

# ARKANSAS ETHICS COMMISSION

910 West Second Street, Suite 100  
Post Office Box 1917  
Little Rock, Arkansas 72203-1917  
(501) 324-9600 Fax (501) 324-9606  
Toll Free (800) 422-7773

Sally Kibler  
Chairman

Ted Dickey  
Vice Chairman

Joe Ball  
Larry Ross  
Herschel Cleveland  
Commissioners



Graham F. Sloan  
Director

Rita S. Looney  
Chief Counsel

Robert L. Roddey  
Staff Attorney

Todd Elder  
Teresa Keathley  
Directors of Compliance

## ADVISORY OPINION NO. 2005-EC-016 Issued November 18, 2005

The Arkansas Ethics Commission is issuing this advisory opinion on its own initiative in response to a number of inquiries concerning the registration and reporting requirements applicable to political action committees ("PACs") under Act 2006 of 2005.<sup>1</sup> Four primary questions related to PACs will be addressed:

Question 1. Is a federal PAC required to register and report in Arkansas if it makes contributions to Arkansas candidates, ballot question committees, legislative question committees, political parties, county political party committees, or political action committees?

Answer: Pursuant to Ark. Code Ann. § 7-6-215(a)(4), all out-of-state political action committees, including federal PACs, are required to comply with the registration and reporting provisions if the committee contributes more than five hundred dollars (\$500) in a calendar year to candidates, political parties, county political parties, county political party committees, or other political action committees. This provision is also set forth in § 504 of the Arkansas Ethics Commission's Rules on Political Committees. The five hundred dollar (\$500) threshold for registration and reporting applies to contributions made within the state of Arkansas rather than nationwide. See Advisory Opinion No. 2005-EC-015.

Question 2. Can a federal candidate committee make a contribution to Arkansas candidates, ballot question committees, legislative question committees, political parties, county political party committees, or political action committees without being required to register and report as a PAC?

Answer: It is the Commission's opinion that a federal candidate committee does not "receive contributions *in order to* make contributions." Accordingly, such a committee does not meet the definition of "approved political action committee" set forth in Ark. Code Ann. § 7-6-201(1)(A) and, therefore, is not required to

---

<sup>1</sup> This Act has been codified at Ark. Code Ann. § 7-6-201 *et seq.*

register and report as a PAC in Arkansas. It is noted that a federal candidate committee is subject to registration and reporting under Federal law.

Question 3. If an auxiliary committee, such as a women's political committee, is also an active civic and/or charitable organization, may it continue to pursue such purposes and also register as a PAC? If so, do all of the contributions it accepts count toward the \$500 registration threshold?

Answer: An auxiliary committee of a political party or any committee other than a county political party committee may remain active as a civic and/or charitable organization without running afoul of the laws regarding political action committees. If, however, such committee receives contributions during a calendar year which, in the aggregate, exceed five hundred dollars (\$500) for purposes of making contributions to candidates, ballot question committees, legislative question committees, political parties, county political party committees, or other political action committees, then the committee is required to register and report as a PAC. Because an approved Arkansas PAC exists for political purposes and not for civic or charitable purposes, it is the Commission's opinion that the committee is required to keep its political funds separate from its other donations. The committee is only required to register and report its political contributions and otherwise comply with the applicable PAC registration requirements when contributions received for political purposes exceed \$500 during a calendar year.<sup>2</sup> Charitable contributions made to the organization and which are not to be used by its PAC for political purposes will not count toward the registration threshold.

Question 4. Is there more than one way a federal or other out-of-state PAC seeking to make contributions in Arkansas can comply with the applicable registration and reporting requirements? If such a PAC elects to set up a new PAC in Arkansas, is there a dollar limit regarding the transfer or "set-up" contribution from the initial PAC to the new Arkansas PAC? How does the new Arkansas PAC report its beginning balance entry?

Answer: A federal or other out-of-state PAC may comply with the applicable Arkansas PAC laws in one of two ways. First, such a PAC may choose to register *itself* as an Arkansas PAC and comply with the registration and reporting provisions of § 7-6-215, including the appointment of a treasurer who is a qualified elector of this state and the establishment of an account in a depository within Arkansas. The beginning balance entry should reveal the PACs then current balance on hand. Thereafter, the PAC is required to report *all* contributions received (whether in or out of state) and all expenditures made *in this state*. For purposes of balancing the reporting form, the PAC will need to make a lump-sum entry of expenditures made out of state.

---


<sup>2</sup> See Advisory Opinion No. 2005-EC-008 for a complete explanation of the new requirements under Ark. Code Ann. § 7-6-215.

Second, a federal or other out-of-state PAC may set up an Arkansas PAC by making a transfer or "set-up" contribution to the new PAC ***without being required to register itself*** as an Arkansas PAC ***if*** such transfer or "set-up" contribution and any other contributions from the federal or out-of-state PAC do not exceed five hundred dollars (\$500) in a calendar year. If the PAC desires to make a larger transfer or "set-up" contribution, it must register itself as a PAC in order to do so. The transfer or "set-up" contribution would, however, be subject to the five thousand dollars (\$5,000) limit set forth in Ark. Code Ann. § 7-6-201(6)(D). When reporting the beginning balance entry, the new PAC may report the contribution from the initial PAC in a lump sum, without itemization of its contributions which comprise the transfer or "set-up" contribution.

This advisory opinion is issued by the Commission pursuant to Ark. Code Ann. § 7-6-217(g)(2) .

**ARKANSAS ETHICS COMMISSION**

By:

  
Rita S. Looney, Chief Counsel