



FEC Guidelines for DEC's Not Registered with the FEC

The below guidelines are a brief overview of common DEC activities regulated by the Federal Election Commission (FEC).

The FEC requires DEC's to:

- register and file reports with the FEC if the DEC exceeds certain dollar thresholds related to federal elections.
- only spend permissible funds to support federal candidates or engage in "federal election activity."

Because of these requirements, DEC's should monitor money raised and spent in connection with federal elections.

Financial Thresholds

To avoid the need to register with the FEC, DEC's cannot exceed the following thresholds:

- \$1,000 in contributions or expenses for federal candidates or federal committees, including:
 - direct and in-kind contributions
 - loan to candidate's campaign
 - expenses for fundraising activity for candidates
 - advertising that does not meet "exempt party activity" requirements below
 - contributions to FDP Federal account
- \$5,000 in contributions solicited or received for the specific purpose of influencing federal elections or to support or oppose a clearly identifiable federal candidate.
- \$5,000 in exempt party activity expenses (see below for more details on exempt party activities).

The above amounts are in aggregate per calendar year. A DEC that exceeds any of the above thresholds must register with the FEC within 10 days. Once filed as a local party committee with the FEC, the DEC has FEC reporting requirements and higher contribution and expense thresholds, but all contributions and expenses are aggregated with FDP and any other FL local party committees.

Exempt Party Activities

The FEC defines three types of activities that mention federal candidates but are not considered contributions to the candidates.

1. Sample Ballots and Slate Cards.
 - a. Must include at least three candidates. Non-federal candidates can be counted toward three candidate requirement.
 - b. Information provided is limited to candidate name, party affiliation, office sought, current office, and photo. (Note, if you would like to include additional candidate information, see below guidelines for campaign materials.) Persons distributing slate cards or sample ballots can discuss candidate bios or positions.
 - c. Does not have to be distributed by volunteers. Can be direct mailed through commercial vendor.

- d. Cannot be advertised in newspapers, magazine, television, radio, or billboards/outdoor ads (advertising through these means makes the expense a contribution or independent expenditure, counting toward the \$1,000 contribution/expenses threshold).
- 2. Campaign Materials.
 - a. Includes pins, bumper stickers, yard signs, brochures, and posters.
 - b. Materials must be distributed by volunteers. No broadcast or print advertising. If a commercial mail house is used for direct mail, there should be some volunteer component of the mailing and the mailing list cannot be purchased.
- 3. Voter Registration and GOTV Activities for Presidential/Vice Presidential Candidates.
 - a. Includes expenses for Presidential candidate rally.
 - b. Communications cannot be distributed through direct mail, TV, radio, newspaper, or billboards/outdoor ads.
 - c. Phone banks, voter registration activities, and distribution of materials must be conducted by volunteers (paid staff may design the phone bank and train & supervise volunteers).
 - d. References to U.S. House and Senate candidates must be incidental to overall activity or U.S. House or Senate candidate must pay share of costs from candidate's campaign account (voter registration and GOTV expenses for U.S. House and Senate candidate are contributions, counting toward the \$1,000 contribution/expenses threshold).
 - i. If U.S. House or Senate candidate pays for share of mailer, a not-for-profit mail rate cannot be used.

If your piece includes both federal and non-federal candidates, only the portion of the expense allocable to the federal candidates counts toward the \$5,000 annual threshold. You can either use the percent of candidates or percent of space in calculating the allocable portion.

Exempt activities must happen after the Primary Election, unless the prospective nominee does not have a primary opponent.

Federal Election Activity

The Bipartisan Campaign Reform Act (BCRA) requires that only "federal funds" be used to support federal candidates or to engage in "federal election activity" (FEA). There are four types of FEA:

- 1. Voter Registration Activity during the 120 days before a federal election.
- 2. GOTV and Generic Campaign Activities, including voter identification, conducted in connection with an election with a federal candidate on the ballot during the period between the candidate filing deadline and the election.
 - a. Campaign materials that are not public communications (yard signs, bumper stickers, brochures) that only reference state and local candidates are not FEA.
 - b. Activities targeted toward a state or local election that is held on a different day than the federal election (i.e. a separate municipal election) is not FEA if it refers exclusively to non-federal candidates.
- 3. Public Communications that promotes, supports, attacks, or opposes any federal candidate regardless of timing.
 - a. Public Communications is via tv, radio, newspaper, magazine, billboard/outdoor ad, direct mail of 500+ pieces, or phone bank of 500+ similar calls within 30 days.
 - b. Communication via the Internet is not considered a public communication unless it is placed for a fee on another person's website.
 - c. Voter drive materials can include current federal office holders prior to the office holder filing a Statement of Candidacy and not be considered FEA as long as the materials don't reference any election.

4. Paid staff services for activities in connection with a federal election when the employee spends **more than 25%** of his or her compensated time during that month on activities in connection with a federal election.

There are no spending limits on FEA that does not promote, support, attack, or oppose any federal candidate. Generic FEA activity can say “Vote Democrat,” “Support the Democratic ticket,” or use Democratic issues or themes without mentioning or picturing a specific candidate.

Federal Funds

The BRCA specifies how various types of FEA must be paid for.

Activity	Levin Funds	Federal Funds
FEA: Voter Registration Activity	✓	✓
FEA: GOTV & Generic Campaign Activities	✓	✓
Activities that refer to a clearly identified federal candidate, including FEA: Public Communications, contributions to federal candidates, voter ID activity that mentions federal candidate, and issue ads		✓
FEA: Paid staff services		✓
Fundraising expenses to raise funds for FEA	✓	✓

In general, “federal funds” are contributions from individuals, partnerships, unincorporated sole proprietorships, and federal PACs. “Federal funds” cannot come from the following sources:

- National banks (also prohibited at state & local level)
- Corporations, labor organizations, and trade associations (federal PAC funds allowed)
- 501(c)3 organizations (also prohibited at state & local level)
- Federal government contractors
- Foreign nationals (also prohibited at state & local level; green card holders may contribute)
- Contributions made by one person in the name of another (also prohibited at state & local level)
- Contributions in excess of \$10,000 per donor per calendar year

A limited liability corporation (LLC) that elects federal tax treatment as a partnership is treated as a partnership. If the LLC elects corporate tax treatment, then contributions from the LLC are not “federal funds.”

When an activity includes both federal and non-federal candidates, only the portion of the expense allocable to the federal candidate(s) must be paid with “federal funds.” The following are examples of shared expenses that may be allocated between federal and non-federal funds:

- Campaign materials that include both federal and non-federal candidates
- Administrative expenses including rent, utilities, office equipment, office supplies, etc.
- Salaries and benefits for staff spending less than 25% of compensated time in a month on activities related to federal activity
- Fundraising expenses

DECs must have accounting procedures in place to ensure only “federal funds” are spent on activities related to federal elections. These records must be kept for three years and made available to the FEC for examination upon request.

“Levin” funds are those permitted by state law but not considered “federal funds.” These include up to \$10,000 per year per donor from the following:

- Corporations, labor organizations, and trade associations
- American subsidiaries of foreign national corporations, as long as no foreign national is involved in the contribution decision
- Federal government contractors

Only “federal funds” and “Levin” funds can be used to raise “Levin” funds. “Levin” funds cannot be used for radio or tv communications, unless the communication refers exclusively to state and local candidates.

Disclaimers

Federal disclaimers are required for any of the following that expressly advocates the election or defeat of a clearly identified federal candidate or solicits funds in connection with a federal election:

- Public communications
 - TV, radio, newspaper, magazine, billboard/outdoor ad, direct mail of 500+ pieces, phone bank of 500+ similar calls within 30 days, or Internet ad (unless link is provided to website that has disclaimer)
- Emails of 500+ with substantially similar content
- Electioneering communications
 - Radio or TV ad that refers to a federal candidate within 30 days of Primary or within 60 days of General Election
- Any other general public political advertising

For printed communications the disclaimer must be clearly readable. Guidelines include:

- Have font size of 12 point or larger for materials up to 24” x 36”
- Be contained inside a printed box set apart from the other contents of the communication
- Be printed with a reasonable degree of color contrast between the background and statement (i.e. the same color contrast as largest text or black text on white background)

Materials that include federal and non-federal candidates must include both state and federal disclaimers.

The disclaimer wording differs based on the message, the type of communication, who is paying for it, and whether it was coordinated with or approved by a candidate’s campaign.

Please send drafts of your slate cards to PartyAffairs@FloridaDems.org for review by legal counsel.

Federal disclaimers are not required for:

- Small items where the disclaimer cannot conveniently be printed (bumper stickers, pins, buttons, pens, etc.)
- Advertising where inclusion of disclaimer is impractical (sky writing, water towers, apparel, etc.)
- Administrative items (checks, receipts, etc.)
- Small Internet ads if a hyperlink to a website is provided and the website has the proper disclaimer

For more details about FEC requirements for DEC’s not registered with the FEC, see [FEC Local Party Activity Brochure](#) and [Information for Local Party Committees Not Registered with the FEC](#).