



THE FEDERAL ELECTION COMMISSION

RECORD

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REPORTS

REPORTS DUE IN OCTOBER

The following paragraphs explain the reporting schedule for the various categories of filers that have reports due in October.

Quarterly Filers

Authorized candidate committees active in 1982 elections, as well as authorized Presidential committees and noncandidate committees* that have chosen to file on a quarterly (rather than a monthly) basis, are required to file a quarterly report, due by October 15. The report should cover all financial activity from the closing date of the last report filed or from the date of registration, whichever is later, through September 30, 1982.

Pre-General Election Filers

Authorized committees of candidates who will participate in the 1982 general elections, as well as noncandidate committees making contributions, coordinated party (§441a(d)) expenditures and independent expenditures in the general elections, must file a pre-general election report, due by October 21. The report should cover all activity from the closing date of the last report filed or from the date of registration, whichever is later, through October 13, 1982.

In addition, any contribution of \$1,000 or more received by an authorized candidate committee between two and twenty days before the general election must be reported in writing by the recipient committee within 48 hours of its receipt.

Noncandidate committees (filing on a quarterly basis) do not have to file a pre-general election report if all disbursements made in connection with the general elections have been previously disclosed.

*Political committees that have not been authorized by any federal candidate, e.g., separate segregated funds and party committees.

Monthly Filers

Noncandidate committees that have chosen to file on a monthly basis must file a monthly report and a pre-general election report during October. The monthly report, due by October 20, should cover all activity from the closing date of the last report filed or from the date of registration, whichever is later, through September 30. The pre-general election report, due by October 21, should cover all activity from October 1, or from the closing date of the last report filed, through October 13.

Note: In lieu of the monthly reports due in November and December 1982 and January 1983, noncandidate committees filing on a monthly basis must instead file pre- and post-general election reports and a year-end report.

Forms and Information

Reporting forms and additional information have been sent to all registered committees, alerting them to their reporting obligations. 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.

REGULATIONS

DEADLINE EXTENDED FOR COMMENTS ON PRIMARY MATCHING FUND REGULATIONS

The Commission has extended the deadline for submitting comments on proposed revisions to its regulations governing the FEC's administration of the Presidential Primary Matching Fund program. (See Commission Regulations at 11 CFR Parts 9031 et seq.) Comments or questions on the proposed revisions should be submitted to Ms. Susan E. Propper, Assistant General Counsel, by November 15, 1982. Ms. Propper may be contacted at 202/523-4143 or by writing to the Commission at 1325 K Street, N.W., Washington, D.C.

continued

20463. A public hearing on the proposed revisions has been rescheduled for November 17. Those interested in testifying should notify the Commission in writing on or before October 29 and should submit their written comments by November 15.

The intent of the proposed revisions is to clarify and simplify administration of the matching fund program and compliance with its provisions. The changes have three major purposes: to provide workable rules to govern many of the areas which have caused uncertainty in the past; to provide a fuller explanation of the certification and audit processes; and to add new provisions to cover aspects of the Presidential primary process not previously addressed in the FEC's Regulations.

For more detailed information, see the August 17, 1982, edition of the Federal Register, page 35892. Copies of the proposed revisions may also be obtained from the FEC's Public Communications Office, 1325 K Street, N.W., Washington, D.C. 20463; or call 202/523-4068 or toll free 800/424-9530.



ADVISORY OPINIONS AVAILABLE ON MICROFILM

During August, the FEC's Office of Public Records made available two microfilm reels containing all advisory opinions (AOs) issued by the Commission, as well as all advisory opinion requests (AORs) made public, between 1975 and 1981. One reel includes all AOs and AORs for the period between 1975 and 1979; a second reel covers the period between 1980 and 1981. An index at the beginning of each reel indicates the exact location of each AO and AOR. Paper copies of this microfilmed information are available at 10 cents per page. The microfilm reels are also available at \$10 each. Checks should be made payable to the FEC. For more information, contact the Public Records Office, 1325 K Street, N.W., Washington, D.C. 20463 or call 202/523-4181 or toll free 800/424-9530.

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
1982-50	Breakfast and lunch club organized by individual to raise funds for Congressional candidates. (Date made public: August 18, 1982; Length: 1 page)
1982-51	Quarterly reporting obligation for campaign of withdrawn Senate candidate. (Date made public: August 26, 1982; Length: 1 page)
1982-52	Funds transferred from state campaign to federal campaign for debt retirement. (Date made public: August 31, 1982; Length: 1 page)
1982-53	Corporate solicitation of licensees. (Date made public: September 14, 1982; Length: 5 pages, plus supplement)

ALTERNATE DISPOSITION OF ADVISORY OPINION REQUEST

-- AOR 1982-51 was withdrawn by its requester on September 30, 1982.

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.

The Record is published by the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. Commissioners are: Frank P. Reiche, Chairman; Danny Lee McDonald, Vice Chairman; Joan D. Aikens; Lee Ann Elliott; Thomas E. Harris; John Warren McGarry; 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.

AO 1982-44: Donation of Free Air Time to National Party Committees by Cable T.V. Network

The Turner Broadcasting System, Inc. (Turner), an incorporated cable television network, may donate two hours of free cablecast time to both the Democratic National Committee (DNC) and the Republican National Committee (RNC). Since the programs aired during the free cablecast time would constitute news commentaries specifically exempted from the Act's definitions of "contribution" and "expenditure," Turner's donation of the air time would not result in a prohibited corporate contribution to either the DNC or the RNC. (The programs will be aired on WTBS, a "super satellite" station owned by Turner.)

Turner is providing both major political parties with an opportunity to discuss issues, to demonstrate their differences and to encourage support of their respective parties. For example, the cablecast program already aired by the DNC consisted of a two-hour presentation by various leading Democrats in which they discussed public issues and programs from the Democratic Party's perspective and solicited contributions to support the DNC. Various Democratic Party officials and officeholders also urged support of Democratic candidates generally, but did not advocate the election or defeat of any specific candidates.

The Act and Commission Regulations permit broadcast (and other media) corporations to air news commentaries (as well as news stories and editorials) that are exempted from the Act's definitions of "contribution" and "expenditure," provided: a) the broadcast corporation is not owned or controlled by a political party committee, political committee or candidate and b) the broadcast corporation is acting within its legitimate broadcast function in airing the commentary. 2 U.S.C. §431(9)(B)(i); 11 CFR sections 100.7(b)(2) and 100.8(b)(2). Turner's offer of free air time satisfied these criteria. Furthermore, news commentaries covered by the media exemption were intended to give third parties, such as the DNC and the RNC, access to the media to discuss issues. The Act and FEC Regulations do not define the issues that third parties may discuss or the format for their presentation; nor do they set limits on the length of the commentaries.

The Commission cautioned that any deviation from the facts presented by the requesters in their advisory opinion would compel the Commission to reconsider whether, based on the new facts, the media exemption would apply. Chairman Frank P. Reiche filed a dissenting opinion. (Date issued: August 27, 1982; Length: 7 pages, including dissent)

AO 1982-47: Single Contribution Limit for Candidate Seeking Nomination by Three Parties

Although Ms. Florence M. Sullivan sought nomination by three different parties (i.e., the Republican, Conservative and Right-to-Life Parties) in the New York Senate primary,* contributions to her campaign were subject to a single, per election limit. Under the Act and Commission Regulations, the primary was considered one election, and Mrs. Sullivan was considered to be seeking one federal office, that is, U.S. Senator from New York. (See 2 U.S.C. §431(3); 11 CFR 100.2(c)(1) and 104.4.) (Date issued: August 20, 1982; Length: 4 pages)

AO 1982-48: Coordinated Party Expenditures in Behalf of Independent Candidate

Since Mr. Henry A. Huish is affiliated with the Utah State Democratic Committee (the Committee), the Committee may make coordinated (§441a(d)) expenditures in behalf of his general election campaign for the House seat in Utah's Third Congressional District, even though Mr. Huish is listed on the ballot as an independent candidate. (Mr. Huish is running as an independent candidate because he failed to meet state requirements for ballot access as the Democratic nominee.)

While the Act requires that a candidate for federal office be **affiliated** with the political party that plans to make coordinated expenditures in his or her behalf, the Act does not require that the candidate be listed on the general election ballot as the party's nominee. For purposes of coordinated expenditures, Mr. Huish's affiliation with the Democratic Party is evidenced by the following facts:

1. Delegates to the Utah State Democratic Convention formally nominated Mr. Huish as the party's candidate for the House seat.
2. The Committee continues to endorse Mr. Huish as its candidate. No other candidate will appear on the general election ballot as the Democratic candidate. (Date issued: August 26, 1982; Length: 3 pages)

*The New York primary was held on September 23, 1982.

SEPARATE SEGREGATED FUNDS AND INDEPENDENT PACS

The press and public refer to all nonparty, noncandidate committees as PACs or political action committees. However, the Act and Commission Regulations distinguish between two types of PACs: separate segregated funds and independent political committees (or independent PACs). The article below discusses some of the major differences between these two types of political committees.

What is the principal difference between separate segregated funds and other PACs?

The Act prohibits corporations (profit or non-profit), labor organizations and incorporated membership organizations from making direct contributions or expenditures in connection with federal elections. 2 U.S.C. §441b. These organizations may, however, sponsor a separate segregated fund (SSF), popularly called a PAC, which collects contributions from a limited class of individuals and uses this money to make contributions and expenditures to influence federal elections. 11 CFR 100.6. As the sponsor of the SSF (i.e., its "connected organization"), the corporation, labor organization or incorporated membership organization may absorb all the costs of establishing and operating the SSF and soliciting contributions to it. These administrative expenses are fully exempted from the Act's definitions of "contribution" and "expenditure." 11 CFR 114.1(a)(2)(iii).

By contrast, an independent political committee, another type of PAC, is financially independent. This means that the independent political committee must pay for its own administrative expenses, using the contributions it raises. Although an organization may spend funds to establish or support an independent PAC, these expenditures are considered contributions to the PAC and are subject to the dollar limits and other requirements of the Act.

Do the reporting requirements vary for SSFs and independent PACs?

Yes. An SSF is not required to report any fundraising or administrative expenses that are paid for by its sponsoring organization. (The SSF must, however, report these expenses if it pays for them.) On the other hand, an independent PAC must report all its operating and solicitation expenses.

Are different restrictions placed on the groups of individuals who may be solicited by SSFs and independent political committees?

Yes. SSFs may solicit only certain groups of individuals specifically identified in the Act and Commission Regulations, while independent PACs may solicit contributions from the general public. For example, a corporation with capital stock and its SSF may solicit only the corporation's stockholders, executive and administrative personnel and the families of both groups. 11 CFR 114.5(g)(1). A labor union and its SSF may solicit only union members and their families. 11 CFR 114.5(g)(2). Twice a year, SSFs and their sponsoring organizations may expand their solicitations to include certain individuals outside the normal restrictions; the expanded groups are also specifically limited by the law. 11 CFR 114.6.

Do SSFs have any special requirements in soliciting contributions that independent PACs do not have?

Yes. For example, under Commission Regulations, SSFs must inform their solicitees of the political purpose of the SSF and of the individual's right to refuse to contribute without reprisal. SSFs are specifically prohibited from using threats of physical force, job discrimination or financial reprisal when soliciting contributions. Moreover, if the SSF uses a guideline in soliciting contributions, the solicitees must be informed that they are free to contribute more or less than the amount stated. In addition, SSFs may not accept as contributions any dues or fees obtained as a condition of membership or employment. 11 CFR 114.5(a).

Independent political committees are not subject to these solicitation restrictions. On the other hand, solicitations by independent PACs that are made through public political advertising must include an authorization notice indicating who paid for and authorized the solicitation. This type of notice is not required on SSF solicitations. 11 CFR 110.11(a)(1)(iv).

Do the registration requirements for an SSF differ from those for independent PACs?

Yes. An SSF must register within 10 days of its establishment by its sponsoring organization. 11 CFR 102.1(c). An independent PAC, however, must register as a political committee within 10 days after it has received contributions or made expenditures aggregating in excess of \$1,000. 11 CFR 102.1(d).

Are the titles chosen for SSFs and independent PACs subject to different requirements?

Yes. The Act and Commission Regulations require an SSF to include the name of its sponsor-

ing organization in its official title. 2 U.S.C. §432(e)(5); 11 CFR 102.14(c). The Act places no such restriction on the title that an independent PAC uses. Neither committee, however, may include the name of a candidate in its title.

May both an SSF and an independent PAC contribute up to \$5,000 to each of a candidate's election campaigns?

Yes, provided the SSF or the independent PAC has qualified as a multicandidate committee by: 1) having been registered with the Commission at least six months, 2) having received contributions from over 50 persons and 3) having made contributions to at least five candidates for federal office. 2 U.S.C. §441a(a)(5).

What other requirements of the Act and FEC Regulations apply to both SSFs and independent PACs?

Most of the basic requirements of the Act and Regulations are the same for SSFs and independent political committees. For example, the prohibitions and limits on contributions apply equally to both SSFs and independent PACs. In addition, both types of committees must fulfill the same basic recordkeeping and reporting requirements, although an SSF does not have to report operating expenses paid for by its sponsoring organization (see above). Finally, SSFs and independent PACs may support candidates in the same ways, that is, by making monetary and in-kind contributions to candidates, by contributing to their political parties and by making independent expenditures to support or oppose candidates.

FEDERAL REGISTER NOTICES

The item below identifies an FEC document that appeared in the Federal Register on September 22, 1982. Copies of this notice are available in the Public Records Office.

Notice Title

1982-7	Filing Dates for Special General Election, 1st Congressional District, Indiana (Citation: 47 <u>Fed. Reg.</u> 41861)
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COMPLIANCE

SUMMARY OF MURs

The Act gives the FEC exclusive jurisdiction for its civil enforcement. Potential violations are assigned case numbers by the Office of General Counsel and become "Matters Under Review" (MURs). All MUR investigations are kept confidential by the Commission, as required by the Act. (For a summary of compliance procedures, see 2 U.S.C. §§437g and 437(d)(a) and 11 CFR Part 111.)

This article does not summarize every stage in the compliance process. Rather, the summary provides only enough background to make clear the Commission's final determination. Note that the Commission's actions are not necessarily based on, or in agreement with, the General Counsel's analysis. The full text of this MUR is available for review and purchase in the Commission's Public Records Office.

MUR 1398: Independent Expenditures, Multi-Candidate Committee Status, Prohibited Contributions

On May 5, 1982, the Commission found reason to believe that a political action committee (PAC) had improperly reported an in-kind contribution as an independent expenditure and had contributed over \$1,000 to a candidate committee before achieving multicandidate committee status. The Commission also found reason to believe the PAC's sponsor, an incorporated special interest group, had made prohibited contributions.

Complaint: In a complaint filed on November 2, 1981, a political committee stated that independent expenditures allegedly made by a special interest PAC in behalf of a candidate and against his opponent did not qualify as independent expenditures because there was coordination between the PAC and the candidate's committee. According to the complainant, the PAC had violated the Act's reporting provisions by identifying the payments in question as independent expenditures rather than as in-kind contributions in the candidate's behalf. The complainant also alleged that because of this mistake and other reporting errors, the PAC had actually contributed over \$5,000 to the candidate committee, a violation of the Act's limit on contributions by multicandidate committees. (See 2 U.S.C. §441a(a)(2)(A).) Although not specifically alleged, the candidate committee's acceptance of excessive contributions might have violated Section 441a(f).

A second part of the MUR arose from a referral by the Commission's Reports Analysis Division

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questioning the validity of the PAC's multicandidate committee status. If the PAC had not attained that status, its per candidate, per election contribution limit would have been \$1,000 rather than \$5,000.

General Counsel's Report:

Independent Expenditures or In-kind Contributions. In an effort to show that coordination between the committees did exist, the complainant submitted samples of two brochures, similarly designed and printed, one distributed by the PAC and the other by the candidate committee. The complainant contended that this and other evidence of the PAC's "continued involvement" in the candidate's campaign prevented any expenditure in the candidate's behalf from being independent.

In response, the PAC admitted that its brochure had been prepared in cooperation with the candidate's committee but showed that it had reported the expense as an in-kind contribution to the candidate. The second brochure, the PAC noted, had been produced "exclusively" by the candidate committee. The General Counsel's Report concluded that the similarity between the brochures was relevant only if the PAC had reported its expenditure as independent and if it had failed to provide factual evidence that the expenditures in question were not independent.

With regard to a letter opposing the candidate's opponent, which was distributed by the PAC and reported as an independent expenditure, the General Counsel concluded the expenditure was really a contribution in-kind. The General Counsel's Office found that, in its mailing, the PAC had enclosed a copy of the brochure produced in cooperation with the candidate it supported, which compromised the independence of the communication. The PAC's expenditure of \$247.52 for the mailing was, in effect, payment for the distribution of candidate campaign literature and, as such, was an in-kind contribution. By improperly reporting the expenditure as independent, the PAC had violated Section 434 of the Act. But, because the expenditure would have been independent had not the PAC enclosed the brochure, and because the amount of the expenditure was only \$247.52, the General Counsel's Report recommended the Commission take no further action in this matter other than sending the PAC and the candidate committee letters of admonition. The letters would request that they amend their reports to show the expenditure as an in-kind contribution.

Finally, the complainant alleged that a portion of the PAC's administrative expenditures should have been reported as in-kind contributions to the

candidate, since over 30 percent of the PAC's activities benefited the campaign. Agreeing that part of their expenses for a 1980 issue of the PAC magazine should have properly been allocated as an in-kind contribution to the candidate, the PAC amended its report, showing \$52.23 as an in-kind contribution. The General Counsel's report recommended the Commission accept this amendment, noting that there was no factual basis for the allegation that other portions of the PAC's administrative expenses should have been reported as in-kind contributions.

Multicandidate Committee Status. To qualify as a multicandidate committee, with a \$5,000 per candidate, per election contribution limit, a PAC must: 1) have been registered with the Commission at least six months, 2) have received contributions from over 50 persons and 3) have made contributions to at least five candidates for federal office. 2 U.S.C. §441a(a)(5). Although the PAC had fulfilled the first two requirements, it did not satisfy the third until September 13, 1980. However, during the previous July and August, the PAC had contributed over \$3,000 to the candidate committee. The PAC claimed that its connected (sponsoring) organization, an incorporated special interest group, had fulfilled the third requirement by making in-kind contributions to 10 Congressional candidates totaling \$150. The PAC, although it had not originally reported these contributions, regarded the money as a debt that it owed to its connected organization. The PAC further provided an amended October quarterly report identifying PAC payments to the connected organization (to extinguish the debt) as in-kind contributions to the 10 candidates. The General Counsel's Report rejected this solution as technically impermissible, as Section 441b of the Act prohibits a connected organization from advancing money for PAC contributions. The Report noted, however, that the PAC qualified as a multicandidate committee shortly after the excess contributions were made. The Report therefore recommended the Commission take no further action on the issue beyond finding reason to believe that the PAC had violated the Act by contributing over \$1,000 to a candidate before achieving multicandidate status.

Prohibited Contributions. The General Counsel's Report stated that the connected organization's payments totaling \$150 for in-kind contributions were prohibited corporate contributions in violation of Section 441b. The Report therefore recommended that the Commission find reason to believe the organization had violated that section but, because the amount of money involved was not significant, also recommended the Commission take no further action beyond sending the respondent a letter of admonition.

Commission Determinations: On May 5, 1982, the Commission:

1. Found reason to believe the PAC had violated Section 433 by improperly reporting \$247.52 as an independent expenditure rather than as an in-kind contribution;
2. Found no reason to believe the candidate committee had committed any violations of the Act as alleged in the complaint;
3. Accepted the PAC's reporting amendment allocating \$52.23 of its administrative expenses as an in-kind contribution;
4. Found reason to believe the PAC had violated Section 441a by contributing over \$1,000 to the candidate before attaining multicandidate status; and
5. Found reason to believe the PAC's connected organization had violated Section 441b by making contributions to 10 Congressional candidates.

The Commission sent letters of admonition to the respondents and closed the file.

FEC PUBLISHES THE NAMES OF NONFILERS

On July 30, 1982, the Commission published the names of three political committees supporting candidates in the Kansas House primary election and the Missouri House and Senate primaries which had failed to file their pre-primary report, due 12 days before the primary elections in those states. The primary elections in both states were held on August 3. Pre-primary reports should have covered campaign finance activity from July 1 through July 14, 1982.

On July 28, 1982, the Commission had notified the committees of all candidates participating in the Kansas and Missouri campaigns of their potential reporting requirements. Subsequently, the Commission notified those committees failing to file timely reports that their names would be published if they did not respond to the FEC's notice within four business days.

Other political committees (not authorized by candidates) that supported candidates in the Kansas and Missouri primaries were also required to file pre-primary reports unless they had been reporting on a monthly basis. The 1979 amendments to the election law do not, however, require the Commission to publish the names of these unauthorized committees.

Further Commission action against committees that fail to file reports required during the 1982 election year will be decided on a case-by-case basis. The Act gives the Commission broad authority to initiate enforcement actions against any nonfiler, including civil enforcement and the imposition of civil penalties.

AUDITS

AUDITS RELEASED TO THE PUBLIC

The following is a chronological listing of audits released by the Commission between June 3 and August 12, 1982. Final audit reports are available to the general public in the Public Records Office.

1. Citizens' Advocate Political Action Committee (Final audit report released June 3, 1982)
2. Liberal Party Federal Campaign Committee (Final audit report released June 17, 1982)
3. Libertarian National Committee (Final audit report released June 22, 1982)
4. National Women's Political Caucus of California (Final audit report released July 6, 1982)
5. Idaho Democratic Party-Federal Account (Final audit report released July 15, 1982)
6. Senate Defense and Economic PAC* (Final audit report released August 10, 1982)
7. Democratic State Central Committee (of California) Federal Candidates Fund (Final audit report released August 12, 1982)

*Formerly known as the Senator John Tower PAC.

CHANGE OF ADDRESS

Political Committees

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.

Other Subscribers

Record subscribers (who are not political committees), when calling or mailing in a change of address, are asked to provide the following information:

1. Name of person to whom the Record is sent.
2. Old address.
3. New address.
4. Subscription number. The subscription number is located in the upper left hand corner of the mailing label. It consists of three letters and five numbers. Without this number, there is no guarantee that your subscription can be located on the computer.

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