



FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 4, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1997-18

John Evans, Treasurer
California Reform Party Congressional Committee
PO Box 81496
Bakersfield, CA 93380-1496

Dear Mr. Evans:

This refers to your letters dated October 6, July 31, and March 24, 1997, which request advice concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the possible status of the California Reform Party Congressional Committee ("Congressional Committee") as a local party committee of the 'National Reform Party.'

Enclosed with your request is a copy of the Congressional Party's Bylaws. The Bylaws declare that the purposes of the Congressional Committee include ensuring "as far as possible, the election of members of the Reform Party of California to the United States House of Representatives," providing "a vehicle to raise funds and provide support" for those candidates such as training, and to "develop and implement a coordinated campaign." Committee Bylaws, Article II.

You assert, however, that the Congressional Committee it is not affiliated with the Reform Party of California.¹ You state that the Congressional Committee has total and complete control over its own day-to-day operations and there is no financial, advisory or any other relationship between the two groups. You further assert that the Congressional Committee is not affiliated with any other State-wide organization of the Reform party. You also emphasize that the Congressional Committee does not claim, or wish to claim, State committee status that might conflict with the possible claims of the Reform Party of

¹ You admit, however, that some members of the Congressional Committee are also members of the Reform Party of California.

California. Rather, the Congressional Committee proposes to be a local party committee that is completely independent of any State committee. As you describe it, the Congressional Committee would be a local committee that would operate in all 52 Congressional districts of California. You state that when the Reform Party of California has received State Committee status, the Congressional Committee will determine whether it wishes to affiliate with it.² You also state that the Congressional Committee has no relationship with the 'National Reform Party' or any other national reform party organization.³

The Congressional Committee was established in January 1996, with meetings between the Reform Party Congressional candidates. All eleven candidates certified for the March 1996 California primary were contacted for their input into forming a committee and were offered help in filing, with the FEC, the necessary documents relating to their Federal campaigns. Seven of the ten candidates remaining after the March primary approved the Bylaws of the Committee. Your request includes statements of affinity and support for your request by these seven candidates, all of whom were on the ballot in California as Reform Party candidates for Congress in 1996.

Under the Act and Commission regulations, the term "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Commission. 2 U.S.C. §431(15); 11 CFR 100.14. The definition of State committee also requires the existence of a political party. The term "political party" is defined under 2 U.S.C. §431(16) and 11 CFR 100.15 as an association, committee, or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee, or organization.

The term "subordinate committee" is defined under 11 CFR 100.14(b) as any organization which is responsible for the day-to-day operation of the political party at the level of city, county, neighborhood, ward, district, precinct, or any other subdivision of a State or any organization under the control or direction of the State

² This opinion will not address issues relating to the possible affiliation of the Congressional Committee with other political committees and organizations within the Reform Party movement. The Commission reminds you, however, that under 11 CFR 110.3(b)(3), all contributions made by the political committees established, financed, maintained or controlled by a State party committee and by subordinate State party committees are presumed to be made by one political committee. This presumption is rebutted if the party unit in question has not received funds from any other political committee established, financed, maintained or controlled by any party unit and there is no cooperation, consultation or concert between the party unit and other political committees or party units regarding the making of contributions.

Even if the presumption is rebutted, a finding of affiliation, regardless of the intent of the organizations concerned, may be made should other factors of affiliation exist as set out in 11 CFR 110.3(a). Affiliation between two committees would be found, for example, if they are both controlled by the same group of persons. See 11 CFR 110.3(a)(2)(v).

³ The facts of your request and your characterization of your relationship with different committees indicates that your committee is, however, part of the same political movement as the California Reform Party and the 'National Reform Party.'

Committee. The Act and Commission regulations do not expressly define the term “local committee” of a political party. However, since the first part of the above cited definition includes reference to political party committee operations at various levels of local government (county, city, district, etc.) below the State level, it can be viewed as the functional equivalent of a definition of “local committee.” (In addition, see the definition of “Local Party Committee” which is used for explanatory purposes in the Commission’s *Campaign Guide For Political Party Committees*, August 1996, p. 83.)

Although this has not been explicitly stated in previous advisory opinions, the Commission notes that a political party can only have one State committee, as was the case in previous opinions conferring or confirming State committee status. See Advisory Opinions 1997-7, 1997-3, 1996-51, and 1996-35. A State committee, however, can have any number of subordinate, local or other affiliated committees. You have explicitly stated your intention not to claim a State committee status that might interfere with the claims of the Reform Party of California. Therefore, the analysis to follow will only concern the Congressional Committee’s claim to local committee status.

The Commission has not previously examined in an advisory opinion the claims of an organization for local party committee status, as opposed to State committee or national committee status. However, a prerequisite (as with State and national committee status) is the existence of a political party. See Advisory Opinions 1997-7, 1997-3, 1996-51, 1996-43 and 1996-35. The Commission notes the efforts and support given to Reform Party candidates by the Congressional Committee in 1996. Seven of these Congressional candidates have identified themselves with your request for local committee status. Two of them had sufficient financial activity to qualify as candidates under 2 U.S.C. §431(2). See Advisory Opinion 1997-7. On this basis, the Commission concludes that there is an organization (or association) of the Reform Party movement in the State of California that would be a “political party” for purposes of the Act and Commission regulations, and that the Congressional Committee is an instrumentality of that organization. See Advisory Opinions 1997-7, 1997-3, 1996-51, and 1996-35.

However, the Congressional Committee’s status as a local committee of a political party presents a separate question. The Congressional Committee does not currently meet either of the two definitional requirements of “subordinate committee” in section 100.14(b) of Commission regulations. Your request characterizes the Congressional Committee’s area of operations as ‘local’ because it will operate only in Congressional Districts. However, you also explain that the Committee intends to be active in every Congressional district of California which would entail Committee activity throughout the entire State of California, rather than in one specific geographic region or subdivision, such as a county or city. Thus, the Committee’s operations are more consistent with statewide, rather than local activity.

As noted above, section 100.14(b) recognizes that some subordinate committees may operate beyond a local geographic or jurisdictional area. However, these committees must be under the direction and control of a State Committee. You have

stated that the Congressional Committee is not currently affiliated with any other State entity and has no link to the Reform Party of California. Furthermore, the Commission has not yet recognized any entity as the California State committee of the Reform Party. Therefore, the Congressional Committee cannot qualify as a subordinate committee under the direction or control of a State committee.⁴

Considering these factors together, the Commission concludes the California Reform Party Congressional Committee does not qualify as the local committee of a political party at this time.⁵ Your request materials present the possibility that should the Reform Party of California gain recognition of its State committee status from the Commission, the Congressional Committee may then affiliate with that State committee. The Commission notes that if it determines, at some future date, that the Reform Party of California is a State committee, and if your committee seeks affiliation with that entity, then the conclusion reached in this opinion would no longer apply. However, the Commission's conclusion on the facts presented at this time means that the Congressional Committee may not make expenditures pursuant to 2 U.S.C. §441a(d). Furthermore, the Congressional Committee may not avail itself of the exemptions from the definition of "contribution" and "expenditure" for certain State or local political party activities found at 2 U.S.C. §431(8)(B) and (9)(B).

This response constitutes an advisory opinion concerning the 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.

Sincerely,

(signed)

John Warren McGarry
Chairman

Enclosures (AOs 1997-7, 1997-3, 1996-51, 1996-43, 1996-35, 1996-8, 1982-38
and 1978-9)

⁴ The Commission's findings are consistent with past advisory opinions that have concerned activities by subordinate or local party committees. These party committees either operated in only one county (Advisory Opinions 1996-8, 1982-38 and 1978-9) or were organizations like "Young Republicans, "Republican Women" and "College Republicans" that were under the control of the State party committee (Advisory Opinion 1978-9).

⁵ The Statement of Organization for the Congressional Committee should be amended to describe its type as "unofficial" or "unrecognized" committee of the California Reform Party. 11 CFR 102.2(a)(1)(i).