

C. GROUNDS OF CONTEST

§ 8. Generally

While the new Federal Contested Elections Act (2 USC §§381–396) does not attempt to describe or specify the grounds upon which a contestant may bring an election contest, it is significant that 2 USC §383(b)(3) provides that the contestee may assert as a defense “failure of notice of contest to state *grounds sufficient to change result of election*” (emphasis supplied). Hence, the grounds asserted by the contestant in bringing an election contest should be sufficient to change the result of the election, under the new statute.

The House generally will not unseat a Member for alleged campaign irregularities if he possesses a proper certificate of election and where the violations of the applicable statutes were unintentional and not fraudulent.⁽⁶⁾

Failure to file timely and accurate expenditure reports with the Clerk of the House does not necessarily deprive a contestee of his seat, and the Committee on House Administration will consider evidence of mitigating circumstances and negligence, as opposed to fraud.⁽⁷⁾

6. See Ch. 8, supra.

7. *Id.*

§ 9. Faulty Credentials; Citizenship

After presentation of a certificate of election to the Clerk, the Member-elect is usually administered the oath along with the other Members-elect, unless he is asked to step aside. Once sworn and seated, the contestee may benefit from a number of presumptions which must be refuted by the contestant (see §§35, 36, infra). Hence, the possession of a certificate of election, issued by state authorities, declaring a candidate to be the winner of the election, is of great importance.

A challenge to seating a Member-elect may also be based on his failure to meet the constitutional requirements as to citizenship, residence, or age for the office, and in that context is treated as a matter of “exclusion” and not as an election contest. (See Ch. 8, supra.)

Certificates of Election

§ 9.1 Where two persons claim a seat in the House from the same congressional district, one having a certificate of election signed by the Governor of the state, and the