

# RECORD

## FEC CO-HOSTS TWO STATE WORKSHOPS

During June and July 1984, the Commission will co-sponsor two state workshops on campaign finance with state election officials in Virginia and Washington, respectively. On June 22, in Richmond, the Commission will participate in an all-day conference focusing exclusively on the financing of federal elections. In cooperation with the Virginia State Board of Elections, the Commission will conduct four workshops on: the major provisions of the federal election law; sources of campaign support available to candidates for federal office, with special emphasis on party support; corporate and labor organization participation in federal elections; and a general wrap-up session on how the FEC enforces the election law.

On July 9-10, in cooperation with the Washington State Public Disclosure Commission and the Gonzaga University School of Law, the Commission will conduct a similar series of workshops on federal election activity. The Washington conference, held in Seattle, will also include workshops on financing Presidential elections and state campaign finance laws. Idaho, Montana and Washington attorneys participating in these workshops will be eligible to receive 11.75 hours of continuing legal education credit.

For more information on the conferences, contact the FEC's Public Communications Office at 202/523-4068 or call toll-free 800/424-9530.

## REGULATIONS

### SOLICITATION OF INDIRECT MEMBERS BY FEDERATED COOPERATIVES: ADVANCE RULEMAKING NOTICE AND HEARING

On May 17, 1984, the Commission published an advance notice of proposed rulemaking in the Federal Register to seek additional comments on a petition for rulemaking filed by the National Council of Farmer Cooperatives (NCFC) in January 1983. See 49 Fed. Reg. 20831. At the same time, the Commission announced that it would

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hold a public hearing on NCFC's petition. (A notice announcing the availability of the NCFC petition, and seeking comments on it, was first published in the Federal Register on March 30, 1983. 48 Fed. Reg. 13265.) In the petition, NCFC asks the Commission to amend the definition of "members" in the current FEC regulation. The amendment would permit a federated regional or national cooperative to solicit PAC contributions from the individual members of state or local

cooperatives affiliated with the federation. (Under the current rule, federated regional or national cooperatives may only solicit their own members. See 11 CFR 114.1(e) and AOs 1980-48 and 1981-23.)

On June 27, the Commission will hold a public hearing on the proposed revision. Those interested in testifying at the hearing should so indicate on their written comments. Comments or questions on the proposed revision should be submitted to Ms. Susan E. Propper, Assistant General Counsel, by June 18, 1984. Ms. Propper may be contacted at 202/523-4143 or by writing the Commission at 1325 K Street, N.W., Washington, D.C. 20463.

## REPORTS

### JULY REPORTING SCHEDULE

Different committees file reports at different times. To find out when your committee is required to file its reports, consult the chart below. Then, to determine the particular requirements for that report, consult the paragraphs on page 3.

Type of Filer	Report			
	Quarterly July 15	Pre-Primary	Monthly July 20	Semiannual July 31
1984 Congressional Candidates	X	X		
Congressional Candidates/Other Years				X
1984 Presidential Candidates/ \$100,000+			X	
1984 Presidential Candidates/ Under \$100,000	X	X		
1980 Presidential Candidates <sup>1</sup>	X			
Unauthorized Committees/Monthly <sup>2</sup>			X	
Unauthorized Committees/Quarterly	X	X <sup>3</sup>		
Connected Organizations/ Communications <sup>4</sup>	X			

<sup>1</sup>Authorized Presidential committees that are not active in 1984 elections may file on either a monthly or quarterly reporting schedule. See 11 CFR 104.5(b)(2).

<sup>2</sup>All unauthorized committees (i.e., committees not authorized by candidates) are required to file on either a monthly or quarterly basis in 1984.

<sup>3</sup>Required only if the unauthorized committee makes contributions or expenditures on behalf of candidates in the primary which have not been previously disclosed.

<sup>4</sup>Report required if aggregate costs for internal communications which expressly advocate the election or defeat of (a) clearly identified candidate(s) in the 1984 primaries have exceeded \$2,000.

**Quarterly Report**

Due by July 15, the report should cover all activity from April 1 (or from the closing date of the last report filed in 1984 or from the date of registration,\* whichever is later) through June 30.

**Pre-Primary Report**

The report is due 12 days before the primary election and must be complete as of the 20th day before the election. If sent by registered or certified mail, the report must be postmarked no later than the 15th day before the election.

**Monthly Report**

The monthly report must be filed by July 20. It should cover all activity from June 1 (or from the closing date of the last report filed in 1984 or from the date of registration,\* whichever is later) through June 30.

**Semiannual Report**

The semiannual report is not filed until July 31. It covers all activity from January 1 (or from the closing date of the last report filed in 1984 or from the date of registration,\* whichever is later) through June 30.

**WHERE REPORTS ARE FILED**

Committees must file all reports and statements simultaneously with the appropriate federal and state officials. 11 CFR 108.5.

**Filing with the Federal Government**

1. The principal campaign committees of House candidates and committees supporting or opposing only House candidates file with the Clerk of the House, Office of Records and Registration, 1036 Longworth House Office Building, Washington, D.C. 20515. 11 CFR 104.4(c)(3) and 105.1.

2. The principal campaign committees of Senate candidates and committees supporting or opposing only Senate candidates file with the Secretary of the Senate, Senate Public Records, 119 D Street, N.E., Washington, D.C. 20510. 11 CFR 104.4(c)(2) and 105.2.

3. All other committees, including the principal campaign committees of Presidential candidates, file with the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. 11 CFR 105.3 and 105.4.

**Filing with State Governments**

1. The principal campaign committees of Congressional candidates must file a copy of every report and statement with the Secretary of State or the appropriate elections official of the state in which the candidate seeks federal office. 11 CFR 108.3.

2. The principal campaign committees of Presidential candidates must file copies of reports and statements with the Secretary of State or the appropriate elections official of the state in which the committee makes campaign expenditures. These reports must contain all financial transactions which apply to that state during the reporting period covered. 11 CFR 108.2.

3. Unauthorized committees making contributions or expenditures in connection with House and Senate races file in the state in which the candidate seeks election. The law requires a copy only of that portion of the report applicable to the candidate(s) being supported. Committees supporting Presidential candidates must file in the state(s) in which the Presidential committee and donor committee have their respective headquarters.

*\*In the case of an authorized candidate committee, from the date candidate status is established. The committee must report all financial activity incurred by the candidate before he/she authorized the committee. 11 CFR 101.3 (a) and 104.3(a) and (b). However, activity which occurred before 1984 must be reported separately.*

**HOW TO OBTAIN MORE INFORMATION**

During 1984, reporting forms and additional information will be sent to registered committees. Questions and requests for additional forms should be addressed to the Office of Public Communications, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463; or call 202/523-4068 or toll free 800/424-9530.

The Record is published by the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. Commissioners are: Lee Ann Elliott, Chairman; Thomas E. Harris, Vice Chairman; Joan D. Aikens; Danny Lee McDonald; John Warren McGarry; Frank P. Reiche; William F. Hildenbrand, Secretary of the Senate, Ex Officio; Benjamin J. Guthrie, Clerk of the House of Representatives, Ex Officio. For more information, call 202/523-4068 or toll-free 800/424-9530.

**SPECIAL ELECTIONS IN NEW JERSEY**

On June 5, 1984, the date of its regularly scheduled Congressional primary election, New Jersey will hold a special primary election in its 13th Congressional District. The special primary election is being held to nominate candidates for the House seat formerly held by the late Representative Edwin B. Forsythe. A special general election will be held on November 6, 1984.

The principal campaign committees of candidates participating in these special elections must file the appropriate pre- and post-election reports. All other political committees which support candidates in the special elections (and which do not report on a monthly basis) must also follow the reporting schedule detailed below. (Quarterly reports must also be filed, as appropriate. See reporting schedule on p. 2.)

Report	Closing Date of Books	Mailing Date	Filing Date
Pre-primary	5/16/84	5/21/84	5/24/84
Pre-general	10/17/84	10/22/84	10/25/84
Post-general	11/26/84	12/6/84	12/6/84

The FEC will send notices on reporting requirements and filing dates to individuals known to be actively pursuing election to this House seat. All other committees supporting candidates in the special elections should contact the Commission for more information on required reports. Call 202/523-4068 or toll free 800/424-9530.

**OPINIONS**

**ALTERNATE DISPOSITION OF ADVISORY OPINION REQUESTS**

- In response to AOR 1984-4 (Eligibility of membership organization's associate members for PAC solicitations), the General Counsel informed the requester in a letter issued May 15, 1984, that the Commission had failed to approve an advisory opinion by the requisite four-vote majority.
- AOR 1984-7 (Corporation's obligation to make solicitation method available to union) was withdrawn by its requester on April 12, 1984.

**ADVISORY OPINION REQUESTS**

The following chart lists recent requests for advisory opinions (AORs). The full text of each AOR is available to the public in the Commission's Office of Public Records.

**AOR Subject**

- 1984-14 Voter guides and voting records prepared and distributed by nonprofit corporation; supplemental request to AO 1983-43. (Date made public: March 30, 1984; Length: 1 page)
- 1984-15 National party committee's national media program advocating defeat of opposition Presidential candidate. (Date made public: April 3, 1984; Length: 2 pages, plus 2-page supplement)
- 1984-16 State party's endorsement convention as separate "election" for purposes of Senate campaign's contribution limits. (Date made public: April 10, 1984; Length: 1 page, plus 4-page supplement)
- 1984-17 Voter guides and voting records distributed by nonprofit ideological organizations. (Date made public: April 17, 1984; Length: 3 pages, plus 11-page supplement)
- 1984-18 Services provided by law partnership to facilitate contributions. (Date made public: April 17, 1984; Length: 1 page, plus 3-page supplement)
- 1984-19 Mock convention to nominate fictitious Presidential ticket. (Date made public: April 17, 1984; Length: 3 pages, plus 5-page supplement)
- 1984-20 Executive's leave of absence to work on Presidential campaign. (Date made public: April 17, 1984; Length: 7 pages, plus 3-page supplement)
- 1984-21 Contribution designated through real estate agent from sales commission paid by seller. (Date made public: April 19, 1984; Length: 1 page)
- 1984-22 Nonprofit corporation's solicitation of four membership classes. (Date made public: April 26, 1984; Length: 6 pages, plus 55-page supplement)
- 1984-23 Trade association's endorsement of Presidential candidate announced in house organs (sent to members and nonmembers) and press releases. (Date made public: April 27, 1984; Length: 1 page)

**AOR Subject**

- 1984-24 PAC's purchasing of goods and services from parent organization. (Date made public: May 7, 1984; Length: 12 pages)
- 1984-25 Matching funds for Presidential primary candidate of several political parties; ballot access. (Date made public: May 7, 1984; Length: 4 pages)

**ADVISORY OPINIONS: SUMMARIES**

An Advisory Opinion (AO) issued by the Commission provides guidance with regard to the specific situation described in the AOR. 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 1984-8: Per Diem Payment to Candidate for Campaign Travel**

While Representative John J. Duncan's authorized campaign committee (the committee) may pay him for his campaign-related travel expenses (e.g., lodging and food) on a "reasonable per diem" basis, both Rep. Duncan and the committee must keep certain specific records relating to the expenses. Moreover, the committee must report the payments. If the payments, in the aggregate, exceed \$200 for the calendar year, the committee must itemize them as "travel and subsistence expenses." Alternatively, if the candidate initially pays the expenses and later seeks reimbursement from the committee, the committee should itemize the expenses as "travel and subsistence expense reimbursements." 2 U.S.C. §434 (b); 11 CFR 104.3(b)(4).

Considered an agent of the committee when he makes campaign expenditures, Mr. Duncan must keep records of his travel and subsistence. The recordkeeping requirements will vary, depending on when he receives the per diem payments. If Rep. Duncan receives the per diem payments **before** he actually incurs campaign travel expenses, the payments are treated as advances for his travel and subsistence expenses. See 11 CFR 102.9(b)(2).

If Mr. Duncan receives the per diem payments as reimbursements **after** he has incurred and paid for campaign travel expenses from his own funds, he

must keep records in accordance with 11 CFR 102.9(b)(2). Commissioner Danny L. McDonald filed a dissent. (Date issued: April 20, 1984; Length: 4 pages, including dissent)

**AO 1984-10: Contribution Plan of Law Partnership with Federal Contractor**

Arnold & Porter, a law partnership, may not establish a political contribution plan for its partners because, as a federal contractor, the partnership is barred from making contributions to federal candidates on behalf of its partners. Since checks for the contributions were to be drawn on the partnership's general account, the plan would not comply with the rules governing federal contractors. Partners of a federal contractor partnership may make contributions only if:

1. The contributions are made in the name of the contributing partners; and
2. The contributions are made by checks drawn on the partners' personal checking accounts. (See AO 1975-31.)

Under the proposed plan, the partnership intended to make contributions from checks drawn on the general account that the firm uses for its day-to-day operations. The amount of any contribution made in the name of a participating partner was to be deducted from the partner's subsequent quarterly income distribution. Partners would not make contributions with checks drawn on their own personal accounts.

Under the Act and Commission Regulations, a partnership may make contributions, provided: 1) it does not exceed the per election monetary limits for contributions from persons, and 2) it attributes its contributions to both the partnership and the individual partners. However, section 115.4(a) of Commission Regulations provides that "the assets of a partnership which is a federal contractor may not be used to make contributions or expenditures in connection with federal elections." Although Arnold & Porter's proposed contribution plan satisfied the law's requirements concerning contribution limits, the partnership is prohibited from implementing the plan because it is a federal contractor and the proposed contributions were to be drawn on the firm's account. (Date issued: April 17, 1984; Length: 3 pages)

**AO 1984-11: Individual's Eligibility for Primary Matching Funds as Presidential Candidate of Several Third Parties**

Dennis Serrette, an individual who is seeking nomination during 1984 as the Presidential candidate of various independent parties in as many states as possible, and his principal campaign

*continued*

committee, Independents for Dennis Serrette, could become eligible for primary matching funds in 1984, provided Mr. Serrette met all the other eligibility requirements of the Primary Matching Fund Payment Account (the matching fund account). Should Mr. Serrette become eligible for primary matching funds, the matching payment period would end either: 1) on the date of his nomination for the Presidency by a state political party or 2) on the last day of the last major party's nominating convention, whichever date comes first. 26 U.S.C. §9032(6); 11 CFR 9032.6.

During the matching payment period, expenses Mr. Serrette incurs for petition drives conducted to obtain access to the general election ballot would constitute qualified expenses of his primary campaign, payable with matching funds. Moreover, once the matching payment period ends, Mr. Serrette could continue to receive private matchable contributions through December 31, 1984, provided: 1) he remains eligible for matching funds, and 2) his primary campaign has net outstanding campaign obligations. 11 CFR parts 9033 and 9034, 9034.1, 9033.5. (While matching funds received after the matching payment period may be used to liquidate primary debts, they may not be used to defray general election expenses. See 26 U.S.C. §§9002(11), 9012(c), 9042(b).)

#### **Establishing Matching Fund Eligibility**

Under Section 9033(b)(2) of the matching fund account, provided all other eligibility requirements are met, a Presidential primary candidate may establish matching fund eligibility by certifying that he or she "is seeking nomination by a political party to the office of President in more than one state." Mr. Serrette would satisfy this requirement by actively campaigning in various primary elections and nominating conventions, conducted by several parties in several states.

#### **Paying for Ballot Access Expenses With Matching Funds**

Under the matching fund account, qualified campaign expenses include expenditures related to the primary campaign that are made during the matching payment period (see definition above). 26 U.S.C. §§9032(a), 9033, 9038, 9042; 11 CFR 9032.9, 9033 and 9034.4. Consequently, if he established matching fund eligibility, ballot access expenses incurred by Mr. Serrette during the matching payment period would constitute qualified campaign expenditures, which may be paid with matching funds. Although these expenses would be incurred for petition drives necessary to have his name placed on the **general election** ballot, the Commission concluded that they would constitute legitimate expenditures of Mr. Serrette's primary campaign. The Commission based its conclusion on FEC Regulations which

recognize that, in the case of nonmajor candidates, efforts to qualify for a position on the general election ballot are similar, in purpose, to seeking nomination in a primary election or other nominating process. Thus ballot access expenditures are considered part of the primary campaign process. 11 CFR 100.2(c)(4). Furthermore, an FEC advisory opinion (AO 1975-44) established that, for third party candidates, the primary campaign period ends on the date on which the last major party convention nominates its Presidential candidate. (Mr. Serrette's petition drive expenditures fall within this period.)

Since Mr. Serrette is permitted to seek eligibility for matching funds as the candidate of several third parties, the Commission did not address the issue of whether he might establish eligibility as the candidate of a political party formed at a national convention held by the various parties, individuals and organizations supporting his candidacy. (Date issued: May 3, 1984; Length: 4 pages)

## **PRESIDENTIAL ELECTIONS**

#### **FEC TERMINATES LAROUCHE'S MATCHING FUND ELIGIBILITY**

On May 17, 1984, the Commission determined that, as of June 7, 1984, Lyndon H. LaRouche, Jr., a 1984 Presidential primary candidate, will no longer be eligible for primary matching funds under the Presidential Primary Matching Payment Account Act (the matching fund account). The Commission had certified Mr. LaRouche eligible for primary matching funds on April 12, 1984, after his campaign had satisfied all the eligibility requirements of the matching fund account. 11 CFR Parts 9033 and 9036. Mr. LaRouche became ineligible for public funds because he received less than 10 percent of the total popular votes cast in the May 5th Louisiana primary and the May 8th Maryland and Ohio primaries. A candidate becomes ineligible for primary matching funds on the 30th day following the date of the second consecutive primary in which he/she receives less than 10 percent of the total popular votes.\* The candidate may, however, reestablish

*\*Ineligible candidates may continue to receive primary matching funds to retire outstanding campaign debts incurred before the last date of ineligibility and to pay for costs of winding down their campaigns.*

eligibility for public funds by receiving at least 20 percent of the total votes in a primary election held subsequent to the one in which he or she became ineligible. See 11 CFR 9033.5(b) and 9033.8(b).

The Commission's determination in April that Mr. LaRouche was eligible for matching payments followed an initial determination on January 26, 1984, that the LaRouche campaign had failed to establish eligibility for primary matching funds in 1984.\* The Commission's initial ineligibility determination was based, in part, on the failure of Mr. LaRouche's 1980 campaign to: a) repay \$54,671.84 in primary matching funds to the U.S. Treasury, as required by an FEC repayment determination, and b) pay a \$15,000 civil penalty included in a conciliation agreement that the FEC had entered into with the 1980 campaign for violations of the election law.

In response to the Commission's initial ineligibility determination, Mr. LaRouche's 1980 campaign paid the \$15,000 civil penalty and partially repaid public funds that the FEC had determined were outstanding from the 1980 campaign. As a result, on April 5, 1984, the Commission decided that it would consider Mr. LaRouche's eligibility for primary matching funds during 1984, provided Mr. LaRouche: a) completes the repayment of the public funds,\*\* and b) signs an affidavit accepting liability for all civil penalties and repayments incurred by his 1980 campaign, as attested to in his 1979 letter of candidate agreements and certifications.\*\*\*

Since the LaRouche campaign complied with all these conditions during April, the Commission decided to certify Mr. LaRouche eligible for primary matching funds in 1984.

\*For a summary of the FEC's initial ineligibility determination, see p. 7 of the March 1984 Record.

\*\*See p. 11 for a summary of court action on this matter.

\*\*\*To become eligible for primary matching funds, a Presidential candidate must sign a letter of agreement and certifications in which the candidate and any authorized committee(s) agree, among other requirements, to pay any civil penalties included in a conciliation agreement entered into with the FEC and to repay public funds to the U.S. Treasury, if necessary. (See 11 CFR 9033.1 and 9033.2.)

**800 LINE**

**LOCAL AND STATE PARTY ORGANIZATIONS:  
EXEMPT ACTIVITIES**

This article responds to questions the Commission has received on the exempt activities conducted by local and state party political committees and unregistered party organizations.

State committees and local party committees and organizations may engage in certain activities, listed below, which benefit federal candidates but are exempt from the definition of contribution or expenditure. This means that the payments do not count against contribution limits or coordinated party expenditure limits. However, party committees (already registered with the Commission) must report payments for these activities. Party organizations (not registered with the FEC) have no reporting obligations, but they must use permissible funds\* to finance exempt activities on behalf of federal candidates. Note that when an unregistered, local party organization\*\* spends more than \$5,000 a year for exempt activities, it must register and report as a political committee. 11 CFR 100.5(c).

**1. Voter Drives for Presidential Nominee**

A state or local party committee or organization may conduct a voter registration or get-out-the-vote drive on behalf of its party's Presidential and Vice Presidential nominees. Phone banks operated by volunteers may be used in the drive. Payments for voter drive activities are not considered contributions or expenditures as long as the party committee or organization fulfills the following conditions:

**No Public Advertising.** The party committee or organization may not use public political adver-

*continued*

\*Money which may be used in connection with, or to influence, federal elections, i.e., contributions which comply with the election law's contribution limits and which do not come from prohibited sources such as corporations, labor organizations and foreign nationals.

\*\*An organization responsible for the day-to-day operation of a political party at the level of city, county, neighborhood, ward, district, precinct or any other subdivision of a state; or, any organization under the control or direction of the state party committee. 11 CFR 100.14(b).

tising,\* and it may not distribute materials by direct mail.\*\*

**No Prohibited Contributions.** The portion of the payment that is allocable to federal candidates must be made from funds that are permissible\*\*\* under the Act.

**No Designated Contributions.** The payments must not be made from funds designated for a particular candidate.

**No Funds From National Committee.** The payments must not be made from transfers made by the national party committee specifically to fund the activity; nor may the national committee give materials to the state or local committee or organization for distribution. 11 CFR 100.7(b)(15) and 100.8(b)(16).

Note that any reference to a candidate for the U.S. House or Senate must be merely incidental to the overall activity. Otherwise, the cost that is attributable to the House or Senate candidate is a contribution on behalf of that candidate.\*\*\*\* 11 CFR 100.7(b) (17), 100.8(b)(18) and 106.1(c)(3).

## 2. Campaign Materials

A state or local party committee or organization may pay for campaign materials (such as pins, bumper stickers, handbills or brochures) that are distributed by volunteers in connection with activity on behalf of the party's nominees. The payments are not considered contributions or expenditures if the following conditions are met:

**No Public Advertising.** The party committee or organization may not use public political advertising,\* and it may not distribute materials by direct mail.\*\*

**No Prohibited Contributions.** The portion of the payment that is allocable to federal candidates must be made from funds that are permissible\*\*\* under the Act.

\*Advertising to the general public through a broadcasting station, newspaper, magazine, poster, yard sign, outdoor advertising facility (such as a billboard). 11 CFR 100.7(b)(15)(i), 100.7(b)(17)(i) and 110.11(a)(1).

\*\*Direct mail is a mailing by a commercial vendor or by using commercial lists. 11 CFR 100.7(b)(15)(i) and 100.7(b)(17)(i).

\*\*\*Contributions which comply with the election law's contribution limits and which do not come from prohibited sources such as corporations, labor organizations and foreign nationals.

\*\*\*\*An unregistered party organization (either state or local) must register as a political committee if its contributions and expenditures to influence federal elections exceed \$1,000 per year. 11 CFR 100.5(c).

**No Designated Contributions.** The payments must not be made from funds designated for a particular candidate.

**No Funds From National Committee.** The payments must not be made from transfers made by the national party committee specifically to fund the activity; nor may the national committee give materials to the state or local committee or organization for distribution. 11 CFR 100.7(b)(15) and 100.8(b)(16).

## 3. Slate Card/Sample Ballot

A state or local party committee or organization may prepare and distribute a slate card, sample ballot, palm card (or other printed list) naming three or more candidates for any public office. The payments are not considered contributions or expenditures if the following conditions are met:

**No Public Advertising.** No public political advertising\* may be used in displaying the list, but it may be distributed by direct mail.

**No Prohibited Contributions.** The portion of the payment that is allocable to federal candidates must be made from funds that are permissible\*\*\* under the Act even though the payments are not considered contributions or expenditures. 11 CFR 100.7(b)(9) and 100.8(b)(10).

**Information Restricted.** The content of the list is limited to the identification of the candidate (pictures may be used), the office or position currently held, the elective office sought and party affiliation. Certain voting information, such as time, place and instructions on voting a straight party ticket, may be given. The list may not include, however, additional biographical data on candidates, their positions on political issues or statements on party philosophy. AOs 1978-9 and 1978-89.

# FEDERAL REGISTER

Copies of these notices are available in the Public Records Office.

## Notice Title

1984-6 Filing Dates for New Jersey Special Primary and General Elections (49 Fed. Reg. 18621, May 1, 1984)

1984-7 11 CFR Part 114: Solicitation of Indirect Members by Federated Cooperatives; Advance Notice of Proposed Rulemaking (seeks additional comments on rule-making petition filed by National Council of Farmer Cooperatives) (49 Fed. Reg. 20831, May 17, 1984)



**PUBLIC APPEARANCES**

- 6/6/84 University of Hartford  
West Hartford, Connecticut  
Chairman Lee Ann Elliott
- 6/8/84 The National Chamber Litigation  
Center  
Washington, D.C.  
Chairman Lee Ann Elliott
- 6/8/84 Investigative Reporters and  
Editors  
National Conference  
Miami, Florida  
Kent Cooper, Assistant Staff  
Director, Public Disclosure  
Fred Eiland, Press Officer  
Lawrence M. Noble, Deputy  
General Counsel
- 6/12/84 Birch Wathen School  
New York, New York  
Charles N. Steele,  
General Counsel
- 6/13/84 Women in Government Relations,  
Inc.  
Washington, D.C.  
Chairman Lee Ann Elliott
- 6/14/84 The American University  
Washington, D.C.  
Commissioner Joan D. Aikens
- 6/22/84 State Board of Elections  
Workshop  
Richmond, Virginia  
Chairman Lee Ann Elliott  
Louise Wides, Deputy Assistant  
Staff Director, Information  
Kathlene Beuzard, Public Affairs  
Specialist  
Dan Zoller, Public Affairs  
Specialist
- 6/29/84 Walsh College of Accountancy  
and Business Administration  
Troy, Michigan  
Paul Sullivan, Executive Assistant  
to Chairman Lee Ann Elliott  
Roberta Werfel, Chief,  
Public Communications  
Pam Brown, Senior Reports  
Analyst

**LEGISLATION****FEC's 1984 LEGISLATIVE  
RECOMMENDATIONS**

On March 15, 1984, the Commission transmitted to Congress and the President 19 legislative recommendations affecting the FEC's administration of the Federal Election Campaign Act (the Act). The Commission is statutorily mandated to submit recommendations each year "for any legislative or other action the Commission considers appropriate. . . ." 2 U.S.C. §438(a) (9).

In forwarding the recommendations, FEC Chairman Lee Ann Elliott stated that their primary value is to acquaint Congress and the public with difficulties the Commission has encountered in administering the election law. "While preparing these recommendations," Chairman Elliott explained, "the Commission was less concerned about finding perfect solutions than with defining problems and identifying possible solutions." Included among the Commission's 19 recommendations were suggestions that Congress:

- Reaffirm its intent that draft committees are "political committees" subject to the reporting requirements, prohibitions and limits of the Act.
- Give the Commission authority to grant general waivers or exemptions from the Act's reporting requirements for certain categories of political committees.
- Clarify the nature and scope of the Commission's authority to determine the insolvency of political committees and the liquidation of their assets.
- Consider modifying the statutory language pertaining to "reason to believe" findings in enforcement cases in order to reduce the confusion sometimes experienced by respondents, the press and the public.
- Clarify that a political committee not authorized by a candidate may not use the candidate's name in any "project" or fundraising activity.
- Clarify whether volunteer activity is intended to include professional services donated primarily for fundraising purposes rather than for actual campaigning.
- Make the FEC the sole point of entry for all disclosure documents filed by federal candidates and political committees.
- Provide a separate spending limit for party expenditures made by local party committees in Presidential elections.
- Eliminate state-by-state spending limits for publicly funded Presidential primary candidates.

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- Examine the application of contribution limits to a candidate's immediate family members.
- Define the extent to which foreign nationals may participate, if at all, in any American elections.
- Prohibit persons from fraudulently representing themselves as agents of candidates or political parties for the purpose of soliciting contributions which they do not forward to the candidates or parties or use on their behalf.

#### **FEC TESTIFIES ON FY 1985 BUDGET**

During four Congressional hearings held in March and April, Commissioner John Warren McGarry, Chairman of the FEC's Finance Committee, requested a \$13.648 million budget for the Commission for fiscal year (FY) 1985. Accompanied by FEC Chairman Lee Ann Elliott, Commissioner Joan D. Aikens, FEC Staff Director John Surina and General Counsel Charles Steele, Commissioner McGarry testified before four Congressional Committees: the Subcommittee on Treasury, Postal Service and General Government of the U.S. Senate Committee on Appropriations; the Senate Committee on Rules and Administration; the House Committee on Appropriations' Subcommittee on Treasury, Postal Service and General Government and the Task Force on Elections of the Committee on House Administration.

Addressing the difference between the FEC's \$13.648 million budget request for FY 1985 and the Administration's corresponding \$10.230 million proposal for the Commission, Commissioner McGarry said that the Administration's recommendation is "inconsistent with the Federal Election Commission's compelling need for alternative quarters, as well as our unique responsibilities in 1984 and 1985 [resulting from the Presidential elections]. We assume that, in making the proposal, the Administration actually intended to defer to Congress as to our justifiable needs."

#### **Alternative Office Space for the FEC**

According to a GSA facilities study made available to the FEC's Congressional oversight committees, renovation of the FEC's present space would be more expensive than relocation of the agency, Commissioner McGarry stated. The study indicated that the present office space had become inefficient and unsafe through extensive use by the public and FEC staff, as well as by deferral of fundamental building maintenance. "In short," Mr. McGarry said, "the Commission has no choice or control over this matter . . . . While our request includes \$850,000 for this purpose, the additional cost in 1985 will actually be closer to \$1.2 million."

#### **Resources for Administering the Law**

Commissioner McGarry testified that, to fulfill its statutorily mandated duties, the FEC will need adequate funding during FY 1985 for the following functions:

**Computer Services.** Commissioner McGarry testified that the "explosive growth in campaign spending" since 1976 has placed a corresponding burden on the FEC's disclosure function. In renewing its computer contract, the FEC must therefore "obtain the most current and efficient technology available" to process the large volume of reports filed with the Commission. Moreover, the agency will need funds to restore computer functions that were previously reduced because of budget cuts as, for example, computer entry of statutorily mandated information on contributions over \$200.

**Audits.** The FEC's audit capabilities, which were reduced during 1982 and only partially restored during 1983, should be rebuilt, Commissioner McGarry maintained. While the FEC audit staff "will be almost exclusively involved in the Presidential public funding program early in 1985," the Commissioner said the law requires the Commission to initiate Congressional audits (for cause) within six months after the election. "Even with four additional audit positions our audit staff will be only two-thirds of that maintained in 1980-81," the Commissioner observed.

**Enforcement of the Law.** Commissioner McGarry noted that the FEC's "compliance program reinforces the disclosure requirements and seeks to remedy violations of the law . . . . Staff positions in the General Counsel's Office should be increased during the Presidential election year in response to the increased legal work generated by the growth in the number of political committees filing reports and in the number of transactions being reported." The FEC also seeks additional funding to undertake a comprehensive review of its regulations.

**Presidential Elections.** Commissioner McGarry emphasized the need for additional funds to adequately administer the Presidential public funding program. "By far, the greatest added responsibility the Commission faces in the election cycle revolves around the Presidential primary and general elections," he said. The certification of funds to qualified Presidential candidates and the party's Presidential nominating conventions, as well as mandatory audits of public funding recipients, "represents a major undertaking, beginning in 1984 and continuing well into 1985."

**National Clearinghouse on Election Administration Projects.** Commissioner McGarry requested funds that would allow the Clearinghouse to develop voluntary standards for voting systems as a

follow-up to a Congressionally mandated study on their need and to restore other research programs. He underlined the direct benefit of these programs to "those state and local election officials who are essential to proper administration of federal elections."

In closing, Commissioner McGarry reiterated the rationale cited by both Congress and the courts for an effectively administered FEC. "Almost as important as the material benefit to the electoral process which flows from our efforts is the contribution made by a credible Federal Election Commission to enhancing the general public's faith in the integrity of the American political system."

## COURT CASES

### CITIZENS FOR LaROUCHE v. FEC

On January 31, 1984, the U.S. Court of Appeals for the District of Columbia Circuit issued an order dismissing a petition that Lyndon H. LaRouche, Jr., a publicly funded candidate for the Democratic Party's Presidential nomination in 1980, and Citizens for LaRouche, his principal campaign committee, had filed with the court on January 11, 1983. (*Citizens for LaRouche v. FEC*; Civil Action No. 83-1050) Pursuant to 26 U.S.C. §9041, the LaRouche campaign had asked the appeals court to review a final repayment determination that the FEC had made on December 16, 1982. The court's action affirmed the FEC's determination that the LaRouche campaign had to repay \$54,671.84 in primary matching funds to the U.S. Treasury.

### NEW LITIGATION

#### USDC v. FEC

The United States Defense Committee (USDC) asks the U.S. District Court of the Northern District of New York to take action with respect to the Commission's Advisory Opinion 1983-43.

In that opinion, issued to USDC on January 26, 1984, the Commission said that expenditures for certain voter guides which USDC proposed to compile and distribute to the general public were prohibited by 2 U.S.C. §441b and former 11 CFR 114.4(c)(3)\* because, as drafted, their language

\*Under the FEC's revised regulations, prescribed in March 1984, expenditures for voter guides are governed by 11 CFR 114.4(b)(5). During April, USDC requested a second opinion based on the new regulations (AOR 1984-14).

suggested an election-influencing purpose. (Taken together, these provisions prohibit corporations, labor organizations and incorporated membership organizations from distributing to the general public voter guides that favor one candidate or political party over another.)

In response to the FEC's decision (AO 1983-43), USDC asks the court to declare that:

- Expenditures USDC proposes to make for the voter guides are not proscribed by FEC Regulations; and
- The Commission, in issuing the opinion to USDC, erred in its construction and application of FEC Regulations to the proposed voter guides.

Alternatively, USDC asks the district court to certify the following constitutional questions to an en banc court of appeals:

- Whether 2 U.S.C. §441b and former 11 CFR 114.4(c)(3) violate USDC's First Amendment rights by prohibiting USDC from compiling and distributing to the general public materials which address public issues, as well as federal candidates' positions on those issues.
- Whether these provisions are unconstitutionally vague under the First and Fifth Amendments, to the extent that they proscribe USDC's proposed expenditures.
- Whether section 441b abridges First and Fifth Amendment rights by discriminating between incorporated organizations like USDC and the press. (Costs incurred by news media corporations for bona fide coverage of political events are exempt from the election law's broad prohibition on corporate expenditures, provided the news corporation is not owned or controlled by any political party, political committee or candidate.)

Furthermore, after a full panel of the appeals court has heard USDC's constitutional questions, USDC asks the court to:

- Declare that 2 U.S.C. §441b and 11 CFR 114.4(c)(3) are unconstitutional, null and void on their face and as applied to USDC's proposed activities;
- Declare that expenditures USDC proposes to make for voter guides and voting records, as described in its advisory opinion request, as supplemented, are not subject to the election law and Commission Regulations; and
- Enjoin the FEC from enforcing or applying 2 U.S.C. §441b and 11 CFR 114.4(c)(3) to USDC's proposed communication activities.

U.S. District Court for the Northern District of New York, Docket No. 84-CV-450, March 28, 1984.

## AUDITS

### AUDITS RELEASED TO THE PUBLIC

The following is a chronological listing of audits released by the Commission between August 18, 1983, and May 3, 1984. The audit reports are available to the general public in the Public Records Office.

1. Democratic State Central Committee -- Federal Account (final audit report released August 18, 1983)
2. Friends of Peyser (final audit report released August 23, 1983)
3. Mid-America Conservative PAC (final audit report released September 12, 1983)
4. Don Mills for Congress -- Principal Campaign Committee; Kentuckians for a Democratic Congress -- Authorized Joint Fundraising Committee (final audit report released September 12, 1983)
5. Tony Guglielmo for Congress Committee (final audit report released October 13, 1983)
6. Continental Telecom, Inc., PAC (final audit report released October 18, 1983)
7. Steve Joachim for Congress Committee (final audit report released October 25, 1983)
8. West Virginia Republican State Executive Committee (final audit report released November 4, 1983)
9. Texas Democratic Party -- Federal Account (final audit report released November 14, 1983)
10. Cork -- Nonconnected Political Committee (final audit report released November 21, 1983)
11. Committee for Congressman R. V. Dellums (final audit report released November 28, 1983)
12. Oklahoma Republican State Committee (final audit report released December 1, 1983)
13. Committee on Letter Carriers Political Education (final audit report released December 20, 1983)
14. Michigan People for Jim Dunn (final audit report released December 20, 1983)
15. General Telephone and Electronics Corporation Good Government Club (final audit report released January 17, 1984)
16. Utah Republican Party -- Federal Account (final audit report released February 3, 1984)
17. Webb Franklin for Congress Committee (final audit report released February 3, 1984)
18. Californians for Better Leadership (final audit report released February 14, 1984)
19. Monterey County Republican Central Committee (final audit report released February 22, 1984)
20. Pensioners Action Fund (final audit report released March 26, 1984)
21. 1982 Victory Fund (final audit report released April 11, 1984)
22. Rhode Island Republican Campaign Committee (final audit report released May 3, 1984)

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