



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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**AGENDA ITEM**  
For Meeting of: OCT 21, 1993

OFFICE OF THE CHAIRMAN

October 15, 1993

**SUBMITTED LATE**

MEMORANDUM

TO: THE COMMISSION

FROM: SCOTT E. THOMAS *ST*  
CHAIRMAN

SUBJECT: ALTERNATIVE DRAFT RE AOR 1993-17  
(MASSACHUSETTS DEMOCRATIC PARTY)

I propose an alternative for the above-referenced request. It preempts the Massachusetts effort to require the party committees to pay a certain portion of allocable expenses with funds raised under Massachusetts rules. It reasons that the federal regulatory approach expressly reserves for party committees the flexibility to pay for more than the federal minimum share with funds raised under federal restrictions if the parties so choose.

The alternative would replace the language beginning on page 8, line 8, with the following:

Through its allocation regulations, the Commission has asserted broad authority with regard to allocable expenses that by their very nature are inextricably intertwined with federal election activity. For example, the full amount of such expenses must be disclosed at the federal level, along with the allocation formulas used, and an explanation of the transfers from the nonfederal account. 11 CFR 104.10.

The Commission's allocations regulations were clearly designed to allow affected committees the flexibility to pay for more than the minimum federal share of allocable expenses with funds raised under the federal restrictions. Recognizing that the allocation rules would be imposing more federal responsibilities on committees (e.g., the need to disclose even the nonfederal share of disbursements), the Commission intended to leave committees with the option of paying for allocable expenses in a way that is less burdensome if they so choose. This intent is reflected in the language in the Explanation and Justification of the regulations quoted above on [pages 5 and 6].

The OCPF interpretive bulletin contradicts the Commission's allocation regulations in that it would deny the Party the flexibility to pay more than the federal minimum share with federally restricted funds. Accordingly, the Commission concludes that the applicable part of the interpretive bulletin is preempted by federal law.<sup>2/</sup>

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. §437f.

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<sup>2/</sup> Since you have not raised it, the Commission does not reach the issue of whether the portion of the interpretive bulletin that would require the Party to disclose the nonfederal share of allocable disbursements at the State level also would be preempted.