

FAQ on the BCRA and Other New Rules

Federal Election Commission

(Updated February 2005)

Introduction

On March 27, 2002, President Bush signed into law the Bipartisan Campaign Reform Act of 2002 (BCRA). The BCRA contains many substantial and technical changes to the federal campaign finance law. This brochure is not intended to be exhaustive in its explanation of the new law; instead, it offers a brief introduction to the BCRA by answering some commonly asked questions. For detailed information on the provisions of the BCRA, contact the Federal Election Commission at 800/424-9530 or visit the FEC's web site at www.fec.gov.

How Does the BCRA Change the Campaign Finance Law?

In general terms, the major provisions of the BCRA:

- Ban national party committees and federal candidates and officeholders from raising or spending nonfederal funds, i.e., "soft money;"
- Limit and require disclosure of electioneering communications -- so-called "issue ads;"
- Increase certain contribution limits and index them to inflation;
- Strengthen the application of the foreign national ban;
- Modify the definition of "coordination;"
- Increase individual contribution limits and coordinated party expenditure limits for candidates facing an opponent who makes large expenditures from personal funds;
- Require disclaimers on all public communications by political committees; and
- Codify the FEC's rules on use of campaign funds, and permit campaigns to pay candidates a salary.

Many of these changes (and others) are described in greater detail below and in other FEC publications.

How does the BCRA Affect Contribution Limits?

Many limits are now indexed for inflation every odd-numbered year. The contribution limits for 2005-2006 are shown in the chart below:

	To a candidate or candidate committee per election*	To a national party committee per calendar year	To a state party committee per calendar year	To any other political committee per calendar year	Biennial Limit**
Individual may give:	\$2,100 ⁺	\$26,700 ⁺	\$10,000	\$5,000	\$101,400 ⁺
Qualified multicandidate committee*** may give:	\$5,000	\$15,000	\$5,000	\$5,000	N/A
Non-qualified non-multicandidate committee may give:	\$2,100 ⁺	\$26,700 ⁺	\$10,000	\$5,000	N/A

⁺These contribution limits are indexed for inflation.

*Note that contribution limits may be modified in the case of a candidate whose opponent makes expenditures from his or her personal funds above a certain threshold. See 2 U.S.C. 441a(i) and 441a-1.

**Within the \$101,400 overall limit, no more than \$40,000 may go to candidates and no more than \$61,400 may go to any other committee. Of that \$61,400, no more than \$40,000 may be given to committees that are not national party committees.

***A qualified multicandidate committee is a political committee with more than 50 contributors that has been registered for at least six months and, with the exception of state party committees, has made contributions to five or more candidates for federal office.

****A federal candidate's authorized committee(s) may contribute no more than \$2,000 per election to another federal candidate's authorized committee(s). 11 CFR 102.12(c)(2).

Can our campaign committee accept an undesignated \$4,200 check from an individual before the primary?

On its face, this contribution exceeds the donor's \$2,100 limit for the primary election. However, new FEC regulations allow campaign committees to resolve this problem by automatically redesignating the excessive portion to the general election if the contribution:

- Is made before the candidate's primary election;
- Is not designated in writing for a particular election;
- Would be excessive if treated as a primary election contribution; and
- As redesignated, does not cause the contributor to exceed any other contribution limit. 11 CFR 110.1(b)(5)(ii)(B)(1)-(4).

While advance authorization is no longer necessary under the above conditions, the campaign committee must notify the contributor of the redesignation by paper mail, e-mail, fax or other written method within 60 days of the treasurer's receipt of the contribution. Also, at the time of notification, the contributor must be given the opportunity to request a refund. For more details, please consult the FEC's *Contributions* brochure. 11 CFR 110.1(b)(5).

Do I still need two signatures on a joint contribution check?

If your committee receives a single-signature check that has more than one name printed on it and that exceeds the individual donor's limit, FEC rules now allow you to apply the permissible portion to the signer of the check and to reattribute the excessive portion to the other individual whose name appears on the check. Note, however, that the reattribution must not cause either contributor to exceed the contribution limits. Also, your committee must notify the contributors of the reattribution by paper mail, e-mail, fax or other written method within 60 days of your committee treasurer's receipt of the check, and must offer the option of a refund. For more information, please consult the FEC's *Contributions* brochure. 11 CFR 110.1(k)(3)(ii).

How does the \$101,400 biennial limit work?

The former \$25,000 overall annual contribution limit for individuals has been replaced by a biennial limit which spans the two-year period from January 1 of an odd-numbered year to December 31 of the next even-numbered year. The limit for 2005-2006 is \$101,400. Under the biennial limit, individuals may contribute up to \$40,000 to candidate committees and up to \$61,400 to any other committees. The \$61,400 portion of the limit contains a further restriction, in that no more than \$40,000 of this amount may be given to committees that are not national party committees. For more details, please consult the FEC's *The Biennial Contribution Limit* brochure. 11 CFR 110.5.

How does BCRA affect the prohibition on foreign nationals making contributions?

The BCRA prohibits any person from knowingly soliciting, accepting or receiving a contribution or a donation from a foreign national in connection with a federal, state or local election, or made to a political party committee. Foreign nationals continue to be prohibited from making contributions, expenditures or donations and from taking part in any decisions about contributions to candidates or committees, or about expenditures made in support of or opposition to such candidates or committees. They also continue to be prohibited from involvement in the management of any political committee. For more details, please consult the new rules for accepting contributions and the FEC's *Foreign Nationals* brochure. 11 CFR 110.20.

How Does the BCRA Affect Party Committees?

Federal Election Activity

Under the BCRA, certain types of activities are classified as "federal election activity" (FEA). As used in the statute and in 11 CFR Part 300, FEA includes any of the following activities conducted by a state, district or local party committee, or an association of state or local candidates/officials:

- Voter registration activity within 120 days before a regularly-scheduled federal election;
- Voter identification, generic campaign activities and get-out-the-vote activities that are conducted in connection with an election in which one or more candidates for federal office appear on the ballot (regardless of whether state or local candidates also appear on the ballot).
- A public communication that refers to a clearly-identified federal candidate and that promotes, supports, attacks or opposes any federal candidate; and
- Services provided by an employee of a state, district or local party committee who spends more than 25 percent of his or her compensated time during that month on activities in connection with a federal election.

11 CFR 100.24(b).

The BCRA prohibits the use of nonfederal funds (often called "soft money") to pay for these activities, and requires that some FEA be financed only with federal funds, although other types of FEA may be paid for with a mix of federal funds and a new category of funds, called "Levin Funds" (see below).

Levin Funds

The BCRA created a new category of funds for state, district and local party committees, called "Levin" funds that may be used to pay for certain federal election activities. If state law permits, individuals, PACs, corporations and labor unions may each donate up to \$10,000 per year in Levin funds to state, district and local parties. The committees must use federal or Levin funds to raise Levin funds and may spend only those Levin funds that they raise themselves. The funds may only be used for certain expenses related to the first two categories of federal election activity, listed above (i.e., voter registration and voter identification/generic campaign/get-out-the-vote activities). The parties may not use Levin funds to finance public communications or to pay the salaries of employees who spend more than 25 percent of their compensated time on federal elections. National party committees may not raise or spend Levin funds. For more information, consult the FEC's detailed regulations for the raising and spending of Levin funds and the FEC's *Local Party Activity* brochure. 11 CFR 300.32(b) and (c).

How Does the BCRA Affect Political Action Committees (PACs)?

In general, the BCRA does not affect the activities of political action committees. Aside from the contribution limit increases for non-multicandidate PACs and the new disclaimer requirements for public communications, most regulations relating to PACs remain unchanged.

Does the BCRA “Soft Money” Ban Affect Federal Candidates’ Involvement in State Elections?

Yes. For instance, under new 11 CFR 300.62, federal candidates and officeholders can only solicit, receive, direct, transfer, spend or disburse funds in connection with a nonfederal election in amounts and from sources that are consistent with both state law and the Act's limits and prohibitions. There are certain exceptions, however, some of which are described below.

State or Local Party Fundraiser

A candidate may attend, speak or be a featured guest at a fundraising event for a state or local party committee, including an event at which Levin funds or nonfederal funds are raised. At such events the candidate may speak without restriction. Also, a state or local committee may advertise (through pre-event invitation materials and other party communications) that the candidate will appear at the event. 11 CFR 300.64.

State or Local Candidate Fundraiser

A federal candidate or officeholder may attend, speak or be a featured guest at a state or local candidate fundraiser.

When involved in such events, the candidate or officeholder may only ask for funds in amounts and from sources that are both consistent with state law and not in violation of the Act's limits and prohibitions. The candidate or officeholder must provide an oral disclaimer or written notice at the event indicating that he or she is only soliciting federally permissible funds. The Commission has approved the following safe harbor disclaimer:

“I am asking for a donation of up to \$2,000 [the 2005-06 limit is \$2,100] per election from an individual’s own funds [or up to \$5,000 per election from a multicandidate political committee or a political party committee]. I am not asking for funds from corporations, labor organizations”

See AO 2003-3.

Can federal candidates raise funds for non-profit organizations?

Yes; however, the permissible amounts and sources that a candidate may solicit differ depending on the extent to which the organization engages in activities in connection with a federal election, including federal election activity (FEA). The funds solicited by the candidate may not be used to pay for any FEA other than voter registration, voter identification, get-out-the-vote activity and generic campaign activity. 11 CFR 300.65.

What are "electioneering communications?"

The BCRA includes new provisions regarding certain broadcast, cable and satellite communications, called "electioneering communications." As defined in FEC regulations, electioneering communications refer to a clearly identified candidate and are distributed to the relevant electorate within 60 days prior to the general election or 30 days prior to a primary. Individuals or groups other than FEC-registered political committees may make electioneering communications; however, corporations (except qualified non-profit corporations) and labor organizations are prohibited from making or funding electioneering communications. There are special reporting requirements for electioneering communications aggregating over \$10,000. For more information, please consult the FEC's *Electioneering Communications* brochure. 11 CFR 100.29 and 104.20.

What are the New Requirements for Disclaimer Notices?

Under the BCRA, all "public communications" by political committees must include a clear and conspicuous disclaimer indicating who paid for the communication and whether or not it was authorized by a candidate. Communications not authorized by a candidate must include the contact information (street address, phone number or world wide web address) of the person or committee responsible. FEC regulations define "public communications" as any cable, satellite or broadcast communication, newspaper, magazine, billboard, poster, mass mailing or phone bank (more than 500 pieces/calls that contain the same basic communication within 30-day period), or any other form of general public political advertising. The new rules also provide specific standards that must be met for a disclaimer to be considered clear and conspicuous.

In addition to these changes, candidates and committees are now required to "stand by their ads." Specifically, television and radio communications that are authorized by a candidate must feature the voice (and image for TV) of the candidate identifying himself or herself and stating that he or she has approved the communication. Similar rules apply to unauthorized communications aired by others. For more information, please consult the brochure, *Special Notices on Political Ads Solicitations*. 11 CFR 110.11.

Questions about Reporting

How do I report activity required to be disclosed under the BCRA?

The BCRA imposes a number of new reporting requirements, and the Commission has updated its electronic filing software and reporting forms to facilitate the necessary disclosure. Both the new forms and updated software are available on the FEC web site.

Does the BCRA change my reporting schedule?

Yes, if you are a House or Senate candidate or a political party committee. See the chart below.

Type of Committee	Does the BCRA change my reporting schedule?	If yes, what has changed?
House and Senate Candidate Committees	YES	Congressional campaign committees registered with the FEC must file on a quarterly basis every year. These committees may no longer file on a semiannual basis in non-election years. 11CFR 104.5(a).
Presidential Candidate Committees	NO	
National Party Committees	YES	Committees of national parties must file on a monthly schedule. These committees may no longer change their filing frequency. 11 CFR 104.5(c)(4).
State, Local and District Party Committees	YES	Any state, local and district party committees that engage in reportable "federal election activity" must file monthly. 11 CFR 300.36(c)(1).
Political Action Committees	NO	