



THE FEDERAL ELECTION COMMISSION

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SPECIAL SUPPLEMENT • DELEGATE SELECTION

Below is a comprehensive policy statement on the delegate selection process to the national Presidential nominating conventions, approved by the Federal Election Commission February 10, 1976. This policy statement outlines any obligations these delegate candidates may have in relation to the Federal Election Campaign Act, as amended.

If you have need for additional copies for distribution, or have any questions, please do not hesitate to contact the Commission by writing at the above address or by calling Toll Free, Area Code 800/424-9530. (For local Washington, D.C. calls, dial 382-4733.)

SYNOPSIS

These guidelines apply to all levels of the delegate selection process: local, district, and State nominating conventions, caucuses, or primaries. Where used in this text, the word "delegate" means a candidate for delegate at any stage of the selection process.

1. **DELEGATE REPORTING.** Costs for delegate travel and subsistence do not count as campaign expenses for purposes of reporting or limits. A delegate is required to report (a) if he or she spends more than \$100 for communications that expressly advocate the election or defeat of a clearly identified Presidential candidate, or (b) if the delegate is financially "authorized" by a Presidential candidate. A special short reporting form and instructions are available from the Commission (FEC Form No. 5)
2. **LIMITS ON EXPENDITURES AND CONTRIBUTIONS.** For purposes of the Federal law, a delegate (or slate of delegates) is considered to fall into either of two categories: (1) authorized by a Presidential candidate, or (2) unauthorized by any Presidential candidate. As contributions and expenditure limits apply differently, or not at all, to these two categories, the following guidelines should be examined for the distinctions between the two types.
3. **PROHIBITED CONTRIBUTIONS.** The general prohibitions on contributions by corporations, labor unions, national banks and government contractors, on cash contributions over \$100, and on contributions by foreign nationals apply to delegates as well as Presidential candidates.

SPECIFIC APPLICATION TO DELEGATES, CONTRIBUTORS, AND PARTY COMMITTEES

1. The Authorized Delegate and His or Her Contributors

A. Who is an Authorized Delegate?

An "authorized delegate" is a delegate (1) who is authorized or requested by a Presidential candidate (or the candidate's committee or agent) to receive contributions or make any expenditure on behalf of the Presidential candidate; (2) who is reimbursed by a Presidential candidate for any expenditures made on behalf of the Presidential candidate; or (3) whose own delegate fund-raising or spending is subject to direct or indirect control by the Presidential candidate.

COMMENT: Financial authorization of a delegate by a Presidential candidate is separate and distinct from any other authorization or approval which may be required under party rules or State law. The fact that a delegate has to secure the approval of the Presidential candidate before he/she can appear as a "Jones delegate" on the primary ballot does not alone constitute financial authorization by the candidate.

Examples of actions which would constitute authorization of a delegate include:

(a) The Presidential campaign transfers funds to the delegate for use in the Presidential candidate's or the delegate's campaign;

(b) The Presidential campaign publicly or privately solicits contributions to a specific delegate or slate;

(c) The Presidential campaign guarantees loans to or for a delegate;

(d) The Presidential campaign directs or the Presidential candidate and delegate jointly plan fund-raising, advertising, or other campaign solicitation activities;

(e) A delegate is authorized to raise or spend funds on behalf of that candidate.

B. What Requirements Apply to Authorized Delegates?

1. Expenditure Limits

There is no specific limit on expenditures by any individual authorized delegate or slate. If the authorizing Presidential candidate has accepted public matching funds, all delegate expenditures, excluding travel and subsistence, count toward that Presidential candidate's national and State limits. However, if the authorizing Presidential candidate finances his or her primary campaign effort strictly from private monies, delegate campaign expenditures are unlimited.

Since the authorized delegate in both cases acts in effect as an "agent" of the Presidential candidate, the delegate may not make any expenditures which are not specifically authorized, reimbursed or otherwise directed by the Presidential candidate or the candidate's committees.

2. Contribution Limits

Contributions to an authorized delegate are considered contributions to the Presidential candidate and count toward the donor's \$1,000 or \$5,000 limit. Thus an individual may contribute no more than \$1,000 in total to a Presidential candidate and all authorized delegates of that candidate. Similarly, a political committee which is qualified to make \$5,000 contributions may contribute no more than \$5,000 in total to a specific Presidential candidate and all authorized delegates of that candidate.

Contributions to authorized delegates also count toward the limit of \$25,000 which an individual is permitted to make in a calendar year.

3. Independent Expenditures

The decision in *Buckley v. Valeo* permits an individual or political committee (other than a national or State committee of a political party) to spend without limit to support or oppose any candidate for Federal office so long as this is done independently of the candidate or authorized delegate. Such expenditures may be made to support or oppose either the Presidential candidate or the delegate.

COMMENT: Generally, an "independent expenditure" is characterized by a lack of direction or control by the Presidential candidate or authorized delegate. Examples of independent expenditures with respect to delegate campaigns include: (i) a person places an ad in a local newspaper advocating the election of a Presidential candidate or an authorized delegate without any control, cooperation, consent or suggestion whatever, direct or indirect, of the candidate or the delegate; (ii) an individual prints bumper stickers and distributes them on his own initiative without any control, cooperation, consent or suggestion whatever, direct or indirect, of the Presidential candidate or authorized delegate.

4. Reporting and Disclosure

Authorized delegates are required to report all financial transactions to the Presidential campaign committee rather than to the Federal Election Commission. Since the authorized delegate is working closely with and under the direction of the Presidential candidate's campaign, that campaign committee may provide its delegates with its own special instructions. However, the following requirements apply to all authorized delegates:

(a) In order for contributions to authorized delegates to qualify for primary matching funds, such contributions must be made by check payable to the related Presidential candidate.

(b) The authorized delegate must:

(1) Report to the Presidential campaign committee all contributions in excess of \$10, including the amount, name and address of the contributor, and the date received, within five days after receiving the contribution.

(2) Report a contributor's occupation and place of business, when that person's contributions total more than \$100.

(3) Transfer all contributions to the Presidential campaign committee in a reasonable time.

(c) Any campaign expenditure by an authorized delegate (or on his/her behalf) must be made:

(1) By a check drawn on an account in the Presidential candidate's campaign depository.

(2) In the case of any expenditure to one person for \$100 or less in connection with a single transaction, from the Presidential committee's petty cash fund.

II. The Unauthorized Delegate and His or Her Contributors

A. Who is an Unauthorized Delegate?

An unauthorized delegate is one who has not been financially authorized by any Presidential candidate as explained in I.A. As long as a delegate is not so authorized, it does not matter whether or not he is declared as favoring a particular Presidential candidate.

B. What Requirements Apply to Unauthorized Delegates?

1. Expenditure Limits

An unauthorized delegate is subject to no ceiling on campaign expenditures. (*Buckley v. Valeo*). The expenditures of unauthorized delegates do not count against any Presidential candidate's State or national spending limits.

An unauthorized delegate may contribute \$1,000 directly to a Presidential candidate. Expenditures for his/her delegate campaign do not affect this contribution limit.

2. Contributions to an Unauthorized Delegate

A contribution to an unauthorized delegate counts toward the \$25,000 annual ceiling on all contributions by any one individual.

Contributions to pledged-but-unauthorized delegates do not affect the contribution which the individual or organization may make directly to the Presidential candidate supported by that delegate. Thus a donor may contribute the legal limit (\$1,000 for an individual, or \$5,000 for a qualified committee) directly to a Presidential candidate, and may contribute to pledged-but-unauthorized delegates supporting that same candidate in an amount which will not cause the donor to exceed the \$25,000 limit on total contributions.

3. Reporting by Unauthorized Delegates and Contributors to Unauthorized Delegates

(a) The following persons are required to report:

(1) An unauthorized delegate who spends more than \$100 for campaign communications that expressly advocate the election or defeat of a clearly identified candidate, not including costs for travel and subsistence. (An unauthorized delegate whose expenditures do not expressly advocate the election or defeat of a clearly identified candidate is not required to report.)

(2) Any person who contributes more than \$100 in a calendar year to one or more unauthorized delegates.

(b) In reporting, each person above will observe the following requirements:

(1) Reports must be filed with the Commission. A short form and instructions (FEC Form No. 5) are available from the Commission.

(2) Reports must be filed for the calendar quarter in which the \$100 threshold is exceeded (deadlines for quarterly reports are April 10, July 10, October 10) and for subsequent quarters in which further expenditures or contributions are made.

III. Disclosure Obligations of Party Committees

Local, county, district, and State party committees need not report administrative expenses incurred in connection with the sponsoring of conventions or caucuses at which delegates are chosen to attend either the next stage in the State's delegate selection processes or the national nominating convention.

While delegate-selection conventions or caucuses are not "elections", they are "in connection with" Federal elections, and corporations, labor unions, national banks, foreign nationals and government contractors are prohibited from making contributions and expenditures to finance the conventions or caucuses in any respect.

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