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Permissible and Prohibited Uses of Campaign Funds: Frequently Asked Questions and Policy Overview

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SUMMARY

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R. Sam Garrett
Specialist in American National Government

Permissible and Prohibited Uses of Campaign Funds: Frequently Asked Questions and Policy Overview

Many frequently asked questions about permissible and prohibited uses of campaign funds are relatively straightforward. The Federal Election Campaign Act (FECA) generally permits spending campaign funds for campaign expenses; certain officeholder expenses; charitable contributions; and contributions or transfers, within specified limits, to other political committees. Conversely, FECA prohibits spending campaign funds on items that would constitute personal use, such as mortgage or tuition payments. The Federal Election Commission (FEC) relies on a standard known as the "irrespective test" to determine permissibility of using campaign funds. If the expense would exist in the absence of the campaign, it generally is impermissible. These issues are central to frequent constituent questions for Members of Congress and staff.

Beyond the established permissible- and prohibited-use provisions, several policy issues are recurring themes in Congress and beyond. In particular, the FECA permissible- and prohibited-use provisions apply to spending by candidate campaign committees. Those same provisions do not necessarily apply to other regulated entities. In practice, this means that a prohibited expense for a House or Senate campaign is not necessarily prohibited for that same candidate's leadership political action committee (leadership PAC) or an allied party committee, for example. The status quo of disparate treatment for candidate committees versus other types of political committees raises policy and practical questions about how campaign finance law and regulation affect different kinds of organizations that influence U.S. campaigns. Additional regulation could apply more consistent spending standards to different kinds of political committees, and could provide an additional enforcement tool to respond to reported increases in misappropriated funds or otherwise questionable spending. By contrast, additional spending restrictions also could add to compliance burdens for political committees, including those that might already have strong financial controls in place, those that depend on volunteer staffing, or both.

Some calls for increased regulation of permissible and prohibited uses of campaign funds cite reports of questionable fundraising and spending that appears to be designed to benefit individuals rather than to further political campaigns. Citing such concerns, the FEC has recommended that Congress amend FECA to apply the personal-use prohibitions to all political committees.

More than 40 bills that would affect permissible and prohibited uses of campaign funds have been introduced since 2012, although statutory amendments have been relatively rare. Common themes in legislation include proposals to apply the personal-use prohibition to all political committees, especially leadership PACs; to place a time limit on spending remaining funds after candidates leave office or decline to run again; or to restrict payments to candidate family members. Congress most recently amended the permissible- and prohibited-use provisions in 2007 via the Honest Leadership and Open Government Act, when it barred certain payments for private air travel. The House has occasionally passed other legislation that would affect permissible and prohibited uses of campaign funds. Provisions permitting using campaign funds for certain child care, elder care, and health insurance premiums were included in H.R. 1, which passed the House during the 116th and 117th Congresses.

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Introduction

How may political campaigns spend money and under what circumstances? The answers to those questions—which are both simple and complicated—have significant implications for public policy and for campaign management. On initial impression, what is sometimes called the "permissible use" question is straightforward. The Federal Election Campaign Act (FECA) states specifically that campaigns may, for example, spend money to further the candidate's election, or may transfer money to political parties. Campaigns may not, for example, spend money on home mortgage payments or personal travel.[1]

Matters become more complicated when considering spending among noncandidate political committees. Here, some Members of Congress and the Federal Election Commission (FEC) have proposed amendments to campaign finance law to further restrict spending by parties and political action committees (PACs). In some cases, those proposals followed instances of alleged misappropriation, embezzlement, or fraud involving FECA-regulated funds. Such episodes can attract substantial public attention, but are not necessarily representative of the far more routine and permissible spending through which most political committees execute their daily business.

Congress has specified provisions that apply to candidate campaigns as opposed to other kinds of political committees. In particular, FECA prohibits spending campaign funds to personally benefit candidates or other persons beyond standard reimbursement for campaign expenses. Questions about *permissible* use of campaign funds (in the general sense) do not necessarily involve the narrower topic of *personal* use, although the two concepts are related. Congress has not substantially amended the permissible- and prohibited-use provisions recently, although legislative proposals to do so are common.

Scope of the Report

This report

- briefly answers questions that frequently arise as House and Senate Members and staff consider campaign finance legislation, oversight, or responses to constituent inquiries;
- provides an overview of policy issues and options that might be relevant if Congress chooses to conduct oversight or pursue legislation affecting permissible and prohibited uses of FECA-regulated funds; and
- in the **Appendix**, summarizes congressional legislation concerning permissible and prohibited uses of FECA-regulated funds.

The report is not intended to be a legal analysis and does address specific compliance or enforcement scenarios.[2] Congressional or other readers should not rely on the report for compliance purposes; the Federal Election Commission provides guidance to political committees on civil compliance and enforcement matters.

[1] FECA is codified at 52 U.S.C. §§30101-30146.

[2] For additional discussion, see CRS Report R45320, *Campaign Finance Law: An Analysis of Key Issues, Recent Developments, and Constitutional Considerations for Legislation*, by L. Paige Whitaker. The report also does not specifically discuss unique compliance obligations for publicly financed presidential campaigns. In general, the other candidate-committee obligations discussed in this report also apply to publicly financed presidential campaigns, which are increasingly rare.

Policy Background

Selected Congressional Activity

Members of the House and Senate regularly introduce legislation to amend FECA's provisions regarding permissible and prohibited uses of campaign funds, although statutory changes have been relatively rare.[3] Congress most recently amended relevant FECA provisions in 2007, when it restricted campaign payments for travel aboard private aircraft. Provisions in the 2002 Bipartisan Campaign Reform Act (BCRA, also known as "McCain-Feingold" for the act's principal Senate sponsors) also clarified personal and prohibited spending under FECA.[4] The **Appendix** at the end of this report summarizes more than 40 bills introduced since 2012 that would affect permissible and prohibited uses of campaign funds.

Selected Federal Election Commission Activity

The FEC regularly addresses permissible-use questions through advisory opinions (AOs), enforcement actions, and rulemakings. Some FEC AOs have permitted using campaign funds for instances that might otherwise be considered prohibited personal use. Recent examples include (1) using campaign funds for certain physical and home security expenses;[5] (2) using campaign funds for securing certain campaign and official electronic devices;[6] and (3) using campaign funds for certain child care expenses.[7]

The FEC also has considered amending agency regulations on issues addressed in the AOs. For example, in May 2021, the FEC announced that it would receive comments on a rulemaking petition that urged the commission to establish a uniform date for candidate-salary eligibility. Currently, eligibility is based on primary dates that vary by state. The petition also urges amending commission rules to permit paying candidate health insurance premiums.[8] In a separate

[3] For historical background and additional sources, see CRS Report R41542, *The State of Campaign Finance Policy: Recent Developments and Issues for Congress*, by R. Sam Garrett.

[4] BCRA, which amended FECA, is P.L. 107-155. On the personal use amendment, see §301. Citations in BCRA refer to provisions previously codified in Title 2 of the *U.S. Code*. These and other campaign finance provisions now appear in Title 52 of the *U.S. Code*. For additional information about a 2014 "editorial reclassification," which did not affect the substance of the statutory provisions, see CRS Report R41542, *The State of Campaign Finance Policy: Recent Developments and Issues for Congress*, by R. Sam Garrett. For additional historical policy and legislative background, see Federal Election Commission, "Disclaimers, Fraudulent Solicitation, Civil Penalties, and Personal Use of Campaign Funds," 67 *Federal Register* 76962, December 13, 2002.

[5] In March 2021, the FEC also considered two drafts of an "interpretive rule" summarizing the commission's AOs and FECA interpretation on security uses of campaign funds. See FEC agenda documents 21-14-A and 21-14-B, and related public comments, https://www.fec.gov/legal-resources/policy-other-guidance/. See also AO 2020-06. Other AOs cited in 2020-06 provide related discussion. On physical security for Members of Congress, see also Letter from Paul D. Irving, Sergeant at Arms, U.S. House of Representatives, to Steven T. Walther, Chairman, Federal Election Commission, June 21, 2017. The letter is attached to July 13, 2017, open-meeting Agenda Document No. 17-29-A, https://www.fec.gov/updates/july-13-2017-open-meeting/; and July 13, 2017, open-meeting Agenda Document No. 17-32-D, https://www.fec.gov/updates/july-13-2017-open-meeting/. See also, for example, Kenneth P. Doyle, "Campaign Cash for Lawmaker Bodyguards at Center of GOP's Request," *Bloomberg Government*, February 1, 2021.

[6] See AO 2018-15. For additional discussion of campaign and election security issues, see CRS Report R46146, *Campaign and Election Security Policy: Overview and Recent Developments for Congress*, coordinated by R. Sam Garrett.

[7] AO 2018-06.

[8] For additional background, see Federal Election Commission, "Rulemaking Petition: Candidate Salaries," 86 *Federal Register* 23300, May 3, 2021.

initiative, in April 2018, the FEC announced that it would begin reviewing the activities of former or inactive candidates' committees for potential prohibited personal use of campaign funds.[9] The FEC has called such campaigns "dormant committees"; some others use the term "zombie committees." Although some groups have urged the agency to initiate a rulemaking, others have suggested that the FEC should instead pursue enforcement in specific cases.[10]

For several years, the FEC also has recommended that Congress amend FECA provisions concerning permissible and prohibited uses of campaign funds. Most relevant to the issues discussed in this report, the FEC has recommended that Congress extend FECA's prohibition on personal use of campaign funds to other political committees. As discussed later in this report, currently, the personal-use ban applies only to candidate campaigns, as opposed to parties or PACs.[11]

The FEC also has recommended statutory amendments on the potentially related issues of "fraudulent PAC practices" and the "fraudulent misrepresentation of campaign authority."[12] In some cases, as noted later in this report, the lack of personal-use prohibitions for noncandidate campaigns could present opportunities for malicious fundraising or spending designed to benefit a political committee's employees rather than to further federal elections.

Frequently Asked Questions

What is a "campaign" for the purposes of permissible and prohibited spending?

The FECA permissible- and prohibited-use provisions refer to contributions "accepted by a candidate."[13] Practically, this means funds accepted and spent by a candidate's principal campaign committee (e.g., Jones for Congress; Thompson for Senate), which FECA calls an "authorized" political committee.[14] Other kinds of political committees (party committees, PACs, super PACs, or leadership PACs) are not authorized committees.[15] Consequently, the FECA permissible- and prohibited-use provisions do not apply to these noncandidate committees.[16]

[9] Federal Election Commission, "Commission Will Review Dormant Committees' Use of Campaign Funds," *FEC Record* newsletter, April 26, 2018, https://www.fec.gov/updates/commission-will-review-dormant-committees-use-campaign-funds/.

[10] See, for example, Kenneth P. Doyle, "Kill the Zombies? FEC Mulls What to Do About Undead Campaigns," *Bloomberg Government*, May 25, 2018; and Christopher O'Donnell et al., "Zombie Campaigns," *Tampa Bay Times* and WTSP online, January 31, 2018, https://projects.tampabay.com/projects/2018/investigations/zombie-campaigns/spending-millions-after-office/.

[11] Federal Election Commission, *Legislative Recommendations of the Federal Election Commission 2021*, May 6, 2021, https://www.fec.gov/resources/cms-content/documents/legrec2021.pdf, p. 9.

[12] See, for example, Federal Election Commission, *Legislative Recommendations of the Federal Election Commission 2021*, May 6, 2021, https://www.fec.gov/resources/cms-content/documents/legrec2021.pdf, pp. 5-8.

[13] 52 U.S.C. §30114(a). The provision also refers to "any other donation received by an individual as support for activities of the individual as a holder of Federal office."

[14] 52 U.S.C. §30101(6). See also 52 U.S.C. §30102(e).

[15] See 52 U.S.C. §30104(i)(8)(B); and 52 U.S.C. §30114(c)(3).

[16] On the "political committee" definition (except with respect to presidential public financing), see 52 U.S.C. §30101(4).

What are campaign funds?

"Campaign funds" appears frequently as a term in campaign finance policy, but it is not always used consistently. This report generally uses the term to mean money that federal candidates' political campaigns raise and spend to support their election efforts. Campaign funds generally come from what FECA classifies as "contributions," meaning donations made by permissible sources (e.g., individuals) in limited amounts.[17]

What does "use" of campaign funds mean?

For practical purposes, "use" means spending. Campaign finance policy discussions commonly refer to "permissible use" or "prohibited use" of campaign funds to mean certain spending of those funds. The term "use" appears in the FECA provisions that are central to this report, which also adopts the term "use."[18]

What kinds of campaign spending does FECA permit?

FECA explicitly permits "authorized committees" (candidates' principal campaign committees) to make expenditures for[19]

- campaign expenses;
- certain officeholder expenses;
- contributions to certain charities and other entities eligible to receive tax-deductible contributions;
- unlimited transfers to local, state, or federal party committees;
- contributions to state and local candidates subject to relevant state law; and
- "any other lawful purpose" that is not otherwise prohibited.[20]

In addition to clarifying specific scenarios, FEC regulations permit limited additional spending for activities such as candidate and spousal travel for "*bona fide* official responsibilities" and costs related to "winding down" a congressional office up to six months after departure.[21]

What kinds of campaign spending does FECA prohibit?

FECA explicitly prohibits authorized committees from making expenditures for anything "that would exist irrespective of the candidate's election campaign" or duties as a federal officeholder.[22] Prohibited expenditures include, but are not necessarily limited to

- home mortgage, rent, or utility payments;

[17] For additional discussion, see CRS Report R41542, *The State of Campaign Finance Policy: Recent Developments and Issues for Congress*, by R. Sam Garrett. On the "contribution" definition, see, in particular, 52 U.S.C. §301010(8).

[18] For example, the FECA provision on "permitted uses" notes that contributions "may be used by a candidate" for specified purposes noted later in this report. See 52 U.S.C. §30114(a).

[19] This report adopts the "making expenditures" terminology generally found in campaign finance law and regulation. Practically speaking, "making" an expenditure means spending money.

[20] 52 U.S.C. §30114(a).

[21] See 11 C.F.R. §§113.1-113.3.

[22] 52 U.S.C. §30114(b).

- clothing;
- noncampaign automobile expenses;
- country club memberships;
- a vacation or "other noncampaign-related trip";
- household food;
- tuition;
- tickets to sporting events or entertainment not connected to a federal campaign; and
- dues and fees for health clubs or recreational facilities.[23]

FECA presumes that these prohibited expenses are primarily personal in nature and therefore not normally legitimate campaign expenses. FEC regulations implementing the FECA provisions specify additional prohibitions and exceptions in limited circumstances.[24] As explained below, other provisions in FECA also prohibit expenditures for certain campaign travel aboard private aircraft.

How does the FEC determine whether specific campaign spending would constitute prohibited personal use of campaign funds?

Whether in advisory or enforcement scenarios, the FEC relies on the "irrespective test" to determine whether individual campaign spending is prohibited. First established in FEC regulations and later incorporated into statute in the 2002 BCRA amendments, the irrespective test holds that campaign funds may not pay for expenses that would occur "irrespective" of the campaign.[25] As the FEC has explained, "if the expense would exist even in the absence of the candidacy or even if the officeholder were not in office, then the personal use ban applies. Conversely, any expense that results from campaign or officeholder activity falls outside the personal use ban."[26]

Which entities do the FECA permissible- and prohibited-use provisions cover?

The FECA permissible-use provisions refer to funds derived from contributions to candidates "and any other donation received by an individual as support for activities of the individual as a holder of Federal office."[27] The prohibited use provisions also reference such contributions.[28]

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[23] 52 U.S.C. §30114(b).

[24] See, for example, the commission's rationale for permitting campaigns to cover funeral expenses for those who die in the course of their campaign duties in Federal Election Commission, "Disclaimers, Fraudulent Solicitation, Civil Penalties, and Personal Use of Campaign Funds," 67 *Federal Register* 76971, December 13, 2002.

[25] For brief historical discussion, see Federal Election Commission, "Disclaimers, Fraudulent Solicitation, Civil Penalties, and Personal Use of Campaign Funds," 67 *Federal Register* 76970, December 13, 2002.

[26] Federal Election Commission, *Federal Election Commission Campaign Guide: Congressional Candidates and Committees*, Washington, DC, June 2014, p. 53, https://www.fec.gov/resources/cms-content/documents/candgui.pdf.

[27] 52 U.S.C. §30114(a).

[28] The contributions described in the permissible use provisions are those noted in the text and codified at 52 U.S.C. §30114(a). The prohibited-use provisions refer to "[a] contribution or donation described in subsection (a)," referring to 52 U.S.C. §30114(a).

Consequently, the FECA permissible and prohibited use provisions cover candidate campaigns, but not other kinds of political committees (i.e., parties and PACs). As discussed elsewhere in this report, Congress has considered legislation to expand the provisions to other political committees, and the FEC has recommended enacting such legislation.[29]

Which agencies enforce the FECA provisions regarding specific spending?

The Federal Election Commission enforces civil aspects of FECA and commission regulations.[30] The Department of Justice (DOJ) enforces criminal provisions in FECA. Determining whether prohibited personal use would rise to the latter standard would depend on individual circumstances. Whether on personal use or other matters, the FEC may refer matters to DOJ for criminal investigation, or the department may pursue enforcement on its own authority.[31]

How much may candidates spend on their campaigns?

Privately financed candidates—which includes almost all candidates today—may spend unlimited amounts on their own campaigns. Congress limited personal spending on campaigns in the original FECA, enacted in 1972.[32] The Supreme Court invalidated that provision in the 1976 *Buckley v. Valeo* decision, holding that those and certain other spending limits violated the First Amendment.[33]

Publicly financed presidential candidates and their immediate families may spend no more than $50,000 supporting their campaigns.[34] Relevant federal law defines "immediate family" in this context to include a candidate's spouse, child, parent, grandparent, siblings, and those people's spouses.[35]

[29] See, for example, Federal Election Commission, *Legislative Recommendations of the Federal Election Commission 2021*, May 6, 2021, https://www.fec.gov/resources/cms-content/documents/legrec2021.pdf, p. 9. The commission has made similar recommendations regarding conversion of campaign funds for several years. See, for example, Federal Election Commission, *Legislative Recommendations of the Federal Election Commission 2018*, December 13, 2018, https://www.fec.gov/resources/cms-content/documents/legrec2018.pdf, p. 8; and Federal Election Commission, *Legislative Recommendations of the Federal Election Commission 2012*, May 10, 2012, https://www.fec.gov/resources/cms-content/documents/legrec2012.pdf, p. 7.

[30] 52 U.S.C. §30109(a).

[31] 52 U.S.C. §30109(a)(5)(C).

[32] At that time, presidential candidates were limited to spending $50,000 from personal funds. House and Senate candidates were limited to $25,000 and $35,000 respectively. See Section 608 of the Federal Election Campaign Act of 1971 (enacted 1972), P.L. 92-25, 86 Stat. 9-10.

[33] In addition, the Supreme Court, in *Davis v. FEC*, invalidated a BCRA provision known as the "Millionaire's Amendment." That provision—while in effect between 2002 and 2008—provided higher contribution limits to candidates whose opponents spent large amounts from their personal funds. For additional discussion of *Buckley*, *Davis*, and other legal issues, see CRS Report R43719, *Campaign Finance: Constitutionality of Limits on Contributions and Expenditures*, by L. Paige Whitaker.

[34] 26 U.S.C. §9004(d).

[35] 26 U.S.C. §9004(e).

May candidate committees spend unlimited amounts on their campaigns?

Yes, with one exception. All privately financed federal campaigns may spend unlimited amounts, per the *Buckley* precedent noted above. Publicly financed presidential committees—the only form of federal public financing currently available, and rarely used—are subject to separate spending limits in the primary and general election campaigns.[36] As discussed later, in all cases, individual purchases must represent fair-market value.

May noncandidate committees spend unlimited amounts?

Yes, if the spending is done independently of a candidate committee. Spending not "coordinated" with candidate committees is known as an "independent expenditure" (IE) in FECA.[37] IEs are not subject to limits.[38] Spending "made in concert or cooperation with or at the request or suggestion of" a candidate or candidate committee generally would be considered an "in-kind" contribution to the campaign, and thus subject to contribution limits.[39]

How much may campaigns pay for services?

Generally, political committees have wide leeway to determine their own spending, provided that the money is not used for a prohibited expense. FEC regulations require campaigns to pay "fair market value" for services in most cases to avoid the value being considered an impermissible contribution to the campaign.[40] As noted elsewhere in this report, separate provisions apply to spending funds for travel aboard private aircraft.

May campaigns pay candidates or their families salaries?

Yes, if they choose to do so, and with restrictions. FEC regulations permit salary payments for candidates and their family members. Candidate salaries may not exceed the lesser of (1) the earned income the candidate received the year before receiving a candidate salary, or (2) the salary the candidate would receive if elected to the federal office sought.[41] Several other

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[36] As of this writing, major candidates most recently participated in the public financing program in 2012. For additional discussion, see CRS Report R41604, *Proposals to Eliminate Public Financing of Presidential Campaigns*, by R. Sam Garrett.

[37] On the "independent expenditure" definition, see 52 U.S.C. §30101(17).

[38] If a noncandidate committee made an electioneering communication (EC) that was uncoordinated with a campaign, the EC also would not be subject to spending limits. ECs are advertisements that refer to clearly identified federal candidates but do not explicitly call for election or defeat (as do IEs). On the EC definition, see 52 U.S.C. §30104(f)(3). See also 52 U.S.C. §30118(c)(1).

[39] 52 U.S.C. §30101(17)(B). Party committees also may spend in consultation with their general-election nominees, subject to limits, through coordinated party expenditures. For additional background, see Federal Election Commission, "Price Index Adjustments for Expenditure Limitations and Lobbyist Bundling Disclosure Threshold," 85 *Federal Register* 9772, February 20, 2020. For additional discussion, see CRS Report RS22644, *Coordinated Party Expenditures in Federal Elections: An Overview*, by R. Sam Garrett and L. Paige Whitaker.

[40] FECA refers to "fair market value" with respect to flights aboard private aircraft. See 52 U.S.C. §30114(c)(1)(B). FEC regulations refer to "fair market value" in other contexts (e.g., rent and salary payments). See, for example, 11 C.F.R. §113.1. FECA provides exemptions for certain volunteer activities and in-home food and beverage. See, for example, 52 U.S.C. §30101(8)(B)(ii).

[41] 11 C.F.R. §113.1(g)(1)(I).

provisions also apply to candidate salaries. Among others, incumbent federal officeholders are ineligible for candidate salaries. In addition, candidate salaries must be prorated for the period during which the candidate seeks office,[42] and must be reduced by the amount of any other salary or wages the candidate receives. Finally, candidates may receive salaries during the period between the primary filing date and the relevant primary or general election date (or when the candidate withdraws from the race prior to either election date, if applicable).[43]

Family members receiving salaries must provide "*bona fide* services to the campaign," for which compensation may not exceed "fair market value" for the services provided.[44] Candidate committees also may employ political consulting firms or other vendors owned by candidate family members or firms that employ candidate family members.

May campaigns spend money on private air travel?

House campaigns generally may not pay for private air travel.[45] Other political committees may do so in some cases. FEC rules and a related "explanation and justification" document outline specific scenarios.[46]

Before 2007, political campaigns could reimburse providers for private air travel at the first-class rate as long as commercial first-class service was available on the route flown, even if the actual cost of private air travel was substantially higher. This scenario permitted *de facto* corporate subsidies of private air travel that many observers believed violated the spirit of FECA's prohibition on corporate campaign contributions. Partially in response, Congress enacted the Honest Leadership and Open Government Act of 2007 (HLOGA). In addition to revising federal lobbying law, HLOGA amended FECA to prohibit payments for certain flights aboard private aircraft.[47] HLOGA prohibits House campaigns and leadership PACs from paying for travel aboard private (i.e., noncommercial or charter) aircraft.[48] Other federal candidates (i.e., Senate or presidential candidates) may provide reimbursement for travel aboard private aircraft if they or a political committee pays the "fair market value" of that person's travel aboard the aircraft, based on typical charter prices for the type of aircraft and schedule on which the flight occurred.[49]

Must presidential campaigns pay for campaign travel aboard Air Force One or other government aircraft?

Yes. FEC rules implementing HLOGA (discussed above) specify that political committees must provide reimbursements at the per-person "campaign traveler" rate about Air Force One and other

[42] For example, an individual who is a candidate for only six months would be ineligible for an annual salary amount.

[43] 11 C.F.R. §113.1(g)(1)(I).

[44] 11 C.F.R. §113.1(g)(1)(H).

[45] 52 U.S.C. §30114(c)(2).

[46] See Federal Election Commission, "Campaign Travel," 74 *Federal Register* 63951-63968, December 7, 2009.

[47] For additional discussion, see CRS Report RL34324, *Campaign Finance: Legislative Developments and Policy Issues in the 110th Congress*, by R. Sam Garrett.

[48] The FECA prohibition on corporate contributions would prohibit providing unreimbursed travel aboard commercial or private aircraft (or other reimbursed goods or services in most cases). See 52 U.S.C. §30118(a). Therefore, travel aboard private aircraft essentially is prohibited for House campaigns and leadership PACs, unless the candidate or an immediate family member personally owns or leases the aircraft. See 52 U.S.C. §30114(c)(3).

[49] On provisions affecting House-candidate travel, see 52 U.S.C. §30114(c)(2). For other political committees, see 52 U.S.C. §30114(c)(1).

"government conveyances."[50] Political campaigns do not have to provide reimbursement for the entire operating cost of flights aboard government aircraft (e.g., security expenses beyond the campaign's control).[51]

May campaigns spend money after the campaign concludes?

Yes. The FECA permissible- and prohibited-use provisions noted above apply before, during, and after the campaign. There is no time limit on how long campaigns may retain their funds. Campaigns typically reserve funds for potential future races; refund money to contributors; make contributions (or transfers, as permitted) to other candidates or parties; or support charitable organizations through remaining funds.[52] Some campaigns also change their status to become leadership PACs. Campaigns that intend to cease operation may apply to the FEC to "terminate" their political committee status. Doing so typically requires that the campaign conduct no further federal election activity, have no involvement in enforcement matters or litigation, and have no outstanding debt.[53] As noted previously, in April 2018, the FEC announced that it would begin reviewing the activities of what it called "dormant committees" (which some call "zombie" committees) for potential prohibited personal use of campaign funds.[54]

Does FECA specify particular spending restrictions for departing officeholders?

FECA generally does not distinguish between the authorized committees of new candidates, established candidates, or retiring (or even dead) candidates or Members. Authorized committees may disburse excess funds by issuing refunds to donors, making unlimited transfers to parties, making limited transfers to other political committees, giving the money to charity, or spending the money for any other lawful purpose that does not constitute prohibited personal use as discussed elsewhere in this report.

[50] See 11 C.F.R. §100.93(e) and 11 C.F.R. §106.3(e). On official presidential travel, see also CRS Report RS21835, *Presidential Travel: Policy and Costs*, by L. Elaine Halchin.

[51] The FEC explanation and justification (E&J) statement accompanying its HLOGA air-travel rules provides additional discussion of the distinction between expenses required for the campaign versus those required for presidential travel. See Federal Election Commission, "Campaign Travel," 74 *Federal Register* 63951-63968, December 7, 2009.

[52] See, for example, Kenneth P. Doyle and Nancy Ognanovich, "Newest Zombie Campaigns Hold $26 Million Ahead of 2022 Elections," *Bloomberg Government*, July 19, 2021. For FEC regulations on departing-officeholder expenditures, see 11 C.F.R. §§113.1-113.3. Some such activity may have House or Senate rules implications that are beyond the scope of this report.

[53] Federal Election Commission, *Federal Election Commission Campaign Guide: Congressional Candidates and Committees*, June 2014, p. 123, https://www.fec.gov/resources/cms-content/documents/candgui.pdf.

[54] Federal Election Commission, "Commission Will Review Dormant Committees' Use of Campaign Funds," *FEC Record* newsletter, April 26, 2018, https://www.fec.gov/updates/commission-will-review-dormant-committees-use-campaign-funds/.

Can departing officeholders personally keep their campaign funds?

No. In the 1979 FECA amendments, Congress prohibited converting campaign funds to personal use, but exempted Members of Congress serving as of January 8, 1980.[55] In 1989, P.L. 101-194 repealed the exemption.[56]

Are the FECA permissible- and prohibited-use prohibitions the same as those in House and Senate rules?

They are similar, but there are important distinctions, most of which are beyond the scope of this report. FECA and FEC regulations apply to all individuals and entities regulated under the act (e.g., all campaigns). House and Senate rules apply specifically to Representatives (including Delegates and the Resident Commissioner) and Senators.[57] They do not apply to non-Members, such as candidates who are challenging sitting Representatives or Senators. Depending on individual circumstances, compliance questions—which are not addressed here—may need to be directed to the FEC; House and Senate authorities such as the Committee on House Administration, Senate Rules and Administration Committee, House Ethics Committee, or Senate Select Committee on Ethics; or a combination thereof.

In brief, FECA permits using campaign funds "for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office."[58] This does not necessarily mean, however, that all such spending would be permitted under House or Senate rules. For example, House Rule XXIV prohibits using campaign funds on official "mail or other communications, compensation for services, office space, office furniture, office equipment, or any associated information technology services (excluding handheld communication devices)."[59] Similar to FECA, House Rule XXIII and Senate Rule XXXVIII prohibit converting campaign funds to personal use.[60] The House and Senate Ethics Committees, the Committee on House Administration, or the Senate Rules and Administration Committee also may adopt other restrictions or guidance not addressed in this report.[61]

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[55] January 8, 1980, was the enactment date. For the 1979 amendments as enacted, see P.L. 96-187. For the personal-use language, see 93 Stat. 1366-1367.

[56] The language amended FECA provisions currently codified at 52 U.S.C. §30114. As enacted, see Section 504 of P.L. 101-194; 103 Stat.1755.

[57] House and Senate rules can also apply to congressional employees. Details are beyond the scope of this report.

[58] 52 U.S.C. §30114(a)(2). See also 11 C.F.R. §113.1 and 11 C.F.R. §113.2.

[59] Rules as adopted by the House of Representatives in the 117th Congress are available on the House Rules Committee website, https://rules.house.gov/sites/democrats.rules.house.gov/files/117-House-Rules-Clerk.pdf. The rules provide previous FECA codifications found in Title 2 of the *U.S. Code*. Title 52 codifications in this report reflect a 2014 editorial reclassification. For additional discussion, see CRS Report R41542, *The State of Campaign Finance Policy: Recent Developments and Issues for Congress*, by R. Sam Garrett. For additional discussion of official expenses, see, for example, CRS Report R40962, *Members' Representational Allowance: History and Usage*, by Ida A. Brudnick; and CRS Report R44399, *Senators' Official Personnel and Office Expense Account (SOPOEA): History and Usage*, by Ida A. Brudnick.

[60] For additional discussion, see, for example, House Committee on Ethics, "Proper Use of Campaign Funds and Resources," https://ethics.house.gov/campaign/proper-use-campaign-funds-and-resources#campaign_no_personal_use; and U.S. Congress, Senate Select Committee on Ethics, *Senate Ethics Manual*, 2003 edition, 108th Cong., 1st sess., S.Pub. 108-1 (Washington: GPO, 2003), p. 154; https://www.ethics.senate.gov/public/_cache/files/f2eb14e3-1123-48eb-9334-8c4717102a6e/2003-senate-ethics-manual.pdf.

[61] See, for example, Committee on House Administration, *Members' Congressional Handbook*, 117th Cong., https://cha.house.gov/sites/democrats.cha.house.gov/files/2021_117th_Members_Congresional_Handbook_07-

Potential Congressional Policy Issues and Options

Most of the frequently asked questions discussed above are relatively straightforward. They generate consistent congressional and constituent interest, but do not necessarily spur substantial legislative activity. Even if the most common questions are settled, however, they also reveal more complicated and, in some cases, controversial policy debates about related topics. Here, legislative proposals are more common, although statutory changes have been relatively rare.

This section provides an overview of policy issues that have emerged as components of legislation, oversight, or agency activity since approximately 2010, and which appear likely to be sources of recurring policy interest. Legislation listed in the **Appendix** proposes policy options concerning several of these issues. The final section of the report provides brief "Concluding Observations" that Congress could examine as it considers how or whether to explore these or other permissible- and prohibited-use issues in more detail.

Maintaining the Status Quo

No major legislative or regulatory changes to the permissible- and prohibited-use provisions have occurred since before 2010 (specifically, enactment of BCRA and HLOGA and related rulemakings). Maintaining the status quo would continue this policy environment. Maintaining the status quo could be an attractive option for those who believe that existing legislative or regulatory provisions are sufficient, that case-by-case enforcement of existing prohibitions is sufficient, or both. Some Members also might prefer to maintain the status quo because—given that legislative changes to campaign finance policy are relatively rare—legislative vehicles that do advance can attract potentially unrelated amendments.

Applying Personal-Use Provisions to Other Political Committees

As noted previously, the FECA personal-use prohibitions do not apply to noncandidate committees. Also as noted previously, the FEC has recommended that Congress extend the personal-use prohibitions to all political committees (i.e., candidate committees, parties, and PACs). In particular, and as the **Appendix** shows, several legislative proposals would extend the FECA personal-use prohibition to political committees known as "leadership PACs." Members of Congress use leadership PACs to contribute to fellow lawmakers' and candidates' campaigns.[62] Because candidates do not "authorize" leadership PACs, the FEC has deemed leadership PACs as having separate contribution limits from candidate committees, thus creating an additional

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[62] Members across the House and Senate commonly form these committees, although they were traditionally established only by members of congressional leadership. Historically, although leadership PACs were widely recognized, FECA did not define the term. The 2007 Honest Leadership and Open Government Act (HLOGA) air-travel provisions, discussed previously, amended FECA to add the definition. FEC regulations describe leadership PACs as "a political committee that is directly or indirectly established, financed, maintained or controlled by a candidate for Federal office or an individual holding Federal office *but which is not an authorized committee* [a candidate's principal campaign committee; emphasis added] of the candidate or individual and which is not affiliated with an authorized committee of the candidate or individual, except that leadership PAC does not include a political party of a political committee." See 11 C.F.R. §100.5(6).

fundraising mechanism to raise money for other candidates' campaigns but not for candidates' own campaigns.[63]

Some Members of Congress or interest-group representatives contend that leadership PACs are sources of permissible but improper personal spending that would be prohibited if it occurred in a candidate campaign. Those calling for tighter regulation of leadership PACs generally also argue that the committees run counter to the spirit of FECA's contribution limits because they provide an additional avenue for candidate fundraising, and influence, that the act did not originally contemplate. Proponents of the status quo typically regard leadership PACs as a valuable form of Member support for fellow candidates and officeholders.[64]

Extending the permissible- and prohibited-use provisions to other political committees could have the advantage of treating all political committees uniformly with respect to those provisions. A potential disadvantage of such an approach is that it could apply a blanket solution without consideration of individual committee conduct and circumstances. Congress also could limit or prohibit political committees from altering their organizational form from one committee type to another, such as by converting from candidate committees to leadership PACs after officeholders retire.

Altering Spending Authority

In addition to considering which political committees the FECA permissible-use provisions should apply to, Congress could choose to examine how spending decisions are made inside political committees. Although candidates or other committee employees (e.g., the campaign manager or political consultants) exercise primary practical responsibility for spending decisions, FECA generally places responsibility for compliance with a political committee's treasurer.[65] Political committees may choose to hire a professional treasurer or to rely on a volunteer, and to appoint an assistant treasurer or to decline to do so. As noted previously, FECA generally grants political committees broad discretion to spend funds as long as the expense is lawful and at a fair market value.

At least two options exist for altering spending authority: encouraging voluntary practices or requiring new ones. First, through educational outreach or policy guidance, the FEC could continue its previous practice of encouraging political committees to adopt "internal controls" to reduce the risk of inappropriate spending.[66] These include, for example, dual signatures on checks and the appointment of assistant treasurers to serve as a backup for or check on committee treasurers. Similarly, political committees themselves, or professional organizations, could make enhanced internal controls recommended best practices.[67] Second, Congress could amend FECA to require that political committees implement particular accounting or disbursement practices, or

[63] The FEC granted permission for what are today recognized as leadership PACs in a 1978 AO responding to a request from then-Rep. Henry Waxman. For additional background, see AO 1978-12; and Federal Election Commission, "Leadership PACs," 68 *Federal Register* 67013, December 1, 2003.

[64] For additional discussion, see, for example, Issue One and Campaign Legal Center, *All Expenses Still Paid: A Look at Leadership PACs' Latest Outlandish Spending*, May 22, 2019, p. 3, https://www.issueone.org/wp-content/uploads/2019/05/All-Expenses-Still-Paid.pdf. For additional background, see also Kenneth P. Doyle, "Leadership PACs Need Tougher Rules to Stop Abuses, Watchdogs Say," *Bloomberg Government*, July 25, 2018.

[65] See 52 U.S.C. §30102(a) and 52 U.S.C. §30104.

[66] For specific examples, see Federal Election Commission, "Statement of Policy; Safe Harbor for Misreporting Due to Embezzlement," 72 *Federal Register* 16695, April 5, 2007.

[67] Professional organizations include, for example, the American Association of Political Consultants (AAPC) and the California Political Treasurers Association (CPTA).

otherwise further regulate campaign spending. These or other approaches to restrict campaign spending may be attractive to those who believe that existing provisions are too lax, present opportunities for unauthorized or inappropriate spending, or both. Conversely, additional restrictions on campaign spending could limit political committees' discretion and place a burden on what, in some cases, are small and primarily volunteer-based organizations (e.g., some challenger House campaigns).

Congress also could choose to regulate particular types of transactions, such as by capping the number or amount of payments to certain individuals (e.g., candidate relatives or political consultants employed by multiple committees associated with the same candidate) or by requiring additional disclosure about disbursements to certain vendors, candidate family members, etc.[68] In addition, restricting political committees' ability to disburse funds could limit the potential for prohibited personal use of campaign funds (or, for noncandidate committees, spending that is not necessarily prohibited but might nonetheless be seen by some as inappropriate). Such provisions arguably could be consistent with existing provisions in FECA, such as those that prohibit fraudulent solicitation of campaign funds and of campaign authority.[69] On the other hand, Congress has traditionally chosen not to regulate most aspects of campaigns and related political committees' internal operations.

Somewhat separately, special considerations concerning spending authority can arise when candidates die. In some cases, candidates choose to specify their wishes for disposal of campaign funds after death.[70] It is important to note, however, that the treasurer's spending authority and responsibility under FECA holds regardless of whether the candidate is living or dead, meaning that it is possible a treasurer's authority could at least theoretically override candidate preferences even if the candidate were living.

As the **Appendix** shows, then-Representative Walter Jones, Jr., introduced legislation proposing to permit candidates to designate someone other than the treasurer to spend funds according to the candidate's wishes if the candidate died.[71] The House passed a version of that legislation, H.R. 406, in 2012 (the 112th Congress). Such approaches could alleviate the potential for internal disputes about committee spending after candidate deaths, provided that designees would be more faithful to candidates' wishes than would be treasurers. On the other hand, it is unclear how common such disputes might be and whether statutory changes are needed.[72]

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[68] Currently, campaign committees must report certain spending in regularly filed FEC reports. This includes, for example, providing "itemized" identifying information about disbursements aggregating more than $200 per election cycle. Political committees must report the name and address of the person receiving the payment and a description of the purpose for the payment. See, for example, 52 U.S.C. §30104(b)(3)(A); and Federal Election Commission, "Statement of Policy: 'Purpose of Disbursement' Entries for Filings With the Commission," 72 *Federal Register* 5, January 9, 2007. In FEC reports, filers are not required to identify relationships among the committee and those receiving payments, such as family connections or previous employment status.

[69] See 52 U.S.C. §30124.

[70] See, for example, Jeff Barker, "Cummings Left $1M in Campaign Funds," *The Baltimore Sun*, January 1, 2020, p. 1.

[71] Rep. Jones explained that his interest in the topic arose from his family's experience after the death of his father, Rep. Walter Jones, Sr. See, for example, U.S. Congress, House Committee on House Administration, H.R. 186*: To Amend the Federal Election Campaign Act of 1971 to Permit Candidates for election for Federal Office to Designate an Individual Who Will be Authorized to Disburse Funds of the Authorized Campaign Committees of the Candidate in the Event of the Death of the Candidate*, hearing, 113th Cong., 2nd sess., June 25, 2014, 89-702 (Washington: GPO, 2014).

[72] Amending FECA to alter spending only in cases of candidate death could raise questions about why the same provisions do not apply when candidates are living. Currently, FECA does not provide explicit candidate authority over campaign spending in general. Candidates' *de facto* influence over their campaigns, despite FECA's general silence on

Placing a Time Limit on Spending Remaining Funds

As the **Appendix** shows, several legislative proposals would place time limits on spending remaining campaign funds, particularly after a candidate leaves office, becomes a registered lobbyist, or both. FECA does not currently specify such limits. Arguments in favor of placing time limits on disbursing remaining campaign funds generally are similar to those for restricting leadership PAC spending. For example, time limits could be attractive to those who believe that existing prohibited-use restrictions are insufficient, or that indefinite spending lacks long-term internal or external oversight. Conversely, as with some of the other options discussed in this section, Congress generally has chosen not to substantially regulate internal political committee operations. Similarly, Members of Congress might object to changes to the status quo, which provides time to consider future campaigns, charitable contributions, or support for other candidates.

Potentially Related Issues Concerning Certain Fundraising and Spending

Some misuse of campaign funds results from simple errors, is isolated, and can be easily corrected. Although such misuse is nonetheless prohibited and might well result in an enforcement action, it might not necessarily be viewed as a major policy concern. A related but distinct issue, although not the focus of this report, is allegedly deceptive or criminal fundraising and misappropriation of campaign funds. This section provides additional detail on selected points.

It is unclear how common deliberate misuse of political committee funds might be—due, at least in part, to the fact that the FECA prohibits the FEC from disclosing information about enforcement matters until cases are closed, and because detecting such activity typically requires inside knowledge.[73] Disagreements among policy and legal experts, and even government agencies, over whether impermissible conduct has occurred and, if so, under which federal statutes, can further complicate debates over enforcement actions in specific cases. In addition, questions of motive and coordination between campaign actors and outside parties can be difficult to ascertain.[74] In general, however, agency activity and media reports suggest recurring episodes of controversial, and in some cases prohibited, campaign spending, as noted briefly below.

- In 2007, the FEC announced a "safe harbor" policy in enforcement matters for political committees that file inaccurate reports due to misappropriated funds.[75] At that time, the agency stated that the policy resulted from "a dramatic increase in the number of cases

the issue, likely is sufficient in practice when the candidate is alive and able to actively participate in the campaign. Congress could amend FECA to create a clearer candidate role over campaign funds regardless of whether the candidate is living or dead. Congress also could provide explicit permission in FECA for candidates to hire and fire campaign treasurers. Spending authority limitations also may be related to the issue of placing time limits on spending remaining funds, discussed below.

[73] 52 U.S.C. §30109(a)(12).

[74] See, for example, Julie Bykowicz and Joe Palazzolo, "Was the Payment to Stormy Daniels a Campaign Contribution?," *The Wall Street Journal*, February 14, 2018; and Patrik Jonsson, "Why the John Edwards Prosecution Went Down in Flames," *The Christian Science Monitor*, February 1, 2012.

[75] See Federal Election Commission, "Statement of Policy; Safe Harbor for Misreporting Due to Embezzlement," 72 *Federal Register* 16695, April 5, 2007.

where political committee staff misappropriates committee funds."[76] The agency stated that granting safe harbor depended on political committees adopting specified "internal controls [that] represent the minimum efforts a committee must take to qualify for this safe harbor."[77] Those controls included specified banking and accounting practices, dual signatures on committee checks exceeding $1,000, and petty-cash tracking. The commission also approved a separate policy on self-reported violations, noting that it generally would "offer penalties between 25% and 75% lower than the Commission would otherwise have sought in identical matters" if violations were not self-reported.[78]

- As the FEC has explained in its legislative recommendations, "from its examining of campaign finance disclosure reports and media accounts, the [FEC] is seeing a recurring pattern of certain unauthorized political committees soliciting contributions with fundraising materials that promise to use solicited funds to support candidates, sometimes even implying that the materials originate from the named candidate."[79] In some cases, the commission warned, such contributions "are not used as indicated in the solicitations, but instead for significant and continuous fundraising," with as much as 90% of committee disbursements paid to vendors associated with committee employees. Many of these scenarios appear to involve entities commonly known as "scam PACs" that allegedly operate for their employees' enrichment rather than for promoting or opposing political candidates.[80] At least some of these entities are organized as independent-expenditure-only committees, commonly called "super PACs," that can raise unlimited amounts for spending to elect or defeat candidates but may not contribute directly to candidates. The Federal Bureau of Investigation (FBI) announced in April 2021 that it was "seeing an increase in reports of potentially fraudulent PACs" and advised contributors to conduct basic research about political committees before giving money.[81]

Campaign Finance Policy Versus Other Issue Areas

If Congress chooses to examine legislative responses to concerns over controversial uses of campaign funds, a related decision could be which federal statute to amend. This report focuses on campaign finance policy and FECA. Nonetheless, other areas of federal law and policy, such as criminal or consumer protection provisions (which are beyond the scope of this report) also might be relevant.

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[76] Federal Election Commission, "Statement of Policy; Safe Harbor for Misreporting Due to Embezzlement," 72 *Federal Register* 16695, April 5, 2007.

[77] Federal Election Commission, "Statement of Policy; Safe Harbor for Misreporting Due to Embezzlement," 72 *Federal Register* 16695, April 5, 2007.

[78] Federal Election Commission, "Policy Regarding Self-Reporting of Campaign Finance Violations (Sua Sponte Submissions)," 72 *Federal Register* 16695, April 5, 2007. The self-reporting policy could apply to situations other than impermissible personal use.

[79] Federal Election Commission, *Legislative Recommendations of the Federal Election Commission 2021*, May 6, 2021, https://www.fec.gov/resources/cms-content/documents/legrec2021.pdf, p. 5.

[80] See, for example, Lateshia Beachum, "Scam Artist Who Started Pro-Sanders Super PAC Sentenced to Prison on Federal Fraud Charges," *Center for Public Integrity*, December 21, 2018, https://publicintegrity.org/politics/scam-artist-who-started-pro-sanders-super-pac-sentenced-to-prison-on-federal-fraud-charges/.

[81] Federal Bureau of Investigation, "Scam PACs are on the Rise," press release, April 15, 2021, https://www.fbi.gov/news/stories/scam-pacs-are-on-the-rise-041521. See also, for example, U.S. Department of Justice, "Arizona Men Charged In Manhattan Federal Court With $23 Million Fraud And Money Laundering Scheme In Connection With Purported Fundraising For Numerous Scam Political Action Committees," press release, May 17, 2018, https://www.justice.gov/usao-sdny/pr/arizona-men-charged-manhattan-federal-court-23-million-fraud-and-money-laundering.

In the campaign finance context, DOJ has noted that embezzlement of campaign funds can involve violations of the FECA prohibited personal use provisions codified at 52 U.S.C. §30114, and also can implicate Title 18 criminal prohibitions unrelated to FECA. DOJ has advised federal prosecutors that

> If the conversion [of campaign funds] involves funds from a candidate's committee, it is prohibited by FECA [52 U.S.C. § 30114]. However, if the embezzlement is from a political committee that is not a candidate's committee, FECA prohibition in Section 30114 does not apply. In any event, campaign embezzlements may be prosecuted under the mail or wire fraud statutes, as a scheme to obtain money or property by deceit (18 U.S.C. §§ 1341, 1343).... For embezzlements from political committees that are not candidate committees, and for embezzlements from candidate committees involving amounts under $25,000, the mail and wire fraud statutes continue to be useful alternatives….Finally, a campaign embezzlement can be addressed under the false statements statute, 18 U.S.C. §§ 1001 and 1519, and 18 U.S.C. § 2 (willfully causing an offense). This is because the embezzlement is concealed from the committee's treasurer, who is required to file detailed reports with the FEC regarding the committee's receipts and disbursements [52 U.S.C. § 30104(b)]. Thus, a person who embezzles contributions from a committee willfully causes the committee's treasurer to create false internal records and to submit false information to the FEC regarding the actual use of the funds, in violation of both the reporting requirements of FECA and 18 U.S.C. §§ 1001 and 1519.[82]

The FEC also has noted the applicability of other federal statutes in its legislative recommendations. Regarding "scam PAC" solicitations, for example, the FEC has recommended amending FECA:

> While legal recourse against such committees might be pursuable under mail- and wire-fraud statutes or the Lanham Act, candidates and contributors who believe they have been victimized by these committees often seek the FEC's assistance. Amending FECA to address and prohibit fraudulent solicitation, including false claims of candidate endorsement and the use of the federal political committee as an artifice to defraud contributors solely to enrich committee organizers, would provide the Commission jurisdiction to consider the complaints of aggrieved candidates and contributors.[83]

As Congress assesses which statute, if any, to amend, at least two factors may be relevant. First, amending one statute does not preclude amending another. Thus, Congress could choose to amend multiple statutes if it viewed these or other policy issues as multifaceted. Second, FECA is devoted primarily to civil campaign finance matters, although "knowing and willful" violations can trigger criminal enforcement.[84] Providing the FEC with additional enforcement authority by amending FECA could address some aspects of questionable fundraising or spending, but also could continue to require enforcement under other statutes.[85] Similarly, Congress could choose not to amend FECA if it determined that other statutes were more appropriate options for regulating activity that happens to occur in campaigns, but is primarily about other policy issues (e.g., fraud).

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[82] *Federal Prosecution of Election Offenses*, ed. Richard C. Pilger, 8th ed. (Washington, DC: U.S. Department of Justice, 2017), pp. 195-196.

[83] Federal Election Commission, *Legislative Recommendations of the Federal Election Commission 2021*, May 6, 2021, https://www.fec.gov/resources/cms-content/documents/legrec2021.pdf, p. 5.

[84] 52 U.S.C. §30109(d).

[85] For additional discussion, see, for example, Jarrett Renshaw and Joseph Tanfani, "'Scam PAC' Fundraisers Reap Millions in the Name of Heart-Tugging Causes," *Reuters*, January 29, 2020, https://www.reuters.com/investigates/special-report/usa-fundraisers-scampacs/.

Concluding Observations

Although some personal-use civil or criminal enforcement actions (topics that are generally beyond the scope of this report) attract substantial public attention and controversy, most campaign-spending questions are routine. Similarly, policy options for addressing permissible use could range from simple to complex. For example, clarifying how campaigns can spend money for security services does not necessarily require potentially complicated and controversial amendments, as might be the case with extending the personal-use language to leadership PACs or super PACs.

Views vary about whether there is a public policy "problem" concerning permissible and prohibited spending. What policy action to take, if any, is a decision for Congress or regulatory agencies. Factors that might be relevant for consideration if the House or Senate reexamine personal and prohibited campaign spending could include the following points, among others:

- The question of how political committees may or may not spend FECA-regulated funds is not necessarily the same as how they should do so. Similarly, public policy is in some aspects distinct from campaign practice. Congress has historically elected to regulate campaign conduct largely indirectly through campaign finance policy, which emphasizes limits on contribution amounts and sources, and public disclosure requirements, rather than by mandating campaign-management standards.
- The fact that political committees are nongovernmental organizations that engage in constitutionally protected political activity could limit the extent to which Congress chooses to pursue additional regulation versus encouraging voluntary changes in political committees' spending practices or financial controls.
- Questions of permissible and prohibited uses of campaign funds encompass a wide variety of individual facts and circumstances, ranging from the mundane to the extraordinary. Congressional needs and interests on the topic are likely to be similarly diverse, ranging from addressing discrete constituent questions to considering whether permissible-use issues are best treated as self-contained campaign finance policy matters, as criminal ones, or as a combination of these and other areas of law. In their capacities as candidates, Members and their campaigns also have individual obligations under FECA, FEC regulations, and chamber rules. In their capacity as Members, they also may be subject to additional regulations established by the Committee on House Administration or the Senate Rules and Administration Committee.
- Not all spending that appears to be questionable is problematic or prohibited. Audits, such as those the FEC may conduct, or other civil or criminal investigations, can determine whether political committees complied with federal law and regulation in specific circumstances.
- Some policy proposals present controversial fundraising and spending practices as two sides of the same coin, while others address them separately. Restricting spending could provide an additional enforcement avenue in some cases, but would not directly affect fundraising, or vice versa.

Appendix.

Table A-1. Legislation Related to Permissible and Prohibited Uses of Funds Primarily Regulated by Campaign Finance Law

(See also table and source notes below)

Congress	Bill	Primary Sponsor	Short Title	Brief Summary of Relevant Provisions	Committee Referral	Latest Major Action Beyond Referral
117th	H.R. 1	Sarbanes	For the People Act of 2021	Except for current federal officeholders, add expenses for child care, elder care, or health insurance premiums to FECA "permissible use" provisions for authorized (candidate) committees, up to the permissible amount of candidate salary, regardless of whether candidate accepts salary; prorate candidate salary if campaign pays for such services (§§5301-5302; bill primarily related to other topics)	House Administration; Intelligence; Judiciary; Oversight and Reform; Science, Space, and Technology; Education and Labor; Ways and Means; Financial Services; Ethics; Homeland Security; Armed Services	Passed House (220-210), 03/03/2021
117th	H.R. 229	Ruiz	Campaign Spending Integrity Act	Prohibit authorized (candidate) committees from paying vendors owned or controlled by the candidate or certain relatives, by including such expenditures in the definition of prohibited personal use	House Administration	—

Congress	Bill	Primary Sponsor	Short Title	Brief Summary of Relevant Provisions	Committee Referral	Latest Major Action Beyond Referral
117th	H.R. 856	Tiffany	Obstructing Monetary Allocations to Relatives (OMAR) Act	Prohibit authorized (candidate) committees, or other committees established, controlled, or maintained by a candidate or federal officeholder (except a party committee) from compensating the candidate's spouse for services provided to the campaign; and establish reporting requirements for payments to spouses or other family members; establish penalty and prohibit campaign reimbursement for penalties paid	House Administration	—
117th	H.R. 1515	Porter	Help America Run Act	Add expenses for child care, elder care, or health insurance premiums to FECA "permissible use" provisions for authorized (candidate) committees, up to the permissible amount of candidate salary, regardless of whether candidate accepts salary; prorate candidate salary if campaign pays for such services	House Administration	—
117th	H.R. 2605	Takano	Let It Go Act	Establish six-year limit for disposing of campaign funds (or one-year period for registered lobbyists) for those who are no longer federal candidates; and establish prioritization criteria for disposing of remaining funds	House Administration	—

Congress	Bill	Primary Sponsor	Short Title	Brief Summary of Relevant Provisions	Committee Referral	Latest Major Action Beyond Referral
117th	H.R. 2388	Castor	Honest Elections and Campaign, No Gain Act	Unless candidate is seeking reelection, require authorized (candidate) committees and leadership PACs to disburse remaining funds within two years of most recent election; establish disbursement criteria; restrict disbursements to relatives unless for campaign purposes; require former candidates who are registered lobbyists to certify compliance on Lobbying Disclosure Act and Foreign Agents Registration Act reports	Judiciary; House Administration	—
117th	S. 1	Merkley	For the People Act of 2021	Except for current federal officeholders, add expenses for child care, elder care, or health insurance premiums to FECA permissible use provisions for authorized (candidate) committees, up to the permissible amount of candidate salary, regardless of whether candidate accepts salary; prorate candidate salary if campaign pays for such services (§§5301-5302; bill primarily related to other topics)	Rules and Administration	Markup held, failed to report favorably, 05/11/2021; Senate Rules and Administration Committee discharged (50-49), 08/11/2021; see also S. 2093

Congress	Bill	Primary Sponsor	Short Title	Brief Summary of Relevant Provisions	Committee Referral	Latest Major Action Beyond Referral
117th	S. 2093	Merkley	For the People Act of 2021	Except for current federal officeholders, add expenses for child care, elder care, or health insurance premiums to FECA permissible use provisions for authorized (candidate) committees, up to the permissible amount of candidate salary, regardless of whether candidate accepts salary; prorate candidate salary if campaign pays for such services (§§5301-5302; bill primarily related to other topics)	— (see right)	Placed on Senate Legislative Calendar, 06/16/2021; Senate declined to invoke cloture on motion to proceed, 06/22/2021; see also S. 1
116th	H.R. 1	Sarbanes	For the People Act of 2019	Except for current federal officeholders, add expenses for child care, elder care, or health insurance premiums to FECA "permissible use" provisions for authorized (candidate) committees, up to the permissible amount of candidate salary, regardless of whether candidate accepts salary; prorate candidate salary if campaign pays for such services (§§5301-5302; bill primarily related to other topics)	House Administration; Intelligence; Judiciary; Oversight and Reform; Science, Space, and Technology; Ways and Means; Financial Services; Ethics; Homeland Security	Passed House (234-193), 03/09/2019
116th	H.R. 679	Rice (NY)	Political Accountability and Transparency Act	Extend FECA personal use prohibition to other political committees (rather than current applicability to only candidate committees); otherwise primarily related to other topics (§2)	House Administration	—

Congress	Bill	Primary Sponsor	Short Title	Brief Summary of Relevant Provisions	Committee Referral	Latest Major Action Beyond Referral
116th	H.R. 1308	Takano	Let It Go Act	Establish six-year limit for disposing of campaign funds (or one-year period for registered lobbyists) for those who are no longer federal candidates; and establish prioritization criteria for disposing of remaining funds	House Administration	—
116th	H.R. 1539	Peters (CA)	Leadership PAC Limitation Act	Extend FECA personal use prohibition to leadership PACs	House Administration	—
116th	H.R. 1623	Porter	Help America Run Act	Add expenses for child care, elder care, or health insurance premiums to FECA "permissible use" provisions for authorized (candidate) committees, up to the permissible amount of candidate salary, regardless of whether candidate accepts salary; prorate candidate salary if campaign pays for such services	House Administration	Passed House by voice vote, 10/29/2019
116th	H.R. 1363	Castor	Honest Elections and Campaign, No Gain Act	Unless candidate is seeking reelection, require authorized (candidate) committees and leadership PACs to disburse remaining funds within two years of most recent election; establish disbursement criteria; restrict disbursements to relatives unless for campaign purposes; require former candidates who are registered lobbyists to certify compliance on Lobbying Disclosure Act reports	House Administration; Judiciary	—

Congress	Bill	Primary Sponsor	Short Title	Brief Summary of Relevant Provisions	Committee Referral	Latest Major Action Beyond Referral
116th	H.R. 3686	Ruiz	Campaign Spending Integrity Act	Prohibit authorized (candidate) committees from paying vendors owned or controlled by the candidate or certain relatives, by including such expenditures in the definition of prohibited personal use	House Administration	—
116th	H.R. 3834	Boyle	Clean Money Act of 2019	Primarily proposes public financing of congressional campaigns; includes proposed amendment to FECA personal-use prohibitions specifying that public funds may only be used for campaign expenses (§103)	House Administration; Energy and Commerce	—
116th	H.R. 5755	Harder	No Pensions for Corrupt Politicians Act of 2020	Prohibit Members of Congress from receiving certain retirement benefits if the Member is convicted of a criminal violation related to FECA prohibited personal-use provisions or certain Title 18 conspiracy or fraud provisions	House Administration; Oversight and Reform	—

Congress	Bill	Primary Sponsor	Short Title	Brief Summary of Relevant Provisions	Committee Referral	Latest Major Action Beyond Referral
116th	H.R. 6659	Steube	Obstructing Monetary Allocations to Relatives (OMAR) Act	Prohibit authorized (candidate) committees, or other committees established, controlled, or maintained by a candidate or federal officeholder (except a party committee) from compensating the candidate's spouse for services provided to the campaign; and establish reporting requirements for payments to spouses or other family members; establish penalty and prohibit campaign reimbursement for penalties paid	House Administration	—
116th	H.R. 9029	Jayapal	Anti-Corruption and Public Integrity Act	Among other provisions, extend FECA personal use prohibition to leadership PACs (§736); otherwise primarily related to other topics	Judiciary; Oversight and Reform; House Administration; Ways and Means; Financial Services; Intelligence; Rules; Foreign Affairs; Armed Services; and Budget	—
116th	S. 589	Lankford	Prevent Government Shutdowns Act of 2019	Among other provisions, prohibit spending campaign funds on official (officeholder) travel during lapses in federal appropriations (§3); otherwise primarily related to other topics	Appropriations	—

Congress	Bill	Primary Sponsor	Short Title	Brief Summary of Relevant Provisions	Committee Referral	Latest Major Action Beyond Referral
116th	S. 949	Udall	For the People Act of 2019	Except for current federal officeholders, add expenses for child care, elder care, or health insurance premiums to FECA "permissible use" provisions for authorized (candidate) committees, up to the permissible amount of candidate salary, regardless of whether candidate accepts salary; prorate candidate salary if campaign pays for such services (§§5301-5302; bill primarily related to other topics)	Finance	—
116th	S. 1877	Lankford	Prevent Government Shutdowns Act of 2019	Prohibit spending campaign funds on official (officeholder) travel during lapses in federal appropriations (§3); otherwise primarily related to other topics	Homeland Security and Governmental Affairs	Reported with amendment in the nature of a substitute (ANS), 11/12/2019
116th	S. 2232	Klobuchar	Campaign Finance Transparency Act	Among other provisions, extend FECA personal use to other political committees (rather than current applicability to only candidate committees) if the disbursement is "significant" ($1,000 individually or $5,000 aggregate) and made to a "controlling person" (one who has authority over committee spending, or certain business partners or relatives); specify exceptions for process to "rebut" personal use presumption bill establishes (§9)	Rules and Administration	—

Congress	Bill	Primary Sponsor	Short Title	Brief Summary of Relevant Provisions	Committee Referral	Latest Major Action Beyond Referral
116th	S. 2726	Klobuchar	Help America Run Act	Add expenses for child care, elder care, or health insurance premiums to FECA "permissible use" provisions for authorized (candidate) committees, up to the permissible amount of candidate salary, regardless of whether candidate accepts salary; prorate candidate salary if campaign pays for such services	Rules and Administration	—
116th	S. 3009	Lankford	Prevent Government Shutdowns Act of 2019	Prohibit spending campaign funds on official (officeholder) travel during lapses in federal appropriations (§3); otherwise primarily related to other topics	—(see right)	Placed on Senate Legislative Calendar, 12/11/2019
116th	S. 4461	Lankford	Prevent Government Shutdowns Act of 2020	Prohibit spending campaign funds on official (officeholder) travel during lapses in federal appropriations (§3); otherwise primarily related to other topics	—(see right)	Placed on Senate Legislative Calendar, 08/06/2020
116th	S. 5028	Bennet	Zeroing Out Money for Buying Influence after Elections (ZOMBIE) Act	Unless candidate is seeking reelection, require authorized (candidate) committees and leadership PACs to disburse remaining funds within two years of most recent election (or end of current term for Senators); establish disbursement criteria; restrict disbursements to relatives unless for campaign purposes; require former candidates who are registered lobbyists to certify compliance on Lobbying Disclosure Act reports	Rules and Administration	—

Congress	Bill	Primary Sponsor	Short Title	Brief Summary of Relevant Provisions	Committee Referral	Latest Major Action Beyond Referral
116th	S. 5070	Warren	Anti-Corruption and Public Integrity Act	Among other provisions, extend FECA personal use prohibition to leadership PACs (§736)	Finance	—
115th	H.R. 593	Capuano	Leadership PAC Limitation Act	Extend FECA personal use prohibition to leadership PACs	House Administration	—
115th	H.R. 838	Ruiz	Campaign Spending Integrity Act	Prohibit authorized (candidate) committees from paying vendors owned or controlled by the candidate or certain relatives, by including such expenditures in the definition of prohibited personal use	House Administration	—
115th	H.R. 1723	Takano	Let It Go Act	Establish six-year limit for disposing of campaign funds (or one-year period for registered lobbyists) for those who are no longer federal candidates; and establish prioritization criteria for disposing of remaining funds	House Administration	—
115th	H.R. 2492	Davis (IL)	Protecting Taxpayers from Corruption Act	Require forfeiture of workers' compensation benefits for Members of Congress convicted of improperly converting authorized (candidate) campaign funds to personal use, among other offenses	Education and Workforce; House Administration	—
115th	H.R. 4497	Castor	—	Prohibit authorized (candidate) committees from paying Congressional Accountability Act claims, by including such expenditures in the definition of prohibited personal use; otherwise primarily related to other topics	House Administration	—

Congress	Bill	Primary Sponsor	Short Title	Brief Summary of Relevant Provisions	Committee Referral	Latest Major Action Beyond Referral
115th	H.R. 5409	Castor	Honest Elections and Campaign, No Gain Act	Unless candidate is seeking reelection, require authorized (candidate) committees and leadership PACs to disburse remaining funds within two years of most recent election; establish disbursement criteria; restrict disbursements to relatives unless for campaign purposes; require former candidates who are registered lobbyists to certify compliance on Lobbying Disclosure Act reports	House Administration; Judiciary	—
115th	H.R. 7267	Rice (NY)	Political Accountability and Transparency Act	Among other provisions, extend FECA personal use to other political committees (rather than current applicability to only candidate committees) (§2); otherwise primarily related to other topics	House Administration	—
114th	H.R. 149	Jones (NC)	—	Permit candidate to designate up to two individuals other than campaign treasurer to disburse campaign funds according to candidate wishes if the candidate dies	House Administration	—
114th	H.R. 150	Jones (NC)	No Political Funds for Personal Use Act	Extend FECA personal use prohibition to all political committee types	House Administration	—
114th	H.R. 714	Capuano	Leadership PAC Limitation Act	Extend FECA personal use prohibition to leadership PACs	House Administration	—

Congress	Bill	Primary Sponsor	Short Title	Brief Summary of Relevant Provisions	Committee Referral	Latest Major Action Beyond Referral
114th	H.R. 1518	Takano	Let It Go Act	Establish six-year limit for disposing of campaign funds for those who are no longer federal candidates; and establish prioritization criteria for disposing of remaining funds	House Administration	—
114th	H.R. 5884	Ruiz	Campaign Spending Integrity Act	Prohibit authorized (candidate) committees from paying vendors owned or controlled by the candidate or certain relatives, by including such expenditures in the definition of prohibited personal use	House Administration	—
113th	H.R. 186	Jones (NC)	—	Permit candidate to designate up to two individuals other than campaign treasurer to disburse campaign funds according to candidate wishes if the candidate dies	House Administration	Hearing held, 06/25/2014
113th	H.R. 3466	Jones (NC)	No Political Funds for Personal Use Act	Extend FECA personal use prohibition to all political committee types	House Administration	—
113th	H.R. 5660	Takano	—	Establish six-year limit for disposing of campaign funds for those who are no longer federal candidates; and establish prioritization criteria for disposing of remaining funds	House Administration	—
112th	H.R. 406	Jones (NC)	—	Permit candidate to designate up to two individuals other than campaign treasurer to disburse campaign funds according to candidate wishes if the candidate dies	House Administration	Passed House (voice vote), 09/10/2012

Source: CRS searches as described in the notes below and analysis of bill text.

Notes: Bills listed in the table are based on CRS searches of Congress.gov for legislation introduced during 112th-117th Congresses containing "30114"" AND "federal election" AND (time OR dispos*) OR ("personal" OR "prohibit*"); and on previous CRS campaign finance products. Different search methodologies could yield other legislation not reflected here. Except as noted, the table does not include bills that primarily propose to amend or establish public financing programs for political candidates. Those bills typically address personal and prohibited uses of campaign funds within the context of the public financing programs they propose to amend or establish, but do not address permissible or prohibited uses of privately financed campaign funds. The table also excludes proposed amendments to other legislation, and bills that do not appear to be substantially related to campaign finance. In some cases, legislation in the table did not advance but relevant provisions were included in other bills also listed.

Author Information

R. Sam Garrett
Specialist in American National Government

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