



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
WASHINGTON, D.C.
20463

JAN 11 4 35 PM '95

January 11, 1995

MEMORANDUM

TO: The Commission

THROUGH: John C. Surina
Staff Director

FROM: Lawrence M. Noble
General Counsel

N. Bradley Litchfield
Associate General Counsel

Jonathan M. Levin
Senior Attorney

SUBJECT: Draft AO 1994-37

**SUBMITTED LATE
AGENDA ITEM**
For Meeting of: JAN 12 1995

On January 5, 1995, this Office circulated Agenda Document #95-9, a draft response to the above-captioned advisory opinion request. Upon review of the draft and after receiving input from Commissioners, this Office proposes the following minor changes and additions.

- (1) On page 5, line 21, the word "estimate" will be deleted.
- (2) On page 6, line 14, the words "or space" will be added after the phrase "the percentage of time." This more closely conforms to the use of Advisory Opinion 1994-8.
- (3) Footnote 4 on page 9 will be amended. On line 30, at the end of the footnote as presently written, the following sentence will be added:

If funds are transferred to the allocation account, the Federal Committee must report the amounts received as transfers from the State Committee [Detailed Summary Page of FEC Form 3 - Line 12] and must report the total amounts disbursed to payees, itemized as required.

Another paragraph will also be added to footnote 4 to explain another transfer option available to the committees:

The Federal Committee has another option. it may use its regular operating account to accept transfers from the State Committee, provided that such transfers do not exceed the State Committee's portion of the shared expenditures and that the State Committee does not improperly advance any Federal election costs. See, by analogy, 11 CFR 106.5(g)(1)(i), (2)(i), (2)(ii)(B), and (2)(iii). The reporting would be the same as noted above for the use of an allocation account.

(4) After the sentence ending on line 8 of page 2, a footnote will be inserted noting that the requesters do not propose using Federal Committee funds to fund non-federal campaign efforts, but cautioning as to the continuing application of 2 U.S.C. §439a:

Although you do not specifically propose to use excess campaign funds from the Federal Committee to fund activities for the gubernatorial effort, the Commission cautions you that the prohibition on personal use of campaign funds applies to all funds of the Federal Committee, whether they are expended by that committee or transferred to the State Committee. 2 U.S.C. §439a. See Advisory Opinion 1993-22.