

2024 Election Campaign Finance by the Numbers: Coordination Bans and Electioneering Communication Windows

September 18, 2023

With the first Republican Presidential debate behind us, we know that we are approaching the 2024 election season. Yesterday (Sunday, September 17), the season really kicked off as far as federal campaign finance is concerned. Below is a discussion of the importance of that date as well as other significant numbers and compliance time periods to keep in mind until November 2024.

120 Days

September 17, 2023, is 120 days before the first Presidential caucus in Iowa to be held on January 15, 2024 – although only relevant to the Republican candidates in that caucus. For the next 120 days, no third party may run a covered public communication accessible in Iowa that mentions or features one of the Republican candidates and is coordinated with the candidate (or opponent, depending on the situation), the candidate's campaign, or their agents. This ban on coordinated communications then extends in Iowa through the general election in November.

According to the preliminary Federal Election Commission (FEC) calendar, the first Presidential primary for the Democrats is tentatively set for February 3, 2024, in South Carolina. So the 120-day coordinated communication ban starts for those candidates with respect to public communications in South Carolina on October 6, 2023, and then runs through the general.

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30 days

A different statutory provision regulates television and radio ads, even those that are created and distributed independently of campaign, that are run near elections in a pertinent jurisdiction if the ads mention or feature a candidate in the upcoming election. These TV and radio ads are known as electioneering communications, and such ads must contain certain disclaimers, are subject to reporting obligations, and may not be coordinated with the candidate (or opponent), candidate committee, party committee, or their agents. This is true even if the ad is a grassroots lobbying communication about live legislation or serves some other non-election-related function. The 30-day pre-primary electioneering communication window in Iowa for the January 15 caucus starts on December 16, 2023. For the Democrat primary in South Carolina, the pre-election window starts on January 4, 2024. (For the November 2024 general election for both Presidential and congressional campaigns, the electioneering communication regulatory window is twice as long (60 days) and starts on September 6, 2024.)

90 Days

For congressional campaigns, the coordinated communication ban only runs for 90 days before an election, but, unlike the Presidential-candidate rule, stops after the primary only to resume again 90 days before the general election (or before a runoff, if pertinent). The first tentative primaries for congressional seats are currently set for March 5, 2024, in Alabama, Arkansas, California, North Carolina, and Texas, which places the start of the 90-day pre-election coordinated communication ban related to candidates in those primaries on December 6, 2023. (The 30-day pre-primary electioneering communication window in these primary states starts on February 4, 2024.)

120 Days (again)

One provision of the coordination regulations makes a third-party public communication problematic if a former employee of a candidate appearing in the communication is involved unless 120 days have elapsed since that person was employed by the candidate. If, for example, someone leaves a candidate's employ on December 31, 2023, they will be able to work for third-party communicators (subject to all of the other coordination provisions) by April 29, 2024.

Complying with these date and rules above will keep everyone, whether a super PAC, a nonprofit, or a candidate, out of trouble with the Federal Election Commission and the U.S. Department of Justice. Wiley can help.