

FEDERAL ELECTION COMMISSION**11 CFR Parts 100-115, 9008**

[Notice 1980-8]

Amendments to Federal Election Campaign Act of 1971; Regulations Transmitted to Congress**AGENCY:** Federal Election Commission.**ACTION:** Transmittal of Regulations to Congress.

SUMMARY: FEC Regulations relating to the Federal Election Campaign Act, Pub. L. 96-187, January 8, 1980, 93 Stat. 1339-69, have been written and transmitted to Congress pursuant to Pub. L. 96-187, Title III, section 303, January 8, 1980, 93 Stat. 1368-69. The amendments were proposed by the Committee on House Administration of the House of Representatives (H.R. 5010) to simplify the recordkeeping, reporting and disclosure requirements of the Act, to increase the role of State and local political parties in campaigns, to reduce the procedural requirements of the enforcement process and for other purposes. Further information on the intended effect of the proposed regulations is contained in the supplementary information below.

Pub. L. 96-187, title III, section 303 requires the Commission to transmit to the Congress prior to February 29, 1980 proposed rules and regulations prescribed by the Commission to implement the provisions and amendments made by Act. If neither House of Congress disapproves of the regulations within 15 legislative days after their receipt, the Commission may finally prescribe the regulations in question. The following regulations were transmitted to Congress on February 28, 1980.

DATE: Further action, including the announcement of an effective date and deletion of existing regulations in affected parts of 11 CFR will be taken by the Commission after these regulations have been before Congress for 15 legislative days in accordance with Pub. L. 96-187, title III, section 303.

The Administrative Procedure Act, at 5 U.S.C. 553(d)(3), provides that a substantive rule become effective not less than 30 days after publication, except as otherwise provided by the agency for good cause found and published with the rule.

It is possible that the 15 legislative day review period will expire in fewer than 30 calendar days from the date of publication of these regulations. Because the 1979 Amendments are already in effect and the 1980 election campaigns

are already underway, it is essential that these regulations take effect as soon as possible to provide guidance to candidates and committees for compliance with the new requirements of the FECA. The Commission, in accordance with 2 U.S.C. 553(d)(3), finds good cause for waiving the 30 calendar day period of the APA and intends to finally prescribe these regulations as soon as possible following either Congressional approval or the expiration of the 15 legislative day review period.

FOR FURTHER INFORMATION, CONTACT: Ms. Patricia A. Fiori, Assistant General Counsel, 1325 K Street, NW, Washington, DC 20463 (202-523-4143).

Explanation and Justification of Regulations Concerning January 8, 1980 Amendments to Federal Election Campaign Act of 1971**Part 100—Scope and Definitions****§ 100.1 Scope.**

This subchapter is issued by the Federal Election Commission to implement the Federal Election Campaign Act of 1971 (Pub. L. 92-225), as amended by Pub. L. 93-443, Pub. L. 94-283, Pub. L. 95-216 and Pub. L. 96-187.

§ 100.2 Election.

These definitions follow current regulation 11 CFR 100.6.

§ 100.3 Candidate.

Subsections (a) (1) and (2) follow 2 USC 431(2) (A) and (B), which establish the \$5,000 threshold for becoming a candidate.

Subsection (a)(3) of this definition generally follows the disavowal requirement of current regulation 11 CFR 100.2(c), except that the \$5,000 threshold is incorporated.

Subsection (a)(4) adds to the statutory definition by providing that all contributions received or expenditures made by an individual or his or her committees will be aggregated toward the \$5,000 threshold. Thus, for example, if an individual receives \$2,000 in contributions and his or her committees receive \$3,001, that individual will become a candidate under the Act. If all contributions or expenditures were not aggregated in this manner, the \$5,000 threshold could be circumvented.

Subsection (b) defines the election cycle during which contributions or expenditures are aggregated for purposes of determining whether an individual is a candidate. This time frame begins on the day following the previous general election for the office

the candidate seeks and ends on the date when the general election for that office is held. However, where an individual receives contributions or makes expenditures designated for another election cycle, then the election cycle begins when the individual first receives contributions or makes expenditures in connection with the designated election. The establishment of this time frame is necessary to prevent the aggregation of an individual's campaign receipts or expenditures over several different election periods.

§ 100.4 Federal office.

This definition follows 2 USC 431(3).

§ 100.5 Political committee.

Subsections (a), (b) and (c) of this definition follow 2 USC 431(4) (A), (B) and (C).

Subsection (d) adds to the statutory definition and provides that when an individual becomes a candidate by exceeding the \$5,000 threshold, his or her principal campaign committee and authorized committees become political committees. Absent this provision, an individual's authorized committees would become political committees upon reaching the \$1,000 threshold even though the individual would not become a candidate until reaching the \$5,000 threshold.

Subsection (e) follows current regulation 11 CFR 100.14(a), subsection (f) follows current regulation 11 CFR 100.14(b), and subsection (g) follows current regulation 11 CFR 100.14(c).

§ 100.6 Connected organization.

Subsection (a) follows current regulation 11 CFR 100.15.

Subsections (b) and (c) add to the statutory definition and reflect language found in H.R. Rep. No. 96-422, 96th Cong., 2d Sess. (1979) (hereinafter referred to as House Report 96-422) at page 6, as follows:

Subsection (b) provides that where an entity such as a trade association establishes a political committee, member organizations of the trade association would not in turn be regarded as connected organizations of the political committee.

Subsection (c) makes it clear that an entity which makes contributions to a political committee does not become a connected organization of that committee. Rather, only an entity that pays for the establishment, administration or solicitation costs of the committee will be regarded as a connected organization.

§ 100.7 Contribution.

Subsection (a)(1) follows 2 USC 431(8)(a)(i).

Subsections (a)(1)(i) (A)-(C) clarify the relationship between the terms "loan" and "contribution." Under subsection (A), no loan may exceed the contribution limitations, regardless of whether or not it is repaid.

Subsection (B) provides that a loan is a contribution at the time it is made and for such time and to the extent that it remains unpaid. Thus, any contributions made by an individual must be added to the balance of all unpaid loans and any other contributions made by that individual from that individual to determine whether he or she has exceeded the contribution limitations.

Subsection (C) makes it clear that a loan is a contribution by each endorser or guarantor. Where a written agreement sets forth the amount of an endorser's or guarantor's liability for the loan, then he or she is deemed to have contributed that amount. Similarly, where there is a written agreement, any reduction in the unpaid balance of the loan reduces the amount guaranteed by each endorser or guarantor in accordance with the terms of such agreement. In the event that the written agreement does not state the amount of the loan for which each is liable, then the loan is reduced proportionately among the total number of endorsers or guarantors.

Subsection (D) was added to make it clear that where a political committee makes a loan to any person, the repayment of the loan shall be subject to the provisions set forth at 11 CFR Parts 110 and 114. Similarly, payment of interest on such a loan is not a contribution to the extent that it has not exceeded a commercially reasonable rate prevailing at the time the loan was made.

Subsection (a)(1)(ii) follows current regulation 11 CFR 100.4(a)(1)(i).

Subsections (a)(1)(iii) (A) and (B) essentially follow current regulations 11 CFR 100.4(a)(1)(iii) (A) and (B) (1)-(2), respectively.

Subsection (a)(2) follows current regulation 11 CFR 100.4(a)(2) and makes it clear that the entire amount paid to purchase a ticket to a fundraising or other political event is a contribution. For example, the entire amount paid to attend a fundraising dinner, including the amount paid for the cost of a meal, is a contribution. Subsection (a)(2) also adds to current regulations by specifying that the entire amount paid for a fundraising item is a contribution. This addition follows Commission policy with regard to the purchase of

fundraising items, such as watches, etc. (See AO 75-15).

Subsection (a)(3) follows 2 USC 431(8)(A)(ii).

Subsection (a)(4) follows current regulation 11 CFR 100.4(a)(1)(iii)(B)(6).

§ 100.7(b).

This subsection sets forth numerous activities which are excluded from the definition of contribution.

Subsection (b)(1) essentially follows current regulation 11 CFR 100.4(b)(1). In addition, this subsection makes it clear that funds received or payments made in order to amass campaign funds to be spent after the individual becomes a candidate fall within the definition of contribution. Also, funds received or payments made for general public political advertising fall within the definition of contribution.

Subsection (b)(2) follows current regulation 11 CFR 100.4(b)(8).

Subsection (b)(3) follows 2 USC 431(8)(B)(i).

Subsections (b) (4), (5) and (6) essentially follow 2 USC 431(8)(B)(ii) with the following amplifications.

Subsection (b)(4) incorporates language in House Report 96-422 at page 7, which expands the definition of residential premises to include a recreational room in an apartment complex.

Subsections (b) (4) and (5) add the proviso that such a recreational, church or community room must be available for use without regard to political affiliation.

Subsections (b) (4) and (5) further make it clear that the mere payment of a nominal fee for the use of the room which is not commensurate with its rental value does not constitute a contribution.

Subsection (b)(7) follows 2 USC 431(8)(B)(iii).

Subsection (b)(8) follows 2 USC 431(8)(B)(iv). This subsection reflects a change in the statute by expanding the travel payment exemption to encompass all individuals. House Report 96-422 at page 8 makes it clear that this travel expense exemption applies not only to individuals who volunteer their personal services (as provided under current regulation 11 CFR 100.7(b)(6)), but extends as well to individuals who are being paid by a candidate or party committee.

Subsection (b)(9) essentially follows 2 USC 431(8)(B)(v) regarding the payment by State and local party committees of costs incurred with respect to printed slate cards, sample ballots, etc. Language from House Report 96-422 at page 8 is incorporated by providing that the portion of the costs allocable to

federal candidates must be paid from funds subject to the Act's limitations and prohibitions. If made by a party committee which qualifies as a political committee, such payments must be reported as disbursements but need not be allocated to specific candidates.

Subsection (b)(10) follows 2 USC 431(8)(B)(vi).

Subsection (b)(11) regarding loans made by lending institutions in the ordinary course of business generally follows 2 USC 431(8)(B)(vii). In addition, this subsection incorporates language from House Report 96-422 at page 8 and provides that an overdraft is to be considered a contribution by the lending institution unless it is made on an account subject to automatic overdraft protection and to a definite and customary interest rate and repayment schedule.

Subsection (b)(12) follows 2 USC 431(8)(B)(viii) and provides reporting requirements for donations toward construction costs of office facilities. Such donations are to be reported only if they are made directly to a political committee. However, if the donations are made to a separate entity or committee which is not a political committee under the Act and which is established solely to receive and disburse such donations, no reporting is required.

Subsections (b) (13) and (14) concerning the provision of legal or accounting services follow 2 USC 431(8)(B)(ix) and current regulation 11 CFR 100.4(b) (11) and (12).

Subsection (b)(15) follows and clarifies the provisions of 2 USC 431(8)(B)(x) regarding the exclusion of payments made by State or local party committees for campaign materials, such as pins, bumper stickers and handbills, used in connection with volunteer activities, as follows:

Subsection (b)(15)(i) defines the term "direct mail" (see 2 USC 431(8)(B)(x)(1)) as any mailing made by a commercial vendor or from commercial lists. This definition is intended essentially to follow the definition of "direct mail" as it appears in House Report 96-422 at page 10. Thus, mailings by a commercial vendor or from commercial lists would not be included under this exemption. The term "commercial lists" refers generally to lists that were not developed by the State or local party committee, that is, to lists developed by a commercial vendor or lists purchased or obtained by such committee, except where the lists are obtained from a public office, such as voter registration lists obtained from a Secretary of State. Mailings from lists developed by a State or local committee are permissible.

Examples of lists developed by a committee are lists of contributors to a committee, lists of volunteers who have worked for the committee and lists developed as a result of substantial volunteer activity on behalf of the committee.

Subsection (b)(15)(iii) reflects language in House Report No. 96-422 at page 9 to the effect that a contribution shall not be considered "designated" (see 2 USC 431(8)(B)(x)(3)) where the party committee disbursing the funds makes the final decision regarding its use.

Subsection (b)(15)(iv) incorporates language from House Report No. 96-422 at page 9 and provides that payments by a State or local party committee for travel and subsistence or customary token payments to volunteers do not alter their volunteer status.

Subsection (b)(15)(v) makes it clear that such payments, if made by a committee which qualifies as a political committee under the Act, must be reported by the committee as disbursements but need not be allocated to specific candidates.

Subsection (b)(15)(vi) makes it clear that payments by a State candidate for his or her share of expenses for such campaign materials are not contributions so long as the amount paid does not exceed the State candidate's proportionate share of the expenses.

Subsection (b)(15)(vii) follows House Report 96-422 at page 9 and provides that campaign materials which are purchased by a national party committee for use by a State or local committee do not qualify under this exemption. Similarly, this subsection also provides that materials purchased through the use of funds donated by a national committee for the purchase of such materials do not qualify under this exemption. Rather, the costs of these materials are subject to 2 USC 441a(d) and 11 CFR 110.7 regarding party committee expenditure limitations.

Subsection (b)(16) follows 2 USC 431(8)(B)(xi) and, in addition incorporates the definition of "direct mail" from House Report 96-422, at page 10. For the purposes of this section, the term "direct mail" means mailings by commercial vendors or mailings made from lists not developed by the candidate. A mailing by a candidate from a list of contributors to his or her campaign, a list of individuals who had volunteered to work for his or her campaign or other types of lists developed by the candidate would not be considered direct mail.

Subsection (b)(17) basically follows the provisions of 2 USC 431(8)(B)(xii) concerning the payment by State or

local party committees of costs of voter registration activities.

Subsection (b)(17)(i) defines "direct mail" in the same way it is defined under 11 CFR 100.7(b)(15)(i).

Subsection (b)(17)(iii) incorporates language contained in House Report No. 96-422 at page 9, which states that a contribution shall not be considered "designated" where the party committee disbursing the funds makes the final decision as to its use.

Subsection (b)(17)(iv) incorporates language from House Report No. 96-422 at page 10, which provides that if voter registration activities by State or local party committees on behalf of presidential and vice presidential nominees include references to candidates for the House or Senate as well, the costs attributable to the House or Senate candidates would be considered contributions by the State or local party committees. If, however, the reference to the House or Senate candidates is merely incidental to the overall activity, then such incidental mention would not be considered a contribution to such candidates.

Subsection (b)(17)(v) incorporates language found in House Report No. 96-422 at page 10, concerning phone banks. When phone banks are operated by volunteers in connection with voter registration and get-out-the-vote activities, the payment of costs incurred in the use of such phone banks is not a contribution. Any payment incurred in the use of paid professionals to design the phone bank system, develop calling instructions and train supervisors is not a contribution, but, if made by a political committee must be reported as a disbursement.

Subsection (b)(17)(vii) provides that if payments for voter registration and get-out-the-vote activities are made from funds donated for that purpose to a State or local party committee by a national committee, such payments are not exempt. House Report 96-422 at page 9, makes it clear that campaign materials purchased by a national party committee and given to a State or local committee do not qualify for the exemption at 2 USC 431(8)(B)(x). This subsection extends the same rationale to payments made for voter registration and get-out-the-vote activities where the national committee donates funds to the State or local committee for such activities.

Subsection (b) (18) and (19) follow 2 USC 431(8)(B)(xiii) and (xiv), respectively.

Subsection (b)(20) follows current regulation 11 CFR 100.4(b)(15).

§ 100.7(c).

This section incorporates established Commission policy into the regulations and provides that any contributions or payments made by a married individual shall not be attributed to that individual's spouse unless otherwise specified by that individual or by his or her spouse.

§ 100.8 Expenditure.

Subsection (a) and (a)(1) follow 2 USC 431(9)(A)(i).

Subsections (a)(1) (i) and (ii) follow current regulation 11 CFR 100.7(a)(1)(i)(A)-(C).

Subsection (a)(1)(iii) follows current regulation 11 CFR 100.7(a)(1)(ii).

Subsection (a)(1)(iv)(A) essentially follows current regulation 11 CFR 100.7(a)(1)(iii).

Subsection (a)(1)(iv)(B) follows current regulations 11 CFR 100.7(a)(1)(iii)(A)-(B).

Subsection (a)(2) follows 2 USC 431(9)(A)(ii) and makes the additional clarification that such an agreement is considered an expenditure as of the date the contract, promise or obligation is made.

Subsection (a)(3) follows current regulation 11 CFR 100.7(a)(4).

§ 100.8(b).

This section sets forth numerous activities which are excluded from the definition of expenditure. The regulations under this section essentially follow the statutory language, the current regulations, or the proposed regulations pertaining to exclusions from the definition of "contribution" as discussed above.

Subsection (b)(1) follows proposed regulations at 11 CFR 100.7(b)(1).

Subsection (b)(2) follows 2 USC 431(9)(B)(i) and current regulation 11 CFR 100.7(b)(3).

Subsection (b)(3) follows 2 USC 431(9)(B)(ii) and current regulation 11 CFR 100.7(b)(4).

Subsection (b)(4) follows 2 USC 431(9)(B)(iii).

Subsection (b)(4)(i) follows current regulation 11 CFR 100.7 (b)(5)(i).

Subsection (b)(4)(ii) follows current regulation 11 CFR 100.7 (b)(5)(ii).

Subsection (b)(4)(iii) follows current regulation 11 CFR 100.7 (b)(5)(iii).

Subsections (b)(4)(iii)(A)(1)-(2) follow current regulations 11 CFR 100.7(b)(5)(iii)(A)(1)-(2).

Subsections (b)(4)(iii)(B)(1)-(4) follow current regulations 11 CFR 100.7(b)(5)(iii)(B)(1)-(4).

Subsection (b)(4)(iii)(C) follows current regulations 11 CFR 100.7(b)(5)(iii)(C).

Subsection (b)(4)(iii)(D) follows current regulations 11 CFR 100.7(b)(5)(iii)(D).

Subsections (b)(4)(iv)-(vii) follow current regulations 11 CFR 100.7(b)(5)(iv)-(vii), respectively.

Subsections (b)(5), (6), and (7) essentially follow current regulations 11 CFR 100.7(b)(6) and (7).

Subsection (b)(8) was added to reflect the addition of its parallel provision under "contribution" at 11 CFR 100.7(b)(7).

Subsection (b)(9) follows current regulations 11 CFR 100.7(b)(8) and (10) and incorporates the new \$1,000 and \$2,000 limitations established in its counterpart provision under "contribution" at 11 CFR 100.7(b)(8).

Subsections (b)(10) and (11) essentially follow 2 USC 431(9)(B)(iv) and (v). In addition, subsection (b)(10) incorporates the provisions concerning the portion of costs allocable to Federal candidates found in the parallel provision under "contribution" at 11 CFR 100.7(b)(9).

Subsection (b)(12) basically follows current regulation 11 CFR 100.7(b)(16) and incorporates those additional provisions of its counterpart provision under "contribution" at 11 CFR 100.7(b)(11).

Subsection (b)(13) was added to reflect the addition of its parallel "contribution" provision at 11 CFR 100.7(b)(12).

Subsections (b)(14) and (15) follow 2 USC 431(9)(b)(vii)(I) and (II) and incorporate the language regarding partnerships found in their parallel provisions at 11 CFR 100.7(b)(13) and (14). In addition, subsection (b)(15) makes it clear that expenditures for legal or accounting services by a candidate certified to receive public funds under 11 CFR Parts 143 or 9034 do not count against the candidate's expenditure limitations.

Subsections (b)(16)(i)-(iii) essentially follow 2 USC 431(9)(B)(viii)(1)-(3), respectively, and incorporate the additions made to their parallel provisions under "contribution" at 11 CFR 100.7(b)(15)(i)-(iii). In addition, subsections (b)(16)(iv)-(vi) were inserted to reflect the additions made at 100.7(b)(15)(iv)-(vi).

Subsection (b)(17) was added to reflect the addition of a parallel provision under "contribution" at 11 CFR 100.7(b)(16).

Subsections (b)(18)(i)-(vi) follow 2 USC 431(9)(B)(ix)(1-3) and incorporate those additions made to the parallel provisions under "contribution" at 11 CFR 100.7(b)(17)(i)-(vi).

Subsection (b)(19) follows 2 USC 431(9)(B)(x).

Subsection (b)(20) follows current regulation 11 CFR 100.7(b)(17).

Subsections (b)(21), (21)(i) and (ii) follow current regulations 11 CFR 100.7(b)(13)(i)-(iii).

Subsection (b)(22) follows current regulation 11 CFR 100.7(b)(10).

Subsection (c) was added to reflect the addition of its counterpart provision under "contribution" at 11 CFR 100.7(c).

§§ 100.9-100.18.

These definitions follow 2 USC §§ 431(10)-(19), respectively. Section 100.14(b) additionally incorporates current regulation 11 CFR 100.19(b).

§ 100.19. File, filed or filing.

This definition follows current regulation 11 CFR 100.9.

§ 100.20 Occupation.

This definition follows current regulation 11 CFR 100.11.

§ 100.21 Employer.

This section makes it clear that the term "employer" means the name of the organization by which an individual is employed and not the name of the individual's supervisor.

Part 101 Candidate Status and Designations.

§ 101.1 Candidate designations.

Subsections (a) and (b) generally follow 2 USC 432(e)(1). In addition, subsection (a) incorporates language in House Report 96-422 at page 12 and sets forth registration procedures to be followed by principal campaign committees and the Commission.

§ 101.2 Candidate as agent of authorized committee.

Subsection (a) follows 2 USC 432(e)(2). Under subsection (b), once an individual becomes a candidate, he or she will be deemed to have acted as an agent of his or her authorized committees in receiving funds, obtaining loans or making disbursements in connection with the campaign prior to becoming a candidate.

§ 101.3 Funds received or expended prior to becoming a candidate.

This subsection clarifies the agency principle set forth in subsection 101.2. Funds received or expended by an individual prior to becoming a candidate, which were used in connection with that individual's election campaign, are subject to the limitations and prohibitions of the Act. As these funds and payments must be reported by the individual after candidate status is attained, such individual should keep accurate records

of all such funds received and payments made. All funds received which violate the provisions of the Act must be refunded within 10 days from the date on which the individual attains candidate status.

Part 102—Registration, Organization and Recordkeeping by Political Committees.

§ 102.1 Registration of political committees.

Subsections (a)-(d) generally follow 2 U.S.C. 433(a) and 432(f) (1) and (2). In addition, subsection (c) makes it clear that a fund established solely for the purpose of financing State or local elections is not required to file a Statement of Organization with the Commission.

§ 102.2 Statement of organization: Forms and committee identification numbers.

Subsections (a)(1)(i)-(vi) generally follow 2 U.S.C. 433(b)(1)-(6), respectively. To insure that communications from the Commission reach the appropriate person, subsection (a)(1)(v) adds the requirement that the authorized committee also include the address to which communications should be sent.

Subsection (a)(2) generally follows 2 U.S.C. 433(c) and current regulation 11 CFR 102.3.

Subsections (b)(1)(i) and (b)(1)(ii)(A)-(B) generally follow current regulations 11 CFR 102.2(b)(1)(i) and (b)(1)(ii)(A)-(B), respectively.

Subsection (b)(1)(ii)(C) incorporates the committee identification number procedure set forth in current regulation 11 CFR 102.5.

Subsection (b)(2) follows current regulation 11 CFR 102.2(b)(2).

§ 102.3 Termination of registration.

Subsections (a) and (b) essentially follow current regulation 11 CFR 102.4 (a) and (b), respectively.

§ 102.4 Administrative termination.

This subsection sets forth procedures to implement 2 U.S.C. 433(d)(2) which provides the Commission with authority to terminate a committee's reporting obligations. See also House Report 96-422 at page 15.

§ 102.5 Organizations financing political activity in connection with Federal and non-federal elections, other than through transfers and joint fundraisers.

Subsection (a) basically tracks current regulations at 11 CFR 102.6. It sets forth requirements for organizations which finance political activity in connection with both federal and non-federal

elections where those organizations qualify as political committees under the Act. Such organizations must either (1) establish a separate account for federal activity that accepts only funds subject to the limitations and prohibitions of the Act; or (2) establish one committee to conduct both federal and non-federal activity, which committee may accept only funds subject to the limitations and prohibitions of the Act.

Subsection (b) deals with organizations which finance both federal and non-federal election activity, but which do not qualify as political committees under the Act. Such organizations must demonstrate through a reasonable accounting method that their federal activity is financed with funds subject to the limitations and prohibitions of the Act. Upon request, the committee must supply the Commission with records which will demonstrate compliance with subsection (b).

§ 102.6 Transfers and joint fundraisers.

Subsection (a) provides that transfers of funds may be made without limit between affiliated committees, whether or not they are political committees. For example, a committee established by a labor organization for State and local election activity may transfer funds to any political committee established by the labor organization or by any local unit of that labor organization. Similarly, a committee established by a corporation for State and local election activity may transfer funds to any political committee established by the corporation or by any of its subsidiaries, branches, divisions or departments. These transfers apply toward the thresholds for determining whether the committee becomes a political committee under the Act. Hence, if a committee established by a corporation or labor organization for State or local activity transferred any amount (other than transfers under 11 CFR 102.6(b)) to an affiliated political committee such committee would become a political committee under the Act.

With regard to party committees, subsection (a) provides that transfers of funds may be made without limit between any party committees, regardless of whether or not they are political committees or of whether or not they are affiliated. These transfers would apply toward the threshold in determining whether such committees become political committees under the Act.

Subsection (b) deals with the transfer of contributions collected by a committee which is not a political committee under the Act in joint

fundraising with or as a fundraising agent for an affiliated political committee. In transferring such contributions, a committee which is not a political committee under the Act may either: (1) establish a transmittal account for transferring contributions; (2) transmit the contributions by money order, cashier's check or similar instrument without depositing them in any account; or (3) for collections through joint fundraising or a check-off plan, deposit such contributions in its account and subsequently transfer them to the political committee with which it is affiliated. A committee which deposits contributions into its account prior to making a transfer must keep detailed records of the contributions, deposits and transfers.

Past Commission policy has been to require such committees to establish a transmittal account when engaging in joint fundraising with or when acting as a fundraising agent for a political committee. An exception was created for contributions collected through check-off plans. (See AO 78-42 and 78-98.) The proposed regulations effect a change in Commission policy by permitting contributions collected in joint fundraising to be deposited into a committee's account prior to their transfer to a political committee. This change is based on the legislative history of Public Law 96-187. During debate on H.R. 5010, both Senator Pell and Representative Thompson stated that under the new amendments a committee which is established for non-federal election activity need not establish a separate account when transferring contributions collected in joint fundraising with an affiliated political committee. (125 Cong. Rec. S19,099 (daily ed. December 18, 1979) (remarks of Senator Pell); 125 Cong. Rec. H12,365 (daily ed. December 20, 1979) (remarks of Representative Thompson)).

§ 102.7 Organization of political committee.

Subsection (a) follows the amendment made by 2 U.S.C. 432(a), in that a committee is only required to have a treasurer, and in addition permits the designation of an assistant treasurer as set forth in current regulation 11 CFR 102.7(b)(2).

Subsections (b) and (c) follow 2 U.S.C. 432(a) and current regulation 11 CFR 102.7(d).

Subsection (d) incorporates the provisions of 2 U.S.C. 432(e)(2) and proposed regulation 11 CFR 101.2(a) so as to make it clear that a candidate who receives contributions or makes disbursements in connection with his or her campaign shall be deemed to do so

as an agent of his or her authorized committee(s).

§ 102.8 Receipt of contributions.

Subsections (a) and (b)(1)-(2) basically follow 2 U.S.C. 432(b)(1) and (2)(A)-(B), respectively, and further impose the duty on every person receiving contributions in excess of \$200 to forward the identification of the contributor to the treasurer together with the contribution. Absent such a duty, the treasurer would be unable to keep an account of the identification of such contributors as required by 2 U.S.C. 432(c)(3) in situations where someone other than the treasurer received the contribution.

Similarly, subsection (c) was added to clarify the situation where an intermediary or conduit receives earmarked contributions. Under this subsection, all duties imposed upon those receiving contributions apply to intermediaries and conduits as well. In addition, this subsection makes it clear that the date of receipt of a contribution is the date on which the treasurer or any other person acting on behalf of a committee obtains possession of such contribution.

§ 102.9 Accounting for contributions and expenditures.

Subsections (a) and (b) basically follow 2 U.S.C. 432(c). Subsection (b)(1)(iv) clarifies the meaning of the term "purpose" of the disbursement as used in 2 U.S.C. 432(c)(5) to require a brief description of why the disbursement was made and cites to 11 CFR 104.3(b)(3)(i)(A) for examples of descriptions which would or would not satisfy this requirement.

Subsection (b)(2) essentially follows those provisions of 2 U.S.C. 432(c)(5) concerning documentation for disbursements in excess of \$200. This subsection also sets forth documentation requirements for disbursements made by cash advance, share draft or check drawn on a credit union account, and for credit card transactions, to provide adequate notice to those committees using such methods of disbursements.

Subsection (c) essentially follows 2 U.S.C. 432(d).

Subsection (d) incorporates language from House Report 96-422, p. 14, and details more specific procedures to be followed by the treasurer in satisfying the "best efforts" test set forth in 2 USC 432(i). Unless the treasurer has made at least one written effort per transaction to obtain a duplicate copy of the receipt, invoice or cancelled check, he or she will not be deemed to have exercised his or her best efforts to comply with the

Act's recordkeeping requirements. Recordkeeping requirements for receipts, invoices and cancelled checks are extremely important. Without such documentation, it would be impossible to verify how contributions received by a committee are spent.

Subsection (e) follows current regulation 11 CFR 101.2(d). It should be noted that the procedure set forth in subsection (e) is necessary only where contributions from one contributor exceed \$1,000.

§ 102.10 Disbursement by check.

This section generally follows 2 USC 432(h)(1).

§ 102.11 Petty cash fund.

This section essentially follows 2 USC 432(h)(2).

§ 102.12 Designation of principal campaign committee.

Subsection (a) essentially follows 2 USC 432(e)(1).

Subsection (b) follows current regulation 11 CFR 102.11(b).

Subsection (c)(1) follows 2 USC 432(e)(3)(A)(i).

Subsection (c)(2) follows 2 USC 432(e)(3)(B).

§ 102.13 Authorization of political committees.

Subsections (a) and (b) generally follow current regulations 11 CFR 102.12 (a) and (b).

Subsections (c) (1) and (2) essentially follow 2 USC 432(e)(3)(A)(ii) and (e)(3)(B), respectively. In addition, subsection (c)(2) incorporates the language in House Report 96-422 at page 13 as set forth above regarding a national political party committee which has been designated the principal campaign committee of its Presidential candidate.

§ 102.14 Name of political committees.

Subsection (a) follows 2 USC 432(e)(4).

Subsection (b) (1) and (2) clarify requirements for naming delegate and draft committees. A delegate committee must include the word "delegate(s)" in its name and may also include the name of the presidential candidate it supports. Similarly, a committee established solely to draft a candidate may include the individual's name, provided that the committee's name also clearly indicates that it is a draft committee.

Subsection (c) follows 2 USC 432(e)(5) regarding names of separate segregated funds but also incorporates language from the House Report 96-422 at page 13. A fund may use a clearly recognized abbreviation or acronym by which its

connected organization is commonly known, so long as both its full name and such abbreviation or acronym are included on all required disclosure statements and on all advertisement and solicitation notices. The fund may make contributions in its acronym or abbreviation. While a newly formed labor organization or corporation may not have an acronym or abbreviation with which the public is familiar, the fund of such an organization may use an acronym or abbreviation by which the organization intends to be known. If a corporation with a number of subsidiaries establishes a fund, the fund will not have to include the name of each subsidiary in its name. By the same token, a fund established by a subsidiary is not required to include in its name the name of its parent or another subsidiary of its parent.

§ 102.15 Commingled funds.

This section follows 2 USC 432(b)(3).

§ 102.16 Notice: Solicitation of contribution.

This section was inserted to make it clear that political committees must comply with the notice requirements set forth at 2 USC 441d.

Part 103—Campaign Depositories

§ 103.1 Notification of the Commission.

This section follows current regulations at 11 CFR 103.1.

§ 103.2 Depositories.

This section follows those provisions of 2 USC 432(b)(1) and 432(h)(1) which expanded the permissible types of campaign depositories. In addition, it incorporates the provisions of current regulation 11 CFR 103.2 which permits the establishment of one or more depositories in one or more States and one or more accounts per depository.

§ 103.3 Deposit of receipts and disbursements.

This section follows 2 USC 432(h) (1) and (2) and current regulation 11 CFR 103.3.

§ 103.4 Vice Presidential candidate campaign depository.

This section follows current regulation 11 CFR 103.4.

Part 104—Reports by Political Committees

§ 104.1 Scope.

This section generally follows 2 USC 434(a)(1) and in addition permits voluntary registration and reporting by an individual seeking federal office who has not yet attained candidate status

under the Act. Subsection (b) makes it clear that such an individual does not become a candidate solely by registering and reporting and the individual's committee need not file any reports until the individual becomes a candidate.

§ 104.2 Forms.

This section was added to standardize and clarify reporting formats. Subsection (e) specifies the appropriate FEC forms to be used by various types of reporting committees. Under subsection (d), a committee is permitted to use computer-produced schedules of receipts and disbursements for reporting purposes. However, the schedules must be reduced to the size of FEC forms and the Commission must have approved the proposed format prior to its use.

§ 104.3 Contents of reports.

This section generally follows 2 USC 434. The cash-on-hand requirement of subsection (a)(1) provides a starting point for each report. It requires the reporting of all cash-on-hand, in whatever form, as of the beginning of the reporting period. The section also requires the reporting of the total amount of receipts received during the reporting period.

Subsection (a)(2)(ii) specifies that contributions from all political party committees, including party committees which are not registered committees under the Act, must be reported. The Commission believes that it is important for public disclosure purposes that contributions from unregistered party committees be reported along with contributions from registered political party committees, rather than being reported as "contributions from persons other than political committees." For the same reason, subsection (a)(2)(iii) specified that contributions from committees which are not political committees under the Act must be reported along with contributions from political committees which are registered under the Act.

Under subsection (a)(4)(i), the threshold for itemizing contributions from persons other than committees has been increased from an aggregate amount in excess of \$100 to an aggregate amount in excess of \$200. Also, under subsection (a)(4)(v) and (a)(4)(vi) the threshold for identifying persons who provide a rebate, refund, or other offset to operating expenditures to the reporting committee, or who provide any dividend, interest, or other receipt, has been raised to \$200.

The reporting requirements for disbursements are similar to the reporting requirements for receipts. The threshold for the identification of

persons to whom disbursements are made has been increased to \$200 per disbursement.

Subsection (b)(3)(i)(A) explains the requirement for reporting the "purpose" of an expenditure, and sets forth examples of those statements and descriptions which will meet the requirements, as well as examples of those statements and descriptions which are unacceptable. The latter are illustrative of those descriptions which, in the Commission's view, would not provide sufficient public disclosure of how a committee used its funds.

Subsection (b)(3)(viii) adds the requirement that each person who receives an expenditure from the reporting committee in connection with an expenditure under 2 USC 441a(d) be identified by name and office sought, including the state and congressional district where applicable.

Subsection (c) provides for a summary of contributions and operating expenditures.

Subsection (d) requires disclosure of the amount and nature of outstanding debts and obligations owed by or to the reporting committee. Included are loans obtained by an individual prior to becoming a candidate which are used in connection with the individual's campaign.

Pursuant to 2 USC 438(a)(4), subsection (e) was added to permit a political committee to submit ten (10) pseudonyms on each report filed in order to determine if the names and addresses of its contributors are being used to solicit contributions or for commercial purposes in violation of 11 CFR 104.5. The subsection also includes the proper method of reporting amounts attributed to pseudonyms. A list of such pseudonyms must be submitted to the Commission. In addition, a limitation is placed on the amount of contributions which may be attributed to a pseudonym. This provision is designed to prevent the possibility of pseudonyms becoming the subject of Commission compliance actions.

Subsection (f) explains the method by which a principal campaign committee files consolidated reports based on reports submitted to it by any authorized committees and the principal campaign committee's own report.

Subsection (g) requires the reporting on a separate schedule of any contributions received by a political committee to defray the costs of construction or the purchase of office facilities.

Subsection (h) requires that a committee which receives legal or accounting services report on a separate schedule the amounts paid for these

services by the regular employer of the persons providing such services, the date the services were performed and the name of the person performing such services.

§ 104.4 *Independent expenditures by political committees.*

The reporting requirements for political committees making independent expenditures is now wholly contained in this subsection, which includes instructions on where to file such reports, as well as requirements for reporting certain independent expenditures within 24 hours after they are made.

§ 104.5 *Filing dates.*

Subsection (a) generally follows 2 USC 434(a)(2) and (a)(8).

Subsection (b) generally follows 2 USC 434(a)(3).

Subsection (c) essentially follows 2 USC 434(a)(4) and clarifies the procedures to be followed by political committees who wish to change the frequency of their reporting and limits each committee to no more than one change in its filing status per calendar year.

Subsection (d) follows 2 USC 434(a)(10).

Subsection (e) generally follows 2 USC 434(a)(5) with the added clarification that when reports are sent by first class mail, they must be received by the required filing date.

Subsection (f) follows 2 USC 434(a)(6).

Subsection (g) generally follows the 24 hour reporting requirement for certain independent expenditures set forth in the last paragraph of 2 USC 434(c)(2).

Subsection (h) was added to incorporate 2 USC 434(a)(9).

§ 104.6 *Form and content of internal communication reports.*

Subsection (a) generally follows 2 USC 431(9)(B)(iii).

Subsection (b) generally follows 2 USC 434(a)(4)(A)(i)-(ii).

Subsection (c) incorporates well-established Commission practice regarding the specific information to be included in such reports.

§ 104.7 *Best efforts.*

This subsection incorporates language found in House Report 96-422 at page 14, which gives examples of procedures that may be followed by a treasurer in satisfying the "best efforts" test set forth at 2 USC 432(i). In determining whether or not a committee has exercised "best efforts," the Commission's primary focus will be on the system established by the committee for obtaining disclosure information. The main concern will be

whether the committee has in place a systematized method for complying with the Act's disclosure requirements. Under proposed regulation 11 CFR 104.3(a)(4), the treasurer of a political committee must report the identification of each person whose contributions to such committee and its affiliates aggregate in excess of \$200 per calendar year. The treasurer must make at least one effort, by clear written request or clear oral request contemporaneously documented in writing, to obtain identification information from the contributor. The request must also inform the contributor that the reporting of such information is required by law. The treasurer is provided with the option of making the request orally or in writing. Thus, he or she is given some latitude in deciding which type of request would be more effective in eliciting required information from the contributor. The requirement that the treasurer keep a written record of an oral request will assist in verifying that such a request was indeed made.

§ 104.8 *Uniform reporting of contributions.*

Subsections (a) and (b) were amended to conform to 2 USC 434(b)(3)(A). Subsection (a) also incorporates the provision of current regulation 11 CFR 104.5(a) regarding a change in the contributor's name. Subsection (b) adds to the statutory language by specifying procedures for the reporting of contributions received through a payroll deduction plan.

Subsections (c) and (d) follow current regulations 11 CFR 104.5(c) and (e), respectively.

§ 104.9 *Uniform reporting of expenditures.*

This section was amended to comply with 2 USC 434(b)(5)(A). In addition, the term "purpose" is defined as a brief statement or description of the reason for the disbursement. (See proposed regulation 11 CFR 104.3(b)(3).)

§ 104.10 *Allocation of expenditures among candidates.*

This section follows current regulation 11 CFR 104.7.

§ 104.11 *Continuous reporting of debts and obligations.*

This section follows current regulation 11 CFR 104.8, with the addition of the reporting requirements for those debts which were settled for less than their reported value, the authority for which is found at 2 USC 434(b)(8).

§ 104.12 *Beginning cash on hand for political committees.*

This section essentially follows current regulation 11 CFR 104.10.

§ 104.13 *Disclosure of receipt and consumption of in-kind contributions.*

This section generally follows current regulation 11 CFR 104.3.

§ 104.14 *Formal requirements regarding reports and statements.*

This section generally follows current regulation 11 CFR 104.12.

§ 104.15 *Sale or use restriction.*

This section essentially follows current regulation 11 CFR 104.13. It specifically states that the use of information copied from the FEC reports in newspapers, magazines, and similar communications is permissible so long as the principal purpose is not to communicate contributor information for any commercial purpose.

§ 104.16 *Audits.*

This section has been added to follow 2 USC 438(b).

§ 104.17 *Content of reports; Presidential and Vice Presidential committees.*

This section incorporates the effective dates provided in the footnote to 2 USC 431 and affords authorized committees of Presidential and Vice Presidential candidates for the 1980 elections the option of following the requirements set forth in proposed regulations 11 CFR 104.3 (a) and (b) or adhering to existing reporting procedures.

Part 105—Document Filing

§ 105.1 *Place of filing; House candidates, their principal campaign committees, and committees supporting only house candidates.*

This section follows current regulations at 11 CFR 105.1 and 105.4(a)(1).

§ 105.2 *Place of filing; Senate candidates, their principal campaign committees, and committees supporting only Senate candidates.*

This section follows current regulation at 11 CFR 105.2 and 105.4(a)(2).

§ 105.3 *Place of filing; Presidential candidates and their principal campaign committees.*

This section follows current regulation 11 CFR 105.3.

§ 105.4 *Place of filing; political committees and other persons.*

This section follows current regulation 11 CFR 105.4(b).

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

The two (2) day requirement for transmittal of records in subsection (a) follows 2 USC 432(g)(3) and subsections (b) and (c) follow current regulation 11 CFR 105.5 (a) and (b), respectively.

Part 106—Allocations of Candidate and Committee Activities

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

This section follows current regulation 11 CFR 106.1 with the exception of the addition of subsection (c)(3). The addition of this subsection was necessary to make it clear that while payments made for get-out-the vote activities conducted by state and local party organizations on behalf of any Presidential or Vice Presidential candidates are exempt from the definition of expenditure (see 11 CFR 100.8(b)(18)), references to Congressional candidates, unless such references are incidental, are contributions to or expenditures on behalf of such candidates and a proportionate share of the costs will be allocated to such candidates.

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

This section essentially follows current regulation 11 CFR 106.2.

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

This section essentially follows current regulation 11 CFR 106.3.

§ 106.4 *Allocation of polling expenses.*

This section follows current regulation 11 CFR 106.4.

Part 108—Filing Copies of Reports and Statements With State Officers

§ 108.1 *Filing requirements.*

This section follows 2 USC 439(a)(1).

§ 108.2 *Filing copies of reports and statements in connection with the campaign of any candidate seeking nomination for election to the office of President or Vice President.*

This section follows current regulations 11 CFR 108.2 as amended by 2 USC 439(a) (1) and (2)(A) in that the requirement for committees of Presidential candidates to file reports pertaining to the general election with any Secretary of State has been

eliminated. See House Report 96-422 at page 25.

§ 108.3 *Filing copies of reports and statements in connection with the campaign of any congressional candidates.*

This section follows current regulation 11 CFR 108.3 and adds the amendment set forth at 2 USC 439(a)(2)(B) that political committees are only required to file and Secretaries of State are only required to keep that portion of each report applicable to candidates seeking election in that State.

§ 108.4 *Filing copies of reports by committees other than principal campaign committees.*

This section generally follows current regulation 11 CFR 108.4.

§ 108.5 *Time and manner of filing copies.*

This section generally follows current regulation 11 CFR 108.5.

§ 108.6 *Duties of state officers.*

This section has been amended to incorporate the changes made by 2 USC 439(b), which were intended to alleviate the burden on Secretaries of State. See House Report 96-422 at page 25.

§ 108.7 *Effect on state law.*

This section follows current regulation 11 CFR 108.7.

§ 108.8 *Exemption for the District of Columbia.*

This section follows current regulation 11 CFR 108.8.

Part 109—Independent Expenditures

§ 109.1 *Definitions.*

This section follows current regulation 11 CFR 109.1.

§ 109.2 *Reporting of independent expenditures by persons other than a political committee.*

This section has been amended to incorporate the changes set forth at 2 USC 434(c) (1) and (2) regarding reporting requirements for persons, other than a political committee, who make independent expenditures.

§ 109.3 *Non-authorization notice.*

This section generally refers to 11 CFR 110.11, which has been amended by 2 USC 441d. Such notice need not appear on the front face or page of the document. See 125 Cong. Rec. H12,366 (daily ed. December 20, 1979) (remarks of Congressman Thompson).

Part 110—Contribution and Expenditure Limitations and Prohibitions

§§ 110.1 through 110.5

These sections follow current regulations 11 CFR 110.1 through 110.5.

§ 110.6 Earmarked contributions.

This section follows current regulation 11 CFR 110.6, except that the contribution threshold for the reporting of the contributor's occupation and employer is raised to \$200.

§ 110.7 Party committee expenditure limitations.

This section follows current regulation 11 CFR 110.7, except that the provisions regarding limitations and allocations of expenditures by State and local party committees (110.7(b)(5) and 110.7(c)(2)(i)-(iii)) are deleted.

§§ 110.8 through 110.10

These sections follow current regulations 11 CFR 110.8 through 110.10.

§ 110.11 Communications; advertising.

This section essentially follows 2 USC 441d (a) and (b) and incorporates the exemption found in current regulation 11 CFR 109.4(a)(1) for small items upon which the disclaimer cannot be conveniently printed. The Act no longer requires that the notice be on the front page or face of any materials. See 125 Cong. Rec. H12,366 (daily ed. December 20, 1979) (remarks of Congressman Thompson).

§ 110.12 Honoraria.

This section was amended to reflect the 1977 Amendments to the Act (Pub. L. No. 95-216).

Subsection (a) was amended to include the guidelines set forth in the 1977 Amendments for determining the aggregate amount of honoraria accepted in a calendar year (2 USC 441i (c) and (d)).

Subsection (b)(5) has been amended to reflect the changes made in the definition of "accepted" by 2 USC 441i(b).

Subsection (b)(6) has been added to include the definition of "charitable organization" found in 2 USC 441i(b).

Part 111—Compliance Procedure

§ 111.1 Scope.

The compliance regulations provide procedures for processing possible violations of the Federal Election Campaign Act of 1971, as amended (2 USC 431, *et seq.*), the Presidential Primary Matching Payment Account Act, as amended (26 USC 9031, *et seq.*) and the Presidential General Election Campaign Fund Act, as amended (26

USC 9001, *et seq.*) (chapters 95 and 96 of the Internal Revenue Code of 1954). The procedures set forth below essentially follow 2 USC 437g and explain the steps by which the Commission exercises its power to investigate, conciliate and redress cases involving violations of those statutory provisions.

§ 111.2 Computation of time.

This section sets forth the rules for computing time to be followed in calculating the date when responses, notifications, *etc.* must be served under this Part. In accordance with House Report 96-422 at page 21, the provision of the Federal Rules of Civil Procedure which governs the calculation of time has been incorporated into this section.

§ 111.3 Initiation of compliance matters.

This section sets forth the two means by which the Commission may begin an enforcement proceeding.

§ 111.4 Complaints.

The manner for filing of complaints by members of the public alleging violations of the statutes within the Commission's jurisdiction is set forth in this section. Subsection (b) sets forth the statutory requirements with which a complaint must comply in order for the Commission to act upon it. A complaint is improper if it does not comply with this subsection, and shall not be acted upon by the Commission. Subsection (d) sets forth additional requirements which should be complied with in order to provide the Commission with sufficient information to address a complaint fully. The Commission may find that a complaint which does not comply with subsection (d) provides insufficient information, and for that reason, may vote to take no action on a complaint.

§ 111.5 Initial complaint processing.

This section sets forth the requirement that a respondent be notified within 5 days of receipt of a complaint. Subsection (b) provides that, in the case of a complaint which does not conform with the requirements of section 111.4(a), the Commission shall notify both the complainant and respondent within 5 days that no action will be taken on the basis of the improper complaint.

§ 111.6 Opportunity to demonstrate that no action should be taken on complaint-generated matters.

For any compliance matter initiated by the filing of a complaint, a respondent shall be given 15 days to respond in writing to the complaint

before the Commission takes any action other than dismissal of the complaint.

§ 111.7 General Counsel's recommendation on complaint-generated matters.

This section describes the first recommendations which the General Counsel may make to the Commission on a compliance matter initiated by the filing of a complaint.

§ 111.8 Internally generated matters; referrals.

This section sets forth the procedure for handling compliance matters initiated on the basis of information ascertained by the Commission in the normal course of its supervisory responsibilities. Referrals from other government agencies are also handled in this manner. The Commission may find reason to believe on such matters without waiting 15 days. If the Commission finds reason to believe, a copy of a staff report setting forth the factual and legal basis of the finding shall accompany the notification to the respondent as set forth in House Report 96-422 at page 22.

Subsection (c) sets forth the additional requirement of publishing the names of persons failing to file pre-election and quarterly disclosure reports due immediately prior to an election. Such names must be published before the Commission may find reason to believe the Act was violated.

§ 111.9 The reason to believe finding; notification.

If the Commission by 4 affirmative votes finds reason to believe in any compliance matter, the notification of such finding shall be signed by the Chairman and shall describe the alleged violation. Notification of any action which terminates the Commission's proceedings shall be made by the General Counsel.

§ 111.10 Investigation.

This section sets forth a general outline of the procedure for Commission investigations which occur after a finding of reason to believe. Review of reports and statements filed with the Commission may constitute an investigation.

§ 111.11 Written questions under oath.

This section sets forth the Commission's power to issue orders.

§ 111.12 Subpoenas and subpoenas duces tecum; depositions.

This section sets forth the Commission's power to issue subpoenas. Subsection (c) provides that

Rule 30(e) of the Federal Rules of Civil Procedure governs the review and signing of depositions. Thus, if a deponent does not expressly waive signature, he or she must sign a deposition within 30 days.

§ 111.13 Service of subpoenas, orders and notifications.

This section describes the proper manner of service of all Commission subpoenas, orders and notifications (including letters). In accordance with House Report 96-422 at page 21, this section tracks the Federal Rules of Civil Procedure for service. Subsection (b) provides that all service shall be made upon the attorney in any case in which a respondent has advised the Commission in writing of representation in accordance with 11 CFR 111.23. Subsection (c) describes proper service on individuals (natural persons) and subsection (d) describes proper service on other persons, such as organizations or corporations.

§ 111.14 Witness fees and mileage.

This section sets forth the requirements for witness fees for depositions. Witness fees must be tendered in advance or within a reasonable time after a deposition.

§ 111.15 Motions to quash or modify a subpoena.

This section provides persons subpoenaed an opportunity to request that the Commission quash or modify a subpoena. Such a motion must be filed within 5 days of receipt of the subpoena.

Subsection (c) provides that the General Counsel and a person subpoenaed may agree to change the place, date or time for a deposition or for production of documents without affecting the validity of the subpoena. Such agreements must be confirmed in writing by one of the parties.

§ 111.16 The probable cause to believe recommendation; briefing procedures.

This section describes the briefing procedures prior to a finding by the Commission of probable cause. If the General Counsel intends to recommend that the Commission vote on whether or not there is probable cause, he or she shall so advise the respondent and shall provide the respondent with a brief setting forth the factual and legal issues of the case. The respondent may submit a brief in response within 15 days of receipt of the General Counsel's brief.

Subsection (d) provides that after review of the respondent's brief, the General Counsel shall notify the Commission in writing if he or she intends to proceed with

recommendation in the General Counsel's brief. Upon receipt of this notification from the General Counsel, the Commission shall consider both briefs (if respondent files one) before it proceeds to a vote.

§ 111.17 The probable cause to believe finding; notification.

The General Counsel shall notify the respondent of a Commission finding of probable cause. If the Commission finds no probable cause or otherwise terminates its proceedings, the General Counsel shall so notify both the complainant and the respondent.

§ 111.18 Conciliation.

This section sets forth the conciliation procedures.

Subsection (d) makes clear that the Commission is not precluded from conciliating, upon request of a respondent, prior to entering into that mandatory conciliation period. For example, if, in the course of an investigation, and prior to any recommendation on probable cause, a respondent indicates in writing a desire to enter conciliation the Commission may enter into conciliation negotiations. Any such conciliation agreement reached without a finding of probable cause shall carry the same force and effect as an agreement reached after a finding of probable cause.

§ 111.19 Civil proceedings.

This section sets forth the procedure for authorizing the General Counsel to seek judicial relief in the event conciliation has failed. Subsection (c) makes it clear that the Commission may enter into a conciliation agreement even after it has authorized the filing of a civil action if a respondent seeks to conciliate instead of awaiting civil suit by the Commission.

§ 111.20 Public disclosure of Commission action.

This section provides that final Commission action on all compliance matters shall be made public no later than 30 days from notification of the respondent and the complainant of such final action. In addition, the Commission shall make public as soon as possible any signed conciliation agreement.

§ 111.21 Confidentiality.

This section sets forth the confidentiality requirements of the Act. Subsection (a) describes the confidentiality provision which governs the Commission's entire compliance proceeding until such time as a case is closed and the provisions of 11 CFR 111.20 apply. Subsection (b) describes

the additional confidentiality requirement which is applicable only to conciliation efforts, and information derived therefrom, which are not finalized.

§ 111.22 Ex parte communications.

This section sets forth the prohibition on *ex parte* communications between Commissioners (and their staffs) and persons outside the Commission on any compliance matter. The section tracks current regulations except that subsection (c) makes it clear that this section does not prohibit staff of the Office of General Counsel from contacting any persons in the course of representing the Commission and conducting its investigation.

§ 111.23 Representation by counsel; Notification.

This section provides that any respondent or witness before the Commission who wishes to be represented by counsel must so notify the Commission in writing. Upon receipt of such a letter, all future communications from the Commission shall be made to the designated representative.

Part 112—Advisory Opinions

§ 112.1 Requests for advisory opinions.

Subsection (a) broadens, to any person, the class of those who have standing to request an advisory opinion, as provided in 2 USC 437f(a)(1).

Subsections (b) and (c) have been amended to follow the language of 2 USC 437f(a)(1) which requires a request to relate to a specific transaction or activity which the person requesting the opinion intends to undertake. Subsection (b) also includes language from House Report 96-422 at page 20, which precludes opinions based on requests which pose a hypothetical situation or which concern the activities of third parties.

Subsection (d) reflects the Commission's current practice of reviewing requests for sufficiency.

Subsections (e) and (f) generally incorporate current regulations 11 CFR 112.1 (d) and (e).

§ 112.2 Public availability of requests.

This section follows the requirements of 2 USC 437f(d).

§ 112.3 Written comments on requests.

This section follows 2 USC 437f(d) and elaborates on the computation of the 10 day period for submitting written comments. It also indicates that the written comment period may be extended, but without affecting the time periods in 11 CFR 112.4.

§ 112.4 Issuance of advisory opinions.

Subsections (a), (b) and (c) incorporate the specific time requirements provided in 2 USC 437f(a) (1) and (2) within which an opinion must be issued by the Commission and include in the definition of response the provision in House Report 96-422 at page 20 that a 3-3 vote by the Commission on a proposed opinion will satisfy the response time requirement.

Subsections (d), (e), (f) and (g) follow the language of 2 USC 437f(b).

§ 112.5 Reliance on advisory opinions.

This section incorporates the provisions of 2 USC 437f(c).

§ 112.6 Reconsideration of advisory opinions.

This section allows for reconsideration of an advisory opinion at the initiative of either the person to whom the opinion is issued or a Commissioner who voted with the majority in the original issuance of the opinion. It also sets forth procedures for reconsideration, and permits the original requestor, in cases where reconsideration is at the initiative of a Commissioner, to rely on the original opinion without being subject to sanction, until the requestor receives notice of the Commission's decision to reconsider its opinion.

Part 113—Excess Campaign Funds and Contributions to Support Federal Officeholder Activities

§ 113.2 Use of funds.

This section has been amended to follow the changes made in 2 USC 439a. In particular, this section includes the new prohibition against using excess campaign funds for any personal use, other congressional officeholders on January 8, 1980. In addition, the prohibition on personal use does not apply to former members of Congress who were retired or no longer officeholders as of January 8, 1980. Those individuals are instead governed by the restrictions in effect at the time they were Members of Congress.

§ 113.3 Deposits of funds donated to a Federal or state officeholder.

This section was expanded to permit funds donated to be deposited in a separate account established for that purpose.

§ 113.4 Contribution and expenditure limitations.

This section was formerly 11 CFR 113.5. Since the 1979 Amendments drop the reporting requirement for office

accounts, former regulation 11 CFR 113.4 has been deleted.

Part 9008—Federal Financing of Presidential Nominating Conventions

§ 9008.3 Entitlement to payments from the fund.

Subsection (a) has been amended to reflect the increase in federal financing of presidential nominating conventions from \$2 million to \$3 million as set forth in 26 USC 9008(b).

Index to Regulations, Parts 100-115

The following subject index to FEC regulations, 11 CFR Parts 100-115, was prepared by the Information Services Division of the Federal Election Commission. The Index covers both the regulations published in this notice, implementing Pub. L. 96-187, and current regulations in Parts 100-115 that were not modified by the regulations being published today.

Advertising/Solicitation

Comparable rate charged, § 110.11(b)
Notice required, § 102.16; § 110.11(a)

Advisory Opinions

Issuance of, § 112.4
Reconsideration of, § 112.6
Reliance on, § 112.5
Requests for, § 112.1
—made public, § 112.2
—written comments on, § 112.3
Standing to receive, § 112.1(a)

Affiliated Committee

Definition, § 100.5(g); § 110.3
Contribution limitations, § 110.3
Disclosure of, § 102.2(b)
Transfers between, § 102.6(a)

Audits

By Commission, § 104.16
Preservation of reports for, § 104.14(b)(3)

Authorized Committee

As affiliated committee, § 100.5(g)
Contributions received by, § 102.8(a)
Definition, § 100.5(d); § 100.5(f)(1)
Designation of, by candidate, § 101.1(b); § 102.13 (a) and (c)
Registration of, § 102.1(b)
Reports by, § 104.3(f)
Restrictions on name of, § 102.14(a)

Campaign Depository

Deposit of receipts in, § 103.3(a)
Designation of, by political committee, § 103.1; § 103.2
Disbursements from, § 102.10; § 103.3(a)
For committees financing both federal and non-federal elections, § 102.5
For joint fundraising, § 102.6(b)
For Vice Presidential candidate campaign, § 103.4

Communications

Newstory exempted from contribution/expenditure, § 100.7(b)(2); § 100.8(b)(2)
Nonpartisan communications by corporations, labor organizations or other

membership organizations, § 114.1(a)(2)(ii); § 114.4
Notice required, § 110.11(a)
Partisan communications by corporations, labor organizations or other membership organizations, § 100.8(b)(4); § 114.1(a)(2)(i); § 114.3

Candidate

As agent of authorized committee, § 101.2; § 102.7(d)
Clearly identified, definition, § 100.17
Contributions to, § 110.1; § 110.2
Definition, § 100.3
Designations by, § 101.1
—of authorized committees, § 101.1(b); § 102.13
—of principal campaign committee, § 101.1(a); § 102.12
—when individual is candidate for more than one federal office, or for federal and state office, § 110.8(d)
Expenditures by, from personal funds, § 110.10
Expenditures made for more than one candidate, § 106.1
Fraudulent misrepresentation by candidate, § 110.9(b)
Living expenses, § 100.8(b)(22)
Presidential candidate expenditure limitations, § 110.8
Travel by, § 106.3

Compliance

Briefing procedures, § 111.16
Civil proceedings, § 111.19
Complaints, § 111.4; § 111.5; § 111.6; § 111.7
Computation of time, § 111.2
Confidentiality, § 111.21
Conciliation agreements, § 111.18
Ex parte communications, § 111.22
Initiation of compliance matters, § 111.3
Internally generated compliance matters, § 111.8
Investigation, § 111.10
Motions to quash or modify subpoenas, § 111.15
Probable cause to believe
—recommendation, § 111.16
—notification, § 111.17
Public disclosure of Commission action, § 111.20
Reason to believe finding, § 111.9
Representation by counsel, notification, § 111.23
Service of subpoenas, orders and notifications, § 111.13
Subpoenas, depositions, § 111.12
Witness fees and mileage, § 111.14
Written questions under order, § 111.11

Connected Organization

Definition, § 100.6
Disclosure of, § 102.2(b)
See also: Affiliated Committee

Contributions

Accounting for, § 102.9(a)
Criteria for establishing candidate status, § 100.3(a)
Definition, § 100.7(a)
Determining candidate "support," § 102.12(c)(2); § 102.13(c)(2)
Earmarked, § 102.8(c); § 110.6
Exemptions from definition, § 100.7(b)
Financing both federal and non-federal elections, § 102.5

- Forty-eight hour notification of, § 104.5(f)
 Identification of contributor, § 104.7(b); § 104.8
 Impermissible, § 101.3; § 103.3(b); § 104.12; § 110.4; § 114.2; § 114.8(b); § 115.2(a)
 In-kind
 —"anything of value" defined, § 100.7(a)(1)(iii); § 100.8(a)(1)(iv)
 —opinion polling expenses, § 106.4(b)
 —reporting of, § 104.13; § 106.1(b); § 106.4(b)
 —when not an independent expenditure, § 109.1(c)
 Limitations on contributions
 —affiliated committees share one limit, § 110.3(a)(1)(i)
 —annual limitations, § 110.5
 —by a minor, § 110.1(i)(2)
 —by candidates, § 110.1(f)
 —by multicandidate committees, § 110.2
 —by partners, § 110.1(e); § 115.4(c)
 —by persons, § 110.1
 —by spouses, § 100.7(c); § 110.1(i)(1)
 —exempted contributions, § 100.7(b) (6), (7) and (8)
 —to both a candidate's authorized committee and a committee that supports the same candidate, § 110.1(h)
 —to retire debts, § 110.1(g)
 —violations of, § 110.9
 Raised jointly by non-political and political committees, § 102.6
 Receipt of, § 102.8
 Received prior to an individual's becoming a candidate, § 101.3
 Reporting of
 —by authorized committees, § 104.3(a)(3); § 104.3(a)(4) (i) and (ii); § 104.3(b)(4)(v)
 —by political committees other than authorized committees, § 104.3(a)(2); § 104.3(a)(4)(i) and (ii); § 104.3(b)(1)(v); § 104.3(b)(3)(iv) and (v)
 —summary, § 104.3(c)(1)
 Solicitation of
 —notices required, § 102.16; § 110.11; § 104.5(a)(3), (4) and (5)
 —restrictions on use of reports for, § 114.15(a) and (b)
 —to retire debts, § 110.1(g)
 —See also: Corporation/Labor Organization/National Bank
Convention, National Nominating
 Reports and registration by
 —host committees, § 107.1
 —organizations and groups representing a local government agency, § 107.1
 —organizations and groups representing a state or municipality, § 107.1
 —political parties, § 107.2
Corporation/Labor Organization/National Bank
 Affiliated committees of, § 110.3(a)
 Candidate and party appearances, § 114.3(c)(2); § 114.4(b)
 Communications to stockholders, executives or members
 —nonpartisan registration and voting information, § 114.4(c)
 —registration and get-out-the-vote drives, § 114.3(c)(4); § 114.4(d)
 —partisan, § 100.8(b)(4); § 114.3
 Connected organization
 —Definition, § 100.6
 —Reported, § 102.2(b)
 Contributions and expenditures prohibited, § 114.2
 Debt settlement, § 114.10(b) and (c)
 Employee participation plan, § 114.11
 Establishment, administration and solicitation costs, § 114.1(a)(2)(iii); § 114.1(b); § 114.5(b)
 Extension of credit by, § 114.10(a)
 Facilities
 —customarily made available to civic organizations, § 114.12(b)
 —isolated use by corporate employees or union members, § 114.9(a) and (b)
 —reimbursement for costs required if used by other persons, § 114.9(d)
 Fringe benefits while employee on leave, § 114.12(c)
 Good Government activities, § 114.3(c)(2); § 114.4(b)
 Incorporation for liability purposes only, § 114.12(a)
 Legal and accounting services, § 114.1(a)(2)(vi) and (vii)
 Partisan communications, § 114.3
 Payroll deduction/check-off plans
 —employee participation plans, § 114.11
 —for executives, shareholders, members, § 114.5(k)
 —Presidential nominating convention activity, § 114.1(a)(2)(viii)
 —prohibited by corporate member to trade association's separate segregated fund, § 114.8(e)(3)
 —prohibited under twice yearly solicitations, § 114.6(e)(1)
 Raffle as fundraiser, § 114.5(b)(2)
 Separate segregated funds
 —coercion prohibited, § 114.5(a)
 —communications paid with voluntary contributions, § 114.5(i)
 —control by parent organization, § 114.5(d)
 —defined as political committee, § 100.5(b)
 —membership in, § 114.5(c)
 —registration of, § 102.1(c)
 —subject to contribution limits, § 114.5(f)
 —voluntary contributions to, § 114.5(a)
 Solicitations
 —accidental or inadvertent, § 114.5(h)
 —methods available, § 114.5(k); § 114.6(e)
 —methods permitted by law to labor unions, § 114.5(l)
 —must inform employee of political purpose and right to refuse, § 114.5(a)(3) and (4)
 —notification required, § 114.5(a)(3), (4) and (5)
 —of all employees twice yearly, § 114.6
 —of members, § 114.5(g)
 —of shareholders and executive and administrative personnel, § 114.5(g)
 Transportation provided to candidate, § 114.9(e)
 Trustee plan
 See: Employee participation plan
 Twice yearly solicitations; § 114.5(e)(3); § 114.6
 See also: Membership Organization; Separate Segregated Fund; Trade Association
Debts
 See: Reporting
Definitions
 Act, § 100.18
 Affiliated committee, § 100.5(g)
 Agent, § 109.1(b)(5)
 Anything of value, § 100.7(a)(1)(iii); § 100.8(a)(1)(iv)
 Authorized committee, § 100.5(d); § 100.5(f)(1)
 Candidate, § 100.3(a)
 Caucus, § 100.2(e)
 Clearly identified candidate, § 100.17
 Commission, § 100.9
 Connected organization, § 100.6
 Contribution, § 100.7(a)
 Contribution exemptions, § 100.7(b)
 Convention, § 100.2(e)
 Corporation, § 100.8(b)(4)(vi)
 Election, § 100.2(a)
 Election cycle, § 100.3(b)
 Employee participation plan, § 114.11(a)
 Employer, § 100.21
 Excess campaign funds, § 113.1(e)
 Executive or administrative personnel, § 100.8(b)(4)(iii); § 114.1(c)
 Expenditure, § 100.8(a)
 Expenditure exemptions, § 100.8(b)
 Expressly advocating, § 109.1(b)(2)
 Federal Election Commission, § 100.9
 Federal office, § 100.4
 Federal officeholder, § 113.1(c)
 File, filed or filing, § 100.19
 Foreign national, § 110.4(a)(3)
 Funds donated, § 113.1(a)
 General election, § 100.2(b)
 Honorarium, § 110.12(b)
 Identification, § 100.12
 Independent expenditure, § 100.16; § 109.1(a)
 Labor organization, § 100.8(b)(4)(i); § 114.1(d)
 Member, § 100.8(b)(4)(iv); § 114.1(e)
 Multicandidate committee, § 100.5(e)(3)
 National committee, § 100.13
 Occupation, § 100.20
 Office account, § 113.1(b)
 Party committee, § 100.5(e)(4)
 Person, § 100.10
 Personal funds, § 110.10(b)
 Petty cash fund, § 102.11
 Political committee, § 100.5
 Political party, § 100.15
 Primary election, § 100.2(c)
 Principal campaign committee, § 100.5(d); § 100.5(e)(1)
 Runoff election, § 100.2(d)
 Single candidate committee, § 100.5(e)(2)
 Special election, § 100.2(f)
 Speech, § 110.12(b)(3)
 State, § 100.11
 State committee, § 100.14(a)
 Subordinate committee of state committee, § 100.14(b)
 Support, § 102.12(c)(2); § 102.13(c)(2)
 Stockholder, § 100.8(b)(4)(ii); § 114.1(h)
 Trade association, § 114.8(a)
 Unauthorized committee, § 100.5(f)(2)
 Voluntary contributions, § 114.1(i)
 Voting age population, § 110.9(d)
Depository
 See: Campaign Depository
Election
 Definition, § 100.2(a)
 —caucus or convention, § 100.2(e)
 —cycle, § 100.3(b)
 —general, § 100.2(b)
 —primary, § 100.2(c)
 —runoff, § 100.2(d)
 —special, § 100.2(f)
Enforcement
 See: Compliance

Excess Campaign Funds

Definition, § 113.1(e)
Use of, § 113.1(e); § 113.2

Expenditures

Accounting for, § 102.9(b)
Allocation of
—among (or between) candidates, § 104.10; § 106.1
—among states, by candidates for Presidential nomination, § 106.2
—between campaign and noncampaign travel, § 106.3
—for polling expenses, § 106.4
Criteria for establishing candidate status, § 100.3
Definition, § 100.8(a)
Disbursement of
—by check, § 102.10
—from petty cash fund, § 102.11
Exemptions from definition, § 100.8(b)
Identifying recipient of, § 104.9
Limitations on
—by candidate, from personal funds, § 110.10
—by party committees, § 110.7
—by Presidential candidate, § 110.8
—exempted expenditures, § 100.8(b) (7), (8) and (9)
—“price index” increase of, § 110.9(c)
—violations of, § 110.9(a)

Independent expenditures
See: Independent Expenditures**Operating expenditures**

—reporting of
—by authorized committees, § 104.3 (a)(3) (ix); § 104.3 (a)(4) (v); § 104.3 (b)(2) (i)
—by political committees other than authorized committees, § 104.3 (a)(2) (vii); § 104.3 (a)(4) (v); § 104.3 (b)(1) (i)
—summary, § 104.3(c)(2)

Prohibited expenditures for national banks, corporations and labor organizations, § 114.2**Reporting of**

—by authorized committees, § 104.3(b) (2) and (4)
—by political committees other than authorized committees, § 104.3 (b) (1) and (3)
—in-kind contributions as expenditures, § 104.13(a)(2); § 109.1(c)

Federal Contractor

Contributions and expenditures by, prohibited, § 115.2(a)
Definition, § 115.1(a)
Employee contributions or expenditures, § 115.6
Individuals and sole proprietors, § 115.5
Partnership, § 115.4
Separate segregated funds established by, § 115.3

Federal Election Commission

Advisory opinions
See: Advisory Opinions
Audits and investigations by, § 104.16
Definition, § 100.9
Enforcement by, Part 111

Federal Officeholder

Definition, § 113.1(c)

Filing Reports, Designations and Statements

Definition of filing, § 100.19

Forty-eight hour notification of contribution, § 104.5(f)

Independent expenditure reports, § 104.4; § 109.2

Internal communication reports by membership organizations and corporations, § 104.6; § 105.4

National nominating convention reports, § 107

Postmarks, when filing by mail, § 104.5(e)

Transmittal of documents to Commission by Secretary of Senate and Clerk of House, § 105.5

When to file, § 104.5

With appropriate federal office

—by House candidate committees, § 105.1
—by other committees, § 105.4
—by Presidential and Vice Presidential candidate principal campaign committees, § 105.3
—by Senate candidate committees, § 105.2

With state officers, § 108.1

—by committees and persons other than principal campaigning committees, § 108.4
—by Congressional candidate committees, § 108.3

—by Presidential and Vice Presidential candidate principal campaign committees, § 108.2

—duties of officers, § 108.6

—effect on state law, § 108.7

—exemption for District of Columbia, § 108.8

—time and manner of filing, § 108.5

See also: Forms; Reporting

Forms

Computer-produced schedules in lieu of, § 104.2(d)

Consolidated reports, § 104.3(f)

Donations toward political committee office facilities, separate schedule for, § 104.3(g)

For Congressional candidate committees, § 104.2(e)(2)

For Presidential and Vice Presidential candidate committees, § 104.2(e)(1)

For Presidential candidates and their committees, reporting expenditures by state, § 106.2(a)

For political committees other than authorized committees, § 104.2(e)(3)

Independent expenditures, § 104.4(a); § 109.2(a)

Internal communications by membership organization or labor organization, § 104.6(a)

Legal and accounting services, separate schedule for, § 104.3(h)

Notice of Termination, § 102.3

Obtainable from the Commission, § 104.2(b)

Reproduction of, § 104.2(c)

Statement of Candidate, § 101.1

Statement of Organization, § 102.1; § 102.2

See also: Filing Reports, Designations and Statements; Reporting

Made on behalf of more than one candidate, § 106.1(a)

Reporting of, § 100.8(a)(3); § 104.4; § 109.2

—by persons other than a political committee, § 109.2

—by political committees other than authorized committees, § 104.3 (b)(1) (vii)

—by political committees other than authorized committees, § 104.3 (b)(1) (vii)

—twenty-four hour reports, § 104.4(b)

Labor Organization

See: Corporation/Labor Organization/
National Bank

Legal and Accounting Services

By corporations and labor organizations, § 114.1 (a)(2) (vi) and (vii)

Not a contribution, § 100.7(b) (13) and (14)

Not an expenditure, § 100.8(b) (14) and (15)

Reporting of, § 104.3(h)

Loans

As contribution, § 100.7(a)(1)

As expenditure, § 100.8(a)(1)

Not a contribution, § 100.7(b) (11), (12) and (20); § 102.4(c)(2)

Not an expenditure, § 100.8(b) (12), (13) and (20)

Reporting of

—by authorized committees, § 104.3 (a)(3) (vii); § 104.3 (a)(4) (iv); § 104.3 (b)(2) (iii); § 104.3 (b)(4) (iii) and (iv); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

—by political committees other than authorized committees, § 104.3 (a)(2) (vi); § 104.3 (a)(4) (iv); § 104.3 (b)(1) (iii) and (vi); § 104.3 (b)(3) (iii) and (vi); § 104.3 (d)

- food, beverages and invitations, § 100.7(b) (6) and (7); § 100.8(b) (7) and (8)
- legal or accounting services, § 100.7(b) (13) and (14); § 100.8(b) (14) and (15)
- nonpartisan activity, § 100.8(b)(3)
- office building fund, § 100.7(b)(12); § 100.8(b)(13)
- recount of results of federal elections, § 100.7(b)(20)
- slate card costs, § 100.7(b)(9); § 100.8(b)(10)
- travel expenses, § 100.7(b)(8); § 100.8(b)(9)
- use of residential premises, church or community room § 100.7(b) (4) and (5); § 100.8(b) (5) and (6)
- voter registration and get-out-the-vote activities for Presidential and Vice Presidential nominees, § 100.7(b)(17); § 100.8(b)(18)

Defined as a political committee, § 100.5(c)

Definitions

- national committee, § 100.13
- party committee, § 100.5(e)(4)
- political party, § 100.15
- state committee, § 100.14(a)
- subordinate committee of state committee, § 100.14(b)

Expenditure limitations, § 110.7

Federal/non-federal election financing, § 102.5

Registration requirements, § 102.1

Separate contribution limits

- for national and state party committees, § 110.3(b)(1)
- for state party and independent subordinate party committees, § 110.3(b)(3)(ii)
- for Senate candidates from national party and Senate campaign committees, § 110.2(c)

Subordinate state committees

- presumed not independent of state committee for contribution limit purposes, § 110.3(b)(2)(ii)
- share state expenditure limit, § 110.7(c)

Transfers between committees of same political party unlimited, § 102.6(a); § 110.3(c)

§ 110.3(c)

Office Accounts

- Appropriated and personal funds not included, § 113.1 (a) and (b)
- Contribution and exemption limits may apply, § 113.4
- Definition, § 113.1(b)
- Funds donated to
 - definition, § 113.1(a)
 - deposit of, § 113.3
 - use of, § 113.1

Party Committee

See: National/State/Local Party Committees

Personal Funds

- For living expenses of candidate, § 100.8(b)(2)
- For travel expenses of candidate, § 106.3(b)(1)
- For unlimited expenditures by candidate, § 110.10
- Segregated from political funds, § 102.15

Political Committee

Accounting for contributions and expenditures, § 102.9

Authorized by candidate, § 102.13

Campaign depository

See: Campaign Depository

Comingled funds of, § 102.15

Definition, § 100.5

- affiliated committee, § 100.5(g)
- authorized committee, § 100.5(d); § 100.5(f)(1)
- multicandidate committee, § 100.5(e)(3)
- principal campaign committee, § 100.5(d) and (e)(1)
- separate segregated fund, § 100.5(b)
- single candidate committee, § 100.5(e)(2)
- unauthorized committee, § 100.5(f)(2)

Delegate committee, restriction on name of, § 102.14(b)(1)

Designation of principal campaign committee, § 102.12

Draft committee, restriction on name of, § 102.14(b)(2)

Financing of, for federal/non-federal election, § 102.5

Identification number, § 102.2(c)

Names of, § 102.14

Organization of, § 102.7

Party committee

See: National/State/Local Party Committees

Registration of, § 102.1

- authorized committees, § 102.1(b)
- other political committees, § 102.1(d)
- principal campaign committees, § 102.1(a)
- separate segregated funds, § 102.1(c)

Reporting

See: Reporting

Statement of Organization, § 102.1; § 102.2(a)

Termination of

- by political committee, § 102.3
- by the Commission, § 102.4

Transfers between § 102.6

See also: Separate Segregated Fund; National/State/Local Party Committees

Principal Campaign Committee

Consolidated report filed by, § 104.3(f)

Definition, § 100.5(d); § 100.5(e)(1)

Designation of

- by candidate, § 101.1(a); § 102.12(a)
- restrictions on, § 102.12 (b) and (c)

Registration of, § 102.1(a)

Termination of, § 102.3(b)

Recordkeeping

Allocation of expenditures among

candidates, § 104.10; § 106.1

Best efforts, § 102.9(d); § 104.7

Disbursements

- account of, § 102.9(b)
- by check, § 102.10; § 103.3(a)
- from petty cash fund, § 102.11; § 103.3(a)

Distinguishing between primary and general election contributions, § 102.9(e)

Federal/non-federal election finance activities, § 102.5; § 106.1(e)

Identifying contributor, § 104.7(b); § 104.8

Identifying recipient of expenditure, § 104.9

Illegal contributions, § 103.3(b)

In-kind contributions, § 104.13

Joint fundraising, § 102.6(b)

Receipt of contributions, § 102.8; § 102.9(a)

Records

- accuracy of, § 104.14(d)
- maintenance of, § 102.9(d); § 104.14(b)(1)
- preservation of, § 102.9(c); § 104.14 (b) (2) and (3)

See also: Filing Reports, Designations and Statements; Reporting

Reporting

Allocation of expenditures among

candidates, § 104.10; § 106.1

Best efforts, § 104.7

Consolidated, for principal campaign committees, § 104.3(f)

Cumulative, § 104.3(i)

Debts and obligations, § 104.3(d); § 104.11

Disbursements, § 104.3(b)

Donations toward political committee office facilities, § 100.7(b)(12); § 104.3(g)

Earmarked contributions, § 110.6

Formal requirements, § 104.14

Identifying contributor, § 104.7(b); § 104.8

Identifying recipient of expenditure, § 104.9

Independent expenditures

- by political committees, § 104.4
- by persons other than political committees, § 109.2

In-kind contributions, § 104.13; § 106.1(b) § 106.4(b)

Internal communications by membership organizations and corporations, § 104.6; § 105.4

Legal and accounting services, § 104.3(h)

National nominating convention reports, § 107.1; § 107.2

Presidential and Vice Presidential committee reports for elections prior to January 1, 1980, § 104.12

Receipts, § 104.3(a); § 104.17

Summary of contributions and operating expenditures, § 104.3(c)

Use of pseudonyms, § 104.3(e)

Who reports, § 104.1

Separate Segregated Fund

Affiliated committee, § 100.5(g); § 110.3(a)

Coercion prohibited, § 114.5(a)

Communications to general public, § 114.5(i)

Contribution limits

- affiliated committees share one limit, § 110.3(a)(1)(i)
- application of, § 114.5(f)

Contributions to, § 114.5(a)

Control of funds by parent organization, § 114.5(d)

Costs incurred for establishing, administering and soliciting contributions to fund

- not contribution or expenditure, § 114.1(a)(2)(iii)
- treasury funds used for, § 114.5(b)

Establishment by

- federal contractors, § 115.3
- membership organization, § 114.7
- national banks, corporations, labor unions, § 114.1(a)(2)(iii); § 114.5
- trade associations, § 114.8

Membership in, § 114.5(c)

Name must include name of connected organization, § 102.14(c)

Payroll deduction

See: Corporation/Labor Organization/National Bank

Registration of, § 102.1(c)

State Officeholder

Definition, § 113.1(d)

Testing-the-Waters Activities

Exempted from contribution/expend

§ 100.7(b)(1); § 100.8(b)(1)

Trade Association

- Affiliated committees of, § 110.3(a)(1)
 Communications
 —to executives, shareholders, § 114.3
 —to members, § 114.3
 —to non-executives, § 114.4
 Definition, § 114.8(a)
 Employees, § 114.8(i)
 —communications to, § 114.3; § 114.4
 —solicitations of, § 114.5; § 114.6
 Federation of trade associations
 —definition, § 114.8(g)(1)
 —solicitations by, § 114.8(g)
 Payroll deductions, § 114.5(k)(1); § 114.8(e)(3)
 Solicitations by, § 114.7(c) and (j); § 114.8(c), (d), (e) and (f)

Transfer of Funds

- As criteria for "affiliation" between committees, § 100.5(g)(2)(ii)(E); § 110.3(a)(1)(iii)(E)
 From excess campaign funds and funds donated, § 113.2(c)
 Joint fundraising contributions, § 102.6(b)
 Reporting
 —by authorized committees, § 104.3(a)(3)(vi); § 104.3(a)(4)(iii)(A); § 104.3(b)(2)(ii); § 104.3(b)(4)(ii)
 —by political committees other than authorized committees, § 104.3(a)(2)(v); § 104.3(a)(4)(iii)(B); § 104.3(b)(1)(ii); § 104.3(b)(3)(ii)
 Unlimited transfers, § 102.6(a); § 110.3(a)(2)

Unauthorized Committee

- Definition, § 100.5(f)(2)
 Contributions from, § 102.8(b)(1)

Volunteer Activities

- Campaign materials
 —used by candidate, § 100.7(b)(16); § 100.8(b)(17)
 —used by party, § 100.7(b)(15); § 100.8(b)(16)
 Church or community room, § 100.7(b)(5); § 100.8(b)(6)
 Invitations, food, beverages, § 100.7(b)(6); § 100.8(b)(7)
 Property, § 100.7(b)(4); § 100.8(b)(5)
 Services, § 100.7(b)(3)
 Travel, § 100.7(b)(8); § 100.8(b)(9)
 Vendor sale of food or beverage, § 100.7(b)(7); § 100.8(b)(8)

Voter Drives

- By corporations and labor organizations, § 100.8(b)(3); § 114.1(a)(2)(ii); § 114.4(a)(2); § 114.4(c); § 114.4(d); § 114.3(c)(4)
 By party committee, § 100.7(b)(17); § 100.8(b)(18)
 11 CFR is amended as follows:
 1. Parts 100 through 105 are revised to read as follows.

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

- Sec.
 100.1 Scope.
 100.2 Election (2 U.S.C. 431(1)).
 100.3 Candidate (2 U.S.C. 431(2)).
 100.4 Federal office (2 U.S.C. 431(3)).
 100.5 Political committee (2 U.S.C. 431 (4), (5), (6)).
 100.6 Connected organization (2 U.S.C. 431(7)).

- 100.7 Contribution (2 U.S.C. 431(8)).
 100.8 Expenditure (2 U.S.C. 431(9)).
 100.9 Commission (2 U.S.C. 431(10)).
 100.10 Person (2 U.S.C. 431(11)).
 100.11 State (2 U.S.C. 431(12)).
 100.12 Identification (2 U.S.C. 431(13)).
 100.13 National committee (2 U.S.C. 431(14)).
 100.14 State committee, subordinate committee (2 U.S.C. 431(15)).
 100.15 Political party (2 U.S.C. 431(16)).
 100.16 Independent expenditure (2 U.S.C. 431(17)).
 100.17 Clearly identified (2 U.S.C. 431(18)).
 100.18 Act (2 U.S.C. 431(19)).
 100.19 File, filed or filing.
 100.20 Occupation (2 U.S.C. 431(13)).
 100.21 Employer (2 U.S.C. 431(13)).

Authority: 2 U.S.C. 431, 438(a)(8).

§ 100.1 Scope.

This subchapter is issued by the Federal Election Commission to implement the Federal Election Campaign Act of 1971 (Public Law 92-225), as amended by Public Law 93-443, Public Law 94-283, Public Law 95-216, and Public Law 96-187.

§ 100.2 Election (2 U.S.C. 431(1)).

(a) "Election" means the process by which individuals, whether opposed or unopposed, seek nomination for election, or election, to Federal office. The specific types of elections, as set forth at 11 CFR 100.2 (b), (c), (d), (e) and (f) are included in this definition.

(b) *General election.* A general election is an election which meets either of the following conditions:

(1) An election held in even numbered years on the Tuesday following the first Monday in November is a general election.

(2) An election which is held to fill a vacancy in a Federal office (i.e., a special election) and which is intended to result in the final selection of a single individual to the office at stake is a general election. see 11 CFR 100.2(f).

(c) *Primary election.* A primary election is an election which meets one of the following conditions:

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

(2) An election which is held for the expression of a preference for the nomination of persons for election to the office of President of the United States is a primary election.

(3) An election which is held to elect delegates to a national nominating convention is a primary election.

(4) With respect to individuals seeking federal office as independent candidates, or without nomination by a

major party (as defined in 26 U.S.C. 9002(6)), the primary election is considered to occur on one of the following dates, at the choice of the candidate:

(i) The day prescribed by applicable State law as the last day to qualify for a position on the general election ballot may be designated as the primary election for such candidate.

(ii) The date of the last major party primary election, caucus, or convention in that State may be designated as the primary election for such candidate.

(iii) In the case of non-major parties, the date of the nomination by that party may be designated as the primary election for such candidate.

(5) With respect to any major party candidate (as defined at 26 U.S.C. 9002(6)) who is unopposed for nomination within his or her own party, and who is certified to appear as that party's nominee in the general election for the office sought, the primary election is considered to have occurred on the date on which the primary election was held by the candidate's party in that State.

(d) *Runoff election.* "Runoff election" means the election which meets either of the following conditions:

(1) The election held after a primary election, and prescribed by applicable State law as the means for deciding which candidate(s) should be certified as a nominee for the Federal office sought, is a runoff election.

(2) The election held after a general election and prescribed by applicable State law as the means for deciding which candidate should be certified as an officeholder elect, is a runoff election.

(e) *Caucus or Convention.* A caucus or convention of a political party is an election if the caucus or convention has the authority to select a nominee for federal office on behalf of that party.

(f) *Special election.* "Special election" means an election which is held to fill a vacancy in a Federal office. A special election may be a primary, general, or runoff election, as defined at 11 CFR 100.2 (b), (c) and (d).

§ 100.3 Candidate (2 U.S.C. 431(2)).

(a) *Definition.* "Candidate" means an individual who seeks nomination for election, or election, to federal office. An individual becomes a candidate for Federal office whenever any of the following events occur:

(1) The individual has received contributions aggregating in excess of \$5,000 or made expenditures aggregating in excess of \$5,000.

(2) The individual has given his or her consent to another person to receive

contributions or make expenditures on behalf of that individual and such person has received contributions aggregating in excess of \$5,000 or made expenditures aggregating in excess of \$5,000.

(3) After written notification by the Commission that any other person has received contributions aggregating in excess of \$5,000 or made expenditures aggregating in excess of \$5,000 on the individual's behalf, the individual fails to disavow such activity by letter to the Commission within 30 days of receipt of the notification.

(4) The aggregate of contributions received under 11 CFR 100.3(a) (1), (2), and (3), in any combination thereof, exceeds \$5,000, or the aggregate of expenditures made under 11 CFR 100.3(a) (1), (2), and (3), in any combination thereof, exceeds \$5,000.

(b) *Election cycle.* For purposes of determining whether an individual is a candidate under this section, contributions or expenditures shall be aggregated on an election cycle basis. An election cycle shall begin on the first day following the date of the previous general election for the office or seat which the candidate seeks, unless contributions or expenditures are designated for another election cycle. For an individual who receives contributions or makes expenditures designated for another election cycle, the election cycle shall begin at the time such individual, or any other person acting on the individual's behalf, first receives contributions or makes expenditures in connection with the designated election. The election cycle shall end on the date on which the general election for the office or seat that the individual seeks is held.

§ 100.4 Federal office (2 U.S.C. 431(3)).

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

§ 100.5 Political committee (2 U.S.C. 431 (4), (5), (6)).

"Political committee" means any group meeting one of the following conditions:

(a) Except as provided in 11 CFR 100.5(b), (c) and (d), any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 or which makes expenditures aggregating in excess of \$1,000 during a calendar year is a political committee.

(b) Any separate segregated fund established under 2 USC 441b(b)(2)(C) is a political committee.

(c) Any local committee of a political party is a political committee if: it receives contributions aggregating in excess of \$5,000 during a calendar year; it makes payments exempted from the definition of contribution, under 11 CFR 100.7(b)(9), (15) and (17), and expenditure, under 11 CFR 100.8(b)(10), (16) and (18), which payments aggregate in excess of \$5,000 during a calendar year; or it makes contributions aggregating in excess of \$1,000 or makes expenditures aggregating in excess of \$1,000 during a calendar year.

(d) An individual's principal campaign committee or authorized committee(s) becomes a political committee(s) when that individual becomes a candidate pursuant to 11 CFR 100.3.

(e) The following are examples of political committees:

(1) *Principal campaign committee.* "Principal campaign committee" means a political committee designated and authorized by a candidate pursuant to 11 CFR 101.1 and 102.1.

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

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

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

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

(1) *Authorized committee.* An "authorized committee" means the principal campaign committee or any other political committee authorized by a candidate under 11 CFR 102.13 to receive contributions or make expenditures on behalf of such candidate, or which has not been disavowed pursuant to 11 CFR 100.3(a)(3).

(2) *Unauthorized committee.* An "unauthorized committee" is a political committee which has not been authorized in writing by a candidate to

solicit or receive contributions or make expenditures on behalf of such candidate, or which has been disavowed pursuant to 11 CFR 100.3(a)(3).

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

(2) All committees (including a separate segregated fund, see 11 CFR Part 114) established, financed, maintained, or controlled by the same corporation, labor organization, person, or group of persons including any parent, subsidiary, branch, division, department, or local unit thereof, are affiliated.

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

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

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

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

(D) All political committees (other than party committees) established by a member organization, including a trade or professional association (see 11 CFR 114.8(a)), and/or by related State and local entities are affiliated;

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

(ii) For organizations not covered by paragraph (g)(2)(i) of this section, indicia of establishing, financing, maintaining, or controlling include:

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

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

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

(D) Similar patterns of contributions;

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

§ 100.6 Connected organization (2 U.S.C. 431(7)).

(a) "Connected organization" means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee. A connected organization may be a corporation (including a corporation without capital stock), a labor organization, a membership organization, a cooperative or a trade association.

(b) For purposes of 11 CFR 100.6, organizations which are members of the entity (such as corporate members of a trade association) which establishes, administers, or financially supports a political committee are not organizations which directly or indirectly establish, administer or financially support that political committee.

(c) For purposes of 11 CFR 100.6, the term "financially supports" does not include contributions to the political committee, but does include the payment of establishment, administration and solicitation costs of such committee.

§ 100.7 Contribution. (2 U.S.C. 431(8)).

(a) The term "contribution" includes the following payments, services or other things of value:

(1) A gift, subscription, loan (except for a loan made in accordance with 11 CFR 100.7(b)(11)), advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office is a contribution.

(i) For purposes of 11 CFR 100.7(a)(1), the term "loan" includes a guarantee, endorsement, and any other form of security.

(A) A loan which exceeds the contribution limitations of 2 USC 441a and 11 CFR Part 110 shall be unlawful whether or not it is repaid.

(B) A loan is a contribution at the time it is made and is a contribution to the extent that it remains unpaid. The aggregate amount loaned to a candidate or committee by an individual, when added to other contributions from that individual to that candidate or committee, shall not exceed the contribution limitations set forth at 11 CFR Part 110. A loan, to the extent it is repaid, is no longer a contribution.

(C) A loan is a contribution by each endorser or guarantor. Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Any reduction in the unpaid balance of the loan shall reduce

proportionately the amount endorsed or guaranteed by each endorser or guarantor in such written agreement. In the event that such agreement does not stipulate the portion of the loan for which each endorser or guarantor is liable, the loan shall be considered a loan by each endorser or guarantor in the same proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors.

(D) If a political committee makes a loan to any person, such loan shall be subject to the limitations of 11 CFR Part 110. Repayment of the principal amount of such loan to such political committee shall not be a contribution by the debtor to the lender committee. Such repayment shall be made with funds which are subject to the prohibitions of 11 CFR 110.4(a) and Part 114. The payment of interest to such committee by the debtor shall be a contribution only to the extent that the interest paid exceeds a commercially reasonable rate prevailing at the time the loan is made. All payments of interest shall be made from funds subject to the prohibitions of 11 CFR 110.4(a) and Part 114.

(ii) For purposes of 11 CFR 100.7(a)(1), the term "money" includes currency of the United States or of any foreign nation, checks, money orders, or any other negotiable instrument payable on demand.

(iii) (A) For purposes of 11 CFR 100.7(a)(1), the term "anything of value" includes all in-kind contributions. Unless specifically exempted under 11 CFR 100.7(b), the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services is a contribution. Examples of such goods or services include, but are not limited to: securities, facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists. If goods or services are provided at less than the usual and normal charge, the amount of the in-kind contribution is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount charged the political committee.

(B) For purposes of 11 CFR 100.7(a)(1)(iii)(A), "usual and normal charge" for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution; and "usual and normal charge" for any services, other than those provided by an unpaid volunteer, means the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered.

(2) The entire amount paid to attend a fundraiser or other political event and the entire amount paid as the purchase price for a fundraising item sold by a political committee is a contribution.

(3) The payment by any person of compensation for the personal services of another person if those services are rendered without charge to a political committee for any purpose, except for legal and accounting services provided under 11 CFR 100.7(b)(13) or (14), is a contribution. No compensation is considered paid to any employee under any of the following conditions:

(i) If an employee is paid on an hourly or salaried basis and is expected to work a particular number of hours per period, no contribution results if the employee engages in political activity during what would otherwise be a regular work period, provided that the taken or released time is made up or completed by the employee within a reasonable time.

(ii) No contribution results where an employee engages in political activity during what would otherwise be normal working hours if the employee is paid on a commission or piecework basis, or is paid only for work actually performed and the employee's time is considered his or her own to use as he or she sees fit.

(iii) No contribution results where the time used by the employee to engage in political activity is bona fide, although compensable, vacation time or other earned leave time.

(4) The extension of credit by any person for a length of time beyond normal business or trade practice is a contribution, unless the creditor has made a commercially reasonable attempt to collect the debt. (See 11 CFR 114.10). A debt owed by a political committee which is forgiven or settled for less than the amount owed is a contribution unless such debt is settled in accordance with the standards set forth at 11 CFR 114.10.

(b) The term "contribution" does not include the following payments, services or other things of value:

(1) Funds received and payments made solely for the purpose of determining whether an individual should become a candidate are not contributions. Activities permissible under this exemption include, but are not limited to expenses incurred for: conducting a poll, telephone calls and travel, to determine whether an individual should become a candidate. The individual shall keep records of all such funds received and payments made. If the individual subsequently becomes a candidate, the funds received and payments made are contributions

and expenditures subject to the limitations, prohibitions and requirements of the Act. Such contributions and expenditures must be reported with the first report filed by the principal campaign committee of the candidate, regardless of the date the funds were received or the payments made. This exemption does not include funds received or payments made for general public political advertising; nor does this exemption include funds received or payments made for activities designed to amass campaign funds that would be spent after the individual becomes a candidate.

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

(3) The value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee is not a contribution.

(4) No contribution results were an individual, in the course of volunteering personal services on his or her residential premises to any candidate or to any political committee of a political party, provides the use of his or her real or personal property to such candidate for candidate-related activity or to such political committee of a political party for party-related activity. For the purposes of 11 CFR 100.7(b)(4), and individual's residential premises, shall include a recreation room in a residential complex where the individual volunteering services resides, provided that the room is available for use without regard to political affiliation. A nominal fee paid by such individual for the use of such room is not a contribution.

(5) No contribution results where an individual, in the course of volunteering personal services to any candidate or political committee of a political party, obtains the use of a church or community room and provides such room to any candidate for candidate-related activity or to any political committee of a political party for party-related activity, provided that the room

is used on a regular basis by members of the community for noncommercial purposes and the room is available for use by members of the community without regard to political affiliation. A nominal fee paid by such individual for the use of such room is not a contribution.

(6) The cost of invitations, food and beverages is not a contribution where such items are voluntarily provided by an individual volunteering personal services on the individual's residential premises or in a church or community room as specified at 11 CFR 100.7(b)(4) and (5) to a candidate for candidate-related activity or to any political committee of a political party for party-related activity, to the extent that: the aggregate value of such invitations, food and beverages provided by the individual on behalf of the candidate does not exceed \$1,000 with respect to any single election; and on behalf of all political committees of each political party does not exceed \$2,000 in any calendar year.

(7) The sale of any food or beverage by a vendor (whether incorporated or not) for use in a candidate's campaign, or for use by a political committee of a political party, at a charge less than the normal or comparable commercial rate, is not a contribution, provided that the charge is at least equal to the cost of such food or beverage to the vendor, to the extent that: the aggregate value of such discount given by the vendor on behalf of any single candidate does not exceed \$1,000 with respect to any single election; and on behalf of all political committees of each political party does not exceed \$2,000 in a calendar year.

(8) Any unreimbursed payment for transportation expenses incurred by any individual on behalf of any candidate of any political committee of a political party is not a contribution to the extent that: the aggregate value of the payments made by such individual on behalf of a candidate does not exceed \$1,000 with respect to a single election; and on behalf of all political committees of each political party does not exceed \$2,000 in a calendar year. Additionally, any unreimbursed payment from a volunteer's personal funds for usual and normal subsistence expenses incidental to volunteer activity is not a contribution.

(9) The payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card, sample ballot, palm card, or other printed listing(s) of three or more candidates for any public office for which an election is held in the State in

which the committee is organized is not a contribution. The payment of the portion of such costs allocable to Federal candidates must be made from funds subject to the limitations and prohibitions of the Act. If made by a political committee, such payments shall be reported by that committee as disbursements, but need not be allocated in committee reports to specific candidates. This exemption shall not apply to costs incurred by such a committee with respect to the preparation and display of listings made on broadcasting stations, or in newspapers, magazines, and similar types of general public political advertising such as billboards.

(10) Any payment made or obligation incurred by a corporation or a labor organization is not a contribution if under the provisions of 11 CFR Part 114 such payment or obligation would not constitute an expenditure by the corporation or labor organization.

(11) A loan of money by a State bank, a federally chartered depository institution (including a national bank) or a depository institution whose deposits and accounts are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration is not a contribution by the lending institution if such loan is made in accordance with applicable banking laws and regulations and is made in the ordinary course of business. A loan will be deemed to be made in the ordinary course of business if it: bears the usual and customary interest rate of the lending institution for the category of loan involved; is made on a basis which assures repayment; is evidenced by a written instrument; and is subject to a due date or amortization schedule. Such loans shall be reported by the political committee in accordance with 11 CFR 104.3(a). Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Any reduction in the unpaid balance of the loan shall reduce proportionately the amount endorsed or guaranteed by each endorser or guarantor in such written agreement. In the event that such agreement does not stipulate the portion of the loan for which each endorser or guarantor is liable, the loan shall be considered a contribution by each endorser or guarantor in the same proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors. For purposes of 11 CFR 100.7(b)(11), an overdraft made

on a checking or savings account shall be considered a contribution by the bank or institution unless: the overdraft is made on an account which is subject to automatic overdraft protection; the overdraft is subject to a definite interest rate which is usual and customary; and there is a definite repayment schedule.

(12) A gift, subscription, loan, advance, or deposit of money or anything of value made to a national committee or a State committee of a political party is not a contribution if it is specifically designated to defray any cost incurred for construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office. If such gift, subscription, loan, advance, or deposit of money or anything of value is made to a committee which is not a political committee under 11 CFR 100.5, the amount need not be reported. However, if such gift, subscription, loan, advance, or deposit of money or anything of value is made to a political committee, it shall be reported in accordance with 11 CFR 104.3(g).

(13) Legal or accounting services rendered to or on behalf of any political committee of a political party are not contributions if the person paying for such services is the regular employer of the individual rendering the services and such services are not attributable to activities which directly further the election of any designated candidate for Federal office. For purposes of 11 CFR 100.7(b)(13), a partnership shall be deemed to be the regular employer of a partner. Amounts paid by the regular employer for such services shall be reported by the committee receiving such services in accordance with 11 CFR 104.3(h).

(14) Legal or accounting services rendered to or on behalf of an authorized committee of a candidate or any other political committee are not contributions if the person paying for such services is the regular employer of the individual rendering the services and if such services are solely to ensure compliance with the Act or 26 USC 9001 *et seq.* and 9031 *et seq.* For purposes of 11 CFR 100.7(b)(14), a partnership shall be deemed to be the regular employer of a partner. Amounts paid by the regular employer for these services shall be reported by the committee receiving such services in accordance with 11 CFR 104.3(h).

(15) The payment by a state or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids or

newletters, and yard signs) used by such committee in connection with volunteer activities on behalf of any nominee(s) of such party is not a contribution, provided that the following conditions are met:

(i) Such payment is not for cost incurred in connection with any broadcasting, newspaper, magazine, bill board, direct mail, or similar type of general public communication or political advertising. For purposes of 11 CFR 100.7(b)(15)(i), the term "direct mail" means any mailing(s) by a commercial vendor or any mailing(s) made from commercial lists.

(ii) The portion of the cost of such materials allocable to Federal candidates is paid from contributions subject to the limitations and prohibitions of the Act.

(iii) Such payment is not made from contributions designated by the donor to be spent on behalf of a particular candidate or candidates for Federal office. For purposes of 11 CFR 100.7(b)(15)(iii), a contribution shall not be considered a "designated contribution" if the party committee disbursing the funds makes the final decision regarding which candidate(s) shall receive the benefit of such disbursement.

(iv) Such materials are distributed by volunteers and not by commercial or for-profit operations. For the purposes of 11 CFR 100.7(b)(15)(iv), payments by the party organization for travel and subsistence or customary token payments to volunteers do not remove such individuals from the volunteer category.

(v) If made by a political committee such payments shall be reported by the political committee as disbursements in accordance with 11 CFR 104.3 but need not be allocated to specific candidates in committee reports.

(vi) Payments by a State candidate or his or her campaign committee to a State or local political party committee for the State candidate's share of expenses for such campaign materials are not contributions, provided the amount paid by the State candidate or his or her committee does not exceed his or her proportionate share of the expenses.

(vii) Campaign materials purchased by the national committee of a political party and delivered to a State or local party committee, or materials purchased with funds donated by the national committee to such State or local committee for the purchase of such materials, shall not qualify under this exemption. Rather, the cost of such materials shall be subject to the

limitations of 2 USC 441a(d) and 11 CFR 110.7.

(16) The payment by a candidate for any public office (including State or local office), or by such candidate's authorized committee, of the costs of that candidate's campaign materials which include information on or any reference to a candidate for Federal office and which are used in connection with volunteer activities (such as pins, bumper stickers, handbills, brochures, posters, and yard signs) is not a contribution to such candidate for Federal office, provided that the payment is not for the use of broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communication or political advertising. The payment of the portion of the cost of such materials allocable to Federal candidates shall be made from contributions subject to the limitations and prohibitions of the Act. For purposes of 11 CFR 100.7(b)(16), the term "direct mail" means any mailing(s) by commercial vendors or mailing(s) made from lists which were not developed by the candidate.

(17) The payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of the Presidential and Vice Presidential nominee(s) of that party, is not a contribution to such candidate(s) provided that the following conditions are met:

(i) Such payment is not for the costs incurred in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising. For purposes of 11 CFR 100.7(b)(17)(i), the term "direct mail" means any mailing(s) by a commercial vendor or any mailing(s) made from commercial lists.

(ii) The portion of the costs of such activities allocable to Federal candidates is paid from contributions subject to the limitations and prohibitions of the Act.

(iii) Such payment is not made from contributions designated to be spent on behalf of a particular candidate or candidates for Federal office. For purposes of 11 CFR 100.7(b)(17)(iii), a contribution shall not be considered a "designated contribution" if the party committee disbursing the funds makes the final decision regarding which candidate(s) shall receive the benefit of such disbursement.

(iv) For purposes of 11 CFR 100.7(b)(17), if such activities include references to any candidate(s) for the House or Senate, the costs of such activities which are allocable to that

candidate(s) shall be a contribution to such candidate(s) unless the mention of such candidate(s) is merely incidental to the overall activity.

(v) For purposes of 11 CFR 100.7(b)(17), payment of the costs incurred in the use of phone banks in connection with voter registration and get-out-the-vote activities is not a contribution when such phone banks are operated by volunteer workers. The use of paid professionals to design the phone bank system, develop calling instructions and train supervisors is permissible. The payment of the costs of such professional services is not an expenditure but shall be reported as a disbursement in accordance with 11 CFR 104.3 if made by a political committee.

(vi) If made by a political committee, such payments for voter registration and get-out-the-vote activities shall be reported by that committee as disbursements in accordance with 11 CFR 104.3, but such payments need not be allocated to specific candidates in committee reports except as provided in 11 CFR 100.7(b)(17)(iv).

(vii) Payments made from funds donated by a national committee of a political party to a State or local party committee for voter registration and get-out-the-vote activities shall not qualify under this exemption. Rather, such funds shall be subject to the limitations of 2 USC 441a(d) and 11 CFR 110.7.

(18) Payments made to any party committee by a candidate or the authorized committee of a candidate as a condition of ballot access are not contributions.

(19) The payment of any honorarium and related expenses within the meaning of 11 CFR 110.12 is not a contribution.

(20) A gift, subscription, loan, advance, or deposit of money or anything of value made with respect to a recount of the results of a Federal election, or an election contest concerning a Federal election, is not a contribution except that the prohibitions of 11 CFR 110.4(a) and Part 114 apply.

(c) For purposes of 11 CFR 100.7 (a) and (b), any contributions or payments made by a married individual shall not be attributed to that individual's spouse, unless otherwise specified by that individual or by the individual's spouse.

§ 100.8 Expenditure (2 U.S.C. 431(9)).

(a) The term "expenditure" includes the following payments, gifts or other things of value:

(1) A purchase, payment, distribution, loan (except for a loan made in accordance with 11 CFR 100.8(b)(12)), advance, deposit, or gift of money or

anything of value, made by any person for the purpose of influencing any election for Federal office is an expenditure.

(i) For purposes of 11 CFR 100.8(a)(1), the term "payment" includes payment of any interest on an obligation and any guarantee or endorsement of a loan by a candidate or a political committee.

(ii) For purposes of 11 CFR 100.8(a)(1), the term "payment" does not include the repayment by a political committee of the principal of an outstanding obligation which is owed by such committee, except that the repayment shall be reported as disbursements in accordance with 11 CFR 104.3(b).

(iii) For purposes of 11 CFR 100.8(a)(1), the term "money" includes currency of the United States or of any foreign nation, checks, money orders, or any other negotiable instrument payable on demand.

(iv)(A) For purposes of 11 CFR 100.8(a)(1), the term "anything of value" includes all in-kind contributions. Unless specifically exempted under 11 CFR 100.8(b), the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for the goods or services is an expenditure. Examples of such goods or services include, but are not limited to: securities, facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists. If goods or services are provided at less than the usual and normal charge, the amount of the expenditure is the difference between the usual and normal charge for the goods or services at the time of the expenditure and the amount charged the candidate or political committee.

(B) For the purposes of 11 CFR 100.8(a)(1)(iv)(A), "usual and normal charge" for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of the expenditure; and "usual and normal charge" for services, other than those provided by an unpaid volunteer, means the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered.

(2) A written contract, including a media contract, promise, or agreement to make an expenditure is an expenditure as of the date such contract, promise or obligation is made.

(3) An independent expenditure which meets the requirements of 11 CFR 104.4 or Part 109 is an expenditure, and such independent expenditure is to be reported by the person making the expenditure in accordance with 11 CFR 104.4 and Part 109.

(b) The term "expenditure" does not include the following payments, gifts, or other things of value:

(1) Funds received and payments made solely for the purpose of determining whether an individual should become a candidate are not expenditures. Activities permissible under this exemption include, but are not limited to, expenses incurred for: conducting a poll, telephone calls and travel, to determine whether an individual should become a candidate. The individual shall keep records of all such funds received and payments made. If the individual subsequently becomes a candidate, the funds received and payments made are contributions and expenditures subject to the limitations, prohibitions and requirements of the Act. Such contributions and expenditures must be reported with the first report filed by the principal campaign committee of the candidate, regardless of the date the funds were received or the payments made. This exemption does not include funds received or payments made for general public political advertising; nor does this exemption include funds received or payments made for activities designed to amass campaign funds that would be spent after the individual becomes a candidate.

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

(3) Any cost incurred for nonpartisan activity designed to encourage individuals to register to vote or to vote is not an expenditure, except that corporations and labor organizations shall engage in such activity in accordance with 11 CFR 114.4(c) and (d). For purposes of 11 CFR 100.8(b)(3), "nonpartisan activity" means that no effort is or has been made to determine the party or candidate preference of individuals before encouraging them to register to vote or to vote.

(4) Any cost incurred for any communication by a membership organization to its members, or by a corporation to its stockholders or

executive or administrative personnel, is not an expenditure, so long as the membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to Federal office, except that the costs incurred by a membership organization, including a labor organization, or by a corporation, directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate) shall, if those costs exceed \$2,000 per election, be reported to the Commission on FEC Form 7 in accordance with 11 CFR 104.6

(i) For purposes of 11 CFR 100.8(b)(4), "labor organization" means an organization of any kind (any local, national, or international union, or any local or State central body of a federation of unions is each considered a separate labor organization for purposes of this section) or any agency or employee representative committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(ii) For purposes of 11 CFR 100.8(b)(4), "stockholder" means a person who has a vested beneficial interest in stock, has the power to direct how that stock shall be voted, if it is voting stock, and has the right to receive dividends.

(iii) For purposes of 11 CFR 100.8(b)(4), "executive or administrative personnel" means individuals employed by a corporation who are paid on a salary rather than hourly basis and who have policymaking, managerial, professional, or supervisory responsibilities.

(A) This definition includes—

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

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

(B) This definition does not include—

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

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

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

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

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

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

(iv) For purposes of 11 CFR 100.8(b)(4), "members" means all persons who are currently satisfying the requirements for membership in a membership organization, trade association, cooperative, or corporation without capital stock and in the case of a labor organization, persons who are currently satisfying the requirements for membership in a local, national, or international labor organization. Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated. A person is not considered a member under this definition if the only requirement for membership is a contribution to a separate segregated fund.

(v) For purposes of 11 CFR 100.8(b)(4), "election" means two separate processes in a calendar year, to each of which the \$2,000 threshold described above applies separately. The first process is comprised of all primary elections for Federal office, whenever and wherever held; the second process is comprised of all general elections for Federal office, whenever and wherever held. The term "election" shall also include each special election held to fill a vacancy in a Federal office (11 CFR 100.2(f)) or each runoff election (11 CFR 100.2(d)).

(vi) For purposes of 11 CFR 100.8(b)(4), "corporation" means any separately incorporated entity, whether or not affiliated.

(vii) When the aggregate costs under 11 CFR 100.8(b)(4) exceed \$2,000 per election, all costs of the communication(s) shall be reported on

the filing dates specified in 11 CFR 104.6, and shall include the total amount expended for each candidate supported.

(5) No expenditure results where an individual, in the course of volunteering personal services on his or her residential premises to any candidate or political committee of a political party, provides the use of his or her real or personal property to such candidate for candidate-related activity or to such political committee of a political party for party-related activity. For the purposes of 11 CFR 100.8(b)(5), an individual's residential premises shall include a recreation room in a residential complex where the individual volunteering services resides, provided that the room is available for use without regard to political affiliation. A nominal fee paid by such individual for the use of such room is not an expenditure.

(6) No expenditure results where an individual, in the course of volunteering personal services to any candidate or political committee of a political party, obtains the use of a church or community room and provides such room to any candidate for candidate-related activity or to any political committee of a political party for party-related activity, provided that the room is used on a regular basis by members of the community for noncommercial purposes and the room is available for use by members of the community without regard to political affiliation. A nominal fee paid by such individual for the use of such room is not an expenditure.

(7) The cost of invitations, food, and beverages is not an expenditure where such items are voluntarily provided by an individual in rendering voluntary personal services on the individual's residential premises or in a church or community room as specified in 11 CFR 100.8(b)(5) and (6) to a candidate for candidate-related activity or to a political committee of a political party for party-related activity, to the extent that: the aggregate value of such invitations, food and beverages provided by the individual on behalf of the candidate does not exceed \$1,000 with respect to any single election; and on behalf of all political committees of each political party does not exceed \$2,000 in any calendar year.

(8) The sale of any food or beverage by a vendor (whether incorporated or not) for use in a candidate's campaign, or for use by a political committee of a political party, at a charge less than the normal or comparable commercial charge, is not an expenditure, provided that the charge is at least equal to the cost of such food or beverage to the

vendor, to the extent that: the aggregate value of such discount given by the vendor on behalf of any single candidate does not exceed \$1,000 with respect to any single election; and on behalf of all political committees of each political party does not exceed \$2,000 in a calendar year.

(9) Any unreimbursed payment for transportation expenses incurred by any individual on behalf of any candidate or political committee of a political party is not an expenditure to the extent that: the aggregate value of the payments made by such individual on behalf of a candidate does not exceed \$1,000 with respect to a single election; and on behalf of all political committees of each political party does not exceed \$2,000 in a calendar year. Additionally, any unreimbursed payment from a volunteer's personal funds for usual and normal subsistence expenses incident to volunteer activity is not an expenditure.

(10) The payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card, sample ballot, palm card, or other printed listing(s) of three or more candidates for any public office for which an election is held in the State in which the committee is organized is not an expenditure. The payment of the portion of such costs allocable to Federal candidates must be made from funds subject to the limitations and prohibitions of the Act. If made by a political party committee, such payments shall be reported by that committee as disbursements, but need not be allocated in committee reports to specific candidates. This exemption shall not apply to costs incurred by such a committee with respect to the preparation and display of listings made on broadcasting stations, or in newspapers, magazines, and similar types of general public political advertising such as billboards.

(11) Any payment made or obligation incurred by a corporation or labor organization is not an expenditure if under the provisions of 11 CFR Part 114 such payment or obligation would not constitute an expenditure by the corporation or labor organization.

(12) A loan of money by a State bank, a federally chartered depository institution (including a national bank) or a depository institution whose deposits and accounts are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration is not an expenditure by the lending institution if such loan is made in accordance with

applicable banking laws and regulations and is made in the ordinary course of business. A loan will be deemed to be made in the ordinary course of business if it: bears the usual and customary interest rate of the lending institution for the category of loan involved; is made on a basis which assures repayment; is evidenced by a written instrument; and is subject to a due date or amortization schedule. Such loans shall be reported by the political committee in accordance with 11 CFR 104.3(a). Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Any reduction in the unpaid balance of the loan shall reduce proportionately the amount endorsed or guaranteed by each endorser or guarantor in such written agreement. In the event that the loan agreement does not stipulate the portion of the loan for which each endorser or guarantor is liable, the loan shall be considered an expenditure by each endorser or guarantor in the same proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors. For the purposes of 11 CFR 100.8(b)(12), an overdraft made on a checking or savings account shall be considered an expenditure unless: the overdraft is made on an account which is subject to automatic overdraft protection; and the overdraft is subject to a definite interest rate and a definite repayment schedule.

(13) A purchase, payment, distribution, loan, advance, or deposit of money or anything of value made to a national committee or a state committee of a political party is not an expenditure if it is specifically designated to defray any cost incurred for construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office. If such purchase, payment, distribution, loan, advance, or deposit of money or anything of value is made to a committee which is not a political committee under 11 CFR 100.5, the amount need not be reported. However, if such purchase, payment, distribution, loan, advance, or deposit of money or anything of value is made to a political committee, it shall be reported in accordance with 11 CFR 104.3(g).

(14) Legal or accounting services rendered to or on behalf of any political committee of a political party are not expenditures if the person paying for such services is the regular employer of the individual rendering the services and such services are not attributable to

activities which directly further the election of any designated candidate for Federal office. For purposes of 11 CFR 100.8(b)(14), a partnership shall be deemed to be the regular employer of a partner. Amounts paid by the regular employer for such services shall be reported by the committee receiving such services in accordance with 11 CFR 104.3(h).

(15) Legal or accounting services rendered to or on behalf of an authorized committee of a candidate or any other political committee are not expenditures if the person paying for such services is the regular employer of the individual rendering such services and if the services are solely to ensure compliance with the Act or 26 USC 9001 *et seq.* and 9032 *et seq.* For purposes of 11 CFR 100.8(b)(15), a partnership shall be deemed to be the regular employer of a partner. Amounts paid by the regular employer for these services shall be reported by the committee receiving such services in accordance with 11 CFR 104.3(h). Expenditures for these services by a candidate certified to receive Primary Matching Funds under 11 CFR Part 9034 or certified to receive payments from the Presidential Election Campaign Fund under 11 CFR Part 143 do not count against such candidate's expenditure limitations under 11 CFR Part 9035 or 11 CFR 110.8.

(16) The payment by a state or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids or newsletters, and yard signs) used by such committee in connection with volunteer activities on behalf of any nominee(s) of such party is not an expenditure, provided that the following conditions are met.

(i) Such payment is not for costs incurred in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising. For the purposes of 11 CFR 100.8(b)(16)(i), the term "direct mail" means any mailing(s) by a commercial vendor or any mailing(s) made from commercial lists.

(ii) The portion of the cost of such materials allocable to Federal candidates is paid from contributions subject to the limitations and prohibitions of the Act.

(iii) Such payment is not made from contributions designated by the donor to be spent on behalf of a particular candidate or candidates for Federal office. For purposes of 11 CFR 100.8(b)(16)(iii), a contribution shall not be considered a "designated contribution" if the party committee

disbursing the funds makes the final decision regarding which candidate(s) shall receive the benefit of such disbursement.

(iv) Such materials are distributed by volunteers and not by commercial or for-profit operations. For the purposes of 11 CFR 100.8(b)(16)(iv), payments by the party organization for travel and subsistence or customary token payments to volunteers do not remove such individuals from the volunteer category.

(v) If made by a political party committee, such payments shall be reported by that committee as disbursements, in accordance with 11 CFR 104.3, but need not be allocated to specific candidates in committee reports.

(vi) Payments by a State candidate or his or her campaign committee to a State or local political party committee for the State candidate's share of expenses for such campaign materials are not expenditures, provided the amount paid by the State candidate or his or her committee does not exceed his or her proportionate share of the expenses.

(vii) Campaign materials purchased by the national committee of a political party and delivered to a State or local party committee, or materials purchased with funds donated by the national committee to such State or local committee for the purchase of such materials, shall not qualify under this exemption. Rather, the cost of such materials shall be subject to the limitations of 2 USC 441a(d) and 11 CFR 110.7.

(17) The payment by a candidate for any public office (including State or local office), or by such candidate's authorized committee, of the costs of that candidate's campaign materials which include information on or any reference to a candidate for Federal office and which are used in connection with volunteer activities (such as pins, bumper stickers, handbills, brochures, posters, and yard signs) is not an expenditure on behalf of such candidate for Federal office, provided that the payment is not for the use of broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communication or political advertising. The payment of the portion of the cost of such materials allocable to Federal candidates shall be made from contributions subject to the limitations and prohibitions of the Act. For purposes of 11 CFR 100.8(b)(17), the term "direct mail" means mailings by commercial vendors or mailings made from lists which were not developed by the candidate.

(18) The payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of the Presidential and Vice Presidential nominee(s) of that party is not an expenditure for the purpose of influencing the election of such candidates provided that the following conditions are met:

(i) Such payment is not for the costs incurred in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising. For purposes of 11 CFR 100.8(b)(18)(i), the term "direct mail" means any mailing(s) by a commercial vendor or any mailing(s) made from commercial lists.

(ii) The portion of the costs of such activities allocable to Federal candidates is paid from contributions subject to the limitations and prohibitions of the Act.

(iii) Such payment is not made from contributions designated to be spent on behalf of a particular candidate or candidates for Federal office. For the purposes of 11 CFR 100.8(b)(18)(iii), a contribution shall not be considered a "designated contribution" if the party committee disbursing the funds makes the final decision regarding which candidate(s) shall receive the benefit of such disbursement.

(iv) For purposes of 11 CFR 100.8(b)(18), if such activities include references to any candidate(s) for the House or Senate, the costs of such activities which are allocable to that candidate(s) shall be an expenditure on behalf of such candidate(s) unless the mention of such candidate(s) is merely incidental to the overall activity.

(v) For purposes of 11 CFR 100.8(b)(18), payment of the costs incurred in the use of phone banks in connection with voter registration and get-out-the-vote activities is not an expenditure when such phone banks are operated by volunteer workers. The use of paid professionals to design the phone bank system, develop calling instructions and train supervisors is permissible. The payment of the costs of such professional services is not an expenditure but shall be reported as a disbursement in accordance with 11 CFR 104.3 if made by a political committee.

(vi) If made by a political committee, such payments for voter registration and get-out-the-vote activities shall be reported by that committee as disbursements, in accordance with 11 CFR 104.3 but such payments need not be allocated to specific candidates in

committee reports except as provided in 11 CFR 100.8(b)(18)(iv).

(vii) Payments made from funds donated by a national committee of a political party to a State or local party committee for voter registration and get-out-the-vote activities shall not qualify under this exemption. Rather, such funds shall be subject to the limitations of 2 USC 441a(d) and 11 CFR 110.7.

(19) Amounts transferred by a party committee to another party committee or payments made to the appropriate State official of fees collected from candidates or their authorized committees as a condition of ballot access are not expenditures.

(20) A purchase, payment, distribution, loan, advance, or deposit of money or anything of value made with respect to a recount of the results of a Federal election, or an election contest concerning a Federal election, is not an expenditure except that the prohibitions of 11 CFR 110.4(a) and Part 114 apply.

(21) (i) Any costs incurred by a candidate or his or her authorized committees in connection with the solicitation of contributions by a candidate who has been certified to receive Presidential Primary Matching Fund Payments (or a minor or new party candidate receiving general election public financing under 26 USC 9004), the aggregate of which do not exceed 20 percent of the expenditure limitation applicable to that candidate, are not expenditures, but these costs shall be reported as disbursements under 11 CFR Part 104.

(ii) For purposes of 11 CFR 100.8(b)(21), "in connection with the solicitation of contributions" means any cost reasonably related to fundraising activity, including the costs of printing and postage, the production of and space or air time for, advertisements used for fundraising, and the costs of meals, beverages, and other costs associated with a fundraising reception or dinner.

(iii) The fundraising expenditures need not be allocated on a State by State basis, except where the fundraising activity is aimed at a particular State and takes place within 28 days prior to a primary election, convention, or caucus. See 11 CFR 110.8(c).

(22) Payments by a candidate from his or her personal funds, as defined at 11 CFR 110.10(b), for the candidate's routine living expenses which would have been incurred without candidacy, including the costs of food and residence, are not expenditures.

(c) For purposes of 11 CFR 100.8 (a) and (b), any payments made by a married individual shall not be

attributed to that individual's spouse, unless otherwise specified by that individual or by the individuals' spouse.

§ 100.9 Commission (2 U.S.C. 431(10)).

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

§ 100.10 Person (2 U.S.C. 431(11)).

"Person" means an individual, partnership, committee, association, corporation, labor organization, and any other organization, or group of persons, but does not include the Federal government or any authority of the Federal government.

§ 100.11 State (2 U.S.C. 431(12)).

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

§ 100.12 Identification (2 U.S.C. 431(13)).

"Identification" means, in the case of an individual, his or her full name, including: first name, middle name or initial, if available, and last name; mailing address; occupation; and the name of his or her employer; and, in the case of any other person, the person's full name and address.

§ 100.13 National committee (2 U.S.C. 431(14)).

"National committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of the political party at the national level, as determined by the Commission.

§ 100.14 State committee, Subordinate committee (2 U.S.C. 431(15)).

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

(b) "Subordinate committee of a State committee" means any organization which is responsible for the day-to-day operation of the political party at the level of city, county, neighborhood, ward, district, precinct, or any other subdivision of a State or any organization under the control or direction of the State committee.

§ 100.15 Political party (2 U.S.C. 431(16)).

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

§ 100.16 Independent expenditure (2 U.S.C. 431(17)).

The term "independent expenditure" means an expenditure for a communication by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

§ 100.17 Clearly identified (2 U.S.C. 431(18)).

The term "clearly identified" means that the name of the candidate involved appears; a photograph or drawing of the candidate appears; or the identity of the candidate is apparent by unambiguous reference.

§ 100.18 Act (2 U.S.C. 431(19)).

"Act" means the Federal Election Campaign Act of 1971 (Public Law 92-225), as amended in 1974 (Public Law 93-443), 1976 (Public Law 94-283), 1977 (Public Law 95-216) and 1980 (Public Law 96-187).

§ 100.19 File, filed or filing (2 U.S.C. 434(a)).

With respect to reports, statements, notices, and designations required to be filed under 11 CFR Parts 101, 102, 104, 105, 107, 108 and 109, and any modifications or amendments thereto, the terms "file", "filed" and "filing" mean either of the following actions:

(A) A document is timely filed upon delivery to the Federal Election Commission, 1325 K Street NW., Washington, D.C. 20463; the Secretary of the United States Senate, Office of Public Records, 119 D Street NE., Washington, D.C. 20510; or the Clerk of the United States House of Representatives, House Records and Registration, 1036 Longworth House Office Building, Washington, D.C. 20515 as required by 11 CFR Part 105, by the close of the prescribed filing date.

(B) A document is timely filed upon deposit as registered or certified mail in an established U.S. Post Office and postmarked no later than midnight of the day of the filing date, except that pre-election reports so mailed must be postmarked no later than midnight of the fifteenth day before the date of the election. Reports and statements sent by first class mail must be received by the close of business of the prescribed filing date to be timely filed.

§ 100.20 Occupation (2 U.S.C. 431(13)).

"Occupation" means the principal job title or position of an individual and whether or not self-employed.

§ 100.21 Employer (2 U.S.C. 431(13)).

"Employer" means the organization or person by whom an individual is employed, and not the name of his or her supervisor.

PART 101—CANDIDATE STATUS AND DESIGNATIONS (2 U.S.C. 432(e))

Sec.

101.1 Candidate designations (2 U.S.C. 432(e)(1)).

101.2 Candidate as agent of authorized committee (2 U.S.C. 432(e)(2)).

101.3 Funds received or expended prior to becoming a candidate (2 U.S.C. 432(e)(2)).

Authority: 2 U.S.C. 432(e), 438(a) (f).

§ 101.1 Candidate designations (2 U.S.C. 432(e)(1)).

(a) *Principal Campaign Committee.* Within 15 days after becoming a candidate under 11 CFR 100.3, each candidate, other than a nominee for the office of Vice President, shall designate in writing a principal campaign committee in accordance with 11 CFR 102.12. A candidate shall designate his or her principal campaign committee by filing a Statement of Candidacy on FEC Form —, or by filing a letter containing the same information (that is, the individual's name and address, party affiliation and office sought, the District and State in which Federal office is sought, and the name and address of his or her principal campaign committee) at the place of filing specified at 11 CFR Part 105. Each principal campaign committee shall register, designate a depository and report in accordance with 11 CFR Parts 102, 103 and 104.

(b) *Authorized Committees.* A candidate may designate additional political committees in accordance with 11 CFR 102.13 to serve as committees which will be authorized to accept contributions or make expenditures on behalf of the candidate. For each such authorized committee, other than a principal campaign committee, the candidate shall file a written designation with his or her principal campaign committee. The principal campaign committee shall file such designations at the place of filing specified at 11 CFR Part 105.

§ 101.2 Candidate as agent of authorized committee (2 U.S.C. 432(e)(2)).

(a) Any candidate who receives a contribution as defined at 11 CFR 100.7, obtains any loan, or makes any disbursement, in connection with his or her campaign shall be considered as

having received such contribution, obtained such loan or made such disbursement as an agent of his or her authorized committee(s).

(b) When an individual becomes a candidate, any funds received, loans obtained, or disbursements made prior to becoming a candidate in connection with his or her campaign shall be deemed to have been received, obtained or made as an agent of his or her authorized committee(s).

§ 101.3 Funds received or expended prior to becoming a candidate (2 U.S.C. 432(e)(2)).

When an individual becomes a candidate, all funds received or payments made in connection with his or her campaign prior to becoming a candidate shall be considered contributions or expenditures under the Act and shall be reported in accordance with 11 CFR 104.3 in the first report filed by such candidate's principal campaign committee. The individual shall keep records of the name of each contributor, the date of receipt and amount of all contributions received (see 11 CFR 102.9(a)) and all expenditures made (see 11 CFR 102.9(b)) in connection with the individual's campaign prior to becoming a candidate. Contributions received by an individual prior to becoming a candidate, which contributions are not in compliance with the Act, shall be returned to the contributor within ten (10) days after the individual becomes a candidate. The individual shall keep records of all refunds made.

PART 102—REGISTRATION, ORGANIZATION, AND RECORDKEEPING BY POLITICAL COMMITTEES (2 U.S.C. 433)

Sec.

- 102.1 Registration of political committees (2 U.S.C. 433(a)).
- 102.2 Statement of organization: Forms and committee identification number (2 U.S.C. 433(b), (c)).
- 102.3 Termination of registration (2 U.S.C. 433(d)(1)).
- 102.4 Administrative termination (2 U.S.C. 433(d)(2)).
- 102.5 Organizations financing political activity in connection with Federal and non-Federal elections, other than through transfers and joint fundraisers.
- 102.6 Transfers and joint fundraisers.
- 102.7 Organization of political committees (2 U.S.C. 433(a)).
- 102.8 Receipt of contributions (2 U.S.C. 432(b)).
- 102.9 Accounting for contributions and expenditures (2 U.S.C. 432(c)).
- 102.10 Disbursement by check (2 U.S.C. 432(h)(1)).
- 102.11 Petty cash fund (2 U.S.C. 432(h)(2)).
- 102.12 Designation of principal campaign committee (2 U.S.C. 432(e) (1) and (3)).

102.13 Authorization of political committees (2 U.S.C. 432(e) (1) and (3)).

102.14 Names of political committees (2 U.S.C. 432(e) (4) and (5)).

102.15 Commingled funds (2 U.S.C. 432(a)(3)).

102.16 Notice: Solicitation of contributions (2 U.S.C. 441d).

Authority: 2 U.S.C. 432, 433, 438(a)(8), 441d.

§ 102.1 Registration of Political Committees (2 U.S.C. 433(a)).

(a) *Principal Campaign Committees.*
Each principal campaign committee shall file a Statement of Organization in accordance with 11 CFR 102.2 no later than 10 days after designation pursuant to 11 CFR 101.1. In addition, each principal campaign committee shall file all designations, statements and reports which are filed with such committee at the place of filing specified at 11 CFR Part 105.

(b) *Authorized Committees.*
Each authorized committee(s) shall file only one Statement of Organization in accordance with 11 CFR 102.2 no later than 10 days after designation pursuant to 11 CFR 101.1. Such Statement(s) shall be filed with the principal campaign committee of the authorizing candidate.

(c) *Separate Segregated Funds.*
Each separate segregated fund established under 2 USC 441b(b)(2)(C) shall file a Statement of Organization with the Federal Election Commission no later than 10 days after establishment. This requirement shall not apply to a fund established solely for the purpose of financing political activity in connection with State or local elections. Examples of establishment events after which a fund would be required to register include, but are not limited to: a vote by the board of directors or comparable governing body of an organization to create a separate segregated fund to be used wholly or in part for federal elections; selection of initial officers to administer such a fund; or payment of the initial operating expenses of such a fund.

(d) *Other Political Committees.*
All other committees shall file a Statement of Organization no later than 10 days after becoming a political committee within the meaning of 11 CFR 100.5. Such statement(s) shall be filed at the place of filing specified at 11 CFR Part 105.

§ 102.2 Statement of Organization: Forms and Committee Identification Number (2 U.S.C. 433(b), (c)).

(a) *Forms.*
(1) The Statement of Organization shall be filed in accordance with 11 CFR Part 105 on Federal Election Commission Form 1, which may be obtained from the Federal Election

Commission, 1325 K Street, N.W., Washington, D.C. 20463. The Statement shall be signed by the treasurer and shall include the following information:

- (i) The name, address, and type of committee;
- (ii) The name, address, relationship, and type of any connected organization or affiliated committee in accordance with 11 CFR 102.2(b);
- (iii) The name, address, and committee position of the custodian of books and accounts of the committee;
- (iv) The name and address of the treasurer of the committee;
- (v) If the committee is authorized by a candidate, the name, office sought (including State and Congressional district, when applicable) and party affiliation of the candidate; and the address to which communications should be sent;
- (vi) A listing of all banks, safe deposit boxes, or other depositories used by the committee.

(2) Any change or correction in the information previously filed in the Statement of Organization shall be reported no later than 10 days following the date of the change or correction by filing an amended Statement of Organization or by filing a letter noting the change(s). The amendment need list only the name of such committee and the change or correction.

(b) For purposes of 11 CFR 102.2(a)(1)(ii), political committees shall disclose the names of any connected organization(s) or affiliated committee(s) in accordance with 11 CFR 102.2(b) (1) and (2).

(1) "Affiliated committee" includes any committee defined in 11 CFR 100.5(g).

(i) A principal campaign committee is required to disclose the names and addresses of all other authorized committees which have been authorized by its candidate. Authorized committees need only disclose the name of their principal campaign committee.

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

(other than political party organizations).

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

(2) "Connected organization" includes any organization defined at 11 CFR 100.6.

(c) *Committee identification number.* Upon receipt of a Statement of Organization under 11 CFR Part 102 by the Commission, an identification number shall be assigned to the committee, receipt shall be acknowledged, and the political committee shall be notified of the number assigned. This identification number shall be entered by the political committee on all subsequent reports or statements filed under the Act, as well as on all communications concerning reports and statements.

§ 102.3 Termination of registration (2 U.S.C. 433(d)(1)).

(a) A political committee (other than a principal campaign committee) may terminate only upon filing a termination report on FEC Form or upon filing a written statement containing the same information at the place of filing specified at 11 CFR Part 105. Except as provided in 11 CFR 102.4(c), only a committee which will no longer receive any contributions or make any disbursements that would otherwise qualify it as a political committee may terminate, provided that such committee has no outstanding debts and obligations. In addition to the Notice, the committee shall also provide a final report of receipts and disbursements, which report shall include a statement as to the purpose for which such residual funds will be used, including a statement as to whether such residual funds will be used to defray expenses incurred in connection with an individual's duties as a holder of federal office.

(b) Except as provided at 11 CFR 102.4, a principal campaign committee may not terminate until it has met the requirements of 11 CFR 102.3(a) and until all debts of any other authorized committee(s) of the candidate have been extinguished.

§ 102.4 Administrative termination (2 U.S.C. 443(d)(2)).

(a) The Commission, on its own initiative or upon the request of the

political committee itself, may administratively terminate a political committee's reporting obligation on the basis of the following factors:

(1) The committee's aggregate reported financial activity in one year is less than \$5000;

(2) The committee's reports disclose no receipt of contributions for the previous year;

(3) The committee's last report disclosed minimal expenditures;

(4) The committee's primary purpose for filing its reports has been to disclose outstanding debts and obligations;

(5) The committee has failed to file reports for the previous year;

(6) The committee's last report disclosed that the committee's outstanding debts and obligations do not appear to present a possible violation of the prohibitions and limitations of 11 CFR Parts 110 and 114;

(7) The committee's last report disclosed that the Committee does not have substantial outstanding accounts receivable;

(8) The committee's outstanding debts and obligations exceed the total of the committee's reported cash on hand balance.

(b) The Commission shall send a notification to the committee treasurer of its intent to administratively terminate that committee and may request the treasurer to submit information with regard to the factors set forth at 11 CFR 102.4(a). The treasurer shall respond, in writing, within 30 days of receipt of the Commission's notice or request and if the committee objects to such termination, the committee's response shall so state.

(c) The Commission shall administratively terminate a committee if such committee fails to object to the Commission's action under 11 CFR 102.4(b) and the Commission determines that either:

(1) The committee has complied with the debt settlement procedures set forth at 11 CFR 114.10;

(2) The Commission has approved the forgiveness of any loan(s) owed the committee which would have otherwise been considered a contribution under the Act in violation of 11 CFR Part 110;

(3) It does not appear from evidence available that a contribution in violation of 11 CFR Parts 110 and 114 will result.

§ 102.5 Organizations financing political activity in connection with federal and non-federal elections, other than through transfers and joint fundraisers.

(a) Organizations that are political committees under the Act

(1) Each organization, including a party committee, which finances political activity in connection with both federal and non-federal elections and which qualifies as a political committee under 11 CFR 100.5 shall either:

(i) Establish a separate federal account in a depository in accordance with 11 CFR Part 103. Such account shall be treated as a separate federal political committee which shall comply with the requirements of the Act including the registration and reporting requirements of 11 CFR Parts 102 and 104. Only funds subject to the prohibitions and limitations of the Act shall be deposited in such separate federal account. All disbursements, contributions, expenditures and transfers by the committee in connection with any federal election shall be made from its federal account. No transfers may be made to such federal account from any other account(s) maintained by such organization for the purpose of financing activity in connection with non-federal elections. Administrative expenses shall be allocated pursuant to 11 CFR Part 106 between such federal account and any other account maintained by such committee for the purpose of financing activity in connection with non-federal elections; or

(ii) Establish a political committee which shall receive only contributions subject to the prohibitions and limitations of the Act, regardless of whether such contributions are for use in connection with federal or non-federal elections. Such organization shall register as a political committee and comply with the requirements of the Act.

(2) Only contributions meeting the conditions set forth at subsections (i), (ii), and (iii) of this section may be deposited in a federal account established under 11 CFR 102.5(a)(1) or may be received by a political committee established under 11 CFR 102.5(a)(2).

(i) Contributions designated for the federal account;

(ii) Contributions that result from a solicitation which expressly states that the contribution will be used in connection with a federal election; and

(iii) Contributions from contributors who are informed that all contributions are subject to the prohibitions and limitations of the Act.

(b) Organizations that are not political committees under the Act

(1) Any organization that makes contributions or expenditures but does not qualify as a political committee under 11 CFR 100.5 and any State or local party organization that makes contributions, expenditures and

exempted payments under 11 CFR 100.7(b)(9), (15) and (17) and 100.8(b)(10), (16) and (18) shall either:

(i) Establish a separate account to which only funds subject to the prohibitions and limitations of the Act shall be deposited and from which contributions, expenditures and exempted payments shall be made. Such organization shall keep records of deposits to and disbursements from such account and, upon request, shall make such records available for examination by the Commission.

(ii) Demonstrate through a reasonable accounting method that whenever such organization makes a contribution, expenditure or exempted payment, that organization has received sufficient funds subject to the limitations and prohibitions of the Act to make such contribution, expenditure or payment. Such organization shall keep records of amounts received or expended under this subsection and, upon request, shall make such records available for examination by the Commission.

§ 102.6 Transfers and joint fundraisers.

(a) Transfers of funds may be made without limit between affiliated committees, whether or not they are political committees under 11 CFR 100.5; and between or among a national party committee, any State party committee and/or any subordinate party committee whether or not they are political committees under 11 CFR 100.5 and whether or not such committees are affiliated. Transfers will apply toward the thresholds for determining whether a committee is a political committee as defined at 11 CFR 100.5.

(b) For a committee or organization engaging in a joint fundraising with, or acting as a fundraising agent for, any political committee, said committee or organization shall comply with the provisions of 11 CFR 102.8 and in transferring such contributions shall either:

(1) Establish a transmittal account to be used solely for the deposit of funds from a joint fundraiser or collected as a fundraising agent and for forwarding funds to its affiliate. Only funds subject to the prohibitions and limitations of the Act shall be deposited into such account. If any disbursement is made from the account, other than a transfer of funds to an affiliated committee, the account shall be considered a depository of the recipient affiliated political committee and all activity of that account shall be reported; or

(2) Transmit contributions which it has collected as a fundraising agent or in joint fundraising either by money order, cashier's check or similar

instrument without depositing such contributions in any account prior to the transfers; or

(3) Deposit contributions which it has collected in joint fundraising or through a check-off plan in an account established solely for State or local election activity. The committee shall forward such contributions to its affiliate in accordance with 11 CFR 102.8. The committee shall make separate deposits of funds received through joint fundraising activity or through a check-off plan, where any portion of such funds represents contributions to the affiliated political committee. Such record shall include those records required to the kept under 11 CFR 102.8. If contributions of \$50 or less are received at a mass collection, a record shall be kept of the date, the total amount collected, and the name of the function at which the collection was made. For each contribution of \$50 or less which was not received at a mass collection, a record shall be kept of the date and amount of the contribution. Upon request, the organization shall make all records kept under this section available for examination by the Commission.

§ 102.7 Organization of political committees. (2 U.S.C. 432(a)).

(a) Every political committee shall have a treasurer and may designate, on the committee's Statement of Organization, an assistant treasurer who shall assume the duties and responsibilities of the treasurer in the event of a temporary or permanent vacancy in the office or in the event the treasurer is unavailable.

(b) Except as provided in subsection (a), no contribution or expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of the treasurer.

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

(d) Any candidate who receives a contribution, as defined at 11 CFR 100.7, obtains any loan or makes any disbursement in connection with his or her campaign, shall be considered as having received the contribution, obtained the loan or made the disbursement as an agent of such authorized committee(s).

§ 102.8 Receipt of contributions. (2 U.S.C. 432(b)).

(a) Every person who receives a contribution for an authorized political committee shall, no later than 10 days

after receipt, forward such contribution to the treasurer. If the amount of the contribution is in excess of \$50, such person shall also forward to the treasurer the name and address of the contributor and the date of receipt of the contribution. If the amount of the contribution is in excess of \$200, such person shall forward the contribution, the identification of the contributor in accordance with 11 CFR 100.12, and the date of receipt of the contribution. Date of receipt shall be the date such person obtains possession of the contribution.

(b) (1) Every person who receives a contribution of \$50 or less for a political committee which is not an authorized committee shall forward such contribution to the treasurer of the political committee no later than 30 days after receipt.

(2) Every person who receives a contribution in excess of \$50 for a political committee which is not an authorized committee shall, no later than 10 days after receipt of the contribution, forward to the treasurer of the political committee: the contribution; the name and address of the contributor; and the date of receipt of the contribution. If the amount of the contribution is in excess of \$200, such person shall forward the contribution, the identification of the contributor in accordance with 11 CFR 100.12, and the date of receipt of the contribution. Date of receipt shall be the date such person obtains possession of the contribution.

(c) The provisions of 11 CFR 102.8 concerning receipt of contributions for political committees shall also apply to earmarked contributions transmitted by an intermediary or conduit.

§ 102.9 Accounting for contributions and expenditures. (2 U.S.C. 432(c)).

The treasurer of a political committee or an agent authorized by the treasurer to receive contributions and make expenditures shall fulfill all recordkeeping duties as set forth at 11 CFR 102.9(a) through (e):

(a) An account shall be kept by any reasonable accounting procedure of all contributions received by or on behalf of the political committee.

(1) For contributions in excess of \$50, such account shall include the name and address of the contributor and the date of receipt and amount of such contribution.

(2) For contributions from any person whose contributions aggregate more than \$200 during a calendar year, such account shall include the identification of the person, and the date of receipt and amount of such contribution.

(3) For contributions from a political committee, such account shall include

the identification of the political committee and the date of receipt and amount of such contribution.

(b)(1) An account shall be kept of all disbursements made by or on behalf of the political committee. Such account shall consist of a record of:

(i) the name and address of every person to whom any disbursement is made;

(ii) the date, amount, and purpose of the disbursement; and

(iii) if the disbursement is made for a candidate, the name and office (including State and congressional district, if any) sought by that candidate.

(iv) For purposes of 11 CFR 102.9(b)(1), "purpose" has the same meaning given the term at 11 CFR 104.3(b)(3)(i)(A).

(2) In addition to the account to be kept under 11 CFR 102.9(b)(1), a receipt or invoice from the payee or a cancelled check to the payee shall be obtained and kept for each disbursement in excess of \$200 by or on behalf of, the committee, except that credit card transactions, shall be documented in accordance with 11 CFR 102.9(b)(2)(ii) and disbursements by share draft or check drawn on a credit union account shall be documented in accordance with 11 CFR 102.9(b)(2)(iii).

(i)(A) For purposes of 11 CFR 102.9(b)(2), "payee" means the person who provides the goods or services to the committee or agent thereof in return for payment, except for an advance of \$500 or less for travel and subsistence to an individual who will be the recipient of the goods or services.

(B) For any advance of \$500 or less to an individual for travel and subsistence, the expense voucher or other expense account documentation and a cancelled check to the recipient of the advance shall be obtained and kept.

(ii) For any credit card transaction, documentation shall include a monthly billing statement or customer receipt for each transaction and the cancelled check used to pay the credit card account.

(iii) For purposes of 11 CFR 102.9(b)(2), a carbon copy of a share draft or check drawn on a credit union account may be used as a duplicate record of such draft or check provided that the monthly account statement showing that the share draft or check was paid by the credit union is also retained.

(c) The treasurer shall preserve all records and accounts required to be kept under 11 CFR 102.9 for 3 years after the report to which such records and accounts relate is filed.

(d) In performing recordkeeping duties, the treasurer or his or her authorized agent shall use his or her

best efforts to obtain, maintain and submit the required information and shall keep a complete record of such efforts. If there is a showing that best efforts have been made, any records of a committee shall be deemed to be in compliance with this Act. With regard to the requirements of 11 CFR 102.9(b)(2) concerning receipts, invoices and cancelled checks, the treasurer will not be deemed to have exercised best efforts to obtain, maintain and submit the records unless he or she has made at least one written effort per transaction to obtain a duplicate copy of the invoice, receipt, or cancelled check.

(e) If the candidate, or his or her authorized committee(s), receives contributions prior to the date of the primary election, which contributions are designated by the candidate or his or her authorized committee(s) for use in connection with the general election, such candidate or such committees shall use an acceptable accounting method to distinguish between contributions received for the primary election and contributions received for the general election. Acceptable methods include, but are not limited to: (1) the designation of separate accounts for each election, caucus, or convention and (2) the establishment of separate books and records for each election.

§ 102.10 Disbursement by check (2 U.S.C. 432(h)(1)).

All disbursements by a political committee, except for disbursements from the petty cash fund under 11 CFR 102.11, shall be made by check or similar draft drawn on account(s) established at the committee's campaign depository or depositories under 11 CFR Part 103.

§ 102.11 Petty cash fund (2 U.S.C. 432(h)(2)).

A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of \$100 to any person per purchase or transaction. If a petty cash fund is maintained, it shall be the duty of the treasurer of the political committee to keep and maintain a written journal of all disbursements. This written journal shall include the name and address of every person to whom any disbursement is made, as well as the date, amount, and purpose of such disbursement. In addition, if any disbursement is made for a candidate, the journal shall include the name of that candidate and the office (including State and Congressional district) sought by such candidate.

§ 102.12 Designation of principal campaign committee (2 U.S.C. 432(e)(1) and (3)).

(a) Each candidate for Federal office (other than a nominee of a political party to the Office of Vice President) shall designate in writing a political committee to serve as his or her principal campaign committee in accordance with 11 CFR 101.1(a) no later than 15 days after becoming a candidate. Each principal campaign committee shall register, designate a depository and report in accordance with 11 CFR Parts 102, 103 and 104.

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

(c)(1) No political committee which supports or has supported more than one candidate may be designated as a principal campaign committee, except that, after nomination, a candidate for the office of President of the United States nominated by a political party may designate the national committee of such political party as his or her principal campaign committee. A national committee which is so designated shall maintain separate books of account with respect to its function as a principal campaign committee.

(2) For purposes of 11 CFR 102.12(c), the term "support" does not include contributions by an authorized committee in amounts aggregating \$1,000 or less per election to an authorized committee of any other candidate, except that the national committee of a political party which has been designated as the principal campaign committee of that party's Presidential candidate may contribute to another candidate in accordance with 11 CFR Part 110.

§ 102.13 Authorization of political committees (2 U.S.C. 432(e)(1) and (3)).

(a)(1) Any political committee authorized by a candidate to receive contributions or make expenditures shall be authorized in writing by the candidate. Such authorization must be filed with the principal campaign committee in accordance with 11 CFR 102.1(b).

(2) If an individual fails to disavow activity pursuant to 11 CFR 100.3(a)(3) and is therefore a candidate upon notice by the Commission, he or she shall authorize the committee in writing.

(b) A candidate is not required to authorize a national, State or subordinate State party committee which solicits funds to be expended on the candidate's behalf pursuant to 11 CFR 110.7.

(c)(1) No political committee which supports or has supported more than one candidate may be designated as an authorized committee, except that two or more candidates may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.

(2) For purposes of 11 CFR 102.13(c), the term "support" does not include contributions by an authorized committee in amounts aggregating \$1,000 or less per election to an authorized committee of any other candidate, except that the national committee of a political party which has been designated as the principal campaign committee of that party's Presidential candidate may contribute to another candidate in accordance with 11 CFR Part 110.

§ 102.14 Names of political committees (2 U.S.C. 432(e)(4) and (5)).

(a) The name of each authorized committee shall include the name of the candidate who authorized such committee. Except as provided in subsection (b) of this section, any political committee which is not an authorized committee shall not include the name of any candidate in its name.

(b)(1) A delegate committee, as defined at 11 CFR 100.5(a)(5), shall include the word "delegate(s)" in its name and may also include in its name the name of the presidential candidate which the delegate committee supports.

(2) A political committee established solely to draft an individual or to encourage him or her to become a candidate may include the name of such individual in the name of the committee provided the committee's name clearly indicates that it is a draft committee.

(c) The name of a separate segregated fund established pursuant to 11 CFR 102.1(c) shall include the full name of its connected organization. Such fund may also use a clearly recognized abbreviation or acronym by which the connected organization is commonly known. Both the full name and such abbreviation or acronym shall be included on the fund's Statement of Organization, on all reports filed by the fund, and in all notices required by 11 CFR 109.4 and 110.11. The fund may make contributions using its acronym or abbreviated name. A fund established by a corporation which has a number of subsidiaries need not include the name of each subsidiary in its name. Similarly, a separate segregated fund established by a subsidiary need not include in its name the name of its parent or another subsidiary of its parent.

§ 102.15 Commingled funds (2 U.S.C. 432(a)(3)).

All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members or associates of that committee, or with the personal funds of any other individual. See also 11 CFR 103.3 and Part 114 and 2 USC 441b.

§ 102.16 Notice: Solicitation of contributions (2 U.S.C. 441d).

Each political committee shall comply with the notice requirements for solicitation of contributions set forth at 11 CFR 110.11.

PART 103—CAMPAIGN DEPOSITORIES (2 U.S.C. 432(h))

Sec.

- 103.1 Notification of the commission.
- 103.2 Depositories (2 USC 432(h)(1)).
- 103.3 Deposit of receipts and disbursements (2 USC 432(h)(1)).
- 103.4 Vice Presidential candidate campaign depositories.

Authority: 2 USC 432(h), 438(a)(8).

§ 103.1 Notification of the commission.

Each committee shall notify the Commission of the campaign depository(ies) it has designated, pursuant to 11 CFR 101.1 and 103.2.

§ 103.2 Depositories (2 U.S.C. 432(h)(1)).

Each political committee shall designate one or more State banks, federally chartered depository institutions (including a national bank), or depository institutions the depositor accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, as its campaign depository or depositories. One or more depositories may be established in one or more States. Each political committee shall maintain at least one checking account or transaction account at one of its depositories. Additional accounts may be established at each depository.

§ 103.3 Deposit of receipts and disbursements (2 U.S.C. 432(h)(1)).

(a) All receipts by a political committee shall be deposited in account(s) established pursuant to 11 CFR 103.2. The treasurer of the committee shall be responsible for making such deposits. All deposits shall be made within 10 days of the treasurer's receipt. A committee shall make all disbursements by check or similar drafts drawn on an account at its designated campaign depository, except for expenditures of \$100 or less made from a petty cash fund maintained

pursuant to 11 CFR 102.11. Funds may be transferred from the depository for investment purposes, but shall be returned to the depository before such funds are used to make expenditures.

(b)(1) Contributions which appear to be illegal shall be, within 10 days, either returned to the contributor or deposited into the campaign depository, and reported. If deposited, the treasurer shall make and retain a written record noting the basis for the appearance of illegality. A statement noting that the legality of the contribution is in question should be included in the report. The treasurer shall make his or her best efforts to determine the legality of the contribution.

(2) When a contribution cannot be determined to be legal, refunds shall be made within a reasonable time, and the treasurer shall note the refund by amending the current report or noting the change on the committee's next required report.

§ 103.4 Vice Presidential candidate campaign depositories.

Any campaign depository designated by the principal campaign committee of a political party's candidate for President shall be the campaign depository for that political party's candidate for the office of Vice President.

PART 104—REPORTS BY POLITICAL COMMITTEES (2 U.S.C. 434)

Sec.

- 104.1 Scope (2 USC 434(a))
- 104.2 Forms
- 104.3 Contents of Reports (2 USC 434(b))
- 104.4 Independent Expenditures by Political Committees (2 USC 434(c))
- 104.5 Filing Dates (2 USC 434(a)(2))
- 104.6 Form and Content of Internal Communications Reports (2 USC 431(9)(B)(iii))
- 104.7 Best Efforts (2 USC 432(i))
- 104.8 Uniform Reporting of Contributions
- 104.9 Uniform Reporting of Expenditures
- 104.10 Allocation of Expenditures Among Candidates
- 104.11 Continuous Reporting of Debts and Obligations
- 104.12 Beginning Cash on Hand for Political Committees
- 104.13 Disclosure of Receipt and Consumption of In-Kind Contributions
- 104.14 Formal Requirements Regarding Reports and Statements
- 104.15 Sale or Use Restriction (2 USC 438(a)(4))
- 104.16 Audits (2 USC 438(b))
- 104.17 Content of Reports; Presidential and Vice-Presidential Committees (2 USC 431 note)

Authority: 2 USC 431 note, 431(9)(B)(iii), 432(i), 434, 438(a)(4)(8), 438(b).

§ 104.1 Scope (2 U.S.C. 434(a)).

(a) *Who must report.* Each treasurer of a political committee required to register under 11 CFR Part 102 shall report in accordance with 11 CFR Part 104.

(b) *Who may report.* An individual seeking federal office who has not attained candidate status under 11 CFR 100.3, the committee of such an individual or any other committee may voluntarily register and report in accordance with 11 CFR Parts 102 and 104. An individual shall not become a candidate solely by voluntarily filing a report, nor shall such individual the individual's committee nor any other committee be required to file all reports under 11 CFR 104.5, unless the individual becomes a candidate under 11 CFR 100.3 or unless the committee becomes a political committee under 11 CFR 100.5.

§ 104.2 Forms.

(a) Each report filed by a political committee under 11 CFR Part 104 shall be filed on the appropriate FEC form as set forth below at 11 CFR 104.2(e).

(b) Forms may be obtained from the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

(c) A committee may reproduce FEC forms for its own use provided they are not reduced in size.

(d) With prior approval of the Commission a committee may use, for reporting purposes, computer produced schedules of itemized receipts and disbursements provided they are reduced to the size of FEC forms. The committee shall submit a sample of the proposed format with its request for approval.

(e) The following forms shall be used by the indicated type of reporting committee:

(1) *Presidential committees.* The authorized committees of a candidate for President or Vice President shall file on FEC Form 3-P.

(2) *Congressional candidate committees.* The authorized committees of a candidate for the Senate or the House of Representatives shall file on FEC Form 3.

(3) *Political Committees Other than Authorized Committees.* Political committees other than authorized committees shall file reports on FEC Form 3—

§ 104.3 Contents of reports (2 U.S.C. 434(b)).

(a) *Reporting of Receipts.* Except for reports filed in accordance with 11 CFR 104.17, each report filed under 11 CFR 104.1 shall disclose the total amount of receipts for the reporting period and for the calendar year and shall disclose the

information set forth at 11 CFR 104.3(a) (1) through (4). The first report filed by a committee shall also include all amounts received prior to becoming a political committee under 11 CFR 100.5, even if such amounts were not received during the current reporting period.

(1) *Cash on hand.* The amount of cash on hand at the beginning of the reporting period, including: currency; balance on deposit in banks, savings and loan institutions, and other depository institutions; traveler's checks owned by the committee; certificates of deposit, treasury bills and any other committee investments valued at cost.

(2) *Categories of receipts for all political committees other than authorized committees.* All committees other than authorized committees shall report the total amount of receipts received during the reporting period and, except for itemized and unitemized breakdowns, during the calendar year for each of the following categories:

(i) Contributions from persons other than any committees;

(A) itemized contributions from persons, other than any committees, including contributions from individuals;

(B) unitemized contributions from persons, other than any committees, including contributions from individuals;

(C) total contributions from persons other than any committees, including contributions from individuals;

(ii) contributions from political party committees, including contributions from party committees which are not political committees under the Act;

(iii) contributions from political committees, including contributions from committees which are not political committees under the Act but excluding contributions from any party committees;

(iv) total contributions;

(v) transfers from affiliated committees or organizations and, where the reporting committee is a political party committee, transfers from other party committees of the same party, regardless of whether such committees are affiliated;

(vi) all loans;

(vii) offsets to operating expenditures;

(A) itemized offsets to operating expenditures (such as rebates and refunds);

(B) unitemized offsets to operating expenditures (such as rebates and refunds);

(C) total offsets to operating expenditures;

(viii) other receipts;

(A) itemized other receipts (such as dividends and interest);

(B) unitemized other receipts (such as dividends and interest);

(C) the total sum of all other receipts.
(ix) the total sum of all receipts.

(3) *Categories of receipts for authorized committees.* An authorized committee of a candidate for Federal office shall report the total amount of receipts received during the reporting period and, except for itemized and unitemized breakdowns, during the calendar year in each of the following categories:

(i) contributions from persons other than any committees;

(A) itemized contributions from persons, other than any committees, including contributions from individuals, but excluding contributions from a candidate to his or her authorized committees;

(B) unitemized contributions from persons, other than any committees, including contributions from individuals, but excluding contributions from a candidate to his or her authorized committees;

(C) total contributions from persons other than any committees, including contributions from individuals, but excluding contributions from a candidate to his or her authorized committees;

(ii) contributions from the candidate, excluding loans which are reported under 11 CFR 104.3(a)(3)(vii);

(iii) contributions from political party committees, including party committees which are not political committees under the Act, except that expenditures made under 11 CFR 110.7 (2 U.S.C. 441a(d)), by a party committee shall not be reported as contributions by the authorized committee on whose behalf they are made;

(iv) contributions from committees, including contributions from committees which are not political committees under the Act, but excluding contributions from any party committees;

(v) total contributions;

(vi) transfers from other authorized committee(s) of the same candidate, regardless of amount;

(vii) loans;

(A) all loans to the committee, except loans made, guaranteed, or endorsed by a candidate to his or her authorized committee;

(B) loans made, guaranteed, or endorsed by a candidate to his or her authorized committee;

(C) total loans;

(viii) for authorized committee(s) of Presidential candidates, federal funds received under Chapters 95 and 96 of the Internal Revenue Code of 1954 (Title 26, United States Code);

(ix) offsets to operating expenditures;

(A) itemized offsets to operating expenditures (such as refunds and rebates);

(B) unitemized offsets to operating expenditures (such as refunds and rebates);

(C) total offsets to operating expenditures;

(x) other receipts;

(A) itemized other receipts (such as dividends and interest);

(B) unitemized other receipts (such as dividends and interest);

(C) total other receipts;

(xi) total receipts.

(4) *Itemization of receipts for all committees including authorized and unauthorized committees.* The identification (as defined at 11 CFR 100.12) of each contributor and the aggregate year-to-date total for such contributor in each of the following categories shall be reported.

(i) Each person, other than any committee, who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions aggregate in excess of \$200 per calendar year, together with the date of receipt and amount of any such contributions, except that the reporting committee may elect to report such information for contributors of lesser amount(s) on a separate schedule;

(ii) All committees (including political committees and committees which do not qualify as political committees under the Act) which make contributions to the reporting committee during the reporting period, together with the date of receipt and amount of any such contribution;

(iii) Transfers;

(A) For authorized committees of a candidate for Federal office, each authorized committee which makes a transfer to the reporting committee, together with the date and amount of such transfer;

(B) For committees which are not authorized by a candidate for Federal office, each affiliated committee or organization which makes a transfer to the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds to the reporting committee from another party committee regardless of whether such committees are affiliated, together with the date and amount of such transfer;

(iv) Each person who makes a loan to the reporting committee or to the candidate acting as an agent of the committee, during the reporting period, together with the identification of any endorser or guarantor of such loan, the date such loan was made and the amount or value of such loan;

(v) Each person who provides a rebate, refund or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of \$200 within the calendar year, together with the date and amount of any such receipt; and

(vi) Each person who provides any dividend, interest, or other receipt to the reporting committee in an aggregate value or amount in excess of \$200 within the calendar year, together with the date and amount of any such receipt.

(b) *Reporting of Disbursements.*

Except for reports filed in accordance with 11 CFR 104.17, each report filed under 11 CFR 104.1 shall disclose the total amount of all disbursements for the reporting period and for the calendar year and shall disclose the information set forth at 11 CFR 104.3(b) (1) through (4). The first report filed by a committee shall also include all amounts disbursed prior to becoming a political committee under 11 CFR 100.5, even if such amounts were not disbursed during the current reporting period.

(1) *Categories of disbursements for political committees other than authorized committees.* All political committees other than authorized committees shall report the total amount of disbursements made during the reporting period and, except for itemized and unitemized breakdowns, during the calendar year in each of the following categories:

(i) Operating expenditures;

(A) itemized operating expenditures;

(B) unitemized operating expenditures;

(C) total operating expenditures;

(ii) transfers to affiliated committees or organizations and, where the reporting committee is a political party committee, transfers to other political party committees regardless of whether they are affiliated;

(iii) repayment of all loans;

(iv) offsets;

(A) itemized offsets to contributions (including contribution refunds);

(B) unitemized offsets to contributions (including contribution refunds);

(C) total offsets to contributions;

(v) contributions made to other political committees;

(vi) loans made by the reporting committee;

(vii) independent expenditures made by the reporting committee;

(viii) expenditures made under 11 CFR 110.7 (2 U.S.C. 441a(d)), See 11 CFR 104.3(a)(3)(iii);

(ix) other disbursements;

(A) itemized other disbursements;

(B) unitemized other disbursements;

(C) total other disbursements;

(x) total disbursements.

(2) *Categories of disbursements for authorized committees.* An authorized committee of a candidate for Federal office shall report the total amount of disbursements made during the reporting period and, except for itemized and unitemized breakdowns, during the calendar year in each of the following categories:

(i) operating expenditures;

(A) itemized operating expenditures;

(B) unitemized operating expenditures;

(C) total operating expenditures;

(ii) transfers to other committees authorized by the same candidate;

(iii) repayment of loans;

(A) repayment of loans made by or guaranteed by the candidate;

(B) repayment of all other loans;

(C) total loan repayments;

(iv) for an authorized committee of a candidate for the office of President, disbursements not subject to the limitations of 11 CFR 110.8 (2 U.S.C. 441a(b));

(v) offsets;

(A) itemized offsets to contributions (including contribution refunds);

(B) unitemized offsets to contributions (including contribution refunds);

(C) total offsets to contributions;

(vi) other disbursements;

(A) itemized other disbursements;

(B) unitemized other disbursements;

(C) total other disbursements;

(vii) total disbursements.

(3) *Itemization of disbursements by political committees other than authorized committees.* Each political committee, other than an authorized committee, shall report the full name and address of each person in each of the following categories, as well as the information required by each category;

(i) Each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet the committee's operating expenses, together with the date, amount, and purpose of such operating expenditure;

(A) As used in 11 CFR 104.3(b)(3), "purpose" means a brief statement or description of why the disbursement was made.

(B) Examples of statements or descriptions which meet the requirements of 11 CFR 104.3(b)(3) include the following: dinner expenses, media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense reimbursement, and catering costs. However, statements or descriptions such as "advance", "election day expenses", "other expenses", "expenses", "expense reimbursement", "miscellaneous",

"outside services", "get-out-the-vote" and "voter registration" would not meet the requirements of 11 CFR 104.3(b)(3) for reporting the purpose of an expenditure.

(ii) Each affiliated committee to which a transfer is made by the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds by the reporting committee to another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfer;

(iii) Each person who receives a loan repayment from the reporting committee during the reporting period, together with the date and amount of such loan repayment;

(iv) Each person who receives a contribution refund or other offset to contributions from the reporting committee where such contribution refund was reported under 11 CFR 104.3(b)(1)(iv), together with the date and amount of such refund or offset;

(v) Each political committee which has received a contribution from the reporting committee during the reporting period, together with the date and amount of any such contribution, and, in the case of a contribution to an authorized committee, the candidate's name and office sought (including State and Congressional district, if applicable);

(vi) Each person who has received a loan from the reporting committee during the reporting period, together with the date and amount or value of such loan;

(vii) (A) Each person who receives any disbursement during the reporting period in an aggregate amount or value in excess of \$200 within the calendar year in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of any such independent expenditure(s);

(B) For each independent expenditure reported, the committee must also provide a statement which indicates whether such independent expenditure is in support of, or in opposition to a particular candidate, as well as the name of the candidate and office sought by such candidate (including State and Congressional district, when applicable), and a certification, under penalty of perjury, as to whether such independent expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such committee;

(C) The information required by 11 CFR 104.3(b)(3)(vii)(A) and (B) shall be

reported on Schedule E as part of a report covering the reporting period in which the aggregate disbursements for any independent expenditure to any person exceed \$200 per calendar year. Schedule E shall also include the total of all such expenditures of \$200 or less made during the reporting period.

(viii) Each person who receives any expenditure from the reporting committee during the reporting period in connection with an expenditure under 11 CFR 110.7 (2 USC 441a(d)), together with the date, amount, and purpose of any such expenditure as well as the name of, and office sought by (including State and Congressional district, when applicable), the candidate on whose behalf the expenditure is made; and

(ix) Each person who has received any disbursement within the reporting period not otherwise disclosed in accordance with 11 CFR 104.3(b)(3) to whom the aggregate amount or value of disbursements made by the reporting committee exceeds \$200 within the calendar year, together with the date, amount and purpose of any such disbursement.

(4) *Itemization of disbursements by authorized committees.* Each authorized committee shall report the full name and address of each person in each of the following categories, as well as the information required by each category.

(i) Each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet the committee's operating expenses, together with the date, amount and purpose of each expenditure.

(A) As used in 11 CFR 104.3(b)(4), "purpose" means a brief statement or description of why the disbursement was made. Examples of statements or descriptions which meet the requirements of 11 CFR 104.3(b)(4) include the following: dinner expenses, media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense reimbursement, and catering costs. However, statements or descriptions such as "advance", "election day expenses", "other expenses", "expenses", "expense reimbursement", "miscellaneous", "outside services" "get-out-the-vote" and "voter registration" would not meet the requirements of 11 CFR 104.3(b)(4) for reporting the purpose of an expenditure.

(ii) Each authorized committee of the same candidate to which a transfer is made by the reporting committee during the reporting period, together with the date and amount of such transfer;

(iii) Each person who receives a loan repayment from the reporting committee during the reporting period, together with the date and amount of such loan repayment;

(iv) Each person who receives a loan repayment from the candidate, if the proceeds of such loan were used in connection with the candidate's campaign;

(v) Each person who receives a contribution refund or other offset to contributions from the reporting committee where such contribution refund was reported under 11 CFR 104.3(b)(2)(v), together with the date and amount of such refund or offset.

(vi) Each person who has received any disbursement(s) not otherwise disclosed under 11 CFR 104.3(b)(4) to whom the aggregate amount or value of such disbursements exceeds \$200 within the calendar year, together with the date, amount, and purpose of any such disbursement.

(c) *Summary of contributions and operating expenditures.* Each report filed pursuant to 11 CFR 104.1 shall disclose for both the reporting period and the calendar year:

(1) (i) the total contributions to the reporting committee;

(ii) the total offsets to contributions;

(iii) the net contributions (subtract total offsets from total contributions);

(2) (i) the reporting committee's total operating expenditures;

(ii) the total offsets to operating expenditures;

(iii) the net operating expenditures (subtract total offsets from total operating expenditures).

(d) *Reporting debts and obligations.*

Each report filed under 11 CFR 104.1 shall, on Schedule—, disclose the amount and nature of outstanding debts and obligations owed by or to the reporting committee. Loans obtained by an individual prior to becoming a candidate for use in connection with that individual's campaign shall be reported as an outstanding loan owed to the lender by the candidate's principal campaign committee, if such loans are outstanding at the time the individual becomes a candidate. Where such debts and obligations are settled for less than their reported amount or value, each report filed under 11 CFR 104.1 shall contain a statement as to the circumstances and conditions under which such debts or obligations were extinguished and the amount paid. See 11 CFR 114.10.

(e) *Use of Pseudonyms.* (1) To determine whether the names and addresses of its contributors are being used in violation of 11 CFR 104.15 to solicit contributions or for commercial

purposes, a political committee may submit up to ten (10) pseudonyms on each report filed.

(2) For purposes of this section, a pseudonym is a wholly fictitious name which does not represent the name of an actual contributor to a committee.

(3) If a committee uses pseudonyms it shall subtract the total dollar amount of the fictitious contributions from the total amount listed on line— of the Detailed Summary page, "Unitemized contributions from individual persons other than political committees." Thus, the committee will, for this purpose only, be overstating the amount of itemized contributions received and understating the amount of unitemized contributions received.

(4) No authorized committee of a candidate shall attribute more than \$1,000 in contributions to the same pseudonym for each election and no other political committee shall attribute more than \$5,000 in contributions to the same pseudonym in any calendar year.

(5) A committee using pseudonyms shall send a list of such pseudonyms under separate cover directly to the Reports Analysis Division, Federal Election Commission, 1325 K Street N.W., Washington, D.C. 20463, on or before the date on which any report containing such pseudonyms is filed with the Clerk of the House of Representatives, the Secretary of the Senate, or the Commission. The Commission shall maintain the list, but shall exclude it from the public record. A committee shall not send any list of pseudonyms to the Clerk of the House of Representatives, the Secretary of the Senate, or to any Secretary of State or equivalent state officer.

(6) A political committee shall not use pseudonyms for the purpose of circumventing the reporting requirements or the limitations and prohibitions of the Act.

(f) *Consolidated Reports.* Each principal campaign committee shall consolidate in each report those reports required to be filed with it. Such consolidated reports shall include: (1) reports submitted to it by any authorized committees and (2) the principal campaign committee's own report. Such consolidation shall be made on FEC Form— and shall be submitted with the reports of the principal campaign committee and with the reports, or applicable portions thereof, of the committees shown on the consolidation.

(g) *Building Funds.* Gifts, subscriptions, loans, advances, deposits of money or anything of value made to defray costs of construction or purchase of office facilities received by a political

committee in accordance with 11 CFR 100.7(b)(12) shall be reported on Schedule —.

(h) *Legal and Accounting Services.* A committee which receives legal or accounting services pursuant to 11 CFR 100.7(b) (13) and (14) shall report, on Schedule—, the amounts paid for these services by the regular employer of the person(s) providing such services; the date(s) such services were performed; and the name of each person performing such services.

(i) *Cumulative Reports.* The reports required to be filed under 11 CFR 104.5 shall be cumulative for the calendar year to which they relate, but if there has been no change in a category reported in a previous report during that year, only the amount thereof need be carried forward.

§ 104.4 Independent expenditures by political committees (2 U.S.C. 434(c)).

(a) Every political committee which makes independent expenditures shall report all such expenditures on Schedule E in accordance with 11 CFR 104.3(b)(3)(vii). Every person (other than a political committee) shall report independent expenditures in accordance with 11 CFR Part 109.

(b) *24 Hour Reports.* Any independent expenditures aggregating \$1,000 or more made after the 20th day, but more than 24 hours, before 12:01 A.M. of the day of the election, shall be reported within 24 hours after such independent expenditure is made. Such report shall be filed with the appropriate officers listed in 11 CFR 104.4(c) and shall contain the information required by 11 CFR 104.3(b)(3)(vii) indicating whether the independent expenditure is made in support of, or in opposition to, the candidate involved.

(c) *Where to File.* Reports of independent expenditures under 11 CFR 104.4 and Part 109 shall be filed as set forth at 11 CFR 104.4(c)(1) through (3).

(1) For independent expenditures in support of or in opposition to, a candidate for President or Vice-President: with the Commission and the Secretary of State for the State in which the expenditure is made.

(2) For independent expenditures in support of, or in opposition to, a candidate for the Senate: with the Secretary of the Senate and the Secretary of State for the State in which the candidate is seeking election.

(3) For independent expenditures in support of, or in opposition to, a candidate for the House of Representatives: with the Clerk of the House and the Secretary of State for the State in which the candidate is seeking election.

§ 104.5 Filing dates (2 U.S.C. 434(a)(2)).

(a) *Principal Campaign Committee of House or Senate Candidate.* Each treasurer of a principal campaign committee supporting a candidate for the House of Representatives or to the Senate shall file reports on the dates specified at 11 CFR 104.5(a)(1) and (2).

(1) *Election Year Reports.* (i) *Pre-Election Reports.* (A) Pre-election reports for the primary and general election shall be filed no later than 12 days before any primary or general election in which the candidate seeks election. If sent by registered or certified mail, the report shall be mailed no later than the 15th day before any election.

(B) The report shall disclose all receipts and disbursements as of the 20th day before a primary or general election.

(ii) *Post-General Election Report.* (A) The post-general election report shall be filed no later than 30 days after any general election in which the candidate seeks election.

(B) The report shall be complete as of the 20th day after the general election.

(iii) *Quarterly Reports.* (A) Quarterly reports shall be filed no later than the 15th day following the close of the immediately preceding calendar quarter (on April 15, July 15, and October 15), except that the report for the final calendar quarter of the year shall be filed on January 31 of the following calendar year.

(B) The report shall be complete as of the last day of each calendar quarter.

(C) The requirement for a quarterly report shall be waived if, under 11 CFR 104.5(a)(1)(i), a pre-election report is required to be filed during the period beginning on the fifth day after the close of the calendar quarter and ending on the fifteenth day after the close of the calendar quarter.

(2) *Non-Election Year Reports.* (i) *Semi-annual reports.* (A) The first report shall cover January 1 through June 30, and shall be filed no later than July 31.

(B) The second report shall cover July 1 through December 31, and shall be filed no later than January 31 of the following year.

(b) *Principal Campaign Committee of Presidential Candidate.* Each treasurer of a principal campaign committee of a candidate for President shall file reports on the dates specified at 11 CFR 104.5(b)(1) and (2).

(1) *Election Year Reports.* (i) If on January 1 of the election year, the committee has received or anticipates receiving contributions aggregating \$100,000 or more, or has made or anticipates making expenditures aggregating \$100,000 or more, it shall file monthly reports.

(A) Each report shall be filed no later than the 20th day after the last day of each month.

(B) The report shall be complete as of the last day of each month.

(C) In lieu of the monthly reports due in November and December, a pre-election report shall be filed as prescribed at 11 CFR 104.5(a)(1)(i), a post-general election report shall be filed as prescribed at 11 CFR 104.5(a)(1)(ii), and a year-end report shall be filed no later than January 31 of the following calendar year.

(ii) If on January 1 of the election year, the committee does not anticipate receiving or has not received contributions aggregating \$100,000 or does not anticipate making or has not made expenditures aggregating \$100,000, the committee shall file a pre-election report or reports, a post general election report and, quarterly reports, as prescribed in 11 CFR 104.5(a)(1).

(iii) If during the election year, a committee filing under 11 CFR 104.5(b)(1)(ii) receives contributions aggregating \$100,000 or makes expenditures aggregating \$100,000, the treasurer shall begin filing monthly reports at the next reporting period.

(2) Non-Election Year Reports. During a non-election year, the treasurer shall file either (i) monthly reports as prescribed at 11 CFR 104.5(b)(1)(i); or (ii) quarterly reports as prescribed at 11 CFR 104.5(a)(1).

(c) *Committees Other Than Authorized Committees of Candidates.* Each political committee which is not the authorized committee of a candidate shall file either: election year and non-election year reports as prescribed at 11 CFR 104.5(c)(1) and (2); or monthly reports as prescribed at 11 CFR 104.5(c)(3). A political committee reporting under 11 CFR 104.5(c) may elect to change the frequency of its reporting from monthly to quarterly and semi-annually or vice versa. A committee may change its filing frequency only after notifying the Commission in writing of its intention at the time it files a required report under its current filing frequency. Such committee will then be required to file the next required report under its new filing frequency. A committee may change its filing frequency no more than once per calendar year.

(1) Election Year Reports. (i) Quarterly reports. (A) Quarterly reports shall be filed no later than the 15th day following the close of the immediately preceding calendar quarter, (on April 15, July 15, and October 15), except that the report for the final calendar quarter of the year shall be filed on January 31 of the following calendar year.

(B) The reports shall be complete as of the last day of the calendar quarter for which the report is filed.

(C) The requirement for a quarterly report shall be waived if under 11 CFR 104.5(c)(1)(ii) a pre-election report is required to be filed during the period beginning on the fifth day after the close of the calendar quarter and ending on the fifteenth day after the close of the calendar quarter.

(ii) Pre-Election Reports

(A) Pre-election reports for the primary and general election shall be filed by a political committee which makes contributions or expenditures in connection with any such election if such disbursements have not been previously disclosed. Pre-election reports shall be filed no later than 12 days before any primary or general election. If sent by registered or certified mail, the report shall be mailed no later than the 15th day before any election.

(B) The report shall disclose all receipts and disbursements as of the 20th day before a primary or general election.

(iii) Post-General Election Reports

(A) A post-general election report shall be filed no later than 30 days after any general election.

(B) The report shall be complete as of the 20th day after the general election.

(2) Non-Election year

(i) Semi-annual reports

(A) The first report shall cover January 1 through June 30, and shall be filed no later than July 31.

(B) The second report shall cover July 1 through December 31, and shall be filed no later than January 31 of the following year.

(3) Monthly Reports

(i) Except as provided at 11 CFR 104.5(c)(3)(B), monthly reports shall be filed no later than 20 days after the last day of the month.

(ii) In lieu of the monthly reports due in November and December, in any year in which a regularly scheduled general election is held, a pre-election report shall be filed as prescribed at 11 CFR 104.5(a)(1)(i), a post general election report shall be filed as prescribed at 11 CFR 104.5(a)(1)(ii), and a year-end report shall be filed no later than January 31 of the following calendar year.

(d) *Committees supporting Vice Presidential Candidates:*

The treasurer of a committee supporting a candidate for the office of Vice President (other than a nominee of a political party) shall file reports on the same basis that the principal campaign committee of a Presidential candidate must file reports under 11 CFR 104.5(b).

(e) U.S. Post Mark:

A designation, report or statement sent by registered or certified mail shall be considered filed on the date of the U.S. post mark except that a twelve day pre-election report sent by certified or registered mail shall be mailed no later than the 15th day before any election. Designations, reports or statements sent by first class mail must be received by the close of business of the prescribed filing date to be timely filed.

(f) 48 Hour Notification of Contributions

If any contribution of \$1,000 or more is received by any authorized committee of a candidate after the 20th day, but more than 48 hours, before 12:01 A.M. of the day of the election, the principal campaign committee of that candidate shall notify the Commission, the Clerk of the House, the Secretary of the Senate and the Secretary of State, as appropriate, within 48 hours of receipt of the contribution. The notification shall be in writing and shall include the name of the candidate and office sought by the contributor, the identification of the contributor, and the date of receipt and amount of the contribution. The notification shall be in addition to the reporting of these contributions on the post-election report.

(g) 24 hour Report of Independent Expenditures:

Any independent expenditures aggregating \$1,000 or more made after the 20th day, but more than 24 hours, before 12:01 A.M. of the day of the election, shall be reported within 24 hours after such independent expenditure is made. Such report shall be filed with the appropriate officers listed in 11 CFR 104.4(c) and shall contain the information required by 11 CFR 104.3(b)(3)(vii) indicating whether the independent expenditure is made in support of, or in opposition to, the candidate involved.

(h) Special Election Reports:

(1) Within 5 days of the setting of a special election, the Commission shall set filing dates for reports to be filed by principal campaign committees of candidates seeking election, or nomination for election, in special elections and for political committees, other than authorized committees, which make contributions to or expenditures on behalf of a candidate or candidates in special elections. The Commission shall publish such reporting dates in the *Federal Register* and shall notify the principal campaign committees of all candidates in such election of the reporting dates. The Commission shall not require such committees to file more than one pre-election report for each election and one post-election report for the election which fills the vacancy.

(2) Reports required to be filed under 11 CFR 104.5(a) or (c) may be waived by the Commission for committees filing special election reports if a report under 11 CFR 104.5(a) or (c) is due within 10 days of the date a special election report is due. The Commission shall notify all appropriate committees of reports so waived.

§ 104.6 Form and content of internal communications reports. (2 U.S.C. 431(a)(B)(iii)).

(a) *Form.* Every membership organization or corporation which makes disbursements for communications pursuant to 11 CFR 100.8(b)(4) and 114.3 shall report to the Commission on FEC Form 7 such costs which are directly attributable to any communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the election or defeat of a clearly identified candidate), if such costs exceed \$2,000 for any election.

(1) For the purposes of 11 CFR 104.6(a), "election" means two separate processes in a calendar year, to each of which the \$2,000 threshold described above applies separately. The first process is comprised of all primary elections for federal office, wherever and whenever held; the second process is comprised of all general elections for federal office, wherever and whenever held.

(2) The term election shall also include each special election held to fill a vacancy in a Federal office (11 CFR 100.2(f)) or each runoff election (11 CFR 100.2(d)).

(b) *Filing Dates.* Organizations required to report under 11 CFR 104.6(a) shall file such reports during a calendar year in which a regularly scheduled general election is held. Such reports shall be filed quarterly in accordance with 11 CFR 104.5(a)(1)(iii) and, with respect to any general election, in accordance with 11 CFR 104.5(a)(1)(i). The organization shall be required to file reports beginning with the first reporting period during which the aggregate cost for such communications exceeds \$2,000 per election as defined in 11 CFR 104.6(a)(1), and for each quarter thereafter in which the organization makes additional disbursements in connection with the same election.

(c) Each report filed under 11 CFR 104.6 shall include, for each communication:

- (1) The type of communication (such as direct mail, telephone or telegram);
- (2) The date(s) of the communication;

(3) The name of the candidate, the office sought (and the district and state of the office, if applicable), and whether the communication was for the primary or general election;

(4) Whether the communication was in support of or in opposition to, a particular candidate; and

(5) The cost of the communication.

104.7 Best efforts. (2 U.S.C. 432(i)).

(a) When the treasurer of a political committee shows that best efforts have been used to obtain, maintain and submit the information required by the Act for the political committee, any report of such committee shall be considered in compliance with the Act.

(b) With regard to reporting the identification as defined at 11 CFR 100.12 of each person whose contribution(s) to the committee and its affiliated committees aggregate in excess of \$200 in a calendar year (pursuant to 11 CFR 104.3(a)(4)), the treasurer will not be deemed to have exercised best efforts to obtain the required information unless he or she has made at least one effort per solicitation either by a written request or by an oral request documented in writing to obtain such information from the contributor. For purposes of 11 CFR 104.7(b), such effort shall consist of a clear request for the information (i.e., name, mailing address, occupation, and name of employer) which request informs the contributor that the reporting of such information is required by law.

§ 104.8 Uniform reporting of contributions.

(a) A reporting committee shall disclose the identification of each individual who contributes an amount in excess of \$200. This identification shall include the individual's name, mailing address, occupation, the name of his or her employer, if any, and the date of receipt and amount of any such contribution. If an individual contributor's name is known to have changed since an earlier contribution reported during the calendar year, the exact name or address previously used shall be noted with the first reported contribution from that contributor subsequent to the name change.

(b) In each case where a contribution received from an individual in a reporting period is added to previously unitemized contributions from the same individual and the aggregate exceeds \$200 in a calendar year the reporting committee shall disclose the identification of such individual along with the date of receipt and amount of any such contribution. Except for

contributions by payroll deduction, each additional contribution from the individual shall be separately itemized. In the case of a political committee other than an authorized committee which receives contributions through a payroll deduction plan, such committee is not required to separately itemize each additional contribution received from the contributor during the reporting period. In lieu of separate itemization, such committee may report: the aggregate amount of contributions received from the contributor through the payroll deduction plan during the reporting period; the identification of the individual; and a statement of the amount deducted per pay period.

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

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

§ 104.9 Uniform reporting of expenditures.

(a) The authorized committees of a candidate shall report the full name and mailing address of each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet the committee's operating expenses together with the date, amount and purpose of such expenditure. As used in 11 CFR 104.9, "purpose" means a brief statement or description as to the reasons for the disbursement. See 11 CFR 104.3(b)(3)(i)(A).

(b) In each case when an expenditure made to a recipient in a reporting period is added to previously unitemized expenditures to the same recipient and the total exceeds \$200 for the calendar year, the reporting committee shall disclose the recipient's full name and mailing address on the prescribed reporting forms, together with the date, amount and purpose of such expenditure. As used in 11 CFR 104.9, "purpose" means a brief statement or description as to the reason for the disbursement as defined at 11 CFR 104.3(b)(3)(i)(A).

§ 104.10 Allocation of expenditures among candidates.

A political committee making an expenditure on behalf of more than one candidate for Federal office or on behalf

of candidates for both Federal and non-Federal office shall allocate the expenditure(s) among the candidates on a reasonable basis pursuant to 11 CFR Part 106, and report the allocation for each Federal candidate. The treasurer shall retain all documents supporting the allocation in accordance with 11 CFR 104.14.

§ 104.11 Continuous reporting of debts and obligations.

(a) Debts and obligations owed by or to a political committee which remain outstanding shall be continuously reported until extinguished. See 11 CFR 104.3(d). These debts and obligations shall be reported on separate schedules together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. Where such debts and obligations are settled for less than their reported amount or value, the reporting committee shall include a statement as to the circumstances and conditions under which the debt or obligation was extinguished and the amount paid.

(b) A debt, obligation, or other promise to make an expenditure, the amount of which is \$500 or less, shall be reported as of the time payment is made or no later than 60 days after such obligation is incurred, whichever comes first. Any loan, debt or obligation, the amount of which is over \$500 shall be reported as of the time of the transaction.

§ 104.12 Beginning cash on hand for political committees.

Political committees which have cash on hand at the time of registration shall disclose on their first report the source(s) of such funds, including the information required by 11 CFR 104.3(a)(1). The cash on hand balance is assumed to be composed of those contributions most recently received by the committee. The committee shall exclude from funds to be used for Federal elections any contributions not permissible under the Act. See 11 CFR Parts 110, 114, and 115.

§ 104.13 Disclosure of receipt and consumption of in-kind contributions.

(a) (1) The amount of an in-kind contribution shall be equal to the usual and normal value on the date received. Each in-kind contribution shall be reported as a contribution in accordance with 11 CFR 104.3(a).

(2) Except for items noted in 11 CFR 104.13(b), each in-kind contribution shall also be reported as an expenditure at the same usual and normal value and reported on the appropriate expenditure

schedule, in accordance with 11 CFR 104.3(b).

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

(1) If the item has not been liquidated at the close of a reporting period, the committee shall record as a memo entry (not as cash) the item's fair market value on the date received, including the name and mailing address (and, where in excess of \$200, the occupation and name of employer) of the contributor.

(2) When the item is sold, the committee shall record the proceeds. It shall also report the (i) name and mailing address (and, where in excess of \$200, the occupation and name of employer) of the purchaser, if purchased directly from the candidate or committee (as the purchaser shall be considered to have made a contribution to the committee), and (ii) the identification of the original contributor.

§ 104.14 Formal requirements regarding reports and statements.

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

(b) Each political committee or other person required to file any report or statement under this subchapter shall maintain all records relevant to such reports or statements as follows:

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

(2) Preserve a copy of each report or statement required to be filed under 11 CFR Parts 102 and 104;

(3) Keep all reports required to be preserved under 11 CFR 104.14 available for audit, inspection, or examination by the Commission or its authorized representative(s) for a period of not less than 3 years after the report or statement is filed. (See 11 CFR 102.9(c) for requirements relating to preservation of records and accounts.)

(c) Acknowledgements by the Commission, the Clerk of the House, or the Secretary of the Senate, of the receipt of Statements of Organization, reports or other statements filed under 11 CFR Parts 101, 102 and 104 are intended solely to inform the person filing the report of its receipt and neither the acknowledgement nor the acceptance of a report or statement

shall constitute express or implied approval, or in any manner indicate that the contents of any report or statement fulfill the filing or other requirements of the Act or of these regulations.

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

§ 104.15 Sale or use restriction (2 U.S.C. 438(a)(4)).

(a) Any information copied, or otherwise obtained, from any report or statement, or any copy, reproduction, or publication thereof, filed with the Commission Clerk of the House, Secretary of the Senate, or any Secretary of State or other equivalent State officer, shall not be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose, except that the name and address of any political committee may be used to solicit contributions from such committee.

(b) For purposes of 11 CFR 104.15, "soliciting contributions" includes soliciting any type of contribution or donation, such as political or charitable contributions.

(c) The use of information, which is copied or otherwise obtained from reports filed under 11 CFR Part 104, in newspapers, magazines, books or other similar communications is permissible as long as the principal purpose of such communications is not to communicate any contributor information listed on such reports for the purpose of soliciting contributions or for other commercial purposes.

§ 104.16 Audits (2 U.S.C. 438(b)).

(a) The Commission may conduct audits of any political committee required to register under 11 CFR Part 102 and to report under 11 CFR Part 104. Prior to conducting any such audit or investigation, the Commission shall conduct an internal review of reports filed by selected committees to determine whether reports filed by a particular committee meet thresholds established by the Commission for substantial compliance with the Act. Such thresholds may vary according to the type of political committee being reviewed.

(b) The Commission may, upon affirmative vote of four members, conduct an audit and field investigation of any committee which meets the thresholds established pursuant to 11

CFR 104.16(a). All such audits and investigations shall commence within 30 days of such vote except that any audit or investigation of an authorized committee of a candidate shall be commenced within 6 months of the election for which such committee was authorized.

(c) The Commission may, upon affirmative vote of four members, conduct an audit and field investigation of any committee pursuant to 11 CFR 111.10.

(d) All audits and field investigations concerning the verification for and the receipt and use of payments under Chapters 95 and 96 of Title 26 shall be given priority over any audit or investigation of committees not receiving such payments.

§ 104.17 Content of reports; Presidential and Vice Presidential Committees (2 U.S.C. 431 note).

(a) For all elections occurring prior to January 1, 1981, authorized committees of candidates for President and Vice President may comply with the requirements of 11 CFR 104.17 in lieu of 11 CFR 104.3 (a) and (b).

(b) Each report filed under 11 CFR 104.17 shall include all receipts and disbursements from the close of the last period reported to the close of the current reporting period, and shall disclose—

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

(2) The identification, occupation, and principal place of business, if any, of each person who has made a contribution to or for the committee or candidate during the reporting period in an amount or value in excess of \$100, or in an amount of less than \$100 if the person's contributions within a calendar year total more than \$100, together with the amount and date of such contributions;

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

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

(4) The identification of each political committee or other political organization from which the reporting committee or the candidate received, or to which the reporting committee or the candidate made, any transfer of funds in any amount during the reporting period, together with the amounts and dates of all transfers, including aggregate year to date transfers, received from non-affiliated committees, and complete disclosure, pursuant to 11 CFR 110.6 of each transaction involving earmarked funds;

(5) Each loan—

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

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

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

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

(6) The total amount of proceeds from—

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

(ii) Mass collections made at these events; and

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

(7) Each receipt in excess of \$100 received during the reporting period, not otherwise listed under (b) (2) through (6) above, together with the identification, date and amount received, occupation, and principal place of business of each such person from whom such receipts have been received during the reporting period; including—

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

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

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

(ii) Total receipts less transfers between affiliated political committees (as defined in 11 CFR 100.5(g));

(9) The identification of each person to whom expenditures have been made by or on behalf of the committee or

candidate within the reporting period which total more than \$100, or in an amount less than \$100 if the total exceeds \$100 within a calendar year, together with the amount, date and particulars of each such expenditure and the name, address of, and office sought by, each candidate on whose behalf such expenditures were made;

(10) The total of expenditures made by or on behalf of the committee or candidate during the reporting period and the calendar year together with total expenditures less transfers between affiliated political committees (as defined in 11 CFR 100.5) of the candidate;

(11) The amount and nature of outstanding debts and obligations owed by or to the committee including any written contracts, agreements, or promises to make expenditures, see 11 CFR 104.9;

(12) Unpaid expenditures; see 11 CFR Part 104.4.

PART 105—DOCUMENT FILING (2 U.S.C. 432(g))

105.1 Place of filing; House candidates, their principal campaign committees, and committees supporting only House candidates (2 U.S.C. 432(g)(1)).

105.2 Place of filing; Senate candidates, their principal campaign committees, and committees supporting only Senate candidates (2 U.S.C. 432(g)(2)).

105.3 Place of filing; Presidential candidates and their principal campaign committees (2 U.S.C. 432(g)(4)).

105.4 Place of filing; political committees and other persons (2 U.S.C. 432(g)(4)).

105.5 Transmittal of microfilm copies and photocopies of original reports filed with the Clerk of the House and the Secretary of the Senate to the Commission (2 U.S.C. 432(g)(3)).

Authority: 2 U.S.C. 432(g), 438(a)(8).

§ 105.1 Place of filing; House candidates, their principal campaign committees, and committees supporting only House candidates (2 U.S.C. 432(g)(1)).

All designations, statements, reports, and notices, as well as any modification(s) or amendment(s) thereto, required to be filed under 11 CFR Parts 101, 102, and 104 by a candidate for nomination or election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress, by his or her principal campaign committee or by any other political committee(s) which supports only candidates for nomination for election or election to the House of Representatives, shall be filed in original form with, and received by, the Clerk of the House of Representatives as custodian for the Federal Election Commission.

§ 105.2 Place of filing; Senate candidates, their principal campaign committees, and committees supporting only Senate candidates (2 U.S.C. 432(g)(2)).

All designations, statements, reports, and notices as well as any modification(s) or amendment(s) thereto, required to be filed under 11 CFR Parts 101, 102, and 104 by a candidate for nomination or election to the office of United States Senator, by his or her principal campaign committee or by any other political committee(s) which supports only candidates for nomination for election or election to the Senate of the United States shall be filed in original form with, and received by, the Secretary of the Senate, as custodian for the Federal Election Commission.

§ 105.3 Place of filing; Presidential candidates and their principal campaign committees (2 U.S.C. 432(g)(4)).

All designations, statements, reports, and notices, as well as any modification(s) or amendment(s) thereto, required to be filed under 11 CFR Parts 101, 102 and 104 by a candidate for nomination for election or election to the office of President or Vice President of the United States or by his or her principal campaign committee shall be filed in original form with the Federal Election Commission.

§ 105.4 Place of filing; political committees and other persons (2 U.S.C. 432(g)(4)).

All designations, statements, reports, and notices, as well as any modifications or amendments thereto, required to be filed under 11 CFR Parts 101, 102, and 104 by a political committee other than any principal campaign committee or any committee referred to in 11 CFR 105.1, 105.2, or 105.3, by persons other than political committees making independent expenditures under 11 CFR Part 109, and by persons required to report the cost of communications under 11 CFR 104.6, shall be filed in original form with the Federal Election Commission.

§ 105.5 Transmittal of microfilm copies and photocopies of original reports filed with the Clerk of the House and the Secretary of the Senate to the Commission (2 U.S.C. 432(g)(3)).

(a) Either a microfilmed copy or photocopy of all original designations, statements, reports, modifications or amendments required to be filed pursuant to 11 CFR 105.1 and 105.2 shall be transmitted by the Clerk of the House or the Secretary of the Senate to the Commission as soon as possible, but in any case no later than two (2) working days after receiving such designations,

statements, reports, modifications, or amendments.

(b) The Clerk of the House and the Secretary of the Senate shall then forward to the Commission a microfilm copy and a photocopy of each designation, statement, and report, or any modification or amendment thereto, filed with them pursuant to 11 CFR 105.1 and 105.2.

(c) The Clerk of the House and the Secretary of the Senate shall place a time and date stamp on each original designation, statement, report, modification or amendment received.

PART 106—ALLOCATION OF CANDIDATE AND COMMITTEE ACTIVITIES

2. In Part 106, § 106.1(c)(3) is added; §§ 106.2(a), and 106.3(d) are revised to read as follows:

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

* * * * *

(c) * * *

(3) Payments made for the cost of certain voter registration and get-out-the-vote activities conducted by State or local party organizations on behalf of any Presidential or Vice-Presidential candidate(s) are exempt from the definition of a contribution or an expenditure under 11 CFR 100.7(b)(17) and 100.8(b)(18). If the State or local party organization includes references to any candidate(s) seeking nomination or election to the House of Representatives or Senate of the United States the portion of the cost of such activities allocable to such candidate(s) shall be considered a contribution to or an expenditure on behalf of such candidate(s), unless such reference is incidental to the overall activity. If such reference is incidental to the overall activity, such costs shall not be considered a contribution to or expenditure on behalf of any candidate(s).

* * * * *

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

(a) Expenditures made by a candidate's authorized committee(s) which seek to influence the nomination of that candidate for the office of President of the United States with respect to a particular State shall be allocated to that State. This allocation of expenditures shall be reported on FEC Form 3c.

* * * * *

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

* * * * *

(d) Costs incurred by a candidate for the United States Senate or House of Representatives for travel between Washington, D.C. and the State or district in which he or she is a candidate need not be reported herein unless the costs are paid by the candidate's authorized committee(s), or by any other political committee(s).

* * * * *

(2 U.S.C. 438(a)(8))

3. Parts 108 and 109 are revised to read as follows:

PART 108—FILING COPIES OF REPORTS AND STATEMENTS WITH STATE OFFICERS (2 USC 439)

Sec.

108.1 Filing requirements (2 U.S.C. 439(a)(1)).

§ 108.2 Filing copies of reports and statements in connection with the campaign of any candidate seeking nomination for election to the Office of President or Vice-President (2 U.S.C. 439(a)(2)).

§ 108.3 Filing copies of reports and statements in connection with the campaign of any Congressional Candidate (2 U.S.C. 439(a)(2)).

108.4 Filing copies of reports by committees other than principal campaign committees (2 U.S.C. 439(a)(2)).

108.5 Time and Manner of filing copies (2 U.S.C. 434(a)(2)).

108.6 Duties of State officers (2 U.S.C. 439(b)).

108.7 Effect on State law (2 U.S.C. 453).

108.8 Exemption for the District of Columbia.

Authority: 2 U.S.C. 434(a)(2) 438(a)(8), 439, 453.

§ 108.1 Filing requirements (2 U.S.C. 439(a)(1)).

A copy of each report and statement required to be filed by any person under the Act shall be filed either with the Secretary of State of the appropriate State or with the State officer who is charge by State law with maintaining state election campaign reports. In States where reports are to be filed with a designated officer other than the Secretary of State, the chief executive officer of that State shall notify the Commission of such designation.

§ 108.2 Filing copies of reports and statements in connection with the campaign of any candidate seeking nomination for election to the Office of President or Vice-President (2 U.S.C. 439(a)(2)).

A copy of each report and statement required to be filed by a Presidential or Vice Presidential candidate's principal campaign committee under the Act,

including 11 CFR Part 104, or by any other person making independent expenditures in connection with a candidate seeking nomination for election to the office of President or Vice-President under 11 CFR 104.4 or Part 109, shall be filed with the State officer of each State in which an expenditure is made in connection with the campaign of a candidate seeking nomination for election to the office of President or Vice-President. The report and statement shall contain all transactions pertaining to that State during the reporting period. Any committee, other than a Presidential or Vice Presidential candidate's principal campaign committee and the candidate's authorized committee(s) shall also file a copy of each report and statement with the appropriate State officer of the State in which such committee has its headquarters pursuant to 11 CFR 108.4.

§ 108.3 Filing copies of reports and statements in connection with the campaign of any congressional candidate (2 U.S.C. 439(a)(2)).

A copy of each report and statement required to be filed by a committee under 11 CFR Part 104, or by any other person under 11 CFR Part 109 shall be filed with the appropriate State officer of that State in which an expenditure is made in connection with the campaign of a candidate for nomination for election or election, to the office of Senator, Representative in, Delegate or Resident Commissioner to the Congress except that political committees other than authorized committees are required to file, and the Secretary of State is required to retain only that portion of the report applicable to candidates seeking election in that State.

§ 108.4 Filing copies of reports by committees other than principal campaign committees (2 U.S.C. 439(a)(2)).

Any authorized committee, which makes contributions in connection with a Presidential election and which is required to file a report(s) and statement(s) under the Act shall file a copy of such report(s) and statement(s) with the State officer of the State in which both the recipient and contributing committees have their headquarters.

§ 108.5 Time and manner of filing copies (2 U.S.C. 434(a)(2)).

A copy of any report or statement required to be filed with a State officer under 11 CFR Part 108 shall be filed at the same time as the original report is filed. Each copy of such report or statement shall be a complete, true, and

legible copy of the original report or statement filed.

§ 108.6 Duties of State officers (2 U.S.C. 439(b)).

The Secretary of State, or the equivalent State officer shall carry out the duties set forth in 11 CFR 108.5(a) through (d):

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

(b) Preserve such reports and statements (either in original form or in facsimile copy by microfilm or otherwise) filed under the Act for a period of 2 years from the date of receipt;

(c) Make the reports and statements filed available as soon as practicable (but within 48 hours of receipt) for public inspection and copying during office hours and permit copying of any such reports or statements by hand or by duplicating machine, at the request of any person except that such copying shall be at the expense of the person making the request and at a reasonable fee;

(d) Compile and maintain a current list of all reports and statements or parts of such reports and statements pertaining to each candidate.

§ 108.7 Effect on State law (2 U.S.C. 453).

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

(b) Federal law supersedes State law concerning the—

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

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

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

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

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

(2) Dates and places of elections;

(3) Voter registration;

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

(5) Candidate's personal financial disclosure.

§ 108.8 Exemption for the District of Columbia

Any copy of a report required to be filed with the equivalent officer in the

District of Columbia shall be deemed to be filed if the original has been filed with the Clerk, Secretary, or the Commission, as appropriate.

PART 109—INDEPENDENT EXPENDITURES (2 U.S.C. 431(17), 434(c))

Sec.

109.1 Definitions (2 U.S.C. 431(17)).

109.2 Reporting of independent expenditures by persons other than a political committee (2 U.S.C. 434(c)).

109.3 Non-authorization notice (2 U.S.C. 441d).

Authority: 2 U.S.C. 431(17), 434(c), 438(a)(8), 441d.

§ 109.1 Definitions (2 U.S.C. 431(17)).

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

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

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

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

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

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

(A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents,

with a view toward having an expenditure made;

(B) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent;

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

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

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

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

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

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

§ 109.2 Reporting of independent expenditures by persons other than a political committee. (2 U.S.C. 434(c)).

(a) Every person other than a political committee, who makes independent expenditures aggregating in excess of \$250 during a calendar year shall file a signed statement or report on FEC Form

with the Commission, the Clerk of the House or Secretary of the Senate in accordance with 11 CFR 104.4(c).

(1) If a signed statement is submitted, the statement shall include: (i) the reporting person's name mailing address, occupation and the name of his or her employer, if any; (ii) the identification (name and mailing address) of the person to whom the expenditure was made; (iii) the amount, date and purpose of each expenditure; (iv) a statement which indicates whether such expenditure was in support of, or in opposition to a candidate, together with the candidate's name and office sought; (v) a notarized certification under penalty of perjury as to whether such expenditure was made in cooperation, consultation or concert with, or at the request or suggestion of any candidate or any authorized committee or agent thereof; and (vi) the identification of each person who made a contribution in excess of \$200 to the person filing such report, which contribution was made for the purpose of furthering the reported independent expenditure.

(2) Reports or statements filed under this section shall be filed at the end of the reporting period (quarterly pre-election post-election semi-annual annual) (See 11 CFR 104.5)) during which any independent expenditure which aggregates in excess of \$250 is made and in any reporting period thereafter in which additional independent expenditures are made.

(b) Independent expenditures aggregating \$1,000 or more made by any person after the twentieth day, but more than 24 hours before 12:01 A.M. of the day of an election shall be reported within 24 hours after such independent expenditure is made. Such report or statement shall contain the information required by 11 CFR 109.2(a) indicating whether the independent expenditure is made in support of, or in opposition to, a particular candidate and shall be filed with the appropriate officers in accordance with 11 CFR 104.4(c).

§ 109.3 Non-authorization notice. (2 U.S.C. 441d).

Whenever any person makes an independent expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, such person shall comply with the requirements of 11 CFR 110.11.

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS (2 U.S.C. 441a)

4. In Part 110, § 110.2(b), 110.6(c)(4), (c)(4)(i), and 110.7(c)(2) are revised; 110.7(c)(3) is deleted; 110.11(a)(1) and (2) are revised and 110.11(c) is deleted; 110.12(a) and 110.12(b)(5) are revised, 110.12(b)(6) is added. The amended provisions read as follows:

§ 110.2 Contributions by multi-candidate committees. (2 U.S.C. 441a(a)(2)).

(b) "Multi-candidate political committee" means a committee as defined in 11 CFR 100.5(e)(3).

§ 110.6 Earmarked contributions. (2 U.S.C. 441a(a)(7)(A)).

(c) * * *

(4) The reports in (1) and (2) above shall contain the information required in 11 CFR 110.6(c)(4) (i) through (iii).

(i) The name and mailing address of the contributor and if the contribution exceeds \$200, the contributor's occupation and the name of his or her employer.

§ 110.7 Party committee expenditure limitations. (2 U.S.C. 441a(d)).

(c) * * *

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

§ 110.11 Communications; advertising. (2 U.S.C. 441d).

(a)(1) Except as provided at 11 CFR 110.11(a)(2) whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing or any other type of general public political advertising, a disclaimer meeting the requirements of 11 CFR 110.11(a)(1) (i), (ii), (iii), or (iv) shall appear or be presented in a clear and conspicuous manner to give the reader, observer or listener adequate notice of the identity of persons who paid for or who authorized the communication; but such person is not required to place a disclaimer on the front face or page of any such material:

(i) Such communication is paid for and authorized by a candidate, an authorized committee of a candidate, or its agent(s), shall clearly state that the

communication has been paid for by such authorized political committee; or

(ii) Such communication, if authorized by a candidate, an authorized committee of a candidate or an agent thereof, but is paid for by any other person(s), shall clearly state that the communication is authorized by such candidate, authorized committee or agent and is paid for by such other persons; or

(iii) For solicitations on behalf of a candidate, such communication if not authorized by a candidate, an authorized political committee of a candidate, or its agents shall clearly state the full name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

(iv) Such communication, if paid for and authorized by a political committee, other than an authorized committee of a candidate(s) shall clearly state that the communication has been paid for by such political committee.

(2) The requirements of 11 CFR 110.11(a)(1) do not apply to bumper stickers, pins, buttons, pens and similar small items upon which the disclaimer cannot be conveniently printed.

* * * * *

§ 110.12 Honoraria. (2 U.S.C. 441f).

(a) No individual while an elected or appointed officer or employee of any branch of the federal government shall accept any honorarium which exceeds the limitations of 11 CFR 110.12(a) (1) and (2).

(1) Any honoraria which exceeds \$2,000 shall not be accepted.

(2) The aggregate amount of all honorarium accepted by any individual in any calendar year, which honoraria are not otherwise prohibited by 11 CFR 110.12(a)(1), shall not exceed \$25,000.

(3) For purposes of 11 CFR 110.12(a), amounts which are returned to the person who paid for the honorarium before the end of the calendar year in which it was received shall not be added to the aggregate amount of honoraria received by an individual during any calendar year.

(4) For purposes of 11 CFR 110.12(a), an honorarium shall be treated as accepted only in the year in which that honorarium is received.

(b) * * *

(5) *Accepted.* "Accepted" means that there has been actual or constructive receipt of the honorarium and that the federal officeholder or employee exercises dominion or control over it and determines its subsequent use. However, an honorarium is not accepted if the federal officeholder or employee makes a suggestion that the honorarium

be given instead to a charitable organization which is selected by the person paying the honorarium from a list of 5 or more charitable organizations provided by the officeholder or employee. Nothing in this paragraph shall be construed as an interpretation of relevant provisions of the Internal Revenue Service Code (Title 26, United States Code).

(6) *Charitable Organization.* "Charitable organization" means any organization described in 26 U.S.C. § 170(c).

* * * * *

(2 U.S.C. 438(a)(8), 441a, 441d, 441e, 441f, 441g, 441h, 441i).

5. Parts 111, 112, and 113 are revised to read as follows:

PART 111—COMPLIANCE PROCEDURE (2 U.S.C. 437g, 2 U.S.C. 437d(a))

- Sec.
- 111.1 Scope
- 111.2 Computation of Time
- 111.3 Initiation of Compliance Matters (2 U.S.C. 437g(a)(1), (2))
- 111.4 Complaints (2 U.S.C. 437g(a)(1))
- 111.5 Initial Complaint Processing; Notification (2 U.S.C. 437g(a)(1))
- 111.6 Opportunity to Demonstrate That No Action Should Be Taken on Complaint-Generated Matters (2 U.S.C. 437g(a)(1))
- 111.7 General Counsel's Recommendation on Complaint-Generated Matters (2 U.S.C. 437g(a)(1))
- 111.8 Internally Generated Matters; Referrals (2 U.S.C. 437g(a)(2))
- 111.9 The Reason to Believe Finding; Notification (2 U.S.C. 437g(a)(2))
- 111.10 Investigation (2 U.S.C. 437g(a)(2))
- 111.11 Written Questions Under Order (2 U.S.C. 437d(a)(1))
- 111.12 Subpoenas and Subpoenas Duces Tecum; Depositions (2 U.S.C. 437d(a)(3), (4))
- 111.13 Service of Subpoenas, Orders and Notifications (2 U.S.C. 437d(a)(3), (4))
- 111.14 Witness Fees and Mileage (2 U.S.C. 437d(a)(5))
- 111.15 Motions to Quash or Modify a Subpoena (2 U.S.C. 437d(a)(3), (4))
- 111.16 The Probable Cause to Believe Recommendation; Briefing Procedures (2 U.S.C. 437d(a)(3))
- 111.17 The Probable Cause to Believe Finding; Notification (2 U.S.C. 437d(a)(4))
- 111.18 Conciliation (2 U.S.C. 437g(a)(4))
- 111.19 Civil Proceedings (2 U.S.C. 437g(a)(6))
- 111.20 Public Disclosure of Commission Action (2 U.S.C. 437g(a)(4))
- 111.21 Confidentiality (2 U.S.C. 437g(a)(12))
- 111.22 Ex parte Communications
- 111.23 Representation by Counsel; Notification
- Authority: 2 U.S.C. 437g, 437d(a), 438(a)(8).

§ 111.1 Scope. (2 U.S.C. 437g).

These regulations provide procedures for processing possible violations of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431, *et seq.*) and

chapters 95 and 96 of the Internal Revenue Code of 1954 (26 U.S.C. 9001, *et seq.* and 9031 *et seq.*).

§ 111.2 Computation of time.

(a) *General rule:* In computing any period of time prescribed or allowed by this part, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. As used in this section, the term "legal holiday" includes New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday for employees of the United States by the President or the Congress of the United States.

(b) *Special Rule for Periods Less Than Seven Days:* When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

(c) *Special Rule for Service By Mail:* Whenever the Commission of any person has the right or is required to do some act within a prescribed period after the service of any paper by or upon the Commission or such person and the paper is served by or upon the Commission or such person by mail, three (3) days shall be added to the prescribed period.

§ 111.3 Initiation of compliance matters. (2 U.S.C. 437g(a)(1), (2)).

(a) Compliance matters may be initiated by a complaint or on the basis of information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities.

(b) Matters initiated by complaint are subject to the provisions of 11 CFR 111.4 through 111.7. Matters initiated on the basis of information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities are subject to the provisions of 11 CFR 111.8. All compliance matters are subject to the provisions of 11 CFR 111.2 and 111.9 through 111.23.

§ 111.4 Complaints. (2 U.S.C. 437g(a)(1)).

(a) Any person who believes that a violation of any statute or regulation over which the Commission has jurisdiction has occurred or is about to occur may file a complaint in writing to the General Counsel, Federal Election Commission, 1325 K Street, N.W.,

Washington, D.C. 20463. If possible, three (3) copies should be submitted.

(b) A complaint shall comply with the following:

(1) It shall provide the full name and address of the complainant; and
(2) The contents of the complaint shall be sworn to and signed in the presence of a notary public and shall be notarized.

(c) All statements made in a complaint are subject to the statutes governing perjury and to 18 U.S.C. 1001. The complaint should differentiate between statements based upon personal knowledge and statements based upon information and belief.

(d) The complaint should conform to the following provisions:

(1) It should clearly identify as a respondent each person or entity who is alleged to have committed a violation;
(2) Statements which are not based upon personal knowledge should be accompanied by an identification of the source of information which gives rise to the complainant's belief in the truth of such statements;

(3) It should contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction; and

(4) It should be accompanied by any documentation supporting the facts alleged if such documentation is known of, or available to, the complainant.

§ 111.5 Initial complaint processing; Notification. (2 U.S.C. 437g(a)(1)).

(a) Upon receipt of a complaint, the General Counsel shall review the complaint for substantial compliance with the technical requirements of 11 CFR 111.4, and, if it complies with those requirements shall within five (5) days after receipt notify each respondent that the complaint has been filed, advise them of Commission compliance procedures, and enclose a copy of the complaint.

(b) If a complaint does not comply with the requirements of 11 CFR 111.4, the General Counsel shall so notify the complainant and any person(s) or entity(ies) identified therein as respondent(s), within the five (5) day period specified in 11 CFR 111.5(a), that no action shall be taken on the basis of that complaint. A copy of the complaint shall be enclosed with the notification to each respondent.

§ 111.6 Opportunity to demonstrate that no action should be taken on complaint-generated matters. (2 U.S.C. 437g(a)(1)).

(a) A respondent shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a

complaint by submitting, within fifteen (15) days from receipt of a copy of the complaint, a letter or memorandum setting forth reasons why the Commission should take no action.

(b) The Commission shall not take any action, or make any finding, against a respondent other than action dismissing the complaint, unless it has considered such response or unless no such response has been served upon the Commission within the fifteen (15) day period specified in 11 CFR 111.6(a).

§ 111.7 General Counsel's recommendation on complaint-generated matters. (2 U.S.C. 437g(a)(1)).

(a) Following either the expiration of the fifteen (15) day period specified by 11 CFR 111.6(a) or the receipt of a response as specified by 11 CFR 111.6(a), whichever occurs first, the General Counsel may recommend to the Commission whether or not it should find reason to believe that a respondent has committed or is about to commit a violation of statutes or regulations over which the Commission has jurisdiction.

(b) The General Counsel may recommend that the Commission find that there is no reason to believe that a violation has been committed or is about to be committed, or that the Commission otherwise dismiss a complaint without regard to the provisions of 11 CFR 111.6(a).

§ 111.8 Internally generated matters; Referrals. (2 U.S.C. 437g(a)(2)).

(a) On the basis of information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities, or on the basis of a referral from an agency of the United States or of any state, the General Counsel may recommend in writing that the Commission find reason to believe that a person or entity has committed or is about to commit a violation of statutes or regulations over which the Commission has jurisdiction.

(b) If the Commission finds reason to believe that a violation has occurred or is about to occur the notification to respondent required by 11 CFR 111.9(a) shall include a copy of a staff report setting forth the legal basis and the alleged facts which support the Commission's action.

(c) Prior to taking any action pursuant to this section against any person who has failed to file a disclosure report required by 11 CFR 104.5(a)(1)(i) for the calendar quarter immediately preceding the election involved or 104.5(a)(1)(iii), the Commission shall notify such person of failure to file the required reports. If a satisfactory response is not received within four (4)

business days, the Commission shall publish before the election the name of the person and the report or reports such person has failed to file.

§ 111.9 The reason to believe finding; Notification. (2 U.S.C. 437g(a)(2)).

(a) If the Commission, either after reviewing a complaint-generated recommendation as described in 11 CFR 111.7 and any response of a respondent submitted pursuant to 11 CFR 111.6, or after reviewing an internally-generated recommendation as described in 11 CFR 111.8, determines by an affirmative vote of four (4) of its members that it has reason to believe that a respondent has violated a statute or regulation over which the Commission has jurisdiction, its Chairman or Vice Chairman shall notify such respondent of the Commission's finding by letter, setting forth the sections of the statute or regulations alleged to have been violated and the alleged factual basis supporting the finding.

(b) If the Commission finds no reason to believe, or otherwise terminates its proceedings, the General Counsel shall so advise both complainant and respondent by letter.

§ 111.10 Investigation. (2 U.S.C. 437g(a)(2)).

(a) An investigation shall be conducted in any case in which the Commission finds reason to believe that a violation of a statute or regulation over which the Commission has jurisdiction has occurred or is about to occur.

(b) In its investigation, the Commission may utilize the provisions of 11 CFR 111.11 through 111.15. The investigation may include, but is not limited to, field investigations, audits, and other methods of information-gathering.

§ 111.11 Written questions under order. (2 U.S.C. 437d(a)(1)).

The Commission may authorize its Chairman or Vice Chairman to issue an order requiring any person to submit sworn written answers to written questions and may specify a date by which such answers must be submitted.

§ 111.12 Subpoenas and subpoenas duces tecum; Depositions. (2 U.S.C. 437d(a)(3), (4)).

(a) The Commission may authorize its Chairman or Vice Chairman to issue subpoenas requiring the attendance and testimony of any person by deposition and to issue subpoenas duces tecum for the production of documentary or other tangible evidence in connection with a deposition or otherwise.

(b) If oral testimony is ordered to be taken by deposition or documents are ordered to be produced, the subpoena shall so state and shall advise the deponent or person subpoenaed that all testimony will be under oath. A deposition may be taken before any person having the power to administer oaths.

(c) The Federal Rules of Civil Procedure, Rule 30(e), shall govern the opportunity to review and sign depositions taken pursuant to this section.

§ 111.13 Service of subpoenas, orders and notifications. (2 U.S.C. 437d(a) (3), (4)).

(a) Service of a subpoena, order or notification upon a person named therein shall be made by delivering a copy to that person in the manner described by 11 CFR 111.13 (b), (c), and (d). In the case of subpoenas, fees for one day's attendance and mileage shall be tendered as specified in 11 CFR 111.14.

(b) Whenever service is to be made upon a person who has advised the Commission of representation by an attorney pursuant to 11 CFR 111.23, the service shall be made upon the attorney by any of the methods specified in 11 CFR 111.13(c).

(c) Delivery of subpoenas, orders and notifications to a natural person may be made by handing a copy to the person, or leaving a copy at his or her office with the person in charge thereof, by leaving a copy at his or her dwelling place or usual place of abode with some person of suitable age and discretion residing therein, or by mailing a copy by registered or certified mail to his or her last known address, or by any other method whereby actual notice is given.

(d) When the person to be served is not a natural person delivery of subpoenas, orders and notifications may be made by mailing a copy by registered or certified mail to the person at its place of business or by handing a copy to a registered agent for service, or to any officer, director, or agent in charge of any office of such person, or by mailing a copy by registered or certified mail to such representative at his or her last known address, or by any other method whereby actual notice is given.

§ 111.14 Witness fees and mileage (2 U.S.C. 437d(a)(5)).

Witnesses subpoenaed to appear for depositions shall be paid the same fees and mileage as witnesses in the courts of the United States. Such fees may be tendered at the time the witness appears for such deposition, or within a reasonable time thereafter.

§ 111.15 Motions to quash or modify a subpoena (2 U.S.C. 437d(a) (3), (4)).

(a) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 5 days after the date of receipt of such subpoena, apply to the Commission to quash or modify such subpoena, accompanying such application with a brief statement of the reasons therefor. Motions to quash shall be filed with the General Counsel, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. If possible, three (3) copies should be submitted.

(b) The Commission may deny the application or quash the subpoena or modify the subpoena.

(c) The person subpoenaed and the General Counsel may agree to change the date, time, or place of a deposition or for the production of documents without affecting the force and effect of the subpoena, but such agreements shall be confirmed in writing.

§ 111.16 The probable cause to believe recommendation; briefing procedures (2 U.S.C. 437g(a)(3)).

(a) Upon completion of the investigation, the General Counsel shall prepare a brief setting forth his or her position on the factual and legal issues of the case and containing a recommendation on whether or not the Commission should find probable cause to believe that a violation has occurred or is about to occur.

(b) The General Counsel shall notify each respondent of the recommendation and enclose a copy of his or her brief.

(c) Within fifteen (15) days from receipt of the General Counsel's brief, respondent may file a brief with the Commission Secretary, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463, setting forth respondent's position on the factual and legal issues of the case. If possible, ten (10) copies of such brief should be filed with the Commission Secretary and three (3) copies should be submitted to the General Counsel, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463.

(d) After reviewing the respondent's brief, the General Counsel shall advise the Commission in writing whether he or she intends to proceed with the recommendation or to withdraw the recommendation from Commission consideration.

§ 111.17 The probable cause to believe finding; notification (2 U.S.C. 437g(a)(4)).

(a) If the Commission, after having found reason to believe and after following the procedures set forth in 11

CFR 111.16, determines by an affirmative vote of four (4) of its members that there is probable cause to believe that a respondent has violated a statute or regulation over which the Commission has jurisdiction, the Commission shall authorize the General Counsel to so notify the respondent by letter.

(b) If the Commission finds no probable cause to believe or otherwise orders a termination of Commission proceedings, it shall authorize the General Counsel to so notify both respondent and complainant by letter.

§ 111.18 Conciliation (2 U.S.C. 437g(a)(4)).

(a) Upon a Commission finding of probable cause to believe, the Office of General Counsel shall attempt to correct or prevent the violation by informal methods of conference conciliation and persuasion, and shall attempt to reach a tentative conciliation agreement with the respondent.

(b) A conciliation agreement is not binding upon either party unless and until it is signed by the respondent and by the General Counsel upon approval by the affirmative vote of four (4) members of the Commission.

(c) If the probable cause to believe finding is made within forty-five days prior to any election, such conciliation attempt shall continue for at least fifteen (15) days from the date of such finding. In all other cases such attempts by the Commission shall continue for at least thirty (30) days, not to exceed ninety (90) days.

(d) Nothing in these regulations shall be construed to prevent the Commission from entering into a conciliation agreement with a respondent prior to a Commission finding of probable cause if a respondent indicates by letter to the General Counsel a desire to enter into negotiations directed towards reaching such a conciliation agreement. However, the Commission is not required to enter into any negotiations directed towards reaching a conciliation agreement unless and until it makes a finding of probable cause to believe. Any conciliation agreement reached under this subsection is subject to the provisions of subsection (b) of this section and shall have the same force and effect as a conciliation agreement reached after a Commission finding of probable cause to believe.

(e) If a conciliation agreement is reached between the Commission and the respondent, the General Counsel shall send a copy of the signed agreement to both complainant and respondent.

§ 111.19 Civil proceedings (2 U.S.C. 437g(a)(6)).

(a) If no conciliation agreement is finalized within the applicable minimum period specified by 11 CFR 111.18(c) the General Counsel may recommend to the Commission that the Commission authorize a civil action for relief in an appropriate court of the United States.

(b) Upon recommendation of the General Counsel, the Commission may, by an affirmative vote of four (4) of its members, authorize the General Counsel to commence a civil action for relief in an appropriate court of the United States.

(c) The provisions of 11 CFR 111.18(c) shall not preclude the Commission upon request of a respondent, from entering into a conciliation agreement even after a recommendation to file a civil action has been made pursuant to this section. Any conciliation agreement reached under this subsection is subject to the provisions of 11 CFR 111.18(b) and shall have the same force and effect as a conciliation agreement reached under 11 CFR 111.18(c).

§ 111.20 Public disclosure of Commission action (2 U.S.C. 437g(a)(4)).

(a) If the Commission makes a finding of no reason to believe or no probable cause to believe or otherwise terminates its proceedings, it shall make public such action and the basis therefor no later than thirty (30) days from the date on which the required notifications are sent to complainant and respondent.

(b) If a conciliation agreement is finalized, the Commission shall make public such conciliation agreement forthwith.

§ 111.21 Confidentiality (2 U.S.C. 437g(a)(12)).

(a) Except as provided in 11 CFR 111.20, no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed, the notification sent, the investigation conducted, or the finding made.

(b) Except as provided in 11 CFR 111.20(b), no action by the Commission or by any person, and no information derived in connection with conciliation efforts pursuant to 11 CFR 111.18, may be made public by the Commission except upon a written request by respondent and approval thereof by the Commission.

(c) Nothing in these regulations shall be construed to prevent the introduction of evidence in the courts of the United States which could properly be introduced pursuant to the Federal Rules of Evidence or Federal Rules of Civil Procedure.

§ 111.22 Ex parte communications.

(a) In order to avoid the possibility of prejudice, real or apparent, to the public interest in enforcement actions pending before the Commission pursuant to 11 CFR Part 111, except to the extent required for the disposition of ex parte matters as required by law (for example, during the normal course of an investigation or a conciliation effort), no interested person outside the agency shall make or cause to be made to any Commissioner or any member of any Commissioner's staff any ex parte communication relative to the factual or legal merits of any enforcement action, nor shall any Commissioner or member of any Commissioner's staff make or entertain any such ex parte communications.

(b) The prohibition of this regulation shall apply from the time a complaint is filed with the Commission pursuant to 11 CFR Part 111 or from the time that the Commission determines on the basis of information ascertained in the normal course of its supervisory responsibilities that it has reason to believe that a violation has occurred or may occur pursuant to 11 CFR Part 111, and remains in force until the Commission has finally concluded all action with respect to the enforcement matter in question.

(c) Nothing in this section shall be construed to prohibit contact between a respondent or respondent's attorney and any attorney or staff member of the Office of General Counsel in the course of representing the Commission or the respondent with respect to an enforcement proceeding or civil action. No statement made by such a Commission attorney or staff member during any such communication shall bind or estop the Commission in any way.

§ 111.23 Representation by counsel; notification.

(a) If a respondent wishes to be represented by counsel with regard to any matter pending before the Commission, respondent shall so advise the Commission by sending a letter of representation signed by the respondent, which letter shall state the following:

(1) The name, address, and telephone number of the counsel;

(2) A statement authorizing such counsel to receive any and all

notifications and other communications from the Commission on behalf of respondent.

(b) Upon receipt of a letter of representation, the Commission shall have no contact with respondent except through the designated counsel unless authorized in writing by respondent.

PART 112—ADVISORY OPINIONS (2 U.S.C. 437f)**Sec.**

112.1 Requests for Advisory Opinions (2 U.S.C. 437f(a)(1))

112.2 Public Availability of Requests (2 U.S.C. 437f(d))

112.3 Written Comments on Requests (2 U.S.C. 437f(d))

112.4 Issuance of Advisory Opinions (2 U.S.C. 437f (a) and (b))

112.5 Reliance on Advisory Opinions (2 U.S.C. 437f(c))

112.6 Reconsideration of Advisory Opinions
Authority: 2 U.S.C. 437f, 438(a)(8).

§ 112.1 Requests for advisory opinions (2 U.S.C. 437f(a)(1)).

(a) Any person may request in writing an advisory opinion concerning the application of the Act, chapters 95 or 96 of the Internal Revenue Code of 1954, or any regulation prescribed by the Commission. An authorized agent of the requesting person may submit the advisory opinion request, but the agent shall disclose the identity of his or her principal.

(b) The written advisory opinion request shall set forth a specific transaction or activity that the requesting person plans to undertake or is presently undertaking and intends to undertake in the future. Requests presenting a general question of interpretation, or posing a hypothetical situation, or regarding the activities of third parties, do not qualify as advisory opinion requests.

(c) Advisory opinion requests shall include a complete description of all facts relevant to the specific transaction or activity with respect to which the request is made.

(d) The Office of General Counsel shall review all requests for advisory opinions submitted under 11 CFR 112.1. If the Office of General Counsel determines that a request for an advisory opinion is incomplete or otherwise not qualified under 11 CFR 112.1, it shall, within 10 calendar days of receipt of such request, notify the requesting person and specify the deficiencies in the request.

(e) Advisory opinion requests should be sent to the Federal Election Commission, Office of General Counsel, 1325 K Street, N.W., Washington, D.C. 20463.

(f) Upon receipt by the Commission, each request which qualifies as an advisory opinion request (AOR) under 11 CFR 112.1 shall be assigned an AOR number for reference purposes.

§ 112.2 Public availability of requests (2 U.S.C. 437f(d)).

(a) Advisory opinion requests which qualify under 11 CFR 112.1 shall be made public at the Commission promptly upon their receipt.

(b) A copy of the original request and any supplements thereto, shall be available for public inspection and purchase at the Public Disclosure Division of the Commission.

§ 112.3 Written comments on requests (2 U.S.C. 437f(d)).

(a) Any interested person may submit written comments concerning advisory opinion requests made public at the Commission.

(b) The written comments shall be submitted within 10 calendar days following the date the request is made public at the Commission. However, if the 10th calendar day falls on a Saturday, Sunday, or Federal holiday, the 10 day period ends at the close of the business day next following the weekend or holiday. Additional time for submission of written comments may be granted upon written request for an extension by the person who wishes to submit comments or may be granted by the Commission without an extension request.

(c) Comments on advisory opinion requests should refer to the AOR number of the request, and statutory references should be to the United States Code citations, rather than to Public Law citations.

(d) Written comments and requests for additional time to comment shall be sent to the Federal Election Commission, Office of General Counsel, 1325 K Street, N.W., Washington, D.C. 20463.

(e) Before it issues an advisory opinion the Commission shall accept and consider all written comments submitted within the 10 day comment period or any extension thereof.

§ 112.4 Issuance of advisory opinions (2 U.S.C. 437f(a) and (b)).

(a) Within 60 calendar days after receiving an advisory opinion request that qualifies under 11 CFR 112.1, the Commission shall issue to the requesting person a written advisory opinion or shall issue a written response stating that the Commission was unable to approve an advisory opinion by the required affirmative vote of 4 members.

(b) The 60 calendar day period of 11 CFR 112.4(a) is reduced to 20 calendar days for an advisory opinion request

qualified under 11 CFR 112.1 provided the request:

(1) is submitted by any candidate, including any authorized committee of the candidate (or agent of either), within the 60 calendar days preceding the date of any election for Federal office in which the candidate is seeking nomination or election; and

(2) presents a specific transaction or activity related to the election that may invoke the 20 day period if the connection is explained in the request.

(c) The 60 day and 20 day periods referred to in 11 CFR 112.4(a) and (b) only apply when the Commission has received a qualified and complete advisory opinion request under 11 CFR 112.1, and when the 60th or 20th day occurs on a Saturday, Sunday or Federal holiday, the respective period ends at the close of the business day next following the weekend or holiday.

(d) The Commission may issue advisory opinions pertaining only to the Federal Election Campaign Act of 1971, as amended, chapters 95 or 96 of the Internal Revenue Code of 1954, or rules or regulations duly prescribed under those statutes.

(e) Any rule of law which is not stated in the Act or in chapters 95 or 96 of the Internal Revenue Code of 1954, or in a regulation duly prescribed by the Commission, may be initially proposed only as a rule or regulation pursuant to procedures established in 2 USC 438(d) or 26 USC 9009(c) and 9039(c) as applicable.

(f) No opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with 11 CFR Part 112; however, this limitation does not preclude distribution by the Commission of information consistent with the Act and chapters 95 or 96 of the Internal Revenue Code of 1954.

(g) When issued by the Commission, each advisory opinion or other response under 11 CFR 112.4(a) shall be made public and sent by mail, or personally delivered to the person who requested the opinion.

§ 112.5 Reliance on advisory opinions (2 U.S.C. 437f(c)).

(a) An advisory opinion rendered by the Commission under 11 CFR Part 112 may be relied upon by:

(1) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered, and

(2) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity

with respect to which such advisory opinion is rendered.

(b) Notwithstanding any other provision of law, any person who relies upon an advisory opinion in accordance with 11 CFR 112.5(a) and who acts in good faith in accordance with that advisory opinion shall not, as a result of any such act, be subject to any sanction provided by the Federal Election Campaign Act of 1971, as amended, or by chapters 95 or 96 of the Internal Revenue Code of 1954.

§ 112.6 Reconsideration of advisory opinions.

(a) The Commission may reconsider an advisory opinion previously issued if the person to whom the opinion was issued submits a written request for reconsideration within 30 calendar days of receipt of the opinion and if, upon the motion of a Commissioner who voted with the majority that originally approved the opinion, the Commission adopts the motion to reconsider by the affirmative vote of 4 members.

(b) The Commission may reconsider an advisory opinion previously issued if, upon the motion of a Commissioner who voted with the majority that originally approved the opinion and within 30 calendar days after the date the Commission approved the opinion, the Commission adopts the motion to reconsider by the affirmative vote of 4 members.

(c) In the event an advisory opinion is reconsidered pursuant to 11 CFR 112.6(b), the action taken in good faith reliance on that advisory opinion by the person to whom the opinion was issued shall not result in any sanction provided by the Act or chapters 95 or 96 of the Internal Revenue Code of 1954. 11 CFR 112.6(c) shall not be effective after the date when the person to whom the advisory opinion was issued has received actual notice of the Commission's decision to reconsider that advisory opinion.

(d) Adoption of a motion to reconsider vacates the advisory opinion to which it relates.

PART 113—EXCESS CAMPAIGN FUNDS AND FUNDS DONATED TO SUPPORT FEDERAL OFFICEHOLDER ACTIVITIES (2 U.S.C. 439a)

Sec.

- 113.1 Definitions (2 USC 439a).
- 113.2 Use of funds (2 USC 439a).
- 113.3 Deposits of funds donated to a Federal or State officeholder.
- 113.4 Contribution and expenditure limitations (2 USC 441a).

Authority: 2 U.S.C. 432(h), 438(a)(8), 439a, 441a.

§ 113.1 Definitions (2 U.S.C. 439a).

When used in this Part—

(a) *Funds donated.* "Funds donated" means all funds, including, but not limited to, gifts, loans, advances, credits or deposits of money which are donated for the purpose of supporting the activities of a Federal or State officeholder; but does not mean funds appropriated by Congress, a State legislature, or another similar public appropriating body, or personal funds of the officeholder donated to an account containing only those personal funds.

(b) *Office account.* "Office account" means an account established for the purposes of supporting the activities of a Federal or State officeholder which contains excess campaign funds and funds donated, but does not include an account used exclusively for funds appropriated by Congress, a State legislature, or another similar public appropriating body, or an account of the officeholder which contains only the personal funds of the officeholder, or an account containing only appropriated funds and only personal funds of the officeholder.

(c) *Federal officeholder.* "Federal officeholder" means an individual elected to or serving in the office of President or Vice President of the United States; or a Senator or a Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

(d) *State officeholder.* "State officeholder" means an individual elected to or serving in any elected public office within a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any subdivision thereof.

(e) *Excess campaign funds.* "Excess campaign funds" means amounts received by a candidate as contributions which he or she determines are in excess of any amount necessary to defray his or her campaign expenditures.

§ 113.2 Use of funds (2 U.S.C. 439a).

Excess campaign funds and funds donated:

(a) May be used to defray any ordinary and necessary expenses incurred in connection with the recipient's duties as a holder of Federal office, if applicable; or

(b) May be contributed to any organization described in section 170(c) of Title 26, of the United States Code; or

(c) May be transferred without limitation to any national, State, or local committee or any political party; or

(d) May be used for any other lawful purpose, except that, with respect to any individual who is not a Senator or

Representative in, or Delegate or Resident Commissioner to, the Congress on the date of the enactment of the Federal Election Campaign Act Amendments of 1979 (January 8, 1980), no such amounts may be converted by any person to any personal use, other than: to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office, or to repay to a candidate any loan the proceeds of which were used in connection with his or her campaign.

§ 113.3 Deposits of funds donated to a Federal or state officeholder (2 U.S.C. 432(h)).

All funds donated to a federal officeholder, or State officeholder who is a candidate for federal office, shall be deposited into one of the following accounts:

(a) An account of the officeholder's principal campaign committee or other authorized committee pursuant to 11 CFR Part 103;

(b) An account to which only funds donated to an individual to support his or her activities as a holder of federal office are deposited (including an office account).

§ 113.4 Contribution and expenditure limitations (2 U.S.C. 441a).

(a) Any contributions to, or expenditures from an office account which are made for the purpose of influencing a federal election shall be subject to 2 U.S.C. 441a and 11 CFR Part 110 of these regulations.

(b) If any treasury funds of a corporation or labor organization are donated to an office account, no funds from that office account may be transferred to a political committee account or otherwise used in connection with a federal election.

7. In Part 114, § 114.1(a)(2)(v), § 114.6(c) (3), (d), (d)(2)(ii), (d)(3) (i) and (ii) are revised to read as follows:

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY**§ 114.1 Definitions.**

(a) * * *

(2) * * *

(v) The sale of any food or beverage by a corporate vendor for use in a candidate's campaign or for use by a political committee of a political party at a charge less than the normal of comparable commercial rate, if the charge is at least equal to the costs of such food or beverage to the vendor, to the extent that: the aggregate value of such discount by the vendor on behalf of a single candidate does not exceed \$1,000 with respect to any single

election; and on behalf of all political committees of each political party does not exceed \$2,000 in a calendar year.

* * * * *

§ 114.6 Twice yearly solicitations.

* * * * *

(c) * * *

(3) That persons who, in a calendar year make a single contribution of \$50 or less, or multiple contributions aggregating \$200 or less may maintain their anonymity by returning their contributions to the custodian.

(d) *The custodial arrangement.* In order to maintain the anonymity of persons who do not wish to contribute and of persons who wish to respond with a single contribution of \$50 or less, or multiple contributions aggregating \$200 or less in a calendar year, and to satisfy the recordkeeping provisions, the corporation, labor organization, or separate segregated fund of either shall establish a custodial arrangement for collecting the contributions under this section.

* * * * *

(2) * * *

(ii) Provide the fund with the identification of any person who makes a single contribution of more than \$50 and the identification of any person who makes multiple contributions aggregating more than \$200. The custodian must provide this information within a reasonable time prior to the reporting date of the fund under Part 104;

* * * * *

(3) * * *

(i) Make the records of persons making a single contribution of \$50 or less, or multiple contributions aggregating \$200 or less, in a calendar year, available to any person other than representatives of the Federal Election Commission, the Clerk of the House or the Secretary of the Senate, as appropriate, and law enforcement officials or judicial bodies.

(ii) Provide the corporation or labor organization or the separate segregated fund of either with any information pertaining to persons who, in a calendar year, make a single contribution of \$50 or less or multiple contributions aggregating \$200 or less except that the custodian may forward to the corporation, labor organization or separate segregated fund of either the total number of contributions received; or

* * * * *

(2 U.S.C. 431(8)(B)(iii), 432(c)(3), 438(a)(8))

§ 9008.3 [Amended]

8. In Part 9008, § 9008.3(a) is amended by deleting "2 million" and inserting "3 million".

Dated: February 28, 1980.

Robert O. Tiernan,

Chairman, Federal Election Commission.

[FR Doc. 80-7109 Filed 3-6-80; 8:45 am]

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