

## Federal Election Commission

## § 400.4

400.31 Preventing disproportionate advantage resulting from increased contribution and coordinated party expenditure limits.

400.32 Effect of the withdrawal of an opposing candidate.

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

400.40 Calculating the increased limits for Senate elections.

400.41 Calculating the increased limits for House of Representatives elections.

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

### Subpart E—Disposal of Excess Contributions

400.50 Definition of Excess contributions.

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

400.52 Prohibition against redesignation of excess contributions.

400.53 Disposal of excess contributions.

400.54 Notification of disposal of excess contributions.

AUTHORITY: 2 U.S.C. 431, 434(a)(6), 438(a)(8), 441a(i), 441a(j), 441a-1.

SOURCE: 68 FR 3997, Jan. 27, 2003, unless otherwise noted.

### Subpart A—Scope and Definitions

#### § 400.1 Scope and effective date.

(a) *Introduction.* This part applies to elections to the office of United States Senator, or Representative in, or Delegate or Resident Commissioner to, the Congress, in which a candidate is permitted increased limits to allow response to certain expenditures from personal funds by an opposing candidate. This part does not apply to elections to the Office of President or Vice President of United States.

(b) *Effective dates.* Except as otherwise specifically provided in this part, this part shall take effect on February 26, 2003.

#### § 400.2 Election cycle.

(a) For purposes of this part, *election cycle* means the period beginning on the day after the date of the most recent election for the specific office or seat that a candidate is seeking and ending on the date of the next election for that office or seat.

(b) For purposes of paragraph (a) of this section, a primary election and a general election are considered to be separate election cycles.

(c) For purposes of this part, a run-off election is considered to be part of the election cycle of the election necessitating the run-off election.

#### § 400.3 Opposing candidate.

(a) For purposes of a primary election, *opposing candidate* means another candidate seeking the nomination of the same political party for election to the office of Senator, or Representative in, or Delegate or Resident Commissioner to, the Congress, that the candidate is seeking. A candidate in a primary election may have more than one opposing candidate.

(b) For purposes of a general election, *opposing candidate* means another candidate seeking election to the same office of Senator, or Representative in, or Delegate or Resident Commissioner to, the Congress, that the candidate is seeking. A candidate in a general election may have more than one opposing candidate.

#### § 400.4 Expenditure from personal funds.

(a) *Expenditure from personal funds* means the aggregation of all the following:

(1) An expenditure made by a candidate, using the candidate's personal funds, for the purpose of influencing the election in which he or she is a candidate;

(2) A contribution or loan made by a candidate to the candidate's authorized committee, using the candidate's personal funds (see 11 CFR 100.33 for definition of *personal funds*);

(3) A loan by any person to the candidate's authorized committee that is secured using the candidate's personal funds. (see 11 CFR 100.33 for definition of *personal funds*); and

(4) Any obligation to make an expenditure from personal funds that is legally enforceable against the candidate.

(b) An expenditure from personal funds shall be considered to be made on the date the funds are deposited into the account designated by the candidate's authorized committee as the

## § 400.5

campaign depository, under 11 CFR 103.1 and 11 CFR 103.2, on the date the instrument transferring the funds is signed, or on the date the contract obligating the personal funds is executed, whichever is earlier.

### § 400.5 Applicable limit.

*Applicable limit* means the contribution amount limitation set forth in 11 CFR 110.1(b)(1).

### § 400.6 Increased limit.

*Increased limit* means a contribution amount limitation that applies to a person other than a multicandidate political committee that, pursuant to this part, exceeds the applicable limit specified in 11 CFR 110.1 in order to allow response to expenditures from an opposing candidate's personal funds. *Increased limit* also means, where applicable, a suspension, pursuant to this part, of the limitations on expenditures by a national or State political party committee in connection with the general election campaign of a candidate for the Senate or the House of Representatives under 11 CFR 109.32(b).

### § 400.7 Contribution that exceeds the applicable limit.

*Amount of contribution above the applicable limit* means the difference between the amount of a contribution accepted under this part and the applicable limit.

### § 400.8 Gross receipts.

*Gross receipts* means the sum of all receipts of the candidate's authorized committee described in 11 CFR 104.3(a)(3) (i) through (x).

### § 400.9 Threshold amount.

(a) *Senate*. For an election to the office of United States Senator, *threshold amount* means the sum of \$150,000 plus an amount equal to the voting age population of the State multiplied by \$0.04. As used in this paragraph, voting age population means the voting age population of the State of the candidate as certified under 11 CFR 110.18.

(b) *House of Representatives*. For an election to the office of Representative in, or Delegate or Resident Commission to, the Congress, *threshold amount* means \$350,000.

## 11 CFR Ch. I (1-1-04 Edition)

### § 400.10 Opposition personal funds amount.

(a) To compute the *opposition personal funds amount*, one of the following formulas must be used, depending on the date of the computation. The variables used in the formulas are defined in paragraph (b) of this section.

(1) To compute the opposition personal funds amount prior to July 16 of the year preceding the year in which the general election is held, the following formula must be used:

opposition personal funds amount =  
 $a - b$ .

(2) To compute the opposition personal funds amount from July 16 of the year preceding the year in which the general election is held to January 31 of the year in which the general election is held, one of the following formulas must be used:

(i) If  $c > d$ , opposition personal funds amount =  $a - b - ((c - d) \div 2)$ .

(ii) If  $c \leq d$ , opposition personal funds amount =  $a - b$ .

(3) To compute the opposition personal funds amount from February 1 of the year in which the general election is held to the day of the general election, one of the following formulas must be used:

(i) If  $e > f$ , opposition personal funds amount =  $a - b - ((e - f) \div 2)$ .

(ii) If  $e \leq f$ , opposition personal funds amount =  $a - b$ .

(b) *Variables*. The variables used in the formulas set out in paragraph (a) of this section are defined as follows:

a = Greatest aggregate amount of expenditures from personal funds made by the opposing candidate in the same election.

b = Greatest aggregate amount of expenditures from personal funds made by the candidate in the same election.

c = Aggregate amount of the gross receipts of the candidate's authorized committee minus any contributions by the candidate from personal funds as reported under 11 CFR 104.19(b)(1)(v) or (vi), during any election cycle that may be expended in connection with the election for the nomination for election, or election, to Federal office sought, as determined on June 30 of the year preceding the year in which the general election is held.

d = Aggregate amount of the gross receipts of the opposing candidate's authorized committee minus any contributions by that opposing candidate from personal