



THE FEDERAL ELECTION COMMISSION

RECORD

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INFORMATION

Under this heading, the **Record** periodically summarizes new developments of general interest to candidates for Federal office and committees which support such candidates.

NOTICES ON POLITICAL BROADCAST COMMUNICATIONS

The Federal Election Campaign Act and the Commission's regulations require that communications, made through public political advertising, which advocate the election or defeat of a clearly identified candidate must contain a notice stating that the communication is authorized by a particular candidate or that it is not authorized by any candidate. Public political advertising includes "any **broadcasting station**, newspaper, magazine, outdoor advertising facility, direct mailing." (Emphasis added.) 2 U.S.C. §441d and 11 CFR 110.11.

The Federal Election Commission (FEC) and the Federal Communications Commission (FCC) recently issued a Joint Public Notice which details examples of notices which may be used on **broadcast** communications in order to comply with FEC requirements for authorization (or nonauthorization) notices. (Broadcast licensees may use the examples in the Notice to comply with FCC rules concerning sponsorship identification.)

This Joint Public Notice supplements a previous Notice on authorization statements published in the **Federal Register** on October 18, 1978, p. 45954. Both Notices are available from the FEC in the Office of Public Communications.

The Joint Public Notice lists the following examples of notices which may be used to comply with both FEC and FCC regulations in the three specific situations described:

1. A broadcast communication which is authorized and financed (or furnished) by the candidate or the candidate's authorized committee:

- *Paid for by* [Name of candidate or committee]; or
- *Paid for and authorized by* [Name of candidate or committee]; or
- *Sponsored by* [Name of candidate or committee]; or
- (Where appropriate) *Furnished by* [Name of candidate or committee].

Note: When a candidate or his/her committee is paying for or furnishing broadcast matter, authorization by the candidate is assumed and need not be specifically stated.

2. A broadcast communication which is authorized by the candidate or candidate's authorized committee but financed (or furnished) by a third party:

- *Paid for by* [Name of third party] *and authorized by* [Name of candidate or committee]; or
- *Sponsored by* [Name of third party] *and authorized by* [Name of candidate or committee]; or
- (Where appropriate) *Furnished by* [Name of third party] *and authorized by* [Name of candidate or committee].

3. A broadcast communication which is financed by a third party and not authorized by any candidate or any candidate's authorized committee:

- *Paid for by* [Name of sponsor/payor] *and not authorized by any candidate*; or
- *Sponsored by* [Name of sponsor/payor] *and not authorized by any candidate*; or
- (Where appropriate) *Furnished by* [Name of person or group furnishing broadcast] *and not authorized by any candidate*.

Note: If the third party in the above examples is a political committee, the name of any connected organization must be included in the notice.

For a summary of the requirements for notices on political communications other than broadcast, and an additional notice required on any solicitation for contributions by a political committee, see the May 1978 issue of the **Record**, p. 4. See also 2 U.S.C. §§435(b) and 441d; 11 CFR 110.11.

REGULATIONS

HEARING ON PUBLIC FINANCING REGULATIONS

On June 20, 1978, the Commission held a public hearing on suggested revisions to FEC procedures and regulations governing the public financing of Presidential elections. The Commission requested comments and suggestions to simplify and clarify its current regulations on national party convention financing, primary election matching funds, and general election public funding.

With Chairman Joan Aikens presiding, the Commissioners heard testimony from seven witnesses, including representatives of 1976 Presidential campaigns which received public funds, a national party committee and other interested persons. Comments ranged from detailed suggestions for bookkeeping requirements to general policy questions concerning participation by political parties in connection with Presidential campaigns receiving public funds.

In addition to hearing oral testimony, the Commission received five written comments. All comments and testimony are available to the public in the Commission's Office of Public Records.

OPINIONS

PENDING ADVISORY OPINION REQUESTS

The following chart lists pending Advisory Opinion Requests (AOR's), with a brief description of the subject matter, the date the requests were made public and the number of pages of each request. The full text of each AOR is available to the public in the Commission's Office of Public Records.

AOR	Subject	Date Made Public	Number of Pages
1978-34	Use of corporate or noncorporate phone bank by campaign committee.	6/16/78	1
1978-35	Use of private trust fund for retirement of campaign debts.	6/16/78	2
1978-36	Participation of separate segregated fund in activity	6/16/78	1

AOR	Subject	Date Made Public	Number of Pages
	other than the support of Federal candidates.		
1978-37	Use of surplus funds to retire prior campaign debt or to support candidacy for State office.	6/23/78	1
1978-38	Solicitation notice envelopes.	6/28/78	1
1978-39	Affiliation of separate segregated funds.	6/29/78	1
1978-40	Loans for candidate's personal expenses.	6/29/78	1
1978-41	Contribution limitations for individuals.	7/6/78	1
1978-42	Solicitations by political action committee.	7/8/78	3
1978-43	Use of surplus campaign funds.	7/11/78	1

ADVISORY OPINIONS: SUMMARIES

Designated as AO's, Advisory Opinions discuss the application of the Act or Commission regulations to specific factual situations. Any qualified person requesting an Advisory Opinion who in good faith acts in accordance with the opinion will not be subject to any sanctions under the Act. The opinion may also be relied on by any other person involved in a specific transaction which is indistinguishable in all material aspects from the activity discussed in the Advisory Opinion. Those seeking guidance for their own activity should consult the full text of an Advisory Opinion and not rely only on the summary given here.

AO 1977-67: Solicitation of "Members"

The Public Service Research Council (PSRC) and its political action committee (PAPAC) may solicit contributions from certain persons PSRC claims as its members if they satisfy four conditions defined by PSRC and two additional criteria established by the Commission. Under the conditions defined by PSRC, the member must have:

- Expressed "a specific and unambiguous desire to become, or join as, a member of PSRC" by writing to PSRC or returning a card expressing that desire;
- Been given the right to participate in a membership survey at least once a year;

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- Paid dues or contributions to PSRC on a regular basis; and
- Renewed membership status in PSRC at periodic intervals.

The opinion concluded that these four conditions are "sufficient indicia of a membership relationship" to permit solicitation by PSPAC provided two additional conditions are met:

1. Dues or contributions must be set at a predetermined amount; and
2. Any waiver of dues or contributions must be made in accordance with predetermined criteria.

The opinion does not address the possibility of soliciting other persons also considered by PSRC to be members (but who do not meet all of the above criteria); nor does the opinion address the issue of membership status for any person whose dues or contributions have been waived.

Commissioners Thomas E. Harris and Neil Staebler jointly filed a dissenting opinion. Chairman Joan D. Aikens filed a concurring opinion. (Length, including the dissenting and concurring opinions, 16 pages)

AO 1978-13: Payment of Expenses in Connection With Separate Segregated Fund

Corporate members of the Aluminum Association (the Association) may not pay the travel expenses of five representatives of member corporations who traveled to Washington, D.C. to formally organize and establish the Association's separate segregated fund (AAPAC). Such expenses would constitute "establishment" and "administration" costs which must be paid by the Association. Any payment by a member corporation would constitute a prohibited corporate contribution to AAPAC.

However, when other AAPAC meetings, occurring after the initial organization meeting, coincide with regular Association meetings, and the costs incurred in connection with the AAPAC meeting are incidental to the expenses of attending the Association meeting, the member corporations may pay those incidental expenses without being considered to have made a prohibited contribution. These incidental expenses include the travel expenses of the corporate-member representatives attending both the Association and AAPAC meetings. (Length: 3 pages)

AO 1978-25 (Part B): Conventions as Elections

Neither the Colorado nor Minnesota political party convention is considered a separate election for purposes of the Federal Election Campaign Act. Under the Act, a convention is considered a separate election (from the primary and general) only if it "has the authority to select a nominee. . . ." Under Colorado and Minnesota State law, political party conventions do not have this authority. Rather, their authority is limited to designating or endorsing party candidates to run in the party primary. Therefore, candidates participating in the conventions do not have a separate contribution limitation with respect to the convention.

A summary of Part A of AO 1978-25 was published in the July 1978 issue of the Record, page 3. (Length: 3 pages)

AO 1978-26: Stockholder Solicitation Through Conduits

Citicorp's separate segregated fund, Citicorp Employees Voluntary Political Fund (the Fund), may deliver solicitation materials to stockholders through conduits (e.g., brokers, dealers, banks or other nominees) who hold stock for the beneficial owners provided:

- Any solicitation by the Fund is intended exclusively for and speaks only to those persons falling within the definition of "stockholder" in the Commission's regulations (11 CFR 114.1(h)); and
- The stockholders would otherwise be qualified to make contributions under the Act. (Length: 2 pages)

AO 1978-27: Executive and Administrative Personnel

The Morrison Political Action Committee (MPAC) may solicit voluntary contributions from certain unit managers of Morrison Incorporated (its connected organization) and its subsidiaries. These unit managers may be solicited as executive and administrative personnel because of their authority and functions within Morrison Incorporated. For example, they:

- Are paid on a salaried rather than hourly basis and receive a bonus based on the performance of their unit;
- Have management and supervisory authority over a substantial number of employees including complete control of hiring, firing, discipline and promotion;
- Have independent authority to implement the policies and directives of Morrison Incorporated and discretionary authority over day-to-day operations;
- Function as a unit manager on a continuing basis and are eligible for promotion to higher level supervisory positions. (Length: 4 pages)

AO 1978-29: Requirements of Authorized Committee

A nonprincipal campaign committee authorized by Congressman Ted Weiss (the Committee) which does not anticipate receiving contributions or making expenditures in excess of \$1,000 during a calendar year would not be a "political committee" as defined in the Act. Congressman Weiss would not have to file FEC Form 2a (on which a candidate authorizes a "political committee" other than a principal campaign committee). The Committee would not have to register under the Federal Election Campaign Act; nor would it be required to file reports of receipts and expenditures with the principal campaign committee of Congressman Weiss.

However, because the Committee's activities are to influence the election of Congressman Weiss to Federal office, ". . . all contributions received and expenditures made [by the Committee] are regarded as received and made by the authorizing candidate and his principal campaign committee." Therefore, either the candidate or his principal campaign committee would be responsible for keeping the records and filing the reports required by the Act on the Committee's activities. (Length: 3 pages)

AO 1978-30: Utah Convention as Election

Edwin Firmage, candidate for the U.S. House of Representatives, may not receive contributions with respect to each of three separate elections in the State of Utah unless:

1. Under Utah State law, he is one of two party nominees at the State party convention eligible to run in a subsequent primary election; **and**
2. Mr. Firmage receives the greatest number of votes in the primary and is thus the party's nominee in the general election.

In this case, an individual could contribute up to \$1,000 with respect to each of the three elections: the convention, the primary election and the general election.

However, if Mr. Firmage is unopposed at the convention or he receives at least seventy percent of the vote at the convention and thus directly becomes the party's nominee for the general election, only two contribution limitations would apply: one for the convention and one for the general election.

This opinion supercedes AO 1975-54, which was published in the **Federal Register** on December 18, 1975 (40 FR 58802). (Length: 3 pages)

AO 1978-33: Statements on Advertising

Robert S. Allen, candidate for the U.S. House of Representatives, must include the required statements of campaign authorization and report availability on newspaper advertisements which advocate the defeat of his opponent and solicit contributions to Mr. Allen's campaign, regardless of how "terse or cryptic" the ads may be. 2 U.S.C. § 435(b) and 441(d). Because the ads appeared in a newspaper, which is one of the five specific methods of "general public political advertising" mentioned in the Act, the campaign authorization statement must appear. In addition, the notice on campaign report availability must appear on ". . . all printed literature and advertisements soliciting contributions. . ." regardless of size. (Length: 3 pages)

THE LAW IN THE COURTS

FEC v. AFL-CIO

On December 16, 1977, the Commission filed suit against the AFL-CIO seeking to enjoin the organization from transferring funds from its COPE Education Fund to its separate segregated fund (a political committee). The Commission argued that the transfer violated the provisions in the Act prohibiting contributions or expenditures from general treasury monies of a labor organization in connection with Federal elections.

On June 16, 1978, the Court granted the Commission's motion for summary judgment in the case. The Court concluded that:

- Past transfers from the AFL-CIO COPE Education Fund to AFL-CIO's separate segregated fund were illegal;
- The AFL-CIO is enjoined from making any such transfers in the future (except for a single return of funds previously transferred);
- The AFL-CIO must pay a civil penalty of \$10,000 pursuant to 2 U.S.C. § 437g(a)(7).

LITIGATION STATUS INFORMATION

The following is a list of new litigation involving the Commission, together with the date the suit was filed, the Court involved, the Docket Number and a brief description of the major issue(s) involved in the case. Persons seeking additional information on a particular case should contact the Court where the suit is filed or the Federal Election Commission.

The Spotlight v. FEC, U.S. District Court for the District of Columbia, Docket No. 78-0981, May 31, 1978.

Plaintiff alleges that the Commission's refusal to act properly on its complaint is contrary to law.

FEC v. Eleanor Elias, U.S. District Court for the Eastern District of Pennsylvania, Docket No. 78-1922, June 8, 1978.

The Commission alleges that Ms. Elias violated the Act by making illegal contributions, including contributions in excess of the limitations and contributions in the name of another.

FEC v. Northwest Jersey Tax Reform Immediately Committee, et al., U.S. District Court for the District of New Jersey, Docket No. 78-1311, June 15, 1978.

The Commission alleges that defendant failed to include on certain published material the required notice of nonauthorization, and failed to report expenditures incurred in connection with the material.

FEC PUBLIC APPEARANCES

In keeping with its objective of making information available to the public, the Federal Election Commission regularly accepts invitations for its representatives to address public gatherings on the subject of campaign finance laws and the Commission itself. This regular column lists scheduled Commission appearances, detailing the name of the sponsoring organization, the location of the event and the Commission's representative.

8/11-15 Clearinghouse Advisory Panel and Advisory Boards Meetings
Albuquerque, NM

Republican National Committee, et al. v. FEC, et al., U.S. District Court for the Southern District of New York, Docket No. 78 Civ 2783, June 16, 1978.

Plaintiffs allege that the provisions of the Act imposing expenditure limitations on Presidential candidates receiving public funds in the general election are unconstitutional.

FEC v. Citizens for Reagan, et al., U.S. District Court for the District of Columbia, Docket No. 78-1160, June 22, 1978.

The Commission alleges that Citizens for Reagan failed to use best efforts to obtain and report required contributor information.

COMPLIANCE

FEC PUBLISHES NAMES OF NONFILERS

The Commission is required by the Federal Election Campaign Act to publish the names of candidates and political committees who fail to file required reports of receipts and expenditures. In an election year, candidates and committees must file quarterly reports (April 10, July 10, October 10), pre- and post-election reports (primary and general) and a year-end report (January 31). (Under certain circumstances, if the candidate or committee has minimal financial activity, the quarterly reports and the year-end report may be exempted.)

Political committees which make contributions or expenditures in more than one State may, upon request to and approval by the Commission, file monthly reports by the 20th of each month. In November, December and January, in lieu of monthly reports, such committees must file the pre- and post-general election reports and a year-end report.

Before publishing the name of a candidate or committee who has failed to file, the Commission sends them at least two notices. If, following the receipt of these notices, a candidate or committee continues not to file the required reports, the name of that "nonfiler" is made public. The following is a list of recent nonfiler actions taken by the Commission:

Publication Date	Report Not Filed	Number of Nonfilers
6/13/78	April 10 (Quarterly)	123
6/19/78	April 20 (Monthly)	1
6/19/78	Illinois (Post-Primary)	1

CLEARINGHOUSE

STATE CAMPAIGN FINANCE PROJECT COMPLETED

The Clearinghouse recently announced that its 1978 survey of State campaign finance laws has been completed and is available for purchase. Previously issued in two volumes, the report (titled **Campaign Finance 1978**) is now being issued in one volume.

The report, which is produced by the American Law Division of the Library of Congress, includes all State campaign finance laws as of January 1, 1978. It is divided into two sections:

- Part 1: A series of five quick-reference charts highlighting State filing requirements, restrictions on contributions (corporations, labor organizations, individuals, etc.), political advertising requirements, and government or tax financing provisions. Each provision includes appropriate State election code citations.
- Part 2: A detailed State-by-State summary of each State's campaign financing provisions. Designed as a companion to the above charts, each summary also includes State code citations.

To purchase a copy of the report, send \$12.00 (check or money order) together with the report number (PB279516AS) to:

National Technical Information Services
Sales Desk
Department of Commerce
5285 Port Royal Road
Springfield, VA 22161

FORMS

Forms for candidates and committees to register and report are available at any time by contacting:

Office of Public Communications
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463
Telephone: 202/523-4068
Toll-Free: 800/424-9530

Candidates and committees should use the revised form for reporting receipts and expenditures, which is designated in the upper left hand corner as: **FEC Form 3 REVISED, January 1978**. Candidates and committees may make and use photocopies of standard FEC forms.

AUDITS

AUDITS RELEASED TO THE PUBLIC

The Federal Election Campaign Act requires the Commission ". . .to make from time to time audits and field investigations with respect to reports and statements filed under the [Act]." The Commission is also required to conduct audits of all campaigns of Presidential candidates who received public funds. Once an audit is completed and an audit report is approved by the Commission, the report is made public and is available in the Office of Public Records and the Press Office. The following is a list of audits released as of July 12, 1978, in chronological order. (Notations in parenthesis indicate Congressional candidate's State and district.)

Audit	Date Made Public	Audit	Date Made Public
1. Republican Congressional Boosters Club	4/5/78	15. Committee to Promote Jobs, Construction and the Economy	4/18/78
2. Jim Martin/Jim Martin Committee (NC/09)	4/5/78	16. Leonard Stubbs/Stubbs for Congress Committee (OH/03)	5/1/78
3. Bill Cotter/Committee to Re-Elect Congressman Bill Cotter (CT/01)	4/5/78	17. Henry Thorpe/Thorpe for Congress Committee (NC/02)	5/1/78
4. John W. Wydler/Citizens Committee for the Re-Election of John W. Wydler (NY/05)	4/5/78	18. Mike Robertson for Senator Committee	5/1/78
5. George Shipley/Shipley Campaign Committee (IL/22)	4/5/78	19. Committee to Re-Elect Senator Edward M. Kennedy	5/1/78
6. Harold Froehlich/Friends for Froehlich Committee (WS/08)	4/5/78	20. Matt Rinaldo/Rinaldo for Congress Committee (NJ/12)	5/4/78
7. Baltasar Quinones Elias/Aquadilla, Puerto Rico	4/5/78	21. Ed Hogan/Committee for the Election of Ed Hogan (CA/21)	5/11/78
8. Democratic State Central Committee, Maryland	4/5/78	22. Bill Nichols/Bill Nichols Campaign Fund (AL/03)	5/11/78
9. Donald Fraser/Friends of Fraser Volunteer Committee (MN/05)	4/13/78	23. L.H. Fountain/Fountain for Congress Committee (NC/02)	5/11/78
10. Richard Erdall/Erdall for Congress (MN/05)	4/13/78	24. Republican Senate-House Dinner '76 Committee	5/11/78
11. Charles Whalen/Whalen for Congress Committee (OH/03)	4/13/78	25. Pat Fullinwider/Pat Fullinwider for Congress Committee (AZ/01)	5/17/78
12. Ted Risenhoover/Risenhoover for Congress Committee (OK/02)	4/13/78	26. Gary Payne/Payne for Congress Committee (OK/03)	5/22/78
13. National Republican Senatorial Committee	4/13/78	27. John Eyster/Eyster for Congress Committee (AL/05)	5/24/78
14. Citizens for Reagan Committee	4/13/78	28. John Flynt/Flynt Campaign Committee (GA/06)	5/24/78
		29. Newton L. Gingrich/Gingrich Campaign Fund (GA/06)	5/24/78
		30. Francis D. Brouillette/Brouillette for Congress Committee (MI/11)	5/24/78
		31. James E. Eagan/Committee for a New Congress (NY/09)	5/24/78
		32. John Breckinridge/Citizens for Breckinridge (KY/06)	5/25/78
		33. Wes Watkins/Watkins for Congress Committee/Wes Watkins for Congress Committee of Pittsburg County (OK/03)	5/26/78
		34. Marilyn Seals/Marilyn Seals Campaign (CA/25)	5/31/78

STATISTICS

Audit	Date Made Public
35. Claude Pepper/Claude Pepper Campaign Committee (FL/14)	6/5/78
36. Evelio Estrella/Evelio Estrella Campaign Committee (FL/14)	6/5/78
37. J.W. Adams/Adams for Congress Committee (GA/08)	6/7/78
38. Bob Traxler/Bob Traxler for Congress/Businessmen and Professionals for Traxler/Saginaw Professional and Business Committee for Traxler/Traxler Congressional Breakfast Committee/Bay Traxler Congressional Breakfast Committee (MI/08)	6/7/78
39. Lucien DiFazio/DiFazio '76 for Congress Committee (CT/01)	6/9/78
40. Philip E. Ruppe/Ruppe for Congress Committee (MI/11)	6/13/78
41. E.L. Stewart, Jr./Stewart for Congress Committee (OK/02)	6/15/78
42. Committee for Birch Bayh in '76	6/16/78
43. Anthony A. McCord/Anthony A. McCord Campaign (KY/06)	6/20/78
44. John Rhodes/Keep John Rhodes in Congress Committee/The Re-elect John Rhodes Committee/The Democrats for Rhodes (AZ/01)	6/23/78
45. Arrangements Committee of the Republican National Committee for the 1976 Republican National Convention	7/10/78
46. Missouri Republican Host Committee, Inc.	7/10/78
47. Gerald L. Beasley, Jr./Beasley for Congress Committee (OK/03)	7/12/78

PROCEDURES

FEC RULES OF PROCEDURE

In its meeting of June 8, 1978, the Commission approved a document entitled **Rules of Procedure of the Federal Election Commission**. The Rules detail procedures for conducting Commission meetings including how often meetings shall be held, what constitutes a quorum, how business may be introduced, what types of motions may be introduced and so forth.

UPDATE OF MULTICANDIDATE COMMITTEE INDEX

The Commission publishes each month an update to the **Multicandidate Committee Index**. For a summary of the contents of the Index, see the **Record**, February 1978, p. 4. The update is available on the last day of each month. Copies of the Index, the current update and any past updates are available through the Office of Public Records -- telephone 202/523-4181 or toll-free 800/424-9530. The purchase price is 10 cents per page, payable in advance.

REPORT ON CANDIDATE FILINGS IN SPRING PRIMARIES

On July 2, 1978, the Commission released the results of a study on pre-election financial disclosure reports by Federal primary candidates. The study included 861 candidates on the ballot in 21 States which held primaries from March through June. Highlights of the report included:

- Reports of 90 percent of the candidates were available to the public before the date of the election;
- Approximately 60 percent of the candidates (505) (and/or their authorized committees) filed their reports in a timely manner;
- Another 31 percent of the candidates (271) (and/or authorized committees) filed their reports late, after the filing deadline, but did get the reports on the public record before the date of the election;
- Finally, nine percent of the candidates (85) (and/or their authorized committees) were published by the Commission as "nonfilers" -- that is, they failed to file their pre-election reports.

STAFF

NEW DEVELOPMENTS

Two new staff developments have occurred at the Commission in recent months. The Administration Division was reorganized to reflect changing responsibilities as a result of undertaking the Commission's own payroll function. The staff will also be responsible in the near future for the Commission's own accounting activities. Both responsibilities were previously handled by the General Services Administration.

A new Nonfilers Branch was created within the Reports Analysis Division to monitor compliance with the reporting requirements of the Act and to implement the Commission's nonfiler procedures.

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