

ing the registration threshold, the local organization does not share a contribution limit with the state party committee. AOs 2005-02 and 1999-04.

## Corporate/Labor/Membership Organization PACs

All separate segregated funds (also called political action committees or PACs) established, financed, maintained or controlled by the same corporation or labor organization are affiliated. For example:

- PACs established by a parent corporation and its subsidiaries are affiliated.
- PACs established by a national or international union and its local unions are affiliated.
- PACs established by a federation of national or international unions and the federation's state and local central bodies are affiliated.
- PACs established by an incorporated membership organization and its related state and local entities are affiliated.

100.5(g)(2) and (3); 110.3(a)(1)(ii) and (2).

When committees are not automatically affiliated under the conditions described above, the Commission may nevertheless conclude that two or more committees are affiliated based on factors listed in the regulations. 100.5(g)(4)(ii)(A)-(J) and 110.3(a)(3)(ii)(A)-(J). The Commission makes these decisions, through advisory opinions, on a case-by-case basis. For examples, see AOs 2009-18, 2006-12, 2005-03, 2004-32, 2002-11 and 2001-07 (plus opinions cited within those AOs).

## Authorized Committees

An authorized committee, however, can be affiliated only with another authorized committee of the same candidate. 100.5(g)(5) and 110.3(a)(1)(i). Note that, by definition, an unauthorized committee sponsored by an officeholder (i.e., a "leadership PAC") is not considered to be affiliated with any authorized committees sponsored by the same individual. 100.5(e)(6) and (g)(5).

## 2. How Limits Work

The limits on contributions to candidates apply separately to each federal election in which the candidate participates. A primary election, general election, runoff election and special election are each considered a separate election with a separate limit.<sup>3</sup> 100.2. (A special election may itself involve separate primary, general and/or runoff elections, each with a separate contribution limit.)<sup>4</sup> In some cases, a party caucus or convention is considered a primary election, as explained below.

### Party Caucus or Convention

A party caucus or convention constitutes an election only if it has the authority under relevant state law to select a nominee for federal office. (Notable examples of these types of conventions are those held in Connecticut, Utah and Virginia.) Otherwise, there is no separate limit for a caucus or convention; it is considered part of the primary process. When the caucus or convention does constitute a primary election, reports must be filed for the convention as they would for the primary. 100.2(c)(1) and (e). See also, for example, AOs 1992-25, 1986-21 and 1986-17. See Chapter 12 for information on filing reports.

### Candidates Who Lose in the Primary

A candidate is entitled to an election limit only if he or she seeks office in that election. Thus, a candidate who loses the primary (or otherwise does not participate in the general election) does not have a separate limit for the general. If a candidate accepts contributions for the general election before the primary is held and loses the primary (or does not otherwise participate in the general election), the candidate's principal campaign committee must refund, redesignate or reattribute the

<sup>3</sup> Presidential campaigns should note that all Presidential primary elections held during a calendar year are considered one election for the purposes of the contribution limits. 110.1(j)(1).

<sup>4</sup> In AO 2009-15, the Commission ruled that an authorized committee may accept contributions that may be used in a special or emergency election or runoff, even though an election has not been scheduled and may not occur.

general election contributions within 60 days of the primary or the date that the candidate publicly withdraws from the primary race.<sup>5</sup> 110.1(b)(3) and 110.2(b)(5). See also in this chapter, Section 4, “Designated and Undesignated Contributions” and Section 8, “Contributions to Retire Debts.”

## Independent and Non-Major Party Candidates

Even when independent and non-major party candidates are not involved in an actual primary, they are entitled to a primary limit. They may choose one of the following dates to be their “primary” date, and, until that date, they may collect contributions that count towards the contributor’s primary limits.

- The last day on which, under state law, a candidate may qualify for a position on the general election ballot; or
- The date of the last major primary election, caucus or convention in that state.

Non-major party candidates may also choose the date of the nomination by their party as their primary date. 100.2(c)(4).

## Primary vs. General Election

Campaigns must adopt an accounting system to distinguish between contributions made for the primary election and those made for the general election, as discussed in Chapter 10, Section 1, “Fundraising.” 102.9(e).<sup>6</sup> Nevertheless, the campaign of a candidate running in the general

election may spend unused primary contributions for general election expenses. The contributions would continue to apply toward the contributors’ limits for the primary. 110.3(c)(3). The campaign of a candidate running in the general election may use general election contributions for primary election debts; the contributions would still count against the contributor’s general election limits. 110.1(b)(3)(iv). As noted above, should the candidate lose the primary, contributions accepted for the general must be refunded, redesignated or reattributed within 60 days and may not be used to repay primary election debt. AO 1986-17. Therefore, candidates should ensure they have enough cash on hand to make those refunds if needed.

## Unopposed Candidates; Elections Not Held

A candidate is entitled to a separate contribution limit even if:

- The candidate is unopposed in an election;
- A primary or general election is not held because the candidate is unopposed;<sup>7</sup> or
- The general election is not held because the candidate received a majority of votes in the previous election.

The date on which the election would have been held is considered the date of the election. 110.1(j)(2) and (3). The campaign must file pre-election reports and, in the case of a general election, a post-election report. AO 1986-21. See also Chapter 12, Section 3, “When to Report.”

## Recounts

A federal campaign may establish a recount fund either as a separate bank account of the candidate’s authorized committee or as a separate entity. Although they are not considered contributions under the Act, any funds solicited, received, directed, transferred or spent in connection with a recount are subject to the amount limitations, source prohibitions and reporting requirements of the Act

<sup>5</sup> In AO 2008-04, the Commission ruled that the authorized committee of a Presidential candidate receiving primary matching funds may issue refunds or obtain redesignations to his or her Senate campaign for contributions made in connection with the general election.

<sup>6</sup> In AO 2007-03, the Commission ruled that a Presidential candidate could solicit and receive private contributions for the 2008 Presidential general election without losing eligibility to receive public funding if the candidate received his party’s nomination for President, provided that the campaign (1) deposited and maintained all private contributions designated for the general election in a separate account, (2) refrained from using these contributions for any purpose, and (3) refunded the private contributions in full if the candidate ultimately decided to receive public funds.

<sup>7</sup> A primary election that is not held because the candidate was nominated by a caucus or convention with authority to nominate is not a separate election with a separate contribution limit. 110.1(j)(4).