

Federal Election Commission

§ 110.3

would have been held shall be considered to be the date of the election.

(4) A primary election which is not held because a candidate was nominated by a caucus or convention with authority to nominate is not a separate election for the purposes of the limitations on contributions of this section.

(j) *Contributions to delegates and delegate committees.* (1) Contributions to delegates for the purpose of furthering their selection under 11 CFR 110.14 are not subject to the limitations of this section.

(2) Contributions to delegate committees under 11 CFR 110.14 are subject to the limitations of this section.

(k) *Contributions to multicandidate political committees making independent expenditures.* The limitations on contributions of this section also apply to contributions made to multicandidate political committees making independent expenditures under 11 CFR Part 109.

(l) *Pre-candidacy expenditures by multicandidate political committees deemed in-kind contributions; effect of reimbursement.* (1) A payment by a multicandidate political committee is deemed an in-kind contribution to and an expenditure by a Presidential candidate, even though made before the individual becomes a candidate under 11 CFR 100.3, if—

(i) The expenditure is made on or after January 1 of the year immediately following the last Presidential election year;

(ii) With respect to the goods or services involved, the candidate accepted or received them, requested or suggested their provision, was materially involved in the decision to provide them, or was involved in substantial discussions about their provision; and

(iii) The goods or services are—

(A) Polling expenses for determining the favorability, name recognition, or relative support level of the candidate involved;

(B) Compensation paid to employees, consultants, or vendors for services rendered in connection with establishing and staffing offices in States where Presidential primaries, caucuses, or preference polls are to be held, other than offices in the can-

didate's home state and in or near the District of Columbia;

(C) Administrative expenses, including rent, utilities, office supplies and equipment, in connection with establishing and staffing offices in States where Presidential primaries, caucuses, or preference polls are to be held, other than offices in the candidate's home state and in or near the District of Columbia; or

(D) Expenses of individuals seeking to become delegates in the Presidential nomination process.

(2) Notwithstanding paragraph (1)(1) of this section, if the candidate, through an authorized committee, reimburses the multicandidate political committee within 30 days of becoming a candidate, the payment shall not be deemed an in-kind contribution for either entity, and the reimbursement shall be an expenditure of the candidate.

[52 FR 772, Jan. 9, 1987, as amended at 52 FR 35534, Sept. 22, 1987; 58 FR 42173, Aug. 6, 1993; 67 FR 69948, Nov. 19, 2002; 68 FR 457, Jan. 3, 2003; 68 FR 47414, Aug. 8, 2003; 68 FR 64516, Nov. 14, 2003]

§ 110.3 Contribution limitations for affiliated committees and political party committees; Transfers (2 U.S.C. 441a(a)(5), 441a(a)(4)).

(a) *Contribution limitations for affiliated committees.* (1) For the purposes of the contribution limitations of 11 CFR 110.1 and 110.2, all contributions made or received by more than one affiliated committee, regardless of whether they are political committees under 11 CFR 100.5, shall be considered to be made or received by a single political committee. *See* 11 CFR 100.5(g). Application of this paragraph means that all contributions made or received by the following committees shall be considered to be made or received by a single political committee—

(i) Authorized committees of the same candidate for the same election to Federal office; or

(ii) Committees (including a separate segregated fund, *see* 11 CFR part 114) established, financed, maintained or controlled by the same corporation, labor organization, person or group of persons, including any parent, subsidiary, branch, division, department

§ 110.3

11 CFR Ch. I (1-1-07 Edition)

or local unit thereof. For the purposes of this section, *local unit* may include, in appropriate cases, a franchisee, licensee, or State or regional association.

(2) Affiliated committees sharing a single contribution limitation under paragraph (a)(1)(ii) of this section include all of the committees established, financed, maintained or controlled by—

(i) A single corporation and/or its subsidiaries;

(ii) A single national or international union and/or its local unions or other subordinate organizations;

(iii) An organization of national or international unions and/or all its State and local central bodies;

(iv) A membership organization, (other than political party committees, *see* paragraph (b) of this section) including trade or professional associations, *see* 11 CFR 114.8(a), and/or related State and local entities of that organization or group; or

(v) The same person or group of persons.

(3)(i) The Commission may examine the relationship between organizations that sponsor committees, between the committees themselves, or between one sponsoring organization and a committee established by another organization to determine whether committees are affiliated.

(ii) In determining whether committees not described in paragraphs (a)(2)(i)–(iv) of this section are affiliated, the Commission will consider the circumstantial factors described in paragraphs (a)(3)(ii) (A) through (J) of this section. The Commission will examine these factors in the context of the overall relationship between committees or sponsoring organizations to determine whether the presence of any factor or factors is evidence of one committee or organization having been established, financed, maintained or controlled by another committee or sponsoring organization. Such factors include, but are not limited to:

(A) Whether a sponsoring organization owns a controlling interest in the voting stock or securities of the sponsoring organization of another committee;

(B) Whether a sponsoring organization or committee has the authority or ability to direct or participate in the governance of another sponsoring organization or committee through provisions of constitutions, bylaws, contracts, or other rules, or through formal or informal practices or procedures;

(C) Whether a sponsoring organization or committee has the authority or ability to hire, appoint, demote or otherwise control the officers, or other decisionmaking employees or members of another sponsoring organization or committee;

(D) Whether a sponsoring organization or committee has a common or overlapping membership with another sponsoring organization or committee which indicates a formal or ongoing relationship between the sponsoring organizations or committees;

(E) Whether a sponsoring organization or committee has common or overlapping officers or employees with another sponsoring organization or committee which indicates a formal or ongoing relationship between the sponsoring organizations or committees;

(F) Whether a sponsoring organization or committee has any members, officers or employees who were members, officers or employees of another sponsoring organization or committee which indicates a formal or ongoing relationship between the sponsoring organizations or committees, or which indicates the creation of a successor entity;

(G) Whether a sponsoring organization or committee provides funds or goods in a significant amount or on an ongoing basis to another sponsoring organization or committee, such as through direct or indirect payments for administrative, fundraising, or other costs, but not including the transfer to a committee of its allocated share of proceeds jointly raised pursuant to 11 CFR 102.17;

(H) Whether a sponsoring organization or committee causes or arranges for funds in a significant amount or on an ongoing basis to be provided to another sponsoring organization or committee, but not including the transfer to a committee of its allocated share of

Federal Election Commission

§ 110.3

proceeds jointly raised pursuant to 11 CFR 102.17;

(I) Whether a sponsoring organization or a committee or its agent had an active or significant role in the formation of another sponsoring organization or committee; and

(J) Whether the sponsoring organizations or committees have similar patterns of contributions or contributors which indicates a formal or ongoing relationship between the sponsoring organizations or committees.

(b) *Contribution limitations for political party committees.* (1) For the purposes of the contribution limitations of 11 CFR 110.1 and 110.2, all contributions made or received by the following political committees shall be considered to be made or received by separate political committees—

(i) The national committee of a political party and any political committees established, financed, maintained, or controlled by the same national committee; and

(ii) The State committee of the same political party.

(2) Application of paragraph (b)(1)(i) of this section means that—

(i) The House campaign committee and the national committee of a political party shall have separate limitations on contributions under 11 CFR 110.1 and 110.2.

(ii) The Senate campaign committee and the national committee of a political party shall have separate limitations on contributions, except that contributions to a senatorial candidate made by the Senate campaign committee and the national committee of a political party are subject to a single contribution limitation under 11 CFR 110.2(e).

(3) All contributions made by the political committees established, financed, maintained, or controlled by a State party committee and by subordinate State party committees shall be presumed to be made by one political committee. This presumption shall not apply if—

(i) The political committee of the party unit in question has not received funds from any other political committee established, financed, maintained, or controlled by any party unit; and

(ii) The political committee of the party unit in question does not make its contributions in cooperation, consultation or concert with, or at the request or suggestion of any other party unit or political committee established, financed, maintained, or controlled by another party unit.

(c) *Permissible Transfers.* The contribution limitations of 11 CFR 110.1 and 110.2 shall not limit the transfers set forth below in 11 CFR 110.3(c) (1) through (6)—

(1) Transfers of funds between affiliated committees or between party committees of the same political party whether or not they are affiliated or by collecting agents to a separate segregated fund made pursuant to 11 CFR 102.6;

(2) Transfers of joint fundraising proceeds 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;

(3) Transfers of funds between the primary campaign and general election campaign of a candidate of funds unused for the primary;

(4) Transfers of funds between a candidate's previous Federal campaign committee and his or her current Federal campaign committee, or between previous Federal campaign committees, provided that the candidate is not a candidate for more than one Federal office at the same time, and provided that the funds transferred are not composed of contributions that would be in violation of the Act. The cash on hand from which the transfer is made shall be considered to consist of the funds most recently received by the transferor committee. The transferor committee must be able to demonstrate that such cash on hand contains sufficient funds at the time of the transfer that comply with the limitations and prohibitions of the Act to cover the amount transferred.

(i) *Previous Federal campaign committee* means a principal campaign committee, or other authorized committee, that was organized to further the candidate's campaign in a Federal election that has already been held.

§ 110.3

11 CFR Ch. I (1–1–07 Edition)

(ii) *Current Federal campaign committee* means a principal campaign committee, or other authorized committee, organized to further the candidate's campaign in a future Federal election.

(iii) For purposes of the contribution limits, a contribution made after an election has been held, or after an individual ceases to be a candidate in an election, shall be aggregated with other contributions from the same contributor for the next election unless the contribution is designated for the previous election, or is designated for another election, and the candidate has net debts outstanding for the election so designated pursuant to 11 CFR 110.1(b)(3).

(iv) For purposes of this section, an individual ceases to be a candidate in an election as of the earlier of the following dates—

(A) The date on which the candidate publicly announces that he or she will no longer be a candidate in that election for that office and ceases to conduct campaign activities with respect to that election; or

(B) The date on which the candidate is or becomes ineligible for nomination or election to that office by operation of law;

(5) Transfers of funds between the principal campaign committees of an individual seeking nomination or election to more than one Federal office, as long as the conditions in 11 CFR 110.3(c)(5) (i), (ii) and (iii) are met. An individual will be considered to be seeking nomination or election to more than one Federal office if the individual is concurrently a candidate for more than one Federal office during the same or overlapping election cycles.

(i) The transfer shall not be made when the individual is actively seeking nomination or election to more than one Federal office. An individual will not be considered to be actively seeking nomination or election to a Federal office if:

(A) The individual publicly announces that he or she will no longer seek nomination or election to that office and ceases to conduct campaign activities with respect to that election, except in connection with the retire-

ment of debts outstanding at the time of the announcement;

(B) The individual is or becomes ineligible for nomination or election to that office by operation of law;

(C) The individual has filed a proper termination report with the Commission under 11 CFR 102.3; or

(D) The individual has notified the Commission in writing that the individual and his or her authorized committees will conduct no further campaign activities with respect to that election, except in connection with the retirement of debts outstanding at the time of the notification;

(ii) The limitations on contributions by persons shall not be exceeded by the transfer. The cash on hand from which the transfer is made shall be considered to consist of the funds most recently received by the transferor committee. The transferor committee must be able to demonstrate that such cash on hand contains sufficient funds at the time of the transfer that comply with the limitations and prohibitions of the Act to cover the amount transferred. A contribution shall be excluded from the amount transferred to the extent that such contribution, when aggregated with other contributions from the same contributor to the transferee principal campaign committee, exceeds the contribution limits set forth at 11 CFR 110.1 or 110.2, as appropriate; and

(iii) The candidate has not elected to receive funds under 26 U.S.C. 9006 or 9037 for either election; or

(6) [Reserved]

(7) The authorized committees of a candidate for more than one Federal office, or for a Federal office and a non-federal office, shall follow the requirements for separate campaign organizations set forth at 11 CFR 110.8(d).

(d) *Transfers from nonfederal to federal campaigns.* Transfers of funds or assets from a candidate's campaign committee or account for a nonfederal election to his or her principal campaign committee or other authorized committee for a federal election are prohibited. However, at the option of

Federal Election Commission

§ 110.5

the nonfederal committee, the non-federal committee may refund contributions, and may coordinate arrangements with the candidate's principal campaign committee or other authorized committee for a solicitation by such committee(s) to the same contributors. The full cost of this solicitation shall be paid by the Federal committee.

[54 FR 34110, Aug. 17, 1989, and 54 FR 48580, Nov. 24, 1989; 58 FR 3476, Jan. 8, 1993]

§ 110.4 Contributions in the name of another; cash contributions (2 U.S.C. 441f, 441g, 432(c)(2)).

(a) [Reserved]

(b) *Contributions in the name of another.* (1) No person shall—

(i) Make a contribution in the name of another;

(ii) Knowingly permit his or her name to be used to effect that contribution;

(iii) Knowingly help or assist any person in making a contribution in the name of another; or

(iv) Knowingly accept a contribution made by one person in the name of another.

(2) Examples of *contributions in the name of another* include—

(i) Giving money or anything of value, all or part of which was provided to the contributor by another person (the true contributor) without disclosing the source of money or the thing of value to the recipient candidate or committee at the time the contribution is made, *see* 11 CFR 110.6; or

(ii) Making a contribution of money or anything of value and attributing as the source of the money or thing of value another person when in fact the contributor is the source.

(c) *Cash contributions.* (1) With respect to any campaign for nomination for election or election to Federal office, no person shall make contributions to a candidate or political committee of currency of the United States, or of any foreign country, which in the aggregate exceed \$100.

(2) A candidate or committee receiving a cash contribution in excess of \$100 shall promptly return the amount over \$100 to the contributor.

(3) A candidate or committee receiving an anonymous cash contribution in excess of \$50 shall promptly dispose of the amount over \$50. The amount over \$50 may be used for any lawful purpose unrelated to any Federal election, campaign, or candidate.

[54 FR 34112, Aug. 17, 1989, and 54 FR 48580, Nov. 24, 1989, as amended at 54 FR 48582, Nov. 24, 1989; 55 FR 1139, Jan. 11, 1990; 67 FR 69948, Nov. 19, 2002]

§ 110.5 Aggregate biennial contribution limitation for individuals (2 U.S.C. 441a(a)(3)).

(a) *Scope.* This section applies to all contributions made by any individual, except individuals prohibited from making contributions under 11 CFR 110.20 and 11 CFR part 115.

(b) *Bi-annual limitations.* (1) In the two-year period beginning on January 1 of an odd-numbered year and ending on December 31 of the next even-numbered year, no individual shall make contributions aggregating more than \$95,000, including no more than:

(i) \$37,500 in the case of contributions to candidates and the authorized committees of candidates; and

(ii) \$57,500 in the case of any other contributions, of which not more than \$37,500 may be attributable to contributions to political committees that are not political committees of any national political parties.

(2) Contributions to candidates made under the increased contribution limitations under 11 CFR part 400, during periods in which such candidates may accept such contributions, are not subject to the contribution limitations of paragraph (b)(1) of this section.

(3) The contribution limitations in paragraph (b)(1) of this section shall be increased by the percent difference in the price index in accordance with 11 CFR 110.17. The increased contribution limitations shall be in effect for the two calendar years starting on January 1 of the year in which the contribution limitations are increased.

(4) In every odd-numbered year, the Commission will publish in the FEDERAL REGISTER the amount of the contribution limitations in effect and place such information on the Commission's Web site.