

## Federal Election Commission

## § 100.19

communication expressly advocating the election or defeat of a clearly identified candidate that is not made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents, or a political party committee or its agents. A communication is "made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents, or a political party committee or its agents" if it is a coordinated communication under 11 CFR 109.21 or a party coordinated communication under 11 CFR 109.37.

(b) No expenditure by an authorized committee of a candidate on behalf of that candidate shall qualify as an independent expenditure.

(c) No expenditure shall be considered independent if the person making the expenditure allows a candidate, a candidate's authorized committee, or their agents, or a political party committee or its agents to become materially involved in decisions regarding the communication as described in 11 CFR 109.21(d)(2), or shares financial responsibility for the costs of production or dissemination with any such person.

[68 FR 451, Jan. 3, 2003]

### § 100.17 Clearly identified (2 U.S.C. 431(18)).

The term *clearly identified* means the candidate's name, nickname, photograph, or drawing appears, or the identity of the candidate is otherwise apparent through an unambiguous reference such as "the President," "your Congressman," or "the incumbent," or through an unambiguous reference to his or her status as a candidate such as "the Democratic presidential nominee" or "the Republican candidate for Senate in the State of Georgia."

[60 FR 35304, July 6, 1995]

### § 100.18 Act (2 U.S.C. 431(19)).

*Act* means the Federal Election Campaign Act of 1971 (Pub. L. 92-225), as amended in 1974 (Pub. L. 93-443), 1976 (Pub. L. 94-283), 1980 (Pub. L. 96-187), and 2002 (Bipartisan Campaign Reform Act of 2002, Pub. L. 107-155).

[67 FR 76975, Dec. 13, 2002]

### § 100.19 File, filed or filing (2 U.S.C. 434(a)).

With respect to documents required to be filed under 11 CFR parts 101, 102, 104, 105, 107, 108, and 109, and any modifications or amendments thereto, the terms *file*, *filed*, and *filing* mean one of the actions set forth in paragraphs (a) through (f) of this section. For purposes of this section, document means any report, statement, notice, or designation required by the Act to be filed with the Commission or the Secretary of the Senate.

(a) Except for documents electronically filed under paragraph (c) of this section, a document is timely filed upon delivery to the Federal Election Commission, 999 E Street, NW., Washington, DC 20463; or the Secretary of the United States Senate, Office of Public Records, 119 D Street NE., Washington, DC 20510 as required by 11 CFR part 105, by the close of business on the prescribed filing date.

(b) *Timely filed*. A document, other than those addressed in paragraphs (c) through (g) of this section, is timely filed upon deposit as registered or certified mail in an established U.S. Post Office and postmarked no later than 11:59 p.m. Eastern Standard/Daylight Time on the filing date, except that pre-election reports so mailed must be postmarked no later than 11:59 p.m. Eastern Standard/Daylight Time on the fifteenth day before the date of the election. Documents sent by first class mail must be received by the close of business on the prescribed filing date to be timely filed.

(c) *Electronically filed reports*. For electronic filing purposes, a document is timely filed when it is received and validated by the Federal Election Commission by 11:59 p.m. Eastern Standard/Daylight Time on the filing date.

(d) *48-hour and 24-hour reports of independent expenditures*— (1) *48-hour reports of independent expenditures*. A 48-hour report of independent expenditures under 11 CFR 104.4(b) or 109.10(c) is timely filed when it is received by the Commission by 11:59 p.m. Eastern Standard/Daylight Time on the second day following the date on which independent expenditures aggregate \$10,000 or more in accordance with 11 CFR 104.4(f), any time during the calendar

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year up to and including the 20th day before an election.

(2) *24-hour reports of independent expenditures.* A 24-hour report of independent expenditures under 11 CFR 104.4(c) or 109.10(d) is timely filed when it is received by the Commission by 11:59 p.m. Eastern Standard/Daylight Time on the day following the date on which independent expenditures aggregate \$1,000 or more, in accordance with 11 CFR 104.4(f), during the period less than 20 days but more than 24 hours before an election.

(3) *Permissible means of filing.* In addition to other permissible means of filing, a 24-hour report or 48-hour report of independent expenditures may be filed using a facsimile machine or by electronic mail if the reporting entity is not required to file electronically in accordance with 11 CFR 104.18. Political committees, regardless of whether they are required to file electronically under 11 CFR 104.18, may file 24-hour reports using the Commission's website's on-line program.

(e) *48-hour statements of last-minute contributions.* In addition to other permissible means of filing, authorized committees that are not required to file electronically may file 48-hour notifications of contributions using facsimile machines. All authorized committees that file with the Commission, including electronic reporting entities, may use the Commission's website's on-line program to file 48-hour notifications of contributions. See 11 CFR 104.5(f).

(f) *24-hour statements of electioneering communications.* A 24-hour statement of electioneering communications under 11 CFR 104.20 is timely filed when it is received by the Commission by 11:59 p.m. Eastern Standard/Daylight Time on the day following the disclosure date. (See 11 CFR 104.20(a)(1) and (b)). In addition to other permissible means of filing, a 24-hour statement of electioneering communications may be filed using a facsimile machine or by electronic mail if the reporting entity is not required to file electronically in accordance with 11 CFR 104.18.

(g) *Candidate notifications of expenditures from personal funds.* A candidate's notification of expenditures from personal funds under 11 CFR 400.21 or

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400.22 is timely filed if it is received by facsimile machine or electronic mail by each of appropriate parties as set forth in 11 CFR 400.21 and 400.22 within 24 hours of the time the threshold amount as defined in 11 CFR 400.9 is exceeded and within 24 hours of the time expenditures from personal funds are made under 11 CFR 400.21 and 400.22.

[67 FR 12839, Mar. 20, 2002, as amended at 68 FR 416, Jan. 3, 2003; 68 FR 3995, Jan. 27, 2003]

### § 100.20 Occupation (2 U.S.C. 431(13)).

*Occupation* means the principal job title or position of an individual and whether or not self-employed.

### § 100.21 Employer (2 U.S.C. 431(13)).

*Employer* means the organization or person by whom an individual is employed, and not the name of his or her supervisor.

### § 100.22 Expressly advocating (2 U.S.C. 431(17)).

*Expressly advocating* means any communication that—(a) Uses phrases such as “vote for the President,” “re-elect your Congressman,” “support the Democratic nominee,” “cast your ballot for the Republican challenger for U.S. Senate in Georgia,” “Smith for Congress,” “Bill McKay in '94,” “vote Pro-Life” or “vote Pro-Choice” accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, “vote against Old Hickory,” “defeat” accompanied by a picture of one or more candidate(s), “reject the incumbent,” or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say “Nixon's the One,” “Carter '76,” “Reagan/Bush” or “Mondale!”; or

(b) When taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because—