



THE FEDERAL ELECTION COMMISSION

RECORD

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COMMISSION PUBLISHES PROPOSED REGULATIONS

The Federal Election Commission has published its proposed regulations covering the disclosure of contributions and expenditures by persons subject to the *Federal Election Campaign Act of 1971*, as amended (2 U.S.C. 431-437b). (See the *Federal Register*, Sept. 29, 1975, pp. 44698-44707.)

Public hearings on the proposed regulations were held by the Commission on Oct. 21, 22 and 24 at FEC headquarters in Washington, D.C. The Commission seeks and encourages public comments from interested persons. These comments should be submitted to the Rulemaking Section, Office of General Counsel, FEC, 1325 "K" St., N.W., Washington, D.C. 20463.

The Commission plans to transmit the proposed regulations to Congress by the end of November. Under the provisions of the Act, Congress has a 30-

legislative-day period in which to disapprove the regulations.

The regulations parallel the statute. Key provisions are as follows*:

Contribution

The term "contribution" includes:

- The proceeds of a gift, subscription, loan, advance, or deposit if any part of such proceeds benefit directly or indirectly the election of the candidate, and whether or not the contribution was made before or after the campaign period.

(Continued, P. 2)

*Important: This regulation synopsis is issued for informational purposes only. The accurate, precise meaning of these regulations can be ascertained only by reading the text of the regulations published in the *Federal Register*. The synopsis, of course, only covers part of the regulations.

CURRENT ADVISORY OPINIONS LISTED

This chart represents a listing and brief description of Advisory Opinions issued by the Commission through mid-October. Advisory Opinion Requests are designated a number as they are received by the Commission. Advisory Opinions are not necessarily approved in their sequential order which will explain why certain numbers are not included in the listing below. Reference following each description is the publication date and page number in the *Federal Register*.

AO 1975-1—NATIONAL PARTY CONVENTIONS. Corporations may not make contributions to assist national party conventions except under limited circumstances. (7/15/75 - 29791)

AO 1975-2—MICHIGAN COMMITTEES. State committee and subordinate local party organizations may allocate expenditures among each other for purposes of the party spending limits. (8/18/75 - 36092)

AO 1975-3—REPUBLICAN CONGRESSIONAL COMMITTEE. Costs of printing or preparing matter sent under Congressional frank are not covered by contribution and expenditure limits. (8/18/75 - 36092)

AO 1975-4—DEMOCRATIC PARTY TELETHON. Endorsers or guarantors of loans to Democratic National Telethon are "contributors" subject to limits. (7/15/75 - 29791)

AO 1975-5—PRE-1973 DEBTS. Contribution and expenditure limits do not apply to cancellation of pre-1973 debts. (7/25/75 - 31315)

AO 1975-6—1973-1974 CAMPAIGN DEBTS. Only the limitation on expenditures from a candidate's personal funds apply to cancellation of 1973-1974 campaign debts. (7/25/75 - 31315)

AO 1975-7—CONGRESSIONAL OFFICE ACCOUNTS. Contributions and expenditures from office accounts are subject to limitations but contributions and expenditures from franking accounts are exempt. (9/3/75 - 40673)

AO 1975-8—HONORARIUMS. Designating honorariums to charity counts against limit on honorariums. (8/21/75 - 36746)

AO 1975-9—UNOPPOSED PRIMARY CANDIDATE. An unopposed primary is defined as an "election" for contribution/expenditure limitations. (8/19/75 - 36242)

AO 1975-10—INTERNAL TRANSFER OF CAMPAIGN FUNDS. Answers a series of questions on transfers between committees, either Federal or non-Federal. (9/3/75 - 40674)

AO 1975-11—DUAL CANDIDACIES. Defines applicability of limits of candidates running for two Federal offices simultaneously. (9/16/75 - 42839)

AO 1975-13—CHAMBER OF COMMERCE MONIES. Corporations cannot provide travel expenses to candidates. (8/21/75 - 36746)

AO 1975-14—CONTRIBUTIONS TO DEFRAY CONSTITUENT SERVICE EXPENSES. Corporations, national banks, and unions may not contribute to office accounts. (8/13/75 - 34084)

AO 1975-15—THE WALLACE CAMPAIGN ROYALTIES. Candidate George Wallace can receive royalty payments. (9/24/75 - 44040)

AO 1975-16—INCORPORATED ASSOCIATIONS. Incorporated associations cannot contribute to campaigns. Numerous campaign committee requirements explained. (8/19/75 - 36242)

AO 1975-17—PARTNERSHIP CONTRIBUTIONS. Partnerships are limited to \$1,000, and each partner's share counts against his limit. (9/3/75 - 40673)

AO 1975-18—CONTINUOUS REPORTING OF PAST DEBTS. Committees with outstanding debts must continue to report. (9/16/75 - 42838)

AO 1975-20—POLITICAL EDUCATION COMMITTEES. Political committees may perform certain non-candidate-oriented activities without incurring contributions or expenditures. (10/1/75 - 85292)

AO 1975-22—1. TRANSFERS OF FUNDS. Transfers of funds from a Senatorial committee to a party organization are expenditures. 2. AUTHORIZED EXPENDITURES. A person cannot be authorized to receive contributions but not be authorized to make expenditures. (10/1/75 - 45295)

AO 1975-35—ORGANIZATION OF POLITICAL COMMITTEES. Individuals may serve as officers of more than one political committee. (9/24/75 - 44040)

AO 1975-37—INCORPORATED POLITICAL COMMITTEES. Committees organized solely for political purposes may incorporate. (9/11/75 - 42303)

AO 1975-40—REPORTING OF POLITICAL CONTRIBUTIONS. Political committees and candidates must report all contributions from all political committees no matter how small the amount. (10/9/75 - 47691)

AO 1975-41—INVESTMENT OR DEPOSIT OF CONTRIBUTIONS INTO SAVINGS ACCOUNTS. Committees may make internal transfers of funds between checking and savings accounts without listing transactions on the report. (10/9/75 - 47691)

(NOTE: Synopses of recently issued Advisory Opinions are on P. 3.)

Publishes Regulations

(cont'd from P. 1)

- Written agreement, such as a signed pledge card, to make a contribution.
- Repeated use of a person's home for numerous events on behalf of a candidate, such as a coffee klatsch or cocktail party, to the extent that the fair rental value for such use exceeds the \$500 exemption for the use of a person's home. Fair rental value is not considered for the use of a residence for less than 24 hours.

The term "contribution" does not include:

- Value of services provided voluntarily, whether or not the services are regularly performed as part of the donor's trade, business, or profession. Volunteer activity by a person during working hours is not a contribution by the person's employer so long as that time is made up in a reasonable time, or the person's normal working hours per week are performed, or the person is paid only for actual work performed, such as a person paid on commission.
- State or local party committee's printed listing of three or more candidates on yard signs, bumper stickers, car tops, or the reading of such list over the telephone.
- Interest or other proceeds from the investment of campaign contributions.

Election

Caucus or convention of a political party held to select a nominee is an election; caucus or convention held prior to a primary and related to the nominating process is part of the primary election.

Expenditure

The term "expenditure" includes:

- Repayment of a loan. [Repayment of a loan is not, however, counted as an expenditure for purposes of calculating total aggregates of campaign expenditures for the 18 U.S.C. §608 expenditure limitations.]
- Proceeds of a gift, and the like, if any part of such proceeds directly or indirectly benefits the election of a candidate, whether or not proceeds are spent before or after campaign period.

The term "expenditure" does not include:

- Contracts for goods or services under \$500 until actual payment is made or the 60-day period for repayment has expired.
- Cost of stories or comments written by or about Federal officeholders which appear in State and local party publications.

Political Committee

A political committee does not include a group of individuals who jointly make personal expenditures on behalf of a candidate as long as the transaction is a one-time occurrence and the expenditure is not authorized by the candidate.

Candidate Designations

Candidates shall designate a separate campaign account for each election.

Waiver of Candidate Reporting

A candidate need not personally file reports if he agrees to turn over any contribution to his campaign committee and make no personal expenditure on behalf of his own campaign.

Registration of State Committees; Establishment of Federal Campaign Committees

State and local committees supporting Federal candidates can either:

- Register and report all receipts and expenditures (both Federal and State), or
- Establish a separate Federal campaign committee which, alone, reports to FEC. [This approach has been successfully employed in New Hampshire and Tennessee.]

Photocopies of Checks

Committees or candidates which receive more than \$25,000 a year in contributions must keep photocopies of all contributor checks.

Petty Cash Fund

A political committee must record all disbursements from a petty cash fund.

Depositories

A political committee may establish one or more bank depositories containing one or more accounts in one or more States.

Contribution Deposits

A candidate or committee treasurer must deposit all contributions in the campaign depository within three business days after receipt.

General Reporting

Committees and candidates who have not received or spent more than \$1,000 in any one quarter do not have to report during that quarter, but they must notify the Commission of the reporting exemption on a specific short-form provided for this purpose for the first quarter in which this exemption applies. This exemption does not apply to the pre-election or post-election report.

Form and Content of Reports

- Contributions in excess of \$100 must be itemized. Any itemization of contributions of \$100 or less, which do not have to be listed, must be made on a separate schedule attached to the report, and may not be commingled with the required itemized list of contributions in excess of \$100.
- For pre-election reports, a principal campaign committee may file a consolidated report without the reports of affiliated committees, if the affiliated committees file their reports with both the principal campaign committee and the Commission and if the principal campaign committee files the complete consolidated report five days before the election.

Disclosure of In-Kind Contributions

In-kind contributions are valued at fair market value (retail price of goods or hourly rate for services) at the

time of the contribution, and reported as both a contribution and expenditure.

Filing Dates

In the year of a general election, candidates and committees operating in more than one State must file monthly reports, except during months covered by the pre- and post-general election reports, and the annual report.

Uniform Reporting of Contributions

When a contribution added to an unitemized contribution from the same donor brings the aggregate to over \$100, the identification, occupation, and principal place of business of the contributor must be reported.

Disclosure of Earmarked Contributions

Any reporting person who gives or receives earmarked funds must disclose them separately as part of such person's reports.

Reports on Convention Financing, Committees

Committees which receive or spend funds in connection with a national convention must report to the Commission.

Time and Content of Convention Reporting

A committee must report (1) within 60 days after the convention, (2) quarterly if funds are raised and spent after the convention, and (3) 10 days after the committee disbands.

FEC PUBLIC APPEARANCES

Oct. 5	DNC Campaign Training Institute Reno, Nevada
Attending	Joe Stoltz
Oct. 8	Advertising Age/Political Communications Seminar Washington, D.C.
Attending	Chairman Thomas B. Curtis
Oct. 16	Practicing Law Institute Minneapolis, Minnesota
Attending	Dave Vaughn
Oct. 16-17	American Association of Political Consultants Washington, D.C.
Oct. 17	Ohio Bar Association Corporation Salt Fork Lodge, Ohio
Attending	Orlando B. Potter
Oct. 23	Practicing Law Institute Denver, Colorado
Attending	Drew McKay
Oct. 23-24	Arizona Association of County Clerks and Recorders
Attending	Gary Greenhalgh
Oct. 24-25	Michigan State Democratic Party
Attending	Vice-Chairman Neil Staebler Drew McKay

RECENTLY ISSUED AO'S SYNOPSIS

THESE ADVISORY OPINION SYNOPSIS ARE OFFERED FOR INFORMATIVE PURPOSES ONLY. ANY INTERESTED PARTY IS ADVISED TO READ THE COMPLETE TEXT OF THE OPINION PUBLISHED IN THE *FEDERAL REGISTER*, OR TO WRITE TO THE COMMISSION FOR A COPY.

AO 1975-11—DUAL CANDIDACIES

Senator Lloyd Bentsen of Texas is running for reelection to his Senate seat and also is seeking the Democratic Presidential nomination. He requested an opinion as to the application of the total expenditure limitations, the personal expenditure limitations, and the contribution limitations.

The Commission concluded that if the Senator were permitted to spend up to both Senate and Presidential limitations for the primary, he would essentially have three times the spending limits of his Senate opponents as well as one-half more to spend than the other Presidential contenders. These expenditures would obviously give him a significant publicity advantage over his opposition and would deprive the opposition of their constitutional right to equal protection of the law.

Consequently, the Commission ruled that Senator Bentsen may make expenditures in Texas only up to his Senate limit.

The argument that Senator Bentsen is being penalized relative to other Presidential contenders was discounted because Senator Bentsen is currently the U.S. Senator from Texas and has a substantial headstart over his outside opposition as far as his recognition is concerned. Also, his overall nationwide Presidential campaign limit is not affected. He may still spend his entire limit in other States.

The Commission's ruling is to apply prospectively only.

The candidate has only one personal family limit, that of a Presidential candidate. However, he may only use funds up to the Senate limitation in Texas and may spend the remaining portion elsewhere.

This ruling also stipulates that dual candidates must maintain separate organizations for each candidacy. Contributors may contribute up to their legal limits for each campaign. Funds may *not* be commingled or transferred between campaigns. Only if a contribution is actually returned to the contributor, may the contributor give to the other campaign provided that he or she has not already exceeded his or her limit for that campaign.

Representative Alan Steelman of Texas inquired about the effect of accumulating and spending funds with respect to a possible Senate campaign. The Commission concluded that an individual seeking both the office of Congressman and Senator may spend funds in the Senate up to the limit applicable to a senatorial campaign in that State. Such a dual candidate must maintain separate campaign committee structures, however, and funds may not be commingled or transferred between campaigns. The Congressional campaign structure may make expenditures only with respect to the Congressional district, and such expenditures may not exceed the applicable House limits for that district. Each dollar expended in the district will count toward the statewide senatorial limit. Expenditures within the district by the candidate's senatorial campaign structure will be counted toward the House limit for that district.

AO 1975-15—THE WALLACE CAMPAIGN ROYALTIES

The Commission, responding to a request by The Wallace Campaign '76, stated that George Wallace may receive royalties from the sale of campaign materials, such as watches, medallions, and other items bearing

the likeness of the candidate. The Commission noted its disapproval in principle of any practice whereby a candidate personally profits from campaign donations, but could find no legal basis for prohibiting the royalty payments.

The Commission did rule that the sale of items by the Campaign is an activity to raise funds and build support for the candidate, and that the proceeds of any such sale are considered to be contributions. Furthermore, both the royalty payments to the candidate and the cost of procuring items from suppliers are expenses incurred to provide an inducement for the making of the contribution and will be regarded as expenditures chargeable against the candidate's expenditure limitations.

The Commission also ruled that since the benefit conferred on the contributor is of a lasting or enduring

nature such contributions are not gifts of money and are not eligible for matching payments under the public financing provisions.

AO 1975-18—CONTINUOUS REPORTING OF PAST DEBTS

This opinion addresses the general issue of whether a political committee with outstanding debts from a past campaign may discontinue reporting to the Commission because it has ceased to receive contributions and make expenditures. Specifically, the Illinois Muskie Committee desired to cease reporting because it has no funds to extinguish its 1972 debt and does not contemplate receiving any contributions in the future; the Senator Ellender Campaign Committee asked to cease reporting during a pending lawsuit over a disputed claim of indebtedness.

FEC NOTES

CANDIDATE AND COMMITTEE REPORTING

Next Reporting Date

- The cumulative year-end report for 1975 is due on Jan. 31, 1976.

Answers to the Most Frequently Asked Questions

- The FEC has interim forms available. These forms may be used until new forms which will parallel the new regulations and bookkeeping manual are issued. Candidates and committees may still use any of the old GAO, House or Senate forms until the new regulations are adopted. New forms will be forwarded with plenty of notice.
- FEC ID numbers have not as yet been issued. Multi-candidate committees reporting to the Commission may use any of their old numbers or leave that space blank if they use the old forms.
- Multi-candidate committees need only to report to the FEC unless they support solely House or solely Senate candidates. In that case, the committee need only report to the Secretary of the Senate or the Clerk of the House. In any case only one copy of the report needs to be filed in Washington.
- Candidates should designate a principal campaign committee which shall compile and file all reports on behalf of that committee and all other committees authorized by that candidate.

IN PROGRESS

- Delegate Selection
An FEC task force chaired by Commissioner Thomas E. Harris has been studying the provisions of the law as they apply to delegate selection and has received extensive comment from the national committees of several political parties. At the recommendation of the task force, the FEC will send the task force report to Capitol Hill, asking Congress to take action to cover the loophole regarding uncommitted delegates to party conventions.
- Allocation of Campaign Contributions and Expenditures
Complex questions of how to properly attribute contributions and expenditures which may benefit more than one Federal candidate have been addressed by a task force chaired by Commissioners Neil Staebler and Vernon E. Thomson. A series of relevant questions were published for comment (40 FR 45297, Oct. 1, 1975) and hearings will be scheduled in Washington in November.

MISCELLANEOUS

Office of General Counsel

Out of a docket of 95 Advisory Opinion Requests, 24 Advisory Opinions have been issued since AO 1975-1 was published on July 15. Out of a docket of 75 Opinions of Counsel, 21 have been issued since July 31.

Office of Public Information

- Public Communications
Inquiries concerning all aspects of the law have been numbering 300 per week in this department. Questions range from general information about filing requirements - forms, dates, when to file - to specific details about individual fund-raisers, committees, or limitations. Also fielded are questions about specific AOs and regulations issued by the Commission.
- Press
To date, approximately 1,400 calls of inquiry have been handled by the Press office.

FEC Materials and Information Available

- The FEC Record
- Federal Register reprints (containing Interim Guidelines, proposed regulations, Advisory Opinions, and Advisory Opinion Requests)

Available soon:

- General Information Folder
- Volunteer's Guide
- Fundraiser's Guide
- Bookkeeping Manual

New Clearinghouse Publications

- Cost of Election Administration
- Survey of Absentee Registration and Voting

Available from Public Records

Open to the public at all times, the Office of Public Records has available copies of and information concerning the financial reports of all registered candidates and committees. Copy machines and research space are available; copies of reports dating from April 1972 may be inspected or obtained.

Staff members of the FEC will locate and make available such records, without charge for first 1/2 hour of search and \$2.50 for each additional 1/2 hour. Copies of the financial reports of candidates and committees are available at 10 cents per page.

Also available to the public is a cumulative index of all reports and statements filed with the FEC, published in the Federal Register at regular intervals and available for purchase directly or by mail for a reasonable price. The first index was published on Oct. 23. Additional copies are available from the Commission for 25 cents per copy.

The opinion states that the Commission has the power to propose regulations [pursuant to 2 U.S.C. 438 (c)] which will relieve for a definite or indefinite period and for sound policy reasons, certain categories of political committees from the obligation to report. However, until the issuance of generally applicable regulations which would relieve or modify these reporting obligations and those of other committees similarly situated, the Muskie and Ellender Committees must file quarterly and yearly reports with the Commission.

The opinion noted, though, that if a political committee receives contributions of \$1,000 or less and makes expenditures of \$1,000 or less in a calendar quarter, then it is not required to file a detailed report for that quarter and need only file such explanation for its failure as may be prescribed by the Commission.

AO 1975-20—POLITICAL EDUCATION COMMITTEES

The Federal Election Commission ruled, in response to a request by the Committee for Thorough Agricultural Political Education (C-TAPE), that disbursements for various of its activities may not be made relative to a clearly identified candidate and thus are not attributable to contribution or expenditure limitations.

The Commission was advised that all disbursements are made from a single general account. Many disbursements may be expenditures under the Act, but, unless all receipts and disbursements are reported, there would be no conceivable way to accurately account for the cash balance on C-TAPE's periodic reports. Thus, the Commission concludes that until C-TAPE establishes a separate Federal campaign fund, all receipts and disbursements must be reported to the Commission.

C-TAPE's activities include voter registration and get-out-the-vote; educational campaign seminars; reimbursement of members' travel and per-diem expenses to testify at hearings, to visit public officials, and to attend fund-raising dinners and political rallies; information expenses; non-campaign functions; giving of small gifts to promote the dairy industry; and giving honorariums for appearances at meetings.

The opinion states that the definition of "expenditure" in the Code explicitly excludes nonpartisan activity designed to encourage individuals to register to vote or to vote. The Commission is of the opinion that disbursements for such activities which do not expressly or impliedly advocate the election or defeat of a particular candidate are not attributable to the independent expenditure limitation of 608(e). C-TAPE must not make any effort to determine candidate or party preference of the individuals registered or turned out to vote, and these activities must be nondiscriminatory in order to qualify for the exemption.

Educational seminars conducted by C-TAPE to educate and train farmers to be effective and efficient in organizing and participating in political campaigns, get-out-the-vote, and voter registration activities are not expenditures under the Act so long as the goals of these activities *cannot* be associated with the advancement of any clearly identified candidate. If these political campaign seminars take place in a Congressional district of an endorsed House candidate or the State of an endorsed Senatorial candidate, the costs of these

seminars may be independent expenditures subject to the limitations of 608 (e) of the Code.

Regarding reimbursed travel and per-diem expenses which are paid by C-TAPE to its members, the Commission stated that because reimbursement may benefit the candidate, travel to fund-raising dinners and political events may be subject to the independent expenditure limitations.

Payments for travel to visit public officials would not be contributions or expenditures provided that during the course of the visit the individuals did not undertake volunteer work for a portion or all of their visiting time on behalf of a candidate or a candidate's committee. If they did, C-TAPE would be considered to have made an in-kind contribution or independent expenditure in the amount of the reimbursed travel and per-diem expenses.

Disbursements for travel to official legislative and public hearings will not be considered in-kind contributions or expenditures since it may be presumed that the purpose of testifying is essentially unrelated to the advocacy of the defeat or election of a Federal candidate.

C-TAPE asked whether the costs of informing public officeholders, consumers, and the general public about the dairy and beef industries and dairy products would be expenditures under the Act. The Commission believes that unless C-TAPE specifically endorses and supports a clearly identified candidate or alerts the public to its political activities relating to a clearly identified candidate through these methods, these costs would not be considered independent expenditures.

C-TAPE also participates in many noncampaign activities held by public officials. These include Governors' conferences, annual meetings of State and local officials and inaugural balls.

Again, the Commission ruled that unless any of these events were for the purpose of influencing the nomination or election of any candidate for Federal office, these are not expenditures or contributions.

The Commission ruled, regarding honorariums, that any payment by a political committee to a candidate for Federal office in connection with an appearance or speech before a substantial number of his or her electorate would be treated as a contribution.

AO 1975-22—TRANSFERS OF FUNDS AND AUTHORIZED EXPENDITURES

Senator Strom Thurmond asked for an Advisory Opinion on two questions.

1. If a candidate's principal campaign committee is the payee of a check and, upon receiving the check, simply endorses and immediately forwards it to a State committee of a political party, does this constitute a receipt and expenditure by the principal committee?

By endorsing the check, the committee has exercised sufficient control over it to amount to a receipt by that committee. Also, all contributions received by the committee must be deposited in the candidate's designated campaign depository.

The principal committee may transfer funds to a State political party by a check drawn on this account; any such transfer at least where the latter is a political committee is an expenditure.

2. If a person or political committee is specifically authorized to solicit and receive contributions, and specifically unauthorized to make expenditures, will the incidental expenditure of that person or committee be treated as expenditures by the candidate's committee or as independent expenditures?

The opinion states that, under Title 18, a candidate may not authorize a person or committee to undertake activity which may incur costs without also authorizing the person or committee to make expenditures inherent in such activity. The costs incurred would be an expenditure under 18 U.S.C. 591(f)(1), but subject to any exemption under 591(f)(4). An expenditure made on behalf of a candidate is chargeable against the candidate's limitation. If a person or committee solicits funds for a candidate without that candidate's authorization, the costs incurred would be an independent expenditure and subject to the limitation of 18 U.S.C. 608(e).

AO 1975-35—ORGANIZATION OF POLITICAL COMMITTEES

The Commission rendered an Advisory Opinion [pending promulgation of rules and regulations] on the question of individuals serving as officers on more than one national fundraising committee to the Republican Congressional Boosters Club on the question of whether "a person serving as a member of the executive committee of the official committee of one national committee can serve as chairman or a member of another national fundraising committee."

The Commission concluded that the Federal Election Campaign Act as amended does not prohibit an individual from serving in an official capacity with more than one national fundraising committee which supports Federal candidates.

The opinion did point out that only independent committees can make separate contributions up to the statutory limits. These committee contributions may be considered as one contributory entity for purposes of the contribution limits. Thus, persons serving as key officials or personnel on one or more committees may be compromising the independence of those committees.

AO 1975-37—SHRIVER COMMITTEE

The Shriver for President Committee, a nonprofit corporation established solely for the purpose of collecting and expending political contributions, asked whether it is barred from making contributions or expenditures in connection with a Federal election under 18 U.S.C. 610.

The Commission, citing AO 1975-16, stated that if "a nonprofit organization is created expressly and exclusively to engage in political activities...and has incorporated for liability purposes only, the general prohibitions in 610 will not apply to that corporation." Accordingly, the Shriver Committee is exempted from the 610 restrictions as long as it meets the requirements specified above.

AO 1975-40—REPORTING OF POLITICAL CONTRIBUTIONS

A question raised by the Oberstar for Congress

Volunteer Committee concerns the requirement of reporting contributions from political committees in amounts of \$100 or less from the sale of tickets to dinners and other events.

The statute provides that the report must contain the full name and address of each person (as defined by the Act, "person" includes a committee) who has made one or more contributions including the purchase of tickets in excess of \$100.

However, the Commission did advise that the law specifies that any transfers of funds between political committees must be reported. This includes ticket purchases and amounts of \$100 or less. Both committees are required to report these transactions.

AO 1975-41—INVESTMENT OR DEPOSIT OF CONTRIBUTIONS INTO SAVINGS ACCOUNTS

The Shuster for Congress Committee asked for an opinion concerning the deposit of committee receipts in interest-bearing accounts at State or National banks or the investment of receipts in Treasury notes. The Commission approved such activities, provided that committees follow certain procedures. Similar to part of AO 1975-10 (see No. 1, *The Record*), the Commission opinion states that receipts must first be deposited in the campaign depository checking account. Funds may then be transferred by check to the income source. The amount so transferred and the interest earned must be redeposited in the same campaign depository before an expenditure can be made.

The Commission's view is that these internal transactions are only a conversion of one type of "cash on hand" to another type. Only the original receipt of the contributions and any interest earned from the savings accounts or Treasury notes must be reported. Internal transfers of funds between such income sources and checking accounts need not be included in the FECA report. For auditing purposes, the checking account statements and cancelled checks and deposit slips should be sufficient.

FEC ISSUES GUIDELINES

IN INTERIM GUIDELINE IS A PROVISIONAL POLICY STATEMENT REPRESENTING THE COMMISSION'S INTERPRETATION OF ONE OR MORE SECTIONS OF THE ACT. IT IS INTENDED TO PROVIDE INFORMAL ADVICE TO PERSONS SUBJECT TO THE ACT, UNTIL SUCH TIME AS REGULATIONS OF GENERAL APPLICABILITY CAN BE PROMULGATED. AN INDIVIDUAL WHO FOLLOWS A GUIDELINE IN GOOD FAITH IS PRESUMED TO BE IN COMPLIANCE WITH THE ACT.

THE COMMISSION WILL PUBLISH IN *THE RECORD* HIGHLIGHTS OF INTERIM GUIDELINES AS THEY ARE ISSUED. THE FOLLOWING TWO GUIDELINES WERE PUBLISHED IN THE *FEDERAL REGISTER*.

Presidential Primary Matching Funds

On Oct. 9 the FEC issued an Interim Guideline, effective on that date, on primary matching funds. The Guideline states that "contributions eligible for [Presidential primary] matching are determined without regard to costs incurred by a candidate in raising the contribution."

The October guideline consolidates and supercedes two earlier guidelines, published in the *Federal Register*, Aug. 11 and Sept. 9.

The guideline states that Presidential primary candidates will not be required to subtract fund-raising costs from the contributions they have received to be eligible for Federal matching funds.

Proceeds from the sale of campaign items are exempt from any Federal fund matching. The guideline specifies, "A contribution in the form of the purchase price paid for an item with significant intrinsic and enduring value is not a matchable campaign contribution."

The Interim Guideline applies to both stages of matching Federal funds:

- the initial eligibility "threshold" (\$100,000 in contributions of \$250 or less made up of total contributions of \$5,000 from residents in each of at least 20 states); and
- the full matching fund "entitlement" after the threshold eligibility has been established (half of the \$10 million primary spending limit, with only

contributions of \$250 or less matchable, and no per-state requirements).

Tennessee Guideline

The FEC has issued an Interim Guideline to candidates and political committees involved in the Tennessee Special Election. Clifford Allen and Bob Olsen, major party nominees after the Oct. 9 primary, will oppose each other in the general election on Nov. 25 to fill the vacant 5th Congressional District seat.

The guideline sets forth procedures to follow to comply with the financial disclosure requirements, and with the contribution and expenditure limits of the Federal law. All contributions or expenditures for both elections are subject to the provisions of 18 U.S.C. 608. The guideline requires candidates to designate at least two separate checking accounts, one for the primary and one for the general election. The candidates also must establish two principal campaign committees, one each for the primary and general.

Prior to the October primary, members of the FEC staff were in Nashville to discuss the new law with candidates.

CONGRESS ACTS ON PROPOSED REGULATIONS

The U.S. Senate and House of Representatives have acted recently on two proposed regulations from the Federal Election Commission. A brief account of each action follows.

In a 257-148 vote, the House has voted to disapprove the proposed FEC regulation requiring candidates and their supporting committees to file reports and statements initially with the Commission.

Representative Wayne Hays of Ohio, sponsor of the resolution disapproving the FEC proposal, argued that the 1974 law creating the Commission states that the Clerk of the House and Secretary of the Senate are to receive the reports as custodians for the Commission.

Speaking for the Commission, Chairman Curtis stated: "The FEC regulation [requiring] House and Senate reports [to be] filed initially with the... Commission seemed to us to [have at least three advantages. The regulation:

1. [followed the statutory language requiring reports to be 'filed with the Commission';
2. [provided for a single, centralized place for the filing of all Federal reports;
3. [reduced the number of Federal agencies processing reports from three to one.]

"Any alternative regulation must insure that if reports are filed initially with the Clerk of the House, they will be promptly transmitted to the FEC so that full disclosure of the finances of all Federal elections will continue to be quickly available at the FEC public records office."

By a 48-47 vote, the United States Senate has rejected the Federal Election Commission's compromise "office account" regulation.

The regulation, originally submitted by the Commission prior to the August recess, was subsequently altered in an effort to obtain Congressional approval. The 48-47 vote came on a motion by Sen. Dick Clark of Iowa to accept the Commission's compromise

proposal. The Senate subsequently passed a resolution rejecting the original regulation and the compromise.

The Federal Election Campaign Act Amendments of 1974 give the House and the Senate the power to disapprove proposed FEC regulations within 30 legislative days after they are submitted to the appropriate House.

The "office account" regulation was the first regulation sent to the Congress under this new procedure.

Under the original regulation, all donations to and disbursements from office accounts during the officeholder's entire term of office would have been subject to the 1974 Act's contribution and expenditure limits.

On Sept. 16 and 17, the FEC held public hearings on the "office account" issue. Several members of the House and Senate testified, as well as witnesses representing a number of citizen organizations.

After these public hearings, the Commission met on Sept. 25 and voted unanimously to submit a compromise which made expenditures from office accounts subject to expenditure limitations, *only during the last two years of a Senator's term and the last year of a Representative's term*. However, expenditures during the initial years of the term could have been challenged as being campaign-related and hence subject to the campaign expenditure limits.

Under both proposed regulations, all contributions to an incumbent's "office account" would have been subject to the prohibitions on contributions contained in the 1971 and 1974 Acts, including those relating to the use of corporate and labor union funds. Full disclosure of all contributions to and expenditures from office accounts would have been required throughout the entire term.

Both regulations also reflected the provision of the franking law which stipulates that the costs of "preparing or printing" items mailed under the frank not be subject to the contribution or expenditure limits. How-

ever, these costs would have been fully reportable during the entire term.

The Commission sent the revised version to the House and Senate and, at hearings of the Senate Rules and Administration Committee conducted on Oct. 2, the Commission defended its compromise. In a committee vote the next day, the revised regulation was voted down 6-3.

In a statement issued following the full Senate vote, Chairman Thomas B. Curtis stated:

"The FEC is obviously disappointed in Senate disapproval today of the proposed office account regulation. The regulation was an attempt to insure meaningful and fair enforcement of all campaign contribution and expenditure limits in the campaign law, and to apply the law equally to challenger and incumbent alike. . ."

The Commission plans to submit another version to the Congress in the near future.

CLEARINGHOUSE IN OPERATION

A Clearinghouse on election administration was established by Congress as part of the *Federal Election Campaign Act of 1971*. In reaction to a series of election administration problems across the country, Congress called upon the General Accounting Office to conduct independent studies of the administration of elections and to publish and distribute reports resulting from these independent studies. This Clearinghouse function will now be conducted by the Federal Election Commission.

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Staff Director - Orlando B. Potter; General Counsel - John G. Murphy, Jr.; Asst. Staff Director for Administration - Robert Baker; Asst. Staff Director for Disclosure and Compliance - Drew McKay; Asst. Staff Director for Information Services - Herb Koster; Editor - Carolyn Tillotson. Press and Public Information Phone No. - (202) 382-4733.

The major focus of research efforts by the Clearinghouse has been to improve the administration of elections in the United States by providing broad-based information on:

- Federal and State election laws
- case decisions and Attorneys General opinions
- election administration problems
- voter registration methods
- absentee registration and voting procedures, and
- costs of administering elections.

Copies of these reports have been sent to the more than 6,300 local election boards responsible for administering Federal elections as well as to Members of Congress, Secretaries of State and other State and local election administrators.

Recently, the FEC unanimously approved the creation of a 16-member Advisory Panel of State and local election administrators to provide inputs to the Clearinghouse Research program from those who actually run elections. The panel will be helpful in keeping the Commission informed about new election administration techniques and in getting accurate feedback on Clearinghouse project reports. The creation of this panel demonstrates the FEC's concern for the administrative election needs of State and local governments.

Additional information on the Clearinghouse can be obtained by writing or calling Gary Greenhalgh, Chief, Clearinghouse, FEC, Washington, D.C. 20463, (202) 382-4733.

FEDERAL ELECTION COMMISSION

1325 K STREET, NW
WASHINGTON, DC 20463

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