

# Politics and Planes: Know the Private Plane Reimbursement Rules Before You Offer or Accept a Ride

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With the 2024 presidential primaries nearly upon us, the press will soon begin focusing on a longtime favorite topic - federal candidates hitching rides on the private planes of corporations and wealthy individuals. Although federal candidate travel on private planes has significantly decreased since the Honest Leadership and Open Government Act of 2007 overhauled the Federal Election Commission (FEC) travel regulations, old habits die hard and corporations and wealthy individuals are still providing - and federal candidates are still accepting - rides on private planes. Now is the time to review your company's compliance framework to ensure that a prohibited corporate in-kind contribution does not occur in the event a representative of a federal campaign, party, or committee travels on your company's planes.

Under the FEC's travel regulations, if a representative of a federal campaign, party, or committee travels in connection with committee business on a privately owned plane, the committee must reimburse the plane owner at a specified rate to prevent either an excessive or prohibited in-kind contribution. Because the committee must reimburse the plane owner within seven days of departure, it is essential that a compliance framework be established to handle political trips on private planes in a timely manner.

## Presidential/Senate Campaigns

Presidential and Senate campaigns must pay the full charter rate for a comparable plane of comparable size when a private plane is used for travel on behalf of the campaign.

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## Practice Areas

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Election Law & Government Ethics

## Presidential/Senate Leadership PACs

Leadership PACs of presidential and Senate candidates are permitted to use private planes for leadership PAC travel. The reimbursement rate depends on the extent to which there is commercial airline service between the departure and arrival cities:

- *First Class Airfare Rate.* In the case of travel between cities served by regularly scheduled first-class commercial airline service, the lowest unrestricted and non-discounted first-class airfare rate for each campaign traveler.
- *Coach Airfare Rate.* In the case of travel between a city served by regularly scheduled coach commercial airline service, but not regularly scheduled first-class commercial airline service, and a city served by regularly scheduled coach commercial airline service (with or without first-class commercial airline service), the lowest unrestricted and non-discounted coach airfare rate for each campaign traveler.
- *Full Charter Rate.* In the case of travel to or from a city not served by regularly scheduled commercial airline service, the full charter fare for a comparable aircraft of sufficient size to accommodate all campaign travelers.

## House Campaigns and Leadership PACs

House candidates and anyone traveling on behalf of a House campaign or House leadership PAC are generally prohibited from traveling on privately owned aircraft. However, travel on a private plane is permitted under narrow, fact-specific circumstances. For example, a private plane may be used if it is owned by the candidate, an immediate family member of the candidate, a state government, or the federal government. (In some instances, such as travel on a private plane owned by an immediate family member of the candidate, the House campaign or leadership PAC may be required to reimburse the plane owner to comply with contribution limits.) Private plane owners should seek legal counsel before offering travel to House candidates or Members, and House candidates and Members should consult legal counsel before accepting travel on private planes.

## National/State Political Parties and Other Federal PACs

All other federal committees, including the national and state party committees and other federal PACs, must pay either the full charter rate (if no regularly scheduled commercial service is available), the lowest unrestricted first-class airfare rate (if regularly scheduled first-class commercial service is available), or the lowest unrestricted coach rate (if regularly scheduled coach, but not first-class, commercial service is available). (As noted above, House Members are generally prohibited from traveling on private planes.)

## Other Considerations

Special reimbursement rules apply when the itinerary involves multiple stops (some of which are for campaign purposes, some of which are not), more than one federal campaign is traveling on the private plane, members of the news media are traveling with the candidate, government-issued security is traveling with the candidate, or the candidate or the candidate's immediate family own the private plane.

The FEC's travel regulations can be difficult to navigate. Wiley's Election Law & Government Ethics Practice has extensive experience counseling both private plane owners and federal candidates regarding the FEC travel regulations and is available to assist you in establishing or reassessing your private plane travel compliance framework.