



FEDERAL ELECTION COMMISSION
Washington, DC 20463

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November 19, 2003

AGENDA ITEM

For Meeting of: 11-20-03

SUBMITTED LATE

MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkon
Staff Director

FROM: Lawrence H. Norton *LHN*
General Counsel
James Kahl *JK*
Deputy General Counsel
Rosemary C. Smith *RCS*
Acting Associate General Counsel
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SUBJECT: Proposed Amendment to Draft AO 2003-29

Attached is a proposed amendment to the draft of the subject advisory opinion. We request that this proposed amendment to the draft be placed on the agenda for November 20, 2003.

Attachment

On page 9, delete line 4 through "100.5." on line 5 and replace with the following:

The Commission notes that a consequence of transferring any funds from the Ohio FOP PAC to the NFOP PAC is that the Ohio FOP PAC would become a political committee under 2 U.S.C. 431(4)(B) and 11 CFR 100.5. See Advisory Opinions 1984-31, 1983-3 and 1982-46. Under 2 U.S.C. 431(4)(B), a separate segregated fund is a political committee regardless of the amount of contributions or expenditures it makes. Cf. 2 U.S.C. 431(4)(A) (committees, clubs, associations, or other groups of persons become political committees when they make contributions aggregating in excess of \$1,000 per calendar year or make expenditures aggregating in excess of \$1,000 per calendar year). See Advisory Opinions 1983-3, 1982-46, and 1981-6; see also Explanation and Justification for 11 CFR 102.6, 45 Fed. Reg. 15084 (Mar. 7, 1980). Thus, because there is no monetary threshold triggering political committee status for separate segregated funds, a transfer of any amount from the Ohio FOP PAC to the NFOP PAC would cause the Ohio FOP PAC to become a political committee. See Advisory Opinions 1983-3 and 1981-6.

On page 9, lines 8-9, replace "and 1982-52" with "1983-3, 1982-52, and 1982-46 "

On page 9, line 12, replace "Advisory Opinion 1982-52" with "Advisory Opinions 1983-3, 1982-52, and 1982-46"

**On page 12, line 14, replace "1982-52, and 1981-34" with "1983-3, 1982-52, 1982-46,
1981-34, and 1981-6"**