

## Federal Election Commission

## § 5.2

Commission will aggregate any such requests and charge the appropriate fees. In making this determination, the Commission will consider the time period in which the requests have occurred, the relationship of the requestors, and the subject matter of the requests.

(f) *Advance payments.* The Commission will require a requestor to make an advance payment, *i.e.*, a payment before work is commenced or continued on a request, when:

(1) The Commission estimates or determines that allowable charges that a requestor may be required to pay are likely to exceed \$250. In such a case, the Commission will notify the requestor of the likely cost and, where the requestor has a history of prompt payment of FOIA fees, obtain satisfactory assurance of full payment, or in the case of a requestor with no FOIA fee payment history, the Commission will require an advance payment of an amount up to the full estimated charges; or

(2) A requestor has previously failed to pay a fee in a timely fashion (*i.e.*, within 30 days of the date of the billing). In such a case, the Commission may require that the requestor pay the full amount owed plus any applicable interest or demonstrate that the fee has been paid and make an advance payment of the full amount of the estimated fee before the Commission begins to process a new request or a pending request from that requestor.

(3) If the provisions of paragraph (f) (1) or (2) of this section apply, the administrative time limits prescribed in 11 CFR 4.7(c) will begin only after the Commission has received the payments or the requestor has made acceptable arrangements to make the payments required by paragraph (f) (1) or (2) of this section.

[52 FR 39213, Oct. 21, 1987, as amended at 75 FR 31, Jan. 4, 2010; 89 FR 213, Jan. 2, 2024; 89 FR 36587, May 2, 2024]

## PART 5—ACCESS TO PUBLIC DISCLOSURE AND MEDIA RELATIONS DIVISION DOCUMENTS

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AUTHORITY: 52 U.S.C. 30108(d), 30109(a)(4)(B)(ii), 30111(a); 31 U.S.C. 9701.

SOURCE: 45 FR 31293, May 13, 1980, unless otherwise noted.

### § 5.1 Definitions.

(a) *Commission* means the Federal Election Commission established by the Federal Election Campaign Act of 1971, as amended.

(b) *Commissioner* means an individual appointed to the Federal Election Commission pursuant to 52 U.S.C. 30109 6(a).

(c) *Request* means to seek access to Commission materials subject to the provisions of the Federal Election Campaign Act of 1971, as amended.

(d) *Requestor* is any person who submits a request to the Commission.

(e) *Act* means the Federal Election Campaign Act, as amended by the Federal Election Campaign Act Amendments of 1974, 1976, and 1979, and unless specifically excluded, includes chapters 95 and 96 of the Internal Revenue Code of 1954 relating to public financing of Federal elections.

(f) *Public Disclosure and Media Relations Division* of the Commission is that division which is responsible for, among other things, the processing of requests for public access to records which are submitted to the Commission pursuant to 52 U.S.C. 30109(a)(4)(B)(ii) and 30111(a).

[45 FR 31293, May 13, 1980, as amended at 65 FR 9207, Feb. 24, 2000; 79 FR 77844, Dec. 29, 2014; 81 FR 94240, Dec. 23, 2016]

### § 5.2 Policy on disclosure of records.

(a) The Commission will make the fullest possible disclosure of records to the public, consistent with the rights of individuals to privacy, the rights of persons contracting with the Commission with respect to trade secrets and commercial or financial information entitled to confidential treatment, and the need for the Commission to promote free internal policy deliberations and to pursue its official activities without undue disruption.

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(b) Nothing herein shall be deemed to restrict the public availability of Commission records falling outside provisions of the Act, or to restrict such public access to Commission records as is available pursuant to the Freedom of Information Act and the rules set forth as part 4 of this chapter.

#### §5.3 Scope.

(a) The regulations in this part implement the provisions of 52 U.S.C. 30108(d), 30109(a)(4)(B)(ii), and 30111(a).

(b) Public access to such Commission records as are subject to the collateral provisions of the Freedom of Information Act and are not included in the material subject to disclosure under this part (described in 11 CFR 5.4(a)) shall be governed by the rules set forth as part 4 of this chapter.

[45 FR 31293, May 13, 1980, as amended at 79 FR 77844, Dec. 29, 2014]

#### §5.4 Availability of records.

(a) In accordance with 52 U.S.C. 30111(a), the Commission shall make the following material available for public inspection and copying through the Commission's Public Disclosure and Media Relations Division:

(1) Reports of receipts and expenditures, designations of campaign depositories, statements of organization, candidate designations of campaign committees and the indices compiled from the filings therein.

(2) Requests for advisory opinions, written comments submitted in connection therewith, and responses issued by the Commission.

(3) With respect to enforcement matters, any conciliation agreement entered into between the Commission and any respondent.

(4) Opinions of Commissioners rendered in enforcement cases and General Counsel's Reports and non-exempt 52 U.S.C. 30109 investigatory materials shall be placed on the public record of the Agency no later than 30 days from the date on which all respondents are notified that the Commission has voted to close such an enforcement file.

(5) Requests for guidance and responses thereto.

(6) The minutes of Commission meetings.

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(7) Material routinely prepared for public distribution, e.g. campaign guidelines, FEC Record, press releases, speeches, notices to candidates and committees.

(8) Audit reports (if discussed in open session).

(9) Agendas for Commission meetings.

(b) The provisions of this part apply only to existing records; nothing herein shall be construed as requiring the creation of new records.

(c) In order to ensure the integrity of the Commission records subject to the Act and the maximum availability of such records to the public, nothing herein shall be construed as permitting the physical removal of any Commission records from the public facilities maintained by the Public Disclosure and Media Relations Division other than copies of such records obtained in accordance with the provisions of this part.

(d) Release of records under this section is subject to the provisions of 5 U.S.C. 552a.

[45 FR 31293, May 13, 1980, as amended at 65 FR 9207, Feb. 24, 2000; 79 FR 77844, Dec. 29, 2014; 81 FR 94240, Dec. 23, 2016; 89 FR 213, Jan. 2, 2024]

#### §5.5 Request for records.

(a) A request to inspect or copy those public records described in 11 CFR 5.4(a) may be made in person or by filing a request pursuant to 11 CFR 100.19(g).

(b) Each request shall describe the records sought with sufficient specificity with respect to names, dates and subject matter to permit the records to be located with a reasonable amount of effort. A requester will be promptly advised if the requested records cannot be located on the basis of the description given and that further identifying information must be provided before the request can be satisfied.

(c) Requests for copies of records not available through the Public Disclosure and Media Relations Division shall be addressed to the Chief FOIA Officer and filed pursuant to 11 CFR 100.19(g). Requests for Commission records not described in 11 CFR 5.4(a) shall be treated as requests made pursuant to the Freedom of Information

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Act (5 U.S.C. 552) and shall be governed by 11 CFR part 4. In the event that the Public Disclosure and Media Relations Division receives a written request for access to materials not described in 11 CFR 5.4(a), it shall promptly forward such request to the Commission FOIA Officer for processing in accordance with the provisions of part 4 of this chapter.

[45 FR 31293, May 13, 1980, as amended at 50 FR 50778, Dec. 12, 1985; 75 FR 31, Jan. 4, 2010; 81 FR 94240, Dec. 23, 2016; 82 FR 60853, Dec. 26, 2017; 89 FR 213, Jan. 2, 2024]

**§ 5.6 Fees.**

(a) Fees may be charged for copies of records which are furnished to a requester under this part and for the staff time spent in locating and reproducing such records at the rate of \$.05 per page for paper copies, including paper copies from microfilm; \$.450 per half hour of staff time after the first half hour; and \$7.50 for certification of a document. Such fees shall not exceed the Commission's direct cost of processing requests for those records computed on the basis of the actual number of copies produced and the staff time expended in fulfilling the particular request.

(b) In the event the anticipated fees for all pending requests from the same requester exceed \$25.00, records will not be searched, nor copies furnished, until the requester pays, or makes acceptable arrangements to pay, the total amount due. If any fee is not precisely ascertainable, an estimate will be made by the Commission and the requester will be required to forward the fee so estimated. In the event any advance payment differs from the actual fee, an appropriate adjustment will be made at the time the copies are made available by the Commission.

(c) The Commission may reduce or waive payments of fees hereunder if it determines that such waiver or reduction is in the public interest because the furnishing of the requested information to the particular requester involved can be considered as primarily benefiting the general public as opposed to primarily benefiting the per-

son or organization requesting the information.

[49 FR 30460, July 31, 1984, as amended at 52 FR 39214, Oct. 21, 1987; 89 FR 213, Jan. 2, 2024]

**PART 6—ENFORCEMENT OF NON-DISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE FEDERAL ELECTION COMMISSION**

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AUTHORITY: 29 U.S.C. 794.

SOURCE: 49 FR 33211, Aug. 22, 1984, unless otherwise noted.

**§ 6.101 Purpose.**

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

**§ 6.102 Application.**

This part applies to all programs or activities conducted by the Commission.

**§ 6.103 Definitions.**

For purposes of this part, the term—