

**ALERT**

# Federal Electioneering Communication Rules Apply Starting September 6; May Impact Your Grassroots Lobbying

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September 4, 2024

The federal rules for electioneering communications kick in on September 6, 2024, and run through Election Day. These rules could affect your grassroots lobbying during this 60-day period if your ads are on radio or television and your organization spends \$10,000 in the aggregate in a calendar year on such ads. Nonprofits running electioneering communications also may have to disclose certain donors on 24-hour reports.

Electioneering communications are broadcast, satellite, or cable TV and radio advertisements that mention or feature a clearly identified federal candidate, are run within 30 days of a primary or within 60 days of a general election, and can be received in the relevant congressional district or state (or anywhere for Presidential candidates). For example, if an organization runs an independent grassroots lobbying ad on broadcast television in a congressional district on September 6, asking viewers to “contact your Congresswoman” about pending legislation, then such an ad would be regulated as an electioneering communication, even though the ad does not expressly advocate the election or defeat of a candidate and is about “live” legislation.

The same would be true if the TV ad featured the image of the incumbent Member of Congress who is running for reelection. Or if a radio ad mentioned the local Congressman’s name as part of the name of a pending bill in Congress. Or if a radio ad thanked the Vice President for supporting an important bill last month. (It is also important to note that if an electioneering communication is coordinated with a candidate, candidate’s committee, party

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## Practice Areas

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committee, or their agents, then it would be an in-kind contribution to the campaign and possibly an excessive contribution or a prohibited corporate contribution.)

If a radio or TV ad is an electioneering communication, then it must contain certain required disclaimers. Moreover, those running electioneering communications must file a 24-hour notice with the Federal Election Commission on FEC Form 9, disclosing information about the ad, the vendors who paid for the ad, and those persons who made contributions for the purpose of furthering electioneering communications. The details can be found on the FEC's website.

Note that the federal electioneering communication rules do not apply to, among other things, print ads or to ads run on the internet. In addition, paid ads of any type that expressly advocate the election or defeat of a clearly identified federal candidate, or contain the functional equivalent of express advocacy, must contain disclaimers and are subject to the independent expenditure reporting requirements.

Finally, states and localities have different electioneering communication rules that may affect your organization's state or local grassroots lobbying efforts if the ads mention or feature state or local candidates or officeholders, and some of these nonfederal rules do cover internet ads and emails and the like.

Wiley's Election Law & Government Ethics Practice closely tracks political law developments throughout the country and is available to assist corporations, trade associations, and other donors in understanding the impact of campaign finance rules on their operations.