

Candidate Registration

Federal Election Commission

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Please note that the section of this brochure referring to the provisions of the Millionaires' Amendment has been affected by the Supreme Court decision in Davis v. FEC. Please visit the FEC's Litigation page (http://www.fec.gov/law/litigation_CCA_Alpha.shtml) for additional information.

This brochure explains when an individual running for federal office becomes a candidate under the Federal Election Campaign Act (the Act). It describes the steps a candidate must take to register under the Act and the steps his or her committee(s) must take to register as political committees under the Act. Citations refer to Federal Election Commission regulations and to the Act.¹ If you have any questions after reading this brochure, please call the Commission in Washington, D.C., on the toll-free number, 800/424-9530.

Individual Tests the Waters

Before deciding to run for federal office, an individual may first want to “test the waters” — explore the feasibility of becoming a candidate. For example, the individual may want to travel around the state to see if there is sufficient support for a possible Senate candidacy.

An individual who spends money only to test the waters (but not to campaign for office) does not have to register as a candidate under the election law. (The threshold that triggers candidate status is discussed below.) Nevertheless, funds received and spent to test the waters are subject to the Act's limits and prohibitions.² Furthermore, financial records of testing-the-waters activities should be kept because, if the individual later becomes a candidate, the funds received and spent to test the waters will be considered contributions and expenditures. They will be reportable when the campaign files its first report. 11 CFR 100.72(a); 100.131(a); 101.3.

For example, Mr. Jones is interested in running for Congress but is unsure whether he has enough support within his district to make a successful bid. He therefore accepts up to \$2,300 from each of several friends to pay for an opinion poll. The results of the poll indicate good name recognition in the community, and Jones decides to run. On the first report Jones files after he becomes a candidate (i.e., after

¹ Commission regulations are contained in Title 11 of the Code of Federal Regulations (11 CFR); the Act is contained in Title 2 of the United States Code (2 U.S.C.). The reader should not rely solely on this brochure but should also consult the Act and the regulations.

² Prohibited contributions include contributions from corporations (profit and nonprofit), labor organizations and foreign nationals. Contributions to a candidate are limited to \$2,300 per election or, if the donor is a multicandidate committee, \$5,000 per election.

he either receives contributions or makes expenditures which exceed \$5,000), his committee must report the donations from his friends as “contributions” and the costs of the poll as “expenditures.” Had Jones not become a candidate, there would have been no obligation to report these financial transactions, and the donations made to help pay for the poll would not have counted as contributions.

An individual may conduct a variety of testing-the-waters activities. Certain activities, however, indicate that an individual has decided to become a candidate and is no longer merely testing the waters. Under these circumstances, the testing-the-waters exemption would no longer apply. For example, the exemption does not apply if the individual:

- Raises funds in excess of amounts reasonably required for exploratory activity or amasses funds to be used after candidacy is established;
- Conducts activities over a protracted period of time or shortly before the election;
- Uses public political advertising to publicize his or her intention to campaign;
- Makes or authorizes statements that refer to him or her as a candidate; or
- Seeks ballot access.

11 CFR 100.72(b) and 100.131(b).

Individual Becomes a Candidate

An individual becomes a candidate for federal office (and thus triggers registration and reporting obligations under the Act) when his or her campaign exceeds \$5,000 in either contributions or expenditures. The threshold is reached when any one of the circumstances described below occurs.

Receives Contributions or Makes Expenditures

The individual receives contributions or makes expenditures, either of which aggregate over \$5,000. 11 CFR 100.3(a)(1). Funds raised and spent to test the waters apply to this \$5,000 threshold once the individual decides to run for office.

Authorizes Campaign Activity

The individual authorizes another person to accept contributions or make expenditures on his or her behalf, and the authorized person receives contributions or makes expenditures which exceed \$5,000. 11 CFR 100.3(a)(2).

Fails to Disavow Campaign Activity

The individual fails to write the Commission a letter disavowing unauthorized campaign efforts on his or her behalf within 30 days after being notified by the FEC that another person has received contributions or made expenditures of more than \$5,000 on the individual’s behalf. 11 CFR 100.3(a)(3).

Reaches Aggregate Threshold

The individual and other persons (described above), in any combination, together receive contributions or make expenditures in excess of \$5,000 on the individual’s behalf. 11 CFR 100.3(a)(4).

Registration by Candidate

Within 15 days after an individual becomes a candidate, he or she must designate a principal campaign committee as the principal committee to receive contributions and make expenditures on the candidate's behalf. This designation must be made in writing by filing a Statement of Candidacy (FEC Form 2) or by filing a letter with the same information (i.e., the individual's name and address, the district and/or state in which the federal office is sought, and the name and address of his or her principal campaign committee). 11 CFR 101.1(a). Candidates for the House and Presidency file Form 2 with the FEC, while Senate candidates file Form 2 with the Secretary of the Senate.

Under the "Millionaires' Amendment," ** House and Senate candidates must also declare on their Form 2 the amount, if any, by which they expect to exceed the threshold amount of expenditures from personal funds. Personal spending that exceeds the threshold amount may trigger increased contribution and party coordinated expenditure limits for opposing candidates. To ensure that opposing candidates receive this information, campaigns must not only file Form 2 with the FEC, but also must fax or e-mail a copy to each opposing candidate.³ 11 CFR 400.20.

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Registration by Principal Campaign Committee

Within 10 days after it has been designated by the candidate, the principal campaign committee must file a Statement of Organization (FEC Form 1) with the FEC or, in the case of Senate candidates, with the Secretary of the Senate. The Statement must identify the committee's treasurer, bank depositories, any other committees authorized by the same candidate⁴ and other pertinent information, described below. 11 CFR 102.1(a) and 102.2(a).

Name of Committee

The name of the principal campaign committee must include the name of the candidate it is supporting. 11 CFR 102.14(a).

Contact Information

The address provided on Form 1 is considered the committee's address of record. All Commission correspondence will be sent to this address. Also, the committee must disclose its fax number or e-mail address and the URL of its web site, if applicable.

³ Please note that though Senate candidates must file Form 2 with the Secretary of the Senate, they must also fax or email a copy of Form 2 to the FEC.

⁴ In addition to the principal campaign committee, a candidate may designate other authorized committees to receive contributions and make expenditures on the candidate's behalf. These committees file all statements and reports through the principal campaign committee. For more information, consult the instructions for the Statement of Candidacy.

Treasurer Required

Each principal campaign committee must have a treasurer; no contribution or expenditure may be made or accepted when there is a vacancy in that office. An assistant treasurer, who would act as treasurer in the event of a vacancy, may be designated on the committee's Statement of Organization. 11 CFR 102.7.

No Support of Other Candidates

A principal campaign committee may not support (or ever have supported) more than one candidate. It may, however, be authorized as a joint fundraising committee by several candidates who engage in joint fundraising activity. ("Support" does not include contributions aggregating \$2,000 or less per election made to another candidate's authorized committee.) 2 U.S.C. 432(e)(3)(B).

Campaign Depositories

The principal campaign committee must designate at least one campaign depository where all contributions are deposited and from which all expenditures (except those from a petty cash fund) are made through a checking account. Only state banks, national banks or depository institutions insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration may be designated as depositories. 11 CFR 103.2 and 103.3.

Identification Number

The principal campaign committee is given an identification number only after the Statement of Organization is filed. 11 CFR 102.2(c).

Additional Information

Where to Obtain Forms

All forms for registration are available from the Information Division, Federal Election Commission, Washington, D.C. 20463, on the FEC's web site at <http://www.fec.gov/info/forms.shtml>, or by calling, toll-free, 800/424-9530. Accompanying each FEC form are detailed line-by-line instructions on how to complete and file the form.

Amending the Registration

Committees must report any change or correction to their registration (such as a change in officers, address or bank depositories) by writing a letter or filing an amended Statement of Organization signed by the treasurer. Any such change must be reported within 10 days after it is made. 11 CFR 102.2(a)(2).