

Federal Election Commission Administrative Fine Program

July 13, 2023

Statutory authorization for the [Federal Election Commission \(FEC\) Administrative Fine Program \(AFP](#), sometimes called the Administrative *Fines* Program) [expires on December 31, 2023](#). The AFP provides expedited enforcement for late and nonfiled campaign finance disclosure reports. Congress first authorized the AFP as a pilot in 2000 and reauthorized it six times between 2001 and 2018. This CRS Insight provides an overview of the AFP and discusses potential considerations for Congress if the House and Senate decide to reauthorize the program or decline to do so.

Recent Legislative Activity

Congress most recently extended the AFP's expiration date in 2018. In that instance, [P.L. 115-386](#) amended [the Federal Election Campaign Act \(FECA\)](#) to [set the 2023 expiration date](#). On other occasions, Congress has included AFP extensions in appropriations legislation. Recent Congresses have appropriated FEC funding through Financial Services and General Government (FSGG) bills. (For appropriations legislation, see the CRS Appropriations Status Table.) Members of Congress also have proposed AFP extensions in broader campaign finance or elections legislation (e.g., [H.R. 8528](#) in the 117th Congress) that did not become law. In the 118th Congress, H.R. 4563 would, among other provisions, make the program permanent.

The FEC and the AFP

The FEC is the independent agency responsible for administering civil campaign finance law. Six commissioners, no more than three of whom may be affiliated with the same political party, head the agency. [FECA requires affirmative votes](#) from at least four commissioners to undertake substantial policy, rulemaking, or enforcement activity, including issuing administrative fines. The commission has consistently requested that Congress extend the AFP's expiration dates or make the program permanent. Making the AFP permanent was the first priority in the FEC's 2022 [legislative recommendations](#).

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AFP Overview

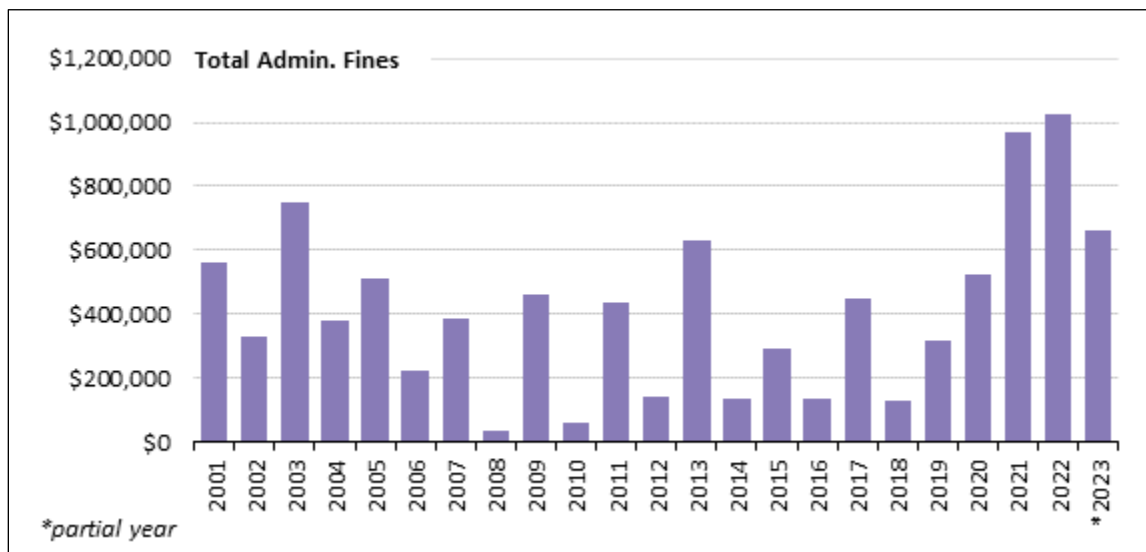
The FEC established the AFP after Congress [directed](#) the agency, [via a FECA amendment in an FY2000 appropriations law](#), to develop an expedited enforcement process for reporting violations. FECA requires [political campaigns, parties, political action committees \(PACs\)](#), and other entities that solicit funds, call for election or defeat of a candidate, or engage in specified other campaign-related activities to file regularly scheduled financial disclosure reports with the FEC. The AFP provides an enforcement option for reports that are filed late or not at all.

Regularly scheduled reports are considered late if they are filed within 30 days after the due date. Special preelection reports are considered late if they are filed after the due date but no more than four days before an election. [Civil penalties for late-filed reports](#) are based on the amount of financial activity in the report, the number of days late (or not filed), and whether the respondent was subject to previous AFP enforcement. Nonfiler penalties are based on estimated financial activity and on whether the respondent was subject to previous AFP enforcement. Fine amounts are deposited into the general fund of the U.S. Treasury. They do not affect the FEC's budget or operations.

Fine Activity

As **Figure 1** shows, between 2001 and May 2023, the FEC assessed approximately \$9.5 million in administrative fines (not adjusted for inflation).

Figure 1. Total Administrative Fines Assessed



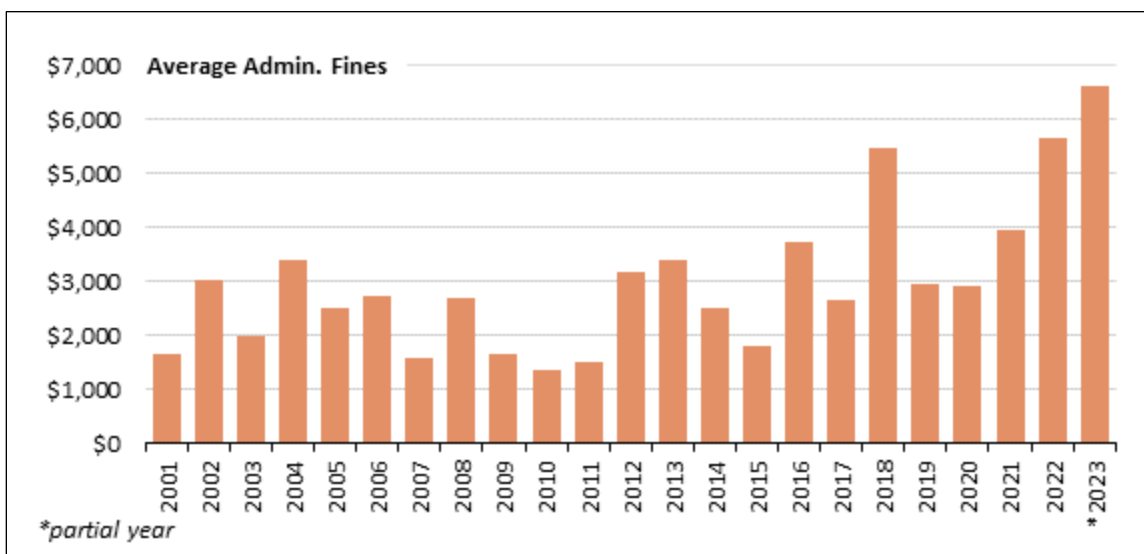
Source: CRS figure based on Federal Election Commission, “Federal Election Commission (FEC) Enforcement Statistics for Fiscal Years 1977-2023,” <https://www.fec.gov/resources/cms-content/documents/enforcementstats1977to2023.pdf>.

Notes: The cited source included data through May 31, 2023.

Administrative fines are typically small. For reports due between 2000 and 2022, the most common (modal) fine assessed was \$0. The median was approximately \$834; the mean was approximately \$2,270. (The mean is the “average” observation. The median is the middle observation and thus is less sensitive than the mean to statistical outliers.) Excluding an outlier of almost \$200,000 for a presidential campaign, AFP penalties ranged from \$0 to approximately \$48,000. CRS calculated these and other statistics herein using AFP enforcement data.

Figure 2 shows average (mean) AFP assessments between 2001 and May 2023 for **unique enforcement matters** (i.e., individual cases). Higher average fines generally correlate with election years and have increased over time. The increase in the average fine amount after 2020 likely is due to increasing amounts of political committee financial activity. Because financial activity is part of the formula used to calculate fines, more financial activity would yield larger fines. **Statutory adjustments** (e.g., for inflation) to civil penalty amounts across government enforcement programs also can affect the AFP.

Figure 2. Average (Mean) Administrative Fines Assessed Per Unique Enforcement Matter



Source: CRS figure based on Federal Election Commission, "Federal Election Commission (FEC) Enforcement Statistics for Fiscal Years 1977-2023," <https://www.fec.gov/resources/cms-content/documents/enforcementstats1977to2023.pdf>.

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Although most AFP fines are collected, nonpayment has been a recurring challenge. Of the 3,946 AFP cases closed between 2000 and 2022, 978 (24.8%) were unpaid. (This percentage excludes pending payments, as of this writing, so the actual percentage could be higher if pending payments did not occur.) Unpaid fines totaled approximately \$2.9 million.

Some repayment challenges might be explained by the kinds of political committees that appear to be most likely to miss or exceed filing deadlines. Highly professionalized presidential or congressional campaigns, from both major parties, are routinely subject to administrative penalties. However, many committees subject to the AFP appear to be smaller operations with fewer professional compliance resources, and with fewer funds to pay fines.

Potential Congressional Considerations

The AFP has been subject to little legislative or policy debate historically. The AFP allows the FEC to process simple reporting-enforcement cases faster and more efficiently than the agency could do otherwise. Without the AFP, the FEC would have to consider (or dismiss) even minor reporting violations through the more time-consuming and labor-intensive enforcement processes specified in FECA. FECA requires that enforcement matters handled through the traditional **Matter Under Review** (MUR) process involve often time-consuming negotiated settlements. Another potential option, **Alternative Dispute Resolution** (ADR), is faster than MUR enforcement, but also requires time for negotiation and filer education. By contrast, the AFP facilitates relatively quick resolution to straightforward reporting

violations, while also providing respondents with opportunities to appeal within the FEC or to a U.S. district court.

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