between CNP and Enable, the Commission found there would be no affiliation between CNP's SSF and Enable's planned SSF. The Commission could not approve a response by the four affirmative votes on whether OGE's SSF would be affiliated with Enable's SSF.

Date issued: April 29, 2016; Length: 10 pages

(Posted 05/04/2016; By: Zainab Smith)

Resources:

- [AO 2016-02](#) [PDF]
- [Commission consideration of AO 2016-02](#) 

[AO 2016-03: New Election Entitles Candidates to Separate Contribution Limit](#)

In response to a court order, North Carolina scheduled a June 7, 2016, primary election for the U.S. House of Representatives, separate from the state's March 15, 2016, primary. Because the court order and subsequent legislation created a new electoral situation, candidates participating in both elections are entitled to separate contribution limits for each.

Background

George Holding currently represents the 13th Congressional District of North Carolina in the U.S. House of Representatives. He ran unopposed in a primary election slated for March 15, 2016. However, on February 5, the U.S. District Court for the Middle District of North Carolina found two Congressional districts had been impermissibly gerrymandered. The court ordered the North Carolina General Assembly to redraw the district lines. The General Assembly did so on February 19, and scheduled a new primary for June 7.

On March 15, Holding amended his Statements of Organization and Candidacy to seek North Carolina's 2nd Congressional District seat, rather than the 13th. He will face the 2nd District incumbent in that race. His principal campaign committee, George Holding for Congress, Inc., asked the Commission if it could raise funds under a separate contribution limit for the June 7 election.

Analysis

Under the Federal Election Campaign Act ("the Act"), candidates and their authorized committees are allowed separate contribution limits with respect to any election for federal office. 52 U.S.C. § 30116(a)(1)(A) and (2)(A). An "election" includes any general, special, primary, or runoff election where an individual, "whether opposed or unopposed, seek[s] nomination for election, or election, to Federal office." 11 CFR 100.2(a).

The Commission has previously determined that a separate contribution limit is allowed when a court decision places candidates in a "new electoral situation" thereby creating a separate election. In [Advisory Opinion 1996-36](#) (Congressman Martin Frost, et al.), the Commission found that five members of Congress from Texas were entitled to a separate contribution limit for a special election after a federal court redrew the boundaries of 13 congressional districts and ordered a new special election, thereby placing the candidates in a new electoral situation. In [Advisory Opinion 2006-26](#) (Texans for Henry Bonilla), the Commission approved a separate contribution limit for a new special election after a court order nullified a prior election.

The circumstances presented in the current advisory opinion differ materially from those in [Advisory Opinion 1982-22](#) (Steve Bartlett for Congress Committee), where the Commission found that a pre-election, court-ordered redistricting did not entitle a

candidate to a new contribution limit because the court order was made several months in advance and did not change the election date, electoral procedures or candidate eligibility requirements.

In this case, at the time of the court order, voting in North Carolina's March 15 primary had already begun — absentee ballots had been mailed to voters, and the names of congressional candidates had already been printed on the ballot. Additionally, the newly-enacted state law treated the March 15 and June 7 elections differently by requiring candidates qualified for the March 15 ballot to file a new notice of candidacy in connection with the June 7 election. The law also altered the required percentage of votes that a candidate must receive to win the primary and eliminated the possibility of a second primary.

The Commission found the specifics of North Carolina's electoral situation to be highly unusual in the sense that the court order and new state laws went into effect only weeks before the March 15 election.

For these reasons, the Commission found that the June 7 primary constitutes a separate election from the March 15 primary, and, therefore, candidates in the June 7 primary are entitled to a separate contribution limit.

Date issued: 04/29/2016; 5 pages

(Posted 05/03/2016; By: Isaac Baker)

Resources:

- [Advisory Opinion 2016-03](#) [PDF]
- [Commission Consideration of Advisory Opinion 2016-03](#) 
- May 2, 2016, Tip for Treasurers: [NC House Campaigns Entitled to Separate Limits for 3/15 and 6/7 Primaries](#)

[AOR 2016-04: Grand Trunk Western Railroad-Illinois Central Railroad PAC](#)

On May 19, 2016, the Commission considered an Advisory Opinion Request (AOR) from Grand Trunk Western Railroad-Illinois Central Railroad PAC (GTW-IC PAC). In its request, GTW-IC PAC asked whether it could incorporate an abbreviation used by its connected organizations and their foreign parent into an abbreviated name for the PAC. The Commission was unable to render an opinion by the required four affirmative votes and concluded its consideration of the request.

(Date Posted: 05/20/2016; By Myles Martin)

Resources:

- [Advisory Opinion Request 2016-04](#) [PDF]
- [Commission Discussion of AOR 2016-04](#) 

Pending Advisory Opinion Requests as of May 31, 2016

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

- [AOR 2016-05](#) [PDF] Use of legal defense fund to pay settlement. (Huckabee for President received on May 13, 2016)

(Posted 05/31/2016; By: Dorothy Yeager)

Resources:

- [Advisory Opinion Search](#)

Regulations

Commission Publishes Technical Corrections to CFR

The Commission has published in the *Federal Register* a series of technical changes to various sections of Title 11 of the Code of Federal Regulations (CFR). [81 Fed. Reg. 34861 \(June 1, 2016\)](#). The changes correct typographical and technical errors, and update references to other sections of 11 CFR.

The changes take effect immediately, and will be incorporated into the 2017 print edition of the CFR (available Spring 2017). They can also be retrieved on the FEC's website at <http://www.fec.gov/law/cfr/cfr.shtml> or through the [e-CFR](#), which is maintained by the U.S. Government Publishing Office (GPO) and updated daily.

(Posted 06/01/2016; By: Dorothy Yeager)

Resources:

- [Federal Register notice](#) [PDF]
- [Commission consideration of technical corrections](#) 

Public Funding

Commission Certifies Federal Matching Funds for Stein

The Federal Election Commission has certified a payment of \$96,924.35 in federal matching funds to Jill Stein for President. The certified amount was in response to the first regular submission for matching funds made by Stein, who is seeking the Green Party nomination for president for 2016.

To become eligible for matching funds, candidates must raise a threshold amount of \$100,000 by collecting \$5,000 in 20 different states in amounts no greater than \$250 from any individual. Other requirements to be declared eligible include agreeing to an overall spending limit, abiding by spending limits in each state, using public funds only for legitimate campaign-related expenses, keeping financial records and permitting an extensive campaign audit.

Based on Stein's initial threshold submission in March, the Commission requested that the United States Treasury make an initial payment of \$100,000 to Stein's campaign. The amount requested from the Treasury following the Commission's tally vote on May 18, 2016, brings the total certified for the Stein campaign to \$196,924.35.

Materials included with Jill Stein for President's submission may be viewed [here](#). Once declared eligible, campaigns may submit additional contributions for matching funds on the first business day of every month. The maximum amount a primary candidate could receive is currently estimated to be about \$48.01 million.

(Posted 05/20//2016)

Resources:

- [FEC Press Release \(May 19, 2016\)](#)
- [Press Office Backgrounder on Presidential Election Campaign Fund](#)
- [2016 Presidential Matching Fund Submissions](#)

Compliance

Commission Modifies Program for Requesting Agency Consideration of Legal Questions

The Commission recently approved two modifications to its program that enables persons to request consideration of legal issues arising during the agency's report review and audit processes.

The first change clarifies that these requests must be submitted to the Commission Secretary, rather than the staff person involved in the matter. The second gives the FEC's Office of General Counsel up to five business days from receipt of an inquiry to

resolve the matter informally. This informal process is intended to promote, where appropriate, an efficient and fair resolution of issues without the need for more formal consideration.

Created in 2010, the program was last modified in 2013 to provide an alternative electronic means to file a request. See [78 Fed. Reg. 63203](#) (October 23, 2013).

The latest changes were published in the Federal Register at [81 Fed. Reg. 29862](#) on May 13, 2016.

(Posted 05/13/2016; By: Alex Knott)

Resources:

- [Federal Register notice](#) [PDF; 2 pages]
- [Requests for Legal Consideration by Commission](#)
- [Commission's consideration of the draft notice](#) 

[FEC Cites Committee in Virginia for Failure to File 12-Day Pre-Convention Financial Report](#)

On May 4, 2016, the Federal Election Commission cited a campaign committee for failing to file the 12-Day Pre-Convention Report required by the Federal Election Campaign Act of 1971, as amended (the Act), for Virginia's Republican Party Convention that is being held on May 7, 2016.

As of May 3, 2016, the required disclosure report had not been received from:

- Friends for Mike Webb (VA-08)

The pre-convention report was due on April 25, 2016, and should have included financial activity for the period April 1, 2016, through April 17, 2016. If sent by certified or registered mail, the report should have been postmarked by April 22, 2016.

Some individuals and their committees have no obligation to file reports under federal campaign finance law, even though their names may appear on state ballots. If an individual raises or spends \$5,000 or less, he or she is not considered a "candidate" subject to reporting under the Act.

The Commission notified committees involved in Virginia's Republican Party Convention of their potential filing requirements on April 1, 2016. Those committees that did not file by the due date were sent notification on April 26, 2016 that their reports had not been received and that their names would be published if they did not respond within four business days.

Other political committees that support Senate and House candidates in elections, but are not authorized units of a candidate's campaign, are also required to file quarterly reports, unless they report monthly. Those committee names are not published by the FEC.

Further Commission action against non-filers and late filers is decided on a case-by-case basis. Federal law gives the FEC broad authority to initiate enforcement actions, and the FEC has implemented an Administrative Fine program with provisions for assessing monetary penalties.

(Posted 05/06/2016)

Resources:

- [FEC Non-Filer Press Release](#) (May 4, 2016)
- [Compliance Map](#)
- [The Administrative Fine Program](#)
- [FEC Reporting Dates](#)
- [Late Filing and Other Enforcement Penalties](#) (Reports Analysis Division)

[FEC Cites Committee in West Virginia for Failure to File 12-Day Pre-Primary Financial Report](#)

On May 6, 2016, the Federal Election Commission cited a campaign committee for failing to file the 12-Day Pre-Primary Report required by the Federal Election Campaign Act of 1971, as amended (the Act), for West Virginia's Primary Election that is being held on May 10, 2016.

As of May 5, 2016, the required disclosure report had not been received from:

- Friends of Matt Detch

The pre-primary report was due on April 28, 2016, and should have included financial activity for the period April 1, 2016, through April 20, 2016. If sent by certified or registered mail, the report should have been postmarked by April 25, 2016.

Some individuals and their committees have no obligation to file reports under federal campaign finance law, even though their names may appear on state ballots. If an individual raises or spends \$5,000 or less, he or she is not considered a "candidate" subject to reporting under the Act.

The Commission notified committees involved in West Virginia's Primary Election of their potential filing requirements on April 4, 2016. Those committees that did not file by the due date were sent notification on April 29, 2016 that their reports had not been received and that their names would be published if they did not respond within four business days.

Other political committees that support Senate and House candidates in elections, but are not authorized units of a candidate's campaign, are also required to file quarterly reports, unless they report monthly. Those committee names are not published by the FEC.

Further Commission action against non-filers and late filers is decided on a case-by-case basis. Federal law gives the FEC broad authority to initiate enforcement actions, and the FEC has implemented an Administrative Fine program with provisions for assessing monetary penalties.

(Posted 05/09/2016)

Resources:

- [FEC Non-Filer Press Release](#) (May 6, 2016)
- [Compliance Map](#)
- [The Administrative Fine Program](#)
- [FEC Reporting Dates](#)
- [Late Filing and Other Enforcement Penalties](#) (Reports Analysis Division)

[FEC Cites Committee in Kentucky for Failure to File 12-Day Pre-Primary Financial Report](#)

The Federal Election Commission cited a campaign committee on May 13, 2016, for failing to file the 12-Day Pre-Primary Report required by the Federal Election Campaign Act of 1971, as amended (the Act), for Kentucky's primary election that is being held on May 17, 2016.

As of May 12, 2016, the required disclosure report had not been received from:

- Committee to Elect Jeff Kender (KY)

The pre-primary report was due on May 5, 2016, and should have included financial activity for the period April 1, 2016, through April 27, 2016. If sent by certified or registered mail, the report should have been postmarked by May 2, 2016.

Some individuals and their committees have no obligation to file reports under federal campaign finance law, even though their names may appear on state ballots. If an individual raises or spends \$5,000 or less, he or she is not considered a "candidate" subject to reporting under the Act.

The Commission notified committees involved in Kentucky's primary election of their potential filing requirements on April 11, 2016. Those committees that did not file by the due date were sent notification on May 6, 2016 that their reports had not been received and that their names would be published if they did not respond within four business days.

Other political committees that support Senate and House candidates in elections, but are not authorized units of a candidate's campaign, are also required to file quarterly reports, unless they report monthly. Those committee names are not published by the FEC.

Further Commission action against non-filers and late filers is decided on a case-by-case basis. Federal law gives the FEC broad authority to initiate enforcement actions, and the FEC has implemented an Administrative Fine program with provisions for assessing monetary penalties.

(Posted 05/13/2016)

Resources:

- [FEC Non-Filer Press Release](#) (May 13, 2016)
- [Compliance Map](#)
- [The Administrative Fine Program](#)
- [FEC Reporting Dates](#)
- [Late Filing and Other Enforcement Penalties](#) (Reports Analysis Division)

FEC Cites Committees in Georgia and Texas for Failing to File Pre-Election Financial Reports

The Federal Election Commission has cited four campaign committees for failing to file pre-election reports as required by the Federal Election Campaign Act of 1971, as amended (the Act).

Three campaign committees were cited by the Commission for failing to file the 12-Day Pre-Primary Report required for Georgia's primary election that is being held on May 24, 2016.

As of May 19, 2016, the required disclosure report had not been received from:

- Grayson for Senate Committee (GA)
- Anders for Congress, Inc. (GA-03)
- Mary Kay Bacallao for US Senate (GA)

The Georgia pre-primary report was due on May 12, 2016, and should have included financial activity for the period April 1, 2016, through May 4, 2016. If sent by certified or registered mail, the report should have been postmarked by May 9, 2016. The Commission notified committees involved in Georgia's primary election of their potential filing requirements on April 18, 2016. Those committees that did not file by the due date were sent notification on May 13, 2016, that their reports had not been received and that their names would be published if they did not respond within four business days. Also, the Commission has cited a campaign committee for failing to file the 12-Day Pre-Runoff Report for Texas's runoff election that is being held on May 24, 2016.

As of May 19, 2016, the required disclosure report had not been received from:

- Gonzales for Congress (TX-18)

The Texas pre-runoff report was due on May 12, 2016, and should have included financial activity for the period April 1, 2016, through May 4, 2016. If sent by certified or registered mail, the report should have been postmarked by May 9, 2016. The Commission notified committees involved in Texas's runoff election of their potential filing requirements on January 25, 2016. Those committees that did not file by the due date were sent notification on May 13, 2016, that their reports had not been received and that their names would be published if they did not respond within four business days. Some individuals and their committees have no obligation to file reports under federal campaign finance law, even though their names may appear on state ballots. If an individual raises or spends \$5,000 or less, he or she is not considered a "candidate" subject to reporting under the Act.

Other political committees that support Senate and House candidates in elections, but are not authorized units of a candidate's campaign, are also required to file quarterly reports, unless they report monthly. Those committee names are not published by the FEC.

Further Commission action against non-filers and late filers is decided on a case-by-case basis. Federal law gives the FEC broad authority to initiate enforcement actions, and the FEC has implemented an Administrative Fine program with provisions for assessing monetary penalties.

(Posted 05/23/2016)

Resources:

- [FEC Non-Filer Press Release for Georgia Primary](#) (May 20, 2016)
- [FEC Non-Filer Press Release for Texas Runoff](#) (May 20, 2016)
- [Compliance Map](#)
- [The Administrative Fine Program](#)
- [FEC Reporting Dates](#)
- [Late Filing and Other Enforcement Penalties](#) (Reports Analysis Division)

Outreach

[National Party Convention Delegates](#)

During presidential election years, the Information Division frequently receives inquiries regarding the application of campaign finance laws to national convention delegates and individuals seeking selection as a delegate. This article provides answers to frequently asked questions regarding FEC rules that govern delegate activity for national nominating conventions.

To whom do these rules apply?

These rules apply to any individual who is seeking selection, or who has already been selected, as a delegate to a national nominating convention or as a delegate to any state or local convention or caucus that is held to select delegates to a national nominating convention. [11 CFR 110.14\(b\)\(1\)](#).

Do delegates have to file reports with the FEC?

No. Individual delegates are not required to register or file regular reports of the funds they raise and spend for the purpose of furthering or advocating their selection. [11 CFR 110.14\(d\)\(3\) and \(e\)\(2\)](#). However, delegates acting as a group may have to file reports as a delegate committee. See "[Do delegate committees have to file FEC reports?](#)" below.

How are funds raised and spent for delegate activity treated under federal campaign finance law?

Funds raised and spent for the purpose of furthering delegate selection are considered "contributions" and "expenditures" made for the purpose of influencing a federal election [FN1] and are therefore subject to the federal law's prohibitions on contributions from certain sources.[FN2] [11 CFR 110.14\(c\)\(1\) and \(2\)](#). However, there are no limitations on the monetary amount of contributions (from permissible sources) to delegates for the purpose of furthering their own selection as delegates. [11 CFR 110.1\(m\)\(1\)](#) and [110.14\(d\)](#). Please note that the contribution prohibitions apply to contributions of goods and services (in-kind contributions) as well as to monetary contributions. [11 CFR 100.52\(d\)](#).

Who is prohibited from contributing to a delegate?

Individual delegates may not accept any contributions (whether direct or in-kind) from sources prohibited from making contributions in connection with federal elections. [11 CFR 110.14\(c\)\(2\)](#). These sources include:

- Corporations;
- Labor organizations;
- [Foreign nationals](#) (except "green card" holders—those admitted to the United States for permanent residence); and
- Federal government contractors (including partnerships and sole proprietors with federal contracts).

11 CFR [110.20](#); [114.2](#); [115.2](#), [115.4](#) and [115.5](#).

What are the limits on contributions to delegates?

Contributions to an individual delegate for the purpose of furthering that delegate's selection are not subject to any amount limitation. [11 CFR 110.1\(m\)](#) and [110.14\(d\)\(1\)](#). [FN3]

Do these rules apply if I, as a delegate, am only raising money to pay for travel to the convention?

Yes. Travel and subsistence expenses related to the delegate selection process and the national nominating convention are considered "expenditures." [11 CFR 110.14\(e\)](#). Thus, a delegate may not use prohibited funds to pay for travel to attend the national convention and related food and lodging expenses. Advisory Opinions (AOs) [2000-38](#) and [1980-64](#).

I'm a federal officeholder who will serve as a delegate. May I use my campaign funds to pay for my travel to the convention?

Special rules apply to federal candidates or officeholders who attend the convention as delegates. While campaign funds may not be used to pay for anyone's personal expenses (i.e., expenses that would exist irrespective of the candidate's campaign or his/her duties as a federal officeholder), candidates who attend the convention as delegates may use campaign funds to pay for their own convention-related travel, food and lodging expenses.

1. A national nominating convention is considered a federal election. [11 CFR 100.2\(e\)](#).

2. Ballot access fees paid by an individual delegate to a political party are not considered contributions or expenditures; nor are administrative payments made by a party committee (including an unregistered organization) for sponsoring a convention or caucus to select delegates. Nevertheless, the funds used to pay these expenses are subject to the law's prohibitions. [11 CFR 110.14\(c\)\(1\)\(i\) and \(ii\) and \(c\)\(2\)](#).

3. Presidential primary candidates receiving public funding must comply with an overall spending limit and a spending limit in each state. [11 CFR 9035.1](#).

[11 CFR 110.14\(c\) and \(e\)](#); [AO 1995-47 n.4](#). The Commission has issued advisory opinions clarifying that such candidates may also use campaign funds to pay the travel and subsistence expenses of other individuals (e.g., spouse, child, Congressional staff person) in connection with the convention if the individual will be engaging in significant campaign-related or officeholder-related activity on the candidate's behalf during the convention. AOs [1996-20](#), [1996-19](#) and [1995-47](#); see [11 CFR 113.1\(q\)\(1\)\(ii\)\(C\)](#).

Although the use of campaign funds to pay someone's personal expenses is a violation of the personal use prohibition, when travel involves both personal activities and campaign (or officeholder) activities, campaign funds may be used to pay the personal portion of travel and subsistence costs if the individual reimburses the campaign within 30 days. [11 CFR 113.1\(q\)\(1\)\(ii\)\(C\)](#); [AO 2000-12](#).

Do expenditures I, as a delegate, make for my own selection and travel count as contributions to a candidate?

No. Expenditures made by delegates to advocate their own selection or by delegate committees solely to advocate the selection of one or more delegates are not considered contributions to any candidate and are not chargeable to a publicly funded candidate's spending limits. [11 CFR 110.14\(e\)\(1\)](#). Examples of such expenditures include:

- A communication which advocates the selection of delegates only; and
- Travel and subsistence expenses related to the delegate selection process and the national nominating convention. [11 CFR 110.14\(e\)\(1\) and \(h\)\(1\)](#).

May delegates join together to raise and spend funds?

Yes. Under FEC regulations, they would be acting as a delegate committee. A delegate committee is a group that raises or spends funds for the sole purpose of influencing the selection of one or more delegates. A delegate committee may be a group of delegates or a group that supports delegates. [11 CFR 110.14\(b\)\(2\)](#).

Do delegate committees have to file FEC reports?

Possibly. A delegate committee becomes a "political committee" under federal law once it receives contributions or makes expenditures exceeding \$1,000 in a calendar year. [11 CFR 100.5\(a\) and \(e\)\(5\)](#); [110.14\(b\)\(2\)](#). At that point, the committee must register with the FEC within 10 days and begin filing periodic FEC reports to disclose its receipts and disbursements. [11 CFR 102.1\(d\)](#) and [104.1\(a\)](#). All pre-registration activity must be disclosed in the first report. [11 CFR 104.3\(a\) and \(b\)](#). Note that a delegate committee that has triggered status as a federal political committee must include the word "delegate" or "delegates" in its name. It may also include the name of the presidential candidate it supports. [11 CFR 102.14\(b\)\(1\)](#).

Do contribution prohibitions and limits apply to delegate committees?

The same sources that are listed above as prohibited from making contributions to a delegate are also prohibited from making contributions to a delegate committee. [11 CFR 110.14\(g\)\(1\)](#). Contributions from permissible sources to a delegate committee are subject to an aggregate limit of \$5,000 per contributor per calendar year. [11 CFR 110.1\(d\) and \(m\)\(2\)](#); [110.14\(g\)\(1\)](#). Note, however, that if the delegate committee is affiliated with a presidential campaign, it will share the limit applicable to the presidential campaign. [11 CFR 110.3\(a\)](#).

Supporting Presidential Candidates

May a delegate or delegate committee make contributions to candidates?

A delegate or delegate committee may contribute a maximum of \$2,700 to a federal candidate, per election.[FN4] [11 CFR 110.1\(b\)\(1\)](#). The primary and general are considered separate elections but, in the case of presidential candidates, the entire primary season is considered only one election. [11 CFR 100.2](#) and [110.1\(j\)\(1\)](#).

Note that a contribution to a candidate must be reported by the candidate's committee. [11 CFR 104.1\(a\)](#), [104.3\(a\)](#). For this reason, when making an in-kind contribution, a delegate or delegate committee should notify the candidate's committee of the monetary value. [11 CFR 104.13\(a\)\(1\)](#). Note also that in-kind contributions generally count against a publicly funded presidential candidate's expenditure limits. [11 CFR 9035.1\(a\)\(3\)](#).

May a delegate or delegate committee put out a communication that promotes both the delegate(s) and the presidential candidate supported?

Yes. An individual delegate or a delegate committee may pay for communications that both:

- Advocate the selection of that individual delegate or of the delegates promoted by the delegate committee; and
- Refer to, provide information on or expressly advocate the election or defeat of a presidential candidate (or candidate for any public office). [11 CFR 110.14\(f\) and \(i\)](#).

If such a communication meets the federal campaign finance law's definition of a "public communication," it will trigger certain election law provisions.[FN5] [11 CFR 100.26](#). Moreover, depending on the circumstances, a portion of a dual-purpose expenditure may have to be allocated as an in-kind contribution to a candidate or as an independent expenditure. [11 CFR 110.14\(f\)\(2\) and \(i\)\(2\)](#). Finally, the communication may require a [disclaimer notice](#). [11 CFR 110.11](#).

May delegates undertake some small grassroots dual-purpose communications that do not trigger contribution limits?

Dual-purpose expenditures for campaign materials such as pins, bumper stickers, handbills, brochures, posters and yard signs are not considered in-kind contributions on behalf of the federal candidate mentioned in the materials as long as the materials are used in connection with volunteer activities (i.e., are distributed by volunteers) and are not conveyed through public political advertising.[FN6] [11 CFR 110.14\(f\)\(1\) and \(i\)\(1\)](#).

4. A federal candidate is a candidate seeking election to the Presidency, the Vice Presidency, the U.S. Senate or the U.S. House of Representatives. [11 CFR 100.4](#).

5. A public communication is a communication by means of any broadcast, cable or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing (more than 500 pieces of mail or faxes of an identical or substantially similar nature within any 30-day period), telephone bank to the general public (meaning more than 500 telephone calls of an identical or substantially similar nature within any 30-day period) or any other form of general public political advertising. The term "general public political advertising" does not include communications over the Internet, except for communications placed for a fee on another person's website. [11 CFR 100.26](#); [100.27](#) and [100.28](#).

6. For purposes of the delegate selection regulations, public political advertising means political advertising conveyed through broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communication. [11 CFR 110.14\(f\)\(2\) and \(i\)\(2\)](#). Direct mail means mailings by commercial vendors or mailings made from lists not developed by the individual delegate or delegate committee. [11 CFR 110.14\(f\)\(4\) and \(i\)\(4\)](#).

When would a dual-purpose expenditure count against contribution limits to a candidate?

A portion of a dual-purpose expenditure is considered an in-kind contribution to the referenced candidate if the communication:

- Is conveyed through public political advertising (such as broadcasting, newspapers, magazines, billboards, direct mail or other similar types of general public political advertising); and
- Is a coordinated communication under [11 CFR 109.21](#).
[11 CFR 110.14\(f\)\(2\)\(i\)](#).

When would a dual-purpose expenditure be considered an independent expenditure?

A portion of a dual-purpose expenditure for a communication that is conveyed through public political advertising is considered an independent expenditure (rather than an in-kind contribution) on behalf of the candidate if the communication:

- Expressly advocates the election (or defeat) of a clearly identified candidate; and
- Is not a coordinated communication under [11 CFR 109.21](#).
[11 CFR 110.14\(f\)\(2\)\(ii\)](#).

Note that an independent expenditure, whether done by a delegate or a delegate committee, is subject to [reporting requirements](#) and, if it is conveyed through public political advertising, must carry a [disclaimer notice](#). For more information on independent expenditures, consult [11 CFR Part 109](#). For more information on disclaimers, consult [11 CFR 110.11](#).

How do you determine what amount of a dual-purpose expenditure to allocate to the presidential candidate?

The amount of a dual-purpose expenditure allocated as an in-kind contribution or independent expenditure on behalf of a candidate must be in proportion to the benefit the candidate receives, based on factors such as the amount of space or time devoted to the candidate compared with total space or time. [11 CFR 106.1\(a\)\(1\)](#). See also [Explanation and Justification for Final Rule on Contributions to and Expenditures by Delegates to National Nominating Conventions, 52 FR 35530, 35533](#) (Sept. 22, 1987).

What if a delegate or delegate committee simply distributes materials prepared by the presidential campaign?

Expenditures by a delegate or delegate committee to reproduce (in whole or in part) or to disseminate materials prepared by a presidential candidate's committee (or other federal candidate's committee) are considered in-kind contributions to the candidate. Although subject to contribution limits, this type of contribution is not chargeable to a publicly funded presidential candidate's spending limits as long as the expenditure is not a coordinated communication under [11 CFR 109.21](#). [11 CFR 110.14\(f\)\(3\)](#). The materials may require a [disclaimer notice](#). [11 CFR 110.11](#).

Affiliation

Is a delegate committee considered an affiliate of the presidential campaign? If yes, what rules apply?

Possibly. Delegate committees—including unregistered committees—need to determine whether they are affiliated with another delegate committee or a candidate's committee because affiliated committees are considered one political committee for purposes of the contribution limits, and thus, share the same limits on contributions received and made. [11](#)

[CFR 110.3\(a\)\(1\)](#). (Affiliated committees, may, however, make unlimited transfers to one another. [11 CFR 102.6\(a\)\(1\)\(i\)](#).) If a delegate committee is affiliated with the committee of a presidential candidate receiving public funds, then all of the delegate committee's expenditures count against the presidential candidate's expenditure limits.

What are the factors indicating affiliation?

In determining whether a delegate committee and a presidential committee are affiliated, the Commission may consider, among other factors, whether:

- The presidential candidate or any person associated with the campaign committee^[FN7] played a significant role in forming the delegate committee;
- Any delegate associated with a delegate committee has been or is on the staff of the presidential campaign committee;
- The committees have overlapping officers or employees;
- The presidential campaign committee provides funds or goods to the delegate committee in a significant amount or on an ongoing basis (not including a transfer of joint fundraising proceeds);
- The presidential campaign committee suggests or arranges for contributions to be made to the delegate committee;
- The committees show similar patterns of contributions received;
- One committee provides a mailing list to the other committee;
- The presidential campaign committee provides ongoing administrative support to the delegate committee;
- The presidential campaign committee directs or organizes the campaign activities of the delegate committee; and/or
- The presidential campaign committee files statements or reports on behalf of the delegate committee. [11 CFR 110.14\(j\)](#). See also, for example, [AO 1988-01](#).

Do affiliation rules apply to delegate committees that have a relationship with each other?

Possibly. Delegate committees established, financed, maintained or controlled by the same person or group are considered to be affiliated. Factors that indicate affiliation between delegate committees are found at [11 CFR 100.5\(g\)\(4\)](#). [11 CFR 110.14\(k\)](#).

Additional Information

For additional information on delegates and delegate committees, contact the FEC's Information Division at 1-800/424-9530 (press 6) or 202/694-1100.

(Posted 05/12/2016; By: Myles Martin)

Resources:

- [FEC Rules for National Convention Delegates Brochure](#)

7. Campaign refers to the candidate, his or her authorized committee and other persons associated with the committee.

[FEC to Host June 8 Webinar for Member/Labor Organizations and Their PACs](#)

The Commission will hold a one-day online seminar for membership and labor organizations and their political action committees (PACs) on Wednesday, June 8, 2016. Commission staff will conduct several technical workshops on the federal campaign finance laws affecting these organizations and their PACs. Workshops are designed for those seeking an introduction to the basic provisions of the law as well as for those more experienced in campaign finance law.



Attendees can choose one of two options for the morning session, Basics and Best Practices or Recent Developments in the Law. The afternoon will feature a two-part workshop on Member/Labor PAC Operations. Participants will be able to download electronic copies of the workshop materials in advance, and will receive additional instructions and technical information shortly before the event. For more information, and a detailed agenda, please visit the Member/Labor Webinar web page: <http://www.fec.gov/info/conferences/2016/memberlaborseminar.shtml>.

The cost to participate is \$80. Refunds (minus a \$20 registration fee) will be made for all cancellations received by Friday, June 3; no refund will be made for cancellations received after that date. Register online at: <http://www.cvent.com/d/xfq56n>. Please direct all questions about registration and fees to Sylvester Management Corporation (Phone: 1-800/246-7277; email: Rosalyn@sylvestermanagement.com). For other questions call the FEC's Information Division at 1-800/424-9530 (press 6), or send an email to Conferences@fec.gov.

Webinar Schedule:

June 8, 2016

Morning Sessions

- Option 1: Basics and Best Practices, 10:30 AM - 12:00 PM EDT
- Option 2: Recent Developments in the Law, 10:30 AM - 12:00 PM EDT

Afternoon Sessions

- Member/Labor PAC Operations Part 1, 1:15 - 2:45 PM EDT
- Member/Labor PAC Operations Part 2, 3:00 - 4:30 PM EDT

(Posted 05/13/2016; By: Isaac Baker)

Resources:

- [FEC Educational Outreach Opportunities](#)

[FEC to Host Reporting & FECFile Webinars](#)

The Commission will offer Reporting & FECFile workshops this month to help committees prepare for their July quarterly and monthly reports. The Reporting and FECFile webinars for Candidate Committees will take place on June 22, and a FECFile webinar for PACs and Party Committees will be held on June 29.



The reporting session for candidates will provide an overview of the Reports Analysis Division review process, address common filing problems and provide answers to questions campaigns may have as they prepare to file their July Quarterly Reports. The electronic filing sessions for candidates, parties and PACs will demonstrate the Commission's FECFile software and address questions committees may have concerning electronic filing.

Webinar Information. The 1.5-hour training sessions will be online only. Additional instructions and technical information will be provided to those who register.

Registration Information. The registration fee is \$25 per webinar. For the Candidate Committee webinars, a full refund will be made for all cancellations received before 5 p.m. EDT on Friday, June 17; no refunds will be made for cancellations received after that time. For the PAC & Party Committee webinar, a full refund will be made for all cancellations received before 5 p.m. EDT on Friday, June 24; no refunds will be made for cancellations received after that time. Complete registration information is available on the FEC's website at <http://www.fec.gov/info/outreach.shtml#roundtables>.

Registration Questions

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

Webinar Schedule:

Reporting Workshops/Webinars

June 22, 2016

Webinar Only

- Reporting for Candidate Committees, 1:00 - 2:30 PM Eastern
- FECFile for Candidate Committees, 2:45 - 4:15 PM Eastern

June 29, 2016

Webinar Only

- FECFile for PACs & Party Committees, 1:00 - 2:30 PM Eastern

(Posted 05/31/2016; By: Isaac Baker)

Resources:

- [FEC Educational Outreach Opportunities](#)