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§ 108.5 Time and manner of filing copies (2 U.S.C. 434(a)(2)).

A copy of any report or statement required to be filed with a State officer under 11 CFR part 108 shall be filed at the same time as the original report is filed. Each copy of such report or statement shall be a complete, true, and legible copy of the original report or statement filed.

§ 108.6 Duties of State officers (2 U.S.C. 439(b)).

The Secretary of State, or the equivalent State officer shall carry out the duties set forth in 11 CFR 108.5(a) through (d):

- (a) Receive and maintain in an orderly manner all reports and statements required to be filed;
- (b) Preserve such reports and statements (either in original form or in facsimile copy by microfilm or otherwise) filed under the Act for a period of 2 years from the date of receipt;
- (c) Make the reports and statements filed available as soon as practicable (but within 48 hours of receipt) for public inspection and copying during office hours and permit copying of any such reports or statements by hand or by duplicating machine, at the request of any person except that such copying shall be at the expense of the person making the request and at a reasonable fee;
- (d) Compile and maintain a current list of all reports and statements or parts of such reports and statements pertaining to each candidate.

§ 108.7 Effect on State law (2 U.S.C. 453).

- (a) The provisions of the Federal Election Campaign Act of 1971, as amended, and rules and regulations issued thereunder, supersede and preempt any provision of State law with respect to election to Federal office.
- (b) Federal law supersedes State law concerning the—
 - (1) Organization and registration of political committees supporting Federal candidates;
 - (2) Disclosure of receipts and expenditures by Federal candidates and political committees; and

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(3) Limitation on contributions and expenditures regarding Federal candidates and political committees.

(c) The Act does not supersede State laws which provide for the—

- (1) Manner of qualifying as a candidate or political party organization;
- (2) Dates and places of elections;
- (3) Voter registration;
- (4) Prohibition of false registration, voting fraud, theft of ballots, and similar offenses; or
- (5) Candidate's personal financial disclosure.

§ 108.8 Exemption for the District of Columbia.

Any copy of a report required to be filed with the equivalent officer in the District of Columbia shall be deemed to be filed if the original has been filed with the Secretary or the Commission, as appropriate.

[45 FR 15117, Mar. 7, 1980, as amended at 61 FR 6095, Feb. 16, 1996]

PART 109—INDEPENDENT EXPENDITURES (2 U.S.C. 431(17), 434(c))

Sec.

- 109.1 Definitions (2 U.S.C. 431(17)).
- 109.2 Reporting of independent expenditures by persons other than a political committee (2 U.S.C. 434(c)).
- 109.3 Non-authorization notice (2 U.S.C. 441d).

AUTHORITY: 2 U.S.C. 431(17), 434(c), 438(a)(8), 441d.

SOURCE: 45 FR 15118, Mar. 7, 1980, unless otherwise noted.

§ 109.1 Definitions (2 U.S.C. 431(17)).

(a) *Independent expenditure* means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate.

(b) For purposes of this definition—

- (1) *Person* means an individual, partnership, committee, association, qualified nonprofit corporation under 11 CFR 114.10(c), or any organization or group of persons, including a separate segregated fund established by a labor

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organization, corporation, or national bank (see part 114) but does not mean a labor organization, corporation not qualified under 11 CFR 114.10(c), or national bank.

(2) *Expressly advocating* shall have the same meaning as set forth at 11 CFR 100.22.

(3) *Clearly identified* shall have the same meaning as set forth at 11 CFR 100.17.

(4) *Made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of the candidate—*

(i) Means any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication. An expenditure will be presumed to be so made when it is—

(A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents, with a view toward having an expenditure made; or

(B) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent;

(ii) But does not include providing to the expending person upon request Commission guidelines on independent expenditures.

(5) *Agent* means any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position within the campaign organization where it would reasonably appear that in the ordinary course of campaign-related activities he or she may authorize expenditures.

(c) An expenditure not qualifying under this section as an independent expenditure shall be a contribution in-kind to the candidate and an expenditure by the candidate, unless otherwise exempted.

(d)(1) The financing of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered a contribution for the purpose of contribution limitations and reporting responsibilities by the person making the expenditure but shall not be considered an expenditure by the candidate or his authorized committees unless made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any authorized agent or committee thereof.

(2) This paragraph does not affect the right of a State or subordinate party committee to engage in such dissemination, distribution, or republication as agents designated by the national committee pursuant to § 110.7(a)(4).

(e) No expenditure by an authorized committee of a candidate on behalf of that candidate shall qualify as an independent expenditure.

[45 FR 15118, Mar. 7, 1980, as amended at 60 FR 35305, July 6, 1995; 60 FR 64273, Dec. 14, 1995]

§ 109.2 Reporting of independent expenditures by persons other than a political committee (2 U.S.C. 434(c)).

(a) Every person other than a political committee, who makes independent expenditures aggregating in excess of \$250 during a calendar year shall file a signed statement or report on FEC Form 5 with the Commission or Secretary of the Senate in accordance with 11 CFR 104.4(c).

(1) If a signed statement is submitted, the statement shall include:

(i) The reporting person's name mailing address, occupation and the name of his or her employer, if any;

(ii) The identification (name and mailing address) of the person to whom the expenditure was made;

(iii) The amount, date and purpose of each expenditure;

(iv) A statement which indicates whether such expenditure was in support of, or in opposition to a candidate, together with the candidate's name and office sought;

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(v) A notarized certification under penalty of perjury as to whether such expenditure was made in cooperation, consultation or concert with, or at the request or suggestion of any candidate or any authorized committee or agent thereof; and

(vi) The identification of each person who made a contribution in excess of \$200 to the person filing such report, which contribution was made for the purpose of furthering the reported independent expenditure.

(2) Reports or statements filed under this section shall be filed at the end of the reporting period (quarterly pre-election post-election semi-annual annual) (See 11 CFR 104.5) during which any independent expenditure which aggregates in excess of \$250 is made and in any reporting period thereafter in which additional independent expenditures are made.

(b) Independent expenditures aggregating \$1,000 or more made by any person after the twentieth day, but more than 24 hours before 12:01 a.m. of the day of an election shall be reported within 24 hours after such independent expenditure is made. Such report or statement shall contain the information required by 11 CFR 109.2(a) indicating whether the independent expenditure is made in support of, or in opposition to, a particular candidate and shall be filed with the appropriate officers in accordance with 11 CFR 104.4(c).

[45 FR 15118, Mar. 7, 1980, as amended at 61 FR 3550, Feb. 1, 1996]

§ 109.3 Non-authorization notice (2 U.S.C. 441d).

Whenever any person makes an independent expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, such person shall comply with the requirements of 11 CFR 110.11.

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

Sec.

110.1 Contributions by persons other than multicandidate political committees (2 U.S.C. 441a(a)(1)).

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110.2 Contributions by multicandidate political committees (2 U.S.C. 441a(a)(2)).

110.3 Contribution limitations for affiliated committees and political party committees; Transfers (2 U.S.C. 441a(a)(5), 441a(a)(4)).

110.4 Prohibited contributions (2 U.S.C. 441e, 441f, 441g, 432(c)(2)).

110.5 Annual contribution limitation for individuals (2 U.S.C. 441a(a)(3)).

110.6 Earmarked contributions (2 U.S.C. 441a(a)(8)).

110.7 Party committee expenditure limitations (2 U.S.C. 441a(d)).

110.8 Presidential candidate expenditure limitations.

110.9 Miscellaneous provisions.

110.10 Expenditures by candidates.

110.11 Communications; advertising (2 U.S.C. 441d).

110.12 Candidate appearances on public educational institution premises.

110.13 Candidate debates.

110.14 Contributions to and expenditures by delegates and delegate committees.

AUTHORITY: 2 U.S.C. 431(8), 431(9), 432(c)(2), 437d(a)(8), 438(a)(8), 441a, 441b, 441d, 441e, 441f, 441g and 441h.

§ 110.1 Contributions by persons other than multicandidate political committees (2 U.S.C. 441a(a)(1)).

(a) *Scope.* This section applies to all contributions made by any person as defined in 11 CFR 100.10, except multicandidate political committees as defined in 11 CFR 100.5(e)(3) or entities and individuals prohibited from making contributions under 11 CFR 110.4 and 11 CFR parts 114 and 115.

(b) *Contributions to candidates; designations; and redesignations.* (1) No person shall make contributions to any candidate, his or her authorized political committees or agents with respect to any election for Federal office which, in the aggregate, exceed \$1,000.

(2) For purposes of this section, *with respect to any election* means—

(i) In the case of a contribution designated in writing by the contributor for a particular election, the election so designated. Contributors to candidates are encouraged to designate their contributions in writing for particular elections. *See* 11 CFR 110.1(b)(4).

(ii) In the case of a contribution not designated in writing by the contributor for a particular election, the next election for that Federal office after the contribution is made.