



THE FEDERAL ELECTION COMMISSION

RECORD

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FEDERAL ELECTION CAMPAIGN ACT AMENDED

On December 20, 1979, just as this month's *Record* went to press, the House passed H.R. 5010, which contains major amendments to the Federal Election Campaign Act. The same bill had passed the Senate on December 18, 1979. H.R. 5010 substantially changes the reporting and bookkeeping requirements that apply to all federal candidates and all political committees. The February *Record* will provide detailed information on these amendments to the Act.

PUBLICATIONS

NEW CAMPAIGN GUIDE FOR PRESIDENTIAL CANDIDATES AND THEIR COMMITTEES

The Commission recently published the *Campaign Guide for Presidential Candidates and Their Committees*. This latest *Guide* focuses on the application of the Act and Commission Regulations to all Presidential candidates and their committees. For those candidates who qualify, or think they might qualify, for public funding for the primary election, a special chapter is included on the Primary Matching Payment Program. The *Guide* also covers: Contributions and Expenditures; Starting, Conducting and Terminating the Campaign; and Keeping Records and Filing Reports. The appendices to the *Guide* contain additional information on public funding expenditure limits, independent expenditures, a recommended procedure for recording contributions and guidelines for joint fundraising.

The *Guide*, which is printed as a binder insert, has been sent to all registered Presidential candidates and their authorized committees. Additional copies of the *Guide* are available from the Office of Public Communications.

INFORMATION

1980 PRESIDENTIAL PRIMARIES

According to information received from the Secretaries of State, each of the states below has established the indicated date for its Presidential primary.

Alabama	March 11
Arkansas	May 27 (D)
California	June 3
Connecticut	March 25
District of Columbia	May 6
Florida	March 11
Georgia	March 11
Idaho	May 27
Illinois	March 18
Indiana	May 6
Kansas	April 1
Kentucky	May 27
Louisiana	April 5
Maryland	May 13
Massachusetts	March 4
Michigan	May 20
Montana	June 3
Nebraska	May 13
Nevada	May 27
New Hampshire	February 26
New Jersey	June 3
New Mexico	June 3
New York	March 25
North Carolina	May 6
Ohio	June 3
Oregon	May 20
Pennsylvania	April 22
Puerto Rico	February 17 (R) March 16 (D)
Rhode Island	June 3
South Carolina	March 8 (R)
South Dakota	June 3
Tennessee	May 6
Texas	May 3 (R)
Vermont	March 4
West Virginia	June 3
Wisconsin	April 1



ADVISORY OPINION REQUESTS

Advisory Opinion Requests (AOR's) pose questions on the application of the Act or Commission Regulations to specific factual situations described in the AOR. The following chart lists recent 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	No. of Pages
1979-68	Transfer of funds between affiliated committees.	11/23/79	2
1979-69	Solicitation of "associate" members of trade association by trade association's PAC; whether corporation's purchase of timber cutting rights on federal land confers federal contractor status on corporation.	11/29/79	4
1979-70	Corporate PAC's publication of responses by all Presidential candidates to corporation's questions on selected public issues.	11/29/79	5
1979-71	Reporting requirements for PAC making contributions to Presidential candidate involved in state caucus.	11/30/79	2
1979-72	PAC reimbursement to parent organization for fundraising costs related to entertainment and raffle.	12/5/79	6
1979-73	Proper allocation of salaries and expenses of Presidential campaign's advance staff.	12/7/79	2
1979-74	Lobbyist's continued employment by corporations during his candidacy for federal office.	12/11/79	4
1979-75	Combined fundraising for federal and non-federal elections by PAC and its state and local chapters.	12/11/79	4
1979-76	PAC's acceptance of corporate check in payment for book published by PAC.	12/12/79	1
1979-77	Permissible activities of and solicitations by PAC of limited partnership.	12/12/79	4
1979-78	Limitations on honoraria income of federal officeholders.	12/13/79	1

ADVISORY OPINIONS: SUMMARIES

An Advisory Opinion (AO) issued by the Commission provides guidance with regard to the specific situation described in the AOR's. Any qualified person who has requested an AO and acts in accordance with the opinion will not be subject to any sanctions under the Act. Other persons may rely on the opinion if they are involved in a specific activity which is indistinguishable in all material aspects from the activity discussed in the AO. Those seeking guidance for their own activity, however, should consult the full text of an AO and not rely only on the summary given here.

AO 1979-56: Affiliation of Political Action Committees

The proposed political action committee of Brunswick, a joint venture corporation established by Scott Paper Company and the Mead Corporation, would be affiliated with the political action committees of both parent corporations (SCOTTPAC and MEADPAC). The management agreement between Scott and Mead gives each corporation the authority to appoint and remove executive officers and board members of Brunswick and otherwise influence decisions made by Brunswick.

When one organization has the authority to influence the decisions of officers or members of another organization, Commission Regulations provide that all political committees established by those organizations are affiliated. 11 CFR 100.14(c)(2)(iii) and 110.3(a)(1)(iii). Thus, Brunswick's proposed political action committee would be affiliated with both SCOTTPAC and MEADPAC. Contributions made by SCOTTPAC and Brunswick's proposed committee would be considered to have been made by a single committee. Similarly, contributions made by MEADPAC and Brunswick's proposed committee would be considered to have been made by a separate single committee. 2 U.S.C. §441a(a)(5). Although the proposed Brunswick committee would be affiliated with both SCOTTPAC and MEADPAC, the Commission found no basis for concluding, from the facts presented in the request, that SCOTTPAC and MEADPAC were affiliated with each other. Commissioners Joan Aikens and Max L. Friedersdorf filed a dissenting opinion. (Date Issued: December 19, 1979; Length, including dissenting opinion: 7 pages)

AO 1979-59: Solicitation of Personnel Living Abroad

The Container Corporation Political Action Committee may solicit executive employees of the Container Corporation (the Corporation) who are United States citizens assigned to a Corporation office in a foreign country. The

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Act prohibits contributions by foreign nationals (2 U.S.C. §441e), but American citizens living abroad are not included in that category. All contributions from the Corporation's foreign-based employees are subject to all applicable limits and prohibitions of the Act. (Date Issued: November 29, 1979; Length: 2 pages)

**AO 1979-60: Deduction Plan
Contributions**

The Hoisting and Portable Engineers Local Union 101 (the Union) may solicit contributions to its 101 Political Fund (the PAC) by using a plan which would permit union members to authorize the deduction of a portion of the monies paid to their vacation fund. The amounts deducted would be transferred to the PAC. The plan would be permissible, however, only if the sample authorization, proposed by the Union, were modified to reflect the contributor's right to donate more or less than the amount specified on the authorization card. Commission Regulations require that, although a contribution guideline may be suggested, any solicitation must inform contributors of their right to contribute more or less than the suggested guideline, and the guideline may not be enforced by the union. 11 CFR 114.5(a)(2). (Date Issued: November 29, 1979; Length: 4 pages)

**AO 1979-63: Prohibited Transfer
of Corporate Funds**

The Veterans of Foreign Wars Political Action Committee (VFW-PAC), the separate segregated fund of the Veterans of Foreign Wars (the Corporation), may not accept unsolicited donations, consisting of membership dues and the proceeds from the sale of food and beverages, from local posts and auxiliaries. The Act prohibits a corporation from contributing general treasury funds (e.g., membership dues) to its separate segregated fund, and also prohibits a separate segregated fund from using funds obtained in commercial transactions conducted by local posts and auxiliaries (e.g., the sale of food and beverages). It would be permissible, however, for the Corporation to use these funds to pay for the administrative expenses of VFW-PAC and for the solicitation of contributions to VFW-PAC. 11 CFR 114.1 (b) and 114.5(b). (Date Issued: December 10, 1979; Length: 2 pages)

**AO 1979-64: Application of the Act to
Legislative Support Organization**

The Tourism Caucus may solicit and accept corporate and individual funds without regard to the contribution limitations and prohibitions of the Act. The Tourism Caucus, a legislative support organization created by 112 Members of Congress to "promote and expand the economic viability of the American industry and the jobs of its workers," does not expect to become a political committee as defined by the Act or to be involved in federal elections. This determination is based on the stated intention and proposed activities of the Caucus.

The Commission expressed no opinion regarding application of the House or Senate Rules to the situation described. Those issues are not within the Commission's jurisdiction. (Date Issued: December 10, 1979; Length: 2 pages)

**ADVISORY OPINION
REQUESTS WITHDRAWN**

Since November 1979, the following Advisory Opinion Requests have been withdrawn by their requesters:

- AOR 1979-29
- AOR 1979-54
- AOR 1979-61

COMPLIANCE

**COMPLAINTS BASED ON
NEWSPAPER ARTICLES**

On November 15, 1979, the Commission determined that it would continue to investigate complaints that are based on documented, substantial news articles provided the complaints are signed, sworn and notarized. The Commission had previously questioned the propriety of such complaints because news articles are not within a complainant's personal knowledge and might contain inaccuracies. The General Counsel pointed out that, although the legislative history of the Act does not specifically address complaints based on news articles, Congress was concerned that complaints not be frivolous or malicious. In his view, that Congressional concern does not seem to preclude complaints based on well documented and substantial articles, provided that the complaints are signed, sworn and notarized as required by 2 U.S.C. §437g(a)(1). Furthermore, 11 CFR 111.2(b) provides the Commission with the discretion to reject any complaint for insubstantiality, whether or not it is based on a news article.

CORRECTION

In the November 1979 *Record*, three incorrect dates were published in MUR 592 (p. 5). In the *Complaint* section of the article, March 16, 1979, should have been March 16, 1978; and June 7, 1979, should have been June 7, 1978. In the *Commission Determination* section, December 15, 1978, should have been November 15, 1978.

STAFF

FEC NAMES NEW GENERAL COUNSEL

On December 6, 1979, FEC Chairman Robert O. Tiernan announced that Charles N. Steele had been appointed General Counsel of the FEC. Mr. Steele, who has been with the Commission since January 1976, had been Acting General Counsel since November 1, 1979. Previously, he had served as Associate General Counsel for Enforcement and Litigation. Mr. Steele received an A.B. from Harvard College in 1960 and an LL.B. from Harvard Law School in 1965. Prior to his employment with the FEC, Mr. Steele was a staff attorney with the Appellate Court Branch of the National Labor Relations Board.

AUDITS

PROGRESS OF AUDITS

The audit summary chart below provides cumulative information on the progress of FEC audits from 1976 through November 30, 1979. The chart includes data on the types of committees being audited, the status of those audits and the number of audits completed and available to the public. (For a full discussion of FEC audit policy, see the *Record*, January 1979, p. 5.)

AUDITS RELEASED TO THE PUBLIC

The Federal Election Campaign Act, as amended (the Act), requires candidates and political committees to file financial disclosure reports with the Commission. The Act also requires the Commission to audit campaigns of all Presidential candidates who receive public funds and to periodically audit the reports of other candidates and committees. Final audit reports are those that have been approved by the Commission. Interim audit reports (designated by an asterisk (*) in the list below) are those that have been discussed in an open Commission meeting but have not been approved by the Commission. Both final and interim audit reports are available to the press through the Press Office and to the general public through the Office of Public Records. The following is a chronological listing of audits released between November 12, 1979, and December 10, 1979:

Audit	Date Made Public
1. American Party Convention Arrangements Committee	11/16/79
2. Maryland Democratic Party/Voter Registration Drive	11/16/79
3. Charles Leland Ward, OK/3	11/20/79
4. Democratic National Committee/Campaign Victory Fund	11/27/79
5. Republican Party of Florida/Federal Campaign Account	11/27/79

Type of Committee Audited	Audits Required by Audit Policy	Field Work In Progress	Field Work Completed	Internal Review of Audit in Progress	Audits Completed & Released to Public	Audits To Be Scheduled
Presidential Candidate Public Financing (1976)	19	0	19	0	19	0
Presidential Candidate No Public Financing (1976)	17	0	17	11	6	0
Congressional Candidate Random (1976)	106	0	106	2	104	0
State Party	71	0	71	21	50	0
Congressional Party	9	0	9	0	9	0
National Party	20	3	17	13	4	0
Non-Party, Non-Candidate	51	2	29	18	11	20
Referral Audits*	9	0	9	6	3	0

*Referral Audits include candidates and committees, in categories not directly covered by the Audit Policy, which are referred to the Audit Division by the Reports Analysis Division or the Office of General Counsel.

PUBLIC FINANCING

FEC APPROVES ELIGIBILITY OF PRESIDENT CARTER FOR 1980 MATCHING FUNDS

On November 20, 1979, the Commission determined that President Jimmy Carter is eligible to receive primary matching fund payments for the 1980 Presidential primary election. The Commission determination followed a thorough review by the FEC Audit Division of the campaign committee's threshold submission. The Commission will certify actual payment by the U.S. Treasury to President Carter in December. The Act does not allow payment of any funds from the Presidential Primary Matching Payment Account until January 1, 1980.

REPAYMENT HEARING

On November 27, 1979, the Commission held a hearing, at the request of the Udall '76 Committee (the Committee), to provide the Committee with a final opportunity to contest the Commission's determination that the Committee must repay \$62,449.22 in public funds to the U.S. Treasury. Of that amount, the Committee was only contesting \$52,755.40, which represented undocumented and, therefore, unqualified campaign expenditures made by Mr. Udall's 1976 Presidential campaign.

After the FEC had completed audits of the national and state committees of the Udall '76 campaign, the Commission determined, on November 15, 1978, that the committees had not provided sufficient documentation for \$163,614.50 in expenditures. As a result of the Committee's subsequent submission of more documentation, on October 19, 1979, the Commission reduced the required repayment (for undocumented and, therefore, unqualified campaign expenditures) to \$52,755.40. At the hearing, Committee spokesmen pointed out the difficulty of obtaining the required documentation for expenditures that had been made three years earlier.

Neither the Act nor current Regulations require a hearing to contest repayment determinations. (The current Regulation, 11 CFR 9038.2(b), provides only for submission of written information in repayment disputes.) However, former Section 134.2 of the Commission's Regulations (now superseded by 11 CFR 9038.2(b)) did provide for such a hearing. Because the former Regulations were in effect during the audits of the Udall committees, the hearing was held. In addition to the information provided at the hearing, the Committee was allowed to submit additional written information until December 10, 1979. When all the information has been submitted, the Commission will either reaffirm or modify its October 19, 1979, determination.

THE LAW IN THE COURTS

BARNSTEAD FOR CONGRESS COMMITTEE v. FEC et al.

On June 5, 1979, the U.S. District Court for the District of Columbia granted summary judgment to the FEC and dismissed a complaint which had been filed by the Barnstead Committee (the Committee) against the FEC, WGBH Educational Foundation (Public Broadcasting, TV Channel 2), the Corporation for Public Broadcasting and the Quaker Oats Corporation. The Committee had filed suit on January 1, 1979, disputing the Commission's dismissal of a complaint which the Committee had filed with the Commission on November 2, 1978. The Committee requested that the Court reverse the Commission's determination.

The Committee had alleged in its complaint, and repeated in its suit, that the corporate sponsorship of and payment for production and promotional costs of a televised film about House Speaker Tip O'Neill (Mr. Barnstead's opponent for a House seat) was in violation of 2 U.S.C. §441b. The Committee contended that, since Congressman O'Neill was officially a candidate at the time the film was broadcast, the film was "... in essence a campaign film, which enhanced the political standing of one candidate over another." Costs incurred in producing and broadcasting the film, therefore, were expenditures in connection with a federal election. The FEC, on the other hand, maintained that the costs incurred by WGBH Educational Foundation, the Corporation for Public Broadcasting and the Quaker Oats Corporation, in sponsoring the film, were exempt communication costs. Under §431(f)(4)(A), the Act exempts from the definition of expenditure certain communication costs, which include "any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee or candidate." In dismissing the suit, the Court upheld the Commission's determination that the costs involved in sponsoring the broadcast were, in fact, communication costs and not expenditures under the Act.

REMINDER

The year-end report is due on January 31, 1980. All filers should use the peel-off address labels from the envelopes containing the prior notice. These labels, which will assist the Commission in identifying the filing candidate or committee, should be placed in the address block on the front of the reporting form.

For details on year-end filing requirements, see the December 1979 *Record*, p. 1.

**FEDERAL REGISTER
NOTICES**

The list below identifies all FEC documents which appeared in the *Federal Register* between November 12, 1979, and December 13, 1979. Copies of these notices are not available from the FEC.

Notice	Title	Federal Register Publication Date	Citation
1979-22	Availability of Opinion and Regulation Index Supplements	12/13/79	44 FR 72226

FEC PUBLIC APPEARANCES

To provide information on campaign finance laws and the FEC, the Commission regularly accepts invitations to address public gatherings. This regular column lists upcoming scheduled Commission appearances, the name of the sponsoring organization, the location of the event and the name of the Commission's speaker. For additional information on any appearance, please contact the **sponsoring organization**.

1/13-15 Clearinghouse Southeast Regional Seminar
Conference on Election Administration
Winston-Salem, North Carolina
FEC Commissioners and Staff

1/16 FEC Campaign Finance Seminar
Winston-Salem, North Carolina
FEC Commissioners and Staff



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