

FEC Reins in 527s

September 2004

On August 19, 2004, the FEC adopted two sets of rules relating to 527s and the definition of a federal "political committee." First, the FEC adopted the Office of General Counsel's proposal relating to funds received in response to solicitations.

This provision counts funds provided "in response to any communication...if the communication indicates that any portion of the funds received will be used to support or oppose the election of a clearly identified Federal candidate" as "contributions" under federal law. According to discussions at the August 19, 2004 FEC meeting, it appears that this provision might apply even if a small part of an issue advocacy letter states that the funds given to the organization as a result of the letter would be used to stop a federal candidate, and implies that this would occur at the polls. Also during the meeting, the General Counsel stated that the rule would be textual and would apply to solicitations that say the funds will be used in connection with elections or the act of voting.

Second, the FEC adopted the Office of General Counsel's proposals for allocations between the federal and nonfederal accounts of political committees. The adopted regulations establish 50 percent hard money minimums for such allocation, including, per an amendment by Commissioner Toner, a 50 percent allocation minimum for overhead and salaries.

The above-described rules are not applicable until January 1, 2005.

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