

Rules for Forming a PAC



Q: My 501(c)(6) organization is thinking about setting up a PAC in order to get involved in future federal elections. Can we use our general treasury funds to form the PAC? Can we loan the PAC the money that it will need to pay its operating costs? What other issues should we be aware of?

A: The Federal Election Campaign Act (the “Act”) regulates how corporations, including not-for-profit associations, and others may participate in federal politics. While the Act prohibits associations from using their general treasury funds to make “contributions or expenditures” in connection with federal elections, there are many ways in which an association may legally participate in federal election activities. The Act specifically allows associations to form or set up “political committees” that are allowed to make contributions to and expenditures on behalf of federal candidates and other political committees. These political committees are referred to in the Act as “separate segregated funds.” However, they are more commonly referred to as “political action committees” or “PACs.”

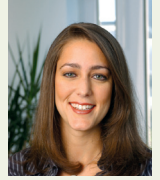
A 501(c)(6) that forms and sponsors a PAC may use its own funds to pay for the costs of operating and raising money for the PAC. For example, a sponsoring 501(c)(6) may use treasury funds to pay for the expenses associated with setting up, administering and raising money for an affiliated PAC. Specifically, it may pay the PAC’s operating costs, including the cost of office space, phones, salaries, utilities, and supplies, and such payments are

not required to be reported to the Federal Election Commission – the agency that administers and enforces the Act. Alternatively, (i) the PAC may use its own funds to pay its operating costs, or (ii) a sponsoring 501(c)(6) association may reimburse the PAC for operating expenditures, provided that the reimbursement is made within 30 days of the PAC’s disbursement (however, these reimbursements are reportable to the FEC). It should be noted that 501(c)(3)s can form separate but affiliated 501(c)(6) organizations in order to conduct political activities without risking the 501(c)(3)’s tax exempt status. Once a PAC is formed, it must register with the FEC.


The Act places a number of restrictions on how much money a PAC may contribute to a candidate for federal office, and on how much money individuals may contribute to a PAC. There also are restrictions on who a PAC may solicit for contributions and what types of contributions a PAC may accept. For example, the Act requires that all contributions made to a PAC be voluntary. Therefore, an association may not require its members, volunteers or employees to contribute to its affiliated PAC, and a PAC may not use or accept any portion of membership dues received from members of its sponsoring association if the members are required to pay such dues in order to be a member of the association. A PAC’s sponsoring association may, however, include a box on invoices for membership dues or on conference registration forms that members may check if they wish to make a contribution to the association’s affiliated PAC.

Further, while a PAC is allowed to make contributions and expenditures in connection with federal elections, its affiliated association is not. Therefore, it is essential for an association to understand how the Act defines the term “contribution.” A contribution is anything of value given to influence a federal election. Contributions are not just gifts of money, but include the following: loans and guarantees of loans, gifts of goods and services, and

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provision of gifts and services offered at less than the usual and normal charge. Prohibited contributions may result if an association is not careful. For example, an association must take measures to ensure that it does not commingle its funds with the funds of its PAC. Any funds that an association uses to pay the administrative expenses of its affiliated PAC must be paid directly to vendors or must be deposited into a special account that is used exclusively to pay for the PAC’s establishment, solicitation and administration costs. An association may not reimburse individuals or employees who make contributions to an affiliated PAC. Additionally, an association may not allow a PAC to use its premises, food services and mailing lists free of charge, it must receive advanced payment equal to the fair market value of such goods or services. It is important to note that, in addition to the information set forth above, there are numerous rules and regulations, including disclosure requirements, that a PAC must comply with in connection with the making and acceptance of contributions.

An association should be cautious when undertaking political activities, and make sure to carefully consider and plan all of its actions. This article only provides an overview of the complex regulations, and other rules that govern a PAC’s organization, operation, fundraising activities, and lobbying activities. There are other laws (both state and local), in addition to the Act and related FEC rules and regulations, that may govern an association’s political activities as well. For additional information regarding the Act and the FEC, visit the FEC Web Site at www.fec.gov. 

The answers provided here should not be construed as legal advice or a legal opinion. Consult a lawyer concerning your specific situation or legal questions.

To learn more about the Forum’s Political Action Committee, ForumPAC, visit www.associationforum.org/about/committee.asp, and click on “Forum PAC Trustees.”