

Legal Update

Campaign Contribution Limits Increased for the 2021–2022 US Election Cycle

Federal and state election authorities have increased campaign contribution limits for the 2021–2022 election cycles in the United States. In the upcoming cycle, voters will elect US senators in 34 states and US representatives in all 435 districts. Voters will also elect governors in 38 states (including Virginia and New Jersey in 2021), vote on a potential recall and replacement of the governor in California, and elect countless other state and local officials across the country.

Increases in Federal Contribution Limits

The Federal Election Commission (FEC) is authorized to adjust certain contribution limits for inflation each odd-numbered year. The FEC recently announced updated contribution limits for 2021-2022. (See Table A for a summary of the limits for the most common types of contributions.)

Federal contribution limits apply to campaign contributions to candidates for federal office and to the federal election accounts of political parties and political action committees (PACs).

Increases in State Contribution Limits

Most states have enacted their own limits on campaign contributions to candidates for state and local office and to political parties and PACs for use in state and local elections. Many of those states adjust their contribution limits periodically, like the FEC.

For example, in California, Illinois and New York, election authorities recently announced updated contribution limits for the current election cycles. (See Tables B, C and D for summaries of these states' current limits.) These limits will apply to many state and local elections in these states, though some local elections may have further limitations. California, for instance, enacted a law that went into effect January 1, 2021, requiring state campaign contribution limits to apply by default to city and county candidates when the city or county has not enacted its own contribution restrictions on such candidates.

When Limits No Longer Apply

While more states have enacted broad campaign finance limits, there are many circumstances in which those limits do not apply.

Illinois is a prime example. In 2012, Illinois became one of the most recent states to enact campaign finance limits applicable to all state and local elections. But the state quickly amended the law to remove the limits if (a) a candidate, alone or with his or her immediate family, contributes or loans more than \$100,000 or \$250,000, depending on the race, to his or her campaign (“self-funding”) or (b) an independent expenditure committee, commonly called a “super PAC,” makes independent expenditures of more than that amount.

Consequently, Illinois’ limits have not applied in some of the most competitive and well-funded races. In the 2018 election, contribution limits were removed in the gubernatorial election as well as in 18 state representative races (including one uncontested election), six state senate elections (including one uncontested election) and the statewide attorney general race. This trend continued in the 2020 general election, when contribution limits were removed in 12 state representative races (including one uncontested election), two state senate elections (including one uncontested election) and two county state’s attorney elections.

Additionally, California’s limits include exceptions with respect to recall elections that will be implicated this year, as Governor Gavin Newsom faces a recall election. First, the limits include a general rule that covered candidates and officeholders may not contribute more than \$4,900 to another candidate or committee controlled by another candidate or officeholder. However, this limit does not apply if the receiving committee is controlled by an officeholder to oppose the recall election of his or her office. Second, state law effectively treats a recall election as both a ballot measure and a candidate election, as the recall effort includes a question as to whether the officeholder shall be recalled and a question as to who will replace the officeholder if he or she is recalled. Because of this, an officeholder subject to recall may create a separate committee to oppose the recall election and accept unlimited contributions to that committee. Despite the lifting of the contribution caps for the officeholder, the other candidates running to replace the officeholder in the second portion of the recall election remain subject to the contribution limits because they are “seeking elective state office.” See Cal. Code Regs. tit. 2 § 18531.5.

Other Limits May Apply

Donors should keep in mind that other limits or regulations may apply beyond the generally applicable campaign finance limits described here. Government contractors and others soliciting business from government agencies, as well as registered lobbyists and participants in regulated industries, are often subject to additional limitations, which might preclude even small donations.

These additional limitations comprise a patchwork of federal, state, and local pay-to-play and government ethics rules. Donors should be aware of any applicable limits before making campaign contributions.

For more information about recent changes to campaign contribution limits or assistance in navigating campaign finance limits, please contact any of the lawyers listed below.

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Table A

2021–2022 Contribution Limits: Federal Elections		CONTRIBUTOR					
		Individual	Candidate Committee	PAC: Multi candidate	PAC: Non-Multi-candidate	State/District/ Local Party Committee	National Party Committee *
RECIPIENT	Candidate Committee	\$2,900 per election cycle	\$2,000 per election cycle	\$5,000 per election cycle	\$2,900 per election cycle	\$5,000 per election cycle	\$5,000 per election cycle
	PAC (Separate Segregated Fund and Non-Connected)	\$5,000 per calendar year	\$5,000 per calendar year	\$5,000 per calendar year	\$5,000 per calendar year	\$5,000 per calendar year	\$5,000 per calendar year
	State/District/Local Party Committee (Combined Limit for Recipients)	\$10,000 per calendar year	Unlimited	\$5,000 per calendar year	\$10,000 per calendar year	Unlimited	Unlimited
	National Party Committee	\$36,500 per calendar year	Unlimited	\$15,000 per calendar year	\$36,500 per calendar year	Unlimited	Unlimited
	Additional National Party Committee Accounts (for Limited Purposes)	\$109,500 per account, per calendar year		\$45,000 per account, per calendar year	\$109,500 per account, per calendar year		

* National Party Committee: These limits apply to the national party committee’s accounts for (1) the presidential nominating convention; (2) election recounts, contests and other legal proceedings; and (3) national party headquarters buildings. A party’s national committee, Senate campaign committee, and House campaign committee are considered separate national party committees with separate limits. Additionally, a national party committee and its Senate campaign committee may contribute up to \$51,200 combined per campaign to each Senate candidate.

Table B

2021–2022 Contribution Limits: California State Elections		CONTRIBUTOR				
		Individual	Business Entity	Committee/PAC	Small Contributor Committee*	Political Party
RECIPIENT	Governor	\$32,400 per election	\$32,400 per election	\$32,400 per election	\$32,400 per election	Unlimited
	Lt. Governor, Secretary of State, Attorney General, Treasurer, Controller, Supt. of Public Instruction, Insurance Commissioner and Board of Equalization	\$8,100 per election	\$8,100 per election	\$8,100 per election	\$16,200 per election	Unlimited
	Senate and Assembly	\$4,900 per election	\$4,900 per election	\$4,900 per election	\$9,700 per election	Unlimited
	CalPERS/CalSTRS Board	\$4,900 per election	\$4,900 per election	\$4,900 per election	\$9,700 per election	Unlimited
	Candidates in Cities and Counties That Have Not Enacted Limits	\$4,900 per election	\$4,900 per election	\$4,900 per election	\$4,900 per election	\$4,900 per election
	Committee (PAC), Other Than a Political Party, That Contributes to State Candidates	\$8,100 per calendar year	\$8,100 per calendar year	\$8,100 per calendar year		
	Political Party Account for State Candidates	\$40,500 per calendar year	\$40,500 per calendar year	\$40,500 per calendar year		
	Small Contributor Committee*	\$200 per calendar year	\$200 per calendar year	\$200 per calendar year		
	Committee Account NOT for State Candidates (Ballot Measure, PAC, Political Party)	Unlimited	Unlimited	Unlimited		
	Governor Officeholder Committee (Aggregate Limit from All Sources: \$269,300 per Calendar Year)	\$26,900 per calendar year	\$26,900 per calendar year			

RECIPIENT	Governor	\$6,700 per calendar year				
	Senate, Assembly, CalPERS/CalSTRS Board Officeholder Committee (Aggregate Limit from All Sources: \$67,300 per Calendar Year)	\$4,000 per calendar year				
	Ballot Measure Committee	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited

Small Contributor Committee: Any committee that meets all of the following criteria: 1) has been in existence for at least six months, 2) receives contributions from 100 or more persons, 3) has not received more than \$200 per calendar year from a single person and 4) makes contributions to five or more candidates. See Cal. Gov't Code § 85203.

Note: A state candidate or state officeholder (or city or county candidate or officeholder subject to the state restrictions) may not contribute more than \$4,900 to another state candidate or to a committee controlled by another state candidate or state office holder. This limit applies to the aggregate total of contributions made from the candidate's or officeholder's personal funds and from committees controlled by that candidate. There are some exclusions to this limit, however. It does not apply to contributions to a) a committee controlled by a candidate to oppose the recall election of his or her office, b) another candidate's legal defense fund or c) a committee backing a ballot measure controlled by another candidate. See Cal. Code Regs. tit. 2 § 18535.

Officeholders subject to recall may create a separate committee to oppose the recall election and accept unlimited contributions to that committee. However, because candidates running to replace the officeholder in the second portion of a recall election are "seeking elective state office," the other candidates remain subject to the contribution limits. See *id.* § 18531.5.

Table C

2021–2022 Contribution Limits: Illinois State and Local Elections		CONTRIBUTOR				
		Individual	Corporation, Labor Org., Association	PAC	Candidate Committee	Political Party Committee
RECIPIENT	Candidate Committee	\$6,000 per election cycle	\$12,000 per election cycle	\$59,900 per election cycle	\$59,900 per election cycle	Unlimited, except during primary elections
	PAC	\$12,000 per calendar year	\$24,000 per calendar year	\$59,900 per calendar year	\$59,900 per calendar year	\$24,000 per calendar year
	Political Party Committee	\$12,000 per calendar year	\$24,000 per calendar year	\$59,900 per calendar year	Unlimited	Unlimited
	Ballot Initiative Committee	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited
	Independent Expenditure Committee	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited

Table D

2021 Contribution Limits: New York State		CONTRIBUTOR				
		Individual (Non-Family)	Family (Aggregate)	Corporation/LLC/PLLC	Unincorporated Labor Org., Association	PAC
RECIPIENT	Statewide Candidate	\$7,500 – \$22,600 primary*/\$47,100 general	Formula amount**	\$7,500 – \$22,600 primary*/\$47,100 general (Limited to \$5,000 per calendar year)	\$7,500 – \$22,600 primary*/\$47,100 general	\$7,500 – \$22,600 primary*/\$47,100 general
	New York State Senate	\$7,500 primary/\$11,800 general	\$20,000 – \$100,000**	\$7,500 primary/\$11,800 general (Limited to \$5,000 per calendar year)	\$7,500 primary/\$11,800 general	\$7,500 primary/\$11,800 general
	New York State Assembly	\$4,700 primary/\$4,700 general	\$12,500 – \$100,000**	\$4,700 primary/\$4,700 general (Limited to \$5,000 per calendar year)	\$4,700 primary/\$4,700 general	\$4,700 primary/\$4,700 general
	Party or Constituted Committee***	\$117,300 per calendar year	N/A	\$5,000 per calendar year	\$117,300 per calendar year	\$117,300 per calendar year
	Ballot Issue	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited

* Calculated for each primary election using the following formulas within the ranges noted above: total number of enrolled voters in the candidate’s party in the state, excluding voters in inactive status, multiplied by \$0.005.

** Family limits in each election are calculated through formulas based on the total number of registered voters in a party or in the district (depending on whether it is a primary or general election). For example, for statewide primary elections, the family limit is equal to the total number of enrolled voters in the candidate’s party in the state, excluding voters in inactive status, multiplied by \$0.025. For statewide general elections, the family limit is equal to the total number of registered voters in the state, excluding voters in inactive status, multiplied by \$0.025. Where ranges have been established, they are listed above.

***Limits on contributions to a party or constituted committee do not apply to “housekeeping” expenses.

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