

**Federal Election Commission**

**§ 400.42**

is attributable to the opposing candidate who has ceased to be a candidate.

(c) *Party committees.* The national and State political party committees must not make any coordinated party expenditure in excess of the limits in 11 CFR 109.32(b), pursuant to this part, to the extent that such increased limit is attributable to an opposing candidate who has ceased to be a candidate.

**Subpart D—Calculation of Increased Limits for Senate and House of Representatives Candidates**

**§ 400.40 Calculating the increased limits for Senate elections.**

(a) *Applicability.* This section applies to candidates for election to the office of United States Senator.

If the opposition personal funds amount is more than—	But less than or equal to—	The increased limit for contributions by individuals is—	The amount limitation on coordinated party committee expenditures is—
(i) $(\$0.08 \times \text{VAP}) + \$300,000$ ...	$(\$0.16 \times \text{VAP}) + \$600,000$ .....	3 × applicable limit .....	The limitation set forth in 11 CFR 109.32(b).
(ii) $(\$0.16 \times \text{VAP}) + \$600,000$ ..	$(\$0.40 \times \text{VAP}) + \$1,500,000$ ..	6 × applicable limit .....	The limitation set forth in 11 CFR 109.32(b).
(iii) $(\$0.40 \times \text{VAP}) + \$1,500,000$	.....	6 × applicable limit .....	The limitation set forth in 11 CFR 109.32 (b) does not apply subject to the provisions of 11 CFR 400.31(d).

(b) *Procedure.* To calculate the increased limits:

(1) Determine the opposition personal funds amount, as defined in 11 CFR 400.10.

(2) Determine the voting age population (VAP) of the State of the candidate, as defined in 11 CFR 110.18.

(3) Based on the opposition personal funds amount and the VAP, use the following table to determine the increased limits:

**§ 400.41 Calculating the increased limits for House of Representatives elections.**

(a) *Applicability.* This section applies to candidates for election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress.

(b) *Increased limits.* Subject to subpart C of this part, if the opposition personal funds amount exceeds the threshold amount, \$350,000, the following will apply:

(1) The increased limit for contributions by individuals is three times the applicable limit.

(2) The national and State party committee expenditure limitation under 11 CFR 109.32(b) on behalf of the candidate will not apply subject to the provisions of 11 CFR 400.31(e).

**§ 400.42 Effect of increased limits on the aggregate contribution limitations for individuals.**

(a) This section shall apply to all elections covered by this part.

(b) The portions of contributions made under the increased limits pursuant to this part that, when aggregated with previous contributions made by the same individual to the candidate or the candidate's authorized committee in the same election cycle, exceed the contribution limits in 11 CFR 110.1 shall not be aggregated with other contributions made by that same individual for purposes of applying the aggregate contribution limitations for individuals under 11 CFR 110.5. This paragraph (b) applies only to such contributions that are accepted during the period in which the candidate may accept contributions under the increased limits.

## § 400.50

(c) Individual contributors who have reached their aggregate bi-annual contribution limitations to candidates and authorized committees of candidates under 11 CFR 110.5(b)(1)(i) may make contributions under this part if:

(1) The candidate who accepts the contribution may accept contributions that exceed the applicable limit under this part; and

(2) The amount of the contribution, when aggregated with other contributions made under this paragraph (c), does not exceed the amount that the candidate described in paragraph (c)(1) of this section may accept under this part *minus* the applicable limit.

### Subpart E—Disposal of Excess Contributions

#### § 400.50 Definition of excess contributions.

For purposes of this subpart, excess contributions mean contributions that are made under the increased limit, as defined in 11 CFR 400.6 in subpart B of this part, but not expended in connection with the election to which they relate.

#### § 400.51 Relation of excess contributions to the election in which they are made.

(a) *Primary elections.* If the excess contributions were received during the primary election cycle, the candidate's authorized committee must refund the excess contributions within 50 days of the primary election in accordance with 11 CFR 400.53.

(b) *General elections.* If the excess contributions were received during the general election cycle, the candidate's authorized committee must refund the excess contributions within 50 days of the general election in accordance with 11 CFR 400.53.

(c) *Run-off elections.* For purposes of this section only, when a primary or general election results in a run-off election, the run-off election is considered part of the respective primary or general election. Notwithstanding paragraphs (a) and (b) of this section, the candidate's authorized committee must refund the excess contributions within 50 days of the run-off election in accordance with 11 CFR 400.53.

## 11 CFR Ch. I (2–3–03 Edition)

#### § 400.52 Prohibition against redesignation of excess contributions.

(a) The candidate's authorized committee shall not redesignate or seek redesignation of excess contributions under 11 CFR 110.1(b)(5).

(b) Once an individual has made a contribution under the increased limits, the individual must not redesignate the contribution for another election.

#### § 400.53 Disposal of excess contributions.

(a) The candidate's authorized committee must refund the excess contributions to individuals who made contributions to the candidate or the candidate's authorized committee under this part. The refund to each individual must not exceed that individual's aggregate contributions to the candidate or the candidate's authorized committee for the relevant election cycle.

(b) The amount of any refund checks, made under paragraph (a) of this section that are not cashed, deposited, or otherwise negotiated within 6 months of the date of the refund check must be disgorged to the United States Treasury. The candidate's authorized committee must disgorge this amount to the United States Treasury within nine months of the election.

#### § 400.54 Notification of disposal of excess contributions.

The candidate's principal campaign committee shall submit to the Commission information indicating the source and amount of any excess contributions (*see* 11 CFR 400.50) and the manner in which the candidate, the candidate's principal campaign committee, or the candidate's authorized committee refunded such funds. This information shall be included in the first report that the principal campaign committee is required to file, under 11 CFR 104.5, the date of which falls more than 50 days after the election for which a candidate seeks nomination for election to, or election to, Federal office. Such report must be submitted with the candidate's FEC Form 3.