

FEDERAL ELECTION COMMISSION		
MANUAL OF DIRECTIVES	COMMISSION DIRECTIVE	
	REVOKES July 2, 1999	NO. 21
	EFFECTIVE DATE April 14, 2003	
Procedures to Implement FEC Duties and Responsibilities Under the Ethics in Government Act of 1978, as Amended, with Respect to Candidates for Federal Office		

The following are procedures which implement FEC duties and responsibilities under the Ethics in Government Act of 1978, as amended, 5 U.S.C. app. 6 §§ 101-112, (“Ethics Act”) as they pertain to filings by candidates for President and Vice President of the United States, U.S. Senator, and U.S. House of Representatives.¹

I. FILINGS FROM CANDIDATES FOR FEDERAL OFFICE

A. Presidential and Vice Presidential Candidates (incumbent President, Vice President and Members of Congress excluded).²

The FEC’s general responsibility under the Ethics Act is to receive filings from Presidential and Vice Presidential candidates (incumbent President, Vice President, and Members of Congress excluded) and forward copies of their filings to the Office of Government Ethics. The responsibilities under the Act for various FEC offices are provided below.

¹ The Ethics Act defines the term *candidate* as it is defined in the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§ 431-451 (“FECA”). 5 U.S.C. app. 6 § 101(c). The FECA defines a candidate as an individual who: (1) has received contributions aggregating in excess of \$5,000; or (2) has made expenditures aggregating in excess of \$5,000; or (3) has given his or her consent to another person to receive contributions or make expenditures on behalf of such individual and if such person has received contributions or made expenditures aggregating in excess of \$5,000. 2 U.S.C. § 431(2).

² The incumbent President and Vice President file annually with the Office of Government Ethics. 5 U.S.C. app. 6 § 103(b). Incumbent Senators file annually with the Secretary of the Senate. 5 U.S.C. app. 6 § 103(h)(1). Incumbent Members of the House of Representatives file annually with the Clerk of the House. *Id.*

The Data Systems Development Division shall:

Provide a computerized list of candidates and addresses to the Office of the General Counsel on a weekly basis and to the Public Disclosure Division on a monthly basis in a non-election year and on a weekly basis in an election year.

The Office of the General Counsel shall:

1. Send letters to candidates notifying them of the need to file: (1) once they become a candidate (see Appendix A) and (2) before May 15 of each successive year they continue to be a candidate (see Appendix B). These letters must be sent to individuals appearing on the computerized list of candidates provided by the Data Systems Development Division and to any candidates who have requested public financing but who may not yet appear on the computerized list.

2. Provide personal financial disclosure form SF 278 (see Appendix C) to candidates.

3. Receive and date stamp all filings.

4. Provide the Public Records Branch, Public Disclosure Division with a copy of each filing.

5. Notify all candidates who have not filed a report within ten days of the filing date that their report must be received by the FEC within ten days (see Appendix D). Provide the Public Records Branch, Public Disclosure Division with copies of these letters.

6. Review reports for apparent violations of the FECA, sign the modified review statement "Reviewed for Apparent Compliance with the Federal Election Campaign Act", and forward copies of the reports to the Office of Government Ethics (see Appendix E).

7. Forward to the Office of Government Ethics (on a monthly basis between July of the year preceding the election and July of the election year; on a quarterly basis at all other times) a listing of those candidates who have not filed a required report, including the type of delinquent SF 278 (*i.e.*, either initial or subsequent annual) (see Appendix F). The list shall indicate the date on which the Commission sent each a non-filing notice. The list shall include, if available, the date no later than which these individuals appear to have become candidates as determined from their campaign reports. Copies of these lists should be sent to the Public Records Branch, Public Disclosure Division.

8. Grant requests for extensions to file of up to forty-five days for good cause (see Appendix G). Forward copies of the requests and the Office of General Counsel's responses to the Public Records Branch, Public Disclosure Division.

9. Grant requests for additional extensions to file of up to forty-five days for good cause (see Appendix G). Forward copies of the requests and the Office of General Counsel's responses to the Public Records Branch, Public Disclosure Division.

10. One year after the date an individual is no longer a candidate for the office of President or Vice President, original SF 278s shall be destroyed unless needed in an ongoing investigation. In the case of a candidate who was subsequently elected, the original SF 278 shall be kept for a period of six years and then destroyed, unless needed in an investigation. Destruction will be by shredding.

The Public Disclosure Division shall:

1. Make copies of the SF 278s available to the public within thirty days, together with an index by the last name of the filer.

2. Place a list on the public record of those candidates required to file (the Presidential candidate index will serve this purpose). The list will be updated on a monthly basis, with the names and addresses of the new Presidential and Vice Presidential candidates.

3. Require persons wishing to inspect or copy financial disclosure reports to fill out OGE Form 201, Request to Inspect or Receive Copies of SF 278 (see Appendix H). The original OGE Form 201s should be forwarded annually to the Office of the General Counsel for review of compliance with section 105(c)(1) of the Ethics Act.

4. Post a sign near the Public Records file of these reports stating the unlawful uses of the reports as outlined in section 105(c)(1) of the Ethics Act.

5. Account for the funds from the sale of these documents in the normal Public Records procedures and remit to the U.S. Treasurer. The charge for copies will be listed in the current FEC rate chart.

B. House and Senate Candidates

The Commission must make available to the Clerk of the House and the Secretary of the Senate a periodic listing of candidates for the House and Senate, as well as assist in the candidate identification process. The Public Disclosure Division is assigned to act as coordinator and maintain a log of all actions, correspondence, reports and other materials relating to this area.

The Public Disclosure Division shall:

Send a letter to the Secretary and Clerk (see Appendices I & J) stating that the Commission is enclosing a copy of the Candidate Address Index (A Index) for candidates for nomination or election in future elections and asking how the Commission can be of further assistance. The index will be provided by the Data Systems Development Division to the Public Disclosure Division.

II. MISCELLANEOUS

A. The costs incurred by each Commission division will be covered by the present budget allocations. It is the responsibility of Planning and Management to insure that the management plan includes appropriate allocations for these duties.

B. Document storage and retrieval procedures will reflect these records and their storage and destruction deadlines. The Administration Division will make appropriate changes.

C. All questions and requests for information not covered in these procedures will be referred to the Office of Government Ethics, 1201 New York Avenue, N.W., Suite 500, Washington, D.C. 20005-3919; Telephone: (202) 208-8000.

James A. Pehrkon
Staff Director

Date

Appendix A -- Initial Notification Letter to Candidate

Appendix B -- Annual Notification Letter to Candidate

Appendix C -- Public Financial Disclosure Form (SF 278)

Appendix D -- Late Filer Letter to Candidate

Appendix E -- Report Letter to OGE

Appendix F -- Referral letter to OGE

Appendix G -- Filing Extension Letter to Candidate

Appendix H -- Public Financial Disclosure Report Access Form (OGE Form 201)

Appendix I -- Letter to the Secretary of the Senate

Appendix J -- Letter to the Clerk of the House

Appendix A

Date

Addressee

Dear :

This is to advise you that section 101(c) of the Ethics in Government Act of 1978, as amended, requires a candidate for President and Vice President to file a personal financial disclosure report (SF 278) “[w]ithin thirty days of becoming a candidate as defined in section 301 of the Federal Election Campaign Act of 1971, ... for nomination or election to the office of President [or] Vice President ... or on or before May 15 of that calendar year, whichever is later, but in no event later than 30 days before the election, and on or before May 15 of each successive year an individual continues to be a candidate.” Therefore, as a candidate for [President/Vice President], you are required to file an SF 278 by . Under section 104(d) of the Ethics in Government Act of 1978, as amended, “[a]ny individual who files a report required to be filed under this title more than 30 days after [the due date] shall ... pay a filing fee of \$200.”

Please be advised that the Federal Election Campaign Act defines a candidate as an individual who: (1) has received contributions aggregating in excess of \$5,000; or (2) has made expenditures aggregating in excess of \$5,000; or (3) has given his or her consent to another person to receive contributions or make expenditures on behalf of such individual and if such person has received contributions or made expenditures aggregating in excess of \$5,000. 2 U.S.C. § 431(2).

Section 102 of the Ethics in Government Act of 1978, as amended, describes what must be included in a report. The necessary form is enclosed for your use. An electronic version of the form is available at www.usoge.gov.

Section 103 (e) of the Ethics in Government Act of 1978, as amended, states that “[e]ach individual identified in section 101(c) who is a candidate for nomination or election to the office of President or Vice President shall file the reports required by this title with the Federal Election Commission.” You should mail or deliver your report to the following address:

Federal Election Commission
Office of the General Counsel
999 E Street, N.W.
Washington, DC 20463
Note: Ethics Act Report

If you have any questions regarding the Ethics in Government Act of 1978, as amended, or the filing requirements, please contact the Office of Government Ethics, 1201 New York Avenue, N.W., Suite 500, Washington, DC 20005-3919; Telephone (202) 208-8000. For additional forms, contact the Office of the General Counsel, Federal Election Commission at the above address; Telephone (202) 694-1650 or toll-free (800) 424-9530.

Sincerely,

Chairman

Enclosure

Appendix B

Date

Addressee

Dear :

When you became a candidate for [President/Vice President], you received a letter explaining that section 101(c) of the Ethics in Government Act of 1978, as amended, requires candidates for the office of President or Vice President to file a financial disclosure report (SF 278) with the Federal Election Commission. The financial disclosure report must be filed within thirty days of becoming a candidate, as defined in section 301 of the Federal Campaign Act of 1971, as amended, or on or before May 15 of that calendar year, whichever is later. In addition, this report must also be filed on or before May 15 of each successive year an individual continues to be a candidate. Under section 104(d) of the Ethics in Government Act of 1978, as amended, “[a]ny individual who files a report required to be filed under this title more than 30 days after [the due date] shall ... pay a filing fee of \$200.”

This letter is to serve as a reminder that your required successive year filing is due on May 15, . You should mail or deliver your report to:

Federal Election Commission
Office of the General Counsel
999 E Street, N.W.
Washington, DC 20463
Note: Ethics Act Report

If you have any questions regarding the Ethics in Government Act of 1978, as amended, or the filing requirements, please contact the Office of Government Ethics, 1201 New York Avenue, N.W., Suite 500, Washington, DC 20005-3919; Telephone (202) 208-8000. The necessary form is enclosed for your use. An electronic version of the form is available at www.usoge.gov. For additional forms, contact the Office of the General Counsel, Federal Election Commission at the above address; Telephone (202) 694-1650 or toll-free (800) 424-9530.

Sincerely,

Chairman

Enclosure

Appendix D

Date

Addressee

Dear :

On , you were sent a letter requesting the completion and transmittal of the financial disclosure report required by the Ethics in Government Act of 1978, as amended. A copy of that letter is enclosed.

As of the date of this letter, the Commission has not received your completed report. If it is not already in the mail, please forward the completed forms to the following address within ten days:

Federal Election Commission
Office of the General Counsel
999 E Street, N.W.
Washington, DC 20463
Note: Ethics Act Report

Under section 104(d) of the Ethics in Government Act of 1978, as amended, “[a]ny individual who files a report required to be filed under this title more than 30 days after [the due date] shall...pay a filing fee of \$200.” The statute allows the Director of the Office of Government Ethics (an independent agency separate from the Federal Election Commission) the authority to waive the late filing fee in extraordinary circumstances. An example of an extraordinary circumstance would include the failure to file a timely report as a result of personal/family illness. If your report is filed more than 30 days after the due date, you should either submit a written waiver request with your completed report, or include a \$200 late filing fee for deposit with the United States Treasury.

You may be referred to the Department of Justice for civil action under 5 U.S.C. app. § 104(a) if you do not provide your public financial disclosure report. That statutory provision states that the United States Attorney General may bring a civil action against any individual who knowingly and willfully fails to report required information.

If you have any questions regarding the Ethics in Government Act of 1978, as amended, or the filing requirements, please contact the Office of Government Ethics,

1201 New York Avenue, N.W., Suite 500, Washington, DC 20005-3919; Telephone: (202) 208-8000. For additional forms, contact the Office of the General Counsel, Federal Election Commission at the above address; Telephone: (202) 694-1650 or toll-free (800) 424-9530. An electronic version of the form is available at www.usoge.gov.

Sincerely,

Chairman

Enclosure

Appendix E

Date

Director
Office of Government Ethics
1201 New York Avenue, N.W.
Suite 500
Washington, DC 20005-3919

Dear _____ :

Enclosed is a copy of the financial disclosure report filed by _____ ,
[Presidential/Vice Presidential] candidate, under the Ethics in Government Act of 1979,
as amended. This report has been reviewed by this office for apparent compliance with
the Federal Election Campaign Act of 1971, as amended. We understand that final
review will be undertaken by your office.

If you have any questions or need additional information, please do not hesitate to
contact me at (202) 694-1650.

Sincerely,

General Counsel
Designated Agency Ethics Official

Enclosure(s)

Appendix F

Date

Director
Office of Government Ethics
1201 New York Avenue, N.W.
Suite 500
Washington, DC 20005-3919

Dear _____ :

This letter is in reference to procedures adopted by the Federal Election Commission to implement certain provisions of the Ethics in Government Act of 1978, as amended. Specifically, I am forwarding a list of all Presidential and Vice Presidential candidates who, as of the close of business, have failed to file their financial disclosure reports under the Ethics in Government Act of 1978, as amended. As of that date, candidates have not filed. We have notified these candidates of their obligation to file. The Commission will update this listing on a [monthly/quarterly] basis and forward a copy to your office. This list includes, if available, the date not later than which these individuals appear to have become candidates as determined from their campaign reports and the type of delinquent report.

It is our understanding that all decisions as to whether a candidate should be referred to the Department of Justice for failure to file will be made by your office.

If you have any questions or need additional information, please do not hesitate to contact me at (202) 694-1650.

Sincerely,

General Counsel
Designated Agency Ethics Official

Enclosure

Appendix G

Date

Addressee

Dear :

I received your request dated for a day extension to file your public financial disclosure report as required by the Ethics in Government Act of 1978, as amended. Pursuant to 5 C.F.R. § 2634.201(f), I have [granted/denied] your request for an extension until . [State reasons for denial].

Any requests for extensions of time to file in excess of forty-five days must be made to the Office of Government Ethics, 1201 New York Avenue, N.W., Suite 500, Washington, DC 20005-3919; Telephone (202) 208-8000. If you need additional forms you should contact the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, DC 20463; Telephone (202) 694-1650 or toll-free (800) 424-9530.

Sincerely,

General Counsel
Designated Agency Ethics Official

Appendix I

Date

The Honorable
Secretary of the Senate
The Capitol
Washington, DC 20510

Dear _____ :

This letter is in reference to the Federal Election Commission's responsibilities under the Ethics in Government Act of 1978, as amended.

Under section 103(k) the Commission is required to "make available to the Clerk and the Secretary on a regular basis a complete list of names and addresses of all candidates registered with the Commission." Currently, the FEC is providing on a monthly basis to the Select Committee on Ethics an updated computer listing of Senate candidates for the _____ elections. It is our understanding that the Secretary of the Senate coordinates with the Select Committee on Ethics in utilizing this list in connection with financial reports required to be filed by Senate candidates. In an effort to be of assistance in carrying out section 103(k), we are prepared to rely on this arrangement if it meets with the needs of your office or to make available on a monthly or bi-monthly basis the Senate section of an updated computer listing ("A" index) which is a complete listing of names and addresses of all candidates for the U.S. Senate registered with the Commission. Additionally, if it would be helpful to forward this listing more often during the election year of _____ or in connection with special elections, please let us know.

Section 103(k) also requires the Commission to "cooperate and coordinate its candidate information and notification program with the Clerk and the Secretary to the greatest extent possible." As you know, our staffs have worked in close cooperation in this area in the past while implementing the "Prior Notice" and "Non-Filer" programs for the Federal Election Campaign Act of 1971, as amended. We propose to continue this excellent cooperation and look forward to responding to any request for assistance.

If you have any questions or wish to expand upon these efforts, please do not hesitate to contact me.

Sincerely,

Chairman

Enclosure

Appendix J

Date

The Honorable
Clerk, U.S. House of Representatives
The Capitol
Washington, DC 20515

Dear _____ :

This letter is in reference to the Federal Election Commission's responsibilities under section 103(k) of the Ethics in Government Act of 1978, as amended.

Under section 103(k) the Commission is required to "make available to the Clerk and the Secretary on a regular basis a complete list of names and addresses of all candidates registered with the Commission." To meet that responsibility we propose to send to you, every two weeks, the House of Representatives section of an updated computer listing ("A" Index) which is a complete list containing the names and addresses of all candidates for the U.S. House of representatives registered with the Commission. If you believe that this is too often or if you believe we should forward the listing more often as we get closer to the election, or special elections, please let us know and we will gladly adjust the schedule.

Section 103(k) also requires the Commission to "cooperate and coordinate its candidate information and notification program with the Clerk and the Secretary to the greatest extent possible." As you know, our staffs have worked in close cooperation in this area in the past, while implementing the "Prior Notice" and "Non-Filer" programs for the Federal Election Campaign Act of 1971, as amended. We propose to continue this excellent cooperation and look forward to responding to any request for assistance.

If you have any questions or wish to expand upon these efforts, please do not hesitate to contact me.

Sincerely,

Chairman

Enclosure