

# FEC Issues Opinions Expanding Solicitation Opportunities for Trade Associations, Corporations

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November 2013

The Federal Election Commission (FEC or Commission) has been active over the past several months on the advisory opinion (AO) front. Two new opinions may lead to enhanced solicitation and fundraising opportunities for your organization.

## **AO 2013-08: FEC Advises That Members of Student Group Are Members of National Organization for Solicitation Purposes**

In AO 2013-08, the American Veterinary Medical Association (AVMA) asked whether it could solicit members of the Student American Veterinary Medical Association (SAVMA) to contribute to AVMA's separate segregated fund. (Under federal law, a membership organization may generally solicit contributions for its separate segregated fund only from its own members.) The Commission advised that these solicitations were permissible. Foremost, the Commission concluded that the members of SAVMA were "members" of AVMA. Even though the students did not technically qualify as members under AVMA's bylaws—a prerequisite to joining AVMA is a professional degree in veterinary medicine—the Commission exercised its power to "determine on a case-by-case basis that persons who do not precisely meet the requirements of the general rule are 'members' for purposes of an organization's solicitations for its separate segregated fund." Because the students have "significant and enduring financial and organizational attachments" to AVMA, the Commission deemed them members and advised that AVMA could solicit the students for contributions.

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As an alternative ground, the Commission advised that AVMA and SAVMA were “affiliated” membership organizations. Where a membership organization has “several levels,” Commission regulations provide that a person who qualifies as a member of any of the affiliated membership organizations also qualifies as a member of the other affiliates for solicitation purposes. Determining whether entities are affiliated is a multi-factor inquiry. To give just one example, if many of one entity's members were once members of the other entity, that factor favors finding affiliation. Based on SAVMA and AVMA's close ties, the Commission had no trouble concluding that the two organizations are affiliated.

#### **AO 2013-12: FEC Allows Recorded Telephone Calls to Authorize Payroll Deductions for Political Contributions**

In AO 2013-12, the Service Employees International Union (SEIU) and its political action committee (PAC) asked the Commission whether it could use recorded telephone conversations to obtain members' authorizations for payroll deduction contributions to the PAC. The union advised that it would use various safeguards to comply with federal law. For instance, its program would ensure that individuals authorizing deductions are members of the restricted class of contributors, would give enrollees information on how to cancel or modify their contributions, and would maintain records of each authorization for at least three years after reporting the contribution.

Federal regulations provide that a labor organization may use payroll deductions to collect members' contributions to a separate segregated fund (that is, its PAC) but only if the contributor affirmatively authorizes the deductions. Historically, the Commission hewed to a general rule that *written* authorization was required. But the Commission has since allowed “on a case-by-case basis” other types of authorizations—digital signatures, for example. In response to the SEIU's question, the Commission confirmed that the telephone solicitations and authorizations proposed by the union—including the numerous “procedural safeguards and recordkeeping mechanisms”—would satisfy federal law.