



Please contact any of the attorneys in our [Political Law Practice Group](#) if you have any questions regarding this alert.

Author

Ronald M. Jacobs
rmjacobs@Venable.com
202.344.8215

Contacts

Ed Wilson, Jr.
dewilson@Venable.com
202.344.4819

Scott E. Gluck
segluck@Venable.com
202.344.4426

Janice M. Ryan
jryan@Venable.com
202.344.4093

Alexandra Megaris
amegaris@Venable.com
212.370.6210

Jeffrey J. Hunter
jjhunter@Venable.com
202.344.4467

Widely Attended Gatherings, Internet Disclaimers, and Internet Fundraising: Three New Developments in Political Law

Recently, the Federal Election Commission (“FEC”) and the Office of Government Ethics (“OGE”) issued notices of proposed rulemaking that will impact the conduct of political law. You may be interested in submitting comments to help shape these proposed regulations.

- OGE proposes revising its gift rules for executive branch employees to expand the Obama Ethics Pledge, which limits gifts by entities that employ or retain lobbyists, to apply to all executive branch employees—not just political appointees. The proposed rule will greatly restrict attendance at widely attended gatherings. [Click here to jump to Proposed OGE Regulations.](#)
- The FEC is considering how to deal with disclaimers on Internet communications, particularly communications that are limited in size or length that make traditional disclaimers difficult to include. [Click here to jump to FEC Proposes Internet Rules.](#)

In addition to these notices, the FEC issued an advisory opinion opening doors for associations to raise funds for candidates using email and websites. [Click here to jump to FEC Advisory Opinion Opens Doors.](#)

Proposed OGE Regulations

Widely attended events (the name given under the House and Senate Gift Rules) and widely attended gatherings (the executive branch’s version) are exemptions from the gift rules restrictions. Government officials may attend events featuring a number of different people (more than 25 non-Congressional attendees for the legislative branch) when the government attendee is either speaking at the event or his or her attendance will further the government’s interest. These exemptions allow officials to attend events such as trade shows, social gatherings, roundtable discussions, and other similar events where government officials have the opportunity to interact with the private sector.

Since the beginning of the Obama administration, however, political appointees have been barred by [Executive Order 13490](#) from attending widely attended gatherings unless speaking at those events. This order requires political appointees to sign “ethics pledges” that promise, among other things, that appointees will not accept gifts from entities that employ or retain lobbyists. Therefore, events such as tradeshow, panel discussions, and social events are off limits unless the political appointee is speaking (attendance is limited to the day of the speech), or if the appointee pays admission.

[OGE proposes](#) to extend the EO to all executive branch employees. This will mean that organizations, particularly associations (which often have events that fall into the widely attended category), will not be allowed to invite executive branch employees to their widely attended events unless the employee has a speaking role. This could have a major impact on associations that wish to interact with government employees at their events.

The rule is still just a proposed rule and comments to OGE are due on November 14. Venable anticipates submitting comments urging OGE not to expand its rules to prohibit all executive branch employees from attending widely attended gatherings. Those comments may also suggest that OGE generally liberalize the rules for political appointees, so as to permit appropriate interaction between government employees and the private sector. If you would like to provide suggestions for these comments or have examples of problems that OGE’s proposed rule would cause, please contact Ron Jacobs at 202.344.8215 or rmjacobs@Venable.com.

For additional information about OGE’s proposed rules, please [click here](#).

FEC Proposes Internet Rules

By now, we are all way too familiar with the “stand by your ad” rules that require candidates to say, “and I approve this message.” The FEC has a number of rules governing disclaimers that apply to different types of public communications made by candidates, political committees, or other individuals or

organizations, depending on the medium used for the communication and the content of the message. The FEC is specifically considering its rules as they apply to Internet communications, which include web sites, paid online advertising, and bulk (more than 500 substantially similar) email messages.

The FEC has **asked for comment** on ways it can structure its disclaimer rules for Internet communications. The notice does not include specific suggestions for how it should amend its rules, but rather seeks input on a series of questions.

1. How do campaigns, political, committees, voters, and others use the Internet, including mobile technologies?
2. How do the current disclaimer rules present challenges to the use of technology?
3. How should the rules be modified?
4. Should the rules include abbreviated disclosure for certain communications that have limited space?
5. How can the FEC structure its rules to allow for flexibility with changing technology?

If you are interested in providing comments to the FEC, please contact Ron Jacobs at 202.344.8215 or rmjacobs@Venable.com. For additional information about the Internet disclaimers and the FEC's proposal, please [click here](#).

FEC Advisory Opinion Opens Doors

The FEC issued an **advisory opinion** ("AO") to the Utah Banker's Association that provides new opportunities for associations to solicit contributions from the general public to candidates. The AO will allow the Utah Banker's PAC to establish a project as part of the PAC that will identify candidates who support the banking industry. One advisory council will identify those candidates and a second will determine which candidates will receive support from the project. The councils will be staffed by association employees and also by volunteers from member banks.

The project will then create a website and emails that will encourage people to contribute to the candidates. The council members may forward the emails to their personal contacts, and ask that they be forwarded along. It is important to note that the emails and websites are not used to collect contributions for the candidates. Rather, they encourage people to contribute directly to the candidates involved (by directing people to the candidate's websites). In addition, this activity will not be coordinated with the candidates.

The costs involved for creating content (including staff time), paying internet vendors, etc. will be paid by the PAC. In addition, the PAC will pay its affiliated associations (those in other states) \$50 annually to cover the costs associated with staff from those associations forwarding emails. The association itself will pay any administrative costs, such as accounting, legal, and phone costs.

Thus, this AO makes clear that associations may use their PACs to solicit contributions to candidates from those outside of the association's restricted class. This frees up PAC resources, helps to elect candidates whom the association supports, and likely will help the association raise more money for its PAC since it can rely on contributions from those outside of the restricted class to contribute to candidates.

For more information about this advisory opinion, or to discuss PAC fundraising options, please contact Ron Jacobs at 202.344.8215 or rmjacobs@Venable.com.

Venable's Political Law Practice Group

Venable's **Political Law Practice Group** has more than ten attorneys with experience in campaign finance, gift and ethics, lobbying disclosure, and tax rules. Many of these attorneys have government and campaign experience. The political law practice represents corporations, associations, candidates, PACs, advocacy organizations, and individuals.

CALIFORNIA MARYLAND NEW YORK VIRGINIA WASHINGTON, DC
1.888.VENABLE | www.Venable.com