

FEC issues 2015 legislative recommendations

December 30, 2015

The Federal Election Commission (FEC) has issued to Congress seven legislative recommendations to improve various federal election processes. The proposed changes would impact a range of issues, including filing, expansion of certain campaign prohibitions, the administrative fine program and FEC personnel. The recommendations were unanimously accepted by the FEC on December 16, 2015, and have been submitted to Congress for consideration.

The FEC recommends requiring all Senate candidates and their authorized committees to file reports electronically with the FEC if they have aggregate contributions or expenditures in excess of the limit set by the FEC, which is currently \$50,000. The FEC explains that the current process for Senate candidates and their committees is to file paper copies of reports with the secretary of the Senate, who is then responsible for transmitting reports to the FEC. This process can take as long as 48 hours — longer for extensive filings that become searchable. The FEC believes moving to an electronic filing system will be a faster and more efficient way to receive, process and disseminate these reports. Language to make this change is included in the Financial Services and General Government Appropriations Act, which has been referred out of committee and is currently pending before the Senate.

Similarly, the FEC recommends requiring that reports of electioneering communications be filed electronically with the commission, rather than by paper. This change would apply to entities reporting more than \$50,000 of electioneering communications. Because these reports are generally not filed by political committees and electioneering communications are reported as “disbursements” instead of “expenditures,” these reports are not captured by current rules requiring electronic filing. As with the recommendation for electronic filing of Senate reports, the FEC cites delays in postal delivery as the key reason for proposing electronic filing for electioneering communication reports.

The FEC recommends that Congress expand the prohibition against making fraudulent misrepresentations of campaign authority. Under the Federal Election Campaign Act, the prohibition currently extends to a federal candidate or his or her agents or employees. These individuals are prohibited from fraudulent misrepresentation such as speaking, writing or otherwise acting on behalf of a candidate or political party committee on a matter “which is damaging to such other candidate or political party.” The FEC argues that the prohibition should be extended to any person who would disrupt a campaign by such unlawful means.

Since 2000, the FEC has assessed more than \$5.3 million in fines for violations of laws requiring timely reporting of receipts and disbursements through its administrative fine program. The program only covers violations that relate to reporting periods through the end of 2018. The FEC recommends making the program permanent.

A recommendation to increase and index for inflation registration and reporting thresholds is also included. While the Bipartisan Campaign Reform Act of 2002 made some adjustments to contribution limits to account for inflation, other limits established by the Federal Election Campaign Act have not been adjusted since the 1970s. In particular, the FEC recommends increasing the \$1,000 threshold for federal political committee status, noting that many local political party organizations breach this threshold and increasing it would allow for limited spending in federal elections without triggering certain reporting requirements for relatively small organizations.

Under current law, the FEC is unable to accept donations of goods or services from private sources. The FEC recommends a

change to authorize the commission to accept gifts that will assist it in carrying out its functions, such as information technology products. The FEC notes that the disclosure of gifts may be required and it would need to promulgate rules on accepting gifts and monitor conflicts of interest.

Finally, the recommendations include a proposal to allow the FEC to create senior executive service positions within the agency; a change the FEC says will allow it to better recruit and retain personnel.

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