

FEC Approves Fundraising For State & Local Candidates

May 2, 2003

On April 24, 2003, the FEC issued an advisory opinion in response to a request by Jan Baran on behalf of U.S. Representative Eric Cantor and various Virginia state and local political candidates. The advisory opinion provides guidance as to how federal candidates and officeholders may participate in state and local campaigns under the new Bipartisan Campaign Reform Act (BCRA).

The BCRA prohibits federal candidates and officeholders from raising funds in connection with non-federal elections in amounts that exceed federal contribution limits and source restrictions. Virginia law allows state and local candidates to receive unlimited contributions, and permits contributions from sources that would otherwise be prohibited under federal law such as corporations.

The FEC's Advisory Opinion 2003-3 explains that federal candidates and officeholders may attend, participate, and speak at state and local fundraising events. However, if the federal candidates or officeholders publicly and orally ask for funds, either (1) a written disclaimer stating that they are only soliciting funds within federal amount and source restrictions must be clearly and conspicuously displayed, or (2) the federal candidate or officeholder must recite a disclaimer while making his or her remarks. The following disclaimer language was offered in the advisory opinion as a safe harbor:

I am asking for a donation of up to \$2,000 per election from an individual's own funds [or up to \$5,000 per election from a multi-candidate political committee or a political party committee]. I am not asking for funds from corporations, labor organizations or minors.

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The FEC could not agree on what action must be taken if a federal candidate or officeholder's name appears in written materials of a state or local candidate soliciting contributions. The Commission did determine that a disclaimer is required where a federal candidate's or officeholder's name is used in direct conjunction with fundraising, *e.g.*, as a member of a fundraising event "host committee." The FEC could not reach a conclusion regarding other uses of a federal candidate's or officeholder's name in written materials, *e.g.*, a listing in the letterhead as "Honorary Co-Chair" of the campaign.

A copy of AO 2003-3 is available at the FEC's website, www.fec.gov.