

New Rules, New Election: FEC Approves Separate Contribution Limit for North Carolina Congressional Primary

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The Federal Election Commission (FEC) issued an Advisory Opinion April 29th concluding that candidates participating in North Carolina's June 7th primary election face a new "electoral situation" and are thus entitled to a separate contribution limit for the primary, even if they were also candidates for the primary election that was scheduled for March 15th.

The June 7th primary will be held solely to select candidates for the U.S. House of Representatives. This congressional primary was originally slated to be part of the general state primary held March 15th; however, a little over a month before that election, a federal court ruled that two of North Carolina's congressional districts were racially gerrymandered in violation of the Equal Protection Clause of the U.S. Constitution and ordered the legislature to create a remedial plan. By the time of this court decision, thousands of absentee ballots for the March 15th primary had been mailed to voters—ballots that included the names of the congressional candidates from the then-existing districts. Moreover, a number of these absentee ballots had already been returned.

The North Carolina General Assembly convened a two-day session to redraw the state's congressional districts to comply with the court order, finalizing its new plan on February 19th. It also set the June 7th date for the congressional primary.

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George Holding, who currently represents North Carolina's 13th Congressional District in the U.S. House of Representatives, ran unopposed in the primary election scheduled for March 15th. As part of the legislature's redistricting plan, Holding's 13th district was divided among several surrounding districts, with the majority of it landing within the new boundaries of the 2nd congressional district. Accordingly, Holding filed an amended statement of organization and new statement of candidacy with the FEC to seek election in North Carolina's 2nd district instead of the redistricted 13th more than 100 miles away. He also requested an advisory opinion from the FEC on whether he may raise funds under a separate contribution limit for campaign run for the 2nd district seat.

The FEC concluded that the June 7th primary is indeed subject to a separate contribution limit. It found that the "highly unusual electoral circumstances" of the court order that led to the June 7th congressional primary election placed the candidates in a "new electoral situation," and the June primary is thus a different election from the March 15th primary. In drawing this conclusion, the FEC noted first that the March 15th primary actually went on as planned, with voters being instructed to vote the whole ballot, including the congressional candidates for the then-existent districts. Additionally, state law required candidates to file a separate notice of candidacy for the June primary. It also changed the "substantial plurality" required to win the March primary, directing that a June primary candidate receiving a mere plurality of the votes would be declared the winner, eliminating the possibility of a runoff.

In short, with new district boundaries, and new statements of candidacy required, and new rules governing the number of votes required to win, the facts in North Carolina led the FEC to conclude the upcoming June primary is a new election. Candidates may thus raise funds under a separate contribution limit.