

Federal Election Commission

§ 100.93

but such payments need not be allocated to specific candidates in committee reports except as provided in 11 CFR paragraph (d) of this section.

(g) *Exemption not applicable to donations by a national committee of a political party to a State or local party committee for voter registration and get-out-the-vote activities.* Payments made from funds donated by a national committee of a political party to a State or local party committee for voter registration and get-out-the-vote activities shall not qualify under this exemption. Rather, such funds shall be subject to the limitations of 2 U.S.C. 441a(d) and 11 CFR 109.32.

[67 FR 50585, Aug. 5, 2002, as amended at 67 FR 78680, Dec. 26, 2002; 69 FR 68238, Nov. 24, 2004; 75 FR 31, Jan. 4, 2010]

§ 100.90 Ballot access fees.

Payments made to any party committee by a candidate or the authorized committee of a candidate as a condition of ballot access are not contributions.

§ 100.91 Recounts.

A gift, subscription, loan, advance, or deposit of money or anything of value made with respect to a recount of the results of a Federal election, or an election contest concerning a Federal election, is not a contribution except that the prohibitions of 11 CFR 110.20 and part 114 apply.

[67 FR 50585, Aug. 5, 2002, as amended at 67 FR 78680, Dec. 26, 2002]

§ 100.92 Candidate debates.

Funds provided to defray costs incurred in staging candidate debates in accordance with the provisions of 11 CFR 110.13 and 114.4(f) are not contributions.

§ 100.93 Travel by aircraft or other means of transportation.

(a) *Scope and definitions.* (1) This section applies to all campaign travelers who use non-commercial travel.

(2) Campaign travelers who use commercial travel, such as a commercial airline flight, charter flight, taxi, or an automobile provided by a rental company, are governed by 11 CFR 100.52(a) and (d), not this section.

(3) For the purposes of this section:

(i) *Campaign traveler* means

(A) Any candidate traveling in connection with an election for Federal office or any individual traveling in connection with an election for Federal office on behalf of a candidate or political committee; or

(B) Any member of the news media traveling with a candidate.

(ii) *Service provider* means the owner of an aircraft or other conveyance, or a person who leases an aircraft or other conveyance from the owner or otherwise obtains a legal right to the use of an aircraft or other conveyance, and who uses the aircraft or other conveyance to provide transportation to a campaign traveler. For a jointly owned or leased aircraft or other conveyance, the service provider is the person who makes the aircraft or other conveyance available to the campaign traveler.

(iii) *Unreimbursed value* means the difference between the value of the transportation service provided, as set forth in this section, and the amount of payment for that transportation service by the political committee or campaign traveler to the service provider within the time limits set forth in this section.

(iv) *Commercial travel* means travel aboard:

(A) An aircraft operated by an air carrier or commercial operator certificated by the Federal Aviation Administration, provided that the flight is required to be conducted under Federal Aviation Administration air carrier safety rules, or, in the case of travel which is abroad, by an air carrier or commercial operator certificated by an appropriate foreign civil aviation authority, provided that the flight is required to be conducted under air carrier safety rules; or

(B) Other means of transportation operated for commercial passenger service.

(v) *Non-commercial travel* means travel aboard any conveyance that is not commercial travel, as defined in paragraph (a)(3)(iv) of this section.

(vi) *Comparable aircraft* means an aircraft of similar make and model as the aircraft that actually makes the trip, with similar amenities as that aircraft.

§ 100.93

11 CFR Ch. I (1–1–12 Edition)

(b) *General rule.* (1) No contribution is made by a service provider to a candidate or political committee if:

(i) Every candidate's authorized committee or other political committee on behalf of which the travel is conducted pays the service provider, within the required time, for the full value of the transportation, as determined in accordance with paragraphs (c), (d), (e) or (g) of this section, provided to all campaign travelers who are traveling on behalf of that candidate or political committee; or

(ii) Every campaign traveler for whom payment is not made under paragraph (b)(1)(i) of this section pays the service provider for the full value of the transportation provided to that campaign traveler as determined in accordance with paragraphs (c), (d), (e) or (g) of this section. *See* 11 CFR 100.79 and 100.139 for treatment of certain unreimbursed transportation expenses incurred by individuals traveling on behalf of candidates, authorized committees, and political committees of political parties.

(2) Except as provided in 11 CFR 100.79, the unreimbursed value of transportation provided to any campaign traveler, as determined in accordance with paragraphs (c), (d) or (e) of this section, is an in-kind contribution from the service provider to the candidate or political committee on whose behalf, or with whom, the campaign traveler traveled. Contributions are subject to the reporting requirements, limitations and prohibitions of the Act.

(3) When a candidate is accompanied by a member of the news media, or by security personnel provided by any Federal or State government, the news media or government security provider may reimburse the political committee paying for the pro-rata share of the travel by the member of the media or security personnel, or may pay the service provider directly for that pro-rata share, up to the applicable amount set forth in paragraphs (c)(1), (c)(3), (d), (e), or (g) of this section. A payment made directly to the service provider may be subtracted from the amount for which the political committee is otherwise responsible without any contribution resulting. No contribution results from reimbursement by the media or a

government security provider to a political committee in accordance with this paragraph.

(c) *Travel on aircraft.* When a campaign traveler uses aircraft for non-commercial travel, other than a government aircraft described in paragraph (e) of this section or a candidate or family owned aircraft described in paragraph (g) of this section, reimbursement must be provided no later than seven (7) calendar days after the date the flight began at one of the following rates to avoid the receipt of an in-kind contribution:

(1) *Travel by or on behalf of Senate, presidential, or vice-presidential candidates.* A Senate, presidential, or vice-presidential candidate traveling on his own behalf, or any person traveling on behalf of such candidate or the candidate's authorized committee must pay the pro rata share per campaign traveler of the normal and usual charter fare or rental charge for travel on a comparable aircraft of comparable size. The pro rata share shall be calculated by dividing the normal and usual charter fare or rental charge by the number of campaign travelers on the flight that are traveling on behalf of such candidates or their authorized committees, including members of the news media, and security personnel traveling with a candidate. No portion of the normal and usual charter fare or rental charge may be attributed to any campaign travelers that are not traveling on behalf of such candidates or their authorized committees, or any other passengers, except as permitted under paragraph (b)(3) of this section.

(2) *Travel by or on behalf of House candidates and their leadership PACs.* Except as otherwise provided in paragraphs (e) and (g) of this section, a campaign traveler who is a candidate for election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, or a person traveling on behalf of any such candidate or any authorized committee or leadership PAC of such candidate, is prohibited from non-commercial travel on behalf of any such candidate or any authorized committee or leadership PAC of such candidate.

(3) *Other campaign travelers.* When a candidate's authorized committee pays

Federal Election Commission

§ 100.93

for a flight pursuant to paragraph (c)(1) of this section, no payment is required from other campaign travelers on that flight. Otherwise, a campaign traveler not covered by paragraphs (c)(1) or (c)(2) of this section, including persons traveling on behalf of a political party committee, separate segregated fund, nonconnected political committee, or a leadership PAC other than a leadership PAC of a candidate for election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, must pay the service provider no less than the following for each leg of the trip:

(i) 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;

(ii) 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; or

(iii) In the case of travel to or from a city not served by regularly scheduled commercial airline service, the normal and usual charter fare or rental charge for a comparable commercial aircraft of sufficient size to accommodate all campaign travelers, and security personnel, if applicable.

(d) *Other means of transportation.* If a campaign traveler uses any means of transportation other than an aircraft, including an automobile, or train, or boat, the campaign traveler, or the political committee on whose behalf the travel is conducted, must pay the service provider within thirty (30) calendar days after the date of receipt of the invoice for such travel, but not later than sixty (60) calendar days after the date the travel began, at the normal and usual fare or rental charge for a comparable commercial conveyance of sufficient size to accommodate all campaign travelers, including members of the news media traveling with a candidate, and security personnel, if applicable.

(e) *Government conveyances—(1) Travel by or on behalf of candidates, their authorized committees, or House candidate Leadership PACs.* If a campaign traveler traveling on behalf of a candidate, an authorized committee, or the leadership PAC of a House candidate uses an aircraft that is provided by the Federal government, or by a State or local government, the campaign traveler, or the political committee on whose behalf the travel is conducted, must pay the government entity, within the time specified by that government entity, *either:*

(i) The pro rata share per campaign traveler of the normal and usual charter fare or rental charge for the flight on a comparable aircraft of sufficient size to accommodate all campaign travelers. The pro rata share shall be calculated by dividing the normal and usual charter fare or rental charge by the number of campaign travelers on the flight that are traveling on behalf of candidates, authorized committees, or House candidate leadership PACs, including members of the news media, and security personnel, if applicable. No portion of the normal and usual charter fare or rental charge may be attributed to any other campaign travelers or any other passengers, except as permitted under paragraph (b)(3) of this section. For purposes of this paragraph, the comparable aircraft need not accommodate any government-required personnel and equipment; or

(ii) The private traveler reimbursement rate, as specified by the governmental entity providing the aircraft, per campaign traveler.

(2) *Other campaign travelers.* When a candidate's authorized committee, or a House candidate's leadership PAC pays for a flight pursuant to paragraph (e)(1) of this section, no payment is required from any other campaign travelers on that flight. Otherwise, a campaign traveler not covered by paragraph (e)(1) of this section, including persons traveling on behalf of a political party committee, separate segregated fund, nonconnected political committee, or a leadership PAC other than a leadership PAC of a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress,

§ 100.93

must pay the government entity, within the time specified by that government entity, either:

(i) For travel to or from a military airbase or other location not accessible to the general public, the lowest unrestricted and non-discounted first-class airfare to or from the city with regularly scheduled first-class commercial airline service that is geographically closest to the military airbase or other location actually used; or

(ii) For all other travel, in accordance with paragraph (c)(3) of this section.

(3) If a campaign traveler uses a conveyance, other than an aircraft, that is provided by the Federal government, or by a State or local government, the campaign traveler, or the political committee on whose behalf the travel is conducted, must pay the government entity in accordance with paragraph (d) of this section.

(f) *Date and public availability of payment rate.* For purposes of paragraphs (c), (d), (e), and (g) of this section, the payment rate must be the rate available to the general public for the dates traveled or within seven (7) calendar days thereof. The payment rate must be determined by the time the payment is due under paragraph (c), (d), (e) or (g) of this section.

(g) *Aircraft owned or leased by a candidate or a candidate's immediate family member.* (1) For non-commercial travel by a candidate, or a person traveling on behalf of a candidate, on an aircraft owned or leased by that candidate or an immediate family member of that candidate, the candidate's authorized committee must pay:

(i) In the case of travel on an aircraft that is owned or leased under a shared-ownership or other time-share arrangement, where the travel does not exceed the candidate's or immediate family member's proportional share of the ownership interest in the aircraft, the hourly, mileage, or other applicable rate charged the candidate, immediate family member, or other service provider for the costs of the travel; or

(ii) In the case of travel on an aircraft that is owned or leased under a shared-ownership or other time-share arrangement, where the travel exceeds the candidate's or immediate family

11 CFR Ch. I (1-1-12 Edition)

member's proportional share of the ownership interest in the aircraft, the rate specified in paragraph (c) of this section (House candidates are prohibited from engaging in such travel); or

(iii) In the case of travel on an aircraft that is not owned or leased under a shared-ownership or other time-share arrangement, the *pro rata* share per campaign traveler of the costs associated with the trip. Associated costs include, but are not limited to, the cost of fuel and crew, and a proportionate share of maintenance costs.

(2) A candidate, or an immediate family member of the candidate, will be considered to own or lease an aircraft under paragraph (g)(1) of this section if the candidate or the immediate family member of the candidate has an ownership interest in an entity that owns the aircraft, provided that the entity is not a corporation with publicly traded shares.

(3) A proportional share of the ownership interest in an aircraft means the amount of use to which the candidate or immediate family member is entitled under an ownership or lease agreement. Prior to each flight, the candidate's committee must obtain a certification from the service provider that the candidate's planned use of the aircraft will not exceed the candidate's or immediate family member's proportional share of use under the ownership or lease agreement. See paragraph (j) of this section for related recordkeeping requirements.

(4) For the purposes of this section, an "immediate family member" of a candidate is the father, mother, son, daughter, brother, sister, husband, wife, father-in-law, or mother-in-law of the candidate.

(h) *Preemption.* In all respects, State and local laws are preempted with respect to travel in connection with a Federal election to the extent they purport to supplant the rates or timing requirements of 11 CFR 100.93.

(i) *Reporting.* (1) In accordance with 11 CFR 104.13, a political committee on whose behalf the unreimbursed travel is conducted must report the receipt of an in-kind contribution and the making of an expenditure under paragraph (b)(2) of this section.

Federal Election Commission

§ 100.94

(2) When reporting a disbursement for travel services in accordance with this section, a political committee on whose behalf the travel is conducted must report the actual dates of travel for which the disbursement is made in the "purpose of disbursement" field.

(j) *Recordkeeping.* (1) For travel on non-commercial aircraft conducted under paragraphs (c)(1), (c)(3)(iii), (e)(1), or (g) of this section, the political committee on whose behalf the travel is conducted shall maintain documentation of:

(i) The service provider and the size, model, make and tail number (or other unique identifier for military aircraft) of the aircraft used;

(ii) An itinerary showing the departure and arrival cities and the date(s) of departure and arrival, a list of all passengers on such trip, along with a designation of which passengers are and which are not campaign travelers or security personnel; and

(iii)(A) The rate for the comparable charter aircraft available in accordance with paragraphs (c), (e) and (f) of this section, including the airline, charter or air taxi operator, and travel service, if any, offering that fare to the public, and the dates on which the rates are based; or

(B) The private traveler reimbursement rate available in accordance with paragraph (e)(1)(ii) of this section, and the dates on which the rate is based.

(iv) Where the travel is aboard an aircraft owned in part by the candidate or an immediate family member of the candidate, the ownership or lease agreement specifying the amount of use of the aircraft corresponding to the candidate's or an immediate family member's ownership interest in the aircraft, as required by paragraph (g)(1)(i) and (ii) and (g)(3) of this section, and the certification required by paragraph (g)(3) of this section.

(2) For travel on non-commercial aircraft conducted under paragraph (c)(3)(i), (c)(3)(ii), or (e)(2)(i) of this section, the political committee on whose behalf the travel is conducted shall maintain documentation of:

(i) The service provider and the size, model, make and tail number (or other unique identifier for military aircraft) of the aircraft used;

(ii) An itinerary showing the departure and arrival cities and the date(s) of departure and arrival, a list of all passengers on such trip, along with a designation of which passengers are and which are not campaign travelers; and

(iii) The lowest unrestricted non-discounted airfare available in accordance with paragraphs (c)(3), (e)(2)(i), and (f) of this section, including the airline offering that fare, flight number, travel service, if any, providing that fare, and the dates on which the rates are based.

(3) For travel by other conveyances, the political committee on whose behalf the travel is conducted shall maintain documentation of:

(i) The service provider and the size, model and make of the conveyance used;

(ii) An itinerary showing the departure and destination locations and the date(s) of departure and arrival, a list of all passengers on such trip, along with a designation of which passengers are and which are not campaign travelers or security personnel; and

(iii) The commercial fare or rental charge available in accordance with paragraphs (d) and (f) of this section for a comparable commercial conveyance of sufficient size to accommodate all campaign travelers including members of the news media traveling with a candidate, and security personnel, if applicable.

[74 FR 63964, Dec. 7, 2009]

§ 100.94 Uncompensated Internet activity by individuals that is not a contribution.

(a) When an individual or a group of individuals, acting independently or in coordination with any candidate, authorized committee, or political party committee, engages in Internet activities for the purpose of influencing a Federal election, neither of the following is a contribution by that individual or group of individuals:

(1) The individual's uncompensated personal services related to such Internet activities;

(2) The individual's use of equipment or services for uncompensated Internet activities, regardless of who owns the equipment and services.