

## Federal Election Commission

## § 100.33

size, as determined by the Bureau of the Census.

(iii) A determination that a communication can be received by 50,000 or more persons based on the application of the formula at paragraph (b)(7)(i)(G) or (H) of this section shall create a rebuttable presumption that may be overcome by demonstrating that—

(A) One or more cable or satellite systems did not carry the network on which the communication was publicly distributed at the time the communication was publicly distributed; and

(B) Applying the formula to the remaining cable and satellite systems results in a determination that the cable network or systems upon which the communication was publicly distributed could not be received by 50,000 persons or more.

(c) *Electioneering communication* does not include any communication that:

(1) Is publicly disseminated through a means of communication other than a broadcast, cable, or satellite television or radio station. For example, electioneering communication does not include communications appearing in print media, including a newspaper or magazine, handbill, brochure, bumper sticker, yard sign, poster, billboard, and other written materials, including mailings; communications over the Internet, including electronic mail; or telephone communications;

(2) Appears in a news story, commentary, or editorial distributed through the facilities of any broadcast, cable, or satellite television or radio station, unless such facilities are owned or controlled by any political party, political committee, or candidate. A news story distributed through a broadcast, cable, or satellite television or radio station owned or controlled by any political party, political committee, or candidate is nevertheless exempt if the news story meets the requirements described in 11 CFR 100.132(a) and (b);

(3) Constitutes an expenditure or independent expenditure provided that the expenditure or independent expenditure is required to be reported under the Act or Commission regulations;

(4) Constitutes a candidate debate or forum conducted pursuant to 11 CFR 110.13, or that solely promotes such a

debate or forum and is made by or on behalf of the person sponsoring the debate or forum;

(5) Is not described in 2 U.S.C. 431(20)(A)(iii) and is paid for by a candidate for State or local office in connection with an election to State or local office; or

(6) Is paid for by any organization operating under section 501(c)(3) of the Internal Revenue Code of 1986. Nothing in this section shall be deemed to supersede the requirements of the Internal Revenue Code for securing or maintaining 501(c)(3) status.

[67 FR 65210, 65217, Oct. 23, 2002]

### §§ 100.30–100.32 [Reserved]

### § 100.33 Personal funds.

*Personal funds of a candidate* means the sum of all of the following:

(a) *Assets*. Amounts derived from any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had—

(1) Legal and rightful title; or

(2) An equitable interest;

(b) *Income*. Income received during the current election cycle, as defined in 11 CFR 400.2, of the candidate, including:

(1) A salary and other earned income that the candidate earns from bona fide employment;

(2) Income from the candidate's stocks or other investments including interest, dividends, or proceeds from the sale or liquidation of such stocks or investments;

(3) Bequests to the candidate;

(4) Income from trusts established before the beginning of the election cycle as defined in 11 CFR 400.2;

(5) Income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary;

(6) Gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle, as defined in 11 CFR 400.2; and

(7) Proceeds from lotteries and similar legal games of chance; and

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(c) *Jointly owned assets.* Amounts derived from a portion of assets that are owned jointly by the candidate and the candidate's spouse as follows:

(1) The portion of assets that is equal to the candidate's share of the asset under the instrument of conveyance or ownership; provided, however,

(2) If no specific share is indicated by an instrument of conveyance or ownership, the value of one-half of the property.

[68 FR 3995, Jan. 27, 2003]

EFFECTIVE DATE NOTE: At 68 FR 3995, Jan. 27, 2003, §100.33 was added, effective Feb. 26, 2003.

**§§ 100.34–100.50 [Reserved]**

**Subpart B—Definition of Contribution (2 U.S.C. 431(8))**

SOURCE: 67 FR 50585, Aug. 5, 2002, unless otherwise noted.

**§ 100.51 Scope.**

(a) The term *contribution* includes the payments, services, or other things of value described in this subpart.

(b) For the purpose of this subpart, a contribution or payment made by an individual shall not be attributed to any other individual, unless otherwise specified by that other individual in accordance with 11 CFR 110.1(k).

**§ 100.52 Gift, subscription, loan, advance or deposit of money.**

(a) A gift, subscription, loan (except for a loan made in accordance with 11 CFR 100.72 and 100.73), 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.

(b) For purposes of this section, the term *loan* includes a guarantee, endorsement, and any other form of security.

(1) A loan that exceeds the contribution limitations of 2 U.S.C. 441a and 11 CFR part 110 shall be unlawful whether or not it is repaid.

(2) 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 a contributor,

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.

(3) Except as provided in paragraph (b)(4) of this section, 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.

(4) A candidate may obtain a loan on which his or her spouse's signature is required when jointly owned assets are used as collateral or security for the loan. The spouse shall not be considered a contributor to the candidate's campaign if the value of the candidate's share of the property used as collateral equals or exceeds the amount of the loan that is used for the candidate's campaign.

(5) 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 that are subject to the prohibitions of 11 CFR 110.20 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.