



Postcards4VA's Guide To

Election Laws & Postcard Writing

By

Robbin Warner, Lisa Howard, Krystal Henson & Dianne Holland

www.postcards4va.com

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Campaign finance and reporting laws are like all laws, some things are regulated by the state and others by the federal government. Whereas all federal campaigns follow the same Federal Election Commission (FEC) laws, every state has its own set of rules governing how money can be spent and reported.

Understanding and following campaign laws doesn't make us any less creative, innovative, or grassroots. It just means that we can be all of these things AND follow the rules. You could say that one of the resistance's superpowers is that we can do everything right.

The bottom line is we would hate to have a negative story on the front page of the paper about our postcards not following the laws or get our candidates fined. We spend too much time helping get out the vote to waste time, energy and money on an FEC compliant and/or a bad news story.

Election laws impact postcard writing in two stand-alone provisions. The first one involves identifying who paid for the postcard by having a visible disclaimer. The second provision consists of reporting the costs associated with making and mailing the postcards as an in-kind contribution to the campaign. It's important to note that how and when to address these provisions differs on the state and federal level.

In putting together this section, we consulted directly with the FEC to understand how federal rules impacted what we're doing with postcards. We learned that the rules were written with large, highly coordinated campaigns in mind not individualized, low-tech, grassroots efforts. And yet, we need to understand where and how we fit.

What we wrote here are suggested practices and NOT official rulings by the FEC. For every question we asked—and we asked many—we were always encouraged to err on the side of caution.

Because every state has its own campaign laws, we can't report on all of them. We can make the generality that on the state level smaller efforts like our postcard writing is more typical and more readily addressed.

In November most states will have both state and federal candidates on the ballot. If this is the case, you will probably ask people to vote for a slate of candidates. Use the rules that cover the broadest requirements. For the 2018 Midterm Election, Postcards4VA will only be distributing addresses for congressional candidates and therefore our actions will address federal election rules.

FYI

Postcards we write expressing our opinions to legislators aren't governed by election laws and therefore aren't impacted by anything in this section. We know this seems out of place here, but some people have asked us this question.

In our write up below, we will first address rules on the state level because they tend to be more granular and then we'll discuss the rules on the federal level for the 2018 midterm elections.

Because you probably just want to know what you have to do in terms of a disclaimer and reporting without a long explanation, we'll start with a summary and then give a fuller explanation.

STATE ELECTIONS

Summary:

- **Disclaimer** – The criteria for determining the need for a disclaimer is state specific, but you will probably need to have one.
- **Reporting** – Campaigns need to keep track of all donations including in-kind donations. Find out how your state tracks in-kind contributions and the threshold amount for itemizing in-kind donations.

How did Postcards4VA handle the Virginia election laws?

One of the biggest challenges Postcards4VA faced mid-stream in Virginia involved campaign finance and reporting laws. We knew little about this when we started, but by the general election we needed to get smart on these issues quickly. We consulted the Virginia Department of Elections, the state Democratic party, and the coordinated campaign to understand the ins and outs of the Virginia state campaigns laws.

After our thorough review, we added two new components to our program. The first was that everyone needed to include a disclaimer on every postcard. Though we received the addresses from the campaign and worked closely with them, the disclaimer stated “not authorized by the campaign” because the campaigns weren’t controlling our messages or giving us a required script.

The second component was that we facilitated the reporting of postcard writing as an in-kind contribution to the campaigns. After all the postcards were written, we provided the campaigns with lists of all volunteers who wrote postcards for the campaign so that they could report the contribution. The reporting threshold for itemizing in-kind contributions was \$200. This meant additional information was required from the volunteer in addition to name and address. Campaigns contacted these volunteers directly for this additional information.

Though we did receive a little pushback by volunteers who didn’t want to go back and add the disclaimer to postcards they had already written, most happily complied.

Following the rules helped us in three ways. First, the campaigns were thankful that we were conscientious, thorough, and professional. Second, our actions made the state party and its coordinated campaign more willing to work with us. And finally, the grassroots groups we worked with had dozens of members who were attorneys and appreciated our attention to rules.

This is the full explanation we provided volunteers on how to comply with Virginia election laws. We included an explanation in our guidelines, had it on our website, and reminded volunteers in our email messages. You will need an explanation specific to your state’s rules.

There are two issues in the Virginia election finance laws that impact our postcard writing. One has to do with reporting and the other with the need for a disclaimer statement.



DISCLAIMER

Under Virginia Campaign Law ([§ 24.2-956.1](#)), if a person pays for an advertisement (and a postcard counts as an advertisement) that is considered a contribution ([§ 24.2-955](#)), one must put a disclaimer on it.

This does not apply if a person makes an independent expenditure of less than \$1,000 in an election cycle ([§ 24.2-955](#)). However, we are not making an independent expenditure because we are coordinating with the campaigns. Therefore, we fall under the “in-kind” category that requires a disclaimer be included ([§ 24.2-945.1](#)).

Because each of us is writing our own message and we want to maintain our autonomy and independence, we are going to have the disclaimer state that the message was not authorized by the campaign ([§ 24.2-945.1](#)).

The State gives specific language for the disclaimer, including guidance that the font must be no smaller than 7 pt.

Paid for by _____ [Name of person who paid for postcard]
Not authorized by a candidate.

REPORTING

In terms of financial reporting, in the state of Virginia campaigns have to report all contributions, whether cash or in-kind and no matter how small. So, even though one wouldn't think that writing postcards had a high enough dollar value, it has a value so it must be reported. That said, the information the campaign needs for reporting donations of \$100 or less is different from the information needed for donation above \$100.

Now, we're not making financial contributions with our postcards, but we are making an in-kind contribution. The contribution includes the postage and the postcard itself. The contribution does not include the labor of writing the actual message.

For 100 postcards, we calculate the dollar value as: Stamps: 100 stamps = \$35.00.

If you write less than 300 postcards, your contribution is less than \$ 100. On the campaign report, your donation will be part of the total amount of un-itemized contributions. The campaign is not required to list your name. However, the campaign is required to keep your name on file should your aggregate donation exceed \$100 by the end of the campaign.

HOWEVER, if you write 300 or more postcards, which we hope you will, then the campaign needs to report your contribution with a bit more information ([§ 24.2-947.4](#)):

- Name
- Address
- Occupation
- Employer
- Place of Employment
- Contribution Amount

We will be providing the campaigns with the names and emails of the people who are writing for their candidate and they will send you an email requesting this information. **IMPORTANT:** The campaign will only use your information for reporting purposes.

Where do we find out about our state's campaign finance and reporting laws?

Every state has its own election laws. You can find out all this information online. For example, in Virginia all this information is listed on the Virginia Department of Elections web site. In California, all this information is handled through the Secretary of State. You need to find out where this information is housed in your state.

Find someone in your group to review the rules and regulations. Ask questions. We found that the people who oversee these rules are happy to answer your questions.

FEDERAL ELECTIONS

Summary

- **Disclaimer** - FEC does not require an individual to provide a disclaimer if the total quantity mailed within a 30-day period is below 500 somewhat similar cards. However, the FEC advises to err on the side of caution. This is why we limit any one person from getting more than 499 addresses. Please note that printable postcard templates made by Postcards4VA have a disclaimer.
- **Reporting** – Campaigns need to keep track of and report all donations including in-kind donations (when you pay for something rather than making a cash contribution) to the Federal Election Commission (FEC). The in-kind contribution value for a postcard is the price of postage and the cost of the postcard itself. In-kind contributions count towards an individual's federal campaign contribution limit. Individuals can give up to \$2700 per candidate per election ([click for more information](#)).

In 2018, Postcards4VA is going to calculate the in-kind value of a handwritten postcard as follows: \$0.35 postage + \$0.20 postcard = \$0.55 per card.

Key parts of the Federal Election Campaign Act that impact postcard writing

The Federal Election Campaign Act (the Act) requires that all public communications by any person that expressly advocate the election or defeat of a clearly-identified federal candidate

must include a disclaimer stating who paid for the communication and whether it was authorized by a federal candidate or candidate's committee. [11 CFR 110.11\(a\)](#).

The term "public communication" includes all mass mailings, which are mailings of more than 500 pieces of identical or substantially similar nature within any 30-day period. [11 CFR 100.26](#). "Substantially similar" includes communication that include substantially the same template or language, but vary in non-material respect such as communications customized by the recipient's name, occupation, or geographic location. [11 CFR 100.27](#).

Disclaimers on printed communications should be clearly readable and contained in a text box set apart from the other material on the communication. A concise summary of the general disclaimer requirements for different types of communications is on the Commission's page, "[Advertising](#)."

With respect to possibly coordinating the mailing of these postcards with a federal candidate or his/her agents, Commission regulations state that expenditures that are coordinated with federal candidate must be considered in-kind contributions to the federal candidate's authorized committee, subject to the contribution limitations, source prohibitions, and reporting requirements of the Act. An in-kind contribution is when goods or services are offered for free or below the usual rate ([for more information on in-kind contributions](#)). Essentially, this means that the expenditures must be within the contribution limits and should be reported as received by the candidate with whom they were coordinated. [11 CFR 109.20](#), [109.21](#) and [100.52\(d\)](#). In-kind contributions count towards an individual's federal campaign contribution limit. Individuals can give up to \$2700 per candidate per election. (FEC Contribution Limits Chart for 2017-2018).

The threshold for itemization by the campaign of individuals is when they [contribute in excess of \\$200 in an election cycle](#). [11 CFR 104.3\(a\)\(4\)\(i\)](#). Candidate committees must itemize contributions from committees (including committees which do not qualify as political committees under the Act) regardless of the amount. [11 CFR 104.3\(a\)\(4\)\(ii\)](#).

The Act requires political committees to register with the FEC within 10 days of becoming a political committee. The Act defines a political committee, among other things, as "any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year." [11 CFR 100.5\(a\)](#). (Typically, these types of committees are referred to as "nonconnected committees" or "nonconnected PACs.") If your group were to keep your total expenditures (including contributions to candidates and independent expenditures) at \$1,000 or less during a calendar year, there is no requirement that it should register with the FEC as a political committee. More information on forming a nonconnected PAC can be found on the Commission's page, "[Registering as a PAC](#)."

Where do you get information on the federal election laws?

For questions about federal elections, call the Federal Election Commission (FEC) directly (Toll-free: 800-424-9530, Local: 202-694-1000, extension 6).

If your group plans to write large quantities of postcards, not just distribute the addresses to others, you move to a different category. However, the real issue is money. If the group, as a

group, raises and spends more than \$1000 then it needs to register with the FEC. **Because most postcard writers pay for their own postage, this remains an individual in-kind contribution. Dealing with this as an individual act is simpler.**