Does my organization’s advocacy on federal issues mean it needs to make a campaign-related disbursement disclosure or other disclosure of its donors?

Is your organization a 501(c)(3)?

YES

NO, it is a (c)(4), union, LLC, or other specified non-501(c)(3) entity.

Your advocacy is not subject to CRD disclosures, even if your communications would be subject to CRD disclosure if it was a covered organization.

NO

Have you spent >$10,000 on federal advocacy over a 2-year election cycle (definition differs slightly in FECA), or calendar year for federal judicial nomination communications, that meets the definition of campaign related disbursements (CRD)?

YES

Your org must make a CRD disclosure, and depending on format, the CRD may need to make a Stand By Every Ad disclosure.

NO

Your org has made a CRD if your org’s expenditure’s meet any of the following five definitions.

A communication that expressly advocates — or there is no other reasonable interpretation — for election or defeat of a federal candidate.

A communication made by means of broadcast, cable, satellite, magazine, newspaper, outdoor advertising facility, mass mail, phone bank, paid internet or paid digital.

Any public communication which promotes, supports, or attacks, or opposes a candidate for federal office, without regard to whether the communication expressly advocates a vote for or against a candidate for that office. This is very broad and while it is not clear how it would be interpreted, it could include communications that criticize, praise or thank any member of Congress or the president, or even ask them to vote for or against a bill. A candidate is defined as anyone raising funds for election, which includes almost all, if not all, elected federal officials.

Any communication that promotes, supports, attacks, or opposes the nomination or Senate confirmation of an individual as a Federal judge or justice, and made by means of:

- paid broadcast, cable, satellite; or
- paid internet or paid digital communication; or
- paid promotion; or
- newspaper, magazine, outdoor advertising (billboard), mass mailing; or
- telephone bank or telephonic messaging effort of more than 500 similar calls or electronic messages within a 30-day period; or
- any other form of general public political advertising.

A broadcast, cable, satellite, paid internet, or paid digital communication made 30 days before a federal primary or 60 days before a general election which refers to a clearly identified federal candidate (almost all, if not all, elected federal officials).

Any transfer of funds, such as a grant for an advocacy campaign, by a covered organization to another person (probably entity) if:

- The organization suggests the funds be used for a CRD (or making a transfer to another for making a CRD); or
- The transfer is in response to a request for a donation for a CRD; or
- The covered organization engaged in discussions with the recipient of the transfer about making or paying for a CRD; or
- The transferor made a CRD in an aggregate amount of $50,000 or more in a two-year period or transferor had reason to know the recipient had made CRDs of more than $50,000 in a two-year period; or transferor knew or had reason to know recipient would make.

NOTE: Intent to influence the outcome of an election is not a required element in this analysis. Any advocacy and lobbying effort by a 501(c)(4) or other covered organization that meets the definition of a CRD is subject to the disclosure requirements.

Is your organization a 501(c)(3)?

YES

NO

NO, it is a (c)(4), union, LLC, or other specified non-501(c)(3) entity.

Your advocacy is not subject to CRD disclosures, even if your communications would be subject to CRD disclosure if it was a covered organization.

NO

Have you spent >$10,000 on federal advocacy over a 2-year election cycle (definition differs slightly in FECA), or calendar year for federal judicial nomination communications, that meets the definition of campaign related disbursements (CRD)?

YES

Your org must make a CRD disclosure, and depending on format, the CRD may need to make a Stand By Every Ad disclosure.

NO

Your org has made a CRD if your org’s expenditure’s meet any of the following five definitions.

A communication that expressly advocates — or there is no other reasonable interpretation — for election or defeat of a federal candidate.

A communication made by means of broadcast, cable, satellite, magazine, newspaper, outdoor advertising facility, mass mail, phone bank, paid internet or paid digital.

Any public communication which promotes, supports, or attacks, or opposes a candidate for federal office, without regard to whether the communication expressly advocates a vote for or against a candidate for that office. This is very broad and while it is not clear how it would be interpreted, it could include communications that criticize, praise or thank any member of Congress or the president, or even ask them to vote for or against a bill. A candidate is defined as anyone raising funds for election, which includes almost all, if not all, elected federal officials.

Any communication that promotes, supports, attacks, or opposes the nomination or Senate confirmation of an individual as a Federal judge or justice, and made by means of:

- paid broadcast, cable, satellite; or
- paid internet or paid digital communication; or
- paid promotion; or
- newspaper, magazine, outdoor advertising (billboard), mass mailing; or
- telephone bank or telephonic messaging effort of more than 500 similar calls or electronic messages within a 30-day period; or
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- The transfer is in response to a request for a donation for a CRD; or
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- The transferor made a CRD in an aggregate amount of $50,000 or more in a two-year period or transferor had reason to know the recipient had made CRDs of more than $50,000 in a two-year period; or transferor knew or had reason to know recipient would make.

NOTE: Intent to influence the outcome of an election is not a required element in this analysis. Any advocacy and lobbying effort by a 501(c)(4) or other covered organization that meets the definition of a CRD is subject to the disclosure requirements.
My organization made a campaign-related disbursement — do we also need to make a Stand By Every Ad disclosure?

If your organization has made a communication that meets the definition of a campaign-related disbursement (CRD), your communication may need to include an individual disclosure statement that discloses the name of the organization and responsible person who authorized the communication and a donor disclosure statement.

- **Top Five Funders:** A list of the five persons who, during the 12-month period that ends on the date of the CRD, contributed the largest amounts in aggregate to the organization in an amount over $10,000 in aggregate. This lookback period will change with every CRD made. Funders are not listed if contribution was restricted from being used for a CRD and placed in a segregated account.

- **Top Two Funders:** A list of the two persons who, during the 12-month period that ends on the date of the CRD, contributed the largest amounts to the organization in an amount over $10,000 in aggregate. This lookback period will change with every CRD made. Funders are not listed if contribution was restricted from being used for a CRD and placed in a segregated account.

**EXCEPTION:** The communication is of such short duration including the Funders List would be a hardship because a disproportionate amount of the communication's content would consist of the Funders List. However, the communication would need to include a link to the Top Five or Top Two Funders list. Implementation would be further clarified in regulations.

- **If the communication was in a video format or is an internet or digital communication in a text or graphic format, include Top Five Funders list in the communication.**

- **If the communication was in an audio format, include Top Two Funders list in the communication.**

Disclose the name of the organization and applicable person who approved the communication. An applicable person is the organization’s CEO or highest ranking official. For ads in video format, this disclosure must include this disclaimer both in writing and with a full-screen view of the person making the statement or with a photograph or similar image of the person.
My organization’s advocacy meets the definition of a campaign-related disbursement (CRD) — what do we need to disclose?

1. Disclose information about the organization making the CRDs.
   - Name and principle place of business;
   - Name and address of people with control over organization (board of directors and probably executive director);
   - Name of any other entity that controls organization, and information about people that control that entity.

2. Disclose information about the organization's CRDs.
   - Was the CRD a covered transfer?
     - YES
       - Information about CRDs of more than $1000 must be disclosed.
       - Disclose the following information:
         - The amount of each CRD; and
         - Name and address of person or entity to which the CRD was made; and the following:
           - The election to which the campaign-related disbursement pertains;
           - If the CRD is a public communication, the name of any candidate mentioned and whether the communication supports or opposes that candidate;
           - A certification from CEO that the communication was not made in coordination with a candidate or political party.

     - NO. It was for a CRD that was not a covered transfer.

   - Was the transfer an affiliated organization?
     - YES, if covered transfer was to an entity that meets definition of affiliate, disclose transfers if:
       - Transferring affiliate makes $50,000 in transfers to affiliate during the year; or
       - Transfer is comprised of dues, fees and assessments paid by members on a periodic basis on a per-individual calculation, and is more than $10,000 during an election disclosure period.
       - Name and address of any entity receiving transfers of more than $1000.

     - NO. Disclose name and address of any entity receiving transfers of more than $1000.

3. Disclose information about organization’s donors unless donor restricted funds in writing from being used for CRDs, and funds were put in an account segregated from any account used for CRDs.
   - Were the funds paying for the CRD from a segregated account to be used for CRDs and consisting of only funds donated by persons other than the organization?
     - YES. Disclose the following information about donors of funds to that segregated account to be used for CRDs:
       - Name and address of each donor or funder giving more than $10,000 over a 2-year election cycle to that segregated account;
       - Date and amount of each contribution;
       - The aggregate amount the donor or funder gave during the 2-year election cycle.

     - NO. Disclose the following information about the organization’s donors:
       - Name and address of each donor or funder giving more than $10,000 over a 2-year election cycle;
       - Date and amount of each contribution;
       - The aggregate amount the donor or funder gave during the 2-year election cycle.

Donor names and addresses do not have to be disclosed if disclosure WOULD (impossible to show) subject donor to serious threats, harassment, or reprisals.

NOTE: A CRD election reporting cycle runs from the earlier of the beginning of the two-year election cycle or one year before the date of disclosure, unless expenditure is a federal judicial nominee communication, which has a calendar year reporting cycle.