# Nonprofits: Rules for Participating in Federal Election Activities

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**Q: My association is interested in making contributions to candidates running for U.S. Congress. Can we do that?**

**A:** Trade associations, professional societies, charities and labor organizations, along with all other types of corporations, are prohibited from making contributions to or expenditures on behalf of candidates running for U.S. Congress by the Federal Election Campaign Act. However, there are other ways a not-for-profit corporation may legally participate in federal elections.

The Act specifically allows nonprofits to form "political committees," which are allowed to make contributions to and expenditures on behalf of federal candidates and other political committees. The Act refers to those political committees as "separate segregated funds." However, they are more commonly known as "political action committees". While a PAC is allowed to make contributions and expenditures in connection with federal elections, its affiliated nonprofit is not. Therefore, it is essential for nonprofits to understand how the Act defines the term "contribution."

A contribution is anything of value given to influence a federal election. Contributions are not just monetary gifts, but include: loans and guarantees of loans, gifts of goods and services, and provision of gifts and services offered at less than the usual charge. Organizations must be careful not to violate the Act by making prohibited contributions to a campaign or candidate.

A 501(c)(6) tax-exempt corporation interested in engaging in federal election activities may form and sponsor a PAC, and use its own funds to pay for the costs of operating and raising money for the PAC. For example, a sponsoring 501(c)(6) may pay for the expenses associated with setting up, administering and raising money for its PAC. Specifically, it may pay the PAC's operating costs, including the cost of office space, phones, salaries, utilities and supplies, and such payments are not required to be reported to the Federal Election Commission—the agency that administers and enforces the Act.

Alternatively, the PAC may use its own funds to pay its operating costs, or a sponsoring 501(c)(6) organization may reimburse the PAC for operating expenditures, provided that the reimbursement is made within 30 days of the PAC's disbursement. Those reimbursements must be reported to the FEC. While the Internal Revenue Code prohibits 501(c)(3) tax-exempt organizations from directly or indirectly participating in any political campaign on behalf of (or in opposition to) any candidate for elected public office, a 501(c)(3) can form a separate, but affiliated 501(c)(6) organization to conduct political activities without risking the 501(c)(3)'s tax-exempt status.

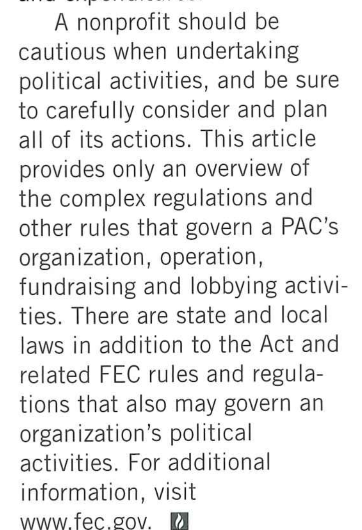
Once a PAC is formed, it must register with the FEC and comply with the Act and all applicable FEC rules and regulations. For example, a nonprofit that maintains a PAC must ensure that it does not commingle its funds with the funds of its PAC. Any funds that a nonprofit uses to pay the administrative expenses of its affiliated PAC must be paid directly to vendors or must be deposited into a special account that is used exclusively to pay for the PAC's establishment, solicitation and administration costs.

In addition, a nonprofit may not reimburse individuals or employees who make contributions to an affiliated PAC. Further, it may not allow a PAC to use its premises, food services and mailing lists free of charge. It must receive advanced payment equal to the fair market value of such goods or services. Also, PACs must comply with numerous rules and regulations, including disclosure requirements, in connection with their making and accepting contributions.

The Act places a number of restrictions on how much money a PAC may contribute to a candidate for federal office, and how much money individuals may contribute to a PAC. There also are restrictions on who a PAC may solicit for contributions and what types of contributions a PAC may accept. For example, the Act requires that all contributions made to a PAC be voluntary. Therefore, a nonprofit may not require its members, volunteers or employees to contribute to its affiliated PAC, and a PAC may not use or accept any portion of membership dues received from members of its sponsoring organization if the members are required to pay such dues in order to be a member of the organization.

A PAC's sponsoring organization may, however, include a place for membership dues or conference registration forms where members may indicate their intent to make a voluntary contribution to the organization's affiliated PAC.

Another way a nonprofit may legally participate in federal election activities is to form a tax-exempt organization under Section 527 of the Internal Revenue Code for the purpose of influencing the selection, nomination, election, appointment or defeat of candidates. Such organizations are not regulated under the Act so long as they do not "expressly advocate" for the election or defeat of a candidate or party. There are no upper limits on contributions to 527 organizations and no restrictions on who may contribute. While there are no spending limits imposed on 527s, they must register with the IRS, publicly disclose donors and file periodic reports of contributions and expenditures.



A nonprofit should be cautious when undertaking political activities, and be sure to carefully consider and plan all of its actions. This article provides only an overview of the complex regulations and other rules that govern a PAC's organization, operation, fundraising and lobbying activities. There are state and local laws in addition to the Act and related FEC rules and regulations that also may govern an organization's political activities. For additional information, visit www.fec.gov.

*The answers provided here should not be construed as legal advice or a legal opinion. Consult a lawyer concerning your specific situation or legal questions.*