

CFR 400.21 and 400.22 are exceeded, thereby triggering the reporting requirement.

2. 11 CFR 100.33 Definition of "Personal Funds" (2 U.S.C. 431(26))

The definition of "personal funds" in new section 100.33 largely tracks the definition provided in BCRA (2 U.S.C. 431(26)), which, in turn, appears to be based primarily on the definition of "personal funds" in former 11 CFR 110.10(b). Because BCRA placed the new statutory definition of "personal funds" in 2 U.S.C. 431, giving it general applicability in FECA, the Commission has decided to place the corresponding regulatory definition in 11 CFR part 100 to give general applicability to the definition in all of the Commission's regulations relating to Title 2 of the United States Code. Therefore, the version of the definition in 11 CFR 110.10(b) is deleted. The Commission notes that the regulations relating to Title 26 of the United States Code also contain a definition of "personal funds" at 11 CFR 9003.2(c)(3). The definition of "personal funds" in 11 CFR 9003.2(c)(3) is not being changed. Only the definition of "personal funds" in former 11 CFR 110.10(b) is being altered in conformance with the definition of "personal funds" in BCRA.

Although the new statutory definition of "personal funds" seems to be based largely on the previous definition contained in former 11 CFR 110.10(b), it differs from that prior rule in a number of respects. First, although both definitions include salary and income from *bona fide* employment, BCRA considers only salary and earned income received during the current election cycle (as defined in new 11 CFR 400.2, discussed below) to be the candidate's personal funds. Second, while both definitions include income from trusts established before and after certain points in time, the relevant date in BCRA is the beginning of the election cycle (again, as defined in new 11 CFR 400.2) whereas in former 11 CFR 110.10(b) the relevant date is the point at which an individual becomes a candidate for Federal office.

A third difference between the definition of "personal funds" in BCRA and former § 110.10(b) involves the receipt of gifts by the candidate. While both definitions include gifts of a personal nature that had been customarily received by the candidate before a certain point in time, BCRA counts only those that had been customarily received prior to the beginning of the election cycle (*see* Explanation and Justification for new 11 CFR 400.2, below) whereas former 11

CFR 110.10(b) counted those that had been customarily received prior to candidacy.

Part 101—Candidate Status and Designations

11 CFR 101.1 Candidate Designations (2 U.S.C. 432(e)(1))

Currently, § 101.1(a) requires Statements of Candidacy (FEC Form 2) to be filed with the Commission or with the Secretary of the Senate, as appropriate under 11 CFR part 105, within 15 days of the time an individual becomes a candidate. Since this is the same time in which a candidate will be required to file a Declaration of Intent under new section 11 CFR 400.20 (*see* Explanation and Justification for new 11 CFR 400.20, below), the Commission has decided to add the information required in the Declaration of Intent to FEC Form 2.

We note that current sections of 11 CFR 101.1(a) and 105.2 require Senate candidates to file their Statements of Candidacy with the Secretary of the Senate. This requirement will not change under the Commission's interim final rules. However, in the interest of rapid notification to the Commission and to each opposing candidate, new 11 CFR 400.20(b)(1) will require Senate candidates to fax or electronically mail a *copy* of their Statement of Candidacy to the Commission. Further, both Senate and House of Representatives candidates will be required to send a fax or an electronic mail message to each opposing candidate that either attaches their FEC Form 2 or contains the information required by 11 CFR 400.23 (*see* Explanation and Justification for new 11 CFR 400.23, below).

Part 102—Registration, Organization, and Recordkeeping by Political Committees (2 U.S.C. 433)

11 CFR 102.2 Statement of Organization: Forms and Committee Identification Number (2 U.S.C. 433(b), (c))

New 11 CFR 102.2(a)(1)(viii) requires the principal campaign committee of each Senate and House of Representatives candidate to provide either an electronic mail address or a facsimile number, for the purpose of receiving Declarations of Intent and Notifications of Expenditures from Personal Funds from other candidates in the same election as required by subpart B of part 400. This requirement is intended to facilitate the notification of expenditures from personal funds under part 400. Use of facsimile machines or electronic mail will provide candidates' principal campaign committees nearly

instantaneous notification. The Commission recognizes that not all principal campaign committees may have a facsimile machine, an electronic mail address, or even a computer system. However, the Commission notes that most public libraries have computers available for free public use and several Web sites provide free access to electronic mail. Thus, the Commission concludes that this requirement will at most create only a minimal burden on some candidates, and to whatever extent it might do so is outweighed by the overall benefits.

Part 104—Reports by Political Committees (2 U.S.C. 434)

11 CFR 104.19 Special Reporting Requirements for Principal Campaign Committees of Candidates for Election to the United States Senate or United States House of Representatives

The definition of "opposition personal funds amount" in new 11 CFR 400.10 includes the computation for "gross receipts advantage," as defined in 2 U.S.C. 441a(i)(1)(E) (Senate) and 441a–1(a)(2)(B) (House of Representatives). *See* below for discussion and explanation and justification of these definitions. To compute the "gross receipt advantage," candidates must know of the gross receipts of each of their opposing candidates during any election cycle that may be expended in connection with the election where they are running against a self-financed candidate. The "gross receipts advantage" also takes into account amounts that candidates contribute to their own campaign by subtracting that amount from the gross receipts their authorized committees received.

Because the former regulations and the reporting forms did not require candidates' authorized committees to report the information necessary to compute "gross receipts advantage" in a concise and comprehensive manner, the Commission is adding a new section, 11 CFR 104.19, to require supplemental reporting by the principal campaign committees of candidates who are seeking election to the U.S. Senate or U.S. House of Representatives. This ensures that the candidates in the same election have sufficient and timely information to do the necessary computations under 11 CFR part 400.

Paragraph (a) limits the scope of this new section to only these candidates. It also provides that the reports required under this section must be filed with the Commission. Paragraph (b) describes when these reports must be filed and the content required. Paragraph (b)(1)