

Federal Election Commission

§ 102.5

(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 part 116.

(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.

[45 FR 15104, Mar. 7, 1980, as amended at 60 FR 64273, Dec. 14, 1995]

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

(a) *Organizations that are political committees under the Act, other than national party committees.*

(1) Each organization, including a State, district, or local party committee, that finances political activity in connection with both Federal and non-Federal elections and that 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 that must 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. *See* 11 CFR 103.3. All disbursements, contributions, expenditures, and transfers by the committee in connection with any Federal election shall be made from its Federal account, except as otherwise permitted for State, district, and local party committees by 11 CFR part 300 and paragraph (a)(5) of this section. 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, except as provided by 11 CFR 300.33, 300.34, 106.6(c), and 106.7(f). Administrative expenses for political committees other than party committees shall be allocated pursuant to 11 CFR 106.6 between such Federal account and any other account maintained by such committee for the purpose of financing activity in connection with non-Federal elections. Administrative expenses for State, district, and local party committees are subject to 11 CFR 106.7 and 11 CFR part 300; or

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(ii) Establish a political committee that 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 any of the conditions set forth in paragraphs (a)(2)(i), (ii), or (iii) of this section may be deposited in a Federal account established under paragraph (a)(1)(i) of this section, see 11 CFR 103.3, or may be received by a political committee established under paragraph (a)(1)(ii) of this section:

(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; or

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

(3) State, district, and local party committees that intend to expend Levin funds raised pursuant to 11 CFR 300.31 for activities identified in 11 CFR 300.32(b)(1) must either:

(i) Establish one or more separate Levin accounts pursuant to 11 CFR 300.30(c)(2); or

(ii) Demonstrate through a reasonable accounting method approved by the Commission (including any method embedded in software provided or approved by the Commission) that whenever such organization makes a payment that organization has received sufficient funds subject to the limitations and prohibitions of the Act or the requirements of 11 CFR 300.30(c)(1) or (3) to make such payment. Such organization shall keep records of amounts received or expended under this paragraph and, upon request, shall make such records available for examination by the Commission.

(4) Solicitations by Federal candidates and Federal officeholders for State, district, and local party committees are subject to the restrictions in 11 CFR 300.31(e) and 11 CFR part 300, subpart D.

(5) State, district, and local party committees and organizations may establish one or more separate allocation accounts to be used for activities allocable pursuant to 11 CFR 106.7 and 11 CFR 300.33.

(b) *Organizations that are not political committees under the Act.* (1) Any organization that makes contributions, expenditures, and exempted payments under 11 CFR 100.80, 100.87 and 100.89 and 11 CFR 100.140, 100.147 and 100.149, but that does not qualify as a political committee under 11 CFR 100.5, must keep records of receipts and disbursements and, upon request, must make such records available for examination by the Commission. The organization must demonstrate through a reasonable accounting method that, whenever such an organization makes a contribution or expenditure, or payment, the organization has received sufficient funds subject to the limitations and prohibitions of the Act to make such contribution, expenditure, or payment.

(2) Any State, district, or local party organization that makes payments for certain Federal election activities under 11 CFR 300.32(b) must either:

(i) Establish one or more Levin accounts pursuant to 11 CFR 300.30(b) into which only funds solicited pursuant to 11 CFR 300.31 may be deposited and from which payments must be made pursuant to 11 CFR 300.32 and 300.33. See 11 CFR 300.30(c)(2)(i); or

(ii) Demonstrate through a reasonable accounting method approved by the Commission (including any method embedded in software provided or approved by the Commission) that whenever such organization makes a payment that organization has received sufficient funds subject to the limitations and prohibitions of the Act or the requirements of 11 CFR 300.31 to make such payment. Such organization shall keep records of amounts received or expended under this paragraph and, upon request, shall make such records available for examination by the Commission. See 11 CFR 300.30(c)(2)(ii).

(3) All such party organizations shall keep records of deposits to and disbursements from such Federal and Levin accounts, and upon request, shall make such records available for examination by the Commission.

(c) *National party committees.* Between November 6, 2002, and December 31, 2002, paragraphs (a) and (b) of this section apply to national party committees. After December 31, 2002, national party committees are prohibited from raising and spending non-Federal funds. Therefore, this section does not apply to national party committees after December 31, 2002.

[67 FR 49111, July 29, 2002, as amended at 67 FR 78680, Dec. 26, 2002]

§ 102.6 Transfers of funds; collecting agents.

(a) *Transfers of funds; registration and reporting required—(1) Who may make transfers under this section.* (i) Transfers of funds may be made without limit on amount between affiliated committees whether or not they are political committees under 11 CFR 100.5.

(ii) Subject to the restrictions set forth at 11 CFR 109.35(c), 300.10(a), 300.31 and 300.34(a) and (b), transfers of funds may be made without limit on amount between or among a national party committee, a 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.

(iii) Transfers of joint fundraising proceeds may be made without limit on amount between organizations or committees participating in the joint fundraising activity provided that no participating committee or organization governed by 11 CFR 102.17 received more than its allocated share of the funds raised.

(iv) Transfers under paragraphs (a)(1) (i) through (iii) shall be made only from funds which are permissible under the Act. See 11 CFR parts 110, 114 and 115.

(2) *When registration and reporting required.* Except as provided in 11 CFR 102.6(b), organizations or committees making transfers under 11 CFR 102.6(a)(1) shall count such transfers against the reporting thresholds of the Act for determining whether an organization or committee is a political committee under 11 CFR 100.5.

(b) *Fundraising by collecting agents; No reporting required—(1) Definition of collecting agent.* A collecting agent is an

organization or committee that collects and transmits contributions to one or more separate segregated funds to which the collecting agent is related. A collecting agent may be either:

(i) A committee, whether or not it is a political committee as defined in 11 CFR 100.5, affiliated with the separate segregated fund under 11 CFR 110.3; or

(ii) The connected organization of the separate segregated fund as defined in 11 CFR 100.6; or

(iii) A parent, subsidiary, branch, division, department, or local unit of the connected organization of the separate segregated fund; or

(iv) A local, national or international union collecting contributions on behalf of the separate segregated fund of any federation with which the local, national or international union is affiliated. See 11 CFR 114.1(e).

(2) *Collecting agent not required to report.* A collecting agent that is an unregistered organization and that follows the procedures of 11 CFR 102.6(c) is not required to register and report as a political committee under 11 CFR parts 102 and 104, provided that the organization does not engage in other activities such as making contributions or expenditures for the purpose of influencing federal elections.

(3) *Who is not a collecting agent—(i) Commercial fundraising firm.* A separate segregated fund or a collecting agent may hire a commercial fundraising firm to assist in fundraising; however, the commercial fundraising firm shall not be considered as a collecting agent for the purpose of this section. Rather, the commercial fundraising firm shall be considered to be the agent of the separate segregated fund or collecting agent.

(ii) *Individuals.* An individual who collects contributions for a separate segregated fund shall not be considered a collecting agent for the purpose of this section. Individuals who collect contributions are subject to the requirements of 11 CFR 102.8 and the provisions of 11 CFR part 110.

(4) *Separate segregated fund may collect contributions.* Nothing in this section shall preclude a separate segregated fund from soliciting and collecting contributions on its own behalf.