



Understanding Campaign & Election Rules for Postcard Writers

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

Understanding and following campaign rules 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 rules or get our candidates fined. We spend too much time helping get out the vote to waste time, energy and money on an FEC complaint and/or a bad news story.

Election rules 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 2020, all Virginia districts will have candidates on the ballot for President, Senate, and Congress, and some may also have candidates for local office. For this reason, this guide covers both state and federal election laws.

To put this overview together, we consulted directly with the FEC to understand how federal rules impacted what we're doing with postcards. For Virginia state laws, we worked with the Virginia Department of Elections. In both cases 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 how and where we fit.

What we present in this overview are suggested practices and NOT official rulings by the FEC or the Virginia Department of Election. For every question we asked—and we asked many—we were always encouraged to err on the side of caution. Our recommendations are built on that suggestion.

FYI

The suggestions in this guide are for GOTV postcards that name candidates. Postcards you write expressing your opinion to legislators is not governed by election laws and therefore is not impacted by anything in this guide.

Though this guide can be used as a general reference for postcard writers in any state, it was compiled with Virginia postcard writers in mind.

State Elections

Summary:

- **Disclaimer** – The criteria for determining the need for a disclaimer is state specific. A disclaimer is required in the Commonwealth of Virginia.
- **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. Postcards4VA has an automatic reporting feature built into our system.

How does Postcards4VA handle Virginia election rules?

The biggest challenges Postcards4VA faced when it started in April 2017 involved learning about and complying with 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.

The result was the establishment of two key 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 were not 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.

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 detail.

Explanation to Volunteers

This is the full explanation we provide volunteers on how to comply with Virginia election laws. We include an explanation in our guidelines, have it on our website, and remind 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. Though we are not making a direct financial contribution with our postcards, we are making an in-kind contribution. The contribution includes the cost of the postage and the postcard itself. The contribution does not include the labor of writing the actual message.

In 2020, Postcards4VA is going to calculate the in-kind value of a handwritten postcards as follows: \$0.35 postage + \$0.30 postcard = \$0.65 per card. If you write 100 cards, the in-kind value is \$65.00. If you write 200 cards, the in-kind value is \$130.

Though the rules says that campaigns can aggregate in-kind donations under \$100, the software they use for reporting wants complete information for every donor.

To simplify things for our writers and the campaigns, when people register to get addresses, we gather the information needed to submit for an itemized in-kind donation as identified in (§ 24.2-947.4). This is the same information needed for a Federal campaign contribution:

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

We then provide this information to the campaigns so they can use it in their financial reporting for in-kind donations.

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 available on the Postcards4VA website have a fill-in-the-blank 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 2020, Postcards4VA is going to calculate the in-kind value of a handwritten postcards as follows: \$0.35 postage + \$0.30 postcard = \$0.65 per card. If you write 100 cards, the in-kind value is \$60.00. If you write 499 cards, the in-kind value is \$299.40.

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](#)."

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 as a group you formally raise and spend more than \$1000 as a group, you need 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 volunteer act is simpler.**

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).