



THE FEDERAL ELECTION COMMISSION

RECORD

1325 K Street N.W., Washington, D.C. 20463

Vol. 2, No. 6

June 28, 1976

PROCEDURAL CHANGES AT ELECTION COMMISSION

Because of the enactment of *The Federal Election Campaign Act Amendments of 1976*, a number of procedural changes will be put into effect by the Commission, based on the Act (FECA) and FEC regulations to be approved by the Congress. The following are summaries of FEC procedures in three areas: 1) Advisory Opinions; 2) Compliance Procedures; and 3) Procedures for Enforcement of Reporting Requirements.

ADVISORY OPINIONS

Advisory Opinions may be requested by the following:

1. holders of Federal office;
2. candidates for Federal office;
3. political committees;
4. national committee of a political party; or
5. authorized agents of any of the foregoing persons if the agent discloses the identity of his or her principal.

Advisory Opinions may only be issued concerning the *application* of a general rule of law to a *specific factual situation* involving the requestor. A "general rule of law" is stated either in Title 2, U.S.C. (disclosure limitations), or Title 26, U.S.C.

(public financing), or in regulations promulgated by the FEC. Opinions cannot be issued for hypothetical questions.

Requests must be in writing and must include all facts relevant to the specific factual situation involved.

Requests may be sent to the FEC, Office of General Counsel, Advisory Opinion Section, 1325 K Street, N.W., Washington, D.C. 24063.

Requests will be made public at the Commission for inspection, purchase, and written comment.

Within a reasonable time after receiving a request and comments, the Commission will issue a written Advisory Opinion which will be sent to the requesting party and made public.

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CANDIDATES AND COMMITTEES -- TAKE NOTE

The filing deadline is July 10 for the 1976 Second Quarter Report of Receipts and Expenditures, required of Federal candidates and political committees spending or receiving more than \$1,000 during the quarter.

Reports must be received in the appropriate office, *either hand-delivered or by regular mail, by July 10. However, reports sent by registered or certified mail need only be postmarked by midnight July 10 to be considered a timely filing.* The report covers all financial activity from April 1, 1976 through the close of books on June 30, 1976.

WHERE TO FILE: Candidates for the U.S. Senate and committees supporting only Senate candidates file with the Secretary of the Senate (as custodian for the Federal Election Commission). Candidates for the U.S. House of Representatives and committees supporting only House candidates file with the Clerk of the House of Representatives (as custodian for the Federal Election Commission). All others file with the Federal Election Commission.

THE NEXT QUARTERLY REPORT FILING DEADLINE AFTER JULY 10 IS OCTOBER 10, COVERING JULY, AUGUST, AND SEPTEMBER.

Requests for forms, and any questions regarding the report, should be directed to the FEC, 1325 K Street, N.W., Washington, D.C. 20463, or by calling toll-free 800/424-9530.

Advisory Opinions issued by the Commission may be relied upon by:

1. any person involved in the specific transaction dealt with in the request; or
2. any person involved in a specific transaction indistinguishable from the transaction related to in the request;

if, in either case, such persons act in good faith and in accordance with the provisions and findings of the Advisory Opinion.

COMPLIANCE PROCEDURES

The 1976 Amendments spell out new specific steps for the FEC to follow in its compliance procedures, as follows:

1. *Initial Information.* Any person may file a complaint of a violation. Complaints must be *in writing, signed, and sworn to* by the person filing the complaint, *notarized*, include the complaining person's *name, address, and telephone number*, and include a *clear and concise statement of the Act constituting the alleged violation and any available documentation.*

The Commission may initiate compliance procedures on its own on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities.

2. *Initial Review.* After receiving a complaint, or initiating compliance procedures on its own through its supervisory responsibilities, the Commission must determine whether there is "*reason to believe*" that a violation has occurred. It must make public any determination at this point that no violation has occurred.

3. *Investigation.* If the Commission determines that there is "*reason to believe*" a violation has been committed, it shall notify the person complained against, conduct an investigation, and afford such person a reasonable opportunity to demonstrate that no action should be taken by the Commission.

4. *Secondary Review.* After investigation, the Commission must determine whether there is "*reasonable cause to believe*" that a violation has

been committed. It must make public any determination at this point that no violation has occurred.

5. *Conciliation.* If the Commission determines that there is "*reasonable cause to believe*" a violation has been committed, the Commission, for a minimum period of 30 days, must seek to correct the matter through "*informal methods of conference, conciliation, and persuasion,*" and to enter into a conciliation agreement. All attempts to secure conciliation, and all conciliation agreements, will be made available to the public.

6. *Civil Enforcement.* The Commission has exclusive primary jurisdiction with respect to civil enforcement of the FECA. If a conciliation agreement is not reached, and if the Commission determines there is "*probable cause*" to believe a violation has occurred, it may institute civil actions for relief, including temporary or permanent injunctions, restraining orders, or other appropriate orders. The Commission also has the power to seek civil court enforcement of court orders and of conciliation agreements.

7. *Criminal Prosecution.* In addition to civil enforcement of the entire FECA, the Commission has the authority to refer certain serious offenses to the Department of Justice for criminal prosecution. These are "*knowing and willful*" violations involving the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of \$1,000 or more, or having a lesser value in the case of certain sections.

PROCEDURE FOR ENFORCEMENT OF REPORTING REQUIREMENTS

In a "Memorandum of Understanding" adopted by the Commission, procedures are set forth to be used to correct violations of reporting requirements, such as *non-filing, late filing, partial filing, and clerical errors or surface violations which on the face of the report appear to be clerical errors.*

General procedural steps to be followed are:

1. *Informational Letter.* An initial letter will be sent by the Commission on any matter involving a *partial filing, garbled filing, or surface violation.*

The letter will be sent to the respondent setting forth a time period in which an answer is requested.

2. *"Reason to Believe" Letter.* If the respondent fails to answer the first letter, or if the response to that letter is inadequate, a second letter will be sent. This letter will state that the Commission has "reason to believe" that the respondent has committed a violation of the Act, and will invite the respondent to demonstrate why no action should be taken by the Commission against him under the Act.

In the case of a *non-filing*, the "reason to believe" letter will be the first letter sent.

3. *"Reasonable Cause to Believe" Letter.* If the respondent fails to answer the second letter (or the initial non-filing letter), or if the response in either case is inadequate, a subsequent letter will be sent.

This letter will state that the Commission has determined that there is reasonable cause to believe that the respondent has violated the Federal campaign act, as amended, and that the Commission will take any appropriate steps it considers necessary if the response is again not satisfactory.

4. If no response or an inadequate response is received to the "reasonable cause to believe" letter

-- *in cases of partial filers, garbled filers, or surface violations* --

then the Commission will refer the letter to the General Counsel's office for appropriate handling.

The General Counsel's office will report back to the Commission within 30 days as to the disposition of such referred matters;

-- *in cases of non-filers* --

the Commission may publish a list of the names and addresses of such non-filers at the recommendation of the Office of General Counsel.

Upon such publication, notice of such publication will be sent to the non-filer by certified mail, with a letter from the General Counsel stating that appropriate action may be instituted if a reply is not received within five calendar days of receipt of such correspondence.

If a report is not filed within eight calendar days of the correspondence from the General Counsel's office, that office will make a recommendation to the Commission as to whether or not appropriate civil enforcement should be sought.

5. *Non-Filing Prior to Elections.* If either the 10-day pre-election report, or the report required to be filed for the calendar quarter immediately before the date of the general election, is not filed within 24 hours of the due date, the Commission will immediately send the "reason to believe" notice by *telegram*.

If no response or an inadequate response is received within 48 hours of the time the telegram is sent, a *second telegram* will be sent stating that if the required report is not received within 48 hours of receipt of that telegram the matter will be referred to the General Counsel for appropriate civil sanction.

Published by THE FEDERAL ELECTION COMMISSION, 1325 K Street, N.W., Washington, D.C. 20463. Commissioners are: VERNON W. THOMSON, Chairman; THOMAS E. HARRIS, Vice Chairman; JOAN D. AIKENS; WILLIAM L. SPRINGER; NEIL STAEBLER; ROBERT O. TIERNAN; FRANCIS R. VALEO, Secretary of the Senate, Ex Officio; EDMUND L. HENSHAW, JR., Clerk of the House of Representatives, Ex Officio.

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New Toll-Free Number: 800-424-9530. Press Information Phone No. -- (202) 382-4112. Public Communications -- (202) 382-4733. The Record -- (202) 382-6644.

FEC NOTES

STATE SPENDING LIMITS

The Commission has compiled a 50-State chart of the special spending limits for political parties on behalf of their candidates in the general election (2 U.S.C. 441a(d)). These special party general election expenditures *are not contributions to the candidate, and are separate from the expenditures of the candidate or the candidate's authorized committees.*

National political party committees are entitled to separate limits for *Presidential, Senate, and House* general elections.

State political parties are entitled to separate limits for *Senate and House* general elections, but may *not* make separate expenditures in the Presidential general election. Within a State, committees subordinate to a State party committee (county, city, local, and so on) are included within the State party limit.

The formula for the party spending limits in the 1976 general election is as follows:

- Presidential races = National Voter Age Population (VAP) x \$0.02, plus the latest cost-of-living increase
- Senatorial races = State VAP x \$0.02, plus the latest cost-of-living increase, or \$21,820, whichever is greater
- Congressional races = \$10,910 (except in the case of a candidate for election as Representative from a State which is entitled to only one Representative, the Senate party spending limits are applicable, as in the case of States with asterisk)

Following is the breakdown by States:

	VAP (in thousands)	1976 PARTY SPENDING LIMIT
NATIONAL	146,828	\$3,203,786.96
STATE		
Alabama	2,439	\$53,218.98
Alaska*	219	21,820.00
Arizona	1,482	32,337.24
Arkansas	1,449	31,617.18
California	14,840	323,808.80
Colorado	1,732	37,792.24
Connecticut	2,172	47,393.04

	VAP (in thousands)	1976 PARTY SPENDING LIMIT
Delaware*	395	21,820.00
District of Columbia*	515	21,820.00
Florida	6,020	131,356.40
Georgia	3,294	71,875.08
Hawaii	583	21,820.00
Idaho	542	21,820.00
Illinois	7,654	167,010.28
Indiana	3,601	78,573.82
Iowa	1,977	43,138.14
Kansas	1,592	34,737.44
Kentucky	2,316	50,535.12
Louisiana	2,475	54,004.50
Maine	724	21,820.00
Maryland	2,812	61,357.84
Massachusetts	4,097	89,396.54
Michigan	6,145	134,083.90
Minnesota	2,664	58,128.48
Mississippi	1,519	33,144.58
Missouri	3,323	72,507.86
Montana	503	21,820.00
Nebraska	1,065	23,238.20
Nevada*	402	21,820.00
New Hampshire	559	21,820.00
New Jersey	5,102	111,325.64
New Mexico	736	21,820.00
New York	12,781	278,881.42
North Carolina	3,736	81,519.52
North Dakota*	428	21,820.00
Ohio	7,357	160,529.74
Oklahoma	1,896	41,370.72
Oregon	1,606	35,402.92
Pennsylvania	8,363	182,480.66
Rhode Island	653	21,820.00
South Carolina	1,874	40,890.68
South Dakota	463	21,820.00
Tennessee	2,895	63,168.90
Texas	8,225	179,469.50
Utah	755	21,820.00
Vermont*	320	21,820.00
Virginia	3,429	74,820.78
Washington	2,460	53,677.20
West Virginia	1,255	27,384.10
Wisconsin	3,134	68,383.88
Wyoming*	253	21,820.00
Puerto Rico	1,751	38,206.82
Guam	51	10,910.00
Virgin Islands	57	10,910.00

INDEPENDENT EXPENDITURES POLICY STATEMENT

The FEC has unanimously adopted a "Policy Statement" on the subject of "independent expenditures" under the 1976 Amendments to the Federal campaign finance law.

Under the new election law, no person may contribute more than \$5,000 per calendar year to a political committee making independent expenditures on behalf of Federal candidates, the FEC said.

There is no limit in the law to the making of independent expenditures, so long as they are made without any cooperation or connection with a candidate or agent of the candidate.

Highlights of the Policy Statement follow:

"The Commission's proposed regulations provide that a person may contribute \$1,000 to a candidate, and also contribute to a political committee which has supported, or anticipates supporting that candidate without violating the \$1,000 per election limitation, as long as the contributor does not give to the committee with the knowledge that a substantial portion of the contributor's funds will be contributed by the committee to that candidate.

"However, it is the view of the Commission that contributions made to a political committee, including those committees making independent expenditures on behalf of a clearly identified candidate, are limited to \$5,000 per calendar year to each political committee . . . and, for individuals, are limited to a total of \$25,000 per calendar year. . .

"Contributions . . . are made for the purpose of influencing a Federal election. That the contribution is made to a committee making independent expenditures does not change this definition. Therefore, the \$5,000 and \$25,000 contribution limitations apply to contributions made to committees making independent expenditures.

" . . . This policy is set out in proposed regulations published in the *Federal Register* on May 26, 1976. . . This policy statement is . . . for guidance to candidates and committees pending final promulgation of the regulations."

COMPUTER SYSTEM AT FEC

The FEC has implemented a computer system to assist the Commission:

- o in the disclosure of campaign finance information;
- o in managing the flow of documents and information in a timely and orderly fashion;
- o in reviewing statements and reports; and
- o in compiling data necessary to formulate policy and to obtain compliance with the Act.

Specifically, the system will include the following:

1. the filing status of Federal candidates;
2. an index of reports and statements filed;
3. cross indices which shall be prepared cumulatively and published in the *Federal Register*, as required by law;
4. the financial status of candidates' campaigns;
5. the financial activities of all committees and independent agents not directly connected with a candidate;
6. itemized contributions by individual contributors;
7. fund transfers not reconcilable; and
8. statistical information regarding campaign financial activities and disclosures.

During 1976, an estimated 100,000 campaign finance disclosure statements will be filed with the FEC by 2,500 Federal candidates and 7,500 political committees. These documents will be initially reviewed by the FEC for completeness and accuracy. The reviewers will then use 10 video-display keyboard terminals to transmit the data by high-speed telecommunications to the FEC's leased control computer.

Computer Reports

The following reports, regularly updated, will be available from the computer system:

- a. Candidate Index
- b. Committee Index
- c. Index of Disclosure Documents by Committee
- d. Index of Candidates Supported by Committee
- e. Index of Supporting Documents by Candidate
- f. Index of Candidates and Committees
- g. Index of Itemized Contributions by Contributor
- h. Fund Transfers Not Reconcilable

These reports will be issued periodically for all candidates and committees. They will be printed on a high-speed printer located at the FEC. Immediate access to the computer information will be available on a selective basis by use of two "interactive inquiry terminals" located in the Public Records Section of the FEC.

The computer reports will be used by the Commission in monitoring compliance with filing obligations, contribution limitations and other requirements of the Act. The FEC will also utilize the computer system to assist with standard audit and investigative procedures.

CLEARINGHOUSE

The Advisory Panel to the FEC Clearinghouse on Election Administration met in San Francisco June 8, 9, and 10. The purpose of the meeting was threefold: To observe the California primary election process in Contra Costa and Alameda Counties; to review Clearinghouse and Commission activities of the past six months; and to discuss the role of election administrators in the political process.

In addition to Commissioner Neil Staebler, speakers at the meeting included Richard Scammon of the Election

Research Center, Dr. Warren Miller of the Michigan Institute for Social Research, and Randy Hamilton, Past President of the American Society for Public Administration.

James Olson, County Clerk of Contra Costa County, conducted a tour of the county's facilities and optical scanning equipment. James Riggs, County Registrar of Alameda County, discussed and demonstrated the county's newly adopted computerized voting system.

MATCHING FUNDS

The FEC certified \$1,020,137.18 on June 17 in Federal primary matching funds for seven Presidential candidates, and \$1,317,600.00 in Presidential nominating convention payments to the Democratic and Republican National Committees.

This raises to \$18,719,219.56 the total amount of primary matching funds certified this year by the FEC for 15 Presidential candidates, and to \$3,927,600.00 the total for the two major political party conventions.

PUBLICATIONS

THE FOLLOWING MATERIALS ARE AVAILABLE FROM THE FEC:

- o *The FEC Annual Report* for 1975 was published in March of this year. Anyone who did not receive a copy at the time of its distribution may contact the FEC to obtain one.

- o A *Campaign Guide*, summarizing the basic changes made by the 1976 Amendments.

- o Special Text of *The Federal Election Campaign Act Amendments of 1976*, showing old and revised language of Title 2 of the amended Act.

- o *Public Law 94-283* (The FECAA of 1976)
- o FEC Draft Regulations published in the *Federal Register*, Wed., May 26, Vol. 41, No. 103.
- o *The FEC Record*, Vol. 1, Nos. 1-4, Vol. 2, Nos. 1-5
- o *The FEC Record*, Special 1975 Year-End Supplement
- o *The FEC Record*, 1976 First-Quarter Index
- o *Index of Reports and Statements*
- o *1976 Calendar of Pre- and Post-Election Filing Deadlines* (for Presidential, Senatorial, and Congressional Elections)

PUBLICATIONS OF THE NATIONAL CLEARINGHOUSE ON ELECTION ADMINISTRATION ARE AVAILABLE FROM:*

National Technical Information Service
5285 Port Royal Road
Springfield, Virginia 22161

Publications are:

- o *Election Law Survey* (covers Jan. 1, '75-Dec. 1, '75)
Report No: PB 252219AS
Price: \$11.75 (446 pages)
- o *Campaign Finance Survey* (Summaries)
Report No: PB 252233AS
Price: \$9.00 (264 pages)
- o *Campaign Finance Survey* (Charts)
Report No: PB 252239AS
Price: \$5.00 (90 pages)
- o The *Cost of Elections* Report may be ordered through the following:
U.S. Government Printing Office
Supt. of Documents
Washington, D.C. 20402
Price: \$.65 (15 pages)

Each of the above Clearinghouse reports is available on microfiche for \$2.25.

*Available free of charge to elected government officials; others please mail remittance with order.

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