

POLITICAL LAW

FEC RELEASES GUIDANCE ON INTERNET ACTIVITY FOR POLITICAL COMMITTEES AHEAD OF THE 2020 ELECTION

by Katie Reynolds

On March 3, the Federal Election Commission (“FEC”) released updated guidance ahead of the 2020 election cycle on internet activity conducted by federal political committees. The guidance includes information on online fundraising and disclaimer requirements for specific internet activity.

I. Disclaimers

The FEC reinforced previous guidance on disclaimer requirements for internet activities. The FEC requires all political committees to place disclaimers on their public websites, as well as on mass e-mails (more than 500 substantially similar emails). The FEC additionally makes clear that all political committee communications that are placed on another person’s website for a fee are considered “general public political advertising,” which require a disclaimer. This would apply to all social media platforms if a fee is being paid to place the content.

II. Fundraising

With regards to online fundraising, the FEC makes clear that political committees engaged in online fundraising must comply with recording and recordkeeping regulations, and must be able to ascertain whether contributions received are permissible. These restrictions apply to all forms of fundraising, including the selling of merchandise. First, committees using the internet for fundraising must make “best efforts” to obtain and report the identification of donors who contribute more than \$200 during a calendar year (or election cycle), and must maintain electronic records and contributor data for three years. Second, political committees must examine all contributions received for potential illegality. The Commission has released several Advisory Opinions that provide examples of Commission-approved language and mechanisms for vetting contributors.

When a political committee is selling a fundraising item online, a committee must treat the entire purchase price of the fundraising item as a contribution from the purchaser to the committee. The committee must also aggregate all contributions received from each contributor, and if the aggregate exceeds \$200 per calendar year, the committee must itemize the contribution when reporting.

If a political committee is working with a vendor to raise funds online, the fee charged by the vendor to process an individual’s contribution to the committee is considered part of the contribution, and the committee must report it as such.

Additionally, the committee must report the processing fee as an expenditure on its report. However, in the situation where an online entity is offering the service to the political contributors, rather than the political committees, the payment processing fees are not part of the contribution from the contributor to the political committee.

III. Political Action Committees (PACs)

In addition, Separate Segregated Funds (SSFs) must also ensure that online solicitations comply with the basic solicitation rules for SSFs. The FEC has previously approved the use of a password log-in for the SSF web page that includes a statement that the SSF may only solicit its restricted class for contributions and that the SSF will refund contributions from outside the restricted class. The platform must also have the required solicitation notices for SSFs. However, the Commission has rejected any platform for SSF contributions that are open to the general public.



The above information is a summary of the guidance provided by the Commission, and does not represent a full view of the regulations regarding a political committee’s internet activity. For further questions or information on this subject, please contact Katie Reynolds at kreynolds@dickinson-wright.com or Charlie Spies at cspies@dickinson-wright.com.