

POLICY ALERT

RULES GOVERNING CONTRIBUTIONS TO RECOUNTS AND RUNOFFS

With several congressional races still undecided, it is important to note that recount activities and runoff elections are subject to the Federal Election Campaign Act and Federal Election Commission regulations. The rules differ slightly for a runoff than for a recount.

RECOUNTS

Recounts, while not “elections” in and of themselves, are considered to be in connection with an election for federal office and thus are subject to the rules regarding contribution limitations and prohibitions. Specifically, corporations, labor organizations and foreign nationals may not make contributions to a recount fund. Only individuals and political action committees (PACs) may legally make such contributions.

Recount funds may be established by a candidate or a state party committee. An individual may make a contribution of \$2,300 to a recount fund of a federal candidate or \$10,000 to a state party’s recount fund.

PACs that have multicandidate status may make a contribution of \$5,000 to a federal candidate’s recount fund or \$5,000 to a state party’s recount fund. Non-multicandidate PACs are subject to the individual limit of \$2,300.

Contributions to the recount fund of a federal candidate, state party committee or national party committee will not be aggregated with other contributions nor will they be aggregated for purposes of an individual’s cycle contribution limits. This means that, even if an individual or a PAC has already made a contribution to a candidate, state party committee or national party committee, the individual or PAC can still make another contribution, up to the limits mentioned, for use in a recount, without regard to how much might have been given previously. This also means that, even if an individual has already maxed out the aggregate contribution limit for this cycle, he or she may make additional contributions in connection with a recount without violating the biennial aggregate limits.

Runoff Elections

For those who are closely watching the Georgia Senate race, the rules are slightly different when making contributions to a runoff. Unlike a recount, which is not considered an election

for purposes of the contribution limits, a runoff is considered a separate election. Corporations, foreign nationals and labor organizations are prohibited from making contributions.

An individual may give up to \$2,300 to a candidate. This means that, even if an individual gave \$2,300 in the primary and \$2,300 in the general, he or she can still give an additional \$2,300 for the runoff. However, a contribution to the runoff will count against the individual's aggregate cycle limit. If he or she has already given \$42,700 to candidates this cycle, he or she is prohibited from making additional contributions

An individual may also give \$10,000 this calendar year to a state party committee in connection with the runoff, provided that he or she has not already made a contribution to the state party's federal account. If a contribution has already been made this calendar year to the state party's federal account, the contribution for the runoff cannot exceed the difference between the initial contribution and the maximum allowable contribution to the state party's federal account. A contribution to the state party committee will count against the individual's aggregate cycle limit.

PACs with multicandidate status may give \$5,000 to a candidate in the runoff—this is above and beyond what might have already been given to that candidate this year. However, a political action committee may give \$5,000 to the state party committee only if they have not already made a contribution this calendar year. If a contribution has been made, the contribution for the runoff cannot exceed the difference between the initial contribution and the maximum allowable contribution of \$5,000. However, if a political action committee has given \$5,000 to the state party committee this year, they may not make additional contributions.

Contributions to a recount fund or runoff election are required to be reported to the Federal Election Commission by the recipient committee. All reports filed with the Federal Election Commission are publicly available at <http://www.fec.gov/>.

CONTACT INFORMATION

If you have questions about this alert, please contact:

Melissa L. Laurenza	202.887.4251	m Laurenza@akingump.com	Washington, D.C.
Carrie M. Hoback	202.416.5153	choback@akingump.com	Washington, D.C.
Kelly J. Eaton	202.887.4162	keaton@akingump.com	Washington, D.C.