

Jan. 14, 2016

TO: Interested Parties

FROM: Counsel to the Democratic Party of Virginia

RE: **Local Party Organizations**

This memorandum addresses how federal campaign finance law applies to “local party organizations” – *e.g.* district-, county-, or municipal-level Democratic party organizations in Virginia that are not registered with the Federal Election Commission (“FEC”) as “political committees.” The memorandum presumes that the local party organizations do not wish to engage in activities that would require registration with the FEC.

We understand that some district-, county-, or municipal-level Democratic party organizations in Virginia are registered with the FEC as political committees. The rules governing these registered committees are substantially different than those governing unregistered organizations. This memorandum is not intended for such registered committees.

This memorandum is an overview, not a comprehensive recitation of all federal rules governing local party organizations. Local party organizations are subject to Virginia campaign finance law as well. Accordingly, we recommend that counsel review proposed activities to ensure compliance with federal and state law.

FEC Registration Triggers

Local party organizations that raise or spend funds above certain thresholds and for certain activities must register with the FEC as political committees.

- A local party organization must register with the FEC as a political committee once its contributions to federal candidates or party committees *plus* its expenditures to influence federal elections exceed \$1,000 per calendar year.
- A local party organization must register with the FEC once it has received more than \$5,000 in donations specifically solicited or donated for the purpose of influencing federal elections.
- A local party organization must register with the FEC once it has spent more than \$5,000 per year on so-called “exempt activities” (more on these below).

Satisfying any one of these three criteria triggers political committee status.

Contributions and Expenditures

As noted above, a local party organization may make up to \$1,000 per calendar year in contributions or coordinated expenditures to federal candidates (and party committees) without registering with the FEC.

Paying for Federal Election Activity (“FEA”)

Federal law requires that local party organizations pay for federal election activity (“FEA”) entirely with federally permissible funds or with a combination of federally permissible funds and Levin funds, depending on the type of FEA.

- Federally permissible funds mean contributions of up to \$10,000 per year from individuals and \$5,000 per year from federal multi-candidate PACs. They do not include any corporate or labor treasury funds.
- Levin funds mean contributions of up to \$10,000 per year per donor.¹

The following types of FEA must be paid entirely with federally permissible funds:

- Public communications that promote, attack, support, or oppose a federal candidate.²
- The salaries and benefits of staff that spend 25 percent or more of their time in a month on federal elections or FEA.

The following types of FEA must be paid with a combination of federally permissible funds (no less than 28 percent in 2016) and Levin funds (no more than 72 percent in 2016):

- Voter registration activity between certain periods of time in 2016. The FEC has yet to release the dates for 2016.
- Get-out-the-vote and voter identification activity, and communications that support or oppose a political party without referring to a candidate, between certain periods of time in 2016. The FEC has yet to release the dates for 2016.

To assure that federally permissible funds or Levin funds are used, a local party organization may either use a reasonable accounting method or place the funds in a separate bank account. The local party organization must maintain records for three years showing that it used the proper mix of funds.

¹ There are restrictions on how Levin funds may be solicited and received. If a local party organization is interested in raising Levin funds, it should first seek guidance from counsel.

² Emails and an organization’s own website are *not* “public communications” and are not subject to this requirement.

Exempt Party Activities

As noted above, a local party organization may only pay for up to \$5,000 per year in exempt party activities without triggering political committee status with the FEC. These include:

- Sample ballots or slate cards referring to three or more candidates, at least one of whom is a federal candidate;
- Grassroots campaign materials (*e.g.* pins, bumper stickers, yard signs, brochures, and posters) supporting the party's nominees for federal office in the general election;³ *and*
- Voter drives (*e.g.* voter registration or GOTV) for presidential nominees in the general election.

Please note that certain party exempt activities qualify as FEA and must be paid as outlined above.

Federal Candidates Soliciting Funds for Local Party Organizations

Federal officeholders and candidates may solicit up to \$5,000 from individuals and federal multi-candidate PACs for local party organizations. They may not solicit funds in excess of this amount, nor may they solicit funds from federally prohibited sources (such as corporate and labor treasury funds). Federal officeholders and candidates may also attend, speak, or be a featured guest at fundraising events sponsored by the local party organization, as long as certain disclaimer notices are included on publicity and at the event itself. Counsel should review any such materials to ensure compliance.

Please let us know if you have questions or would like to discuss.

³ To qualify as an exempt activity, these grassroots materials must be distributed by volunteers. There are also restrictions on the use of transfer-down and earmarked funds to pay for this activity.