



THE FEDERAL ELECTION COMMISSION

RECORD

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

Volume 7, Number 2

February 1981

COMMISSIONERS

NEW OFFICERS ELECTED

On December 18, 1980, the Federal Election Commission unanimously elected John Warren McGarry as Chairman and Frank P. Reiche as Vice Chairman for one-year terms commencing January 1, 1981. Chairman McGarry succeeded Max L. Friedersdorf, who resigned from the Commission on December 16 to serve as Assistant to the President for Legislative Affairs.

New Procedures for Electing Officers

The December election of its new officers marked a change in the Commission's procedures. Previously the election of officers had occurred in May. Beginning in 1981, the Chairman and Vice Chairman will be elected at the last public meeting in December of each year, and their terms will coincide with the calendar year.

New Officers

Chairman McGarry, a member of the FEC since October 25, 1978, had served as Vice Chairman since May 1980. Prior to his appointment to the Commission, Mr. McGarry served from 1973 to 1978 as Special Counsel on Elections to the Committee on House Administration, U. S. House of Representatives. Between 1963 and 1973, he combined private law practice with service as Chief Counsel for the House Special Committee to Investigate Campaign Expenditures. Mr. McGarry also served as Assistant Attorney General of Massachusetts from 1959 to 1962. His term on the Commission will expire on April 30, 1983.

Prior to his appointment to the Commission in 1979, Vice Chairman Reiche was a partner in the Princeton, N. J. law firm of Smith, Stratton, Wise and Heher. He served as a member of New Jersey Governor William T. Cahill's Tax Policy Committee from 1970 to 1972. Governor Cahill appointed Mr. Reiche Chairman of the first New Jersey Election Law Enforcement Commission in 1973; he was reappointed as Chairman by Governor Brendan Byrne in 1975. During 1977-78, he also served as chairman of the Steering Committee of Interstate Agencies, which led to the

organization of the Council on Governmental Ethics Laws in December 1978. Mr. Reiche's term as an FEC Commissioner will expire on April 30, 1985.

THOMSON RECEIVES INTERIM APPOINTMENT AS COMMISSIONER

On January 2, 1981, President Carter gave former FEC Commissioner Vernon W. Thomson an interim appointment as Commissioner to fill the vacancy created by Commissioner Max L. Friedersdorf's resignation. (See *New Officers*, above.) On January 5, Mr. Thomson was sworn in at the Commission, with Chairman John Warren McGarry presiding.

A former member of Congress from Wisconsin (1961-75), Mr. Thomson was one of the original Commissioners of the FEC, serving between 1975 and 1979. He was chairman of the Commission between 1976 and 1977. Prior to his Congressional career, Commissioner Thomson served as Governor of Wisconsin. He also held a seat in the Wisconsin State Assembly for sixteen years, including three consecutive terms as Speaker. Mr. Thomson's career also included service in Wisconsin as Attorney General, Assistant District Attorney of Richland County and City Attorney and Mayor of Richland Center.

PUBLIC FINANCING

FINAL CERTIFICATION TO ANDERSON CAMPAIGN

On January 8, 1981, the Commission determined that new party Presidential candidate John B. Anderson and his running mate Patrick J. Lucey were eligible for a maximum post-general election entitlement of \$4,242,304. The Commission based this final certification on procedures it had established for new party candidates on November 6, 1980, pursuant to 26 U.S.C. §§9004(a)(3) and 9005(a). (See the December 1980 *Record*.) This entitlement reflects the official vote results obtained from state election boards

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and compiled by the FEC's Clearinghouse on Election Administration. (See p. 2.)

On November 13, 1980, within ten days of determining their eligibility for post-election funding, the Commission had certified an initial payment of \$4,164,906.24 to the candidates and their principal campaign committee, the National Unity Campaign for John Anderson. This initial payment was based on the unofficial vote results, plus a one percent "holdback" that reflected the traditional difference between the unofficial and official vote results. To adjust the difference between the Anderson campaign's initial and final entitlements, therefore, the Commission certified an additional payment of \$77,397.76.

INFORMATION

OFFICIAL VOTE RETURNS FOR 1980 PRESIDENTIAL ELECTION

Almost 54 percent of eligible American voters cast ballots for President in the 1980 general election, according to official vote totals compiled and released on December 31, 1980, by the Federal Election Commission's Clearinghouse on Election Administration. Based on official reports from individual state election offices, the Clearinghouse determined that 86,495,678 votes were cast for 21 Presidential candidates appearing on various state ballots and write-in ballots. This represents a voter turnout of 53.95 percent.

The FEC report shows that Republican Ronald Reagan received 43,899,248 votes, representing 50.75 percent of the total; Democrat Jimmy Carter, 35,481 votes or 41.02 percent; Independent John Anderson, 5,719,437 votes or 6.61 percent; and Libertarian Ed Clark, 920,859 or 1.06 percent. Because election laws vary from one state to another, the official vote returns for the 1980 Presidential election are based on individual state definitions of a valid vote cast and counted for a candidate.

OPINIONS

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
1980-144*	Application of the Act to Presidential inaugural committee.	12/19/80	18
1980-145	Solicitation of contributions to retire candidate committee's debts.	12/29/80	3
1980-146	Trade association solicitation of combined dues and contribution to separate segregated fund.	12/29/80	2
1980-147	Use of excess campaign funds to refund candidate's contributions to his principal campaign committee.	12/30/80	2
1981-1	Disclosure by 1972 political committees supporting Presidential candidate of remaining surplus funds; transfer of funds to party county committee.	1/6/81	3
1981-2	Campaign funds used for swearing-in reception.	1/15/81	1
1981-3	Corporate payments for ads in magazine of party committee.	1/15/81	1
1981-4	Contribution of professional association's PAC through checkoff on membership dues statements.	1/15/81	1

*See p. 6 for a summary of the advisory opinion issued in January.

The RECORD is published by the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. Commissioners are: John Warren McGarry, Chairman; Frank P. Reiche, Vice Chairman; Joan D. Aikens, Thomas E. Harris; Vernon W. Thomson; Robert O. Tiernan; William F. Hildenbrand, Secretary of the Senate, Ex Officio; Edmund L. Henshaw, Jr., Clerk of the House of Representatives, Ex Officio. For more information, call 202/523-4068 or toll-free 800/424-9530.

ALTERNATE DISPOSITION OF ADVISORY OPINION REQUESTS

- AOR 1980-124 (use of trust funds of unknown source for federal elections) was closed as incomplete (i.e., as containing insufficient information) in a letter issued by the General Counsel on December 22, 1980.
- In response to AOR 1980-136 (artwork given to creditors as debt settlement by Presidential primary committee), the General Counsel informed the requester in a letter issued January 8, 1981, that the Commission had failed to approve an advisory opinion by the requisite four-vote majority.

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 1980-6: Association's Solicitation Plan; Contributions Made by Corporate Check
Association's Solicitation Plan. A plan proposed by the Farm Bureau, Inc. (the Farm Bureau), a trade association, to solicit contributions from its members is not permissible under the Act and Commission Regulations.

Under the plan, the Farm Bureau would have combined the collection of annual membership dues with the solicitation of contributions to its proposed separate segregated fund, Agripac. Members would have been billed for both a contribution to Agripac (in an amount specified by the Farm Bureau) and their dues. Members who did not wish to contribute to Agripac could then have requested a refund for the amount of the contribution. The plan is not permissible because the Farm Bureau would not have merely suggested contribution guidelines, permitted by 11 CFR 114.5(a)(2), but it would have required that contributions be for a specified amount. Moreover, the Farm Bureau would not have informed the members that they were free to contribute more or less than the specified amount, as required by 11 CFR 114.5(a)(2) through (5).

Since the Farm Bureau's solicitation plan was not permissible, the Commission did not decide on whether the method it proposed for separating contributions and dues was permissible.

Contributions Made By Corporate Check. An individual who is a stockholder in a small, closely-held corporation may not make a combined payment of membership dues and a contribution to the Farm Bureau with the corporation's check. Payment by corporate check would result in

a prohibited contribution from the corporation unless the check were drawn on a nonrepayable corporate account established for the individual. (Date Issued: April 9, 1980; Length: 4 pages)

AO 1980-18: Separate Segregated Fund Established by Four Affiliated Corporations

Four affiliated corporations, the Kanter Corporation, ITI Corporation, National Bank of Florida and the Bank of Florida in South Florida, may jointly sponsor a separate segregated fund, KAN PAC.* Neither the Act nor Commission Regulations preclude joint sponsorship of KAN PAC by the four corporations because they meet the requirements for affiliation spelled out in Commission Regulations at 11 CFR 110.3(a)(1)(iii)(A). Specifically, the controlling interest in the voting stock of each company is owned beneficially by Joseph H. Kanter or the Kanter Corporation, which, in turn, is owned by Mr. Kanter and his immediate family. Since the corporations meet the affiliation requirement, their proposed plan to allocate KAN PAC's administrative and solicitation expenses (which are not reportable as contributions or expenditures under the Act) would also be permissible. 2 U.S.C. §§431(8)(B)(vi) and (9)(B)(v). (Date Issued: April 25, 1980; Length: 3 pages)

*KAN PAC's official title will include the names of all four corporations as required by 2 U.S.C. §432(e)(5).

AO 1980-63: Costs of Fundraiser as In-Kind Contribution

Costs (\$250) incurred by Mr. Collis Chandler for co-hosting a fundraiser on behalf of the Committee for Tim Wirth (the Committee) are reportable as an in-kind contribution to the Committee. Comparable costs (\$250) incurred by his co-host, Mr. Michael Murphy, are not, however, reportable as a contribution because the fundraiser was held in his home. Under the 1979 Amendments to the Act, the costs of providing volunteer services on behalf of candidates, including costs of invitations, food and beverages, are not considered contributions to the candidate if:

1. The volunteer activity is conducted in the individual's home or a church or community room; and
2. The costs for such volunteer activity do not exceed \$1,000 per election. 2 U.S.C. §437f; 11 CFR 100.7(b)(4) and (5). (Date Issued: June 30, 1980; Length: 2 pages)

AO 1980-106: Summary of Presidential Candidates' Positions on Public Issues Published by Unincorporated Association

Payments made by FaithAmerica, an unincorporated association of Christian laymen, to publish and distribute a proposed brochure summarizing Presidential candidates' views would constitute "expenditures" made for the purpose of influencing a federal election. The payments would be considered "expenditures" because the information, and the manner in which it was to be presented, were designed to influence the reader's choice in the 1980 Presidential election rather than to promote discussion of public issues. The publication listed the position of each

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Presidential candidate, pro or con, on issues of concern to Christian clergy and laymen. Moreover, FaithAmerica planned to distribute the publication close to the time of the Presidential election. If the expenditures for the proposed publication exceeded \$1,000 during 1980, FaithAmerica would have to register and report as a political committee. 2 U.S.C. §§431, 433 and 434. (Date Issued: December 23, 1980; Length: 4 pages)

**AO 1980-122: General Election Contributions
Used to Retire Primary Debts**

New Yorkers for Myerson, Inc. (the Committee), the principal campaign committee of Bess Myerson's campaign for the U.S. Senate, may not use contributions earmarked for the general election campaign to retire debts of her primary campaign. Miss Myerson was a candidate only in the primary, and all the Committee's debts and obligations were incurred for that election. Since the contributions earmarked for the general election were from individuals who had already contributed up to \$1,000 to Miss Myerson's primary campaign, use of these contributions to retire primary debts would cause the contributors to exceed their primary election limits (\$1,000 per donor). 2 U.S.C. §441a(a)(1)(A). The Committee must, therefore, return these earmarked contributions to the contributors to avoid receipt of contributions in excess of the limits. (Date Issued: December 22, 1980; Length: 3 pages)

**AO 1980-126: Political Committee Status
of Get-Out-The-Vote Activity**

Independent Voters for a Republican Victory (Independent Voters), a political organization established by Mr. Warren Lewis, is a "political committee" under the Act even though Mr. Lewis alone was responsible for the committee's activity and decisions (i.e., establishing a bank account in the organization's name, soliciting contributions, preparing and distributing a brochure urging independent voters to vote for Republican candidates in the 1980 general elections). 2 U.S.C. §431(4)(a); 11 CFR 100.5(a). As such, Independent Voters is subject to all applicable provisions of the Act, including the registration and reporting requirements of 2 U.S.C. §§433 and 434.

Mr. Lewis and the contributors to Independent Voters constitute a political committee because they comprise "... a group of persons ..." that received or spent more than \$1,000 to influence a federal election. 2 U.S.C. §431(4)(A). Also relevant are the facts that Mr. Lewis:

1. Established an organizational identity (all contributions were solicited to, and deposited in a bank account established in the name of, Independent Voters); and
2. Reached beyond his personal funds to involve numerous people in the same activity by soliciting contributions from a broad range of persons across the country. Moreover, these contributors divested themselves of any control over how the organization's funds were spent. (Date Issued: December 22, 1980; Length: 3 pages)

**AO 1980-132: Contributions from Partnership
with One Corporate Member**

Contributions made by Multivisions, a partnership with one corporate partner, to the primary and general election campaigns of Alaskans for Gruening do not constitute prohibited corporate contributions because Multivisions did not attribute any portion of the contributions to the corporate member. When making a contribution, Multivisions could choose to attribute a contribution to only certain individual partners as long as:

1. The contributing partners' respective profits were reduced (or their losses increased) by the exact amount of the portion of the contribution attributed to them;
2. The profits (or losses) of only the contributing partners were affected;
3. The contributions did not affect the corporate member's share of profits (or losses);
4. The portion of the contribution attributed to each individual partner did not exceed his or her contribution limits (2 U.S.C. §437f and 11 CFR 110.1(e)(2)); and
5. The contributions were reported pursuant to 2 U.S.C. §434. (Date Issued: December 12, 1980; Length: 2 pages)

**AO 1980-133: Solicitation to Labor PAC Through
Checkoff from Membership Dues**

The Central States Joint Board International Union of Allied, Novelty and Production Workers, AFL-CIO (the Joint Board) may not use a procedure it proposed for soliciting contributions to its separate segregated fund.

Under the Joint Board's proposed solicitation plan, individual members of the local affiliates would be asked to make voluntary contributions by designating a portion of their monthly dues to the fund without increasing total dues required. Donors would have the option of not contributing any portion of their dues to the separate segregated fund, in which case they would still pay the full amount of dues. Commission Regulations explicitly prohibit the plan because, in effect, it would result in a transfer of funds from the local affiliate's general treasury to the separate segregated fund. 11 CFR 114.5(a)(1) and 114.5(b). (Date Issued: December 22, 1980; Length: 2 pages)

**AO 1980-134: Application of Contribution Limits
to Independent Senate Campaign**

If Senator Lowell Weicker campaigns for reelection in 1982 as an independent, rather than as a Republican candidate, his principal campaign committee, Weicker '82 Committee (the Committee), may:

1. Accept up to \$1,000 from an individual for the primary election and up to \$1,000 from the same individual for the general election; and
2. Accept contributions for both the primary and general election campaigns prior to the primary election. All contributions for the general election must, however, be so designated. Moreover, the Committee must use an acceptable accounting method to distinguish between primary and general election contributions and may have to return general election contributions if Senator Weicker does not campaign in that election.

If Senator Weicker campaigns as a minor or new party candidate (i.e., a candidate "without nomination by a

major party") instead of as an independent, the same contribution limits will apply.

As an independent or as a minor or new party candidate, Senator Weicker may select one of three primary election dates provided by FEC Regulations. See 11 CFR 100.2 (c)(4)(i), (ii) and (iii).

The Commission did not decide on any separate issues that may arise if Senator Weicker changes his current Republican filing status after he qualifies for the ballot under Connecticut law. (Date Issued: December 22, 1980; Length: 3 pages)

AO 1980-135: Payments Made by Corporation to Indemnify Staff of its Separate Segregated Fund Against Legal Liability

Payments made by the Raytheon Company (the Corporation) to indemnify corporate officers and employees against any legal liability (e.g., fines, judgments or settle-

ments) incurred in connection with activities of the Corporation's separate segregated fund (the Committee) are permissible. Such payments constitute expenses of administering the Committee rather than prohibited corporate contributions. 2 U.S.C. §§431(8)(B)(vi) and 441b(b)(2)(C); 11 CFR 114.11(b). (Date Issued: December 22, 1980; Length: 2 pages)

AO 1980-137: Candidate's Use of His Company's Resources to Comply with the Act

Costs incurred by Mr. Don L. Richardson's company, Logic Systems, Inc., in providing accounting services to Mr. Richardson's Senate campaign are exempt from the Act's definitions of contribution and expenditure. 11 CFR 114.1(a)(2)(vii). His company's personnel may provide accounting services, including use of the company's computer equipment to produce computerized schedules of contributions and expenditures required for Mr. Richardson's campaign reports, as long as:

1. The services are rendered solely to ensure that the campaign committee complies with the Act;
2. The company does not hire additional personnel to either render the accounting services or to enable personnel already employed to render the services; and
3. The company's costs for the services are reported by Mr. Richardson's campaign committee in accordance with

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REGULATIONS

STATUS OF FEC REGULATIONS			
Regulations*	Date Sent to Congress	Federal Register Publication	Date Prescribed** by the Commission
11 CFR 9033.9 Suspension of Primary Matching Fund Payments	4/10/80	4/15/80 (45 FR 25378)	7/3/80
11 CFR Part 4 Public Records and the Freedom of Information Act	Not applicable	5/13/80 (45 FR 31291)	6/12/80
11 CFR Part 5 Access to Public Disclosure Division Documents	Not applicable	5/13/80 (45 FR 31292)	6/12/80
11 CFR, Parts 100 and 110 Contributions to and Expenditures by Delegates to National Nominating Conventions	5/14/80	5/23/80 (45 FR 34865)	8/7/80
11 CFR, Parts 100, 106, 110, 140-146 and 9001-9007 Public Financing of Presidential General Election Campaigns	6/13/80	6/27/80 (45 FR 43371)	9/5/80
<p>*The chart is cumulative, listing all amendments to the FEC Regulations proposed after the April 1980 edition of 11 CFR was published, including any technical amendments.</p> <p>**The Commission may prescribe its regulations 30 legislative days after it has transmitted them to Congress, provided neither the House nor the Senate disapproves them during this period.</p>			

Part 104 of Commission Regulations. See also 2 U.S.C. §§431(8)(B)(ix) and 431(9)(B)(vii). (Date Issued: January 16, 1981; Length: 3 pages)

AO 1980-138: Senator-Elect's Use of Excess Campaign Funds for Transition Expenses, Winding Down Costs and Living Expenses

Senator-elect Frank H. Murkowski could use excess campaign funds of his 1980 Senatorial campaign to pay for his transition expenses (e.g., travel between Alaska and Washington, D.C., moving his family to Washington and maintaining a transition office between November 5, 1980, and the date he was sworn in as a U.S. Senator). The Act and Commission Regulations permit a candidate or individual to use excess campaign funds for "ordinary and necessary expenses" incidental to his/her duties as a federal officeholder. 2 U.S.C. §439a and 11 CFR 113. Although Mr. Murkowski had not yet been sworn in as a U.S. Senator, he nevertheless could use excess campaign funds in these ways because federal officeholder is defined as "an individual elected to or serving in the office of . . . Senator . . ." 11 CFR 113.1(c). The Senator-elect's principal campaign committee could also use the excess funds to pay costs of winding down his campaign (e.g., office rental, postage, staff salaries and telephone costs) because campaign committees have wide discretion in determining how campaign funds may be spent in winding down a campaign. The campaign committee, however, had to report these costs pursuant to 2 U.S.C. §434.

Mr. Murkowski could not, however, use the excess funds to pay his living expenses or those of his family during the transition period since these were not incidental to his election but rather were "personal expenses." Only those federal officeholders who were members of Congress when the 1979 Amendments to the Act were passed on January 8, 1980, could use excess campaign funds for such personal expenses. 11 CFR 113.1(c). (Date Issued: December 22, 1980; Length: 3 pages)

AO 1980-140: Income From Radio Commentaries Not Honorarium

Compensation that Senator Robert Dole receives for making periodic radio commentaries under contract to O'Connor Creative Services, Inc. constitutes a stipend, rather than an honorarium subject to the \$25,000 per year limit. Under the Act and FEC Regulations, compensation by news media that is paid on a continuing basis for commentary on events other than the campaign of the individual compensated is considered a stipend, not an honorarium. 2 U.S.C. §441i; 11 CFR 110.12(a)(2) and (c)(3).

The Commission expressed no opinion on relevant tax laws or Senate rules since they are beyond its jurisdiction. (Date Issued: January 9, 1981; Length: 2 pages)

AO 1980-144: Status of Inaugural Committee as Political Committee

The Presidential Inaugural Committee — 81 (the Committee), the successor to the 1977 Inaugural Committee, may accept unlimited donations from any person, including government contractors, corporations and labor organiza-

tions. The Committee is not subject to the Act's contribution limits and prohibitions or its registration and reporting requirements because the Committee's purpose is to finance inaugural activities rather than federal election campaigns. The funds donated to and expended by the Committee are not, therefore, contributions or expenditures, and the Committee is not a "political committee." Moreover, any residual funds will be used exclusively to fund a future inaugural committee, a charitable organization or an organization of the federal government and not to influence a federal election. (Date Issued: January 9, 1981; Length: 3 pages)



FRED P. AMES v. FEC

On October 29, 1980, the U.S. District Court for the District of Columbia granted the FEC's motion to dismiss a suit brought by Fred P. Ames against the FEC on August 13, 1980. The FEC sought dismissal of the suit, *Fred P. Ames v. FEC* (Civil Action No. 80-2051), on the grounds that:

1. Plaintiff failed to provide a plain and direct statement of his claim;
2. The Court lacked jurisdiction over the subject matter; and
3. The suit failed to state a claim on which relief could be granted.

In the suit, plaintiff had sought an injunction from the Court that would have prevented the FEC from certifying public funds to the two major political parties. Plaintiff had also demanded that the FEC provide a grant of \$4 million to Concerned Citizens of America, an unidentified organization.

NEW LITIGATION

FEC v. Committee for Better Government, et al.

The FEC seeks a court finding that Densmore Sales and Service, Inc. violated 2 U.S.C. §441b(a) by making three \$1,000 contributions between July 25, 1978, and March 7, 1979, to its separate segregated fund, Committee for Better Government (CBG). The Commission further seeks a determination that CBG violated 2 U.S.C. §441b(a) by accepting the contributions.

(U.S. District Court for the Southern District of Illinois, Docket No. 80-5356, December 12, 1980.)

FEC v. Zamparelli, et al.

The FEC seeks a declaratory judgment that the Committee to Re-Elect John Zamparelli violated 2 U.S.C. §441a(a)(1)(A) by making a \$5,000 contribution to the Tsongas for Senate Committee. (At the time it made the contribution, the Committee to Re-Elect John Zamparelli had neither registered with the FEC nor qualified as a multicandidate committee.) The FEC also asks the court to permanently enjoin the defendants from making any further unlawful contributions and to assess a \$5,000 civil penalty against them.

(U.S. District Court for the District of Massachusetts, Docket No. 80-2768-C, December 12, 1980.)

800 LINE

DESIGNATING A PRINCIPAL CAMPAIGN COMMITTEE

Under what circumstances must an individual who plans to run for federal office in 1982 or 1984 designate a principal campaign committee?

Individuals running for federal office in 1982 or 1984 must designate a principal campaign committee within 15 days of becoming a candidate. (Individuals become candidates once they raise or spend more than \$5,000 to influence their future election or when someone they authorize to work on their behalf raises or spends \$5,000 to influence their election. See 11 CFR 101.1(a).)

Candidates designate a principal campaign committee by filing a *Statement of Candidacy on FEC Form 2* or a letter containing the same information (i.e., the name and address of the principal campaign committee, as well as the candidate's name and address, party affiliation and office sought; and the district and state in which the office is sought). This information must be filed with the Clerk of the House, the Secretary of the Senate or the FEC, as appropriate.

This requirement also applies to individuals who were candidates in a previous election, and whose authorized committees are still registered with the Commission. They must file a new FEC Form 2, either designating a new principal campaign committee or redesignating their current committee. If the candidate redesignates a committee, the committee must amend its current Statement of Organization (FEC Form 1) to reflect any new information (e.g., a change in the committee's name or address).

To obtain FEC Forms or more information, contact the FEC's Office of Public Communications by writing or calling 202/523-4068 or toll free 800/424-9530.

REQUESTING AN ADVISORY OPINION

Who may request an advisory opinion?

An advisory opinion may be requested by any person affected by the Federal Election Campaign Act or Commission Regulations. The request may also be made by an authorized agent, as long as the agent discloses the requester represented. 11 CFR 112.1(a).*

Must an advisory opinion request (AOR) follow any special format?

The requester must submit the request in writing. The request must pertain to the application of the Act or FEC Regulations to a specific transaction or activity involving the requester. Moreover, the request must include a complete description of all facts relevant to the specific transaction or activity. 11 CFR 112.1(b) and (c).

Under what circumstances would a request for Commission guidance qualify as an AOR?

The request must concern a specific transaction or activity that the requester plans to undertake or is presently undertaking and intends to continue in the future. 11 CFR 112.1(b). The Commission will also consider requests that represent the requester's "best efforts" to determine the legality of contributions accepted on a conditional basis. See 11 CFR 103.3(b).

When would a request not qualify as an AOR?

A request would not qualify as an AOR if it:

1. Presented a general question of interpretation;
2. Posed a hypothetical situation;
3. Concerned the activities of third parties who were not represented in the request; or
4. Contained insufficient information. 11 CFR 112.1(b).

Where should the request be sent?

Requests for advisory opinions should be addressed to the Federal Election Commission, Office of General Counsel, 1325 K Street, N.W., Washington, D.C. 20463. 11 CFR 112.1(e).

When is the requester notified if his/her request does not qualify as an AOR?

The Office of General Counsel notifies a requester within ten days of receiving his/her request if the request is incomplete (i.e., lacks sufficient information) or otherwise does not qualify as an AOR.

What happens to the request once it has been received by the FEC?

Each request that qualifies as an advisory opinion re-

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*All citations refer to sections of the FEC Regulations. They may be found in Chapter 11 of the *Code of Federal Regulations*.

quest (AOR) under 11 CFR 112.1 is assigned an AOR number and is promptly made public at the Commission. At this time, the full text of the request is placed in the Commission's Office of Public Records. 11 CFR 112.1(f) and 112.2(a). The AOR is also listed in the Commission's monthly newsletter, the *Record*.

Are copies of AORs made available to the public?

Yes. Copies of AORs (and any supplements to AORs) may be reviewed and copied at a cost of five cents per page in the FEC's Office of Public Records. 11 CFR 112.2(b). Copies may also be obtained by writing to the Commission's Public Records Office. Orders should be accompanied by a check or money order made payable to the U.S. Treasurer.

May interested parties comment on AORs made public by the Commission?

Yes. Written comments on AORs may be addressed to the FEC's Office of General Counsel within ten days after the AOR is made public. (These comments are also made public.) Commission Regulations require the Commission to consider all written comments submitted within the 10-day comment period before issuing an advisory opinion. 11 CFR 112.12(e).

Must comments be submitted according to any special format?

Yes. Comments on AORs should refer to the AOR number, and statutory references should be to the United States Code — not to Public Law citations. Written comments should be addressed to the FEC's Office of General Counsel.

Does the Commission grant extensions for submitting comments?

Yes. The Commission may grant additional time for written comments. 11 CFR 112.3(b).

Who actually issues the advisory opinion?

The staff of the Office of General Counsel drafts advisory opinions, which are then presented to the six Commissioners for their consideration in regularly scheduled open sessions. An advisory opinion is issued only when it has been approved by at least four Commissioners. 11 CFR 112.4.

Who may rely on the guidance provided by the advisory opinion?

As long as they act, in good faith, in accordance with the advisory opinion, the opinion provides legal protection to the requester and to any person involved in a specific activity "... indistinguishable in all its material aspects ..." from the activity described in the opinion. 11 CFR 112.5(a)(1) and (2).

What happens to advisory opinion drafts that are not approved by the Commission?

When the Commission is unable to agree on what advice to give, the General Counsel sends a letter to the requester with a copy of any drafts considered by the Commission.

The letter states that the Commission was unable to approve an opinion by the required four-vote majority. 11 CFR 112.4(a). This letter is then made public in the FEC's Public Records Office.

May the Commission reconsider an advisory opinion it has approved and issued?

Yes. The person who originally asked for the opinion may request reconsideration, provided the request is in writing and is submitted within 30 days after receiving the opinion. Alternatively, a Commissioner may initiate reconsideration within 30 days after the opinion was approved. In either case, the motion to reconsider an opinion must be made by a Commissioner who voted with the majority approving the original opinion. If the Commission approves the motion by a vote of at least four Commissioners, the original opinion is vacated. Once it completes reconsideration of the substance of the opinion, the Commission may approve the original opinion or another one drafted by the Office of General Counsel. 11 CFR 112.6.

Is there a statutory deadline for issuing an advisory opinion?

Yes. The Commission must issue an advisory opinion within 60 days of receiving a qualified AOR. If the deadline falls on a weekend or holiday, the deadline is moved to the next business day. 11 CFR 112.4(c).

Note: If the Commission cannot agree on an opinion, the requester must be so notified within the 60-day period. 11 CFR 112.4(a).

Is the deadline for issuing an advisory opinion shortened when the request concerns an upcoming election?

Yes. The Commission must issue an advisory opinion within 20 days to candidates, or their authorized committees, who submit an AOR within 60 days before an election. However, the request must present a specific transaction or activity related to the election, and that relationship must be explained or be apparent in the request. 11 CFR 112.4(b)(1) and (2).

Note: The Commission must meet this deadline only if it has received a qualified request with complete information.

Once issued, are advisory opinions made available to the public?

Yes. All advisory opinions are summarized in the *FEC Record*, and copies of opinions (along with any concurring or dissenting opinions filed by the Commissioners) are available for review, and purchase, in the FEC's Office of Public Records. 11 CFR 112.4(g). A cumulative *Index to Advisory Opinions* (also available for review and purchase) indexes all FEC opinions by subject and by citation to the U.S. Code and FEC Regulations. Copies may be ordered by phone (202/523-4181 or toll free 800/424-9530) or by writing to the Public Records Office. To facilitate purchases, which are payable in advance, the *Record* summary indicates the length of the opinion.

AUDITS

AUDITS RELEASED TO THE PUBLIC

The Federal Election Campaign Act, as amended (the Act) gives the Commission authority to audit campaigns of all Presidential candidates who receive public funds, and the campaigns of other political committees. Final 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 December 16, 1980, and January 14, 1981.

Audit	Date Made Public
1. Edmund G. Brown, Jr., Brown for President (Post-Primary Audit Report)	12/16/80
2. Robert J. Dole, The Dole for President Committee, Inc. (Post-Primary Audit Report)	12/16/80
3. John B. Anderson, The Anderson for President Committee (Post-Primary Audit Report)	12/18/80
4. Howard H. Baker, Jr., The Baker Committee (Post-Primary Audit Report)	12/18/80
5. Connecticut Democratic Federal Candidates Committee	12/29/80
6. Communications Workers of America - C.O.P.E., Political Contributions Committee	12/29/80
7. Eugene McCarthy, Committee for a Constitutional Presidency and McCarthy '76	12/29/80
8. Michigan Republican State Committee	1/14/81

CLEARINGHOUSE

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CHANGE OF ADDRESS

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Registered political committees are automatically sent the *Record*. Any change of address by a registered committee must, by law, be made in writing as an amendment to FEC Form 1 (Statement of Organization) and filed with the Clerk of the House, the Secretary of the Senate or the FEC, as appropriate.

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