



Compliance Notes - Vol. 3, Issue 1

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RECENT LOBBYING, ETHICS & CAMPAIGN FINANCE UPDATES

We read the news, cut through the noise and provide you the notes.

Welcome to *Compliance Notes* from Nossaman's **Government Relations & Regulation Group** – a periodic digest of the headlines, statutory and regulatory changes and court cases involving campaign finance, lobbying compliance, election law and government ethics issues at the federal, state and local level.

Our attorneys, policy advisors and compliance consultants are available to discuss any questions or how specific issues may impact your business.

If there is a particular subject or jurisdiction you'd like to see covered, please let us know.

Until then, please enjoy this installment of **Compliance Notes**. If you would like to have these updates delivered directly to your in-box, please click below to subscribe to our Government Relations & Regulation mailing list.

Campaign Finance & Lobbying Compliance

The District Court for the District of Columbia, which was reconsidering an earlier order holding that Campaign Legal Center and Democracy 21 had informational standing to pursue their claim against the Federal Elections Commission (FEC), ultimately dismissed the suit. In 2015, the plaintiffs filed two administrative complaints with the FEC alleging that then-Florida Governor Jeb Bush and the Right to Rise super PAC failed to adhere to various disclosure requirements under the Federal Election Campaign Act. After the complaints went unanswered by the FEC for almost five years, the groups brought an action in federal court to compel the FEC to investigate the claims. However, with additional briefing from the defendants explaining their FEC disclosure reports, the Court concluded that Campaign Legal Center and

Democracy 21 lacked standing to bring the suit and therefore denied the group's motion for a default judgment against the FEC. (Rick Hasen, Election Law Blog) (Court Opinion)

Delaware: Political candidates and committees who have failed to file required campaign finance reports could escape liability under a new law that went into effect on January 1, 2022. A report submitted to the state Board of Elections shows that in the 2020 election cycle alone, candidates and committees that failed to file campaign finance reports owed over \$600,000 in fines. However, the new law eliminates the mandatory \$50 daily fine and gives the election commissioners discretion over whether to impose the fine. Further, a retroactive provision allows the election commissioners to negotiate settlements, which could include waiving the fine entirely. (Randall Chase, Associated Press)

Maryland: The Baltimore City Council passed an amended bill authorizing a public financing program, which imposes spending caps on candidates using the fund and revises eligibility qualifications for candidates. The new financing program prohibits county executive candidates from spending over \$1.4 million in a primary or general election and prohibits council candidates from spending more than \$150,000. Further, to qualify for the program, candidates for county executive must first earn \$50,000 from at least 550 donors, and council candidates must receive \$15,000 from 150 donors. (Taylor DeVille, Baltimore Sun)

Government Ethics

Alaska: The Select Committee on Legislative Ethics found that Sen. Lora Reinbold (R-Eagle River) violated state law by blocking a critic from posting a comment to her legislative Facebook page. The committee concluded it is a violation of the Legislative Ethics Act for a legislator using their government social media account supported by state resources to block individual comments solely because the posts disagree with the legislator's position. The committee directed Reinbold to stop blocking such comments from members of the public; however, they did not recommend any punishment, in part because the Alaska Legislature has not updated its social media policies since 2011. (James Brooks, Anchorage Daily News)

North Dakota: Attorney General Wayne Stenehjem recently issued an opinion about Article XIV, § 2(5) in the state's constitution, which is an ethics provision involving state officials avoiding the appearance of bias created by campaign contributions. The Ethics Commission submitted a request for an opinion about whether Section 2(5) is an unconstitutional restriction on the freedom of association, protected by the First Amendment. Attorney General Stenehjem concluded that Section 2(5) appears constitutional because it does not limit political speech on its face. Additionally, the Attorney General's opinion provides clarification and guidance to the Ethics Commission as it develops rules governing conflicts of interest. (Jack Dura, The Bismarck Tribune) (Letter Opinion 2021-L-04)

Elections

Texas: Two election workers in Texas filed suit to block the provision in Texas' new voting law which prohibits election officials from soliciting mail-in ballots. They argue that the prohibition, which is punishable by imprisonment and a \$10,000 fine, is unconstitutional. (Jane C. Timm, NBC News)