



# THE FEDERAL ELECTION COMMISSION

# RECORD

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## Commission Sends Congress Proposed FECA Regulations

The Federal Election Commission has approved, by a 6-0 vote, a set of proposed regulations governing all major areas of the Federal election campaign laws.

The regulations, transmitted to Congress on August 3, are the result of intensive efforts on the part of the Commission to provide workable guidelines to be followed by candidates, political committees and others interested in Federal elections. Congress can review the proposed regulations for a maximum of thirty legislative days, after which, if they have not been vetoed by either house, they may be officially promulgated by the Commission.

The proposed regulations cover Title 2, U.S. Code (disclosure and reporting requirements, as well as spending and contribution limitations) and Title 26, U.S. Code (public financing provisions of the law).

FEC Chairman Vernon Thomson said, "It is the Commission's hope that these regulations will provide persons subject to this Act with a readable and practical guide for effective participation in the Federal election process. We trust they will assist persons subject to the Act, and the public in general, in going forward with the campaign process in a manner in which all citizens may have confidence."

Following are highlights of selected provisions of the proposed regulations which amplify the statutory text. The complete text of the regulations will be printed in the Federal Register and reprints are available from the Commission's Public Communications Office.

### PART 100 - General Definitions

*Loan* - A loan is a contribution "to the extent that the obligation remains outstanding."

*Volunteer Activity* - An individual can donate services to a campaign without making a contribution or expenditure. However, an employee volunteering services during a "regular work period" must make up or complete duties "within a reasonable period" to prevent that time being considered an in-kind contribution from the employer.

*Candidate's Personal Expenses* - A candidate's "routine living expenses", including food and residence, are not campaign expenditures if paid by the candidate out of personal funds.

*"Testing The Waters"* - An individual is not deemed a "candidate" by receiving money or making payments to determine whether to become a "candidate", such as taking a poll. However, upon becoming a candidate, these preliminary transactions will be treated as reportable contributions and expenditures subject to any campaign limits.

*Primaries* - For independent or minor party candidates, the primary election ends either (1) the last day under a State's law to qualify to appear on that State's general election ballot, or (2) the date of the last major party primary election, caucus or convention in that State, or (3) the date of nomination by the party.

### PART 101 - Candidate Status

*Candidacy* - The individual becoming a candidate must, within 30 days, file a Candidate Statement, or letter, designating a principal campaign committee and a national or State bank as a campaign depository.

*Waiver of Candidate Personal Reporting* - A candidate is relieved of the duty to file personal campaign reports if he or she agrees to turn over to the principal campaign committee any contribution made personally to him or her and also to not make any unreimbursed campaign expenditures (except from personal funds). This waiver becomes effective when the regulations are promulgated by the FEC.

### PART 102 - Committee Registration and Organization

*State Party Committees* - A State or local political party committee supporting Federal and non-Federal candidates must either operate as a single committee and insure that all contributions received by the committee are lawful under Federal law or, in the alternative, set up a separate Federal committee with a separate segregated account.

*Principal Campaign Committee* - Every candidate's "principal campaign committee" must register regardless of how much money the committee has spent or received.

### PART 103 - Campaign Depositories

*Deposit of Contributions* - A contribution must be deposited in the campaign depository within 10 days of its receipt by the candidate or the committee treasurer. (One or more accounts may be established in a depository.)

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Regulations (continued from page 1)

**PART 104 - Reports by Political Committees and Candidates**

*Waiver of Quarterly Reports* - No quarterly finance report is required of candidates or political committees in any quarter in which they do not receive or spend more than \$1,000 (except that during the fourth quarter of an election year, a report must be filed if there are debts outstanding), and in the case of candidates and their authorized committees in non-election years in any quarter in which they do not receive or spend a total of \$5,000. However, they must "notify the Commission in writing" the first time this reporting exemption applies.

*Itemized Contributions* - Only contributions of more than \$100 must be itemized in campaign finance reports. If a candidate or committee chooses to itemize contributions of \$100 or less, it must be done on a list separate from the required larger contributions, and the two categories may not be commingled in the report.

*In-Kind Contributions* - Each in-kind contribution shall be identified as such and "shall be valued at the usual and normal charge on the date received".

**PART 105 - Document Filing**

*Microfilm Copies* - The Clerk of the House and the Secretary of the Senate shall transmit to the Commission both a microfilm copy and photocopy of each report filed initially with them for House and Senate races.

**PART 106 - Allocation**

*Travel Expenses* - When a candidate's trips include both campaign and noncampaign-related activities, the travel expenses to be reported as campaign expenditures must be "calculated on the actual cost-per-mile of the means of transportation actually used."

*Campaign-Related Stop* - A stop is campaign-related if a candidate conducts any campaign-related activity, and the travel expenses made must be reported. Travel expenses of a spouse or family member are campaign expenditures only if the spouse or family member conducts campaign-related activities.

*Among Candidates* - Expenditures on behalf of more than one candidate shall be attributed to each candidate (and reported) in proportion to the benefit derived by each candidate.

**PART 107 - Convention Reports**

*Reports* - Each host committee, national party committee, State party committee or its subordinate committee which deals with a Presidential Nominating Convention must file a convention report of receipts and expenditures in connection with the Convention within 60 days following the Convention's last session, but not later than 20 days before the general election.

**PART 108 - States**

*Filing* - Copies of reports required to be filed with State officers must be "true and legible copies" of the original report filed in Washington, and filed at the same time as the original report.

*Preemption* - Federal law preempts State law in Federal elections in areas such as committee organization, registration and reporting, and contribution and expenditure provisions, but does not preempt State laws relating to the administration of elections, such as candidate qualifications, voter registration, conduct of elections, or election fraud.

**PART 109 - Independent Expenditures**

*Definition* - "Independent expenditure" means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identifiable 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 the candidate."

*"Cooperation and Consultation"* - An expenditure is presumed not to be independent of a candidate's campaign when it is made "based on information about the candidate's plans, projects and needs," supplied by the campaign to the expending person "with a view towards having an expenditure made."

*Agents* - Similarly, expenditures will not be presumed "independent" if made by a person who has been authorized to raise or spend money for the campaign, or who has been a campaign committee officer, or who has been paid or reimbursed by the campaign.

*Contribution In-kind* - An expenditure not qualifying as an "independent expenditure" will be treated as a "contribution in-kind" to a candidate subject to contribution limits, and must be reported as an expenditure by the candidate.

*Advertising* - Any independent general public political advertising must contain a statement that the communication is not authorized by any candidate, and list who is responsible for it. This statement shall be "on the face or front page of printed matter" and "at the beginning or end of broadcast or telecast matter."

**PART 110 - Contribution and Expenditure Limitations**

*Single Contribution Limit for Affiliated Committees* - All political committees (including all affiliates, subsidiaries, locals, etc.) of a corporation, union, or other group of persons are subject to a single, combined contribution limit per candidate, per election. Indicia of "maintenance or control" of committees by a group which will bring them under this combined contribution rule include power to hire or fire officers and members, ownership or controlling interests, similar patterns of contributions, and substantial transfers of funds between the different committees.

*Party Committees* - National and State political party committees are entitled to separate contribution limits. Subordinate State party committees may have a contribution limit separate from the state central party committee contribution limit if they do not receive funds from, or make contribution decisions in coordination with, any other political party unit. (Continued on page 3)

# Regs Result of Public Comments, FEC Staff Work

Immediately following the reconstitution of the FEC on May 21, 1976, the Commission published its initial draft of proposed regulations in the Federal Register (May 26, 1976), beginning an extensive public process that culminated in the final proposal submitted to Congress on August 3.

The regulations published for public comment drew responses from 190 people. Thirty witnesses offered testimony at hearings June 7-10 on Title 2 and parts of Title 26. An additional eight witnesses testified at the July 7 hearing on the General Election Financing regulations of Title 26.

Members of the General Counsel's office worked round-the-clock to incorporate changes as the Commission met almost daily to work on the regulations. Input was considered from Members of Congress, candidates, political committees, public interest groups and FEC staff members as well as from the general public.

Some sections of the regulations underwent as many as four or five versions. For instance, Section 114, pertaining to the separate segregated funds maintained by corporations, membership associations and labor organizations, was the subject of lengthy deliberation before the final version was adopted by the Commission.

## Regulations (continued from page 2)

**Spouses and Minors** - Spouses are entitled to separate contribution limits, but minor children can be independent of their parents and make a separate contribution only if they own or control the money, knowingly and voluntarily make the contribution, and have not received the money for the purpose of the contribution.

**Candidate's Personal Funds** - The personal funds a candidate may spend in unlimited amounts in his or her own campaign must be funds to which he or she has "legal and rightful title", or "access and control over" prior to candidacy, and may include money from income, dividends, trusts, awards and prizes or personal gifts.

**Anonymous Contributions** - The amount of any anonymous contribution over \$50 cannot be used in Federal elections, but may be used for any other lawful purpose.

**Presidential Expenditures** - A State, county, city or Congressional district party committee may spend up to \$1,000 to further the general election of its Presidential candidate provided the expenditure is made to benefit the campaign of the party's slate of nominees.

**Advertising Disclaimers** - Statements of authorization required in political advertisements are not required for "small items upon which the disclaimer cannot be conveniently printed," such as bumper strips, buttons and pens.

**Contributions toward Independent Expenditures** - Contribution limits apply to contributions made to committees making independent expenditures.

**No Party Independent Expenditures** - Political party committees may not make independent expenditures in connection with the general election campaigns of Federal candidates.

## PART 111 - Complaint Procedures

**Formal Complaint** - In addition to being signed, sworn-to, and notarized, a complaint shall include the complainant's full name, address, telephone number and a statement of the alleged acts involved, and shall include any available documentation of the allegations.

**Commission Action** - Action following the three stages of initial processing, investigation, and conciliation must be by affirmative vote of four of the six members of the Commission.

**Results** - Public Disclosure will be made of any determination by the Commission that no violation of the Act has occurred, and also of the results of any conciliation attempt, including any conciliation agreement entered into.

**Ex Parte Communication** - No interested person outside the FEC may make (and no FEC Commissioner or compliance staff member may receive) any ex parte communication relative to the factual merits of any enforcement action.

## PART 112 - Advisory Opinions

**Advisory Opinion Requests** - Requests must be in writing and concern a "specific factual situation" involving the requestor, not hypothetical questions.

**Public Comment Period** - Advisory opinion requests will be made public at the Commission, or through publication for a 15 day written comment period.

## PART 113 - Office Account Regulation

**Office Account** - An office account is "an account established for the purposes of supporting the activities of a Federal or State officeholder," consisting of funds other than Government appropriations or the officeholder's personal funds.

**Reports** - Reports of office accounts are due twice yearly, on April 15 and October 15.

**Campaign Use** - Any contribution to or expenditure from an office account for campaign purposes is subject to all campaign law limitations and prohibitions.

## PART 114 - Corporations and Unions

**Retired Employees** - Former or retired employees are not included in the category of "administrative or executive personnel" who can be regularly solicited for a corporation's "political action committee."

**Partisan Activities** - Partisan "internal communications" may be made by a union to its members, or by a corporation to its "executive and administrative personnel" and stockholders. This communication may include distribution of internally-generated printed material or operation of phone banks. The cost of communications "expressly advocating the election or defeat of a clearly identified candidate" must be reported when a corporation or labor organization spends over \$2,000 in all primary elections and over \$2,000 in the general election.

**Non-partisan Activities** - Only non-partisan communications may be made by a corporation or union to individuals outside its own class, including allowing candidates or party representatives to address employees so long as the same opportunities are made available to all candidates and parties; aiding non-partisan voter registration and voting drives conducted by a non-profit organization; and providing non-partisan voter registration information.

**Voluntary Contributions to PAC's** - Contributions to separate segregated funds must be completely voluntary. A contributor can not be compensated for a contribution, such as through a bonus or expense account.

**PAC Solicitation** - The regulations include numerous technical provisions concerning solicitations to separate segregated funds by corporations and unions, by membership organizations, and by trade associations.

**Use of Facilities** - Any individual using corporate or union facilities for volunteer political activity must reimburse the corporation for costs incurred (such as long-distance telephone calls).

**Airplane** - If a candidate uses a corporate or union plane (except for corporation licensed to provide commercial air travel), the candidate must pay for the service "in advance" at the first class air fare rate for cities served by a regularly scheduled commercial service, and at the usual charter rate for other cities.

**Credit** - Corporations may extend credit to political campaigns only in a commercially reasonable manner, in a way similar to extension of credit to non-political debtors of similar risk and size of obligation. A corporation must pursue its remedies to collect any political debt in the same fashion and with the same intensity that it pursues non-political debts.

## PART 115 - Government Contracts

**Government Contractors** - Under the prohibition against contributions by Federal contractors, a partnership which has a government contract may not contribute to Federal candidates, although individual partners or employees may make personal contributions. However, an individual or sole proprietor who has a Federal contract may not make political contributions from either business or personal funds under his or her control.

## PART 120 - 125 -- Convention Financing

**Expenses** - Public funds for national political party conventions may only be spent "for the purpose of conducting" the convention

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### Regulations (continued from page 3)

or "convention-related activities." These include physical site expenses, staff salaries, printing costs, the costs of providing a transportation system for persons attending the convention, and entertainment activities which are part of "official convention activity sponsored by the national committee."

**Interest** - Any interest earned by investment of the public subsidies will count against the total public fund entitlement of the party.

**Reports** - Convention committees must file a financial statement with the FEC within 60 days of the close of the convention, but not later than 20 days prior to the general election.

### PART 130-134 -- Primary Matching Funds

**Non-matchable Contributions** - Contributions in the form of the purchase price paid for an item of "significant intrinsic and enduring value, such as a watch" and for chances to raffles, lotteries or "similar drawings" are not matchable.

**Entertainment** - The price of admission to entertainment, such as a concert or motion picture, is matchable only for the amount above the "fair market value" of the entertainment; the total admission price to an "essentially political program," such as "the traditional political dinner or reception," however, is fully matchable.

**Disclosure Agreement** - A candidate's failure to comply with the reporting and disclosure requirements of the FECA, and of the FEC proposed Disclosure Regulations, when adopted, may result in suspension of certification of matching funds for him or her.

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**Continuation of Certification** - After the date of candidate "ineligibility," matching payments may be made only to defray "net outstanding campaign obligations" as of that date. If the candidate has no outstanding campaign debts, he or she may receive no more matching money.

### PART 140 - 146 -- General Election Financing

**Eligibility** - Upon establishing eligibility, a general election candidate will be certified in full for the entire amount provided by law in Federal subsidies.

**Reimbursement** - Candidates may be reimbursed for media and Secret Service expenditures, such as airplane travel, initially incurred by the campaign.

**Winding-down Costs** - Public funds only may be utilized by the candidate receiving Federal subsidies up to 30 days after the date of the general election. Private contributions may be received to pay administrative expenses terminating the campaign committee incurred after the Federal cut-off date (30 days after the election), but such contributions must be isolated from the campaign funds, reported separately, and in no way commingled with the campaign funds.

## FEC FOOTNOTES

**Matching Funds** - As of August 5, 1976, the Commission has certified \$23,500,677.73 in Federal primary matching funds for a total of 15 Presidential candidates. In addition, \$3,927,600.00 has been certified in Presidential nominating convention payments to the Democratic and Republican National Committees.

Democratic Party Presidential and Vice-Presidential candidates Jimmy Carter and Walter F. Mondale were issued a "letter of credit" from the Department of Treasury in the amount of \$21,820,000.00, following Commission certification of that amount. This figure represents the full Federal entitlement available to each major party Presidential candidate in the 1976 general election. A similar amount will be available on request of the nominees of the Republican Party.

**Materials Available** - Two new publications are currently available from FEC's Public Communications Office: (1) a *Compilation of Federal Election Laws* (full text of the The Federal Election Campaign Act as amended plus additional provisions of the U.S. Code relevant to persons involved with Federal elections) with a *special index* to the Title 2 provisions of the law; (2) the *FEC Bookkeeping and Reporting Manual*, a guide prepared by the Commission suggesting basic bookkeeping procedures that would be helpful in complying with recordkeeping and reporting requirements of the Act.

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