

§ 113.1

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SOURCE: 45 FR 15124, Mar. 7, 1980, unless otherwise noted.

§ 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.

(f) *Qualified Member.* *Qualified Member* means an individual who was serving as a Senator or Representative in, or Delegate or Resident Commissioner to, Congress, on January 8, 1980.

(g) *Personal use.* *Personal use* means any use of funds in a campaign account

of a present or former candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign or duties as a Federal officeholder.

(1)(i) *Personal use* includes but is not limited to the use of funds in a campaign account for:

(A) Household food items or supplies;  
(B) Funeral, cremation or burial expenses;

(C) Clothing, other than items of *de minimis* value that are used in the campaign, such as campaign "T-shirts" or caps with campaign slogans;

(D) Tuition payments, other than those associated with training campaign staff;

(E) Mortgage, rent or utility payments—

(1) For any part of any personal residence of the candidate or a member of the candidate's family; or

(2) For real or personal property that is owned by the candidate or a member of the candidate's family and used for campaign purposes, to the extent the payments exceed the fair market value of the property usage;

(F) Admission to a sporting event, concert, theater or other form of entertainment, unless part of a specific campaign or officeholder activity;

(G) Dues, fees or gratuities at a country club, health club, recreational facility or other nonpolitical organization, unless they are part of the costs of a specific fundraising event that takes place on the organization's premises; and

(H) Salary payments to a member of the candidate's family, unless the family member is providing *bona fide* services to the campaign. If a family member provides *bona fide* services to the campaign, any salary payment in excess of the fair market value of the services provided is personal use.

(ii) The Commission will determine, on a case by case basis, whether other uses of funds in a campaign account fulfill a commitment, obligation or expense that would exist irrespective of the candidate's campaign or duties as a Federal officeholder, and therefore are personal use. Examples of such other uses include:

(A) Legal expenses;  
(B) Meal expenses;

(C) Travel expenses, including subsistence expenses incurred during travel. If a committee uses campaign funds to pay expenses associated with travel that involves both personal activities and campaign or officeholder related activities, the incremental expenses that result from the personal activities are personal use, unless the person(s) benefiting from this use reimburse(s) the campaign account within thirty days for the amount of the incremental expenses; and

(D) Vehicle expenses, unless they are a *de minimis* amount. If a committee uses campaign funds to pay expenses associated with a vehicle that is used for both personal activities beyond a *de minimus* amount and campaign or officerholder related activities, the portion of the vehicle expenses associated with the personal activities is personal use, unless the person(s) using the vehicle for personal activities reimburse(s) the campaign account within thirty days for the expenses associated with the personal activities.

(2) *Charitable donations.* Donations of campaign funds or assets to an organization described in section 170(c) of Title 26 of the United States Code are not personal use, unless the candidate receives compensation from the organization before the organization has expended the entire amount donated for purposes unrelated to his or her personal benefit.

(3) *Transfers of campaign assets.* The transfer of a campaign committee asset is not personal use so long as the transfer is for fair market value. Any depreciation that takes place before the transfer must be allocated between the committee and the purchaser based on the useful life of the asset.

(4) *Gifts.* Gifts of nominal value and donations of a nominal amount made on a special occasion such as a holiday, graduation, marriage, retirement, or death are not personal use, unless made to a member of the candidate's family.

(5) *Political or officially connected expenses.* The use of campaign funds for an expense that would be a political expense under the rules of the United States House of Representatives or an officially connected expense under the rules of the United States Senate is not

personal use to the extent that the expense is an expenditure under 11 CFR 100.8 or an ordinary and necessary expense incurred in connection with the duties of a holder of Federal office. Any use of funds that would be personal use under 11 CFR 113.1(g)(1) will not be considered an expenditure under 11 CFR 100.8 or an ordinary and necessary expense incurred in connection with the duties of a holder of Federal office.

(6) *Third party payments.* Notwithstanding that the use of funds for a particular expense would be a personal use under this section, payment of that expense by any person other than the candidate or the campaign committee shall be a contribution under 11 CFR 100.7 to the candidate unless the payment would have been made irrespective of the candidacy. Examples of payments considered to be irrespective of the candidacy include, but are not limited to, situations where—

(i) The payment is a donation to a legal expense trust fund established in accordance with the rules of the United States Senate or the United State House of Representatives;

(ii) The payment is made from funds that are the candidate's personal funds as defined in 11 CFR 110.10(b), including an account jointly held by the candidate and a member of the candidate's family;

(iii) Payments for that expense were made by the person making the payment before the candidate became a candidate. Payments that are compensation shall be considered contributions unless—

(A) The compensation results from *bona fide* employment that is genuinely independent of the candidacy;

(B) The compensation is exclusively in consideration of services provided by the employee as part of this employment; and

(C) The compensation does not exceed the amount of compensation which would be paid to any other similarly qualified person for the same work over the same period of time.

(7) *Members of the candidate's family.* For the purposes of section 113.1(g), the candidate's family includes:

(i) The spouse of the candidate;

(ii) Any child, step-child, parent, grandparent, sibling, half-sibling or

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step-sibling of the candidate or the candidate's spouse;

(iii) The spouse of any child, step-child, parent, grandparent, sibling, half-sibling or step-sibling of the candidate; and

(iv) A person who has a committed relationship with the candidate, such as sharing a household and having mutual responsibility for each other's personal welfare or living expenses.

[45 FR 15124, Mar. 7, 1980, as amended at 56 FR 34126, July 25, 1991; 60 FR 7874, Feb. 9, 1995]

### § 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, including:

(1) The costs of travel by the recipient Federal officeholder and an accompanying spouse to participate in a function directly connected to *bona fide* official responsibilities, such as a fact-finding meeting or an event at which the officeholder's services are provided through a speech or appearance in an official capacity; and

(2) The costs of winding down the office of a former Federal officeholder for a period of 6 months after he or she leaves office; 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 of any political party; or

(d) May be used for any other lawful purpose, except that, other than as set forth in paragraph (e) of this section, 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.

(e)(1) Except as limited by paragraph (e)(5) of this section, a qualified Member who serves in the 102d or an earlier Congress may convert to personal use no more than the unobligated balance

of excess funds as of November 30, 1989. This unobligated balance shall be calculated under either paragraph (e)(1) (i) or (ii) of this section.

(i) *Cash assets.* The Member may convert any excess campaign or donated funds in an amount up to the Member's authorized committee(s)' cash on hand, determined under 11 CFR 104.3(a)(1), as of November 30, 1989, less the committee(s)' total outstanding debts as of that date.

(ii) *Cash Plus Nonliquid Assets.* (A) The Member may convert unliquidated committee assets held by his or her authorized committee(s) on November 30, 1989; or the value of such assets may be added to the value of the committee(s)' cash assets under paragraph (e)(1)(i) of this section to determine the amount which is eligible for conversion. In either case, prior to conversion, the committee shall amend its 1989 year end reports to indicate, as memo entries to Schedule A, the assets to be converted. These amendments shall list each asset, give its date of acquisition, its fair market value as of November 30, 1989, and a brief narrative description of how this value was ascertained. The committee shall also disclose the disposition made of each such asset, including its fair market value on the date of sale or other disposition, in its termination report, unless the asset was sold or otherwise disposed of during an earlier period and included in the report covering that period.

(B) The Member may add the value of debts and loans reported as owed to the Member's authorized committee(s) as of November 30, 1989, and itemized on the committee(s)' year end reports for 1989, to the unobligated balance, provided that such receivables are actually collected by the committee(s) prior to their termination.

(C) The Member may add to the unobligated balance the value of vendor credits and deposit refunds to which authorized campaign committee(s) are entitled, if these receivables are itemized on Schedule C or D of the committee(s)' 1989 year end reports or in amendment(s) thereto.

(2) If the unobligated balance subsequently falls below its November 30, 1989, level, a qualified Member may use contributions lawfully received or