



THE FEDERAL ELECTION COMMISSION

RECORD

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

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OPINIONS

ADVISORY OPINIONS: SUMMARIES

With the official promulgation of FEC regulations on April 13, the Commission discontinued the practice of issuing "Re: AOR's." All responses to requests for advisory opinions will be issued in the form of **Advisory Opinions**. Designated as AO's, **Advisory Opinions** 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.

AO 1977-23: Joint Fundraising

Congressman Newton Steers and 10 other Members of Congress may participate in a joint fundraising effort conducted by the Civic Development Group (CDG), a fundraising firm authorized by the Members. In the proposed plan for reporting, all contributions and expenditures will be divided equally among the 11 Congressmen. Each Member's principal campaign committee will report its share of expenditures and contributions. Commission approval of this proposal was conditioned on the following additional requirements:

- The principal campaign committee of each participating Member must designate the account used by CDG for the collection of contributions as an additional depository on its Statement of Organization.
- Solicitation materials must clearly indicate the pro rata distribution of contributions so contributors will know how their contribution limits are affected with respect to each candidate.
- The two notices required on all solicitation materials must be modified to identify all the participating campaign committees. (See 2 U.S.C. §§ 435, 441d.) (Length: 3 pages)

AO 1977-24: Termination of 1976 Campaign Committee and Establishment of 1978 Campaign Committee

The Commission regards Congressman John Duncan's 1976 campaign committee as a continuing political committee until it is terminated (See 2 U.S.C. § 433(d)). The committee may terminate when it no longer has debts or obligations. Alternatively, the Congressman could designate the committee as his 1978 principal campaign committee by amending the committee's 1976 Statement of Organization.

Surplus campaign funds from the 1976 committee may be transferred to the 1978 campaign committee of the Congressman. (See § 110.3(a)(2)(iv).) These transfers are not subject to the 1978 contribution limitations, as long as they consist of contributions received prior to the 1976 general election.

Contributors who gave up to their limit in 1976 may contribute in 1977 to the Congressman's 1978 campaign. These contributions will count against the limitations for the 1978 election. (Length: 2 pages)

AO 1976-104: Affiliation of Political Committees

The Good Government Committee of First Federal Savings of Miami (the Committee) is an affiliated political committee of the Florida Savings Political Action Committee (FSPAC). Because the committee gave a substantial portion of its total receipts to FSPAC, and the reports of the two committees demonstrated similar patterns of contributions, the Commission concluded that the two committees met two criteria established in FEC Regulations to determine committee "affiliation." (See § 110.3(a)(1)(iii).) Therefore, the Committee and FSPAC are regarded as a single committee for contribution limitation purposes, and transfers between the two committees are unlimited. However, each committee must file separate reports. In a related question, the Commission had insufficient information to determine whether the Committee was affiliated with the Savings Association Political Elections Committee, another political committee. (Length: 4 pages)

REQUEST FOR PUBLIC COMMENT – CANDIDATE DEBATES

On July 12, 1977, the FEC published a notice in the *Federal Register* requesting public comment on the subject of sponsorship and financing of public debates between candidates for Federal office, for the purpose of writing new regulations on this matter. The notice also announced that hearings on the same issue will be held in September.

Commission examination of this topic stems from its 1976 decision that debates between Presidential candidates Jimmy Carter and Gerald Ford could be sponsored by the League of Women Voters but that the use of corporate or labor organization funds to help finance the debates would be prohibited by the Federal Election Campaign Act.

The notice asks for written comments, proposed regulation language and factual material relating to numerous questions posed by the Commission, including:

- Are contributions to finance debates "made for the purpose of influencing" or "in connection with" a Federal election?
- Does the inclusion or exclusion of particular candidates (for example, independent or third party) have significance as to the debate's "influence on" or "connection with" a Federal election? Are factors such as receipt of public financing or ballot qualification important in determining whether a debate would have an "influence on" or be "in connection with" a Federal election?
- Is the nature (such as non-profit or educational) of the sponsoring organization relevant to the debate's "influence on" or "connection with" an election?
- Under what circumstances are disbursements made by a corporation, labor organization or Federal contractor to finance a debate not considered a contribution or expenditure "in connection with" an election?
- Who should control the subject matter or format of the debate?
- To what extent does sponsorship of debates or contributions to their financing by corporations, labor organizations and Federal contractors affect the debates and/or the ensuing election?

Written comments should be submitted no later than September 30, 1977 to the Office of General Counsel, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. Applications for a place on the hearing agenda should be made in writing to Commission Chairman Thomas E. Harris by August 31, 1977.

LEAGUE OF WOMEN VOTERS OF THE UNITED STATES et al. v. FEC et al. (Part III)

On May 12, 1977, the U.S. District Court for the District of Columbia denied the Federal Election Commission's motion to dismiss the complaint filed by the League of Women Voters. On May 27, therefore, the FEC filed its answer to the original complaint. For a synopsis of that complaint and the FEC's motion to dismiss, see the *Record*, April 1977, p. 3 and June 1977, p. 4, respectively. (For further information on the issue of candidate debates, see "Regulations" section, p. 2.)

FEC FILES SUIT AGAINST TWO CANDIDATES

On June 17, 1977, and June 28, 1977, the FEC announced it had filed civil suits in the U.S. District Court for the District of Maryland and the District of Massachusetts, respectively, to compel two candidates to comply with the reporting requirements of the Federal Election Campaign Act. The FEC asked that William Salisbury, candidate of the U.S. Labor Party for the U.S. House of Representatives, Maryland, 7th District, and Joseph M. O'Laughlin, Independent candidate for the U.S. House of Representatives, Massachusetts, 9th District, be ordered by the Court to designate a principal campaign committee and to file certain required reports (pre- and post-general election). In addition, the Commission 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." Before filing the suits, the FEC had sent at least two notices concerning each filing and reporting obligation.

As of July 1, 1977, the FEC had filed a total of 30 civil suits in District Courts against candidates who failed to file reports for the 1976 Federal election.

The RECORD is published by the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. Commissioners are: Thomas E. Harris, Chairman; Joan D. Aikens, Vice-Chairman; William L. Springer; Neil Staebler; Vernon W. Thomson; Robert O. Tiernan; J.S. Kimmitt, Secretary of the Senate, Ex-Officio; Edmund L. Henshaw, Jr., Clerk of the House of Representatives, Ex-Officio. For more information, call 523-4068 or toll free 800-424-9530.

PUBLIC FINANCING

FEC CERTIFIES ADDITIONAL PAYMENTS

On June 16, 1977, the FEC certified Federal primary matching funds for Presidential candidate Edmund G. Brown. He received \$1,499.17. This payment raises to \$24,789,566.13 the total amount of matching funds certified for 15 Presidential candidates since January 1, 1976.

In addition, the Commission certified \$631.68 in convention payments to the Democratic National Committee to retire debts outstanding from the 1976 convention. The total amount certified to the DNC for the convention is \$2,015,744.67. The Republican National Committee has received a total of \$1,581,664.48.

FEC TESTIFIES ON CONGRESSIONAL PUBLIC FINANCING

On July 12, 1977, Commission Chairman Thomas E. Harris and Vice Chairman Joan D. Aikens testified before the House Administration Committee on congressional public financing legislation. Although the testimony did not cover any specific proposed legislation, the Commission explained the processes and procedures involved in the 1976 system of Presidential public financing and gave tentative cost estimates for providing funds to congressional candidates under such a system.

The FEC presented a step-by-step outline of how candidate requests for Presidential primary matching funds and certification of candidates were handled during the 1976 Presidential campaign. The primary goal of the Commission in implementing Presidential public financing was to ensure public confidence in the proper distribution of public funds. Chairman Harris stated that in the view of the Commission this goal was met with the help of several effective safeguards, which included:

1. The FEC certification process whereby all requests for matching funds were reviewed prior to certifying payment to the Treasury.
2. The congressional requirement that the FEC conduct post-election audits of all candidates receiving matching funds.
3. The congressional provision that the candidate be personally responsible for any repayments required.

While noting the lack of specific proposed legislation on which to base cost estimates, the FEC discussed two hypothetical systems of funding (all matching funds after reaching threshold vs. partial grant plus matching funds) as a basis for making tentative projections. The FEC's estimates for congressional public financing, when combined with

prior estimates for Senate public financing, ranged between \$36 million and \$62 million.

Finally, the Commission offered several recommendations concerning the income tax check-off and payment provisions including:

- A provision changing current law to require a one-time reduction in payments to candidates in the event of insufficient funds in the checkoff account.
- A provision requiring the FEC and the Treasury to report to the Congress on the status of the account as soon as possible after the 1978 election.
- A provision requiring any necessary repayment of general election and convention funds be made to the checkoff account.
- A provision (contained in Senate bill 926) requiring that when the total of private contributions plus public funds received by a candidate equals the allowable spending limitation eligibility for further public funding ceases.
- A provision (contained in Senate bill 926) requiring that any surplus campaign funds remaining after campaign debts have been extinguished are regarded as public funds and therefore must be returned to the Treasury.

CLEARINGHOUSE

CLEARINGHOUSE PUBLICATIONS

The FEC Clearinghouse announces the availability of updates to several publications announced in the March 1977 edition of the *Record*. Those interested in purchasing one of these publications should identify the report by name and number and mail the appropriate remittance to:

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

For information, call 703-557-4650.

1. Election Law Survey

A quarterly report issued under agreement with the American Law Division of the Library of Congress' Congressional Research Service, this series compiles and summarizes all Federal and State legislation and litigation relating to elections. 1977 Update. Report No. PB265218AS, Price: \$5.50. (Covers period from January 1, 1977, through April 1, 1977.)

2. Campaign Finance Survey

This is a semi-annual report issued under agreement with the American Law Division of the Library of Congress' Congressional Research Service. It contains summaries of all State and Federal Campaign Finance Legislation. Summaries, January 1977, Report No. PB265219AS, Price: \$9.00. Charts, January 1977, Report No. PB265220AS, Price: \$5.00.

Continued

CLEARINGHOUSE NEWSLETTER

In July, the Clearinghouse published the first edition of its newsletter, **FEC Journal of Election Administration**. The **Journal** will be published on a quarterly basis and will serve as a forum for the exchange of ideas and information on election administration. It consists of regularly featured sections including: "On Conducting Elections," "On Clearinghouse Activities," "Happenings" and "The Exchange." Requests for copies or further information should be directed to The Editor, **Journal of Election Administration**, Federal Election Commission Clearinghouse, 1325 K Street, N.W., Washington, D.C. 20463.

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 June 21 and July 13, 1977.

Notice	Title	Federal Register Publication Date	Citation
1977-35	AOR 1977-27	6/28	42 FR 32903
1977-36	AORs 1977-28, 1977-29 and 1977-30	6/30	42 FR 33054
1977-37	AOR 1977-31	7/13	42 FR 36011
1977-38	Request for Comments on Proposed Regu- lations	7/12	42 FR 35856

NEW APPOINTMENT

In July, Thomas Cooper, former Assistant Minority Counsel for the House Administration Committee, was appointed Executive Assistant to Commissioner Vernon W. Thomson.

FEC JOB CLASSIFICATIONS

In July, the Commission completed action on agency job classifications, establishing for each permanent position a job series (description of duties performed) and grade assignment (rate of pay). Commission action on these classifications was required by the 1976 Amendments to the Federal Election Campaign Act of 1971, since these Amendments placed the FEC within the executive branch of the government. As a member of the executive branch, the FEC is now subject to job classification and salary requirements of the Civil Service Commission. However, all job classifications are excepted from the competitive service.

FEC PUBLISHES NEW CAMPAIGN GUIDE

The FEC recently published the seventh in its series of Campaign Guides: **Campaign Guide For Nonelection Year**. The Guide serves as a supplement to other Campaign Guides, addressing the issues of particular interest to Federal candidates and committees during a year in which no regularly scheduled Federal elections are held. The Guide includes guidelines for determining the application of contribution limitations, reporting requirements, special reporting obligations for candidates and committees involved in special elections, retirement of campaign debts, use of surplus funds and termination requirements. Copies of the Guide may be requested from the Office of Public Communications, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463.

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