



FECLIVE
CONNECT

INTERACTIVE ONLINE TRAINING PROGRAM

Independent Expenditures & Pre-Election Communications


September 1 & 2, 2020
1:00 p.m. Eastern

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2019-20 Election Cycle

Independent Expenditures & Pre-Election Communications
Slide 1

Objectives

- ▣ **Identify categories of communications**
- ▣ **Explain rules associated with each**
- ▣ **Highlight recent developments**
- ▣ **Review special reporting requirements for pre-election communications**
- ▣ **Discuss scenarios**

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In this webinar, we'll focus on various types of communications commonly made in the last months before a general election, with an emphasis on those that trigger last-minute reporting requirements.

Pre-Election Communication Reports

September 2020						
Sun	Mon	Tues	Wed	Thurs	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

October 2020						
Sun	Mon	Tues	Wed	Thurs	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

November 2020						
Sun	Mon	Tues	Wed	Thurs	Fri	Sat
1	2	3 ★	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

- Candidate 48-Hour \$1k Contribution Notices
- 48-Hour Independent Expenditure Reports
- 24-Hour Independent Expenditure Reports
- Electioneering Communication Reports



Communications

Types Covered in this Workshop:

1. Public Communications
2. Electioneering Communications
3. Coordinated Communications
4. Independent Expenditures

Communications

Disclosed within 48- or 24-hours during Pre-Election Period

2. Electioneering Communications
3. Coordinated Communications
4. Independent Expenditures



Before we get into the specific types of communications, let's cover a general definition in FEC rules that applies to all of the ones we will focus on today...

I. Public Communication Defined (11 CFR 100.26)

Public Communications

- ▣ Cable, satellite or broadcast communication;
- ▣ Newspaper or magazine;
- ▣ Mass mailing (> 500 pieces);
- ▣ Outdoor advertising facility;
- ▣ Phone bank (> 500 calls w/same info);
- ▣ Communications placed for a fee on another person's website (but no other Internet or email activity); or
- ▣ Any other form of general public political advertising

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A. Definition includes:

- Cable, satellite or broadcast communication;
- Newspaper;
- Magazine;
- Mass mailing (> 500 pieces within 30-day period);
- Outdoor advertising facility;
- Phone bank (> 500 calls with same info within 30-day period);
- Communications placed for a fee on another person's website (but not any other Internet or email activity); or
- Any other form of general public political advertising

Public Communications

Basic Rules for Disclaimers

- ▣ Identify who paid for a communication
- ▣ Clarify whether a campaign authorized it
- ▣ Appear on all “public communications,” widely distributed emails, public websites
- ▣ Include media-specific requirements

Public Communications


Disclaimer Required

- ▣ For political committees:
 - On all “public communications,” widely distributed emails (> 500) and public websites.
- ▣ For other persons/entities:
 - On any public communication that expressly advocates the election or defeat of a clearly identified candidate or solicits funds in connection with a federal election.

- B. Disclaimer required (11 CFR 110.11)**
Disclaimer notices indicate who has paid for a communication and whether it was authorized by a candidate or not.

1. **Political committees:** required on all public communications.
2. **Individuals/groups/other entities:** required on any public communication expressly advocating or soliciting contributions and on any electioneering communication.
3. **Disclaimer also required on:**
 - Electronic mail (> 500 substantially similar communications sent by a political committee); and
 - Websites of political committees.

Disclaimer Examples



The image shows two examples of disclaimers. On the left is a TV screen displaying an advertisement for Ocean Resort Inc. with the text "Ocean Resort Inc. Says Vote for Smith" and a thumbs-up icon. Below the screen is a checkbox with the text "Paid for by statement". On the right is a printed flyer for Ocean Resort Inc. PAC encouraging the election of John Smith to Congress. Below the flyer is a checkbox with the text "Whether authorized by candidate". At the bottom of the slide, there is a checkbox with the text "Stand by your ad (radio and TV)".

- Paid for by statement
- Whether authorized by candidate
- Stand by your ad (radio and TV)

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- C. **Disclaimer must be clear and conspicuous.**
1. **Special rules for printed communications (11 CFR 110.11(c)(2))**
 - Disclaimer must be contained within a printed box set apart from content of communication.
 - Print must be of sufficient type size to be “clearly readable” and must have a reasonable degree of color contrast between the background and the printed statement.
 - **Safe harbor:** 12 point type in newspapers, magazines, flyers, signs and other printed communications no larger than 24” x 36.”

2. **“Stand by your ad” requirements for TV and radio ads
(11 CFR 110.11(c)(3) and (4))**

Additional statement required for TV and radio ads; content varies depending on whether candidate authorized ad or not.

- **If authorized by the candidate and candidate’s committee** (e.g., advertising paid for by the campaign or coordinated communications):
 - Candidate must deliver an audio statement identifying himself/herself, and stating that he/she has approved the communication.
 - **TV only: Written and audio statement required**
 - Full-screen view of the candidate making the statement; or photo of candidate that appears during candidate’s voice-over statement (**safe harbor:** 80% vertical picture height).
 - “Clearly readable” written statement at end of communication: $\geq 4\%$ vertical picture height, ≥ 4 seconds, reasonable degree of color contrast between background and statement.

I am [Candidate Name], a candidate for [office sought], and I approved this advertisement.

My name is [Candidate Name]. I am running for [office sought], and I approved this message.

- **If not authorized by the candidate’s committee** (e.g., independent expenditures or electioneering communications)
 - There must be an audio statement by the entity responsible for the communication stating that he/she/they are responsible for the communication.
 - **TV ad:** A similar statement must also appear in writing, following safe harbors above.

XYZ is responsible for the content of this advertising.

3. **Resources:**

- *Special Notices* brochure: <https://www.fec.gov/help-candidates-and-committees/advertising-and-disclaimers/>
- *Record* article on TV/Radio ads: <https://www.fec.gov/updates/basic-rules-for-disclaimers-on-radio-and-tv-ads/>



Poll Question: What are the rules for a radio or TV ad that mentions a candidate and airs in the candidate's state (or district) within 60 days of the general election, but that doesn't contain express advocacy? **(Choose one)**

- If the ad is paid for by a PAC, it is subject to the rules for public communications
- If the ad is paid for by an individual, a labor organization or a corporation, it is subject to the rules for electioneering communications
- If the ad is coordinated with the campaign, it is an in-kind contribution
- All of the above.

ANSWER:

Poll Question: What are the rules for a radio or TV ad that mentions a candidate and airs in the candidate's state (or district) within 60 days of the general election, but that doesn't contain express advocacy? (**Choose one**)

- A. If the ad is paid for by a PAC, it is subject to the rules for public communications
- B. If the ad is paid for by an individual, a labor organization or a corporation, it is subject to the rules for electioneering communications
- C. If the ad is coordinated with the campaign, it is an in-kind contribution
- D. All of the above. – CORRECT ANSWER**

So, having covered all of the disclaimer requirements that will apply to all of the communications we plan to discuss, let's discuss specific rules that apply to specific types of communications, starting with electioneering communications.

II. Electioneering Communications (11 CFR 100.29)

Electioneering Communications

Broadcast, cable or satellite communication that:

- Refers to clearly identified candidate;**
- Is publicly distributed;**
- Is distributed during certain time period before election; and**
- Is targeted to the relevant electorate**

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A. Definition

An electioneering communication is any broadcast, cable or satellite communication which fulfills **each** of the following conditions:

- **The communication refers to a clearly identified candidate** (but no express advocacy).

- **The communication is publicly distributed.**
- **The communication is distributed during a certain time period before an election.**
- **The communication is targeted to the relevant electorate.**

B. Elements of an electioneering communication

1. Clearly identified candidate

Same definition as for independent expenditure. 100.29(b)(2).

Electioneering Communications

- ▼ **Publicly distributed:**
 - Disseminated by TV or radio station or cable or satellite system
 - Includes both infomercials and commercials

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2. Publicly distributed

- a) A communication is publicly distributed if it is disseminated by a television station, radio station, cable television system or satellite system.
- b) Includes infomercials and commercials.

Electioneering Communications

- ▼ **Proximity to election:**
 - Transmitted \leq 60 days before a general election or 30 days before a primary
 - General election:
09/04/2020 – 11/03/2020
 - Includes elections where candidate is unopposed

3. **Distributed during a certain time period before an election**
 - a) **Time period**

Electioneering communications are transmitted within 60 days prior to a general election or 30 days prior to a primary election to federal office.
 - b) **Application**
 - 1) **Period for 2020 general election:
September 4 – November 3, 2020.**
 - 2) This includes elections in which the candidate is unopposed.

Electioneering Communications

- ▼ Targeted to relevant electorate:
 - Communication can be received by $\geq 50,000$ people in House District or State for Senate
 - Consult FCC database to determine who can receive a communication

4. Targeted to the relevant electorate (11 CFR 100.29(b)(5))
 - a) **Definition of “targeted to the relevant electorate”**

The communication targets the relevant electorate if it can be received by 50,000 or more people in the district (in the case of a U.S. House candidate) or state (in the case of a Senate candidate) that the candidate seeks to represent.
 - b) **FCC Database for determining who can receive communication**

The Federal Communications Commission (FCC) provides on its web site (at <http://apps.fcc.gov/ecd/>) the information necessary to determine whether a communication can be received by 50,000 people.
 - c) **Application to Presidential/Vice Presidential candidates (11 CFR 100.29(b)(3)(ii))**

In the case of presidential and vice presidential candidates, the rules apply and the communication is considered “publicly distributed” if the communication can be received by 50,000 or more people:

 - In a State where a primary election or caucus is being held within 30 days;
 - Anywhere in the United States during the period between 30 days prior to the start of nominating convention and the conclusion of that convention; or
 - Anywhere in the United States within 60 days prior to the general election.

Electioneering Communications

Who May Make Them?

- ▣ Individuals/persons
- ▣ Corporations & labor organizations
- ▣ **Prohibited** by foreign nationals

NOTE: PACs, parties and campaigns that make same type of communications report them as expenditures on Form 3, 3P or 3X, rather than as ECs



C. Who may make electioneering communications?


1. Individuals/persons
2. Corporations and labor organizations
3. **NOTE:** PACs, parties and campaigns may make communications of a similar nature, but by regulatory definition, they are not electioneering communications. Instead the committee would report the expenditure for a public communication on its regular FEC report on Form 3 or 3X.

D. Prohibited from making/funding ECs: foreign nationals

Electioneering Communications

Lobbying/Issue Ads:

- ≤ 30 days before primary
- ≤ 60 days before general



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E. May affect lobbying/issue ads

In addition to express advocacy communications, some organizations develop messages designed to urge action for/against a particular issue or certain legislation. Depending upon how/when the message is conveyed (among other factors), such a message may fall within the definition of an electioneering communication above and thus be subject to FEC rules.

Electioneering Communications

Disclaimer Required

- ▣ “Paid for by X (202-333-3333) and not authorized by any candidate or candidate’s committee.”
- ▣ “X is responsible for the content of this advertising.”

F. Disclaimer required for electioneering communications

ECs must include both disclaimers listed below

1. **Paid for by (11 CFR 110.11(b))**
“Paid for by (name of payer) (web address/phone number/ mailing address) and not authorized by any candidate or candidate’s committee.”
2. **Stand by your ad (11 CFR 110.11(c)(4))**
“(name of payer) is responsible for the content of this advertising.”
– both in writing (if TV ad) and verbalized.

Not an Electioneering Communication

- ▣ **Communication disseminated through means other than TV, satellite or radio**
- ▣ **News story, commentary or editorial**
- ▣ **Candidate debate or forum**
- ▣ **Communication by state or local candidate that does not promote, support, attack or oppose a federal candidate**

G. What is not an electioneering communication? (11 CFR 100.29(c)(1))

Certain communications are exempt from the definition of “electioneering communication”:

1. **A communication disseminated through a means other than a television station, radio station, cable television system or satellite system.** (e.g., newspapers, magazines, bumper stickers, yard signs, and billboards, Internet, e-mail, or telephone);
2. **A news story, commentary or editorial broadcast by a television station, radio station, cable television system or satellite system;** However, the facilities may not be owned or controlled by a political party, political committee or candidate, unless the communication satisfies the exemption for news stories at 11 CFR 100.132(a) and (b).
3. **Expenditures or independent expenditures** that must otherwise be reported to the Commission;
4. **A candidate debate or forum** or a communication that solely promotes a debate or forum; and
5. **Communications by state or local candidates** provided that the communication does not promote, support, attack or oppose federal candidates.

Reporting ECs

- ▣ **Electioneering communications aggregating \geq \$10,000 must be disclosed to FEC within 24 hours of the date of public distribution**
- ▣ **Disclosed on FEC Form 9**
 - **Note: Quarterly reports not required**
- ▣ **Disclosure of donors required**

H. Disclosure requirements

1. Requirement

Electioneering communications made by corporations and labor organizations are still subject to disclosure rules. Electioneering communications aggregating \$10,000 or more must be disclosed to the FEC within 24 hours of the date of public distribution.

2. Disclosed on FEC Form 9

- Form 9 and instructions plus alternative online webform at <https://www.fec.gov/help-candidates-and-committees/forms/#other-filers>
- Due dates for 2020 are at <https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/2020-reporting-dates/electioneering-communications-periods-main-page-2020/>

3. Disclosure of donors

a) Filers that are

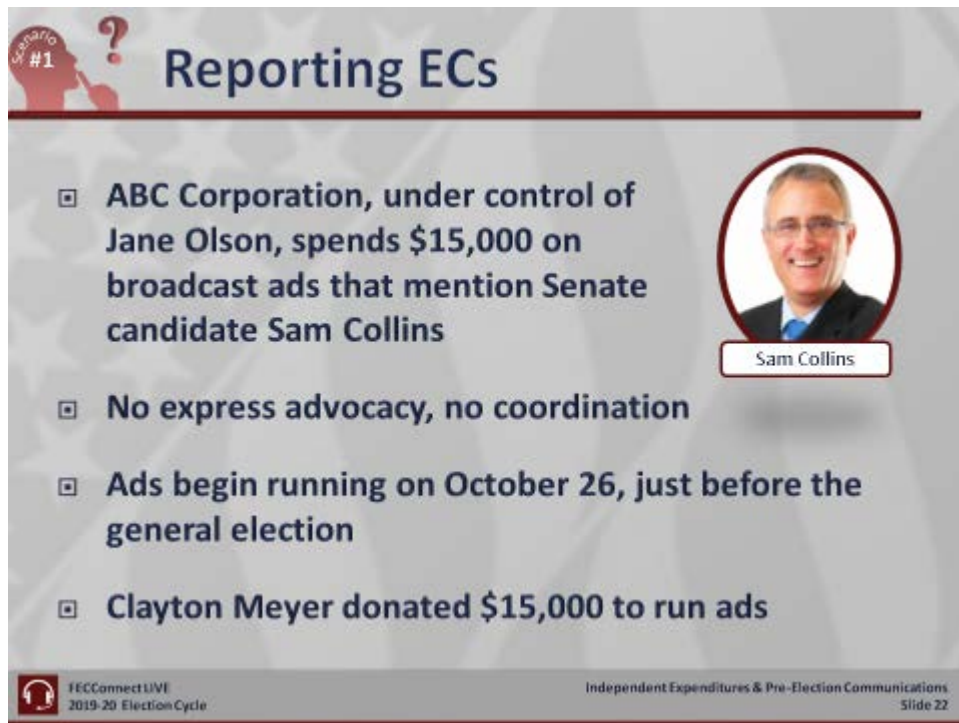
- **Not corporations or labor organizations; OR**
 - **Are corporations or labor organizations AND pay for ECs exclusively from a segregated bank account**
- Filers listed above must disclose each donor who has donated in the aggregate \$1,000 or more during the calendar year to the entity making the EC, or to the segregated bank account if the disbursements were paid exclusively from that bank account.

b) Filers that are corporations or labor organizations but that DO NOT exclusively use a segregated bank account to pay for ECs:

Must disclose the name and address of each person who, since the first day of the preceding calendar year, has donated in the aggregate \$1,000 or more to the person making disbursements for ECs **“for the purpose of furthering electioneering communications.”**

- **Commission regulation on this upheld by 2016 appeals court decision (*Van Hollen v. FEC*).** See summary at <https://www.fec.gov/updates/van-hollen-v-fec-appeals-court/>.

Reporting Scenario #1: Electioneering Communications



Scenario #1

Reporting ECs

- **ABC Corporation, under control of Jane Olson, spends \$15,000 on broadcast ads that mention Senate candidate Sam Collins**
- **No express advocacy, no coordination**
- **Ads begin running on October 26, just before the general election**
- **Clayton Meyer donated \$15,000 to run ads**

Sam Collins

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Jane Olson, the president of ABC Corporation, a health care company, is a good friend of Sam Collins, a Senator running for re-election in Florida (where the corporation is located). Jane told Sam that she wanted to help his campaign, but Sam, being familiar with campaign finance rules, told Jane he really could not talk to her about that. Without further input or discussion, ABC Corporation used a \$15,000 donation made on October 25 of funds from Jane’s friend, Clayton Mayer, for the purpose of creating a radio ad to be broadcast on radio stations in Florida beginning October 26, a little less than two weeks before the general election. The ad’s text read:

Our country stands at the crossroads – at the intersection of how health care will be defined for future generations. We must safeguard health care for all by writing it into the U.S. Constitution. Fortunately, your senators voted for the Health Care Protection Amendment two years ago. Please call Senators Sam Collins and Peggy Parker immediately and urge them to support the Health Care Protection Amendment when it comes to a vote. Call the Capitol switchboard at 202-224-3121 and ask for your senators. Again, that’s 202-224-3121. Thank you for making your voice heard.

1. What type of transaction is this?

The ad is an electioneering communication because it refers to Sam and is publicly distributed within the last 30 days before the election. (It would not be considered coordinated because it did not meet the “conduct prong” of the coordination test – a good thing, because a corporation paid for it.).

Electioneering Communications

Broadcast, cable or satellite communication that:

- ✓ Refers to clearly identified candidate;
- ✓ Is publicly distributed;
- ✓ Is distributed during certain time period before election; and
- ✓ Is targeted to the relevant electorate

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2. When would Form 9 be due?

Since the ad began airing on October 26 and cost more than \$10,000, ABC Corporation must report its electioneering communication on FEC Form 9 within 24 hours of the ad being disseminated to the public, i.e., by October 27.

The slide is titled "Reporting ECs" and is labeled "Scenario #1". It contains the following text:

- ABC Corporation, under control of Jane Olson, spends \$15,000 on broadcast ads that mention Senate candidate Sam Collins

A circular portrait of Sam Collins is shown next to the text, with his name "Sam Collins" written below it.

Triggers 24-hour reporting requirement

- Clayton Meyer donated \$15,000 to run ads

At the bottom of the slide, there is a footer with the following information:

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3. What must be reported?

ABC Corporation must file FEC Form 9, covering the period from the first date of financial activity relating to the disbursements/obligation through the date of public distribution.

Reporting example continues on next several pages

Note that the corporation discloses the communication title and the date of public distribution — i.e., the date of dissemination. Filers also check a box to indicate the type of filer that they are. Filers that are corporations or labor organizations must indicate if they used donations received into a separate bank account.

Scenario #1

Reporting ECs (FEC Form 9)

FEC FORM 9

24 HOUR NOTICE OF DISBURSEMENTS/OBLIGATIONS FOR ELECTIONEERING COMMUNICATIONS

1. (a) Name of Individual, Organization or Corporation ABC Corporation		3. FEC Identification Number C
(b) Address (number and street) <input type="checkbox"/> check if different than previously reported 456 Main Street		
(c) City, State and ZIP Code Orlando, FL 00000		
2. Occupation and Name of Employer (for Individual Filers Only) N/A		

4. COVERED PERIOD: FROM **10 / 25 / 2020** THROUGH **10 / 26 / 2020**

5. IS THIS REPORT AN AMENDMENT? No Yes, it amends the report filed on _____

6. (a) DATE OF PUBLIC DISTRIBUTION(S) **10 / 26 / 2020**
(b) COMMUNICATIONS TITLE **Health Bill Ad**


7. THE FILER IS: (a) an Individual (b) a Corporation or Labor Organization making communications under 11 CFR 114.10
(c) an Unincorporated Organization (d) Other, specify: _____

8. WERE THE DISBURSEMENTS MADE EXCLUSIVELY FROM DONATIONS TO A SEGREGATED BANK ACCOUNT? Yes No


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Also, ABC Corporation must disclose the identities of those who shared or exercised control over the communication (in this example, Jane Olson).

Scenario #1  **Persons Responsible for EC**

List of Person(s) Sharing/Exercising Control (use additional pages as necessary)		PAGE	OF
		1	1
12. Person(s) Sharing/Exercising Control			
A. (a) Name Jane Olson			
(b) Address (number and street) 456 Main Street			
(c) City, State and ZIP Code Orlando, FL 00000			
(d) Name of Employer or Principal Place of Business ABC Corporation		(e) Occupation President	

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Since a separate account was not used for the EC, the corporation must disclose on Schedule 9-A the identities of those who donated funds to further the EC (in this example, Clayton Mayer).

Scenario #1 ?

Donations Received to Fund EC

SCHEDULE 9-A Donation(s) Received		PAGE 1 OF 1	
A. Full Name of Donor Clayton Mayer	Date of Receipt 10 / 25 / 2020		
Mailing Address of Donor 789 Palmetto Lane	Amount 15,000.00		
City Orlando, FL 00000	State	Zip	

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On Schedule 9-B, the details of disbursements and obligations are disclosed, including the purpose, title of communication, date of disbursement/obligation, payee information and candidate information.

Scenario #1

EC Payment & Communication Date

SCHEDULE 9-B		PAGE 1 OF 1	
Disbursement(s) Made or Obligation(s)			
A. Full Name (Last, First, Middle Initial) of Payee Media Dollars and Cents, Inc.		Date of Disbursement or Obligation 10 / 25 / 2020	
Mailing Address of Payee 888 Sunshine Drive		Amount 15,000.00	
City Orlando, FL 00000	State FL	Zip Code 00000	Communication Date 10 / 26 / 2020
Name of Employer _____		Occupation _____	
Purpose of Disbursement (Including title(s) of communication(s)) Television Advertisement – Health Bill Ad			
Name of Federal Candidate Sam Collins	Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President	State: FL District: _____	Disbursement/Obligation For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify) ▶
Name of Federal Candidate _____	Office Sought: <input type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President	State: _____ District: _____	Disbursement/Obligation For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▶

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Scenario #1

Reporting ECs

- **24-Hour filing for general election:**
 09/04/2020 – 11/03/2020
- **E-filing:**
 - E-Filing mandatory if > \$50,000 in donations or disbursements for ECs in 2020
 - FECfile or other e-filing software recommended
 - Online webforms: <https://webforms.fec.gov/>
- **Paper options:**
 - FAX to 202-219-0174
 - Email to 2022190174@fec.gov

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We've covered public communications and electioneering communications, but let's see what the rules are for coordinated communications...

III. Coordinated Communications

Coordinated Communications

- ▣ **Basic definition of coordination:**
Made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents, or a party committee or its agents
- ▣ **Treated as in-kind contribution, subject to limitations and prohibitions of FECA**

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A. The basics

1. **Definition of coordination (11 CFR 109.20(a))**
Coordination means “made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate’s authorized committee, or their agents, or a political party committee or its agents.”
2. **Generally results in a contribution** (subject to limits and prohibitions) made by the entity paying for the communication.

Coordinated Communications

Who May Make Them?

- ▣ **Individuals**
- ▣ **Political committees**
- ▣ **Any entity not prohibited from making a contribution**

3. **Who may make them?**
 - Individuals (except those who are federal contractors or foreign nationals).
 - Political committees (PACs and party committees)
 - Any entity that may legally make a contribution

Coordinated Communications

Who is Prohibited from Making Them?

- ▣ Corporations
- ▣ Labor organizations
- ▣ Federal contractors
- ▣ Foreign nationals
- ▣ Super PACs and non-contribution accounts of Hybrid PACs



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4. Who is prohibited from making them?


Any entity prohibited from making contributions in connection with federal elections, including:

- Corporations
- Labor organizations
- Federal contractors
- Foreign nationals
- Super PACs and non-contribution account of Hybrid PACs

Coordinated Communications

Key Points:

- ▣ **Considered in-kind contribution, subject to limitations and prohibitions**
- ▣ **Reportable by committees making and receiving the contribution**
 - **Recipient campaign must file 48-Hour Notice for each contribution \geq \$1,000 received between 10/15/2020 – 10/31/2020**

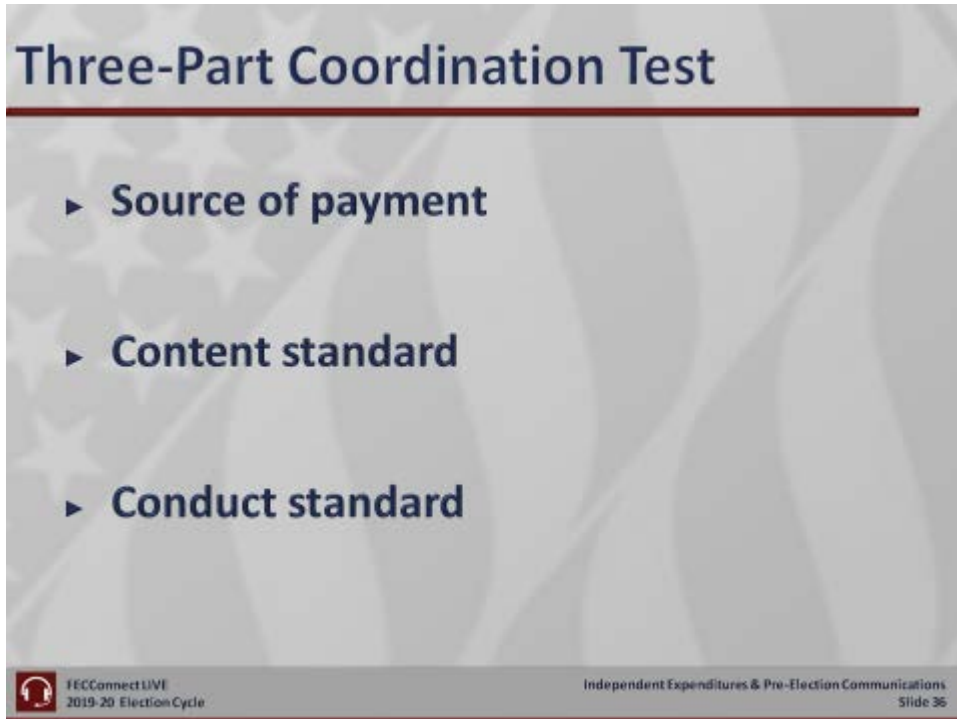
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- B. Why important? coordinated communication = in-kind contribution (11 CFR 109.21(b)(1))**
1. **Prohibited** by entities prohibited from making contributions
 2. **Subject to contribution limitations**
 3. **Disclaimer required**
 4. **Reporting**
 - a) In many cases, reportable by campaign or party committee as in-kind contribution received (and by PAC if in-kind contribution made by PAC).
 - b) **Last-minute coordinated communications:**
If \$1,000 or more, made between **October 15, 2020 and October 31, 2020**, recipient campaign must file 48-Hour Notice (FEC Form 6) to disclose in-kind contribution received.

Note: If a coordinated communications qualifies as a “coordinated party expenditure,” the political party committee making the expenditure will report it on Schedule F of Form 3X. ***No reporting by the candidate committee is required in this circumstance***, because coordinated party expenditures do not qualify as in-kind contributions.

So how does the Commission determine whether a communication is “coordinated” and thus reportable as an in-kind contribution (and subject to limitations and prohibitions)?



C. Three part test to determine if coordinated communication (11 CFR 109.21)

The Commission uses a three-part test in its regulations to determine if a communication is coordinated. **All three parts must be satisfied** to justify conclusion that payments for a coordinated communication are for the purpose of influencing a federal election. If any of the three parts are not satisfied, the resulting payment does not result in a contribution.

- 1. Source of payment**
- 2. “Content standard”**
- 3. “Conduct standard”**

Three-Part Coordination Test

- ▼ **Source of payment**
 - **Paid for by someone besides the candidate, authorized committee or a party committee.**

D. Source of payment

To meet the first part of the coordinated communication test, the communication must be paid for by someone other than a candidate, an authorized committee or a political party committee. (If the candidate or party committee paid for it themselves, coordination wouldn't be an issue.)

Three-Part Coordination Test

- ▼ **Content standard**
 - **Meeting one of these:**
 - **Electioneering communication**
 - **Republication of campaign materials**
 - **Express advocacy or its functional equivalent**
 - **Public communication within certain time frame before election**

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E. “Content standard” (11 CFR 109.21(c))

The communication will satisfy the second part of the test if the communication meets the definition of any one of these:

- 1. “Electioneering communication”**
- 2. Public communication that republishes, disseminates or distributes campaign materials**
- 3. Public communication with express advocacy or the functional equivalent of express advocacy**

A communication is the functional equivalent of express advocacy if it is susceptible of no reasonable interpretation other than as an appeal to vote for or against a clearly identified federal candidate.

- 4. Public communication within certain time frame before election (no express advocacy required)**
 - a) Refers to clearly identified candidate.
 - b) Is directed to voters in the jurisdiction of the clearly identified candidate or to voters in a jurisdiction where one or more candidates of the political party appear on the ballot.
 - c) **Time frames apply:**
 - **Senate and House candidates** = 90 days before a primary or general election.
For 2020 general election: August 5 – November 3
 - **Presidential candidates** = 120 days before the state primary (on a state-by-state basis) through the date of the general election.

- **Political parties** = 120 days before a primary or general election.
- Time frames for each state are available at <https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/2020-reporting-dates/coordinated-communications-periods-main-page-2020/>

The slide features a title 'Three-Part Coordination Test' at the top. Below the title is a list of conduct standards under a 'Conduct standard' heading. The standards listed are: Request or suggestion, Material involvement, Substantial discussion, Common vendor, and Former employee/independent contractor. The slide footer includes the FECCConnect LIVE logo, the text '2019-20 Election Cycle', and the page number 'Slide 39'.

F. “Conduct standard” (11 CFR 109.21(d))

Must meet any one of these standards, plus content and payment standards, for the communication to be considered “coordinated.”

1. Request or suggestion

Communication is created at the request or suggestion of candidate, candidate committee, party committee or agents if:

- a) The person creating, producing or distributing the communication does so at the request or suggestion of candidate or party; or
- b) The person paying for the communication suggests the creation, production or distribution of the communication to the candidate or party, and the candidate or party assents.

2. Material involvement

Candidate, authorized committee or party committee is “materially involved in decisions” regarding the content, intended audience, means or mode of the communication, specific media outlet used,

or size or prominence of a printed communication or duration of a communication by means of broadcast, cable or satellite.

3. Substantial discussion

- a) Communication is created, produced or distributed after one or more substantial discussions between the person paying for the communication and:
 - 1) The candidate clearly identified (or his/her campaign); or
 - 2) The opponent of the candidate clearly identified (or his/her campaign); or
 - 3) A political party committee; or
 - 4) An agent of any of the above.
- b) **Substantial discussion** means that information about the plans, projects, activities or needs of the candidate or political party committee that is material to the creation, production or distribution of the communication is conveyed to the person paying for the communication.

4. Employment of common vendor

Use of common vendor to create, produce or distribute communication satisfies standard if:

- a) The person paying for the communication contracts with or employs a commercial vendor to create, produce or distribute the communication;
- b) The commercial vendor has a previous or current relationship with the candidate or political party committee that puts the vendor in a position to acquire information about the campaign plans, projects, activities or needs of the candidate or political party committee;
- c) The vendor uses or conveys information about the plans or needs of the candidate or political party, or information previously used by the vendor in serving the candidate or party, and that information is material to the creation, production or distribution of the communication.

5. Former employee/independent contractor

A person who has previously been an employee or an independent contractor of a candidate's campaign committee or a political party committee during the current election cycle satisfies this standard if:

- a) The former employee/contractor uses or conveys information about the plans or needs of the candidate or political party committee, or information used by the former employee in serving the candidate/party, to the person paying for the communication; and
- b) The information is material to the creation, production or distribution of the communication.

6. **Safe harbors: vendors/former employees or contractors**
 - a) **Time limit on usefulness of materials/information.** 120-day temporal limit.
 - b) **Firewall.** Firewall may be established.
7. **Safe harbor: candidate endorsements/solicitations (11 CFR 109.21(g))**
 - a) Federal candidate may endorse another candidate (federal or nonfederal) in public communication; not contribution to endorsing candidate unless communication promotes, attacks, supports or opposes (PASOs) him or her.
 - b) Federal candidate may solicit funds for another candidate, committee or nonprofit organization in public communication; not contribution to soliciting candidate unless communication PASOs him or her.
 - c) Time frames irrelevant.

Coordination Equation

Source of payment
+ "Content standard"
+ "Conduct standard"

= Coordinated communication
= In-kind contribution subject to
limits and prohibitions

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2019-20 Election Cycle Independent Expenditures & Pre-Election Communications
Slide 40

Takeaway: A communication must meet all three prongs to be considered a coordinated communication subject to limitations and prohibitions (and specific reporting requirements).

- G. **Safe harbor for certain commercial transactions (11 CFR 109.21(i))**
Content prong includes a safe harbor for certain commercial and business communications, in those cases where a candidate is clearly identified as an owner or operator of a business that existed prior to candidacy, so long as the communication does not PASO (promote, attack, support or oppose) any candidate and is consistent with other business communications prior to candidacy.

Reporting Scenario #2: Coordinated Communications

The slide features a red circular icon with a question mark and the number '2' in the top left corner. The title 'Coordinated Communications' is in a large, dark blue font. Below the title, there are two bullet points, each preceded by a square icon. The first bullet point reads: 'Ocean Resort PAC director talked with Rep. Newman's campaign manager about running ads supporting her reelection'. To the right of this text is a circular portrait of a woman with dark hair, smiling, wearing a dark jacket over a white collared shirt. Below the portrait is a white rectangular box with the name 'Amanda Newman' in black text. The second bullet point reads: 'PAC paid UBS Broadcasting \$5,000 on October 28 to begin running radio ads that day'. To the left of this text is a graphic of a radio tower with signal waves and a microphone. At the bottom left of the slide is a red circular icon with a white 'L' and the text 'FECConnect LIVE 2019-20 Election Cycle'. At the bottom right is the text 'Independent Expenditures & Pre-Election Communications Slide 41'.

In early October, the PAC Director for the Ocean Resort PAC (a qualified multicandidate committee) spoke with the Amanda Newman for Congress campaign manager at a meet-and-greet with Congresswoman Newman in her district. The Ocean Resort PAC Director discussed with the campaign manager the possibility of running several radio ads on a local station to support Ms. Newman's reelection bid for the 8th Congressional District of New York. The campaign manager agreed and suggested that the ads begin running on October 28, the week before the general election. On October 28, 2020, the PAC pays \$5,000 to UBS Broadcasting, Inc. and the ads begin running that same day.

1. What type of transaction is this?

This transaction is a coordinated communication because it meets all three parts of the coordination test.

Scenario #2 Coordinated Communications

Applying Coordination Test:

- ▶ **Source of payment**
The PAC
- ▶ **Content standard**
Public communication within time frame that refers to candidate and is directed to voters in applicable state/district
- ▶ **Conduct standard**
Request or suggestion of campaign

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- **Source of payment: MET** because the PAC is paying for the communication, not the candidate committee.
- **Content standard: MET.** Although it's not clear from our example if the communication technically contains "express advocacy," the proximity of the communications to the election is key here. Since the ads will refer to Representative Newman within the 90 day timeframe before the election and will be directed to voters in the jurisdiction of the candidate, we have met the content standard.
- **Conduct standard: MET.** The communication was done at the suggestion of the candidate's campaign manager.

As a result of this communication being coordinated, the amount the PAC spends on the communications must be treated as an in-kind contribution to the Newman campaign, subject to limitations and reporting. (Note that a Super PAC or a Hybrid PAC's non-contribution account could not pay for such a communication.)

Scenario #2

Coordinated Communications

- What type of transaction is this?
In-kind contribution made by PAC and received by campaign
- How would the PAC disclose the transaction?
PAC discloses contribution made on Schedule B
- How would the campaign disclose this transaction?
Campaign shows as receipt on Schedule A and disbursement on Schedule B, and also files 48-Hour Notice

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Poll Time



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Poll Question: Does the PAC disclose the date in-kind contribution is made (i.e., the date of dissemination) or the payment date on Schedule B? (**Choose one**)

- Payment date
- In-kind
- Both

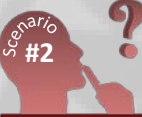
ANSWER:

Poll Question: Does the PAC disclose the date in-kind contribution is made (i.e, the date of dissemination) or the payment date on Schedule B?

- Payment date
- In-kind
- Both – CORRECT ANSWER**

2. How does the PAC report that it has made an in-kind contribution?
The PAC reports the payment on its 30-Day Post-General (30G) election report. (Note that if it had made the payment during the pre-election period and was a quarterly filer, it would have triggered the requirement to file the 12-Day Pre-General report.) No special last minute notices are required from the PAC.

The payment is itemized on Schedule B for Line 23 (Contributions to Federal Candidates). Note that it reports the consulting firm which received the payment as the payee. Candidate information is also noted.



Scenario #2

PAC: In-Kind Contribution – Post-General (30G) Report

FEC Form 3X: Schedule B, Line 23


SCHEDULE B (FEC Form 3X) ITEMIZED DISBURSEMENTS	Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE 1 OF 1
		<input type="checkbox"/> 21b <input type="checkbox"/> 22 <input checked="" type="checkbox"/> 23 <input type="checkbox"/> 26 <input type="checkbox"/> 27 <input type="checkbox"/> 28a <input type="checkbox"/> 28b <input type="checkbox"/> 28c <input type="checkbox"/> 29 <input type="checkbox"/> 30b	

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
Ocean Resort PAC

Full Name (Last, First, Middle Initial)

A. UBS Broadcasting, Inc.	Date of Disbursement
Mailing Address 1000 Seaway Blvd.	<input type="text" value="10"/> / <input type="text" value="28"/> / <input type="text" value="2020"/>
City Massena State NY Zip Code 00000	FEC Identification Number C 00320000
Purpose of Disbursement In-Kind: Radio Advertising	Amount of Each Disbursement this Period 5,000.00
Candidate Name Amanda Newman	<input type="checkbox"/> Memo Item
Office Sought: <input checked="" type="checkbox"/> House Disbursement For:	
<input type="checkbox"/> Senate <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> President <input type="checkbox"/> Other (specify) ▼	
State: NY District: 08	




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3. Since the contribution was received so close to the general election date, does it trigger last-minute disclosure (48-Hour Notice) by the campaign committee? If so, how should the committee disclose the last-minute contribution?

Yes, campaign committees must file special notices (48-Hour Notices) disclosing **any contribution of \$1,000 or more** received less than 20 days but more than 48 hours before 12:01 a.m. on the day of any election in which the candidate is running (whether or not the candidate has opposition in the election). The expedited disclosure requirements apply to all types of contributions received, including in-kind contributions. This contribution is considered to be received on the day the committee received the in-kind contribution (i.e., the date that the PAC paid the company); thus, a 48-Hour Notice is required within 48 hours of that payment.

For the 2020 general election, candidate committees must report all contributions of \$1,000 or more received from October 15, 2020 through October 31, 2020 within 48 hours.

Scenario #2  **Campaign: 48-Hour Notice (1 of 2)**

FEC Form 6


48-HOUR NOTICE OF CONTRIBUTIONS/LOANS RECEIVED
(See Reverse Side for Instructions)

To be used to report all contributions (including loans) of \$1000 or more, received within 20 days of the election.

1. NAME OF COMMITTEE IN FULL Amanda Newman for Congress Committee			
ADDRESS (number and street) 1700 Snow Hill Ave.			
CITY Massena	STATE NY	ZIP CODE 00000	
2. NAME OF CANDIDATE Amanda Newman		3. OFFICE SOUGHT (State and District) NY / 08	4. FEC IDENTIFICATION NUMBER C00320000
5. IS THIS AN AMENDMENT? <input checked="" type="checkbox"/> NO, THIS IS A NEW FILING <input type="checkbox"/> YES, IT AMENDS THE NOTICE FILED ON _____ / _____ / _____			
A. FULL NAME Ocean Resort PAC		Name of Employer	Amount
MAILING ADDRESS 1500 Seafoam Drive		Date (month, day, year) 10/28/20	\$5,000.00 (in-kind; radio ad)
CITY Dewey Beach	STATE DE	ZIP CODE 00000	
SIGNATURE (optional) <i>Leah Ryan</i>		DATE 10/30/20	For further information contact: Federal Election Commission 1050 First Street, N.E., Washington, DC 20463 Toll Free 800-424-9630, Local 202-694-1100

Any information copied from reports and statements filed under the Federal Election Campaign Act may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes other than using the name and address of any political committee to solicit contributions from such committee.

FEC FORM 6
(Revised 03/2016)

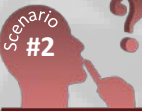
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4. How does the campaign committee disclose the PAC's payment for the cable advertising?

An in-kind contribution is disclosed both as a receipt and a disbursement to avoid inflating cash-on-hand totals.

Report an in-kind contribution on the campaign's Post-General report, both on Schedule A for Line 11(c) (Contributions from Other Political Committees (such as PACs)) AND as a disbursement on Schedule B for Line 17 (Operating Expenditures). The itemization on both Schedule A (Date of Receipt box) and Schedule B (Purpose of Disbursement box) should include a notation indicating the contribution is "in-kind").



Scenario #2

Campaign: In-Kind Contribution – 30G Report (2 of 2)

SCHEDULE A (FEC Form 3) ITEMIZED RECEIPTS

FOR LINE NUMBER: 11a, 11b, **11c**, 11d, 11e, 11f, 11g, 11h, 11i, 11j, 11k, 11l, 11m, 11n, 11o, 11p, 11q, 11r, 11s, 11t, 11u, 11v, 11w, 11x, 11y, 11z

NAME OF COMMITTEE (in Full): **Amanda Newman for Congress Committee**

Full Name (Last, First, Middle Initial): **Ocean Resort PAC**

Mailing Address: **1500 Seafoam Drive**

City: **Dewey Beach** State: **DE** Zip Code: **00000**

Date of Receipt: **10 / 28 / 2020**

FEC ID number of contributing federal political committee: **C 00000088**

Amount of Each Receipt this Period: **5,000.00**

Receipt For: Primary General Other (specify) **2020**

Memo Item: **In-kind**

Receipt: FEC Form 3 Schedule A, Line 11(c)

Disbursement: FEC Form 3 Schedule B, Line 17

SCHEDULE B (FEC Form 3) ITEMIZED DISBURSEMENTS

FOR LINE NUMBER: 17a, 17b, 17c, 17d, 17e, 17f, 17g, 17h, 17i, 17j, 17k, 17l, 17m, 17n, 17o, 17p, 17q, 17r, 17s, 17t, 17u, 17v, 17w, 17x, 17y, 17z

NAME OF COMMITTEE (in Full): **Amanda Newman for Congress Committee**

Full Name (Last, First, Middle Initial): **Ocean Resort PAC**

Mailing Address: **1500 Seafoam Drive**

City: **Dewey Beach** State: **DE** Zip Code: **00000**

Date of Disbursement: **10 / 28 / 2020**

FEC Identification Number: **C 00000088**

Purpose of Disbursement: **In-kind: Radio Advertising**

Amount of Each Disbursement this Period: **5,000.00**

Disbursement For: Primary General Other (specify) **2020**

Reporting as receipt & disbursement avoids inflating cash on hand



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Coordinated Communications

Key Points for Reporting:

- ▣ Campaigns file 48-Hour Notices (Form 6) for last-minute contributions \geq \$1,000
 - Online webform
 - Paper filers may fax to 202-219-0174
- ▣ PACs disclose on FEC report covering applicable period; no additional reporting



Points to Remember:

Campaigns:

- How to file 48-Hour Notices:
 - Online at <https://webforms.fec.gov/onlinefiling/form6/login.htm> or if paper filer, may fax to 202-219-0174
 - Online example and instructions: <https://www.fec.gov/help-candidates-and-committees/filing-reports/reporting-48-hour-notices/>
 - Paper version of Form 6 and instructions: <https://www.fec.gov/help-candidates-and-committees/forms/#candidates-and-authorized-committees>
- Any in-kind contribution disclosed on the 48-Hour Notice must be disclosed again as a receipt and an operating expenditure on next scheduled report. See <https://www.fec.gov/help-candidates-and-committees/filing-reports/in-kind-contributions/>

PACs:

- No 48-Hour Notice is required.
- Disclose coordinated communication as in-kind contribution on Schedule B for Line 23. See <https://www.fec.gov/help-candidates-and-committees/filing-pac-reports/in-kind-contributions-candidates/>

Communications that advocate a candidate's election or defeat, but are not coordinated, are subject to different rules and reporting requirements.

IV. Independent Expenditures (11 CFR 100.16)

The slide features a title 'Independent Expenditures' at the top. Below it, the text 'Communications that:' is followed by two bullet points. The first bullet point reads 'Expressly advocate the election or defeat of clearly identified candidate; and'. The second bullet point reads 'Are made without cooperation, consultation, request or suggestion of candidate or party committee'. At the bottom left, there is a logo for 'FECCConnect LIVE 2019-20 Election Cycle'. At the bottom right, the text reads 'Independent Expenditures & Pre-Election Communications Slide 50'.

A. Independent expenditures defined

Expenditure for communication that “expressly advocates” the election or defeat of a clearly identified candidate and that is not made in cooperation with, or at the suggestion of, the candidate or his/her campaign or its agents, or a political party or its agents.

1. Clearly identified – 11 CFR 100.17

A candidate's name, nickname, photograph or drawing appears or identity is otherwise apparent through references.

- “The President”
- “Your Congressman”
- “The incumbent”

Independent Expenditures

Express advocacy:

- ▣ **Message unmistakably urges election or defeat of clearly identified federal candidate.**
- ▣ **Two part definition:**
 - **Part A: Specific call to action**
 - **Part B: Only reasonable interpretation test**



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2. **Express advocacy – 11 CFR 100.22**
Message unmistakably urges election or defeat of one or more clearly identified candidates.
 - a) **Two part definition of unmistakably urging election or defeat**
 - Part A: Specific call to action
 - Part B: “Only reasonable interpretation test”

Express Advocacy

▼ Specific call to action

- Explicit words of advocacy for or against a federal candidate
- Urging action with respect to candidates associated with a particular issue
- Campaign slogan or words



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- b) **Part A: Specific call to action – 11 CFR 100.22(a)**
- (1) **Explicit words of advocacy for or against a federal candidate**
 - “Re-elect your Congressman”
 - “Support your Democratic nominee”
 - “Reject the incumbent”
 - (2) **Urging action with respect to candidates associated with a particular issue**
Example: “Vote Pro-Environment,” when accompanied by names or photographs of candidates identified as supporting the issue.
 - (3) **Campaign slogan or words that can have no other reasonable meaning than to support or oppose candidate**
Examples: bumper stickers, pins

Independent Expenditures

Express Advocacy:

- ▼ **Only reasonable interpretation test**

When taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidates.



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- c) **Part B: “Only reasonable interpretation test” – 11 CFR 100.22(b)**
Absent explicit words of advocacy for or against a candidate, the communication, when taken as whole and with limited reference to external events, can only be interpreted by reasonable person as “encouraging action to elect or defeat” federal candidate.

Independent Expenditures

Communications that:


- ▣ Expressly advocate the election or defeat of clearly identified candidate; and
- ▣ Are made without cooperation, consultation, request or suggestion of candidate or party committee

3. **No limits**
The PAC may spend an unlimited amount because the expenditure is not coordinated.


Independent Expenditures

Coordinated vs Independent

<ul style="list-style-type: none">▣ Coordinated<ul style="list-style-type: none">▪ Limited▪ Corporate/union funds prohibited	<ul style="list-style-type: none">▣ Independent<ul style="list-style-type: none">▪ Unlimited▪ Corporate/union funds permitted
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Supporter Campaign



Supporter Campaign

FECCConnect LIVE 2019-20 Election Cycle Independent Expenditures & Pre-Election Communications Slide 55

Poll Time

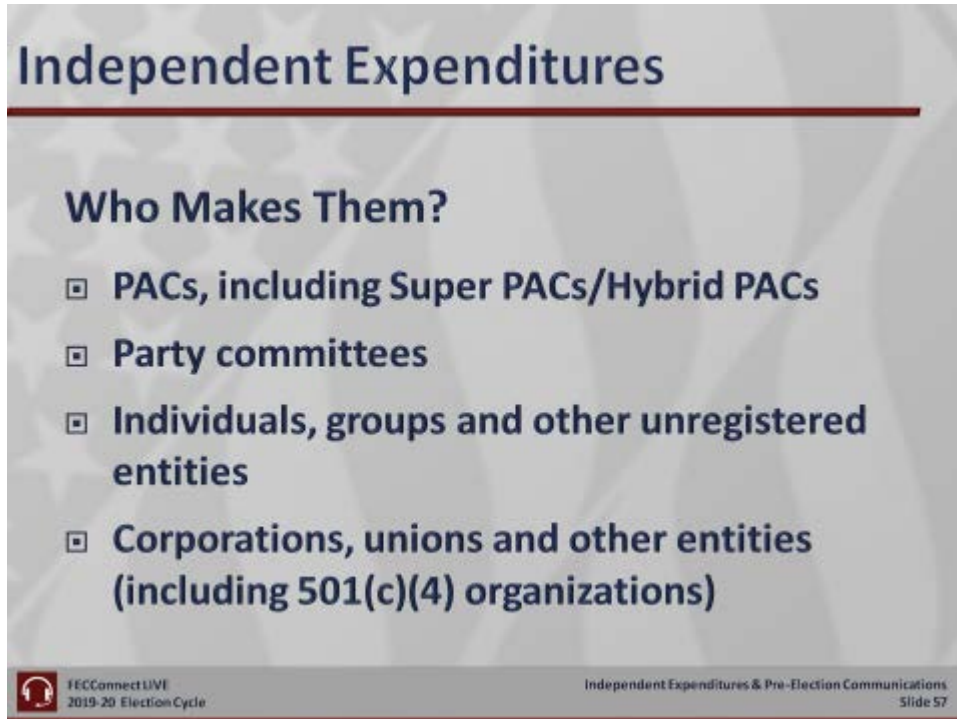


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Poll Question: *Yes or No:* Are independent expenditures considered coordinated communications?

ANSWER:

Poll Question: No – CORRECT ANSWER



Independent Expenditures

Who Makes Them?

- ▣ PACs, including Super PACs/Hybrid PACs
- ▣ Party committees
- ▣ Individuals, groups and other unregistered entities
- ▣ Corporations, unions and other entities (including 501(c)(4) organizations)

FECConnect LIVE 2019-20 Election Cycle Independent Expenditures & Pre-Election Communications Slide 57

- B. Who makes Independent Expenditures?**
- 1. Political Action Committees**
 - a) Separate Segregated Funds (SSFs) and Nonconnected PACs** – May use funds that are raised within normal federal contribution limits and prohibitions.
 - b) Super PACs** – May use unlimited contributions raised from any source (except foreign nationals)
 - c) Hybrid PACs** – May use either its federal PAC subject to restrictions or its non-contribution account which may use unlimited contributions raised from any source (except foreign nationals).
 - 2. Party committees**
 - 3. Individuals, groups and other unregistered entities**
 - 4. Corporations, unions and other entities (including 501(c)(4) organizations)**

Independent Expenditures

Independent Expenditure-Only Committees ("Super PACs")

- ▣ No limit on contributions received
- ▣ May accept corporate/union funds
- ▣ Register and file reports with FEC
- ▣ Identify status by letter with Form 1



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a) **Independent expenditure-only political committees
(Super PACs)**

Based on decisions in *Citizens United v. FEC* (2010) and *SpeechNow.org v. FEC* (2010), a Super PAC is a PAC that pledges to make only independent expenditures. As a result, it may raise and spend funds outside the usual limits and prohibitions.

(1) **Advisory opinions:**

- **AO 2010-09:** The Commission ruled that a corporation may “establish and administer a political committee that makes only independent expenditures.”
- **AO 2010-11:** The Commission explained guidelines applicable to an independent-expenditure only political committee.

(2) **Guidelines from AOs:**

- No contribution limits or solicitation restrictions are imposed on independent expenditure-only political committees.
- May accept donations from corporations and unions.
- Super PACs must still register with FEC and disclose contributions received and independent expenditures made.

(3) **Registration of Super PAC**

To register, include letter with Form 1 clarifying that it intends to accept unlimited contributions for purpose of making independent expenditures.

Information and letter are available at
<https://www.fec.gov/help-candidates-and-committees/registering-pac/registering-nonconnected-committee/>

Independent Expenditures

Nonconnected PACs with “non-contribution account” to raise unlimited funds for IEs (“Hybrid PACs”)

- ▣ May accept corporate/union funds
- ▣ All activity reported on FEC Form 3X
- ▣ Identify status by letter with Form 1



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b) Hybrid PACs

(1) *Carey v. FEC*

- Traditional nonconnected PACs (i.e., PACs that make contributions and adhere to the \$5,000 per calendar year contribution limit) may establish a separate “non-contribution” account which may accept unlimited contributions from individuals, corporations and labor organizations.
- “Non-contribution” account may only be used to make independent expenditures and not to make contributions.

(2) All activity for both accounts is reported on one FEC report.

(3) Notify the FEC either with initial Form 1 (Statement of Organization) filing that the PAC intends to establish a “Non-contribution account,” or for PACs already registered, file notification with the FEC that the PAC intends to establish a “Non-contribution account.”

(4) Guidance: <https://www.fec.gov/help-candidates-and-committees/registering-pac/bank-accounts-nonconnected-pacs/> (See “Non-contribution account”)

Independent Expenditures

Permitted:

- ▣ Corporate/labor treasury funds




Prohibited:

- ▣ Foreign nationals
- ▣ Federal government contractors



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Poll Time



FECCONNECT LIVE 2019-20 Election Cycle Independent Expenditures & Pre-Election Communications Slide 61

Poll Question: *Yes or No:* Do Super PACs have a limit on contributions received?

Answer:

Poll Question: No – CORRECT ANSWER

Having looked at what an independent expenditure is, and who can make one, let's now cover the rules for making and reporting them.

Independent Expenditures

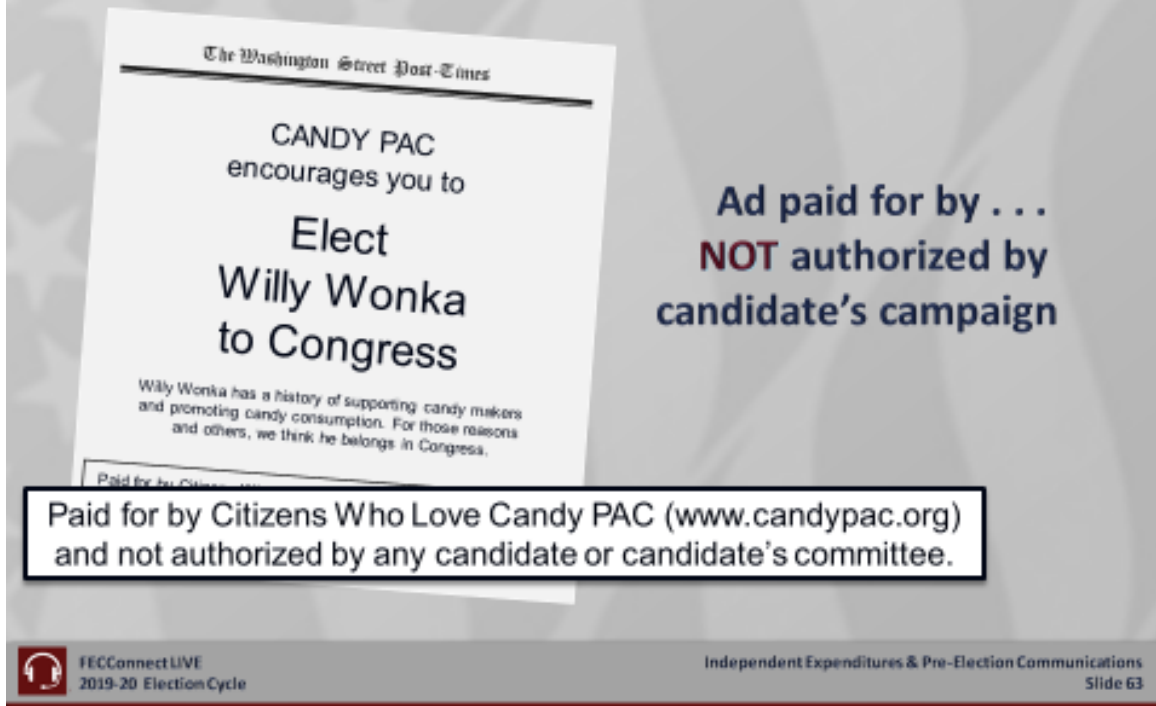
Basic Rules for Disclaimers

- ▣ Identify who paid for a communication
- ▣ Clarify whether a campaign authorized it
- ▣ Appear on all “public communications,” widely distributed emails, public websites
- ▣ Include media-specific requirements

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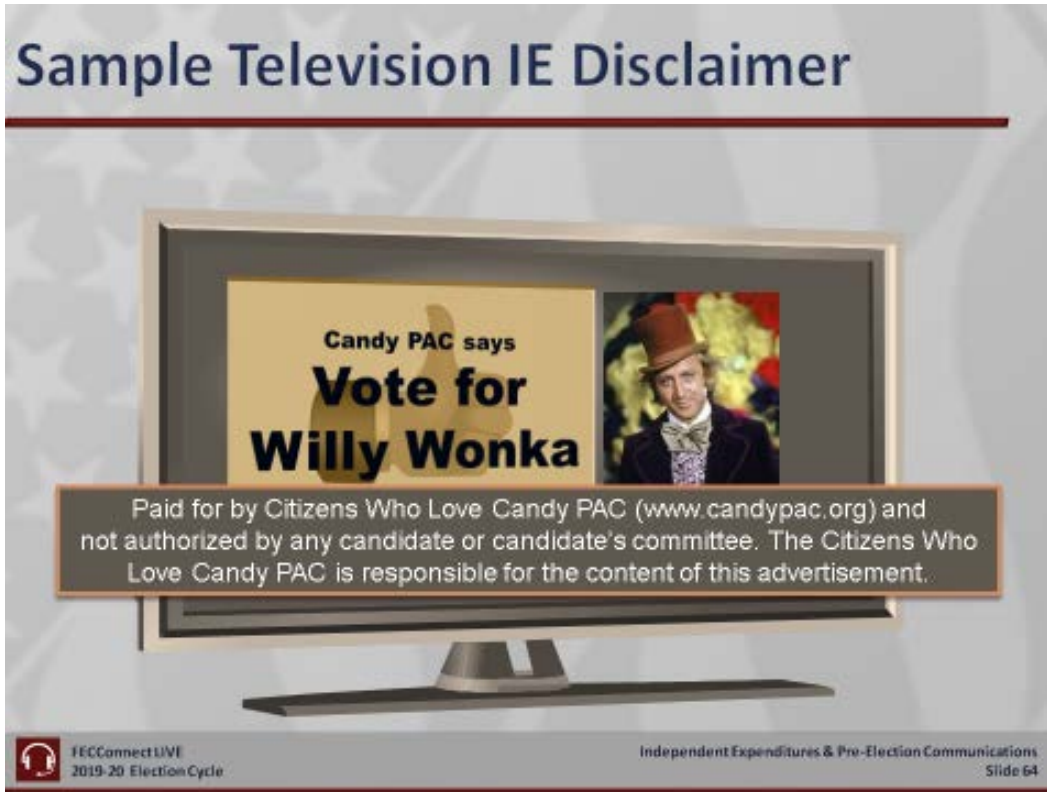
5. **Disclaimers required for independent expenditures**
 - a) **Required wording:**
“Paid for by (Name of Payer) (web address/phone number or street address) and not authorized by any candidate or candidate’s committee.”
 - b) **Stand by Your Ad if on radio/TV (both oral and in writing):** “(Name of Payer) is responsible for the content of this advertising.”
 - Both authorized and unauthorized TV communications must include a similar statement, clearly readable, at the end of the communication.

Sample Print IE Disclaimer



The graphic shows a sample print advertisement from 'The Washington Street Post-Times'. The ad text reads: 'CANDY PAC encourages you to Elect Willy Wonka to Congress'. Below this, it says 'Willy Wonka has a history of supporting candy makers and promoting candy consumption. For those reasons and others, we think he belongs in Congress.' To the right of the ad, text reads 'Ad paid for by . . . NOT authorized by candidate's campaign'. At the bottom of the ad, a box contains the text: 'Paid for by Citizens Who Love Candy PAC (www.candypac.org) and not authorized by any candidate or candidate's committee.' The footer of the slide includes 'FEConnect LIVE 2019-20 Election Cycle' and 'Independent Expenditures & Pre-Election Communications Slide 63'.

Example: In this example of a printed communication, the disclaimer for an independent expenditure appears in a box with color contrast. The notice indicates that the PAC paid for the ad and that it was not authorized by any candidate or candidate's committee, and gives contact information for the PAC.



Example: In this example of a television ad, the disclaimer for an independent expenditure provides the website address of the PAC that paid for the ad, states that the communication was not authorized by any candidate, and indicates that the PAC is responsible for the content.



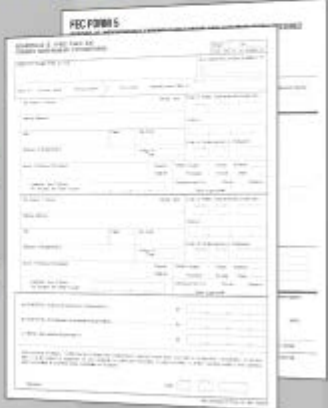
Poll Question: *Yes or No:* Are disclaimers required for all public communications?

Answer:

Poll Question: Yes – CORRECT ANSWER

Reporting IEs

- ▣ Individuals/organization use **FEC Form 5**
PACs/parties use **Schedule E, FEC Form 3X**
- ▣ **Date made = date disseminated**
- ▣ **Aggregate on per calendar year, per election, per office sought basis**



FECConnect LIVE
2019-20 Election Cycle


Independent Expenditures & Pre-Election Communications
Slide 66


C. Reporting Independent Expenditures

1. **Individuals/organizations report on FEC Form 5;**
PACs/parties report on Schedule E of FEC Form 3X
2. **Date made = date disseminated**
 - An independent expenditure is considered made when it is publicly distributed or otherwise publicly disseminated.
 - See the FEC's interpretive rule at 76 FR 16233 (October 4, 2011): https://transition.fec.gov/law/cfr/ej_compilation/2011/notice_2011-13.pdf.
3. **Aggregation**
Per calendar year, per election, per office sought (race) basis.

Reporting IEs

- ▣ **48-Hour Reports**
 - ▣ IEs aggregating $\geq \$10,000$ ≥ 20 days before an election
- ▣ **24-Hour Reports**
 - ▣ IEs aggregating $\geq \$1,000 < 20$ days but > 24 hours before an election
- ▣ **Disclose again on next regular report**

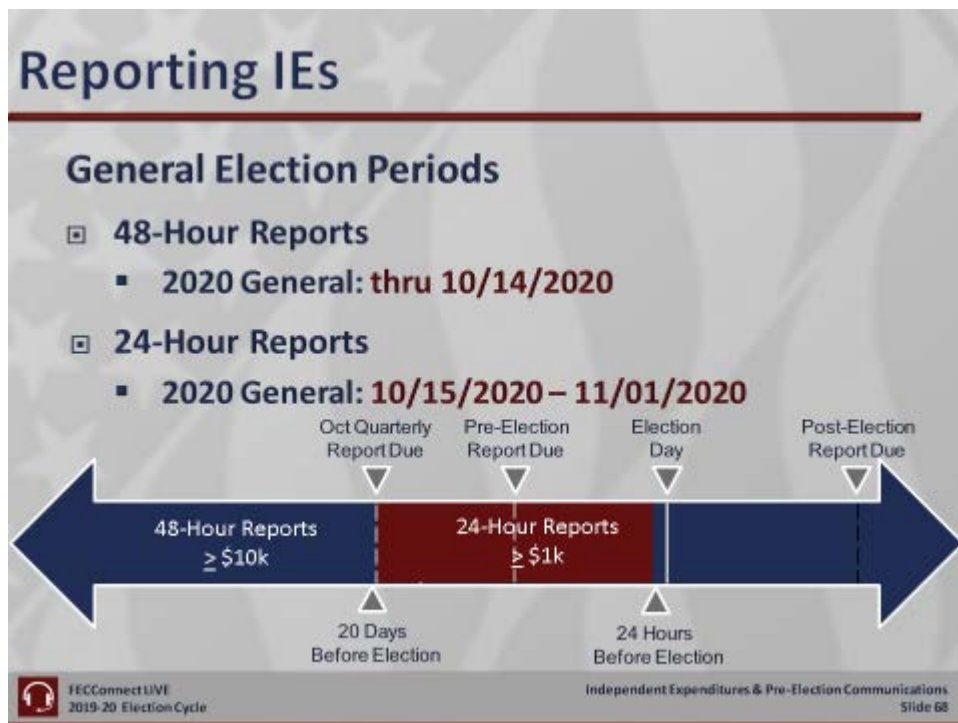


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4. **Additional reporting on 48- and 24- hour basis:**
 - a) **48-Hour Reports (11 CFR 104.5(g)(1))**
 - (1) Must file a **48-Hour Report** for independent expenditures aggregating \$10,000 or more with respect to a given election, anytime during a calendar year up to and including the 20th day before an election.
 - (2) A 48-Hour Report is required each time additional independent expenditures aggregate \$10,000 for the same election.
 - b) **24-Hour reports (11 CFR 104.5(g)(2))**
 - (1) Must file a **24-Hour Report** for independent expenditures aggregating \$1,000 or more with respect to a given election made less than 20 days but more than 24 hours before election day.
 - (2) A 24-Hour Report is required each time additional independent expenditures aggregate \$1,000 or more for the same election.

- c) **Disclose again on next regular report**
- (1) **Individuals/organizations**
 - Must file a quarterly report on FEC Form 5 when independent expenditures for a given election that aggregate more than \$250 in a calendar year are made within a quarterly reporting period.
 - (2) **PACs/parties**
 - Must disclose independent expenditures again on FEC Form 3X in accordance with regular monthly or quarterly filing schedule.



Reporting IEs

24- and 48-Hour IE Reports

- ▣ Filed with the FEC
- ▣ Electronic filers submit reports electronically
- ▣ All filers may use online filing system:
<https://webforms.fec.gov/>

- d) **24-Hour and 48-Hour Reports** are filed using stand-alone Schedule E or Form 5; check appropriate box to note type of report.
- e) **Online resources:**
 - **24-Hour and 48-Hour Report time frames for 2020** are located on FEC website at <https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/2020-reporting-dates/24-and-48-hour-reports-independent-expenditures-periods-main-page-2020/>
 - **Online filing of 24-Hour and 48-Hour Reports** available at <https://webforms.fec.gov/>

Reporting Scenario #3: PAC Independent Expenditure – Payment before Dissemination

Scenario #3 ? **Payment before Dissemination**

- ▣ On August 18, XYZ PAC spends \$13,000 on TV ad supporting Elizabeth Monroe for Senate
- ▣ Ad airs on September 12
- ▣ PAC doesn't speak with campaign before running ads

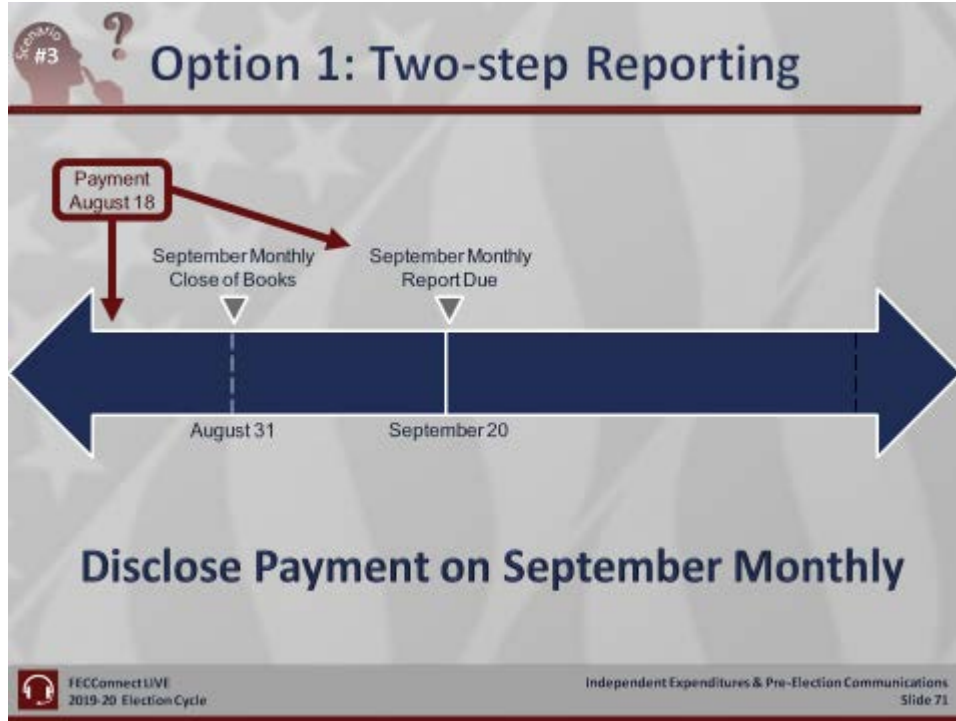
Elizabeth Monroe

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The XYZ PAC files monthly. The PAC has made the maximum contribution to Elizabeth Monroe’s Senate campaign, but wants to do more. On August 18, a week after Monroe’s primary election victory, the PAC spends \$13,000 on a TV ad expressly advocating Monroe’s election. The PAC does not coordinate with the Monroe campaign. The ad airs on September 12.

- 1. What type of transaction is this?**
Independent expenditure by XYZ PAC.
- 2. How must the committee disclose the transaction(s)?**
The PAC paid for the ad in August, but it won’t appear until September. Since the committee paid for the ad before the dissemination date, the committee has two options for reporting this independent expenditure in its regularly scheduled report, as detailed in the examples below.



Scenario #3 Option 1: Operating Expenditure

**SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS**

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one)

<input checked="" type="checkbox"/> 21b	<input type="checkbox"/> 22	<input type="checkbox"/> 23	<input type="checkbox"/> 26	<input type="checkbox"/> 27
<input type="checkbox"/> 28a	<input type="checkbox"/> 28b	<input type="checkbox"/> 28c	<input type="checkbox"/> 29	<input type="checkbox"/> 30b

PAGE OF

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
XYZ Political Action Committee

Full Name (Last, First, Middle Initial)

A. **Archer Advertising Agency**

Date of Disbursement
08 / 18 / 2020

Mailing Address
123 Main Street

City
St. Paul

State
MN

Zip Code
55103

Purpose of Disbursement
Pre-payment for television advertisement

FEC Identification Number
C 00000007

Amount of Each Disbursement this Period
13,000.00

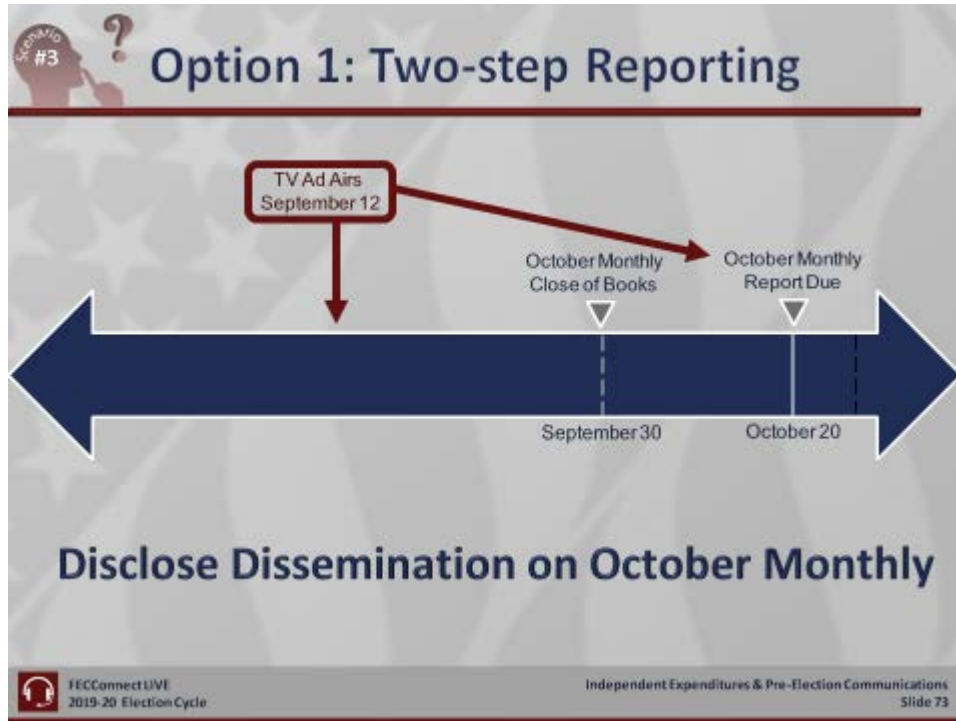
Office Sought: House Senate President

Disbursement For: Primary General Other (specify) ▼

State: District:

Memo Item

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Scenario #3 Option 1: IE Dissemination

**SCHEDULE E (FEC Form 3X)
ITEMIZED INDEPENDENT EXPENDITURES**

PAGE OF
FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (In Full): **XYZ Political Action Committee**

FEC IDENTIFICATION NUMBER: **C 0000007**

Check if 24-hour report 48-hour report New report Amends report filed on M/M / D/D / YYY-YY-YY

Full Name of Payee: **Archer Advertising Agency** Memo Item

Mailing Address: **123 Main Street**

City: **St. Paul** State: **MN** Zip Code: **55103**

Purpose of Expenditure: **Television ad – see Schedule B** Category/Type: []

Name of Federal Candidate: **Elizabeth Monroe** Support Oppose

Office Sought: House Senate District: [] State: **MN**

Calendar Year-To-Date Per Election for Office Sought: **13,000.00**

Date of Public Distribution/Dissemination: **09 / 12 / 2020**

Amount: **13,000.00**

Date of Disbursement or Obligation: M/M / D/D / YYY-YY-YY

Disbursement For: Primary General Other (specify) ▶

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Option 1: Negative Entry

SCHEDULE B (FEC Form 3X) ITEMIZED DISBURSEMENTS		Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE	OF
			<input checked="" type="checkbox"/> 21b	<input type="checkbox"/> 22	<input type="checkbox"/> 23
			<input type="checkbox"/> 28a	<input type="checkbox"/> 28b	<input type="checkbox"/> 28c
			<input type="checkbox"/> 26	<input type="checkbox"/> 27	<input type="checkbox"/> 29
			<input type="checkbox"/> 30b		

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
XYZ Political Action Committee

Full Name (Last, First, Middle Initial)

A. **Archer Advertising Agency**

Mailing Address
123 Main Street

City **St. Paul** State **MN** Zip Code **55103**

Purpose of Disbursement
TV Ad (IE paid 8/18/20, see Schedule E)

Candidate Name

Office Sought: House Senate President

Disbursement For: Primary General Other (specify) ▼

State: District:

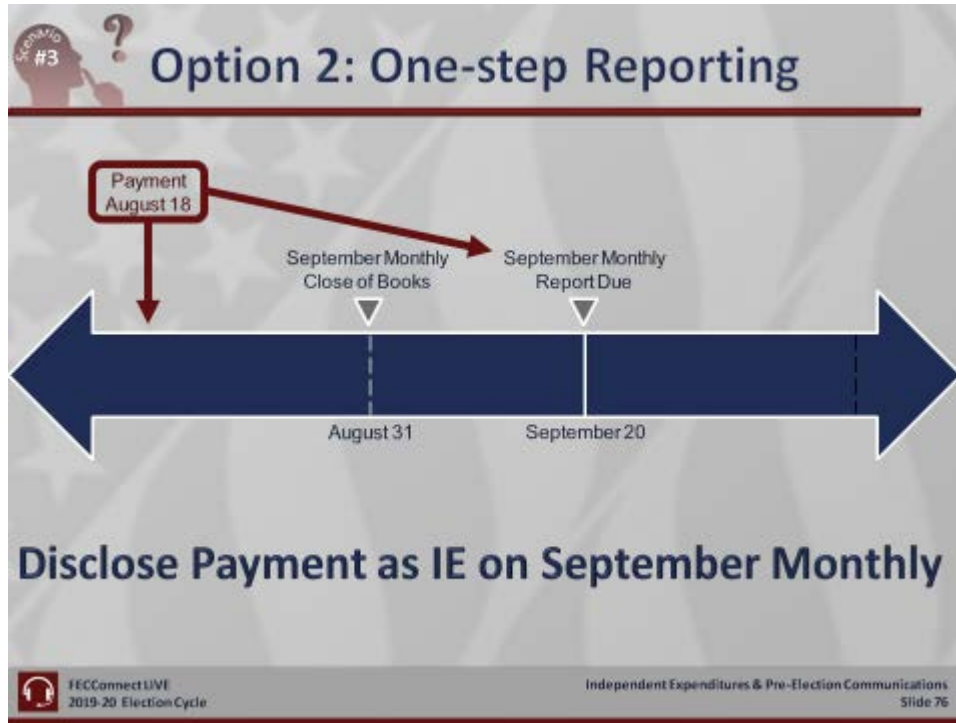
Date of Disbursement
09 / 12 / 2020

FEC Identification Number
C 00000007

Amount of Each Disbursement this Period
-13,000.00

Memo Item





Option 2: IE Payment

Scenario #3

**SCHEDULE E (FEC Form 3X)
ITEMIZED INDEPENDENT EXPENDITURES**

PAGE OF
FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (In Full)
XYZ Political Action Committee

FEC IDENTIFICATION NUMBER
C **0000007**

Check if 24-hour report 48-hour report New report Amends report filed on M M / D D / Y Y Y Y Y Y

Full Name of Payee Memo Item
Archer Advertising Agency

Date of Public Distribution/Dissemination
M M / D D / Y Y Y Y Y Y

Mailing Address
123 Main Street

Amount
13,000.00

City **St. Paul** State **MN** Zip Code **55103**

Purpose of Expenditure
Pre-payment for television ad

Category/Type

Date of Disbursement or Obligation
08 / 18 / 2020

Name of Federal Candidate: Support Oppose
Elizabeth Monroe

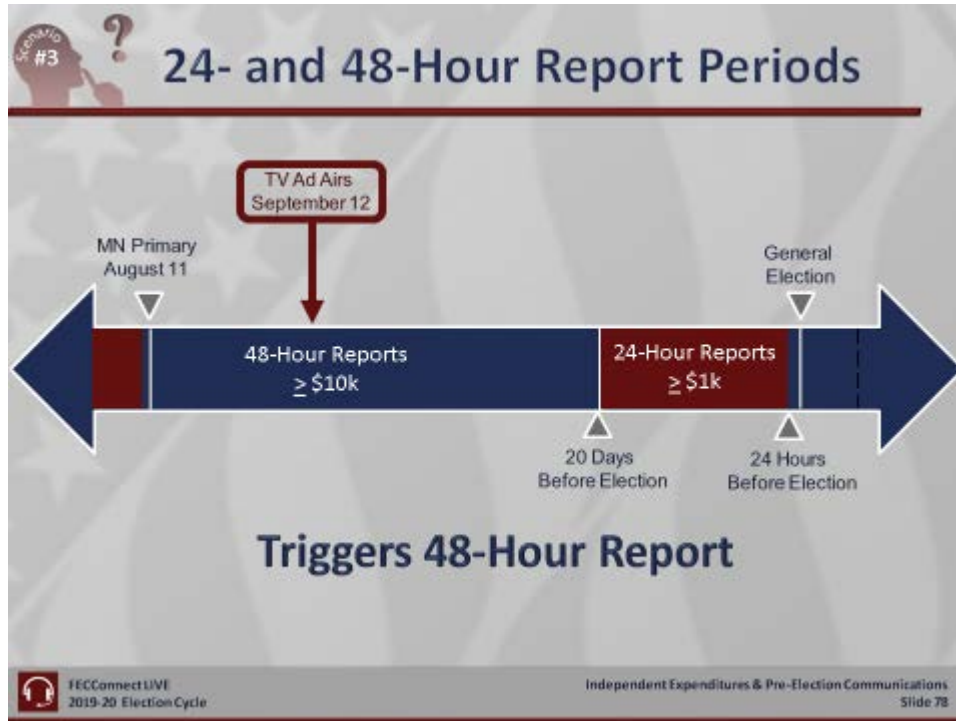
Office Sought: House Senate District: **MN**
 President

Calendar Year-To-Date Per Election for Office Sought **13,000.00**

Disbursement For: Primary General
 Other (specify)

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2019-20 Election Cycle

Independent Expenditures & Pre-Election Communications
Slide 77



Scenario #3

48-Hour Report

SCHEDULE E (FEC Form 3X)
ITEMIZED INDEPENDENT EXPENDITURES

PAGE OF
FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (In Full)
XYZ Political Action Committee

FEC IDENTIFICATION NUMBER
C **0000007**

Check if 24-hour report 48-hour report

Full Name of Payee
Archer Advertising Agency

Mailing Address
123 Main Street

City
St. Paul

State
MN

Zip Code
55103

Purpose of Expenditure
Television Ad

Name of Federal Candidate:
Elizabeth Monroe

Calendar Year-To-Date Per Election for Office Sought
13,000.00

Date of Public Distribution/Dissemination
09 / 12 / 2020

Amount
13,000.00

Date of Disbursement or Obligation
08 / 18 / 2020

Office Sought: House Senate

Disbursement For: Primary General

FECConnect LIVE 2019-20 Election Cycle

Independent Expenditures & Pre-Election Communications Slide 79

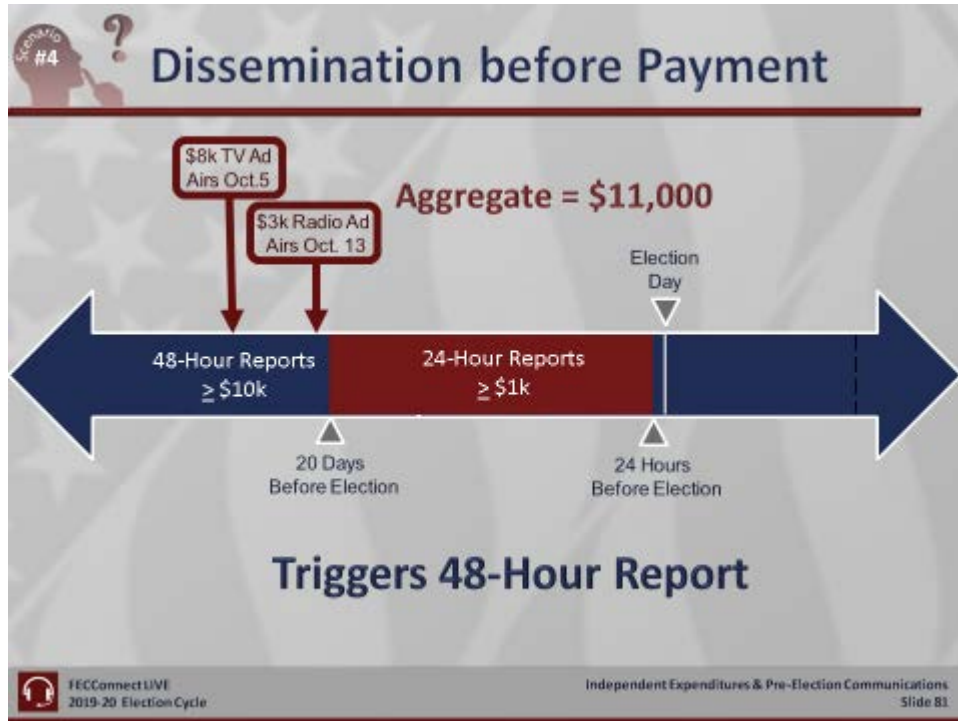
Reporting Scenario #4: PAC Independent Expenditure – Dissemination before Payment

The slide features a title 'Dissemination before Payment' with a question mark icon and the number '4'. Below the title is a list of four bullet points: 'On Oct. 5, XYZ PAC airs \$8,000 TV ad supporting Al Daniels for Senate', 'On Oct. 13, XYZ PAC airs \$3,000 radio ad opposing Daniels' opponent', 'PAC pays for ads on November 30', and 'PAC doesn't coordinate with the campaign before running ads'. To the right of the first two bullet points is a circular portrait of Al Daniels. Below the third and fourth bullet points is an icon of two people with a speech bubble containing a prohibition sign. The slide footer includes 'FECConnect LIVE 2019-20 Election Cycle' and 'Independent Expenditures & Pre-Election Communications Slide 90'.

Senate Candidate Al Daniels doesn't accept PAC checks and his campaign won't speak to PAC representatives. Still, the XYZ PAC wants to support him because of his strong stance on issues of importance to the organization. XYZ PAC decides to buy two ads: a television ad costing \$8,000, which expressly advocates the election of Al Daniels; and a radio ad costing \$3,000, which expressly advocates the defeat of Daniels' opponent, Kate Jones. The television ad airs on October 5 and the radio ad on October 13. The committee will pay for the ads on November 30, 2020.

1. What type of transactions are these?

The PAC is making independent expenditures, defined as expenditures for communications that “expressly advocate” the election or defeat of a clearly identified candidate and that are not made in cooperation with, or at the request or suggestion of, a candidate or his/her campaign or its agents, or a political party committee or its agents.



2. How must the committee disclose the transactions?

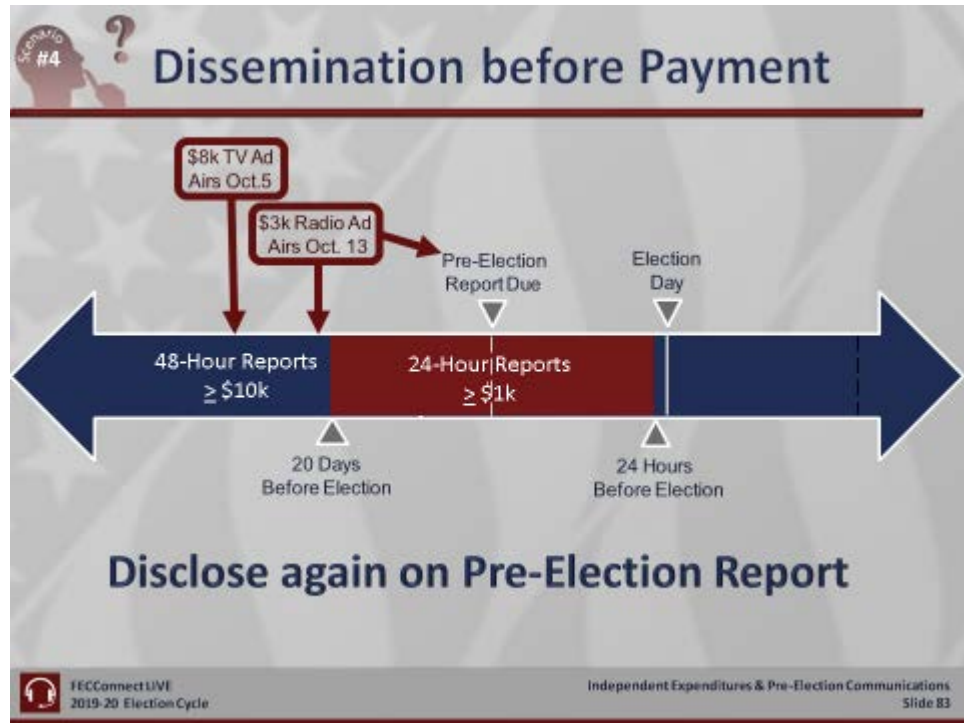
An independent expenditure is considered made when it is publicly distributed or otherwise publicly disseminated. If independent expenditures aggregating \$10,000 or more and are made prior to 20 days before an election, as these expenditures did, the PAC must file a 48-Hour Report on Schedule E. The PAC must disclose the independent expenditures again, on Schedule E, for the next regular FEC report (in this case, the next regular report for the PAC is the 12-Day Pre- General (12G) Report).

See reporting examples on next several pages

Scenario #4 **48-Hour Report filed 10/14**

SCHEDULE E (FEC Form 3X) ITEMIZED INDEPENDENT EXPENDITURES		PAGE 1 OF 1 FOR LINE 24 OF FORM 3X
NAME OF COMMITTEE (in full) XYZ Political Action Committee		FEC IDENTIFICATION NUMBER C 00000004
Check if <input type="checkbox"/> 24-hour report <input checked="" type="checkbox"/> 48-hour report <input checked="" type="checkbox"/> New report Amends report filed on		
Full Name of Payee KRLY TV, Inc.	<input type="checkbox"/> Memo Item	Date of Public Distribution/Dissemination 10 / 05 / 2020
Mailing Address 1010 Cavalier Drive		Amount 8,000.00
City Austin State TX Zip Code 73301	Purpose of Expenditure TV Ad Category/Type 004	Date of Disbursement or Obligation
Name of Federal Candidate: Al Daniels	<input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose	Office Sought <input type="checkbox"/> House <input checked="" type="checkbox"/> Senate District: State: TX
Calendar Year-To-Date Per Election for Office Sought 8,000.00		Disbursement For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify) 2020 General
Full Name of Payee KRLY Radio, Inc.	<input type="checkbox"/> Memo Item	Date of Public Distribution/Dissemination 10 / 13 / 2020
Mailing Address 1010 Cavalier Drive		Amount 3,000.00
City Austin State TX Zip Code 73301	Purpose of Expenditure Radio Ad Category/Type 004	Date of Disbursement or Obligation
Name of Federal Candidate: Kate Jones	<input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose	Office Sought <input type="checkbox"/> House <input checked="" type="checkbox"/> Senate District: State: TX
Calendar Year-To-Date Per Election for Office Sought 11,000.00		Disbursement For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify) 2020 General

FECConnect LIVE 2019-20 Election Cycle Independent Expenditures & Pre-Election Communications Slide 82



Scenario #4 **Pre-General Report (12G)**

SCHEDULE E (FEC Form 3X)
ITEMIZED INDEPENDENT EXPENDITURES

PAGE 1 OF 1
FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (in Full)
XYZ Political Action Committee

FEC IDENTIFICATION NUMBER
C 00000004

Check it 24-hour report 48-hour report New report Amends report filed on

Full Name of Payee Memo item
KRLY TV, Inc. Date of Public Distribution/Dissemination
10 / 05 / 2020

Mailing Address
1010 Cavalier Drive Amount
8,000.00

City State Zip Code
Austin TX 73301

Purpose of Expenditure
TV Ad Category/Type
004

Name of Federal Candidate: Support Oppose Office Sought: President Senate District: TX
Al Daniels

Calendar Year-To-Date Per Election for Office Sought: 8,000.00 Disbursement For: Primary General
 Other (specify) > 2020 General

Full Name of Payee Memo item
KRLY Radio, Inc. Date of Public Distribution/Dissemination
10 / 13 / 2020

Mailing Address
1010 Cavalier Drive Amount
3,000.00

City State Zip Code
Austin TX 73301

Purpose of Expenditure
Radio Ad Category/Type
004

Name of Federal Candidate: Support Oppose Office Sought: House Senate District: TX
Kate Jones

Calendar Year-To-Date Per Election for Office Sought: 11,000.00 Disbursement For: Primary General
 Other (specify) > 2020 General

FECConnect LIVE 2019-20 Election Cycle Independent Expenditures & Pre-Election Communications Slide 84

Scenario #4 **Debt Owed (12G)**

SCHEDULE D (FEC Form 3X)
DEBTS AND OBLIGATIONS
Excluding Loans

(Use separate schedule(s) for each numbered line) PAGE 1 OF 1
FOR LINE NUMBER: (check only one) 9 10

NAME OF COMMITTEE (in Full)
XYZ Political Action Committee

A. Full Name (Last, First, Middle Initial) of Debtor or Creditor
KRLY TV, Inc. Nature of Debt (Purpose):
TV Ad for Al Daniels

Mailing Address
1010 Cavalier Drive

City State Zip Code
Austin TX 73301

Outstanding Balance Beginning This Period: 0.00

Amount Incurred This Period: 8,000.00 Payment This Period: 0.00 Outstanding Balance at Close of This Period: 8,000.00

B. Full Name (Last, First, Middle Initial) of Debtor or Creditor
KRLY Radio, Inc. Nature of Debt (Purpose):
Radio Ad Opposing Kate Jones

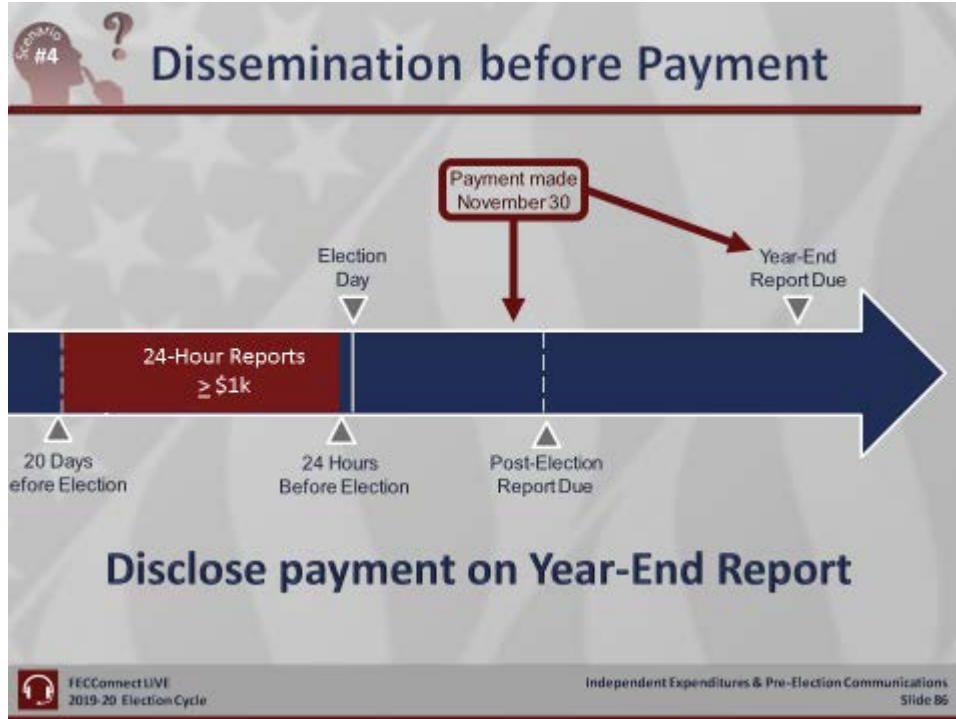
Mailing Address
1010 Cavalier Drive

City State Zip Code
Austin TX 73301

Outstanding Balance Beginning This Period: 0.00

Amount Incurred This Period: 3,000.00 Payment This Period: 0.00 Outstanding Balance at Close of This Period: 3,000.00

FECConnect LIVE 2019-20 Election Cycle Independent Expenditures & Pre-Election Communications Slide 85



Scenario #4 **Subsequent Payment (Year-End)**

SCHEDULE E (FEC Form 3X)
ITEMIZED INDEPENDENT EXPENDITURES

PAGE 1 OF 1
FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (in full)
XYZ Political Action Committee

FEC IDENTIFICATION NUMBER
C 00000004

Check if 24-hour report 48-hour report New report Amends report filed on

Full Name of Payee Memo Item
KRLY TV, Inc.

Mailing Address
1010 Cavalier Drive

City **Austin** State **TX** Zip Code **73301**

Date of Public Distribution/Dissemination
10 / 05 / 2020

Amount
8,000.00

Purpose of Expenditure
TV Ad disseminated on 10/5/20

Category/Type
004

Date of Disbursement or Obligation
11 / 30 / 2020

Name of Federal Candidate: Support Oppose
Al Daniels

Office Sought: House Senate District: **TX**

Calendar Year-To-Date Per Election for Office Sought
8,000.00

Disbursement For: Primary General
 Other (specify) **2020 General**

Full Name of Payee Memo Item
KRLY Radio, Inc.

Mailing Address
1010 Cavalier Drive

City **Austin** State **TX** Zip Code **73301**

Date of Public Distribution/Dissemination
10 / 13 / 2020

Amount
3,000.00

Purpose of Expenditure
Radio Ad

Category/Type
004

Date of Disbursement or Obligation
11 / 30 / 2020

Name of Federal Candidate: Support Oppose
Kate Jones

Office Sought: House Senate District: **TX**

Calendar Year-To-Date Per Election for Office Sought
11,000.00

Disbursement For: Primary General
 Other (specify) **2020 General**

FECConnect LIVE 2019-20 Election Cycle Independent Expenditures & Pre-Election Communications Slide 87



Debt Paid (Year-End)

SCHEDULE D (FEC Form 3X) DEBTS AND OBLIGATIONS Excluding Loans		(Use separate schedule(s) for each numbered line)	PAGE 1 OF 1 FOR LINE NUMBER: (check only one) <input type="checkbox"/> 9 <input checked="" type="checkbox"/> 10
NAME OF COMMITTEE (In Full) XYZ Political Action Committee			
A. Full Name (Last, First, Middle Initial) of Debtor or Creditor KRLY TV, Inc.		Nature of Debt (Purpose): TV Ad for Al Daniels	
Mailing Address 1010 Cavalier Drive			
City Austin	State TX	Zip Code 73301	
Outstanding Balance Beginning This Period 8,000.00			
Amount Incurred This Period 0.00	Payment This Period 8,000.00	Outstanding Balance at Close of This Period 0.00	
B. Full Name (Last, First, Middle Initial) of Debtor or Creditor KRLY Radio, Inc.		Nature of Debt (Purpose): Radio Ad Opposing Kate Jones	
Mailing Address 1010 Cavalier Drive			
City Austin	State TX	Zip Code 73301	
Outstanding Balance Beginning This Period 3,000.00			
Amount Incurred This Period 0.00	Payment This Period 3,000.00	Outstanding Balance at Close of This Period 0.00	



**Reporting Scenario #4 (Alternate Facts): PAC Independent Expenditure –
Dissemination before Payment**

What if XYZ PAC wasn't sure exactly how much its television and radio ads would end up costing? How would they file the required 48-Hour Report?

The slide features a title 'IE Amount Unknown' with a question mark icon and 'Scenario #4 Alt' in a circular graphic. A list of four bullet points is on the left, and a circular portrait of Al Daniels is on the right. The footer contains 'FECConnect LIVE 2019-20 Election Cycle' and 'Independent Expenditures & Pre-Election Communications Slide 89'.

- ▣ What if XYZ PAC wasn't sure how much its ads would cost?
- ▣ Ads air on October 5 and 13
- ▣ Vendor bills PAC on November 28
- ▣ PAC pays for ad on November 30

Al Daniels

FECConnect LIVE
2019-20 Election Cycle

Independent Expenditures & Pre-Election Communications
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See reporting examples on next several page

Scenario #4 Alt ?

48-Hour Report - Estimate

SCHEDULE E (FEC Form 3X)
ITEMIZED INDEPENDENT EXPENDITURES

PAGE 1 OF 1
FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (in Full): **XYZ Political Action Committee** FEC IDENTIFICATION NUMBER: **C 00000004**

Check if 24-hour report 48-hour report New report Amends report filed on: [] [] [] [] [] []

Full Name of Payee: **KRLY TV, Inc.** Date of Public Distribution/Dissemination: **10 / 05 / 2020**

Mailing Address: **1010 Cavalier Drive** Amount: **7,500.00**

City: **Austin** State: **TX** Zip Code: **73301** Date of Disbursement or Obligation: [] [] [] [] [] []

Purpose of Expenditure: **TV Ad - Estimate** Category/Type: **004**

Name of Federal Candidate: **Al Daniels** Support Office Sought: House District: [] [] [] []

Oppose President Senate State: **TX**

Calendar Year-To-Date Per Election for Office Sought: **7,500.00** Disbursement For: Primary General

Other (specify) > **2020 General**

Full Name of Payee: **KRLY Radio, Inc.** Memo item Date of Public Distribution/Dissemination: **10 / 13 / 2020**

Mailing Address: **1010 Cavalier Drive** Amount: **2,500.00**

City: **Austin** State: **TX** Zip Code: **73301** Date of Disbursement or Obligation: [] [] [] [] [] []

Purpose of Expenditure: **Radio Ad - Estimate** Category/Type: **004**

Name of Federal Candidate: **Kate Jones** Support Office Sought: House District: [] [] [] []

Oppose President Senate State: **TX**

Calendar Year-To-Date Per Election for Office Sought: **10,000.00** Disbursement For: Primary General

Other (specify) > **2020 General**

FECConnect LIVE 2019-20 Election Cycle Independent Expenditures & Pre-Election Communications Slide 90

Scenario #4 Alt ?

Report Actual Amount – Year-End

SCHEDULE E (FEC Form 3X)
ITEMIZED INDEPENDENT EXPENDITURES

PAGE 1 OF 1
FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (in Full): **XYZ Political Action Committee** FEC IDENTIFICATION NUMBER: **C 00000004**

Check if 24-hour report 48-hour report New report Amends report filed on: [] [] [] [] [] []

Full Name of Payee: **KRLY TV, Inc.** Date of Public Distribution/Dissemination: **10 / 05 / 2020**

Mailing Address: **1010 Cavalier Drive** Amount: **8,000.00**

City: **Austin** State: **TX** Zip Code: **73301** Date of Disbursement or Obligation: **11 / 30 / 2020**

Purpose of Expenditure: **TV Ad (actual cost of estimated IF on 48-Hour Report filed 10/14)** Category/Type: **004**

Name of Federal Candidate: **Al Daniels** Support Office Sought: House District: [] [] [] []

Oppose President Senate State: **TX**

Calendar Year-To-Date Per Election for Office Sought: **8,000.00** Disbursement For: Primary General

Other (specify) > **2020 General**

Full Name of Payee: **KRLY Radio, Inc.** Memo item Date of Public Distribution/Dissemination: **10 / 13 / 2020**

Mailing Address: **1010 Cavalier Drive** Amount: **3,000.00**

City: **Austin** State: **TX** Zip Code: **73301** Date of Disbursement or Obligation: [] [] [] [] [] []

Purpose of Expenditure: **Radio Ad (actual cost of estimated IF on 48-Hour Report filed 10/14)** Category/Type: **004**

Name of Federal Candidate: **Kate Jones** Support Office Sought: House District: [] [] [] []

Oppose President Senate State: **TX**


Calendar Year-To-Date Per Election for Office Sought: **11,000.00** Disbursement For: Primary General

Other (specify) > **2020 General**


FECConnect LIVE 2019-20 Election Cycle Independent Expenditures & Pre-Election Communications Slide 91

SCENARIO #4 Alt **IE Amount Unknown**

- Other reporting same as before:
 - Debt owed on Schedule D (12G)
 - Debt paid on Schedule D (Year-End)



Al Daniels



SCHEDULE D (FEC Form 3X)
DEBTS AND OBLIGATIONS
Excluding Loans

NAME OF COMMITTEE (if FUD)

A. Full Name (Last, First, Middle Initial) of Debtor or Creditor

Address

City State Zip Code

Outstanding Balance Beginning This Period

Amount Received This Period

Payments This Period

Outstanding Balance at Close of This Period

FECCONNECT LIVE 2019-20 Election Cycle Independent Expenditures & Pre-Election Communications Slide 92

Independent Expenditures by PACs

Key Points for Reporting:

- Debts
 - Ads contracted for but not paid
 - Payment made in subsequent period reported on Schedule E; include date of dissemination
 - Show payment on Schedule D; cross-reference Schedule E
- 24-Hour Reporting
 - ≥ \$1,000 made <20 days but > 24 hours before election
- 48-Hour Reporting
 - ≥ \$10,000 ≥ 20th day before an election

FECCONNECT LIVE 2019-20 Election Cycle Independent Expenditures & Pre-Election Communications Slide 93

Points to Remember: PAC Independent Expenditure Reporting

- **Debts**
 - Debts include ads that are contracted for but not paid for.
 - When payment for ad is made in subsequent reporting period, report payment on Schedule E, and include date of dissemination in purpose field.
 - Update Schedule D with payment; cross-reference Schedule E.

- **24-Hour Reporting**
 - Must file a **24-Hour Report** for independent expenditures aggregating (per calendar year, per election, per office) \$1,000 or more made less than 20 days but more than 24 hours before the day of an election.
 - Aggregation is done on per calendar year, per election, per office sought (race) basis.
 - Use Schedule E on Form 3X – check “24-hour” box.
 - Must be received by FEC within 24 hours after the independent expenditure is publicly distributed or otherwise publicly disseminated.
 - Must be certified (signed) by treasurer (e-filers should type the treasurer’s name following the certification on the report).
 - For paper filers, can use overnight delivery, hand-delivery or fax to 202-219-0174 (certified or registered mail date will not be considered filed date for these).
 - Last-minute independent expenditures must be disclosed again on Schedule E of the next scheduled report that the committee files.
 - A 24-Hour Report is required each time additional independent expenditures aggregate \$1,000 or more for the same election.


- **48-Hour Reporting**
 - In addition, must file a **48-Hour Report** for independent expenditures that aggregate \$10,000 or more with respect to a given election, anytime during a calendar year up to and including the 20th day before an election.
 - Use Schedule E on Form 3X – check “48-hour” box.
 - Must be received by FEC within 48 hours after expenditure is publicly distributed or otherwise publicly disseminated.
 - Must be certified (signed) by treasurer (e-filers should type the treasurer’s name following the certification on the Report).
 - For paper filers, use online webform.
 - Last-minute independent expenditures must be disclosed again on Schedule E of the next scheduled report that the committee files.
 - Aggregation is done on a per calendar year, per election, per office sought (race) basis.
 - A 48-Hour Report is required each time additional independent expenditures aggregate \$10,000 or more for the same election.

The 24- and 48-Hour Report time frames for 2020 are located on our website at <https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/2020-reporting-dates/24-and-48-hour-reports-independent-expenditures-periods-main-page-2020/>

New for 2020 Presidential Primaries

Multistate Independent Expenditures

- IEs that are publicly distributed or otherwise disseminated in six or more states, but do not refer to any particular state must be reported as a single expenditure.



The slide features a map of the United States with state boundaries outlined. The map is centered on the continental United States, with insets for Alaska and Hawaii. The background of the slide has a faint American flag pattern.

FECConnect LIVE
2019-20 Election Cycle

Independent Expenditures & Pre-Election Communications
Slide 94

Multistate IEs in presidential primary elections

1. If IE disseminated in six or more states, must be reported as a single expenditure.
2. Indicate which state, among those where the IE is distributed, has the next presidential primary and use that primary date to determine whether the IE falls within the 24-hour report period.
3. **Online resources:**
 - Rules posted at: <https://sers.fec.gov/fosers/showpdf.htm?docid=401326>
 - Additional information: <https://www.fec.gov/help-candidates-and-committees/filing-pac-reports/multistate-independent-expenditures/>
 - Video example: <https://youtu.be/-INL8cu2no4>

Non-Committee Multistate IEs

FEC FORM 5
REPORT OF INDEPENDENT EXPENDITURES MADE AND CONTRIBUTIONS RECEIVED
To Be Used by Persons Other Than Political Committees

1. IS THIS AN INDIVIDUAL, ORGANIZATION OR CORPORATION?

2. FEDERAL ELECTIONS COMMISSION IDENTIFICATION NUMBER

3. REPORTING PERIOD DATE

4. REPORTING PERIOD END DATE

5. TYPE OF REPORT (check appropriate boxes)

6. IS THIS REPORT AN AMENDMENT? Yes No

7. TOTAL CONTRIBUTIONS

8. TOTAL INDEPENDENT EXPENDITURES

- ▣ Similar requirements
- ▣ File on FEC Form 5

Non-Committee IE Reporting

FEC Form 5 Filers:

- ▣ Individuals
- ▣ Corporations
- ▣ Unions
- ▣ Other entities

FEC FORM 5
REPORT OF INDEPENDENT EXPENDITURES MADE AND CONTRIBUTIONS RECEIVED
To Be Used by Persons Other Than Political Committees, Including Qualified Nonprofit Organizations

1. IS THIS AN INDIVIDUAL, ORGANIZATION OR CORPORATION?

2. FEDERAL ELECTIONS COMMISSION IDENTIFICATION NUMBER

3. REPORTING PERIOD DATE

4. REPORTING PERIOD END DATE

5. TYPE OF REPORT (check appropriate boxes)

6. IS THIS REPORT AN AMENDMENT? Yes No

7. TOTAL CONTRIBUTIONS

8. TOTAL INDEPENDENT EXPENDITURES

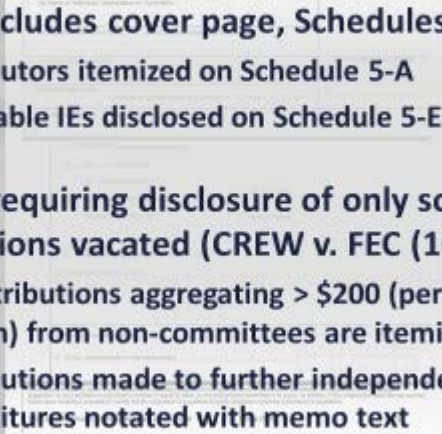
Non-Committee IE Reporting

- ▣ Same 24- and 48-Hour Report requirements as PACs/parties
- ▣ Quarterly reports required when IEs for calendar year aggregate > \$250 for an election and in any subsequent period during year when IEs of any amount are made



5. **Non-Committee reporting of independent expenditures (11 CFR 109.10)**
 - a) **When to file reports**
 - (1) **Quarterly Reports:** Entities must file a quarterly report (April Quarterly, July Quarterly, October Quarterly, Year-End) on FEC Form 5 at the end of the first reporting period in which independent expenditures (“IEs”) for a given election aggregate more than \$250 in a calendar year, and in any succeeding period during the same year in which additional IEs of any amount are made.
 - (2) **Expedited reports**
 - **48-Hour Reports:** Entities that make IEs aggregating \$10,000 or more for a given election up to and including the 20th day before an election must report them within 48 hours. Additional 48-Hour Reports are due every time subsequent IEs aggregate \$10,000 or more for the same election.
 - **24-Hour Reports:** Entities that make IEs aggregating \$1,000 or more for a given election after the 20th day but more than 24 hours before 12:01a.m. of the day of the election must file 24-Hour Reports. Additional 24-Hour Reports are due every time subsequent IEs aggregate \$1,000 or more for the same election.

Non-Committee IE Reporting

- 
- ▣ **Form 5 includes cover page, Schedules 5-A & 5-E**
 - Contributors itemized on Schedule 5-A
 - Reportable IEs disclosed on Schedule 5-E

 - ▣ **FEC rule requiring disclosure of only some contributions vacated (CREW v. FEC (16-0259))**
 - All contributions aggregating > \$200 (per year, per election) from non-committees are itemized on report
 - Contributions made to further independent expenditures notated with memo text

- b) **Reporting on Form 5 quarterly report**
 - (1) **Report independent expenditures on Schedule 5-E**, providing the following:
 - Name and address of the payee;
 - Purpose of the expenditure;
 - Date the IE was made (date of public distribution/dissemination);
 - Amount of the expenditure;
 - Name of the candidate;
 - Whether the candidate was supported or opposed by the expenditure;
 - Candidate's office sought and election; and
 - Aggregate calendar year-to-date total per election for office sought.
 - (2) **Report contributions on Schedule 5-A**
 - District court in *CREW v. FEC* (16-0259) vacated 11 CFR 109.10(e)(1)(vi), which required disclosure of only *some* contributions, effective 9/17/18.
 - For independent expenditures made on or after 9/18/18, each contributor who makes a contribution during the reporting period aggregating in excess of \$200 during the calendar year must be itemized on Schedule 5-A,

including their identification information, contribution date and amount. For contributions given for the purpose of furthering any independent expenditure, memo text must be included stating that the contribution was given for the purpose of furthering independent expenditures.

- **CREW v. FEC (16-0259):**
https://transition.fec.gov/law/litigation/crew_16259.shtml
- **FEC Press Release (10/4/18):**
<https://www.fec.gov/updates/fec-provides-guidance-following-usdistrict-court-decision-crew-v-fec-316-f-supp-3d-349-ddc-2018/>

Non-Committee IE Reporting

Form 5 Filers: Avoiding Requests for Additional Information (RFAs)

- ▣ **Form 5 filers who did not receive any contributions: Indicate such in memo text to avoid RFAI**
- ▣ **Form 5 filers disclosing contributions on Schedule 5-A: If no contributions were made to further IEs, filer may include memo text stating such to avoid RFAI**

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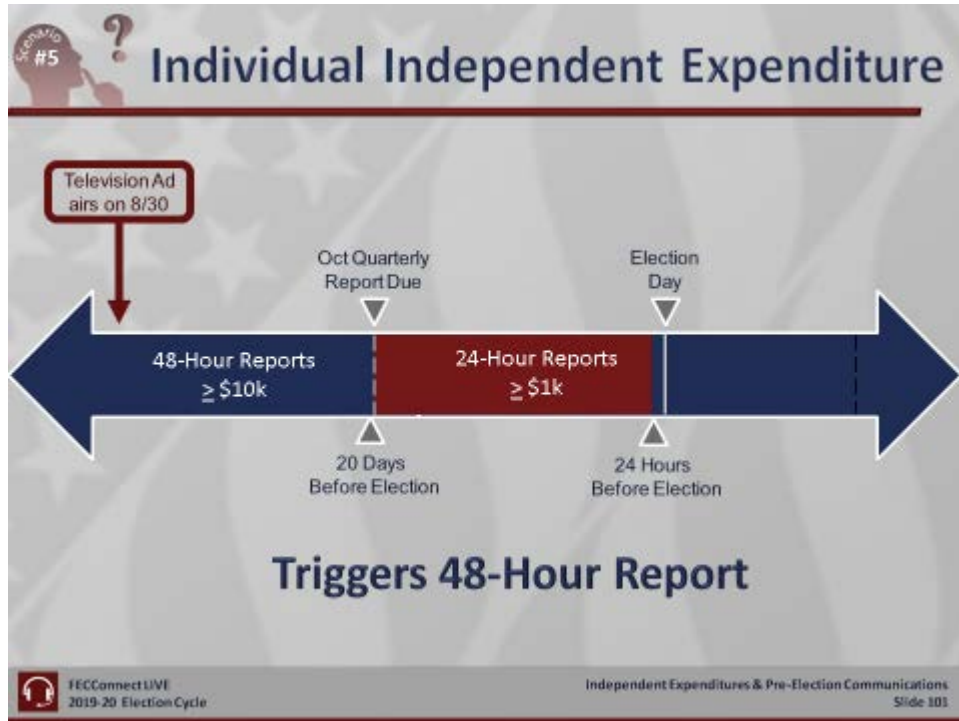
- c) **Avoiding Requests for Additional Information (RFAs)**
Reports Analysis Division suggests Form 5 filers who did not receive any contributions indicate such in memo text to avoid receiving a RFAI. If a filer discloses contributions on Schedule 5-A, but none of them were made to further IEs, the filer may include memo text stating this to provide clarification.

Reporting Scenario #5: Individual Independent Expenditure

The slide features a title 'Individual Independent Expenditure' at the top. Below the title, there are three bullet points: 'Jill Citizen spends \$10,000 of her own money on a TV ad supporting Senate nominee Jonathan Cooke', 'The ad airs on August 30', and 'No discussion with campaign before placing ad'. To the right of the first two bullet points is a circular portrait of Jonathan Cooke with his name below it. Below the third bullet point is an icon of two people with a speech bubble containing a prohibition sign. The slide footer includes 'FECConnect LIVE 2019-20 Election Cycle' on the left and 'Independent Expenditures & Pre-Election Communications Slide 100' on the right.

Without consulting anyone else, Jill Citizen spends \$10,000 of her personal funds to purchase a television ad expressly advocating the election of her favorite Senate candidate, Jonathan Cooke. The ad airs on August 30, 2020—two months after the candidate’s primary—and Jill pays for the ad on the same day.

- 1. What type of transaction is this?**
An independent expenditure by an individual.



2. How is this transaction reported?

Since the expenditure is \$10,000 (or more) and occurs more than 20 days before the general election (August 30), Jill must file Form 5 within 48 hours of the public distribution of the ad (i.e., by September 1).

She also must disclose it a second time on an October 15 Quarterly Report (Form 5).

See reporting examples on next several pages

Scenario #5 **48-Hour Report**

FEC FORM 5
REPORT OF INDEPENDENT EXPENDITURES MADE AND CONTRIBUTIONS RECEIVED
To Be Used by Persons (Other than Political Committees)

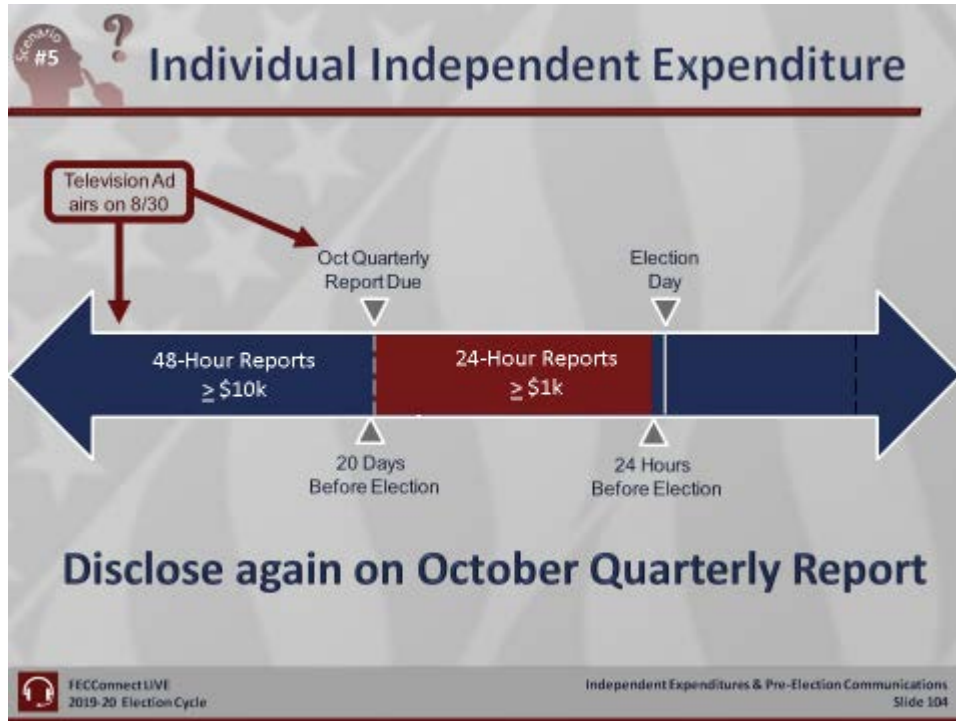
1. (a) Name of Individual, Organization or Corporation Jill Citizen		3. FEC Identification Number C 90011122
(b) Address (number and street) <input type="checkbox"/> check if different than previously reported 123 Main Street		
(c) City, State and ZIP Code New York, NY 10001		
2. Occupation and Name of Employer (for Individual Filers Only) Director, City Art Gallery		
4. TYPE OF REPORT (check appropriate boxes):		
(a) <input type="checkbox"/> April 15 Quarterly Report		
<input type="checkbox"/> July 15 Quarterly Report		
<input type="checkbox"/> October 15 Quarterly Report		
<input type="checkbox"/> January 31 Year-End Report		
<input type="checkbox"/> 24-Hour Report		
<input checked="" type="checkbox"/> 48-Hour Report		

Disseminated August 30; Form filed on September 1

Scenario #5 **Itemized Expenditure**

SCHEDULE 5-E
ITEMIZED INDEPENDENT EXPENDITURES

NAME OF FILER (In Full) Jill Citizen		PAGE 1 OF 1 FOR LINE 7 OF FORM 5
Full Name (Last, First, Middle Initial) of Payee Major Market Media	Date of Public Distribution/Dissemination 08 / 30 / 2020	
Mailing Address 1355 Maple Avenue	Amount 10,000.00	
City New York	State NY	Zip Code 10001
Purpose of Expenditure Television Ad	Category/Type	Office Sought: <input type="checkbox"/> House State: NY <input checked="" type="checkbox"/> Senate District: _____ <input type="checkbox"/> President
Name of Federal Candidate Supported or Opposed by Expenditure: Jonathan Cooke	Check One: <input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose	
Calendar Year-To-Date Per Election for Office Sought 10,000.00	Disbursement For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify) 2020	



Scenario #5 October Quarterly Report

FEC FORM 5

REPORT OF INDEPENDENT EXPENDITURES MADE AND CONTRIBUTIONS RECEIVED

To Be Used by Persons (Other than Political Committees)

1. (a) Name of Individual, Organization or Corporation Jill Citizen		3. FEC Identification Number C 90011122
(b) Address (number and street) <input type="checkbox"/> check if different than previously reported 123 Main Street		
(c) City, State and ZIP Code New York, NY 10001		
2. Occupation and Name of Employer (for Individual Filers Only) Director, City Art Gallery		
4. TYPE OF REPORT (check appropriate boxes):		
(a) <input type="checkbox"/> April 15 Quarterly Report		
<input type="checkbox"/> July 15 Quarterly Report <input type="checkbox"/> 24-Hour Report		
<input checked="" type="checkbox"/> October 15 Quarterly Report <input type="checkbox"/> 48-Hour Report		
<input type="checkbox"/> January 31 Year-End Report		

FECConnect LIVE 2019-20 Election Cycle

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Itemized Expenditure

SCHEDULE 5-E ITEMIZED INDEPENDENT EXPENDITURES			PAGE 1 OF 1 FOR LINE 7 OF FORM 5	
NAME OF FILER (In Full)				
Jill Citizen				
Full Name (Last, First, Middle Initial) of Payee			Date of Public Distribution/Dissemination	
Major Market Media			MM / DD / YYYY 08 / 30 / 2020	
Mailing Address			Amount	
1355 Maple Avenue			10,000.00	
City	State	Zip Code		
New York	NY	10001		
Purpose of Expenditure		Category/Type	Office Sought: <input type="checkbox"/> House State: NY	
Television Ad			<input checked="" type="checkbox"/> Senate District: _____	
Name of Federal Candidate Supported or Opposed by Expenditure:		Check One: <input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose		
Jonathan Cooke				
Calendar Year-To-Date Per Election for Office Sought		Disbursement For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General		
10,000.00		<input type="checkbox"/> Other (specify) 2020		

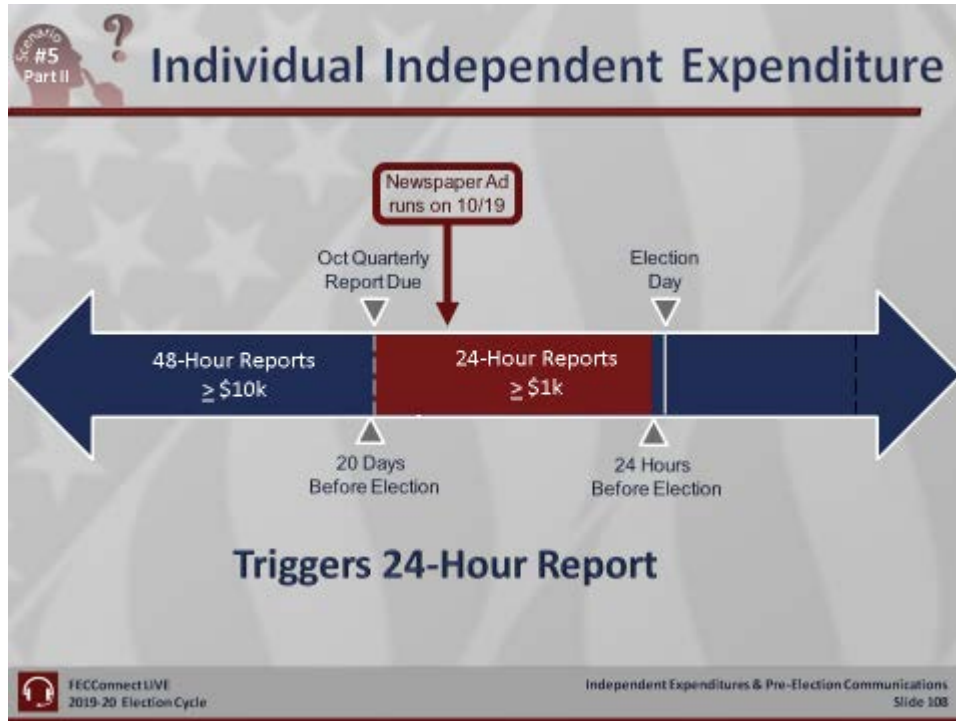


Reporting Scenario #5, Part II: Individual Independent Expenditure

The slide features a title 'Individual Independent Expenditure' in a large, dark font. In the top left corner, there is a circular icon with a question mark and the text 'Scenario #5 Part II'. The main content consists of three bullet points, each preceded by a square icon. The first bullet point states: 'On October 19, Jill Citizen spends \$1,000 more of her own money on a newspaper ad supporting Jonathan Cooke'. The second bullet point states: 'The ad appears the same day'. The third bullet point states: 'Again, no discussion with campaign before placing ad'. To the right of the first two bullet points is a circular portrait of a man in a suit and tie, with a name tag below it that reads 'Jonathan Cooke'. Below the third bullet point is an icon of two stylized human figures with a speech bubble containing a prohibition sign (a circle with a diagonal line) above them. At the bottom left of the slide, there is a small circular icon with a person and the text 'FECConnect LIVE 2019-20 Election Cycle'. At the bottom right, there is the text 'Independent Expenditures & Pre-Election Communications Slide 107'.

On October 19, Jill Citizen independently spends another \$1,000 of her personal funds to purchase a newspaper ad expressly advocating the Jonathan Cooke’s election. The ad runs the same day.

- 1. What type of transaction is this?**
Last-minute independent expenditure by an individual.
- 2. How is this transaction reported?**
Jill’s \$1,000 independent expenditure triggers a 24-Hour Report.



Scenario #5 Part II **24-Hour Report**

FEC FORM 5
REPORT OF INDEPENDENT EXPENDITURES MADE AND CONTRIBUTIONS RECEIVED
To Be Used by Persons (Other than Political Committees)

1. (a) Name of Individual, Organization or Corporation Jill Citizen		3. FEC Identification Number C90011122
(b) Address (number and street) <input type="checkbox"/> check if different than previously reported 123 Main Street		
(c) City, State and ZIP Code New York, NY 10001		
2. Occupation and Name of Employer (for Individual Filers Only) Director, City Art Gallery		
4. TYPE OF REPORT (check appropriate boxes):		
(a) <input type="checkbox"/> April 15 Quarterly Report		
<input type="checkbox"/> July 15 Quarterly Report		
<input type="checkbox"/> October 15 Quarterly Report		
<input type="checkbox"/> January 31 Year-End Report		
<input checked="" type="checkbox"/> 24-Hour Report		
<input type="checkbox"/> 48-Hour Report		

Disseminated October 19; Form filed the same day.

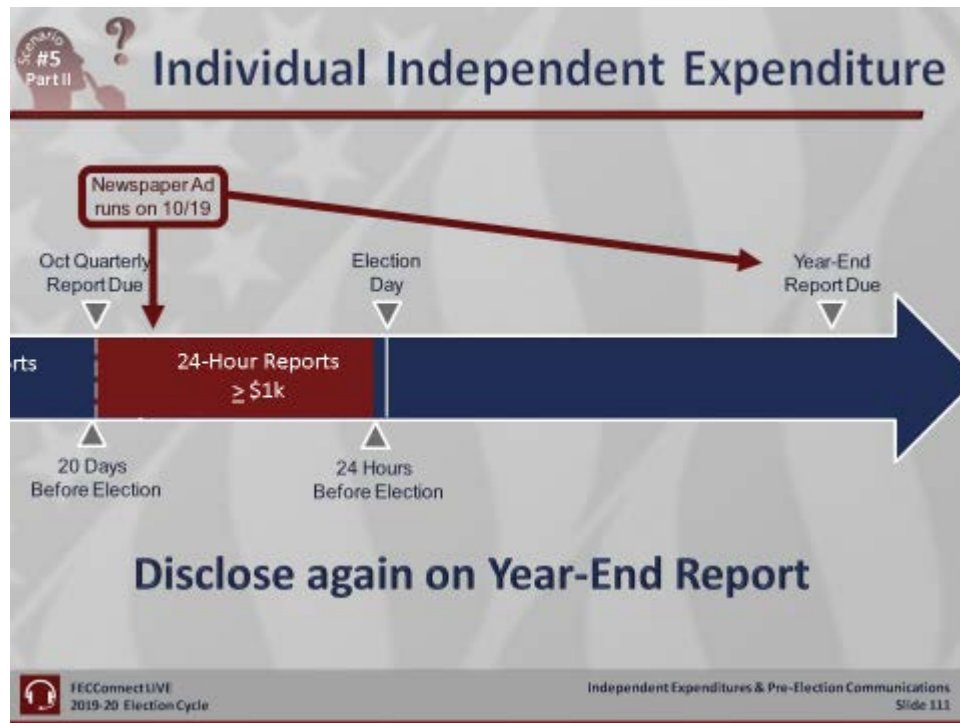
FECConnect LIVE 2019-20 Election Cycle Independent Expenditures & Pre-Election Communications Slide 109

Scenario #5 Part II **Itemized Expenditure**

SCHEDULE 5-E		PAGE 1 OF 1	
ITEMIZED INDEPENDENT EXPENDITURES		FOR LINE 7 OF FORM 5	
NAME OF FILER (In Full) Jill Citizen			
Full Name (Last, First, Middle Initial) of Payee The Local Gazette		Date of Public Distribution/Dissemination 10 / 19 / 2020	
Mailing Address 1665 Main Street		Amount 1,000.00	
City New York	State NY	Zip Code 10001	
Purpose of Expenditure Newspaper Ad	Category/Type	Office Sought: <input type="checkbox"/> House <input checked="" type="checkbox"/> Senate <input type="checkbox"/> President	State: NY District: _____
Name of Federal Candidate Supported or Opposed by Expenditure: Jonathan Cooke		Check One: <input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose	
Calendar Year-To-Date Per Election for Office Sought	11,000.00	Disbursement For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify) 2020	

FECCConnect LIVE 2019-20 Election Cycle Independent Expenditures & Pre-Election Communications Slide 110

Individual IE filers are not required to file pre- or post-election reports, so Jill discloses the \$200 independent expenditure again on a Year-End Report, due January 31, 2021.



Scenario #5 Part II **Year-End Report**

FEC FORM 5
REPORT OF INDEPENDENT EXPENDITURES MADE AND CONTRIBUTIONS RECEIVED
To Be Used by Persons (Other than Political Committees)

1. (a) Name of Individual, Organization or Corporation Jill Citizen		3. FEC Identification Number C90011122
(b) Address (number and street) <input type="checkbox"/> check if different than previously reported 123 Main Street		
(c) City, State and ZIP Code New York, NY 10001		
2. Occupation and Name of Employer (for Individual Filers Only) Director, City Art Gallery		
4. TYPE OF REPORT (check appropriate boxes):		
(a) <input type="checkbox"/> April 15 Quarterly Report		
<input type="checkbox"/> July 15 Quarterly Report <input type="checkbox"/> 24-Hour Report		
<input type="checkbox"/> October 15 Quarterly Report <input type="checkbox"/> 48-Hour Report		
<input checked="" type="checkbox"/> January 31 Year-End Report		

Scenario #5 Part II **Itemized Expenditure**

SCHEDULE 5-E
ITEMIZED INDEPENDENT EXPENDITURES

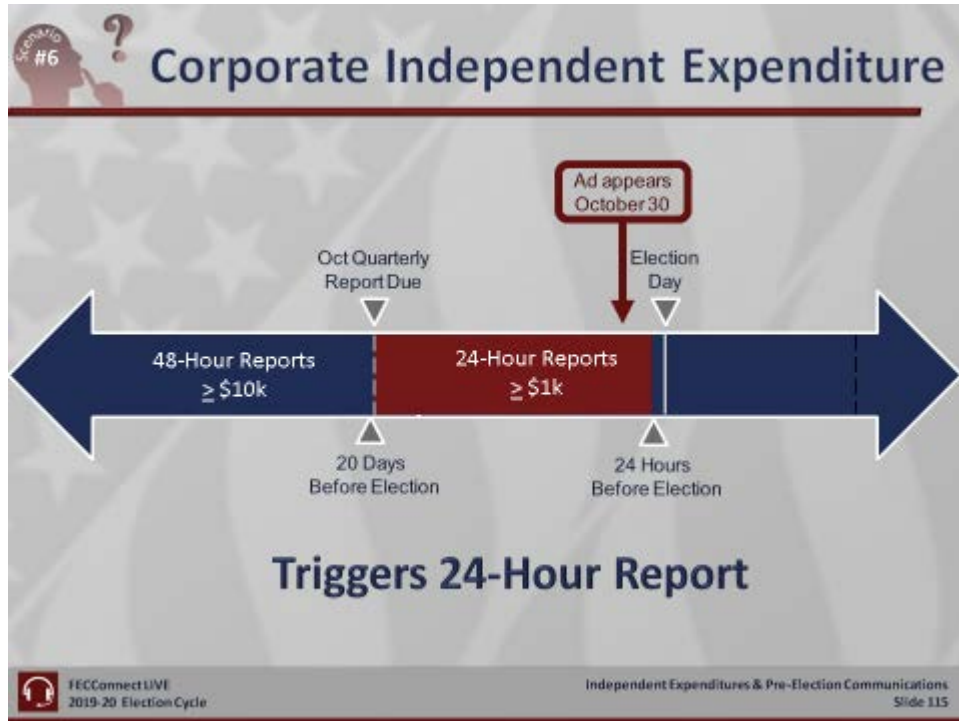
NAME OF FILER (In Full) Jill Citizen		PAGE 1 OF 1 FOR LINE 7 OF FORM 5	
Full Name (Last, First, Middle Initial) of Payee Local Gazette		Date of Public Distribution/Dissemination 10 / 19 / 2020	
Mailing Address 1665 Main Street		Amount 1,000.00	
City New York	State NY	Zip Code 10001	
Purpose of Expenditure Newspaper Ad	Category/Type	Office Sought: <input type="checkbox"/> House State: NY <input checked="" type="checkbox"/> Senate District: _____ <input type="checkbox"/> President	
Name of Federal Candidate Supported or Opposed by Expenditure: Jonathan Cooke		Check One: <input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose	
Calendar Year-To-Date Per Election for Office Sought	11,000.00	Disbursement For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify) 2020	

Reporting Scenario #6: Corporate Independent Expenditure

The slide features a title 'Corporate Independent Expenditure' at the top. Below the title are three bullet points: 'On October 30, Social Welfare, Inc. runs \$3,000 newspaper ad for Janet Johnson's House campaign', 'Social Welfare received \$3,000 in contributions during the period', and 'No discussion with campaign before placing ad'. To the right of the first two bullet points is a circular portrait of Janet Johnson with her name below it. To the left of the third bullet point is an icon of two people with a speech bubble containing a prohibition sign. The bottom of the slide contains the text 'FECConnect LIVE 2019-20 Election Cycle' on the left and 'Independent Expenditures & Pre-Election Communications Slide 114' on the right.

Social Welfare, Inc., a nonprofit corporation, spends \$3,000 on a full-page newspaper ad supporting Janet Johnson’s House campaign. The ad appears in the Local Gazette on October 30, 2020, and Social Welfare pays for the ad the same day. In the weeks leading up to the ad buy, Social Welfare, Inc. received two contributions—\$1,600 from Joseph A. Smith, which was designated to help underwrite independent expenditures, and an undesignated \$1,400 from Jane Q. Public.

- 1. What type of transaction is this?**
A last-minute independent expenditure by a corporation.



2. How is this transaction reported?

Since the ad cost more than \$1,000 and appears less than 20 days before the general election, but more than 24 hours before the election, Social Welfare, Inc. must file Form 5 within 24 hours of the public distribution of the ad (i.e., by October 31).

The corporation also must disclose it a second time on a Year-End Report.

See reporting examples on next several pages

Scenario #6 **Initial 24-Hour Report**

FEC FORM 5
REPORT OF INDEPENDENT EXPENDITURES MADE AND CONTRIBUTIONS RECEIVED
To Be Used by Persons (Other than Political Committees)

1. (a) Name of Individual, Organization or Corporation Social Welfare, Inc.		3. FEC Identification Number C90011123
(b) Address (number and street) <input type="checkbox"/> check if different than previously reported 123 Main Street		
(c) City, State and ZIP Code Albany, NY 12084		
2. Occupation and Name of Employer (for Individual Filers Only)		

4. TYPE OF REPORT (check appropriate boxes):

(a) April 15 Quarterly Report
 July 15 Quarterly Report
 October 15 Quarterly Report
 January 31 Year-End Report

24-Hour Report
 48-Hour Report

Disseminated
October 30;
Filed on
October 31

FECConnect LIVE
2019-20 Election Cycle

Independent Expenditures & Pre-Election Communications
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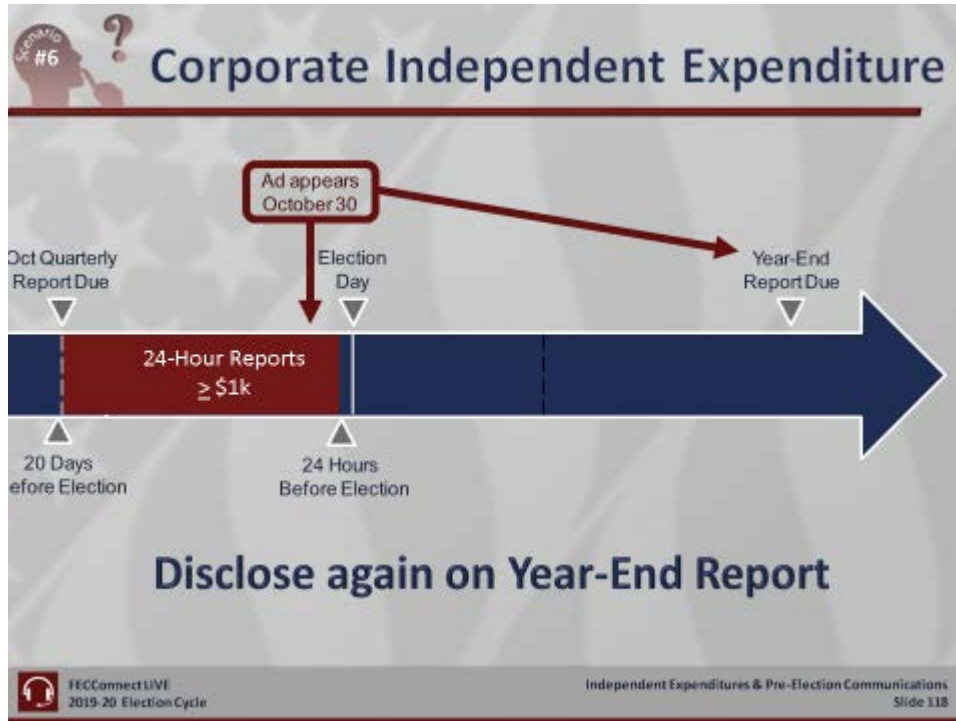
Scenario #6 **Itemized Expenditure**

SCHEDULE 5-E
ITEMIZED INDEPENDENT EXPENDITURES

		PAGE 1 OF 1 FOR LINE 7 OF FORM 5
NAME OF FILER (In Full) Social Welfare, Inc.		
Full Name (Last, First, Middle Initial) of Payee Local Gazette		Date of Public Distribution/Dissemination 10 / 30 / 2020
Mailing Address 301 Elm Street		Amount 3,000.00
City Albany	State NY	
Zip Code 12084		
Purpose of Expenditure Newspaper Ad	Category/Type	Office Sought: <input checked="" type="checkbox"/> House State: NY <input type="checkbox"/> Senate District: 1 <input type="checkbox"/> President
Name of Federal Candidate Supported or Opposed by Expenditure: Janet Johnson		Check One: <input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose
Calendar Year-To-Date Per Election for Office Sought 3,000.00	Disbursement For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify) 2020	

FECConnect LIVE
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Scenario #6 Year-End Report

FEC FORM 5
REPORT OF INDEPENDENT EXPENDITURES MADE AND CONTRIBUTIONS RECEIVED
To Be Used by Persons (Other than Political Committees)

1. (a) Name of Individual, Organization or Corporation Social Welfare, Inc.		3. FEC Identification Number C90011123
(b) Address (number and street) <input type="checkbox"/> check if different than previously reported 123 Main Street		
(c) City, State and ZIP Code Albany, NY 12084		
2. Occupation and Name of Employer (for Individual Filers Only)		
4. TYPE OF REPORT (check appropriate boxes):		
(a) <input type="checkbox"/> April 15 Quarterly Report		
<input type="checkbox"/> July 15 Quarterly Report <input type="checkbox"/> 24-Hour Report		
<input type="checkbox"/> October 15 Quarterly Report <input type="checkbox"/> 48-Hour Report		
<input checked="" type="checkbox"/> January 31 Year-End Report		

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Scenario #6 **Itemized Contributors**

SCHEDULE 5-A
ITEMIZED RECEIPTS PAGE **1** OF **1**

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF FILER (In Full)
Social Welfare, Inc.

A. Full Name (Last, First, Middle Initial)
Smith, Joseph A

Date of Receipt: **10 / 10 / 2020**

Mailing Address: **456 Elm Street**

City: **Albany** State: **NY** Zip Code: **12084**

Amount of Each Receipt this Period: **1,600.00**

FEC ID number of contributing federal political committee: **C**

Name of Employer: **Smith & Associates** Occupation: **Accountant** Made to further independent expenditures

B. Full Name (Last, First, Middle Initial)
Public, Jane Q

Date of Receipt: **10 / 12 / 2020**

Mailing Address: **1020 Oak Lane**

City: **Albany** State: **NY** Zip Code: **12084**

Amount of Each Receipt this Period: **1,400.00**

FEC ID number of contributing federal political committee: **C**

Name of Employer: **Public Properties** Occupation: **Realtor**

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Scenario #6 **Itemized Expenditure**

SCHEDULE 5-E
ITEMIZED INDEPENDENT EXPENDITURES PAGE **1** OF **1**
FOR LINE 7 OF FORM 5

NAME OF FILER (In Full)
Social Welfare, Inc.

Full Name (Last, First, Middle Initial) of Payee: **Local Gazette**

Date of Public Distribution/Dissemination: **10 / 30 / 2020**

Mailing Address: **301 Elm Street**

Amount: **3,000.00**

City: **Albany** State: **NY** Zip Code: **12084**

Purpose of Expenditure: **Newspaper Ad** Category/Type:

Office Sought: House State: **NY**
 Senate District: **1**
 President

Name of Federal Candidate Supported or Opposed by Expenditure: **Janet Johnson**

Check One: Support Oppose

Calendar Year-To-Date Per Election for Office Sought: **3,000.00**

Disbursement For: Primary General
 Other (specify) **2020**

FECConnect LIVE 2019-20 Election Cycle **Independent Expenditures & Pre-Election Communications**
Slide 121

IE Deadlines for Other Filers

Quarterly filing

- ▣ File Form 5 covering quarter, if IEs > \$250 with respect to a given election
- ▣ Pre- / Post-General **not required** for Form 5 filers

24- or 48-Hour filing

- ▣ 48-Hour Reports (if $\geq \$10,000$ ≥ 20 days before election through 10/14/20)
- ▣ 24-Hour Reports (if $\geq \$1,000$ 10/15 through 11/1/20)

Points to Remember:

- Form 5 filed on quarterly basis if aggregate IEs are in excess of \$250 with respect to a given election; and on 24- or 48-Hour Reports based on amount and timing.


How to file Form 5

E-filing

- ❑ E-Filing mandatory if > \$50,000 in contributions or expenditures in 2020
- ❑ FECFile or other e-filing software recommended
- ❑ Online webforms: <https://webforms.fec.gov/>

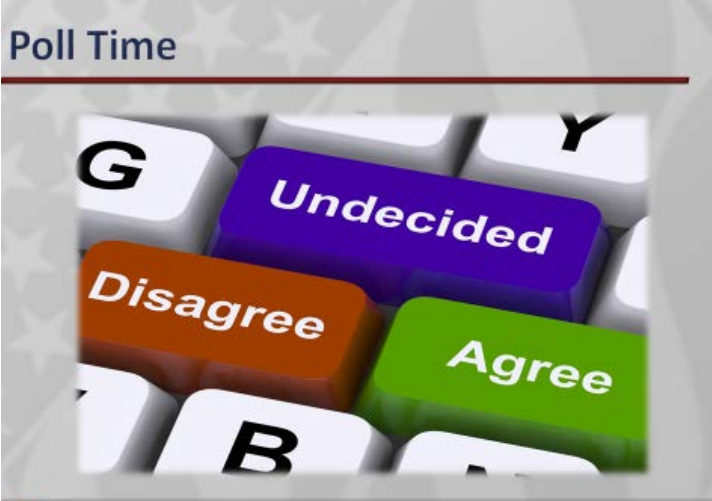
Paper options


- ❑ FAX to 202-219-0174
- ❑ email to 2022190174@fec.gov

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Poll Time



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Poll Question: With the *Crew v. FEC* court decision effective September 2018, what are the requirements for reporting contributions on Form 5? (**Choose one**)

- Only report contributions made to further IEs
- Report contributions aggregating over \$200 in a calendar year and notate those made to further IEs
- Report contributions aggregating over \$200 in a calendar year without notating those made to further IEs

ANSWER:

Poll Question: With the *Crew v. FEC* court decision effective September 2018, what are the requirements for reporting contributions on Form 5? (**Choose one**)

- Only report contributions made to further IEs
- Report contributions aggregating over \$200 in a calendar year and notate those made to further IEs – CORRECT ANSWER**
- Report contributions aggregating over \$200 in a calendar year without notating those made to further IEs

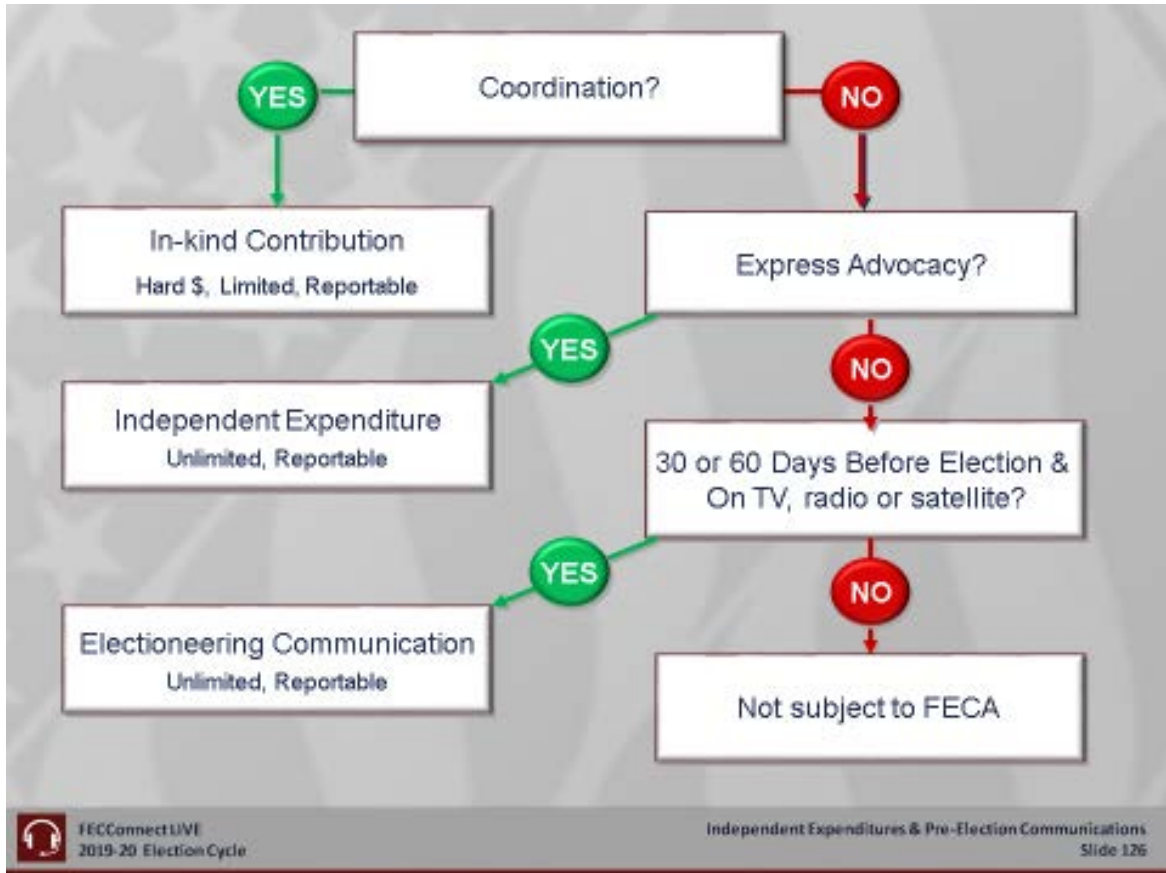
As a result of *CREW v. FEC* (16-0259), all contributors who made contributions during the reporting period aggregating in excess of \$200 during the calendar year must be disclosed on the quarterly report, not just those that gave to further the independent expenditure. In addition, for contributions given for the purpose of furthering any independent expenditure, memo text must be included stating that the contribution was given for the purpose of furthering independent expenditures.

Communications

Types Covered in this Workshop:

1. **Public Communications**
2. **Electioneering Communications**
3. **Coordinated Communications**
4. **Independent Expenditures**

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More information:

- Help for candidates and committees: <https://www.fec.gov/help-candidates-and-committees/>
- FEC Connect on Demand videos: <https://www.youtube.com/user/FECTube>
- Information for citizens: <https://www.fec.gov/introduction-campaign-finance/understanding-ways-support-federal-candidates/>

Questions?

Information Division – 800-424-9530 (menu option 6) or email info@fec.gov


Reports Analysis Division – 800-424-9530 (menu option 5) or use contact form at <https://www.fec.gov/help-candidates-and-committees/question-rad/>

Objectives

- ▣ Identify categories of communications
- ▣ Explain rules associated with each
- ▣ Highlight recent developments
- ▣ Review special reporting requirements for pre-election communications
- ▣ Discuss scenarios

Workshop Evaluation

Help Us Help You!
Please complete an evaluation
of this workshop.

Link provided in Q&A pod 

Evaluation Link: <https://www.surveymonkey.com/r/822F7F8>