



# THE FEDERAL ELECTION COMMISSION

# RECORD

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

Volume 3, Number 4

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## PUBLIC FINANCING

### SUMMARY OF 1976 ACTIVITY

Nearly three quarters of the money in the Presidential Election Campaign Fund was disbursed for the 1976 elections. The Fund, comprised of \$1 contributions voluntarily "checked off" by taxpayers on their income tax forms, held a total of \$95.8 million in deposits, as of December 31, 1976. (Between January 1 and March 2, 1977, an additional \$8,558,000 was added by taxpayers filing their 1976 income tax returns, representing a 2.3 percent increase over the amount checked off at this time last year by taxpayers filing their 1975 returns.) An FEC status report, released on February 20, 1977, shows that (as of December 31, 1976) approximately \$72 million was spent from the Fund in connection with the 1976 Federal elections, as follows:

- Approximately \$24,270,000 in primary matching funds was certified by the Commission to 15 Presidential candidates.
- Roughly \$4,145,000 was certified to the Democratic and Republican National Committees for their nominating conventions. (Democrats received about \$2,181,000 and the Republicans received approximately \$1,964,000.)
- \$43,640,000 in general election payments was granted to the two major party Presidential nominees (\$21,820,000 to each).

## NEW PHONES

The FEC telephone conversion to Centrex was completed on Monday, March 21. All internal phones were assigned new numbers with the beginning exchange, 523. However, the toll-free information number, 800-424-9530, was not changed. Please note the following new numbers:

Main Switchboard	523-4089
Public Information	523-4068
Public Records	523-4181

The FEC continues to certify matching funds to primary candidates with outstanding debts incurred in the 1976 primary campaigns. Between December 31, 1976, and March 10, 1977, approximately \$332,822 was certified to five candidates. As of March 10, requests were still pending from seven primary candidates for additional matching funds amounting to approximately \$900,707.

Public money not spent in the 1976 Presidential elections remains in the Presidential Election Campaign Fund for use in the 1980 Presidential elections.

## OPINIONS

Until Commission regulations are officially promulgated, the Commission will continue to issue two types of opinions:

1. **Advisory Opinions**, designated as AO's, concern the application of the Act to specific factual situations. Any person requesting an advisory opinion who in good faith acts in accordance with the findings of the opinion will not be penalized under the Act. The opinion may also be relied upon by any other person involved in a specific transaction which is indistinguishable in all material aspects from the activity discussed in the advisory opinion.
2. **Informational Responses to Advisory Opinion Requests**, designated as Re: AOR's, differ from AO's in that they are based in part on the Commission's proposed regulations and they offer no legal protection to recipients until the regulations on which they are based go into effect.

All the opinions issued February 8 - 22, 1977, are summarized below.

### AO 1977-1: Post-Election Use of Property Purchased by Principal Campaign Committee

A car purchased by Congressman Norman Lent's principal campaign committee during his 1976 campaign may be used by the Congressman and his staff after the election is over. Since property purchased by a principal campaign committee "...may be treated like surplus campaign

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funds... " the car may be used for any lawful purpose. Committee disbursements related to the car, however, constitute reportable expenditures by the principal campaign committee. (Length: 2 pages)

#### Re: AOR 1977-3: Office Accounts

Senator Ted Stevens may accept private contributions to establish a "leader's office account" to be used for paying costs associated with Stevens' duties as a Senate leader since these duties are among those of a Federal officeholder. Receipts and disbursements from this account must be disclosed. They are not, however, subject to contribution limits unless they are made for the purpose of influencing a Federal election. Funds from the account may be used to pay costs of attending "political functions" involving another Senator. If, however, attendance at a "political function" relates to influencing the election of another Senator, the use of office account funds would constitute a contribution-in-kind by Stevens to that Senator's campaign. As such, they would be subject to the Act's limitations and could not be made at all if the account contained any corporation or labor organization treasury funds. (Length: 3 pages)

#### AO 1977-4: Donation of Goods to Officeholder

Congressman Richard T. Schulze may accept from the Franklin Mint (a corporation) a donation of 250 medals, valued at approximately \$2,000, to be awarded by the Congressman as medals of merit to selected constituents, only if: 1) Schulze is not a candidate for any 1978 Federal election and 2) the medals are neither intended for use nor actually used in connection with a future Federal election campaign. If these two conditions are not met, the donation would violate the Act because it would constitute an in-kind contribution by a corporation "in connection with a Federal election." (Length: 2 pages)

#### AO 1977-5: Legal and Accounting Fees Related to Ensuring Candidate's Compliance with FECA

Contribution limits apply to donations made to a candidate specifically to defray legal and accounting services rendered solely to ensure compliance with the Act. The limits do not apply, however, when an employer donates the services (i.e., pays the salary) of his accountant-employee or his attorney-employee. A principal campaign committee may establish a separate fund for defraying costs of legal and accounting services rendered to ensure compliance with the Act. Contributions to such a fund would, however, constitute contributions to the candidate and, therefore, would count against the donor's contribution limits. Further, all receipts and expenditures would be reportable. (Length: 3 pages)

800 LINE

The Public Communications Office of the Federal Election Commission maintains an ongoing dialogue with the public on the toll-free telephone line (800-424-9530). From time to time, this column will provide answers to the questions most frequently posed.

#### TERMINATION OF A COMMITTEE OR CANDIDACY

In recent weeks, the Commission has received numerous inquiries from candidates and committees wanting to know how to terminate their candidacy or registration in order to end their reporting obligations. The process is not complicated, but certain conditions must be met before committee registration or candidacy may be terminated.

#### WHO MAY TERMINATE

Candidates with personal obligations related to their 1976 campaigns are required to notify the Commission that they have terminated their candidacy before they may stop filing reports. They may do so **only** when all campaign debts for which they are personally obligated have been extinguished. In the case of candidates who filed 1976 reports showing no financial activity or who requested and satisfied the conditions for receiving a waiver from filing candidate reports, the FEC will automatically terminate the 1976 candidacy.

A **principal campaign committee** may terminate registration **only** after the candidate status of its candidate has been terminated, its debts and loans have been retired and all the candidate's authorized committees have extinguished their debts.

A **political committee**, other than a principal campaign committee, may terminate registration if no outstanding debts or obligations are owed to it or by it and if the committee does not plan to receive contributions or make expenditures totaling more than \$1,000 in a calendar year.

#### HOW TO TERMINATE

Committees or candidates meeting these requirements may file a termination report as part of a regularly scheduled report by checking the appropriate box on FEC Form 3 or 6 and disclosing:

1. Receipts and disbursements not previously reported;
2. The retirement of all debts; and
3. The disposition of any residual funds (if the committee is also disbanding).

(FEC Proposed Regulations, Sections 101.1 and 102.4)

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## REACTIVATING REPORTING REQUIREMENTS

Any individual who registered as a Federal candidate in the 1976 elections, regardless of whether his or her candidacy was terminated, must file a new Statement of Candidate (FEC Form 2) when he becomes a candidate for a future Federal election (i.e., he receives contributions or makes expenditures to influence his election or otherwise triggers a future candidacy under the Act). On the other hand, a political committee which receives or spends more than \$1,000 in a calendar year to influence Federal elections in 1977 or 1978 need not file a new Statement of Organization (FEC Form 1) unless it previously filed a termination report. Consequently, some committees may prefer not to terminate (to avoid the need to re-register) and to continue, instead, to file the reports required in nonelection years. (See **Campaign Guide on Post-Election FECA Requirements**, pp. 6.7 - 6.8.) Such committees must, however, amend the old Statement of Organization to reflect the dates of new elections.

## REGULATIONS

### COMMISSION ADOPTS SUNSHINE REGULATIONS

Effective March 13, 1977, an agenda for each FEC Commission meeting will be transmitted to the **Federal Register** seven days prior to the date of the meeting and be published immediately thereafter. This new practice is one immediate result of the new "Sunshine" regulations unanimously adopted by the Commission on March 2 to govern FEC proceedings.

The regulations, as initially proposed, were summarized in the **February Record**. In the final version (**Federal Register**, March 9, 1977, p. 13202), the Commission incorporated several suggestions from the public, most notably those of Congressman Richardson Preyer, Chairman of the Subcommittee on Government Information and Individual Rights. Among the changes were:

1. A clarification of the criteria justifying closure of a meeting, stating that a meeting may not be closed if the public interest requires it to be open, even if the subject matter in question would otherwise justify closing the meeting to the public. 3.2(b)2.
2. The inclusion of statutory language providing that if the Commission wants to close a meeting to avoid disclosure of information potentially damaging to "a proposed Commission action," it may do so only "as long as the Commission has not already disclosed the content or nature of its proposed action, or is not required by law to disclose it prior to final action." 3.2(b).
3. A clarification providing that the General Counsel's certification that a meeting may be closed must be made prior to its closure. 3.3(e).
4. A requirement that the mandatory public listing of persons expected to attend a closed meeting also include the names of those Commissioners and staff expected to attend. 3.3(d)(1)(iii).

## THE LAW IN THE COURTS

### LEAGUE OF WOMEN VOTERS OF THE UNITED STATES, et al., v. FEDERAL ELECTION COMMISSION, et al.

On February 11, the League of Women Voters of the United States (LWVUS) filed a complaint in the U.S. District Court in the District of Columbia against the FEC. The complaint asks the Court to declare null and void that portion of an FEC Policy Statement (Presidential Debates, August 30, 1976) which prohibited contributions made by corporations and unions to the League of Women Voters Education Fund (the Fund) for purposes of defraying expenses related to the 1976 televised Presidential debates sponsored by the Fund. Such corporate and union contributions, the FEC had said, would be "in connection with" a Federal election and would therefore be prohibited under the Act.

The LWVUS said the FEC Policy Statement worked a serious hardship on the Fund by inhibiting its ability to raise sufficient funds to cover the cost of the debates. Several constitutional issues were also raised.

The LWVUS argued that the Policy Statement violated First Amendment rights of free speech and association by restricting the ability of the Fund, the LWVUS and its local and State affiliates to present debates or engage in other voter education activities. Further, the LWVUS said, the Policy Statement violated the Fifth Amendment right by discriminating against the League and its incorporated affiliates. As corporations, they could not contribute to the Fund, while nonincorporated entities (including nonincorporated League affiliates) could do so. The FEC has not yet responded to the complaint.

### SOCIALIST WORKERS 1976 NATIONAL CAMPAIGN COMMITTEE et al., v. JENNINGS et al. (Part II)

On January 17, 1977, the U.S. District Court in the District of Columbia ordered the Federal Election Commission to develop within six months a full factual record and make specific findings of fact concerning the "...present nature and extent of any harassment suffered..." by the Socialist Workers Party (SWP) as a result of the disclosure provisions of the Act. The SWP had requested that the identities of contributors be exempt from disclosure requirements. (See **Record**, March 1977, p. 6.)

In response to both that order and a subsequent request from the Socialist Workers, the Federal Election Commission decided on March 2 to allow the Socialist Workers until April 15, 1977, to submit materials relating to their claim. The Commission rejected for the present time, however, the SWP's request for oral argument and a trial-type hearing on the case.

## COMPLIANCE MATTERS

### FEC FILES SUIT AGAINST FIVE CANDIDATES

The Federal Election Commission announced on February 17 that it had filed civil suits in five U.S. District Courts (in California, Michigan, New York, Pennsylvania and Texas) to compel one Senate and four House candidates in the 1976 elections to comply with the reporting requirements of the Federal Election Campaign Act. In separate suits, the FEC asked the Courts to order these candidates either to designate a principal campaign committee or to file one or more required reports (quarterly, pre-election, post-election) or both. In addition, the FEC asked the Courts to assess a penalty of not more than \$5,000 against the candidates for "failing and refusing to comply with the Act."

As of February 17, the FEC had filed a total of 22 civil suits in District Courts against candidates failing to file reports for the 1976 Federal elections.

## LEGISLATION

### FEC TESTIFIES ON BUDGET

On March 15, 1977, the Senate Appropriations Committee heard FEC testimony on the Commission's budget request for fiscal year 1978. In a presentation similar to that given on March 3 before the Senate Rules Committee, Commissioners Robert O. Tiernan and Joan D. Aikens presented data to justify the Commission's request for \$8.123

million. The Office of Management and Budget has recommended a budget of \$6.833 million. Congress has not yet completed action on budgetary requests for fiscal year 1978.

## FEDERAL REGISTER

FEC documents of general applicability are published regularly in the **Federal Register**. The following list identifies all FEC documents appearing in the **Federal Register** between February 17 and March 18, 1977:

Notice	Title	Federal Register Publication Date	Citation
1977-10	Privacy Act: System of Records	2-23-77	42 FR 10722
1977-11	Advisory Opinion Requests 1977-6 through 1977-8	3-3-77	42 FR 12379
1977-12	Government in the Sunshine: Final Regulations	3-9-77	42 FR 13202
1977-13	Advisory Opinion Request 1977-9	3-18-77	42 FR 15207
1977-14	Regulations Interpreting FECA: Transmittal to Congress	3-18-77	42 FR 15206
1977-15	Advisory Opinion Request 1977-10	3-16-77	42 FR 14841
1977-16	Advisory Opinion Request 1977-11	3-17-77	42 FR 14900

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