

New York Congressional Candidates May Raise Contributions Under Separate Limit for August 23 Primary

July 2022

The Federal Election Commission (FEC) recently issued an advisory opinion confirming that New York congressional primary candidates are entitled to a separate contribution limit for the court-ordered August 23, 2022 congressional primary due to the “new electoral situation” resulting from redistricting litigation.

Earlier this year, the state of New York enacted congressional district maps in response to the 2020 census; these maps were immediately challenged in court. Ultimately, courts determined that the congressional district maps were unconstitutional under New York’s state constitution, directed a special master to redraw the congressional districts, and moved the congressional primary from the statutory date of June 28, 2022 to August 23, 2022 to provide for sufficient time to conduct the primary under the special master’s revised maps. The court adopted the special master’s maps on May 20, 2022, leaving congressional candidates to contend with new boundary lines, new ballot access requirements, and new opponents – three months before the court-ordered primary.

After acknowledging that candidate contribution limits “apply separately with respect to each election,” the FEC explained that the “cumulative effect of the courts’ orders... created a new electoral situation” and, therefore, a new election for contribution limit purposes. The FEC determined that the new contribution limit applies to contributions made after May 20, 2022, which was when the court adopted the special master’s maps and finalized the congressional district boundaries.

Authors

Brandis L. Zehr
Partner
202.719.7210
bzehr@wiley.law

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Accordingly, undesignated contributions to New York congressional campaigns from individuals and non-multicandidate committees made on or before May 20, 2022 count against the donor's contribution limit for the now-canceled June 23 primary. Undesignated contributions to New York congressional campaigns from individuals and non-multicandidate committees made between May 21, 2022 and August 23, 2022 count against the donor's separate contribution limit for the court-ordered August 23 primary. Multicandidate committees are required to designate contributions for a particular election. Multicandidate committees that previously made contributions to New York congressional campaigns designated for the now-canceled June 23 primary may now contribute up to an additional \$5,000 for the court-ordered August 23 primary.

Wiley's Election Law Practice represented the National Republican Congressional Committee in seeking the FEC advisory opinion.