

**Changes to Federal Election Commission Regulations
Regarding Labor Organizations and Independent Expenditures.**

The Supreme Court's 2010 decision in Citizens United v. Federal Elections Commission ushered in a wave of "independent expenditures" aimed at impacting federal elections. 558 U.S. 310 (2010). Independent expenditures are expenses for communications "expressly advocating the election or defeat of a clearly identified candidate that are not made in concert or cooperation with, or at the request or suggestion of, a clearly identified candidate, the candidate's authorized political committee, or their agents, or a political party committee and its agents." 52 U.S.C. 30101(17); 11 C.F.R. 100.16(a). In Citizens United, the Court essentially found that the Federal Election Campaign Act of 1971's prohibition on the use of corporate general treasury funds for independent expenditures and electioneering communications was an unconstitutional limit on free speech. The Court referenced labor organizations and corporations interchangeably. See Citizens United, 558 U.S. at 343. However, despite the invalidation of the ban on such spending, the Federal Election Commission's regulations were not updated, until now. The ban on such spending found in 11 C.F.R. 114.2(b)(2)(i) has now been removed, allowing labor organizations to make independent expenditures, and to pay for express advocacy communications.

The new regulations also remove the requirement that labor organizations not withhold or refuse to provide assistance in registering or voting based on support or opposition to particular candidates or a particular party. However, the

revised regulation does not categorically exempt disbursements for such “Get-Out-the-Vote” drives from the definition of “expenditure.” Thus, disbursements for partisan voter registration drives may be reportable under 11 C.F.R. 114.3(b). While the regulations remove some restrictions on express advocacy by a union to the general public, they explicitly prohibit labor organizations from coordinating with candidates on communications to the general public. 11 C.F.R. 114.4(c). This reaffirms the long-standing prohibition on contributions from labor organizations to candidates. See 52 U.S.C. 30118(a);(b)(2). Notably, these changes do not appear to impact the tax consequences of using general treasury funds for political activity.

Notably, the definition of “expenditure” still does not include “Member-to-Member” communications, which allows labor organizations the freedom to communicate with their members without the need to report expenditures for those communications. Enclosed also find the updated Contribution Limits for 2015-2016 Federal Elections. The rules regarding expenditures, reporting and disclosure are complex and multi-faceted, so do not hesitate to contact our office with specific questions or concerns.

CONTRIBUTION LIMITS FOR 2015-2016 FEDERAL ELECTIONS

DONORS	RECIPIENTS				
	Candidate Committee	PAC ¹ (SSF and Nonconnected)	State/District/ Local Party Committee	National Party Committee	Additional National Party Committee Accounts ²
Individual	\$2,700* per election	\$5,000 per year	\$10,000 per year (combined)	\$33,400* per year	\$100,200* per account, per year
Candidate Committee	\$2,000 per election	\$5,000 per year	Unlimited Transfers	Unlimited Transfers	
PAC- Multicandidate	\$5,000 per election	\$5,000 per year	\$5,000 per year (combined)	\$15,000 per year	\$45,000 per account, per year
PAC- Nonmulticandidate	\$2,700 per election	\$5,000 per year	\$10,000 per year (combined)	\$33,400* per year	\$100,200* per account, per year
State/District/Local Party Committee	\$5,000 per election	\$5,000 per year	Unlimited Transfers		
National Party Committee	\$5,000 per election ³	\$5,000 per year			

*- Indexed for inflation in odd-numbered years.

¹ "PAC" here refers to a committee that makes contributions to other federal political committees. Independent-expenditure-only political committees (sometimes called "super PACs") may accept unlimited contributions, including from corporations and labor organizations.

² The limits in this column apply to a national party committee's accounts for: (i) the presidential nominating convention; (ii) election recounts and contests and other legal proceedings; and (iii) national party headquarters buildings. A party's national committee, Senate campaign committee and House campaign committee are each considered separate national party committees with separate limits. Only a national party committee, not the parties' national congressional campaign committees, may have an account for the presidential nominating convention.

³ Additionally, a national party committee and its Senatorial campaign committee may contribute up to \$46,800 combined per campaign to each Senate candidate.

This publication provides guidance on certain aspects of federal campaign finance law. This publication is not intended to replace the law or to change its meaning, nor does this publication create or confer any rights for or on any person or bind the Federal Election Commission (Commission) or the public. The reader is encouraged also to consult the Federal Election Campaign Act of 1971, as amended, Commission regulations, Commission advisory opinions, and applicable court decisions.

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