



THE FEDERAL ELECTION COMMISSION

RECORD

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REGULATIONS

FEC SENDS FULL SET OF PROPOSED REGULATIONS TO CONGRESS

On January 11, 1976, the Federal Election Commission sent to Congress a complete set of proposed regulations governing all major areas of the Federal Election Campaign Act, as amended (the Act). They are virtually identical, with three major exceptions, to the set of proposed regulations submitted to Congress on August 3, 1976, and, with supplements transmitted on August 5 and 6, published in the Federal Register August 25, 1976. Three substantive amendments adopted later are summarized below. (Highlights of the August 3 regulations appeared in the *Record*, August 16, 1976, Vol. 2, No. 7.)

The package of proposed regulations covers Title 2, U.S. Code, concerning disclosure and the expenditure and contribution limits, and Title 26, U.S. Code, dealing with the public funding of Presidential elections. Under the Act, the Commission may promulgate these regulations 30 legislative days after Congress receives the transmitted regulations, provided neither house vetoes them. The August 3 proposed regulations had been under legislative review when Congress adjourned on October 1, 1976 -- two days short of the 30 day requirement for promulgation.

The Commission considered substantial public testimony before submitting the original regulations to Congress. Written comments were received from the public following the publication of draft regulations in the Federal Register on May 26 and June 25, 1976. Hearings were subsequently held June 7-10 and again on July 7, 1976, to review all the proposed regulations.

Amendment to 102.9 Particulars of Expenditures

Committee treasurers must record and report the "particulars" of each expenditure. "Particulars" is defined as a sufficiently detailed description of expenditures as to establish their relationship to the campaign. For example, the transfer of funds to committee agents (walk-around money) requires disclosure of the ultimate payee of the funds. Only when a receipted bill is unavailable may the treasurer of a

committee substitute a canceled check and some other document as proof of a disbursement.

Amendment to 114.4 Corporate and Union Disbursement of Registration Information

A corporation or union may distribute to the general public any registration or voting information, including registration-by-mail forms, which has been produced by election officials.

Amendment to 134.3 Repayment of Matching Funds

All funds deposited into a candidate's depository are taken into account when the repayment formula of the Act is applied. The repayment ratio must be applied on the date of ineligibility.

SUNSHINE REGULATIONS PROPOSED

On January 13, 1977, the Federal Election Commission submitted for publication in the Federal Register a proposed set of "Sunshine Act" regulations governing the conduct and recording of meetings held by the Commission. Meetings must be publicly announced in advance and conducted in open session except when the Commissioners discuss alleged violations of the Act. In those instances, meetings are automatically closed. In addition, and subject to approval by the majority of the Commissioners, meetings may be closed to the public when the Commission considers:

- Matters related solely to the Commission's internal personnel decisions, rules and practices.
- Formal proceedings against a specific person or censure of any person.
- Personal information, the disclosure of which would constitute an invasion of privacy.
- Confidential financial information.
- Information which, if prematurely disclosed, would adversely affect a proposed FEC action.

Records of closed meetings must be kept in the FEC files for a fixed period of time. The Commission invites written comments on these proposed regulations. They should be submitted to the General Counsel, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463, within 30 days after their publication in the Federal Register. (January 19, 1977, p. 3810.)

OPINIONS

ADVISORY OPINIONS: SUMMARIES

Once the Federal Election Commission submitted its proposed regulations to Congress on August 3, 1976, it resumed issuing opinions which advise candidates, political committees and Federal officeholders on how to interpret the Federal Election Campaign Act, as amended (the Act).

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.

Requests for advisory opinions are made public in the Federal Register. The opinions themselves are available at the Commission. All the opinions issued January 1—January 17, 1977, are summarized below. Those seeking guidance for their own activity should consult the full text of an opinion and not rely on the synopsis given here. Copies of AO's and Re: AOR's are available from Public Records, Federal Election Commission, at a cost of 10 cents per page. Please identify opinions by number as, for example, AO 1976-83 or Re: AOR 1976-98.

Re: AOR 1976-103: Forgiving Campaign Debts Owed to Individuals Rendering Personal Services

If a candidate has incurred a debt for a personal service which does not count as a contribution under the Act, the person who rendered the service may forgive the debt without thereby making a contribution (for limitation purposes). The candidate would, however, have to file an explanation of the settlement. Services which do not count as contributions include: legal or accounting services rendered to the candidate to insure compliance with the Act; volunteer services provided without compensation and any usual and normal expense related to the volunteer activity; and travel on behalf of a candidate, as long as the travel expenses do not exceed \$500 per election.

Re: AOR 1976-107: Use of Excess Campaign Funds

Congressman Whitehurst may use excess campaign funds to finance a series of television programs, to be aired over the next two years, informing constituents of factual happenings in Washington that may affect them directly or indirectly. Any use of funds, however, would be considered a campaign expenditure if made for the purpose of influencing a Federal election. The Commission has no authority to comment on tax implications of such a transfer.

AO 1976-110: Contributions from Local Candidate's Campaign Account

The Akaka for Congress Committee (the Committee) must return a \$500 contribution received from a local candidate's campaign account because corporate and noncorporate contributions were commingled in that account and a contribution made from commingled funds is considered an indirect corporate contribution prohibited under the Act. The Committee could, however, accept a contribution made from a local candidate's personal funds.

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**Re: AOR 1976-111: Definition of Administrative Costs
Incurred by Labor Organization
and Its PAC**

The League of Voter Education (the League), the political action committee formed by the Laundry, Dry Cleaning and Dye House Workers Union (the Union), may accept reimbursements from the Union for legal fees the League paid in connection with its own formation because the fees are considered administrative costs. While the Union is not required to report such disbursements, the League must disclose the receipt of Union funds as a reimbursement for administrative costs.

The costs of printing political cards supporting an individual's candidacy is not considered an administrative cost, regardless of whether the individual qualifies as a candidate under the Act or qualifies to appear on a State ballot. The Union could not, therefore, reimburse the League for such printing costs.

**Re: AO 1976-113: Follow-Up Solicitations
by Trade Association PAC**

When the Savings Bankers Nonpartisan Political Action Committee (PAC) conducts its annual solicitation of officers of member corporations over a three or four-month period beginning in November 1976 and extending into 1977, it must obtain prior and specific approval from corporate members for the 1977 "follow-up" solicitations, even though it already received approval for the initial fundraising solicitation made in 1976.

INFORMATION LETTERS: SUMMARIES

Information letters, designated as O/R's, are responses from the legal staff to queries from individuals who lack legal standing to obtain an advisory opinion. While they do not offer the legal protection afforded by formal advisory opinions, they nevertheless demonstrate how the Act works in specific situations. Requests for the full text of a letter should be addressed to Information Services, Federal Election Commission. Please identify the information letter by number as, for example, O/R 714.

**O/R 758: Contributions and Expenditures
by Nonincorporated Membership Association**

Contributions made by the Association of Reserve City Bankers Association (the Association), a nonincorporated membership organization, from excess membership dues would constitute an indirect corporate contribution (prohibited by the Act) because some of the Association's members are reimbursed for their dues payments by their respective corporate employers. Since the nonincorporated Association is not organized primarily for the purpose of influencing Federal elections and its members are individuals, rather than corporations, disbursements for internal communications which support or oppose specific Federal candidates would not constitute campaign expenditures and would not trigger registration requirements. If such costs exceed \$2,000 per election, however, they must be reported to the Commission.

PROCEDURES

HOW TO OBTAIN COPIES OF CAMPAIGN FINANCE REPORTS

Legal Requirements

The Federal Election Campaign Act of 1971, as amended (the Act) requires all Federal candidates and any political committee which raises or spends more than \$1,000 a year in support of Federal candidates to file detailed reports of their campaign receipts and expenditures. Now totaling more than 1.2 million pages, these reports must be made available to the public within 48 hours after being filed. The establishment in 1975 of a public records office within the Federal Election Commission facilitated easy public access to the documents. Though some reports are initially filed with the Clerk of the House of Representatives or the Secretary of the Senate, copies of all reports and statements filed since 1972 are available to the public at the FEC.

Reports Available in FEC's Public Records Division

The Public Records Division of the FEC, located on the street floor at 1325 K Street, N.W., Washington, D.C., is open for public use weekdays from 9 a.m. to 5 p.m. Hours may be expanded during reporting periods. Microfilm copies of all reports are kept permanently on file. In addition, as space permits, Public Records maintains paper copies of current reports.

Organization of Paper Files

The paper files are organized in the following manner:

- 1. Multicandidate Committees:** Over 1,200 political committees supporting more than one Federal candidate are arranged alphabetically by name. This file includes those committees which have qualified as "multicandidate committees," as well as those which have not. A cross-reference file is available to help determine the name of a particular group by its affiliation with a labor organization, corporation, trade association or other membership organization.
- 2. National Party Related:** Files of both major and minor national party committees are arranged alphabetically within each party. Two drawers house the files of Republican national committees, two more hold Democratic national committees and one drawer contains all minor national party committees. (State and local party committees are filed under **Congressional Candidates and Party Related**, described in item 5 below.)

3. **Presidential Candidates Not Receiving Matching Funds:** Arranged alphabetically, these files contain folders with labels on either left, center, or right-hand tabs. Those folders with left-hand labels contain the candidate's reports. Folders marked with a center tab hold reports of the candidate's principal campaign committee. Right-hand tabs indicate reports filed by supporting single-candidate committees.
4. **Presidential Candidates Receiving Matching Funds:** These files are arranged in the same manner as item 3 above.
5. **Congressional Candidates and Party Related:** Arranged by State, these files are divided into three sections. Senate candidates and their authorized committees come first, followed by House candidates and committees (alphabetized by district). The files of party-related committees are arranged behind the Congressional files, with State party committees grouped together, followed by local party committees.
6. **Independent Expenditures:** These files are arranged alphabetically by the name of the individual making the expenditure.
7. **Communications of Corporations and Unions (Form 7):** Reports on costs of internal communications which advocate the election or defeat of Federal candidates are alphabetized by name of reporting corporation or union.

In addition to these campaign reports, Public Records also maintains reports of open FEC business, such as Advisory Opinion Requests, Advisory Opinions and press releases relating to the FEC. Documents within each file are chronologically ordered, with the most recent on top.

Locating Documents

The office files more than 100,000 reports, yet locating specific documents is easy and quick. A computer and a series of indexes may be used to locate microfilmed documents. Indexes are also helpful in finding the name of a multicandidate committee or the district of a particular candidate.

If a researcher wants to find a specific contributor or expenditure, he must know the approximate date of the transaction since reports are not cumulative (except in terms of dollar totals). Otherwise, all reports must be examined.

Using the Documents

There is no charge for reviewing files in the Public Records office and any document may be copied at a cost of 10 cents per page. The public is also welcome to obtain free computer printouts, though the staff must type the requests into the computer. Those using documents are reminded, however, of the Act's requirement that "any information copied from such reports and statements shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose." 2 U.S.C. Section 438(a)(4).

Requesting Documents

Local residents are urged to come into the office and do their own research. For those who can not come in personally, or who live outside the Washington area, the office staff will respond to document requests by mail. Copies of reports may be obtained by writing the Public Records Division, Federal Election Commission. Letters must identify 1) the full name of the candidate or political committee reporting, 2) the specific report(s) desired (e.g., quarterly, ten-day, pre-election, etc.), including the year and 3) the requester's address and phone number. After receiving such a letter, the office will call the requester to tell him the number of pages and cost involved. The Commission charges 10 cents per page copied and \$2.50 for each half hour of time spent on the request, with the first half hour free. Prior to filling the request, the Commission waits for a second letter with a check for the required amount made out to the U.S. Treasurer. Requests are usually filled within two weeks.

The public is invited to call for information. Since reports vary enormously in length (from a postcard to a 500-page document), a researcher may find it difficult to specify the documents he wants (and can afford) to examine. A preliminary phone call can often help him pinpoint his request and thereby expedite the Commission's response. The telephone number is (202) 382-7012 or toll-free (800) 424-9530.

Running Orders

For those who use the office frequently, the Commission will keep "running orders." Under this procedure, an individual makes an advance deposit, permitting him to receive copies of selected documents as soon as they are made public by the Commission.



FEC FILES SUITS AGAINST THREE CANDIDATES

The Federal Election Commission announced on January 17 that it has filed civil suits in three United States District Courts to compel three Federal candidates to comply with the reporting requirements of the Federal Election Campaign Act. In three separate suits involving candidates for the U.S. House of Representatives, the FEC asked the District Courts to order each candidate to designate a "principal campaign committee," to file the report required 10 days prior to the November 2 general election and, in two of the cases, to also file the report required 30 days after the general election. 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."

In its court complaints, the Commission stated that it had sent at least four notices to each candidate concerning his failure to comply with the requirements of the Act. Additionally, three days before the general election, the FEC made public the candidates' failure to file the pre-general election report. In the case of two of the candidates, a similar publication was released in connection with the post-general election report. (See, below, "FEC Lists Non-Filers.")

To date, the FEC has filed a total of 17 civil suits in District Courts against Federal candidates failing to file reports.

FEC LISTS NON-FILERS

On January 21, 1977, the FEC published the names of 47 House and 2 Senate candidates that failed to file the required post-election report of their campaign finances. The report was due December 2, 1976, 30 days after the November 2 general election. Commission publication of non-filers is required by law. The Commission does not release these names, however, until after it has sent non-filing candidates or their principal campaign committees three different notices reminding them of their reporting obligations and urging compliance.

In addition to publishing the names of non-filers, the FEC has the authority to undertake further enforcement action under the statute, including civil court enforcement and imposition of civil fines.

COMMISSION MAKES PUBLIC SOME COMPLIANCE FILES

On December 17, 1976, the FEC made public the files of 245 compliance cases. (Some additional 120 cases are pending and remain, therefore, confidential at this time. 2 U.S.C. 437g(a)(6)(C).) Compliance cases which the FEC makes public fall into one of several categories:

1. Cases closed because the Commission found it had either "no reason to believe" or "no reasonable cause to believe" the Act had been violated;
2. Cases where the Commission entered into a conciliation agreement with the respondent; or
3. Cases where the Commission, after completing an investigation but being unable to reach a conciliation agreement with the respondent, decided to either:
 - a. File suit in district courts;
 - b. Refer the case to the Justict Department; or
 - c. Close the case.

The "core documents" contained in each file comprise the complaint itself; the report of the General Counsel's office, setting forth the allegations, the evidence involved, a legal analysis of the issues and a recommendation on action to be taken; any Commission action sheet or Commissioner statement; any conciliation agreements involved in the case; and the close-out letters to the parties, indicating the Commission's disposition in the case.

These files are available to the public in the Public Records Office (and, to the press, in the Press Office) of the Federal Election Commission. To assist anyone who wishes to review these files, the Commission has prepared an index, which is updated regularly, listing the cases in chronological order and indicating their final disposition.

FEDERAL REGISTER NOTICES

FEC documents of general applicability are published regularly in the Federal Register. These documents include (but are not limited to) announcements of public hearings, proposed regulations, policy statements, edited requests for advisory opinions, and periodic indexes to advisory opinions.

The Federal Register is available for inspection at any public library which is also a Federal depository or, by subscription, through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Beginning with this issue, the Record will prepare a monthly listing of all FEC documents published in the Register. The following list identifies all FEC documents appearing in the Federal Register between January 1 and January 21, 1977.

Notice	Title	Federal Register Publication Date	Citation
1976-72	Advisory Opinion Requests 1976-112 through 1976-115	1-12-77	42 FR 2624
1976-73	Policy Statement: Application of Contri- bution Limits to Con- tributions Made After General Election to Retire Debts Incurred With Respect to 1976 Election(s).	1-12-77	42 FR 2624
1977-1	Establishment of Clearinghouse Advisory Committee	1-12-77	42 FR 2624
1977-2	Privacy Act: OMB Grant of Waiver	1-19-77	42 FR 3812
1977-3	Index of Advisory Opinions, 1975-1976	1-21-77	42 FR 4040
1977-4	Advisory Opinion Requests 1976-116 through 1977-1	1-19-77	42 FR 3812
1977-5	Sunshine Act Regulations Proposed	1-19-77	42 FR 3810

PUBLICATIONS

THE RECORD

The **Record** is the official FEC newsletter, reporting each month on all Commission activities. Summaries of proposed regulations, policy statements, advisory opinions and letters of information appear regularly, as well as articles acquainting readers with FEC procedures, changes in organization and staff, and current publications and notices. Readers are encouraged to maintain a file of recent issues as a handy reference to Commission activity and policy.

1976 PUBLICATIONS

The FEC prepares a number of informational materials free to the public. The following 1976 publications are available, upon request, from the Public Communications Office:

1. **Federal Election Campaign Laws**, a compilation of laws pertaining to Federal elections, including the Federal Election Campaign Act of 1971, as amended in 1974 and 1976.
2. **Proposed FEC Regulations**, August 3, 1976.
3. **Campaign Guides**, a color-coded series of six guides prepared as a reference tool to aid candidates, political committees, and political parties in complying with the Act. Designed for use by committee chairmen, treasurers and accountants, as well as by candidates, each guide focuses on a specific aspect of the law. Titles include:
 - Campaign Guide for Committees
 - Campaign Guide for Federal Candidates

- Campaign Guide on Contributions and Expenditures
 - Campaign Guide for the 1976 General Elections
 - Campaign Guide for State and Subordinate Party Committees
 - Campaign Guide on Post-Election FECA Requirements
- The **Guides** are published as binder inserts to facilitate their use in a reference file and the making of page corrections as the need arises. To date, one revision (to the Campaign Guide for Committees) has been made and sent to readers.

4. **Bookkeeping and Reporting Manual**, 2nd edition, June 1976.
5. **1975 Annual Report**, a detailed description of the Federal Election Commission's activities during its first year of operation, March 31, 1976.

CLEARINGHOUSE PUBLICATION

The FEC Clearinghouse has recently announced the publication of the **Handbook of State Election Agencies and Election Officials**. The Handbook describes, on a State-by-State basis, the powers and functions of all boards, committees and offices concerned with elections. In addition, the Handbook includes a directory, listing the names, addresses and telephone numbers of all State election officials.

The Handbook may be ordered as Report Number **PB257816AS** from:

Sales Desk
National Technical Information Service
5285 Port Royal Road
Springfield, Virginia 22161
Price: \$9.00

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