



FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 29, 1978

AO 1978-10 (Part A)

George Van Riper
Executive Director
Kansas Republicans
501 Jefferson
Suite 22
Topeka, Kansas 66607

Dear Mr. Van Riper:

This responds to your letters of February 3 and March 29, 1978, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations to various expenditures of the Republican State Committee of Kansas ("State Committee").*

Your letter of February 3 asks whether expenditures (hiring of staff, production and mailing of printed material, media advertising) to advocate the defeat of candidates for Federal office who are Democrats, are subject to limitation under the Act and Commission regulations if made at a time before the identity of all your Republican candidates for Federal office is known. The Commission decided that this question should be addressed separately. It will be considered further at the Commission's August 31 meeting.

Your letter of March 29, 1978, poses three questions concerning the allocation of expenses incurred by the Kansas Republican party for voter registration and get-out-the-vote drives, presumably to be conducted this election year when 6 Federal offices (5 House and 1 Senate) will be on the November ballot as well as 6 State executive offices (elected on statewide basis including Governor, Lieutenant Governor, Secretary of State, Attorney General), 5 seats on the State school board (elected on district basis) and 125 seats in the State legislature (elected on district basis). You ask:

(1) Is a voter registration drive allocable as a contribution to a candidate?

* Commission records indicate that the Kansas Republican Federal Campaign committee was another registered political committee of the Kansas Republican Party but has now terminated. Your request is made on behalf of the state committee which is the Party's principal Federal campaign committee and has been registered under the Act for several years.

(2) If a get-out-the-vote effort contacts voters on behalf of non-Federal candidates only, do the expenses of this effort have to be paid for from a Federal account?

(3) If a part of such an effort is in behalf of Federal candidates, does the entire cost have to be paid from a Federal committee?

It is the Commission's opinion that the costs of registration and get-out-the-vote drives by the Kansas Republican Party should be allocated between Federal and non-Federal elections in the same manner as other general party expenditures. (See 11 CFR 106.1(c) and 106.1(e)). That portion of the costs allocable to Federal elections under the above allocation must come from funds contributed in accord with the Act - that is, funds contributed in accordance with the limitations and prohibitions contained in 2 U.S.C. 441a, 441b, 441c, 441e, 441f and 441g. (See 11 CFR 102.6(b)). The costs allocable to non-Federal elections may be paid out of Party funds raised and expended pursuant to applicable Kansas law. This conclusion modifies and supercedes the Commission's responses to Advisory Opinion Requests 1976-72 and 1976-83, issued respectively on October 6 and 12, 1976.

It is also the Commission's view that with respect to an election in which there are candidates for Federal office, expenditures for registration and get-out-the-vote drives need not be attributed as contributions to such candidates unless the drives are made specifically on their behalf. (See 11 CFR 106.1). For example, if the purpose of the drive advocates the election of a candidate or candidates for Federal office, then the cost must be attributed to that candidate or candidates for limitation and reporting purposes. See 2 U.S.C. 441a(a) and 441a(d). However, the Party may use printed material in a voter registration (or get-out-the-vote) drive which identifies candidates for Federal office without allocating any costs to particular candidates, if those materials are within the slate card or sample ballot exemption. 2 U.S.C. 431(e)(5)(E) and 431(f)(4)(G). If financed by a reporting political committee, the amounts spent for materials within the exemption need to be reported as a "Disbursement for exempt sample ballot expenses" in order to account for all cash outlays of the political committee. (See 11 CFR 104.2(b)).

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act, or prescribed as a Commission regulation, to the specific factual situation set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)
Joan D. Aikens
Chairman for the
Federal Election Commission

Enclosures



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 21, 1978

Mr. George Van Riper
Executive Director
Kansas Republicans
501 Jefferson, Suite 22
Topeka, Kansas 66607

Re: AOR 1978-10

Dear Mr. Van Riper:

This refers to your letter of February 3, 1978, concerning application of the Federal Election Campaign Act of 1971, as amended, to pre-primary spending by the Republican State Committee of Kansas to advocate the defeat of Democratic candidates for Federal office.

The Commission has given further consideration to the question but was unable to reach a decision by the requisite four votes (See 2 U.S.C. 437c(c)) as to whether such disbursements would be subject to limit under 2 U.S.C. 441a(a) as contributions in-kind to Republican candidates for nomination to Federal office, or should be charged to your Committee's general election expenditure limit under 2 U.S.C. 441a(d).

I would note, however, that since the described payments are for the purpose of influencing the nomination or election for Republican candidates to Federal office they must be funded and reported by your reporting Federal political committee. (See 11 CFR 102.6).

Sincerely yours,

(signed)
William C. Oldaker
General Counsel