

ADVISORY OPINION 1975-45

Establishment of Subsidiary Political Committees

This advisory opinion is rendered under 2 U.S.C. §437(f) in response to a request submitted by the Agricultural and Dairy Educational Political Trust (ADEPT), political committee, and published as AOR 1975-45 in the September 3, 1975, Federal Register (40 FR 40677). Interested parties were given an opportunity to submit written comments pertaining to the request. No comments were received.

The requesting party, ADEPT, a multi-candidate political committee, seeks an advisory opinion indicating whether it may legally establish multi-candidate political committees in several states which, except for unanticipated and unsolicited donations, would depend solely for its funds upon transfers from ADEPT, and possibly accounting, clerical, legal or similar support services.

If such committees may be established:

1. May the Treasurer of ADEPT also serve as the treasurer of one or more of the State committees?
2. Would the limitations upon the quantum of contributions set forth in 18 U.S.C. §608(b)(2) be applicable (1) separately to ADEPT and to each such committee or (2) in the aggregate to ADEPT and each and every such committee?
3. May one or more members of the ADEPT committee also hold membership on one or more State committees?
4. May each State committee be funded by transfers of funds from ADEPT?

The Commission's opinion is that while these committees may be established by ADEPT as described above, the contribution limitation in 18 U.S.C. §608(b)(2) would apply in the aggregate to ADEPT and every such committee (assuming that such committees satisfy the criteria in §608(b)(2)). The Commission would regard committees which are controlled by the same person or group of persons as one entity. Under the facts presented, the committees would be considered under common control since they would be funded mainly by transfers from ADEPT. Another indication of common control is the fact that the committees might have the same treasurer and members as ADEPT. Because these committees would be under common control, they could not be regarded as exercising independent judgment in the selection of those Federal candidates to whom contributions will be made. In order to effectuate the contribution limits proscribed in §608(b)(2), ADEPT and its State committees will be regarded as one entity and thus limited to one \$5,000 contribution per election for any one Federal candidate.

The Commission has the entire area of common control of multi-candidate committees under active consideration. Such factors as overlapping officers or patterns of contributions and transfers of funds from national committees to associated State committees will be taken into account by the Commission. The Commission will, in determining the existence of common control, look beyond form to the substance of relationships between committees.

This advisory opinion is issued on an interim basis only pending the promulgation by the Commission of rules and regulations and policy statements of general applicability.