

Reminder: Upcoming Political Conventions Trigger Electioneering Communication Rules

July 2020

Regardless of whether your organization intends to travel to a political party convention this year, the convention could still have an impact on your organization's public messaging. In particular, if your organization runs TV or radio ads referring to Donald Trump or Joe Biden anywhere in America this July or August, you may have additional work to do!

The Federal Election Commission regulates not only ads that are explicitly electoral (e.g., "vote for," "vote against," etc.) but also certain communications that merely refer to candidates and occur close-in-time to federal elections and conventions. This latter category of communication, called an "electioneering communication," was enacted as part of the Bipartisan Campaign Reform Act of 2002 and extends to a broadcast, cable, or satellite communication that (in this case) is distributed within 30 days of a presidential primary or nominating convention and simply mentions the candidate.

Because the Democratic Convention will be held between August 17 and August 20, essentially any TV or radio ad run that refers to Joe Biden in any way between July 18 and August 20 will trigger an electioneering communication report (i.e., an FEC Form 9). Similarly, because the Republican Convention will take place between August 24 and August 27, most TV ads that refer to Donald Trump in some fashion between July 25 and August 27 will trigger an FEC Form 9 filing too. (Note that this would encompass references to terms like the "Trump administration.") These forms are time-sensitive filings that can, in some cases, require disclosure of information that is not readily available to the general public – including information about your organization's financial supporters.

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Election Law & Government Ethics

Wiley Rein's experienced legal team and reporting professionals are available to assist your organization with these filings, should they be required. Organizations should also keep in mind that the electioneering communication period for the general election starts on September 4, 2020.