

RECORD

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REGULATIONS

CONTRIBUTION LIMITS: FINAL RULES PRESCRIBED

On April 2, 1987, the Commission approved the publication of a Federal Register notice announcing the effective date of amended FEC Regulations which govern the election law's contribution limits for persons and multicandidate political committees. 11 CFR 110.1 and 110.2. The regulations became effective on April 8, 1987, the date of their publication. See 52 Fed. Reg. 11187.

The amended regulations were summarized on pages 3 through 6 of the January 1987 Record. The regulations, together with the Commission's explanation and justification, were published in the Federal Register on January 9, 1987. 52 Fed. Reg. 760. A copy of this material will soon be mailed to each registered political committee. Additional copies may be obtained by calling 376-3120 or toll-free 800/424-9530.

PROCEDURES

COMMISSION APPROVES NEW ENFORCEMENT PROCEDURE

On October 23, 1986, the Commission decided to begin issuing a statement of reasons whenever a majority of the Commissioners, in dismissing a complaint-generated matter, rejects the recommendations of the General Counsel's Office. The Commission will place a statement of reasons on the public record within 30 days after the corresponding enforcement matter (i.e., matter under review or MUR) is closed. On February 5, 1987, the Commission adopted internal guidelines for the preparation of such statements.

LEGISLATION

FEC TESTIFIES ON FY 1988 BUDGET

During several Congressional hearings held between February 19 and April 22, 1987, FEC Vice Chairman Thomas J. Josefiak requested a \$14.174 million budget for the Commission for fiscal year (FY) 1988.

Vice Chairman Josefiak's testimony focused primarily on funding required for the FEC's administration of the Federal Election Campaign Act during the 1987-88 Presidential election cycle. His testimony did not project the budgetary impact of any legislative changes currently under consideration by Congress. Nor did Mr. Josefiak request funding for new programs, such as the feasibility of new technologies to improve data processing methods.

Accompanied by FEC Chairman Scott E. Thomas and Commissioner John Warren McGarry,
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REPORTS

JULY REPORTING SCHEDULE

The following chart and paragraphs explain the July reporting schedule for the various categories of filers. Note that, beginning with the July reporting schedule, all registered political committees will receive a reporting packet with a peel-off address label. The Commission asks that committees place this peel-off label on line 1 of the reporting form, the space provided for identifying the committee's name and address. Any corrections should be made directly on the label.

Type of Filer	Report		
	Quarterly July 15	Monthly July 20	Semiannual July 31
Congressional Candidate Committees			X
Presidential Candidate Committees/ Quarterly Filers ^{1/}	X		
Presidential Candidate Committees/ Monthly Filers ^{1/}		X	
PAC/Party Committees: Semiannual Filers ^{2/}			X
PAC/Party Committees: Monthly Filers ^{2/}		X	

¹All Presidential candidate committees are required to file on either a monthly or a quarterly basis during 1987. 11 CFR 104.5(b)(2).

²All PAC and party committees (i.e., committees not authorized by candidates) are required to file on either a monthly or a semiannual basis in 1987. 11 CFR 104.5(c).

JULY REPORTING SCHEDULE**First Report for New Committees**

Coverage dates on the first report a committee files after registration should begin with the date of registration. The first report should also disclose pre-registration activity in 1987. In the case of candidate committees, any activity which took place in 1986 should be reported separately.

These guidelines for the first report apply to newly registered committees regardless of the committee's filing schedule.

Semiannual Report

The semiannual report must be filed by July 31. It covers all activity (not previously reported) which occurred between January 1 (or the closing date of the last report) and June 30.

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) through June 30.

Monthly Report

The monthly report must be filed by July 20. It should cover all activity between June 1 and June 30.

Change in Filing Frequency

PAC and party committees which plan to change their reporting schedule in 1987 (e.g., from semiannually to monthly) must notify the Commission by submitting a letter with the July report. A committee may not change its filing frequency more than once a year. 11 CFR 104.5(c). The FEC requests that Presidential committees also inform the Commission in writing if they decide to change their reporting schedule.

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

- o 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.

- o 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, Hart Senate Office Building, Room 232, Washington, D.C. 20510. 11 CFR 104.4(c)(2) and 105.2.
- o All other committees, including the principal campaign committees of Presidential candidates, file with the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. 11 CFR 105.3 and 105.4.

Filing with State Governments

- o 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.
- o 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.
- o PACs and party committees making contributions or expenditures in connection with House and Senate races file reports and statements 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.

HOW TO OBTAIN MORE INFORMATION

Reporting forms for the semiannual (or quarterly) report will be sent to all registered committees. All registered committees may request forms from the FEC or use photocopies of blank forms previously sent to them.

Questions and requests for forms should be addressed to the Information Services Division, 202/376-3120 or, toll free, 800/424-9530.

The Record is published by the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Commissioners are: Scott E. Thomas, Chairman; Thomas J. Josefiak, Vice Chairman; Joan Aikens; Lee Ann Elliott; Danny Lee McDonald; John Warren McGarry; Walter J. Stewart, Secretary of the Senate, Ex Officio; Donald K. Anderson, Clerk of the House of Representatives, Ex Officio. For more information, call 202/376-3120 or toll-free 800/424-9530.

LEGISLATION

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Mr. Josefiak, who also serves as chairman of the agency's finance committee, testified before three Congressional committees: the Subcommittee on Elections of the Committee on House Administration; the Subcommittee on Treasury, Postal Service and General Government of the House Committee on Appropriations; the Senate Subcommittee on Treasury, Postal Service and General Government of the U.S. Senate and the Senate Committee on Rules and Administration.

FY 1988 Budget Request

The proposed FY 1988 budget request represents a 10.7 percent increase over the Commission's FY 1987 budget. Vice Chairman Josefiak stated that, with the increase, the agency intended to: 1) maintain current levels of service, 2) meet the special demands of the 1988 Presidential election year and 3) conclude its efforts to "recapture 1986 election cycle data not previously processed into our computer system." He noted that 76 percent of the FEC's proposed budget increase was necessary "just to maintain current levels of agency activity." The bulk of this increase was for fixed costs, such as rent, and for costs of implementing the FEC's new Federal Employees' Retirement System (FERS). Thus, only the remaining 24 percent of the budget increase (\$329,000) would represent a real increase in agency funding.

In explaining the additional funding needed to administer the Presidential election cycle (\$260,000), Mr. Josefiak noted that Commission staff will have to: process a much larger volume of campaign finance data; certify public funds to Presidential candidates (including candidates who eventually drop out of the Presidential race but who continue to receive public funds); handle the many compliance and enforcement matters related to Presidential campaigns and field numerous requests for information generated by the media's increased coverage of Presidential campaigns.

In addition, the 1987-88 Presidential election cycle will place unique demands on the agency's workload. As Mr. Josefiak explained, "this will be the first Presidential election cycle since Congress created the FEC in which the incumbent President will not be in the race. Contested nominations in both parties may result in 18 to 20 candidates qualifying for public funding." (By contrast, during the 1983-84 Presidential election cycle, 11 candidates qualified for public funding.)

The agency plans to use the remainder of the proposed budget increase (i.e., \$69,000) to enter

detailed information on the 1986 Congressional elections into its computer system. During 1986, the agency reduced computer entry of this information because of budget cuts mandated by the Gramm-Rudman-Hollings Act and other considerations. However, unanticipated FY 1987 budget savings allowed the Commission to computerize some of this information. Mr. Josefiak testified that "the proposed 1988 budget seeks to continue and complete the effort to recapture detailed 1986 data for our computer system....We look forward to restoring our computerized research services to their full and complete level of usefulness as we enter the new political season."

ADVISORY OPINIONS

ADVISORY OPINION REQUESTS

The following chart lists a recent request for an advisory opinion. The full text of the AOR is available to the public in the Commission's Office of Public Records.

AOR	Subject
1987-9	Independent expenditures made by committee soliciting earmarked contributions for Senator's campaign. (Date made public: March 17, 1987; Length: 1 page)
AO 1987-4:	Excess Campaign Funds Transferred from Individual's 1986 Senate Campaign to His 1984 Publicly Funded Presidential Campaign Senator John Glenn's 1986 reelection campaign for the Senate (the Senator Glenn Committee) may transfer approximately \$800,000 in excess campaign funds to Senator Glenn's publicly funded 1984 Presidential primary campaign (the John Glenn Presidential Committee, Inc.) for debt retirement. In making the transfer, the Senate campaign does not have to aggregate contributions contained in the transfer with contributions that the same donor made to Senator Glenn's Presidential primary campaign. However, the contributions: 1) must be within each donor's limits for the Senate campaign; 2) constitute excess campaign funds of the 1986 Senate campaign (i.e., consist of contributions made before the 1986 general election); and 3) consist of funds that are permissible under the Act. 2 U.S.C. § 439a and 11 CFR 113.2(d). See also AOs 1978-37, 1980-30, 1980-143, 1981-9 and 1982-39.

The Senate campaign should report the transaction as an itemized transfer disbursement. 11 CFR 104.3(b)(4)(ii). The Presidential campaign, in turn, should itemize the transaction as a transfer receipt. 11 CFR 104.3(a)(4)(iii)(A).

Senator Glenn registered the Presidential campaign as his principal campaign committee in January 1983 and publicly announced his withdrawal as a Presidential candidate in March 1984. He registered his 1986 campaign in June 1985. (The committee has not yet terminated.) Although Senator Glenn was a candidate for two different federal offices in overlapping election cycles, he was not running for both offices at the same time. The proposed transaction would therefore be subject to those provisions of the election law and FEC Regulations which permit unlimited transfers between an individual's current and former campaigns for federal office. See 2 U.S.C. §441a(a)(5)(C); 11 CFR 110.3(a)(2)(iv). (Date issued: March 25, 1987; Length: 4 pages)

**AO 1987-5: Eligibility of Membership
Organization's Life Members
for PAC Solicitations**

ASHA-PAC, the separate segregated fund of the American Speech-Language-Hearing Association (ASHA), a membership organization for speech-language pathologists and audiologists, may solicit ASHA's "life members," provided the PAC's solicitations comply with the requirements of the election law and FEC Regulations. 11 CFR 114.5 and 114.7. Although life members do not have to pay annual membership dues, they are nevertheless sufficiently related to the organization to qualify for PAC solicitations.

Commission Regulations define a membership organization's members as "all persons who are currently satisfying the requirements for membership" in the organization. 11 CFR 114.1(e). The Supreme Court concluded that "members" of a membership organization are, in some ways, analogous to shareholders in a business corporation. To qualify as a member, an individual must have "some relatively enduring and independently significant financial or organizational attachment" to the membership organization. (See FEC v. National Right to Work Committee, 459 U.S. 197, 202, 103 S. Ct. 552 (1982)).

ASHA's life members meet this standard and are therefore eligible for ASHA-PAC's solicitations. First, under ASHA's by-laws, life members retain all their rights to vote on the organization's activities. Second, even though they are not required to pay annual membership dues once they reach 65, life members must have paid dues for at least 10 consecutive years prior to reaching 65--a substantial financial commitment to the organization. (Date issued: March 17, 1987; Length: 3 pages)

**AO 1987-6: Trade Association PAC's
Combined Dues Payment/
Solicitation Plan Prohibited**

The American Chiropractic Association Political Action Committee (ACA-PAC), the separate segregated fund of the American Chiropractic Association (ACA), may not solicit contributions from ACA members through a combined dues payment/political contribution plan. The plan is not acceptable because:

1. It fails to notify members of ACA-PAC's political purpose (11 CFR 114.5(a)(3)); and
2. It appears to enforce a monetary guideline for the members' contributions to ACA-PAC, which would violate 2 U.S.C. § 441b(a)(3) and 11 CFR 114.5(a)(3)-(5).

Under the election law, if a solicitation for a separate segregated fund suggests a contribution guideline, it must state that solicitees may contribute more or less than the suggested amount and that the fund's parent organization will not favor or disadvantage any individual because of the amount contributed or a decision not to contribute. The ACA statement, however, fails to satisfy these guidelines in several ways. A \$100 contribution suggested in ACA's guideline is automatically included in the total figure given for membership dues and the total amount owed to ACA. The statement provides no separate spaces for indicating either the suggested \$100 contribution or a different amount specified by the member. (Only through a footnote is the member informed that his/her dues payment includes a \$100 contribution to ACA-PAC.) Nor does the billing statement provide a member with instructions on how to increase or decrease the amount of a contribution or how not to contribute. (Date issued: March 20, 1987; Length: 3 pages)

COURT CASES

FEC v. TED HALEY CONGRESSIONAL COMMITTEE

On February 24, 1987, the U.S. District Court for the Western District of Washington at Tacoma granted the defendants' motion for summary judgment in FEC v. Ted Haley Congressional Committee (Civil Action No. 85-1185). The district court dismissed the suit with prejudice.

Background

The Ted Haley Congressional Committee was the principal campaign committee for Mr. Haley's bid for a House seat in Washington's 1982 Congressional primaries. After the election, Mr. Haley obtained a \$50,000 personal loan from a local bank to retire debts outstanding from his campaign. To secure the loan, Mr. Haley obtained guarantees from several friends, that is, the six other defendants in the suit. (Four of the defendants provided guarantees of \$10,000 each; two provided guarantees of \$5,000 each.) The loan and the guarantees were reported by Mr. Haley's campaign in its 1983 mid-year report. By the end of 1983, Mr. Haley had fully repaid the loan.

Under the election law and FEC Regulations, an endorsement or guarantee of a loan, like a regular loan, counts as a contribution from the endorser or guarantor to the extent of his/her portion of the outstanding balance of the loan. 11 CFR 100.7(a)(1)(i)(C). Consequently, each guarantor for Mr. Haley's campaign loan exceeded his/her \$1,000 limit for Mr. Haley's primary campaign. On October 30, 1984, the Commission therefore found reason to believe that:

- o The loan guarantors had made excessive contributions to the Haley Campaign in the form of loan guarantees (2 U.S.C. §441a(a)(9)(A)); and
- o The Haley campaign and its treasurer had, in turn, violated the election law by accepting the excessive contributions (2 U.S.C. §441a(f)).

On July 30, 1985, after attempting to resolve this enforcement matter through informal methods of conciliation, the Commission filed a suit against defendants in the U.S. District Court for the Western District of Washington.

Court's Ruling

The court found that "post-election loan guarantees, such as those made here, are presumptively for the purpose of influencing an election under the statute and regulations. This presumption, however, is not conclusive, but rebuttable. It simply allows the FEC to shift the burden of proof to defendants after a minimal showing."

The court held that the defendants had successfully rebutted this presumption by showing

that the "facts [of the case] are not in issue, and that those facts lead to the legal conclusion that the guarantees in issue were not for the purpose of influencing any election." Thus the guarantees should not have been viewed as contributions (i.e., funds received to influence a federal election). As evidence that the loan guarantees were not made to influence a federal election, the court cited "the timing of the solicitation [of loan guarantees after the election], the nature of the relationships between Haley and the guarantors, their intent in making and accepting the guarantees and the facts and circumstances of Haley's [re]payment...." of the loan.

Based on this finding, the court found "no justifiable ground" for assessing a civil penalty against defendants.

INFORMATION

FILING REPORTS WITH FEDERAL OFFICIALS

Under the federal election law, three federal offices receive reports and statements filed by political committees; each committee, however, is required to file with only one federal office--not all three. 11 CFR 108.5. (Note, additionally, that a copy of each report must be filed with a **State** elections office. See 2 U.S.C. §439; 11 CFR 103.3-108.5.) The appropriate filing offices for different types of political committees are designated below:

o Committees Supporting House Candidates

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

o Committees Supporting Senate Candidates

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, Hart Senate Office Building, Room 232, Washington, D.C. 20510. 11 CFR 104.4(c)(2) and 105.2.

o Other Committees

All other committees, including the authorized committees of Presidential candidates,* file with the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. 11 CFR 105.3 and 105.4.

*Committees authorized by a candidate (other than the principal campaign committee) must file copies of their reports and statements with the principal campaign committee. 11 CFR 104.3(f).



PERSONAL FINANCIAL REPORTS

The Commission receives many questions concerning the personal financial reports that must be filed by candidates for federal office under the Ethics in Government Act. These reports should not be confused with the reports of receipts and disbursements that federal political committees must file under the Federal Election Campaign Act. Although the Commission has limited jurisdiction over the filing of personal financial reports, this article is being published to provide general information. Specific questions regarding personal financial reporting should be directed to one of the appropriate offices listed below.

The 1978 Ethics in Government Act requires all candidates for federal office to file personal financial disclosure reports. These reports must be filed within 30 days of becoming a candidate or

by May 15 of the year in which one becomes a candidate, whichever is later. In any event, the report must be filed no later than seven days before an election.

The term "candidate," in the case of those seeking the Presidency, means an individual who 1) is considered a candidate under the Federal Election Campaign Act (2 U.S.C. § 431(2)) and 2) has filed a Statement of Candidacy (FEC Form 2) with the Federal Election Commission. For those seeking election to the House or Senate, the term "candidate" means an individual who either: (1) has taken the action necessary under state law to qualify himself/herself for election or (2) has filed a Statement of Candidacy (FEC Form 2) under the Federal Election Campaign Act (2 U.S.C. § 431(2)).

The personal financial disclosure reports contain information on income, assets and liabilities of the candidate as of a date not more than 31 days prior to the filing date. All reports are made public within 15 days of filing.

For information on where to file the personal financial reports and where to get help, consult the chart below.

CANDIDATE PERSONAL FINANCIAL REPORTS

Type of Candidate	Where to File Personal Financial Reports	Where to Get More Information
Presidential	Federal Election Commission 999 E Street, N.W. Washington, D.C. 20463	Office of Government Ethics P.O. Box 14108 Washington, D.C. 20044 202/632-7642
Senate	Secretary of the Senate Senate Public Records Hart Senate Office Building Room 232 Washington, D.C. 20510	Senate Select Committee on Ethics Room 220, Hart Building Washington, D.C. 20510 202/224-2981
House	Clerk of the House of Representatives Office of Records and Registration 1036 Longworth House Office Building Washington, D.C. 20515	House Committee on Standards of Official Conduct Room HT-2, The Capitol Washington, D.C. 20515 202/225-7103

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