



Trade Association PAC Operations Part 1

June 15, 2022
1:00pm Eastern



Helpful Resource

Help pages for SSFs and their connected organizations

Guides

- CANDIDATES AND THEIR AUTHORIZED COMMITTEES
- POLITICAL PARTY COMMITTEES
- CORPORATIONS AND LABOR ORGANIZATIONS**
- POLITICAL ACTION COMMITTEES (PACS)
- OTHER FILERS

Corporations and labor organizations

Corporations and labor organizations can't make contributions to federal candidates, but they can establish and administer a special kind of political committee, called a separate segregated fund (SSF).

SSFs can solicit contributions from a limited group of people. They can make contributions to candidates and make expenditures that are coordinated with candidates.

- [Registering as an SSF »](#)
- [Taking in receipts as an SSF »](#)
- [Fundraising for an SSF »](#)
- [Making disbursements as an SSF or connected organization »](#)
- [Keeping records as an SSF »](#)



PDF GUIDE
Corporations and labor organizations campaign guide

Campaign Guide for Corporations and Labor Organizations (“Guide”): www.fec.gov/help-candidates-and-committees/guides/?tab=corporations-and-labor-organizations

OBJECTIVES

Restricted Class



Solicitation Rules



Fundraising Methods



OBJECTIVES

- Identify who the PAC may solicit for contributions
- Review fundraising notices required on all solicitations
- Evaluate popular solicitation techniques

I. Introduction

Remember...

Most permissible trade association activity
in connection with federal elections
results from exceptions to the ban on
corporate contributions

- A. **Prohibition on corporate/labor contributions ([11 CFR 114.2](#))**
Federal law bans contributions by corporations and labor organizations to influence federal elections (except to Super PACs and Hybrid PACs, which we'll cover in Part 2).

That ban covers incorporated trade associations and other membership organizations.

Trade associations may use treasury funds to pay administrative and fundraising costs for its SSF

Members of association may donate to administrative fund (not "contributions" or "expenditures")

SSF Exception

B. Exception: Separate Segregated Fund (SSF) ([11 CFR 114.5](#))

Corporations (**including trade associations** and membership organizations) and labor organizations may use treasury funds to create and run a separate segregated fund (sometimes called an SSF or PAC) to support federal candidates.

1. Association (and its members) may pay administrative/fundraising costs; not reportable.
2. Association may use a separate "administrative account" (administered by the association and considered to be an account of the association) to deposit donations from members for PAC administrative and fundraising expenses. See AOs [1992-20](#), [1990-04](#) and [1982-61](#).

PAC Solicitations

What is a solicitation?

Why does it matter?

**Contribute to the
XYZ Association PAC**

The purpose of this contribution is for the benefit of political candidates and activities on a state and national level. The recommended contribution amounts listed are merely suggestions. Employees may choose to give more or less than stated. XYZ Association will not favor nor disfavor employees according to their contributions. This contribution is voluntary; you have right to refuse to contribute. There will be no reprisal if you choose not to contribute and you will not be at any advantage or disadvantage based on your decision.

☐ Enclosed is my check for \$1,000.
☐ Enclosed is my check for \$2,500.
☐ Enclosed is my check for \$ _____

Name: _____
Address: _____
City/State/Zip: _____
Employer: _____
Occupation: _____

Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 in a calendar year.

Contributions to the organization are not deductible for federal income tax purposes as charitable contributions.

II. What is a Solicitation?

What is a solicitation?	<ul style="list-style-type: none">Requesting contributionsExplaining how to contributePublicizing right to accept unsolicited contributionsEncouraging support for PAC
--------------------------------	---

A. Solicitation = Communication that contains:

1. Straightforward request for contributions; or
2. Information on how to make a contribution; or
3. Publicizing PAC's right to accept unsolicited contributions; or
4. Statements encouraging support for the PAC.

Example of “encouraging support”: Language from [AO 1979-13](#):

“I was glad to see that Raymond has so many employees who realize that the welfare of us all is tied very closely to government policies and attitudes toward business. RAYPAC is one way we can make the voice of business people and our industry heard in this country. I hope we continued [sic] to have such an enthusiastic group.”

<p>Announcing PAC's existence</p> <p>Explaining applicable laws</p> <p>Providing statistical information</p> <p>Listing candidates supported</p>	<p>What is <u>not</u> a solicitation?</p>
--	--

B. Communication is NOT a solicitation if it:

1. Avoid encouraging support for the PAC.
2. Does not facilitate the making of contributions.
3. Merely announces existence of PAC and explains legal requirements that apply to a PAC.
4. Provides statistical information about the PAC's receipts and contributions.
5. Identifies candidates supported by the PAC (but does not suggest that supporting the PAC will help elect those candidates).
6. See AOs [1991-03](#), [1983-38](#) and [1982-65](#).

Example: Language from an annual report ([AO 1982-65](#)):

"The Union Carbide Corporation supports the operation of the Union Carbide Corporation Political Action Committee as authorized by, and in accordance with, federal law. Shareholders desiring additional information about the activities of the Committee may write to the Secretary, Union Carbide Corporation, Section D4, Old Ridgebury Road, Danbury, CT 06817."

Why does it matter?

SSFs may only solicit restricted class


Solicitations must include certain notices

Specific deadlines to forward resulting contributions

- C. Importance of knowing when communication = PAC solicitation**
Must be able to recognize solicitation in order to avoid it reaching individuals outside restricted class for solicitation purposes and to ensure the solicitation complies with basic rules that apply to all PAC solicitations.

III. Basic Solicitation Rules

Basic Rules Apply



Restricted class only

Solicitation notices always

Forward contributions and records on time

- A. **Who is in the restricted class of a trade association PAC for solicitation purposes? (11 CFR [114.5\(g\)\(1\)](#), [114.7\(a\)](#) and [114.8\(e\)](#))**
ONLY the restricted class may be solicited at any time.

Restricted Class for Trade Association PAC

Executive and
Administrative
Personnel



Noncorporate
Members



Exec/Admin of
Corporate Members
w/Prior Approval



Families of
these Groups



Executive and Administrative Personnel



Employees paid on a salary
(rather than hourly) basis who have
policymaking, managerial, professional
or supervisory responsibilities

1. **Executive and administrative personnel**
 - a) Employees paid on salary (but **not** hourly) basis who have managerial, professional, policy-making or supervisory responsibilities.
 - See AOs [2012-02](#), [2011-25](#), [2010-04](#), [2004-32](#), [1999-20](#) and [1993-16](#).

- b) Members of the board of directors, if they are compensated via salary or stipend.
- See AOs [2010-12](#), [2000-10](#) and [1985-35](#) (compare with [AO 1977-18](#)).

Noncorporate Members



Noncorporate members include individuals and partnership members of the organization

2. **Noncorporate members** (including individuals and unincorporated businesses such as partnerships).

Definition of Member

1. Satisfies requirements for membership **AND**
2. Affirmatively accepts invitation to join **AND**
3. Has significant financial attachment **OR**
Pays annual dues **OR**
Has significant organization attachment

3. Definition of member (for trade association PACs) ([11 CFR 114.1\(e\)\(2\)](#))

An individual or company who:

- a) Satisfies requirements for membership in the trade association
- b) Affirmatively accepts organization's invitation to become member; and
- c) Meets one of these requirements:
 - **Has significant financial attachment to organization** (for example, owner of seat on commodities exchange who has paid thousands of dollars to join organization ([AO 2008-21](#))), or
 - **Pays annual dues of any amount set by organization**, or
 - **Has significant organizational attachment to organization** that includes:
 - Affirmation of membership on annual basis (for example, meeting or responding to survey); and
 - Direct participatory rights in governance of organization (for example, the right to vote directly or indirectly for at least one individual on highest governing board; right to vote on policy questions; or right to approve organization's annual budget).
 - In AOs [2013-08](#) and [2003-13](#), student members who were subject to professional sanctions and were likely to become dues paying members in the future, were considered to have a significant organizational attachment.

Exec/Admin of Corporate Members



Executive and administrative
personnel of corporate members
with prior approval

Corporate Prior Approval

Written notice required:

- Approval necessary before solicitation
- **AND**
- Corporation may not authorize more than one trade association per year



4. **Prior approval by corporate/partnership/LLC members of trade association (11 CFR [114.8\(d\)](#) and [\(e\)](#))**
Member partnerships and LLCs that are wholly owned by corporations may now authorize the trade association to solicit their executive/administrative personnel, following the prior approval rules. [AO 2014-17](#).

a) **Application**

Applies only to trade associations and their PACs and not to other types of connected organizations/PACs

b) **Requirements:**

- Approval must be in writing and addressed to representative of member with whom association normally conducts activities.
- Approval must state that:
 - Corporate/partnership/LLC approval is necessary before association or PAC conducts a solicitation.
 - Corporation/partnership/LLC may not authorize any other request by a different trade association to solicit its restricted class that calendar year.

Corporate Prior Approval

Approval given as:

"Jane Doe, for XYZ Corporation"

Approval methods:

Electronic approval permitted

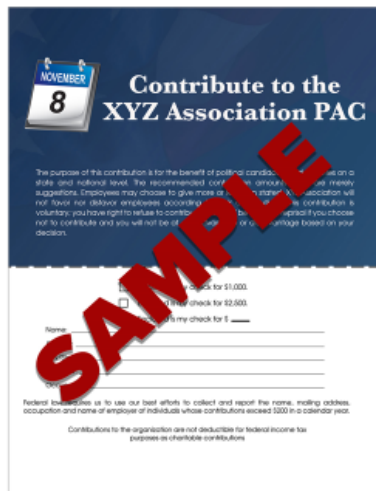
Multiyear approval permitted if
separate approval given for each year



- Approval must be given as "[Signature], for [Name of Corporation]." [AO 2000-22](#).
Example: "Jane Doe, for XYZ Corporation"
- Electronic signature of written approval OK. [AO 2000-22](#).
- Request for approval placed on the association's "member-only" web page OK. [AO 2000-10](#).
- Multiyear approval OK, but with a separate signature line for each year. [AO 1984-61](#).
- Request for approval may contain a sample copy of the solicitation materials to be used. ([11 CFR 114.8\(d\)\(3\)](#)).

- Corporation may limit scope and frequency of solicitations of its restricted class.
- Corporation may withdraw approval at any time.

Corporate Prior Approval



Contribute to the XYZ Association PAC

NOVEMBER 8

The purpose of this contribution is for the benefit of political candidates running on a state and national level. The recommended contribution amount is \$100.00. Employees may choose to give more or less than the recommended amount. The association will not favor nor disfavor employees according to the amount of their contribution. This contribution is voluntary; you have no obligation to contribute. If you choose not to contribute, you will not be subject to any retaliation or disadvantage based on your decision.

☐ I am contributing by check for \$1,000.
☐ I am contributing by check for \$2,500.
Name _____ my check for \$ _____

Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$500 in a calendar year.
Contributions to the organization are not deductible for federal income tax purposes as charitable contributions.

Association may include
sample materials
with approval request

Families



Immediate family members who
share the same residence

5. **Families of the above groups**
See AOs [2013-06](#) and [1980-102](#).

		By corporation	By labor organization	By incorporated membership organization ^a	By incorporated trade association
Restricted Class	At any time ^a	Executive and administrative personnel and families stockholders and families	Executive and administrative personnel and families	Executive and administrative personnel and families	Executive and administrative personnel and families
			Members and families	Non-corporate members and families	Non-corporate members and families
					With prior approval, corporate members' executive and administrative personnel, stockholders and families of both

Campaign Guide for Corporations and Labor Organizations, p. 42.

Table: Who may be solicited: At any time - [Guide, p. 42](#)

More: www.fec.gov/help-candidates-and-committees/fundraising-for-ssf/who-may-be-solicited-ssf-contribution/

Association/PAC may **NOT** solicit:

- PACs of corporate members
- Executives of corporate members that have NOT signed prior approval
- Foreign nationals
- General public

**Beyond the
Restricted Class**

B. Who is NOT solicitable?

1. Foreign nationals (even if members of association) ([11 CFR 110.20\(g\)](#));
2. Corporate members and their PACs;
3. Executives and stockholders of corporate (and certain partnership/LLC) members that **have not signed the prior approval request**; or
4. General public.

DOES YOUR ORGANIZATION CONDUCT TWICE-YEARLY SOLICITATIONS?



Twice a year SSFs may mail solicitations to
homes of limited group not in restricted class

Must appoint custodian to preserve anonymity

Mail solicitation to individual's home

Twice Yearly Solicitations



- C. **Twice yearly solicitations ([11 CFR 114.6](#); [Guide, Appendix B, pp. 187-190](#))**
1. Twice a year, a trade association PAC may solicit rank and file (i.e., non-executive or non-administrative) association employees.

2. Must use custodial arrangement to preserve anonymity.
3. Must mail solicitation to employee's home.
4. If any labor organization represents association employees, the association must offer the labor organization the opportunity to do a twice-yearly solicitation of association executives.

	By corporation	By labor organization	By incorporated membership organization ^a	By incorporated trade association
Twice yearly ^a	Non-executive and non-administrative personnel and families	Non-executive and non-administrative personnel and families In corporations that employ members of the labor organization, non-member employees, stockholders and families of both	Non-executive and non-administrative personnel and families	Association's non-executive and non-administrative personnel

Campaign Guide for Corporations and Labor Organizations, p. 42.

Twice Yearly Solicitations




Table: Who may be solicited: Twice yearly - [Guide, p. 42](#)

More: www.fec.gov/help-candidates-and-committees/fundraising-for-ssf/twice-yearly-solicitations-expanded-class-ssf/

OBJECTIVES

Restricted Class



Solicitation Rules



Fundraising Methods



Basic Rules Apply

RULES



Restricted class only

Solicitation notices always

Forward contributions and
records on time

Solicitations Notices

Contributions must be voluntary

No threats

No dues or fees

Must include every time:

Political purpose of SSF

Right to refuse to contribute

Any guideline = suggestion

D. Voluntary contributions and solicitation notices ([11 CFR 114.5\(a\)](#))

1. Contributions must be voluntary

- a) No threat of physical force, job discrimination or financial reprisal.
- b) No dues or fees.

2. Required notices

Every solicitation must state:

- Political purpose of PAC;
- Solicitee's right to refuse without reprisal; and
- Guideline on amount is merely suggestion; no minimum may be specified.

3. Examples:

See AOs [2006-17](#), [2003-06](#) and [1997-25](#), and MURs [5681](#) and [5337](#).

**Example
AO 2006-17**

BERKELEY ELECTRIC COOPERATIVE, INC.
VOLUNTARY EMPLOYEE DONATION FORM

Option 1 _____
I, the undersigned, do hereby certify my desire to voluntarily donate to the organization listed below. The purpose of these organizations is for the benefit of political candidates and activities on a state and national level that support rural electric cooperatives. I authorize Berkeley Electric Cooperative, Inc. to deduct the following designated amounts per pay period from my paycheck. I understand that this authorization will remain in effect perpetually, unless and until rescinded by me in writing. I am also fully aware that should I elect not to participate I may do so without any concern of retaliation.

RECOMMENDED AMOUNTS PER PAY PERIOD

	Authorized Amount	HOURLY		SALARIED		STAFF
		NON-SUPERVISOR	SUPERVISOR	NON-SUPERVISOR	SUPERVISOR	
AMOUNT PPD	\$3.00	\$5.00	\$7.00	\$7.00	\$9.00	
ACRE _____ (Action Committee for Rural Electrification)	0.96	0.96	0.96	0.96	3.85	
ECHO _____ (Electric Cooperatives Help Organization)	0.42	0.42	0.42	0.42	0.42	
EMPL FUND _____ (State Candidate Support)	0.66	1.47	2.23	2.23	1.88	
BEC PAC _____ (Federal Candidate Support)	0.96	2.15	3.39	3.39	2.85	

The recommended contribution amounts listed above are merely suggestions. Employees may choose to give more or less than stated. BEC will not favor nor disfavor employees according to pledged donations.

Option 2 _____
I am providing a one-time contribution in the amount of \$ _____ to be distributed as designated above.

Option 3 _____
I elect not to participate at this time.

4. Examples from [AO 2006-17](#):

- **Statement of political purpose:**
“...for the benefit of political candidates and activities on a state and national level that support rural electric cooperatives.”
- **Statement of voluntary nature and suggested guideline:**
See BEC proposed solicitation form (Exhibit 1). The form offers three options for contributing. It notes that the first option contains *“merely suggestions,”* and that employees may choose to give *“more or less than those stated.”* The form further states, *“BEC will not favor nor disfavor employees according to pledged donations.”* An additional statement reads, *“I am also fully aware that should I elect not to participate I may do so without any concern of retaliation.”*
Id.

Taken together, these statements comply with the FEC rules on SSF solicitation notices. 11 CFR [114.5\(a\)\(2\)](#) and [\(a\)\(4\)](#).

Basic Rules Apply

RULES



Restricted class only

Solicitation notices always

Forward contributions and
records on time

Collecting Agents

Collect contributions for SSF:

- Connected organization (association)
- Affiliated local/state association
- State PAC of association or affiliate



E. Collecting and forwarding contributions to PAC ([11 CFR 102.6\(b\)](#))

Connected organization (trade association), affiliated associations or state or local PAC of association may act as “collecting agent” by collecting and forwarding PAC contributions under guidelines below:

1. **Direct payments to PAC**

Connected organization must forward checks and electronic payments payable to PAC directly to PAC.



Collecting Agents

May temporarily deposit funds, then forward to SSF:

- ≤ **\$50 within 30 days**
- > **\$50 within 10 days**

Along with necessary records

2. **SSF contributions collected by collecting agent along with other types of payments:**

Examples of when this might happen: Solicitation for both federal SSF and state PAC; payroll deduction, membership renewal

a) **May be temporarily deposited in:**

- (1) Separate transmittal account
- (2) Collecting agent's account
- (3) Nonfederal account (state PAC)

b) **How to transmit funds**

Collecting agent may write one check or make one electronic transfer to PAC representing all individual contributions collected within specific time period.

3. **Follow time frames for forwarding contributions and records ([11 CFR 102.8\(b\)](#))**

- a) **Contributions of \$50 or less:** within 30 days
- b) **Contributions over \$50:** within 10 days
- c) **Recordkeeping:** Collecting agent retains records 3 years.

4. **PAC remains responsible:**
 - a) Reports original sources of contributions.
 - b) Reports date of receipt = date collecting agent receives contribution. (See [11 CFR 102.8\(b\)\(2\)](#).)
 - c) Ensures that collecting agent follows rules.
5. **Corporations acting as members of trade associations**

Corporate members may collect and forward contributions for trade association PAC, following above guidelines. See [AO 2003-22](#).

OBJECTIVES

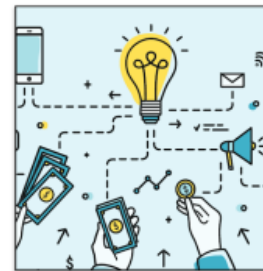
Restricted Class



Solicitation Rules



Fundraising Methods



IV. Solicitation Techniques

Solicitation Techniques



Earnings and Leave Statement
DATE: April 28, 2021
YAC Association
Branch Address: City, ST ZIP Code
Phone: () - -
Fax: () - -
Email: info@yac.org

John Doe
Street Address: City, ST ZIP Code
Phone: () - -
Fax: () - -
Email: info@yac.org

EARNINGS AND DEDUCTIONS			
CODE	DESCRIPTION	HOURS	AMOUNT
01	REGULAR TIME	40	\$4,360.00
02	SOCIAL SECURITY		\$325.00
03	HEALTH INSURANCE		\$405.00
100	PAC CONTRIBUTION		\$50.00

Payroll deduction

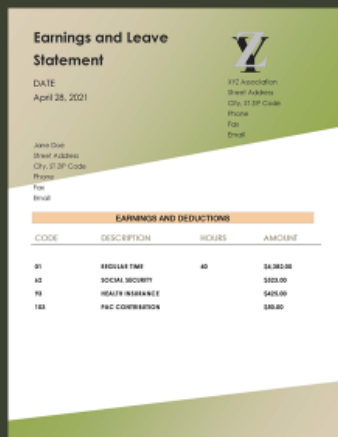


Prizes and entertainment



Communications

DOES YOUR TRADE ASSOCIATION USE PAYROLL DEDUCTION FOR PAC CONTRIBUTIONS?



Earnings and Leave Statement
DATE: April 28, 2021
YAC Association
Branch Address: City, ST ZIP Code
Phone: () - -
Fax: () - -
Email: info@yac.org

John Doe
Street Address: City, ST ZIP Code
Phone: () - -
Fax: () - -
Email: info@yac.org

EARNINGS AND DEDUCTIONS			
CODE	DESCRIPTION	HOURS	AMOUNT
01	REGULAR TIME	40	\$4,360.00
02	SOCIAL SECURITY		\$325.00
03	HEALTH INSURANCE		\$405.00
100	PAC CONTRIBUTION		\$50.00

Common method used by trade association PACs to solicit and collect contributions

Basic Rules Apply



Restricted class only

Solicitation notices always

Forward contributions and
records on time

A. Payroll deduction (11 CFR [102.6\(b\)](#) and [\(c\)](#), [102.8\(b\)](#) and [114.5\(a\)](#))

1. Basic rules apply

- **Restricted class only:** May only be offered to association executives and executives of corporate members that have granted prior approval.
- **Use solicitation notices**
- **Forward contributions and records on time:** Connected organization is acting as the collecting agent here and collecting agent rules apply.
- Date of receipt for reporting purposes = date deducted from paycheck. AOs [2000-11](#) and [1999-33](#).

Payroll Deduction

Authorization required:

- No reverse checkoff
- Written, electronic or telephone-recorded
- Retain for 3 years after employee's last reported contribution



2. Authorization required

- a) Employee gives payroll deduction authorization (PDA) for periodic deduction of PAC contributions from paycheck; *may revoke any time.*
- b) Note that “written” may be electronic or telephone-recorded.

3. No reverse checkoff

Illegal to automatically deduct PAC contributions from paycheck, even if individual is allowed to request refund.

[11 CFR 114.5\(a\)](#). See [AO 2001-04 \(fn. 4\)](#)

4. Electronic authorizations OK (AOs [2001-04](#), [1999-03](#) and [1997-09](#))

a) Elements to include:

- Passwords
- Email confirmations
- Notices worked into solicitation
- Ability to modify/revoke authorization; retention of authorization

b) Formats approved via AOs:

- The use of a digital electronic signature to authorize payroll deductions for a corporate PAC. [AO 1999-03](#).
- The use of a standard “click through” process, in which the contributor enters an ID number that is checked against a database, to authorize deductions for a corporate PAC. [AO 2001-04](#).
- The use of telephone recorded conversations to obtain and maintain authorization for payroll deductions for an organization’s PAC. [AO 2013-12](#).

5. **Recordkeeping requirements**

- a) Retain PDA for three years from the date the committee last reports receiving a contribution from that employee (rather than three years from the date the employee signed the authorization). [11 CFR 104.14\(b\)](#).
- b) **Note:** Signed PDA is not the only way to satisfy recordkeeping requirement. For suggested methods for how to keep PDA records, access the [Policy Statement on Recordkeeping Requirements for Payroll Deduction Authorizations](#).

Payroll Deduction

Corporate members...

May use for trade association PAC

- Must first grant prior approval

Must allow union to use for its PAC, upon request

- Union must reimburse costs



6. **Corporate members of trade association**
(11 CFR [114.8\(e\)\(4\)](#) and [\(5\)](#))

- a) FEC rules permit payroll deduction by corporate members for contributions to trade association PAC.
- b) If corporation allows trade association PAC to use its payroll deduction system, corporation shall permit use of payroll deduction by union representing its employees, upon request.
- c) **Application to corporations owned by individual members**
[AO 2012-15](#): Corporations owned by individual members of a trade association may provide payroll deduction to enable member-employees to contribute to the association's SSF. The membership organization must pay the member-owned corporations in advance for their services.

Reporting Example #1: Reporting Contributions Raised Through Fundraising Events and Payroll Deduction

Payroll Deduction for Snowboard Association PAC Kelly Clark			
Pay Day	Transmittal to PAC	Amount Deducted this Period	Total Deducted this Year
1/24/22	2/4/22	\$20.00	\$20.00
2/7/22	2/18/22	\$20.00	\$40.00
			\$60.00
			\$80.00
			\$100.00
			\$120.00
			\$140.00
			\$160.00
			\$180.00
			\$200.00
			\$220.00
			\$240.00

Roxy Snowboards has received authorization from Kelly Clark, a company executive, to deduct \$20 from their biweekly paycheck as a contribution to a trade association PAC, the Snowboard Association PAC. (Assume that Roxy Snowboards is a corporate member of the trade association and has granted prior approval to the trade association PAC.) The first deduction was taken out of Kelly's paycheck on January 24. The payroll department forwarded the money on February 4 to the Snowboard Association PAC's treasurer, who had arranged for an electronic transfer into the PAC's account on the same day.

Planning ahead, on May 29, Kelly will reach an aggregate total of \$200 exactly. On June 12, they will reach \$220. By June 26, they will have an aggregate year-to-date total of \$240.

As a big supporter of the PAC, Kelly, in addition to their payroll deductions totaling \$240 as of June 26, also contributed \$150 by buying a silent auction prize at a PAC event on June 30.

Assume for this example that the Snowboard Association PAC files its FEC reports on a monthly schedule.

1. How must the committee disclose the transaction(s)?
2. What information from the scenario do we need to disclose this correctly?

Reporting Example #1 – Answers

1. How must the committee disclose the transaction(s)?

Answer: Itemize these contributions on Schedule A for the appropriate Line (11(a)(i) for individuals) once the contributions from an individual aggregate more than \$200 (including contributions received through payroll deduction) for the calendar year.

Kelly's initial contribution in January does not require itemization as Kelly has not yet contributed over \$200 for the calendar year. Further, the contributions with an aggregate calendar year to date amount \leq \$200 must be included on Line 11(a)(ii) (*unitemized contributions from individuals*) of the appropriate reporting periods. However, on June 12, Kelly will reach \$220 in contributions for the calendar year. Since the PAC files monthly, the report covering June (due on July 20) would be the report on which they would need to begin itemizing Kelly's contributions on Schedule A for Line 11(a)(i).

Here is an example of the payroll deduction itemization:

Payroll Deduction Contributions

July Monthly (M7) Report; FEC Form 3X: Schedule A, Line 11 (a)

SCHEDULE A (FEC Form 3X) ITEMIZED RECEIPTS		FOR LINE NUMBER: (check only one)	PAGE OF
Use separate schedule(s) for each category of the Detailed Summary Page		<input checked="" type="checkbox"/> 11a <input type="checkbox"/> 11b <input type="checkbox"/> 11c <input type="checkbox"/> 12 <input type="checkbox"/> 13 <input type="checkbox"/> 14 <input type="checkbox"/> 15 <input type="checkbox"/> 16 <input type="checkbox"/> 17	
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) Snowboard Association PAC			
Full Name of Individual (Last, First, Middle Initial) or Full Organization Name A. Clark, Kelly			
Mailing Address 401 East 67th Street			
City Mammoth Lakes		State CA	Zip Code 93546
FEC ID number of contributing federal political committee. C			
Name of Employer (for Individual) Roxy Snowboards		Occupation (for Individual) Designer	
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		Aggregate Year-to-Date ▼ 240.00	
		Date of Receipt Payroll Deduction	
		Amount of Each Receipt this Period \$40.00	
		<input type="checkbox"/> Memo Item	
		\$20.00 biweekly	

Itemization of silent auction prize purchase and aggregation:

All of Kelly's subsequent contributions during that calendar year will also require itemization on Schedule A. Thus, Kelly's silent auction contribution via purchase of a \$150 fundraising item must also be itemized. Since Kelly was already over the \$200 itemization threshold for the calendar year, itemize the silent auction contribution on Schedule A for Line 11(a)(i) but separately from her payroll deductions. The aggregate year-to-date total for the June 30 contribution must include the payroll deduction contributions received previously in the calendar year.

Here is an example of the contribution made in the form of a silent auction purchase:

Silent Auction Contribution Check
July Monthly (M7) Report; FEC Form 3X: Schedule A, Line 11 (a)

The image shows a screenshot of the FEC Form 3X Schedule A, Itemized Receipts. The form is titled "SCHEDULE A (FEC Form 3X) ITEMIZED RECEIPTS". It includes a section for "FOR LINE NUMBER: (check only one)" with checkboxes for 11a, 11b, 11c, 12, 13, 14, 15, 16, and 17. The "11a" checkbox is checked. The form also includes a section for "NAME OF COMMITTEE (in Full)" with the entry "Snowboard Association PAC". The "Full Name of Individual (Last, First, Middle Initial) or Full Organization Name" is "A. Clark, Kelly". The "Mailing Address" is "401 East 67th Street", "City" is "Mammoth Lakes", "State" is "CA", and "Zip Code" is "93546". The "FEC ID number of contributing federal political committee" is "C". The "Name of Employer (for Individual)" is "Roxy Snowboards" and the "Occupation (for Individual)" is "Designer". The "Date of Receipt" is "06 / 30 / 2022". The "Amount of Each Receipt this Period" is "150.00". The "Receipt For:" section has checkboxes for "Primary", "General", and "Other (specify)". The "Aggregate Year-to-Date" total is "390.00", which is circled in the original image.

2. What information from the scenario do we need to disclose this correctly?

Answer:

- **Contributions that aggregate \$200 and under:** The amount of the contribution and the date that it was deducted from the individual's paycheck. (For recordkeeping, need the individual's name, address and payroll deduction authorization). See [11 CFR 104.8\(b\)](#) and AOs [2000-11](#) and [1999-33](#).
- **Contributions that aggregate more than \$200:** The name, address, occupation and employer information of contributor, total amount deducted during reporting period, frequency of deduction and amount per deduction.

KEY POINTS FOR PAYROLL DEDUCTION

- ✓ Report date of receipt
 - Date of receipt = date deducted from paycheck
- ✓ Paper filers list “payroll deduction” in lieu of dates
- ✓ E-filers list last day of the reporting period
- ✓ Payroll deduction in description field
- ✓ Total amount deducted during reporting period

Points to Remember

- Itemize contributions (including payroll deduction contributions) from an individual or other person/entity on Schedule A, Line 11(a)(i), once aggregate calendar year to date received exceeds \$200.
- **Required information in itemizing receipts:**
 - Full name and address of contributor or source
 - Occupation/employer – if contributor is an individual
 - Date of receipt
 - Amount
 - Aggregate year-to-date total of all receipts from the same source.
- Date reported is the date of receipt, not the date of deposit, or the date on the check.
- Date reported for payroll deduction contribution is the date that the contribution was deducted from the contributor’s paycheck. See [11 CFR 104.8\(b\)](#) and AOs [2000-11](#) and [1999-33](#). The “date of receipt” under FEC rules at [11 CFR 102.8](#) is the date that the collecting agent obtains possession of the funds (in other words, deducts the contribution).
- Separately itemize payroll deduction contributions from those raised using other methods.
- If collecting agent transmits funds to PAC, do not report as transfer from collecting agent. Instead, report as contributions from original individual contributors.

- Payroll department, as the collecting agent, must forward money **within collecting agent timeframes**. The PAC treasurer would then have 10 days to deposit the contribution. Work closely with the payroll department in order to make these timeframes work for FEC reporting, given that date of deduction is the date used for reporting.
- For paper filers, instead of stating each date of receipt, type “payroll deduction.”
- FECFile users will need to itemize a date (recommended to use last day of reporting period) and enter “payroll deduction” in description field.
- Report the total amount deducted from paycheck during reporting period (regardless of when PAC receives funds) and indicate the amount that was deducted each pay period and the frequency of the deduction.

Solicitation Techniques



Payroll deduction



**Prizes and
entertainment**



Communications

DOES YOUR ASSOCIATION OFFER INCENTIVES TO POTENTIAL PAC CONTRIBUTORS?



SSFs often use raffle prizes, silent auctions, concerts or small gifts as part of solicitations

Connected organization may pay for prizes and entertainment to encourage PAC contributions

HOWEVER

Prizes/entertainment may not be too valuable relative to funds raised

- B. Prizes and/or entertainment: The one-third rule ([11 CFR 114.5\(b\)\(2\)](#))**
- Association and its members may provide prizes and entertainment to encourage PAC contributions.
 - Examples: Raffles (if permitted by state and tax laws), silent auctions, concerts, golf tournaments.
 - The aggregate costs of prizes/entertainment may not be disproportionately valuable in comparison with contributions raised. Otherwise PAC must reimburse association for a portion of the costs.
- 1. One-third rule**
- PAC reimburses association for that portion of the costs of prizes or entertainment donated by the association and its members that exceed one-third of the amount raised in contributions.
- Cost of prize to association is what is used.
See AOs [2003-33](#) and [1995-17](#).
 - Food and drink expenses do not count. See AOs [1999-31](#), [1995-17](#) and [1980-50](#).

Prizes and Entertainment

The 1/3 Rule



\$700

\$1,200

Association cost: \$ 700



– 1/3 amount raised: \$ 400

PAC reimbursement: \$ 300

2. Example – Reimbursement required

Association spends \$700 in treasury funds to purchase a raffle prize. Sales of raffle tickets raise \$1200 in PAC contributions. Since one-third of the amount raised (\$400) is less than the cost of the prize (\$700), then the PAC must reimburse the association for the \$300 difference.

The 1/3 Rule



\$700

\$2,100

Association cost: \$ 700

– 1/3 amount raised: \$ 700

PAC reimbursement: **\$ 0**

Prizes and Entertainment

3. **Example – No reimbursement required**

On the other hand, if the PAC raises \$2,100 in contributions, then one-third of that amount (\$700) is equal to what the association spent on the prize, so no reimbursement is necessary.

Donations from Members

Member donations ok

Count as donations to association
for exempt fundraising

One-third rule applies

Include premiums donated by
members in one-third rule
calculation

4. Member-provided assistance

a) Permissible (AOs [1995-17](#) and [1989-18](#))

- (1) Association may solicit and accept donations of money, goods or services from its members (both corporate and noncorporate) to defray administrative and fundraising expenses of PAC, including prizes.
- (2) Donations are not contributions as long as donor qualifies as association member under FEC regulations.

b) Application of one-third rule

- (1) Include prizes/entertainment donated by members in one-third rule calculation.
- (2) Any required reimbursement goes to association (who may distribute it to member if it chooses).

Basic Rules Apply

RULES



Restricted class only

Solicitation notices always

Forward contributions and
records on time

5. Basic rules apply:

- a) Restricted class only may be invited to participate.
- b) Remember to use solicitation notices.
- c) Forward money on time.

6. Ongoing events

For events that are ongoing (e.g., a payroll deduction sign-up drive that lasts several months), the PAC must assign an ending date of event with which to determine the amount raised for purposes of the one-third rule. [AO 1999-31](#).

Reporting Example #2: Reimbursements Under 1/3 Rule

REPORTING EXAMPLE

Itemizing PAC Reimbursement
to Connected Organization
under 1/3 Rule



In our first one-third rule example, the association spent \$700 of its treasury funds on a raffle prize, but only raised \$1,200 in contributions for its PAC. So, the PAC had to reimburse the association for the \$300 difference between 1/3 of the amount raised (\$400) and the cost of the prize (\$700).

How is this reimbursement reported?

Reporting Example #2 – Answer

How is this reimbursement reported?

Answer: The reimbursement must be reported on Line 21(b) as an “Other Federal Operating Expense” and itemized on Schedule B for that Line once the aggregate payments by the PAC to the association exceed \$200 per calendar year.

Reimbursement to Connected Organization Post-General (30G) Report; FEC Form 3X: Schedule B, Line 21(b)

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"/> 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)
Snowboard Association PAC

Full Name (Last, First, Middle Initial)
A. Snowboard Association

Mailing Address
1700 Woodward Drive

City
Mammoth Lakes

State
CA

Zip Code
93526

Purpose of Disbursement
Reimburse for Raffle Prizes (1/3 Rule)

Candidate Name

Category/Type

Office Sought: ☐ House ☐ Senate ☐ President

Disbursement For: ☐ Primary ☐ General ☐ Other (specify) ▼

State: District:

Date of Disbursement
10 / 20 / 2022

FEC Identification Number
C

Amount of Each Disbursement this Period
300.00

☐ Memo Item

KEY 1/3 RULE CONSIDERATIONS



To avoid reimbursement,
raise 3X cost of prize or
entertainment

For ongoing events, assign
an end date

Scenario #1:

Instructions for Activity

- ✓ Read the scenarios
- ✓ Answer questions in the polls



Fundraising ideas for the Snowboard Association PAC

1. Small gifts for PAC contributions
2. Automatic payroll deductions
3. Fundraising brunches



Payroll Deduction and Fundraising Events by Trade Association

You are the PAC director for the Snowboard Association. The VP for government affairs calls you into their office to discuss political activities. The VP explains that they want the trade association's PAC to raise more funds in the next cycle from its restricted class and has come up with an idea for offering incentives to encourage the association's executives to sign up for payroll deduction as well as encourage members to make a one-time contribution.

"I understand from our PAC Treasurer," the VP continues, "that our average PAC donor contributes only \$2 a year. Can't we get them to increase that amount?" they ask. "What about giving away pens, mugs or gift cards to those who sign up for payroll deduction totaling \$25, \$50 or \$100 per year?"

The VP also suggested that, to make it easier, each pay period, a dollar automatically be deducted from each executive's wages. The executives could stop the deduction by providing written notice to the PAC treasurer.

Finally, they suggest holding brunches in key regions to raise federal and PAC funds from members.

The VP asks you to find a way to legally put their suggestions into action.



QUESTIONS:

1. **How do you feel about the idea to give small gifts in exchange for PAC contributions?**
 - ☐ Not permissible
 - ☐ Permissible

2. **What is the proper way to implement a payroll deduction plan for PAC contributions?**
 - ☐ To use a reverse check-off system and automatically deduct an amount from the individual's paycheck, as long as they can revoke it at any time.
 - ☐ To provide the individual with a payroll deduction authorization form, so they may make a voluntary contribution via payroll, as long as they can revoke it at any time.

3. **Does the VIP at the brunch need to include the requisite solicitation notices that inform attendees of the political purpose of the PAC and of their right to refuse to contribute without reprisal?**
 - ☐ Yes, notices are required for all solicitations.
 - ☐ No, because you are raising money for the both the federal and state PAC funds from members.

Scenario #1 – Answers:

1. How do you feel about the idea to give small gifts in exchange for PAC contributions?

- ☐ Not permissible
☒ Permissible

Answer: This is permissible under [11 CFR 114.5\(b\)\(2\)](#) as long as the items are not disproportionately valuable. See also AOs [1981-40](#) and [1981-33](#), which apply the one-third rule to small items.

2. What is the proper way to implement a payroll deduction plan for PAC contributions?

- ☐ To use a reverse check-off system and automatically deduct an amount from the individual's paycheck, as long as they can revoke it at any time.
☒ To provide the individual with a payroll deduction authorization form, so they may make a voluntary contribution via payroll, as long as they can revoke it at any time.

Answer: Reverse check-offs are prohibited. Instead, the contributions must be voluntary; the employee's authorization must first be requested and received (either electronically, in writing, or recorded via telephone); and the solicitation must inform the employee of the political purpose of the PAC and of his right to refuse to contribute without reprisal and revoke at any time. 11 CFR [114.5\(a\)\(1\)](#), [\(3\)](#) and [\(4\)](#).

If a guideline is suggested (as the \$25, \$50 or \$100 guidelines in the scenario), the solicitation must inform the solicitee that the guideline is merely a suggestion; that the individual is free to contribute more or less than the suggested amount; and that the amount of the contribution, or the refusal to contribute, will not benefit or disadvantage the solicitee. [11 CFR 114.5\(a\)\(2\)](#). Money collected through payroll deduction must be forwarded according to the collecting agent rules, and the record of the authorization must be kept from 3 years from the date of the last report of an employee's deduction. 11 CFR [102.6\(c\)\(4\)](#) and [\(6\)](#).

3. Does the VIP at the brunch need to include the required solicitation notices that inform attendees of the political purpose of the PAC and of their right to refuse to contribute without reprisal?

- ☒ Yes, notices are required for all solicitations.
☐ No, because you are raising money for both the federal and state PAC funds from members.

Answer: Yes. The brunches would be considered a solicitation because the purpose is to encourage support for the federal (and state) PAC. [AO 1980-50](#). The speaker and the invitation both must include the requisite solicitation notices that inform the attendees of the political purpose of the PAC (including that the part of the contribution going to the federal

PAC is for influencing federal elections) and of their right to refuse to contribute without reprisal. 11 CFR [114.5\(a\)\(3\)](#) and [\(4\)](#). See [11 CFR 102.5\(a\)\(2\)](#).
(Note, it is permissible to use a VIP as a speaker, even if he or she is not in the restricted class. [AO 2003-05](#)).

SCENARIO #1 – KEY POINTS

Incentives and Payroll Deduction

One-third rule is applied to small items

Reverse check-offs are prohibited

Meeting to “explain PAC” = solicitation

For payroll deduction and meetings, always remember:

- Solicitation notices AND
- Collecting agent rules

KEY POINTS:

- If offering prizes/entertainment as incentives, always apply the one-third rule.
- Reverse check-offs are prohibited.
- Meetings or events to explain PAC and requests to sign up for payroll deduction are considered solicitations and subject to basic solicitation rules, including:
 - Only solicit restricted class.
 - Always use notices in all of your written and oral solicitations.
 - Forward money and records on time.
- Collecting agent rules apply to all types of fundraising events:
 - Timely transfer of all funds AND records
 - Full amount of contribution must be transferred and counts towards contributor’s limit to PAC
 - If both federal and state funds are collected, make sure contributors are aware of how much is solicited for federal PAC.
 - SSF ultimately responsible for compliance and proper disclosure.

Solicitation Techniques



Payroll deduction



**Prizes and
entertainment**



Communications

DO YOU USE AN INTERNET OR INTRANET SITE TO PROMOTE YOUR SSF?

Online PAC solicitations are popular, but require additional safeguards to ensure they don't reach beyond restricted class



What is a solicitation?

Requesting contributions

Explaining how to contribute

Publicizing right to accept unsolicited contributions

Encouraging support for PAC

C. Communications (AOs cited in outline)

If a communication is circulated beyond the restricted class, the association may generally not include a solicitation. Thus, you must look at what your communication is going to say, and to which audience it is going.

1. If it's a solicitation: Limit to restricted class

- a) Straightforward request for contributions
- b) Information on how to make a contribution
- c) Publicizing PAC's right to accept unsolicited contributions
- d) Statements encouraging support for the PAC – context is key
- e) See MURs [6100R \(2010\)](#) and [5681 \(2007\)](#) and AOs [1979-66](#) and [1979-13](#) for examples.

Example: Language from [AO 1979-13](#):

"I was glad to see that Raymond has so many employees who realize that the welfare of us all is tied very closely to government policies and attitudes toward business. RAYPAC is one way we can make the voice of business people and our industry heard in this country. I hope we continued [sic] to have such an enthusiastic group."

<p>Announcing PAC's existence</p> <p>Explaining applicable laws</p> <p>Providing statistical information</p> <p>Listing candidates supported</p>	<p>What is <u>not</u> a solicitation?</p>
--	--

2. **OK for anyone: Communication that is NOT a solicitation:**
- a) Avoids encouraging support for the PAC.
 - b) Does not facilitate the making of contributions.
 - c) Merely announces existence of PAC and explains legal requirements that apply to a PAC.
 - d) Provides statistical information about the PAC's receipts and contributions.
 - e) Identifies candidates supported by the PAC (but does not suggest that supporting the PAC will help elect those candidates).
 - f) See AOs [1991-03](#), [1983-38](#) and [1982-65](#).

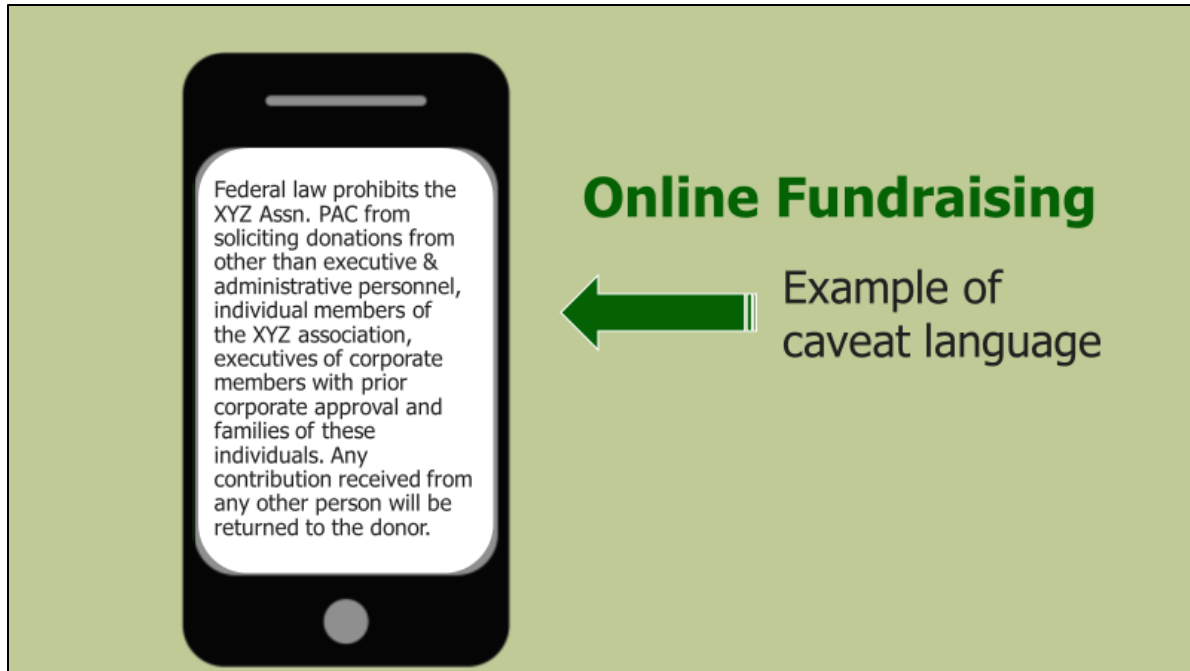
Solicitation Techniques

Online Guidelines

- Use password protected page for all solicitations
- Page to enter password includes caveat



3. **Internet and email solicitations (AOs [2006-03](#) and [2000-07](#))**
 - a) **Limit access to restricted class.**
 - Any intranet site, website or email containing a solicitation for the SSF must only be accessible by the restricted class.
 - AOs require password protection.



b) Caveats required

The page where members will enter their passwords to enter the PAC website or intranet site must state that:

- Federal law prohibits PAC from soliciting outside restricted class; and
- Contributions received from outside restricted class will be returned to donors.

Online Fundraising

Ensure contributions from permissible sources

May accept contributions via credit card, electronic check or online banking service

OK to maintain email list; keep updated to ensure restricted class only



c) Contributor screening and vetting

PAC treasurer is responsible for ensuring that online contributions come from permissible sources.


See [AO 2011-13](#) for suggested language to use as safeguard.

d) Collecting online contributions via credit cards / electronic checks / online banking services

- (1) Online contributions may be made via credit card or electronic checks, or electronic authorization of payroll deduction. AOs [1999-36](#), [1999-09](#) and [1999-03](#).
- (2) Date of contribution is date authorized by contributor. [AO 1995-09](#). (Note: For credit card contributions, date of receipt for reporting is the date contributor authorized the charge. See AOs above.)
- (3) Check generated via online banking service acceptable with all required contributor information.
 - If complete information not available, committee must contact contributor
 - If drawn on joint account, must contact account holders using reattribution procedures to ascertain from whom contribution is intended. [AO 2007-17](#).

- e) **Email solicitations (AOs [2000-07](#) and [1995-33](#))**
- (1) Organization could maintain email list (i.e., mailing list) to send PAC solicitations to restricted class.
[AO 2000-07](#).
 - (2) Email could be sent through secretaries to member of restricted class, provided that a cover note or some other mechanism is used to ensure solicitation is directed exclusively to restricted class.
[AO 1995-33](#).

Basic Rules Apply



Restricted class only
(e.g., password protected,
closed group)

Solicitation notices always

Forward contributions and
records on time

4. **Basic rules apply**
- a) Restricted class only (using passwords if online).
 - b) Voluntary contributions/solicitation notices included.
 - c) Forward contributions and records on time.

Scenario #2: Online Solicitations for SSFs



As part of its government affairs operations, your association updates two different websites. One is a website accessible to the general public; while the other is an intranet site for employees and members only.

You would like to make information available about your PAC on your association's two sites.

Public website:

Since your government affairs website is publicly available, you know you can't include a solicitation for the SSF on it. But you would like to make public a list of candidates your PAC has supported available. And in case that might inspire people to want to learn more your PAC, you want to include a "Learn more about the PAC" button.

On the page that comes up, you would include a description of your PAC's political purpose and a link to its FEC reports. You also would have a place for members of your restricted class to log in and make a donation. You'd like that to be labeled "Donate to the PAC here."

Intranet site:

You would like to add the "donate to PAC" button to the intranet website to make it easier for people to make PAC donations. Once people click the button, a pop up screen will inform them of your responsibilities to collect contributor information and also of the law's prohibited contributions.

On both sites, once logged in, the restricted class may sign up for payroll deduction or may make a one-time contribution using a credit card.

You need to ensure that both websites are fully compliant with FEC guidance.



QUESTIONS:

1. OK to include the list of candidates on the public website?

Check yes or no.

- ☐ Yes
- ☐ No

2. OK to include the “click here for more information” button on the public website?

Check yes or no.

- ☐ Yes
- ☐ No

3. Which notice should not be included on the page that the restricted class will log into in order to make a donation on either site?

- ☐ Notices about the federal election law’s reporting requirement and contribution restrictions
- ☐ A notice about the political purpose of the PAC
- ☐ Notices informing donors that they may refuse to make a contribution or give more or less than the suggested amount.
- ☐ All of these notices should be included, plus some more.

Scenario #2 – Answers:

1. OK to include the list of candidates on the public website?

Check yes or no.

☒ Yes

☐ No

Answer: Yes, as long as you don't suggest that supporting the PAC would help the PAC make more contributions to the candidates.

2. OK to include the “Learn more about the PAC” button on the public website?

Check yes or no.

☒ Yes

☐ No

Answer: Yes, as long as you modify the page that comes up. While linking to the FEC reports is fine, the page also contains the place where members will log-in to make a donation. Thus, you must avoid any language on the log-in page that would constitute a solicitation (such as “Donate to the PAC,” as it is accessible by the public. Also, you must include a caveat that you will return any contributions received from those outside the restricted class.

3. Which notice should not be included on the page that the restricted class will log into in order to make a donation on either site?

☐ Notices about the federal election law's reporting requirement and contribution restrictions

☐ A notice about the political purpose of the PAC

☐ Notices informing donors that they may refuse to make a contribution or give more or less than the suggested amount.

☒ **All of these notices should be included, plus some more.**

Answer: While B and C are required on any solicitation, A is not technically “required.” Nevertheless, the PAC is required to make “best efforts” in regard to reporting, and also must ensure that contributions made online come from permissible sources, so the notices mentioned in choice A are highly recommended. Also, since they are including payroll deduction as an option, a notice informing contributors they may revoke it at any time must appear as well.

SCENARIO #2 – KEY POINTS

Online Solicitations

Use passwords to limit access to restricted class

Include caveat on password-entry page

State right to refuse to contribute and PAC's political purpose

Basic Rules Apply

RULES



Restricted class only

Solicitation notices always

Forward contributions and
records on time

Solicitation Techniques



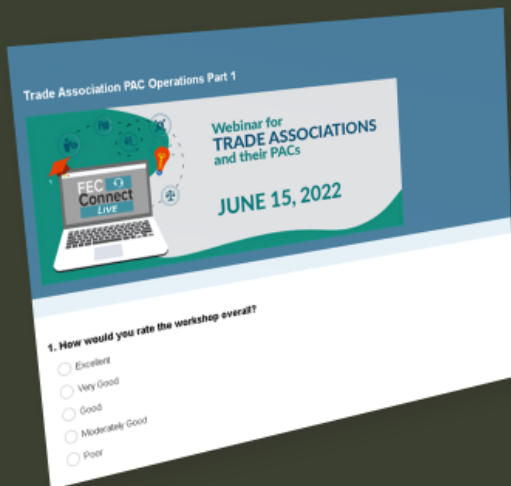
Payroll deduction



Prizes and entertainment



Communications



Help Us Help You!

Please complete an evaluation of this workshop.

FECConnect
LIVE

Evaluation link: <https://www.surveymonkey.com/r/BK36KPO>