

**Guidelines to comply with campaign finance regulations by the
Internal Revenue Service,
Federal Election Commission &
State Ethics Commission of Georgia**

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The following information is meant to provide general compliance guidelines based on current Federal and State campaign finance regulations. It is not a replacement for reference information regarding political parties and campaign finance laws provided by the appropriate regulatory agencies. We strongly recommend you research the regulations affecting your specific situation and act accordingly.

INTRODUCTION

Since 2002, there have been significant changes in Federal campaign finance laws. The most important development is Congressional passage of the Bipartisan Campaign Reform Act of 2002, better known as BCRA. In December 2003, the U.S. Supreme Court upheld the new law virtually in its entirety when it announced its opinion in McConnell v. FEC.

This document will attempt to introduce the reader to enough information to know-how and where to get additional information to properly comply with Federal and Georgia laws governing a political party's financial activities.

Three regulatory agencies govern political parties in Georgia regarding campaign finance:

- Internal Revenue Service
- Federal Election Commission
- Georgia State Ethics Commission.

Each of these agencies provides information by Internet and hardcopy documentation by mail. The respective agency's documentation and website should be your primary source for compliance information. A list of the agencies' websites is included in this document.

Internal Revenue Service

Political parties are **not** non-profit entities. They must file and pay taxes on their taxable income; however, their most common sources of funding are tax exempt. If their taxable income exceeds one hundred dollars (\$100), political parties must file Form 1120-POL. The IRS considers the following sources of income tax exempt: contributions, membership dues, political fundraising events, sale of campaign materials and bingo. If the party engages in the sale of political materials or bingo as a trade or business those revenues, become taxable income. NOTE: bingo has special protection under the law, but raffles are not exempt income unless as a component of a political fundraising event.

Political parties should have a Federal employer identification number whether they have employees or not. If there are paid employees, political parties must file and report employment taxes, as would any other employer.

Political parties are considered Section 527 entities and under Public Law 106-230 (July 1, 2000), must file and report to the IRS when annual contributions or expenses are expected to exceed \$25,000. Parties are exempt this requirement if they regularly report campaign disclosures to the FEC or similar state regulatory agency.

Solicitations for contributions or other fund raising materials must include a separate and distinct disclaimer that contributions are not tax deductible as charitable contributions. Small organizations (less than \$100,000 annual) are exempt.

Federal Election Commission

The Federal Election Commission (FEC) has the responsibility for interpreting and enforcing compliance with Federal election law. With the passage of BCRA, State and local party activity on behalf of or involving Federal candidates is more likely to lead to FEC registration and reporting requirements.

Among the number of areas where BCRA affects political parties:

1. National parties (the Republican National Committee, the National Republican Senatorial Committee, and the National Republican Congressional Committee) may not solicit, receive, direct to another person, or spend non-federal funds.
2. “Non-federal funds” are funds not regulated by federal law. That means they are funds legally received under State law, but not permissible under Federal law. They are typically known as “soft money” and cannot be used for Federal election activities or contributed to Federal candidates and officeholders.
 - a. “Federal funds” are funds from contributions made within the limits provided for by Federal law. Federal funds are contributions from permissible sources, such as individuals, Federal political action committees and other Federal registered political committee.

Federal law prohibits contributions from:

- i. Corporations;
- ii. Labor organizations;
- iii. Federal contractors;
- iv. Foreign nationals;
- v. Federally chartered corporations; and
- vi. National banks.

3. Federal law also prohibits the following contributions:
 - a. Contributions in the name of another (individuals cannot be reimbursed for their contributions);
 - b. Contributions in excess of the amounts allowed under federal law (see chart);
 - c. Cash contributions over \$100; and
 - d. Anonymous contributions over \$50.

See the attached chart for Federal contribution limits.
4. New regulations restrict, and in some cases prohibit, the solicitation and use of non-federal funds by Federal candidates and Federal officeholders. Federal candidates and officeholders can only solicit, receive, direct, transfer, spend, or disburse funds in connection with non-federal election in amounts and from sources that are both consistent with state law and not in excess of Federal limits and prohibitions. Federal candidates and officeholders, however, may attend, speak, or be a featured guest at a fundraising event for a State, district, or local political party committee.
5. A district and local party must register and report to the FEC if it meets one of these tests:
 - a. Makes over \$1,000 in Federal contributions and expenditures during a calendar year;
 - b. Receives contributions for the purpose of influencing Federal elections over \$5,000 in a calendar year; or
 - c. Pays for over \$5,000 in exempt activity or Federal Election Activity (“FEA”) in a calendar year.
6. **It is strongly recommended that district and local party committees avoid triggering FEC registration and reporting obligations because of the burdensome, on-going requirements of FEC rules.**
7. Federal Election Activity (“FEA”) is defined as:
 - a. Voter registration within 120 days of a Federal election.
 - b. Voter identification, generic campaign activities and generic get-out-the-vote (GOTV) activities related to a Federal election. A Federal election is defined as any election where a Federal candidate is on the ballot.

- c. Public communications that promotes, supports, attacks or opposes a clearly identified Federal candidate or candidates. “Public communication” is defined by the law to mean communications by broadcast, cable, satellite, newspaper, magazine, outdoor facility, mass mailing, or telephone bank.
 - d. Services provided by a State, district or local party employees, who in a month spend more than 25% of their compensated time on activities in connection with Federal elections.
8. FEA counts towards a party organization’s \$5,000 Federal registration threshold:
- a. FEA examples:
 - i. Printing and/or distributing absentee ballots
 - ii. Contacting registered voters by phone bank, door-to-door or other individualized means to identify voters or encourage voters to get-out-the-vote.
 - iii. Providing transportation to the polls
 - iv. Creating or enhancing voter lists
9. FEA does not include:
- a. Public communications referring solely to State and/or local candidates.
 - b. Donations to a state or local candidate, unless the donation is designated to be used by the candidate for Federal Election Activities.
10. Generally, state, district and local parties must use Federal funds for FEA. Under certain conditions, the costs of FEA maybe allocated between Federal funds and Levin funds.
11. Levin funds are funds, which may be raised from individuals from corporations and labor unions. For individuals, this would be in addition to and beyond their Federal limit, nor does it count against their cumulative personal Federal limit. The Levin fund contribution annual limit is \$10,000. They must be “home grown” -- raised by the party -- and cannot be transferred between political parties. (Side note: Federal funds are allowed to be transferred without limit between political parties.) Levin funds may be used to pay for all or part of certain FEA, but the activity may not refer to a clearly identified federal candidate or fund radio or TV ads. Consult FEC publications for more guidance in this area.
12. Please note that state and local party candidate advertisements featuring Federal candidate endorsements may result in prohibited in-kind contributions under BCRA. The FEC has held that radio, TV, and print endorsement advertisements for state and local candidates featuring Federal candidates or officeholders may amount to in-kind contributions to the Federal candidate or officeholder. It is difficult to provide general advice with respect to these advertisements, but the wording and timing of such endorsements must be carefully reviewed before distribution to insure compliance with the new law.

FEDERAL CONTRIBUTION LIMITS

FROM: \ <i>TO:</i>	<i>Candidate Committee</i>	<i>PAC</i>	<i>State, District, & Local Party</i>	<i>National Party Committees</i>	<i>Special limits</i>
Individual	\$2,000 per election	\$5,000 per year	\$10,000 per year (Combined)	\$25,000 per year	\$95,000 Combined Bi-annual (\$37,500 to Candidates/ \$57,500 to PACs & Parties)
State/district/local Party (shared combined limit)	\$5,000 per election (combined)	\$5,000 per election (combined)	Unlimited transfers	Unlimited transfers	
National Party	\$5,000 per election	\$5,000 per year	Unlimited transfers	Unlimited transfers	\$35,000 to Senate candidate per each campaign
PAC multicandidate	\$5,000 per election	\$5,000 per year	\$5,000 per year combined	\$15,000 per year	
PAC non-multicandidate	\$2,000 per election	\$5,000 per year	\$10,000 per year combined	\$25,000 per year	

State Ethics Commission of Georgia

The State Ethics Commission of Georgia has the responsibility for interpreting and enforcing compliance with Georgia's Ethics Law. The Secretary of State's Office is designated as where the public may file papers or correspond with the Commission and receive any form or instruction from the Commission.

Political committees are required to register with the Georgia Secretary of State when both of the following two things occur:

- **Make contributions to two or more entities. The definition of entities includes candidates, campaign committees, political action committees and political organization committees.**
- **Make total contributions exceeding \$5,000**

Once required to file, political committees must file disclosure reports with the appropriate authority based on who received the contributions.

- State-wide/state senate/state house – send to the Secretary of State.
- County – send to the county election superintendent.
- Municipal – send to the municipal clerk.
- If contributions are made to state and local entities, complete reports have to be sent to all appropriate authorities.

If required to file, political committees are required to electronically file campaign contribution reports with the appropriate authority. Once reports are filed, reports are required for all remaining reporting dates in the election cycle.

Disclosure reports must include all contributions and expenditures received during the reporting period.

- Detail donor information is required when their annual aggregate total contribution equal or exceeds \$101.
- Detail payee information is required when the annual combined expenditures equal or exceed \$101.
- Summary totals are reported for the cumulative amount of all individual contributions received or expenditures made which for the donor's or payee's annual aggregate are made less than \$101.

Campaign funds may be in monies or in-kind goods or services. Authorized sources are broader than with Federal funds. These funds are commonly called soft money or non-Federal funds:

Funds allowed by State law.

- e. Contributions from individuals exceeding Federal limits
- f. Contributions from corporations
- g. Contributions from labor organizations
- h. Contributions from Federal contractors

Funds prohibited by State law:

- a. Contributions from Foreign nationals
- b. Contributions from Federally chartered corporations
- c. Contributions from National banks
- d. Contributions in the name of another
- e. Cash contributions over \$100
- f. Anonymous contributions over \$50

Contributions may be made in monies or in-kind expenditures for goods or services. Generally, BCRA does not cover contributions to state or local candidates or candidate committees, unless the communications refer to a Federal candidate or constitute Federal Election Activity.

Contributions to statewide candidate or candidate committee are limited as follows:

- \$5,000 for primary election
- \$3,000 for primary run-off election
- \$5,000 for general election
- \$3,000 for general election run-off

Contributions to candidate or candidate committee for the General Assembly or public office other than statewide are limited as follows:

- \$2,000 for primary election
- \$1,000 for primary run-off election
- \$2,000 for general election
- \$1,000 for general election run-off

NOTE: Georgia election law requires that individuals who make total contributions exceeding \$25,000 annually must file with the Georgia Secretary of State. Other entities must report if making contributions exceeding \$5,000. Many contributors may not be aware of this requirement.

GEORGIA CONTRIBUTION LIMITS

TO: FROM:	<i>General Assembly & Local Candidate Committee</i>	<i>State wide Candidate Committee</i>	<i>PAC</i>	<i>State, District, & Local Party</i>	<i>Special Comment</i>
Individual Sole Proprietor Partnership Sole proprietor is treated as donation by the individual Partnership is deemed to be made pro rata by partners as individuals	\$2,000 per primary \$1,000 per primary runoff \$2,000 per general \$1,000 per general runoff	\$5,000 per primary \$3,000 per primary runoff \$5,000 per general \$3,000 per general runoff	No limit	No limit	
Candidate Committee Affiliated Committee	See above	See above	No limit	No limit	
National Party State Party District Party Local Party	See above No limit on expenditure for slate or multiple candidates	See above No limit on expenditure for slate or multiple candidates	No limit	No limit	Register & report if contribution to 2 or more & over \$5,000
PAC, Club	See above	See above	No limit	No limit	See above
Corporation Limited Partnership Labor Union Trust	See above	See above	No limit	No limit	See above

FAQ – Frequently Asked Questions

General questions:

1. What are the donation limits to a county/district party that is not registered with the FEC as a Federal political committee? Is that per cycle? Are limits different for individuals and corporations?

- Contributions taken may trigger the requirement to register with the Georgia Secretary of State and/or the FEC, depending on the circumstances.
- Georgia makes no distinction between individuals and corporations.
- Georgia law does not limit contributions to political parties.
- **It is strongly recommended that district and local party committees avoid triggering FEC registration and reporting obligations because of the burdensome, on-going requirements of FEC rules.**

2. How much can county/district parties give to candidates? Or expenditures for candidates? Are there any limits on expenditures for multiple candidates? Are those limits per election cycle?

- The limit for contributions to general assembly and local candidates is:
\$2,000 per primary and \$1,000 per primary runoff
\$2,000 per general and \$1,000 per general runoff
- The limit for contributions to statewide candidates is:
\$5,000 per primary and \$3,000 per primary runoff
\$5,000 per general and \$3,000 per general runoff
- The limit for contributions to Federal candidates is:
\$5,000 per primary and \$5,000 per primary runoff
\$5,000 per general and \$5,000 per general runoff
Permissible Federal funds must be used; There is one combined limit for state, district and county parties; and Contributions to Federal candidates over \$1,000 will trigger FEC registration and reporting requirements.
- Expenditures on behalf of state candidates are in-kind contributions to the candidate under Georgia law subject to the contribution limitations noted above.
- Expenditures for multiple state candidates.
There is no limit under State Law
Contribution limits are for the specific election. (i.e. primary, general and runoffs).

3. Is there anything a local party can do for federal candidates without triggering FEC registration and reporting requirements?

No. Because such activity could trigger a requirement for the county organization to register and report with the FEC as a federal political committee, district and county party organizations should be cautious in undertaking such activity.

4. If the County Party is considered a subsidiary of the State Party for Federal purposes, does that make us subsidiaries for State purposes as well?

No, Georgia Ethics in Government Act defines that each county and state party are distinct separate political committees. If the county or district party crosses hurdles triggering reporting, they must register and file with the appropriate agency.

5. If we are subsidiaries, can we get the same Postal designation and rate as State Party gets for bulk mailings?

No, the U.S. Post Office does not consider the districts or counties to be subsidiaries. The permit was issued specifically to the Georgia Republican Party and sharing a postal permit is a violation of Federal Postal law.

6. Should County Parties incorporate or do a PAC and under what circumstances?

- No, the Georgia Republican Party is not incorporated. It functions under authority of Georgia Election laws related to political parties. County and district parties are organized and governed by the rules of the Georgia Republican Party.
- PAC is an incorrect term for a political party. The proper term is political committee. County and district parties are required to register with the Secretary of State as state political committees when they do two things.
 - i. Give an aggregate of more than \$5,000
 - ii. Give to two or more candidates and/or committees (including other political parties)

Once they do both of these, they must make disclosure reports to the Secretary of State and/or local superintendent of elections until the end of the election cycle.

Questions regarding BCRA:

1. Web Site Questions.

Can the Party web site include announcements of political events (including fund raising events) of individuals seeking Federal office and/or their respective campaigns?

Yes.

Can the Party web site include links to the web sites of individuals seeking Federal office and/or their respective campaigns?

Yes.

2. Periodic Internet Distributed Information Bulletin Questions

Can the Party periodic Internet distributed information bulletin include announcements of political events (including fund raising events) of individuals seeking Federal office and/or their respective campaigns?

Yes.

Can the Party periodic Internet information bulletin include links to the web sites of individuals seeking Federal office and/or their respective campaigns?

Yes.

3. Periodic Hard Copy Newsletter Questions

Can the Party periodic hard-copy newsletter include announcements of political events (including fund raising events) of individuals seeking Federal office and/or their respective campaigns?

Yes, but if this activity mentions federal candidates, it may amount to activity counting toward federal political committee status.

Can the Party periodic hard-copy newsletter include web sites addresses of individuals seeking Federal office and/or their respective campaigns?

Yes, but if the newsletter goes further than this, it may amount to activity counting toward federal political committee status.

Can the County Party sell a newsletter advertisement to a federal campaign?

Yes, but depending on the other content of the newsletter, this may amount to activity counting toward federal political committee status.

4. Chairman.

- **What roles and activities are prohibited of an individual who is the Party Chairman acting in a non-official capacity (i.e., acts as an individual) in participating in the campaign of an individual seeking Federal office?**

County chairs should not participate or serve in active leadership roles in Federal campaigns because they could be liable for impermissibly coordinating their party's activities with the Federal campaign. Any expenditure that is made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents, or a political party committee or its agents, is deemed coordinated. The FEC has specific regulations governing coordination and its consequences.

5. Other Officers?

- **What roles and activities are prohibited of an individual who is a Party non-chairman officer but acts in a non-official capacity (i.e., acts as an individual) in participating in the campaign of an individual seeking Federal office?**

If acting as private citizens, county party members might participate in Federal campaigns as volunteers, but should avoid roles as decision makers or advisors. Again, this is an issue of potential coordination.

6. Can a County Party give to a federal campaign if they file the FEC paperwork?

Yes, and federal funds will be required to make this contribution. It is strongly recommended, however, not to get involved in Federal campaigns. Once a party becomes a federally registered political committee, there are on-going reporting obligations. There is may be more risk to the federal candidate in accepting the contribution than potential benefit.

7. Do contributions from county parties go toward the aggregate total of the candidate from the State Party?

Yes, the FEC considers district, county and municipal parties to be part of the State Party and subject to both the aggregate limits for individuals to donate Federal funds to the Party and for Party contributions to Federal candidates.

8. What counts toward the triggers for Federal registration and reporting? (These answers assume that the county party does not currently have a federal account.)

1. Putting out Vote Tuesday signs

No.

2. Putting out Vote Republican Tuesday

No.

3. Running an ad that says: Vote Republican

No

4. Running an ad that lists one or more candidates by name:

Does not count if there are no federal candidates listed;

If federal candidates are listed, this could count toward \$1,000 or \$5,000 trigger for FEC registration.

5. Putting out a county Republican newsletter in which ads are sold to federal candidates

Counts toward \$1,000 or \$5,000 per calendar year trigger if any federal candidates are mentioned.

6. Putting out a county Republican newsletter in which a listing or article of all Republican candidates is included

Counts toward \$1,000 or \$5,000 per calendar year trigger.

7. Giving money to a Federal PAC

Yes.

8. Giving money to a Federal candidate

Yes.

9. Giving money to the RNC

The RNC cannot accept non-federal funds.

10. Giving money to the State or District GOP

No, if money goes into State GOP non-federal account.

11. Cost of “Get out the vote” phone bank or direct mailings

Certain GOTV activity is FEA that must be paid for with Federal funds and may trigger FEC registration and reporting requirements if over \$5,000.

12. Cost of slate cards which include Federal Candidates

Counts toward \$5,000 per calendar year trigger.

13. Cost of voter-id programs

Certain voter identification is FEA that must be paid for with Federal funds and may trigger FEC registration and reporting requirements if over \$5,000.

14. Cost of public communications supporting or opposing a federal candidate

Depending on the content and whether or not coordinated, this could result in an impermissible contribution to a Federal candidate. It could thus count to the \$1,000 test for FEC registration. Non-registered organizations should not undertake these activities.

Question on State Finance Laws:

(Note that some activities you may think are state activities because no federal candidates are named are, in fact, defined by BCRA as federal election activity (“FEA”) and therefore must be paid for with federal funds. For example, FEA includes voter registration and voter identification within certain time periods.)

What counts toward the \$5,000 aggregate triggering Georgia registration and reporting? (Also, see above, because some of these activities could result in a Federal registration obligation, and these answers assume that county party does not currently have a federal account))

1. Cost of putting out Vote Tuesday signs

No.

2. Cost of putting out Vote Republican Tuesday

No.

3. Running an ad that says: Vote Republican

No.

4. Running an ad that lists one or more state candidates by name

Yes.

5. Putting out a county Republican newsletter in which ads are sold to state candidates

No.

6. Putting out a county Republican newsletter in which a listing or article of all Republican state candidates is included

No.

7. Giving money to a Federal or State PAC

Yes. (But Federal contributions must be made with Federal funds and will trigger FEC registration and reporting requirements if over \$1,000.)

8. Giving money to a Federal or State candidate

Yes. (But Federal contributions must be made with Federal funds and will trigger FEC registration and reporting requirements if over \$1,000.)

9. Giving money to the RNC

The RNC cannot accept non-federal funds.

10. Giving money to the State or District GOP

Yes. (But Federal contributions must be made with Federal funds and will trigger FEC registration and reporting requirements if over \$1,000.)

11. Cost of “Get out the vote” phone bank or direct mailings

No. (But certain GOTV activity is FEA that must be paid for with Federal funds and may trigger FEC registration and reporting requirements if over \$5,000.)

12. Cost of slate cards which include Federal Candidates

No. (But slate card activity counts towards \$5,000 Federal registration threshold.)

13. Cost of voter-id programs

No. (But certain voter ID activity is FEA that must be paid for with Federal funds and may trigger FEC registration and reporting requirements if over \$5,000.)

14. Cost of public communications supporting or opposing a candidate

Depending on the content and whether or not coordinated, this could result in an impermissible contribution to a Federal candidate. It could thus count to the **\$1,000 test for FEC registration. It is not recommended for non-registered organizations to undertake these activities.**

15. Contribution to a local or state candidate or political committee

No. A single contribution regardless of amount will not trigger registration and reporting

16. Contribution to more than one local and/or state candidate

Depends on total contributions. If total contributions of more than \$5,000 are given to more than one candidate and/or political committee, registration and reporting to the Georgia Secretary of State is triggered

Note:

State reports include all contributions and expenditures related to both State and Federal elections.

SUMMARY

Key points regarding IRS

- Political parties must have a Federal Employer ID, even when there are no employees.
- Political parties are not non-profit and are must file 1120-POL for taxable income.
- Solicitations should include the IRS disclaimer, “Contributions to [party name] are not deductible as charitable contributions for federal income tax purposes.”

Key points regarding FEC and BCRA

- District and local parties must register and report to the FEC when they have over \$1,000 in contributions and expenditures during a calendar year, or spend more than \$5,000 on exempt party activities or federal election activity.
- “Federal election activity” by political committees is defined by BCRA to include:
 - Voter registration within 120 days of a Federal election
 - Voter id
 - Generic campaign activities
 - GOTV - get-out-the-vote activities
- FEC considers state, district and county parties to be affiliated and share contribution limits; both contributions received and contributions given.
- The FEC assigns primary responsibility for compliance to the federally registered committee’s treasurer, but anyone knowingly involved in violation of BCRA may face FEC action and Federal prosecution.
- An FEC analyst is assigned to each registered committee and reviews all Federal reports. Any discrepancies are described in a letter to the committee. The letter must be responded to within a stated deadline or the committee will face potential FEC action.
- If a party organization undertakes activity referring to a Federal candidate, a proper disclaimer will be required. For example, the disclaimer, when required, has to be in a box and may have to read, “Paid for by County Party, 123 Main St., Atlanta, GA, Zip Code, Not authorized by any candidate or candidate’s committee.” If undertaking such activity, consult the party or the FEC website for more information on the requirements for disclaimers.

Key points regarding State Ethics Commission and Georgia’s Ethics Laws

- County/district parties must register with the Ga. Secretary of State whenever the party contributes to more that one candidate/pac/party and contributions exceed \$5,000.
- County/district parties must file with either the local superintendent of elections or the Ga. Secretary of State or both depending on to whom the contributions were made. Once reporting is triggered, reports must be filed for all remaining reporting dates in the elections cycle regardless of activity level.
- There is no defined review by the State Ethics Commission; the opposition primarily polices compliance. The State Ethics Commission is responsible for investigating and resolving the complaint.

Most important points regarding compliance and avoiding major problems:

- Use the tools and resources provided by the regulating agencies:
www.irs.gov/polorgs
www.fec.gov
www.ethics.state.ga.us
- The Federal Election Commission’s website is an invaluable resource for political parties. Go to www.fec.gov and click on “Campaign Finance Law Resources” on the left of the page. Scroll down to “Publications” and you will find the “Campaign Guide for Political Party Committees and the BCRA Supplement.”
- Please do not hesitate to ask for advice with respect to specific questions.
- If challenged with a complaint, please consult the State Party for assistance in responding.