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Table of Contents

- 1 **Message From the Chairman**
 - Commissioners**
 - 2 New Chairman and Vice Chairman Elected
 - Court Cases**
 - 2 New Litigation
 - 3 On Appeal?
 - Regulations**
 - 4 Public Hearing Set For Recordkeeping and Reporting Requirements Rulemaking
 - 4 Comments Sought on Rulemaking Notice on Who Qualifies as "Member"
 - 5 FEC Seeks Comments on Petition Addressing Expenditures by Qualified Nonprofit Corporations
- 6 **Federal Register Notices**
 - Reports**
 - 6 Reports Due in 1998
 - 8 Pre-Election Reporting Dates
 - 11 Guide to 1998 Reporting
 - 12 California Special Election
 - 13 Pennsylvania Special Election
- 11 **Election Law Amended**
 - Public Funding**
 - 13 Forecast Shows Shortfall in Public Funding for 2000 Election Cycle
 - 14 Fulani Repayment Determination Stayed
- 14 **Advisory Opinions**
- 15 **Conferences**
 - Publications**
 - 16 Updated Corporate/Labor Campaign Guide Available
- 16 **Index**

Message From the Chairman

Nineteen ninety-eight promises to be a year of change and challenge for the FEC.

We can look forward to an election year with an ever-increasing workload as we implement new and innovative ways to manage this increase on a limited budget. Many of these innovations are already in place. For example, committees may now file their reports electronically. Along with the 800 number (800/424-9530), the Commission also has an internet web site (<http://www.fec.gov>). Additionally, publications and other election law materials are available through FEC Faxline (202/501-3413).

All of this advance in technology is to help answer your questions and satisfy your requests quickly and easily. We welcome your comments and suggestions and pledge our continuing efforts to help the regulated community successfully comply with the Federal Election Campaign Act and participate fully in the political process.

While I was elected Chairman for this year, it is only in a caretaker capacity. There will be two new Commissioners—and a new Chairman—possibly in office by late February or early March. However, I am very pleased to be able to once more serve as Chairman during this important election cycle.

Finally, a very special expression of gratitude to our hardworking staff, many of whom I have had the great pleasure to work with since 1975. Without these committed, loyal and dedicated individuals, the FEC would not be the responsive, informative agency it is today. I am especially grateful for their commitment to our mission.

Jean D. Auburns

Commissioners

New Chairman and Vice Chairman Elected

On December 11, 1997, the Commission elected Joan D. Aikens as FEC Chairman and Scott E. Thomas as Vice Chairman.

One of the original members of the Commission, Ms. Aikens was first appointed in 1975. She previously served as chairman of the six-member board in 1978, 1986 and 1992.

Before joining the FEC, Ms. Aikens was an executive with Lew Hodges Communications, a public relations firm in Valley Forge, Pennsylvania. She also served as a member of the Pennsylvania Republican State Committee, and president of the Pennsylvania Council of Republican Women.

A native of Delaware County, Pennsylvania, Ms. Aikens has been active in volunteer activities. She was a member of the Common-

wealth Board of the Medical College of Pennsylvania and a past president of Executive Women in Government. She currently is a member of the board of directors of Ursinus College, where she received a B.A. degree and an honorary Doctor of Law degree; a member of the board of directors of the National Legal Center for the Public Interest; and a member and past King Lion of the Washington Host Lions Club.

Mr. Thomas was first appointed to the Commission in 1986, after starting his career at the FEC as a legal intern in 1975. He was an Assistant General Counsel for Enforcement and an executive assistant to former Commissioner Thomas E. Harris, before taking over Commissioner duties.

A Wyoming native, Mr. Thomas graduated from Stanford University and holds a law degree from Georgetown University Law Center. He is a member of the District of Columbia and U.S. Supreme Court bars. ♦

the U.S. Court of Appeals for the Ninth Circuit.

Other defendants include the Democratic National Committee (DNC), the Republican National Committee (RNC) and President Bill Clinton's and former Senator Bob Dole's presidential campaign committees.

The Reform Party contends that, under the Fund Act, it was unfairly held to the same \$61.8 million expenditure limit during the 1996 Presidential election as applied to the Democratic and Republican presidential contenders, even though it only received \$29 million in public funding—slightly less than half of what the major party candidates received. In order to raise the remainder and thus compete financially for the presidency, Mr. Perot, the Reform Party's presidential nominee, could raise funds only in federally permissible contributions—that is, \$1,000 for individuals and \$5,000 for political action committees. The suit maintains that this provision of the Fund Act is little more than “welfare for the major parties at the expense of viable minor parties.”

The suit also contends that both the Clinton/Gore '96 Primary Committee and the Dole for President Committee circumvented the expenditure limit during the 1996 election through their respective national party committees. The Reform Party alleges that the major parties conducted “massive” advertising campaigns in connection with the presidential candidates' committees, a violation of 2 U.S.C. §441a(d)'s coordinated expenditure limits. It contends the DNC spent \$34 million illegally, and the RNC spent \$13 million illegally, conducting what they assert to be issue advocacy advertisements that were, in reality, express advocacy ads for or against the presidential contenders. The suit also asserts that the presidential committees violated the law in accepting such contributions.

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800/424-9530
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202/501-3413 (FEC Faxline)
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Court Cases

New Litigation

National Committee of the Reform Party v. FEC

The National Committee of the Reform Party, several other groups aligned with Ross Perot's Reform Party and John Place, an individual eligible to vote for president, ask the district court to issue an order convening a three-judge district court panel to decide several constitutional issues pertaining to the Presidential Election Campaign Fund Act (the Fund Act). The suit also asks the court to certify questions regarding the constitutionality of the Federal Election Campaign Act (the Act) to an en banc panel of

Other Constitutional Claims Against the Act

According to the Reform Party, the Act violates the plaintiffs' constitutional rights to due process and equal protection in both the exclusive jurisdiction it gives to the FEC to enforce the Act and Commission regulations and the bipartisan make-up of the Commission, which it claims excludes members of minor parties.

The Reform Party asserts that the barrier imposed by requiring complainants first to raise all complaints with the FEC deprives complainants of their constitutional rights and, more specifically, results in "discrimination against the rights of members and supporters of minor parties and the campaign organizations of minor parties." The suit goes on to state that the structure of the Commission, with three Democrats and three Republicans as Commissioners, results in unfair treatment of those not associated with the two major parties.

Constitutional Claims Against the Fund Act

The Fund Act, the suit contends, violates the constitutional rights to equal protection and freedom of association because it discriminates against minor party candidates in the unequal distribution of public funding. This, in turn, negates a fair opportunity for a minor party candidate to win the presidency.

The Fund Act provides that the candidate of each of the major parties is entitled to equal payments for the general election campaigns subject to the maximum spending cap for that year. Minor parties—judged as those whose candidates received between 5 and 25 percent of the popular vote in the preceding election—receive proportionally less funding, based on the vote received in that election. However, as a precondition for receiving public funding, minor party candidates must agree to a spending limit equal to the funding received by the

major party candidates. This is discriminatory, the suit contends, because it forces minor party candidates "to meet requirements to which the Democratic and Republican Parties are not subject, thus preserving the major parties' preferred position in the electoral process."

The suit further alleges that the unfair distribution of public funding to minor party candidates deprives minor party candidates, such as Mr. Perot, a fair opportunity to be elected President, and to obtain a sufficient percentage of the popular vote to entitle the minor party's next presidential candidate to receive funding equal to the major party candidates in the next election.

State Law Claims

In the alternative, the Reform Party suit claims unfair competition and interference with Perot '96 and the Reform Party under California law. The Reform Party states that the national party committees' advertising campaigns gave those committees an unfair advantage over the Reform Party and thus violated California's Elections and Business and Professions Codes.

Other Requests of the District Court

Additionally, the Reform Party asks the court to permanently enjoin the FEC from providing funding in unequal portions to major and minor parties with presidential nominees. The Party also asks the court to issue a declaratory judgment that a private cause of action exists for the Reform Party to sue the DNC, the RNC and other named entities in this suit. Finally, the Reform Party asks the court to issue a permanent injunction against the DNC and RNC, prohibiting them from any future violations of the Act's expenditure limits, and to impose penalties on the national committees for the alleged violations.

U.S. District Court for the Northern District of California, C97-4048, November 5, 1997. ♦

FEC v. National Medical Political Action Committee

The FEC asks the court to find that the National Medical Political Action Committee (NMPAC) and its treasurer, Henry W. Williams Jr., violated the Federal Election Campaign Act (the Act) when they failed to file 14 disclosure reports in a timely manner.

NMPAC filed all the reports that were due during 1992 on May 12, 1994. Some of these reports were more than two years late. NMPAC also failed to file on time six other reports due in 1993 and 1994. These tardy filings violated 2 U.S.C. §434(a)(4)(i), (ii), (iii) and (iv). The Commission found probable cause to believe that NMPAC had violated the Act. When efforts to enter into a conciliation agreement with the defendants failed, the Commission authorized this suit.

In addition to finding that NMPAC violated the Act, the FEC asks the court to enjoin the PAC and Mr. Williams from failing to file reports within the time limits set out by Commission regulations, and to assess an appropriate civil penalty.

U.S. District Court for the District of Columbia Circuit, 97-2961, December 9, 1997. ♦

On Appeal?

FEC v. Williams

On December 8, 1997, the U.S. Supreme Court **declined** to hear this case. The U.S. Court of Appeals for the Ninth Circuit had reversed a district court decision and had ruled in favor of defendant Larry Williams. In that decision, two of the three appellate judges concluded that the FEC had waited too long after an alleged violation of the Federal Election Campaign Act to file suit against Mr. Williams. The court said that, by then, the statute of limitations had expired. See the [February 1997 issue of the Record](#). ♦

Regulations

Public Hearing Set For Recordkeeping and Reporting Requirements Rulemaking

The FEC will hold a public hearing on its proposed revisions to rules governing recordkeeping and reporting requirements on February 11 at 10 a.m. in its hearing room in Washington, DC.

The Commission has proposed several revisions to update, clarify and simplify the current requirements for filing FEC disclosure reports. The affected regulations are at 11 CFR 102.9, 104.3 and part 108. See page 4 of the [October 1997 Record](#) for more information about the rulemaking. For the complete Notice of Proposed Rulemaking on this issue, call the Public Records Office at 800/424-9530 (press 3); request the document from the FEC Faxline at 202/501-3413 (document 231); see the September 26, 1997, Federal Register (62 FR 50708); or see the FEC's web site (<http://www.fec.gov>). The complete [public hearing announcement](#) also is available at the FEC's web site and in the December 24, 1997, Federal Register (62 FR 67300).

Those wishing to testify during the hearing must submit a written request to appear by January 23 to Susan E. Propper, Assistant General Counsel. Witnesses also must have written comments on file with the Commission by that date. Written comments and requests to testify should be mailed to the Federal Election Commission, 999 E St., NW, Washington, DC 20463. Faxed comments should be transmitted at 202/219-3923, with a copy mailed to the preceding address to ensure legibility. Comments also may be sent by e-mail to reprec@fec.gov. Electronic submissions must include the commenter's full name, e-mail address and postal mail address. ♦

Comments Sought on Rulemaking Notice on Who Qualifies as "Member"

On December 15, 1997, the Commission approved for public comment a Notice of Proposed Rulemaking (NPRM) on who qualifies as a "member" of a membership association.¹ The NPRM includes three alternatives. Language at 11 CFR 100.8(b)(4)(iv) and 114.1(e) would be modified, and 11 CFR 114.7(k) and 114.8(g) would be repealed.

Members of a membership association can be solicited by the association's separate segregated fund and can also receive express advocacy communications from the organization. The proposed rules would expand the class of persons considered to be "members," and include three alternative ways the current definition could be revised. An Advanced Notice of Proposed Rulemaking (ANPRM) on this subject was published on July 31, 1997. See page 8 of the [August 1997 Record](#).

Background

In *FEC v. National Right to Work Committee*, the U.S. Supreme Court determined that members of nonstock corporations must have a significant financial or organizational attachment to the organization. In 1993 the Commission codified this ruling at 11 CFR 100.8(b)(4)(iv) and 114.1(e).

The U.S. Chamber of Commerce and the American Medical Association challenged these rules in *Chamber of Commerce of the United States v. FEC*. The U.S. Court of Appeals for the District of Columbia Circuit held that, based on

the *NRWC* opinion, the FEC's rules were unduly restrictive as applied to these two organizations.

Current Rules Not Being Revised

Current rules define a "membership association" as an organization that: (1) provides for members in its articles and by-laws; (2) solicits members; and (3) acknowledges the acceptance of members, with such things as a membership card or a subscription to a membership newsletter. The Commission is not proposing that these requirements be changed. In addition, the current regulations recognize as members those who have a strong financial interest in an association other than paying dues, such as ownership of a stock exchange seat. This provision also has not been modified in the NPRM.

New Alternative Definitions of Member

The current rules provide three different ways that a person can qualify for membership. In addition to the financial attachment noted above, the right to vote directly for the membership organization's highest governing body is sufficient to confer membership rights. However, in most instances, membership requires a combination of regularly-assessed dues and the right to vote directly or indirectly for at least one member of the association's highest governing body.

The Commission is seeking comments on three alternatives of the definition of member. Each would provide more guidance consistent with the decision in *Chamber*, expanding the class of persons that could be considered as members.

Alternative A. This alternative sets out three sets of criteria for membership: (1) annual dues of at least \$50; (2) a major organizational attachment to the membership association (possible attachments are suggested); or (3) a combination

¹ The term "membership association" includes membership organizations, trade associations, cooperatives, corporations without capital stock, and local, national and international labor organizations that meet the requirements set forth in the regulations.

of annual dues of less than \$50 and some lesser organizational attachment to the association. Under this alternative a person who satisfied any one of these criteria would qualify as a member.

Alternative B. This alternative would set the amount of annual dues required for membership at \$200—the same amount that triggers itemized disclosures for political committees—for membership organizations formed to further an ideological, social welfare or political bent. Persons affiliated with these types of groups, but who pay less than \$200 per year in dues, still would be considered members for Commission purposes if they had some right to participate in the governance of the organization. Suggested examples are described in the NPRM.

However, the members of organizations formed to further business or economic interests would be treated as members by paying any set amount of regular dues. Those individuals and entities generally join membership organizations to foster their business or economic interests, thus creating an attachment that is independent of any political attachment, unlike the previous category where political support may be the only motivation. The business category would include business leagues, trade associations, labor organizations and self-regulating professional associations.

Alternative C. This alternative would consider any amount of annual dues set by a membership association to be sufficient to confer membership status. This alternative would treat ideological organizations the same as economic or business associations for purposes of the rules.

In addition to the alternatives described above, the proposed rules would provide that direct membership in any level of a multitiered association be construed as member-

ship in all tiers of the association for purposes of the regulations. 11 CFR 114.7(k) and 114.8(g).

The NPRM is available from the Public Records Office at 800/424-9530 (press 3); through the FEC's Faxline at 202/501-3413 (request document 229); and at the FEC's web site—<http://www.fec.gov>. The NPRM also is published in the December 22, 1997, Federal Register (62 FR 66832).

Public comments must be submitted in either written or electronic form to Susan E. Propper, Assistant General Counsel. Written comments should be mailed to the Federal Election Commission, 999 E St., NW, Washington, DC 20463. Faxed comments should be transmitted at 202/219-3923, with a copy mailed to the preceding address to ensure legibility. Comments also may be sent by e-mail to members@fec.gov. Electronic submissions must include the commenter's full name, e-mail address and postal mail address. The deadline for comments is January 21. ♦

FEC Seeks Comments on Petition Addressing Expenditures by Qualified Nonprofit Corporations

On December 5, 1997, the Commission approved for publication a Notice of Availability relating to its regulations governing expenditures by qualified nonprofit corporations. 11 CFR 114.10. The notice invites comments on a petition submitted to the FEC by the James Madison Center for Free Speech.

The petition urges the Commission to conform portions of its regulations to the decision by the U.S. Court of Appeals for the Eighth Circuit in *Minnesota Citizens Concerned for Life v. FEC*. The regulations in question, found at 11 CFR 114.10, describe a narrow category of nonprofit ideological corporations that are exempt from

the Federal Election Campaign Act's prohibition on independent expenditures by corporate entities. 2 U.S.C. §441b. These regulations were declared invalid by the Eighth Circuit because they deny the exemption to "a voluntary political association that conducts minor business activities or accepts insignificant corporate donations."¹ The appeals court denied the FEC's petition for a rehearing of this case and its suggestion for a rehearing en banc.

The Notice of Availability seeks comments on whether the FEC should initiate a rulemaking in response to the petition. The Commission routinely provides an opportunity for comments on rulemaking petitions before the agency considers the merits of the petition.

The [petition](#) and [notice](#) are available from the Public Records Office at 800/424-9530 (press 3) or 202/219-4140; through the FEC's Faxline at 202/501-3413 (document 233); and at the FEC's web site—<http://www.fec.gov>. The notice is published in the December 10, 1997, Federal Register (62 FR 65040).

Public comments must be submitted in either written or electronic form to Susan E. Propper, Assistant General Counsel. Written comments should be mailed to the Federal Election Commission, 999 E St., NW, Washington, DC 20463. Faxed comments should be transmitted at 202/219-3923, with a copy mailed to the preceding address to ensure legibility. Comments also may be sent by e-mail to qncpetition@fec.gov. Electronic submissions must include the commenter's full name, e-mail address and postal mail address. The deadline for comments is January 23. ♦

¹ *Minnesota Citizens Concerned for Life v. FEC*, 113 F. 3d at 130-131.

Federal Register

Federal Register notices are available from the FEC's Public Records Office.

Notice 1997-16

Filing Dates for the California Special Election (62 FR 63715, December 2, 1997)

Notice 1997-17

Rulemaking Petition: Qualified Nonprofit Corporations; Notice of Availability (62 FR 65040, December 10, 1997)

Notice 1997-18

Filing Dates for the Pennsylvania Special Election (62 FR 65704, December 15, 1997)

Notice 1997-19

Privacy Act; Republication and Notice of New Routine Uses for Disclosure (62 FR 65694, December 15, 1997)

Notice 1997-20

Definition of "Member" of a Membership Association; Notice of Proposed Rulemaking (62 FR 66832, December 22, 1997)

Notice 1997-21

Recordkeeping and Reporting; Notice of Public Hearing (62 FR 67300, December 24, 1997)

Reports

Reports Due in 1998

This article on filing requirements for 1998 is supplemented by the reporting tables that follow.

It is the responsibility of the committee treasurer to file required reports on time. To assist treasurers, the Commission sends committees FEC reporting forms and notices of upcoming reporting deadlines.

For further information on reporting or to order extra forms, call the FEC: 800/424-9530 (press 1) or 202/219-3420. Additionally, most forms are available at the FEC's web site (<http://www.fec.gov>) and from the agency's Faxline system (dial 202/501-3413).

Year-End Reports Covering 1997 Activity

All committees must file a 1997 year-end report due January 31, 1998. The coverage and reporting dates are found on page 7.

Reports Covering 1998 Activity

To find out which reports your committee must file in 1998, check the Guide to Reporting chart on page 11. Please note that committees active in special elections in 1998 may have to file additional special election reports, as explained below.

Committees Active in Special Elections

Committees authorized by candidates running in any 1998 special election must file election reports in addition to regularly scheduled reports. 11 CFR 104.5(h). They are also required to comply with the 48-hour notice requirement for contributions of \$1,000 or more (including loans) received shortly before an election. See 11 CFR 104.5(f).

PACs and party committees supporting candidates running in special elections also may have to file pre- and post-election reports unless they file on a monthly basis.

11 CFR 104.5(c)(3) and 104.5(h). However, all PACs are subject to 24-hour reporting of independent expenditures made shortly before an election. See 11 CFR 104.4(b) and (c) and 104.5(g).

When timing permits, the *Record* will alert committees to special election reporting dates in 1998. In this issue, see pages 12 and 13 for filing dates for the special elections in California and Pennsylvania.

Late Filing

The Federal Election Campaign Act does not permit the Commission to grant extensions of filing deadlines under any circumstances. Filing late reports could result in enforcement action by the Commission.

Where to File

Committee treasurers must file FEC reports with the appropriate federal and state filing offices. Please note that:

- The addresses for the federal offices (FEC and Secretary of the Senate) appear in the instructions to the Summary Page of FEC Forms 3 and 3X.
- A list of state filing offices is available from the Commission.

House Candidate Committees. Principal campaign committees of House candidates file with the FEC. 11 CFR 105.1. The principal campaign committee must simultaneously file a copy of each report and statement with the Secretary of State (or equivalent officer) of the state in which the candidate seeks (or sought) election. 2 U.S.C. §439(a)(2)(B).

Senate Candidate Committees. Principal campaign committees of Senate candidates file with the Secretary of the Senate, as appropriate. 11 CFR 105.2. The principal campaign committee must simultaneously file a copy of each report and statement with the Secretary of State (or equivalent officer) of the state in which the candidate seeks

(or sought) election. 2 U.S.C. §439(a)(2)(B).

Presidential Committees. Principal campaign committees of Presidential candidates file with the FEC. 11 CFR 105.3. The principal campaign committee must simultaneously file a copy of each report and statement with the Secretary of State (or equivalent officer) of each state in which the committee makes expenditures. 11 CFR 108.2.

Candidate Committees with More Than One Authorized Committee. If a campaign includes more than one authorized committee, the principal campaign committee files, with its own report, the reports prepared by the other authorized committees as well as a consolidated report (FEC Form 3Z or page 5 of FEC Form 3P, as appropriate). 11 CFR 104.3(f).

PACs and Party Committees. Generally, PACs and party committees file with the FEC. 11 CFR 105.4. However, committees supporting only Senate candidates, and the national Democratic and Republican senatorial committees file with the Secretary of the Senate. 11 CFR 105.2.

PACs and party committees must simultaneously file copies of reports and statements with the Secretary of State (or equivalent officer), as follows:

- Committees making contributions or expenditures in connection with House and Senate campaigns also file in the state in which the candidate seeks (or sought) election. The committee is required to file only that portion of the report applicable to the candidate in that state (e.g., the Summary Page and the schedule showing the contribution or expenditure). 2 U.S.C. §439(a)(2)(B).
- Committees making contributions or expenditures in connection with Presidential candidates also file in the states in which the Presidential committee and the donor committee have their headquarters. 11 CFR 108.4. ♦

1997 Year-End Report

Note: All committees file this report.

Report	Period Covered	Filing Date ¹
Year-End	Closing date of last report through December 31, 1997	January 31, 1998

1998 Monthly Reports

Report	Period Covered	Filing Date ¹
February	January 1-31	February 20
March	February 1-28	March 20
April	March 1-31	April 20
May	April 1-30	May 20
June	May 1-31	June 20
July	June 1-30	July 20
August	July 1-31	August 20
September	August 1-31	September 20
October	September 1-30	October 20
Pre-General ²	October 1-14	October 22
Post-General	Oct. 15-Nov. 23	December 3
Year-End	Nov. 24-Dec. 31	January 31, 1999

1998 Quarterly Reports

Report	Close of Books	Filing Date ¹
1st Quarter	March 31	April 15
2nd Quarter	June 30	July 15
3rd Quarter	September 30	October 15
Year-End	December 31	January 31, 1999

Pre- and Post-Election Reports for November 3 General Election

Report	Close of Books	Filing Date ¹
Pre-General ²	October 14	October 22
Post-General	November 23	December 3

(continued on page 8)

¹ Reports sent by registered or certified mail must be postmarked by the filing date (except in the case of the pre-general election report; see footnote 2). Reports sent by other means must be received by the filing date. 11 CFR 104.5(e).

² If sent by registered or certified mail, the pre-general must be postmarked by October 19.

Reports

(continued from page 7)

Pre-Election Reporting Dates: 1998 Primary and Runoff Elections

State or Territory	Election Day	Close of Books	Registered/Certified Mailing Date	Filing Date
*Alabama	June 2	May 13	May 18	May 21
*Alaska	August 25	August 5	August 10	August 13
American Samoa	November 3 Runoff: November 17	October 14 October 28	October 19 November 5 ¹	October 22 November 5
*Arizona	September 8	August 19	August 24	August 27
*Arkansas	May 19 Runoff: June 9	April 29 May 20	May 4 May 25 ²	May 7 May 28
*California	June 2	May 13	May 18	May 21
*Colorado	August 11	July 22	July 27	July 30
*Connecticut	September 15	August 26	August 31	September 3
Delaware	September 12	August 23	August 28	August 31
District of Columbia	September 15	August 26	August 31	September 3
*Florida	September 1 Runoff: October 1	August 12 September 11	August 17 September 16	August 20 September 19 ³
*Georgia	July 21 Runoff: August 11	July 1 July 22	July 6 July 27	July 9 ⁴ July 30
Guam	September 5	August 16	August 21	August 24
*Hawaii	September 19	August 30	September 4	September 7 ²
*Idaho	May 26	May 6	May 11	May 14
*Illinois	March 17	February 25	March 2	March 5
*Indiana	May 5	April 15	April 20	April 23
*Iowa	June 2	May 13	May 18	May 21
*Kansas	August 4	July 15	July 20	July 23
*Kentucky	May 26	May 6	May 11	May 14

*States holding 1998 Senate elections.

¹ The mailing date is the same as the filing date because the computed mail date falls one day before the primary date.

² Federal holiday. For registered/certified mailing date, the report should be postmarked before that date. For filing date, the report should be received by the FEC the day before (or, in the case of Labor Day and Memorial Day, the Friday before).

³ Saturday or Sunday. Because filing dates are not extended when they fall on nonworking days, the report should be received by the appropriate filing offices the Friday before.

⁴ The July Quarterly report is waived for committees filing the Georgia pre-primary report. See 11 CFR 104.5(a)(1)(iii)(C) and (c)(1)(i)(C).

State or Territory	Election Day	Close of Books	Registered/Certified Mailing Date	Filing Date
*Louisiana	October 3 Runoff: November 3	September 13 October 14	September 18 October 19	September 21 October 22
Maine	June 9	May 20	May 25 ²	May 28
*Maryland	September 15	August 26	August 31	September 3
Massachusetts	September 15	August 26	August 31	September 3
Michigan	August 4	July 15	July 20	July 23
Minnesota	September 15	August 26	August 31	September 3
Mississippi	June 2 Runoff: June 23	May 13 June 3	May 18 June 8	May 21 June 11
*Missouri	August 4	July 15	July 20	July 23
Montana	June 2	May 13	May 18	May 21
Nebraska	May 12	April 22	April 27	April 30
*Nevada	September 1	August 12	August 17	August 20
*New Hampshire	September 8	August 19	August 24	August 27
New Jersey	June 2	May 13	May 18	May 21
New Mexico	June 2	May 13	May 18	May 21
*New York	September 15	August 26	August 31	September 3
*North Carolina	May 5 Runoff: June 2	April 15 May 13	April 20 May 18	April 23 May 21
*North Dakota	June 9	May 20	May 25 ²	May 28
*Ohio	May 5	April 15	April 20	April 23
*Oklahoma	August 25 Runoff: September 15	August 5 August 26	August 10 August 31	August 13 September 3
*Oregon	May 19	April 29	May 4	May 7
*Pennsylvania	May 19	April 29	May 4	May 7
Rhode Island	September 15	August 26	August 31	September 3
*South Carolina	June 9 Runoff: June 23	May 20 June 3	May 25 ² June 11 ¹	May 28 June 11

(continued on page 10)

* States holding 1998 Senate elections.

¹ The mailing date is the same as the filing date because the computed mail date falls one day before the primary date.² Federal holiday. For registered/certified mailing date, the report should be postmarked before that date. For filing date, the report should be received by the FEC the day before (or, in the case of Labor Day and Memorial Day, the Friday before).

Reports

(continued from page 9)

State or Territory	Election Day	Close of Books	Registered/Certified Mailing Date	Filing Date
*South Dakota	June 2 Runoff: June 16	May 13 May 27	May 18 June 4 ¹	May 21 June 4
Tennessee	August 6	July 17	July 22	July 25 ³
Texas	March 10 Runoff: April 14	February 18 March 25	February 23 March 30	February 26 April 2
*Utah	June 23	June 3	June 8	June 11
*Vermont	September 8	August 19	August 24	August 27
Virginia	June 9	May 20	May 25 ²	May 28
Virgin Islands	September 8	August 19	August 24	August 27
*Washington	September 15	August 26	August 31	September 3
West Virginia	May 12	April 22	April 27	April 30
*Wisconsin	September 8	August 19	August 24	August 27
Wyoming	August 18	July 29	August 3	August 6

* States holding 1998 Senate elections.

¹ The mailing date is the same as the filing date because the computed mail date falls one day before the primary date.

² Federal holiday. For registered/certified mailing date, the report should be postmarked before that date. For filing date, the report should be received by the FEC the day before (or, in the case of Labor Day and Memorial Day, the Friday before).

³ Saturday or Sunday. Because filing dates are not extended when they fall on nonworking days, the report should be received by the appropriate filing offices the Friday before.

Guide to 1998 Reporting: Required Reports

(All committees must also file a 1997 year-end report, which is due on January 31.)

Type of Filer	Semiannual	Quarterly	Monthly	Pre-Primary ¹	Pre-General	Post-General
House and Senate Campaigns of 1998 Candidates		✓		✓	✓	✓
Other House and Senate Campaigns ²	✓					
Presidential Campaigns ³		✓	or	✓		
PACs and Party Committees Filing Monthly			✓		✓	✓
PACs and Party Committees Filing Quarterly ⁴		✓		✓	✓	✓

(continued on page 12)

¹ Category also includes pre-convention and pre-runoff reports.

² Special election candidates must file additional reports pertaining to their special elections. See periodic Record announcements.

³ Presidential committees that wish to change their filing frequency during 1998 should notify the Commission in writing.

⁴ PACs and party committees that filed on a semiannual basis in 1997 file on a quarterly basis in 1998. To avoid the need to file pre-primary and pre-runoff reports, these committees may change to monthly filing if they first notify the Commission in writing.

Election Law Amended

Commissioner Terms

The Federal Election Campaign Act (the Act) has been amended to allow FEC Commissioners to serve only one six-year term. The amendment at 2 U.S.C. §437c(a)(2)(A) strikes the phrase “for terms of 6 years” and adds in its place “for a single term of six years.” The amendment is applicable to individuals nominated by the President after December 31, 1997, unless the President announced his intent to nominate an individual prior to November 30, 1997.

Point of Entry for Senatorial Campaign Committees

The second change to the Act concerns filing requirements. The Democratic Senatorial Campaign Committee and the National Republican Senatorial Committee may now file campaign financial disclosure forms with the Secretary of the Senate, rather than with the FEC. The amendment at 2 U.S.C. §432(g)(1) strikes the “and” after “Senator,” and inserts “and by the Republican and Democratic Senatorial Campaign Committees” after “candidate.”

An updated compilation of the Act will be available later this year.

Reports

(continued from page 11)

California Special General Election Reporting

Committees¹ involved in the January 13 Special Election and/or the March 10 Special Runoff Election to fill the 22nd Congressional District seat vacated by Congressman Walter Capps, who died in October 1997, must follow the reporting schedules below. Note that 48-hour notices are required of authorized committees that receive contributions (including loans) of \$1,000 or more between December 25, 1997, and January 10, 1998, for the Special General Election, and between February 19 and March 7 if a Runoff Election is required.

If Only the Special General Election Is Held:

	Close of Books	Certified/Registered Mail Date	Filing Date
Pre-General	Dec. 24, 1997	Dec. 29, 1997	Jan. 2 ²
Year- End	Dec. 31, 1997	Jan. 31	Jan. 31
Post-General	Feb. 2	Feb. 12	Feb. 12

Committees Involved in the Special General and Special Runoff Elections:

	Close of Books	Certified/Registered Mail Date	Filing Date
Pre-General	Dec. 24, 1997	Dec. 29, 1997	Jan. 2 ²
Year-End	Dec. 31, 1997	Jan. 31	Jan. 31
Pre-Runoff	Feb. 18	Feb. 23	Feb. 26
Post-Runoff and April Quarterly³	March 31	April 9	April 9

Committees Involved in Only the Special General Election When Both It and the Runoff Election Are Held:

	Close of Books	Certified/Registered Mail Date	Filing Date
Pre-General	Dec. 24, 1997	Dec. 29, 1997	Jan. 2 ²
Year-End	Dec. 31, 1997	Jan. 31	Jan. 31

¹ These committees include authorized committees of candidates running in the election and other political committees that support these candidates and do not file monthly.

² This date has been adjusted because the computed date falls on a federal holiday.

³ Committees should file a consolidated Post-Runoff and April Quarterly Report by the filing date of the Post-Runoff Report.

Pennsylvania Special General Election Reporting

Committees¹ involved in the May 19 Special Election to fill the 1st Congressional District seat vacated by Congressman Tom Foglietta, who was named U.S. Ambassador to Italy, must follow the reporting schedule below. Note that 48-hour notices are required of authorized committees that receive contributions (including loans) of \$1,000 or more between April 30 and May 16.

	Close of Books	Certified/Registered Mail Date	Filing Date
Year-End	Dec. 31, 1997	Jan. 31	Jan. 31
April Quarterly	March 31	April 15	April 15
Pre-General	April 29	May 4	May 7
Post-General	June 8	June 18	June 18

¹ These committees include authorized committees of candidates running in the election and other political committees that support these candidates and do not file monthly.

Public Funding

Forecast Shows Shortfall in Public Funding for 2000 Election Cycle

An FEC staff analysis of funding available for the presidential election of 2000 projects a shortfall in the Presidential Election Campaign Fund.

The projections suggest that there will be insufficient funding to provide timely matching payments to primary candidates in the 2000 election. These projections are based on several assumptions: (1) a 2.5 percent rate of inflation, (2) fund receipts of \$67 million a year, based on the \$3 checkoff on tax forms and (3) participation of the Reform Party, in addition to the two major parties, in all phases of the public funding program. The Reform Party is likely to request, and qualify for, status as a minor national party, based on the popular vote it received in the 1996 elections. See 2 U.S.C. §9002(7).

A number of circumstances factor into this forecast.

- At the end of 1996, just \$3.5 million remained in the Presidential Election Campaign Fund, and calculations for the fund balance in 2000 will include receipts only for 1997, 1998 and 1999—not 2000—at a rate of \$67 million a year.
- If, as anticipated, conventions are held in 2000 by two major parties and one minor party, the organizers of those events would be entitled to approximately \$30 million, the bulk of which would be paid out in 1999.
- If the two previous projections hold up, the December 31, 1999, balance in the fund would be approximately \$174.5 million. Receipts from the 2000 taxpayer checkoff are not counted in this total, but will come into play during the year 2000 and can be paid out to candidates as the funds accumulate.
- With a set aside of \$149 million for the candidates of two major parties and one minor party in the general election, the Presidential

fund would be left with only \$25.5 million for payments to primary candidates on January 1, 2000.

U.S. Treasury Department regulations require that the Treasury set aside funding for the general election and nominating conventions prior to making any matching payments to Presidential primary candidates.

- Because there will be no incumbent in the 2000 race, Commission staff anticipate vigorous primary contests with far more qualifying candidates than the 11 who were funded in the 1996 primaries.

Based on the above analysis, those candidates who qualify for matching payments would receive small, pro-rated payments, which might have to be stretched out for the entire year. Bridge loans might not be as easily obtained as they were in 1996 when the shortfall in the fund was short term. Moreover, servicing of such loans over a longer period of time would require more campaign spending for interest on the loans. ♦

(continued on page 14)

Public Funding

(continued from page 13)

Fulani Repayment Determination Stayed

On December 5, 1997, the Commission granted a request for a stay of its final repayment determination to Lenora B. Fulani and her 1992 campaign committee, Lenora B. Fulani for President, pending the outcome of their appeal of the determination to the U.S. Court of Appeals for the District of Columbia Circuit.

The Commission had determined that the Fulani committee had to repay \$117,269.54 to the United States Treasury. The committee repaid \$1,394, but disputed the remaining \$115,875.54. That dispute is now the subject of the appeal (see page 2 of the [October 1997 Record](#)). ♦

Advisory Opinions

AO 1997-18 Status as Local Party Committee of National Party

The California Reform Party Congressional Committee (Congressional Committee) at this time does not qualify as a local party committee.

The Federal Election Campaign Act (the Act) defines a state committee as “the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Commission.” 2 U.S.C. §431(15).

While the Act and Commission regulations do not explicitly define a local committee of a political party, it can be viewed as the same as a “subordinate committee.” A subordinate committee is “any organization which is responsible for the

day-to-day operation of the political party at the level of city, county, neighborhood, ward, district, precinct, or any other subdivision of a State or any organization under the control or direction of the State committee.” 11 CFR 100.14(b).

In its request, the Congressional Committee states that it is independent of any state committee and has no relationship with the National Reform Party. Further, it intends to continue in this mode. The Congressional Committee, at this time, also contends that it does not wish to seek state committee status as there already is a statewide political party—the Reform Party of California—which may itself wish to seek state committee status at a later date.

A prerequisite for committee status is the existence of a political party. See AOs 1997-7, 1997-3, 1996-51, 1996-43 and 1996-35. The Reform Party movement in California qualifies as a “political party” for purposes of the Act and Commission regulations, and the Congressional Committee is an “instrumentality” of that organization, based on the following information. Two of the seven Reform Party candidates supported by the Congressional Committee in 1996 had sufficient financial activity to qualify as candidates under the Act.

Nonetheless, the Congressional Committee does not meet either of the two requirements of “subordinate committee” found in the regulation: (1) responsibility for the day-to-day operations of the party on the local level or (2) being under the control or direction of a state committee.

In its request, the Congressional Committee states that its purposes include electing state Reform Party candidates to the U.S. House of Representatives, raising funds and providing support for those candidates and developing coordinated campaigns in all 52 of California’s congressional districts. Thus, the Congressional Committee’s activi-

ties are not local, or confined to one specific geographic region or subdivision. The activities it describes are more consistent with statewide activity.

Under section 100.14(b), some subordinate committees may operate beyond a local geographic or jurisdictional area, but these committees must be under the direction or control of a state committee. As stated before, the Congressional Committee currently is not affiliated with the Reform Party of California. Moreover, the Commission has not yet recognized any committee as the California state committee of the Reform Party. Thus, the Congressional Committee’s activities are not being directed by any state committee of the Reform Party.

Because the Congressional Committee does not qualify as a local party committee, it may not participate in making the coordinated party expenditures described at 2 U.S.C. §441a(d). It also may not take advantage of the exemptions from the definition of contribution and expenditure for certain kinds of activities. 2 U.S.C. §431(8)(B) and (9)(B).

The advisory opinion does note that if the Reform Party of California gained state committee status and the Congressional Committee affiliated with it, the Congressional Committee would become a local party committee.

Date Issued: December 4, 1997;
Length: 4 pages. ♦

AO 1997-22 Communicating Endorsements to Members and Their Restricted Classes

The Business Council of Alabama (BCA) may communicate its endorsements of federal candidates, and encourage contributions to those candidates, by means of communications directed to representatives of member organizations with whom

BCA normally communicates. Additionally, BCA may request that these communications be passed along to the restricted classes of those membership organizations. However, it may not provide the actual materials for redistribution.

BCA is an incorporated membership organization consisting of individuals, firms, partnerships, organizations and corporations. The group, with approximately 5,200 members, plans to evaluate federal candidates and their positions on matters that concern its membership. BCA would then prepare a list of candidates it wishes to support and oppose and would urge its membership to follow its advocacy. In addition, BCA would ask its noncorporate members and the separate segregated funds (SSFs) of its corporate members, by way of the organization's usual contact person, to make contributions to those supported candidates. And finally, BCA would ask its corporate members to forward its endorsements to their restricted classes.

While containing a broad prohibition on corporate contributions and expenditures in connection with federal elections, the Federal Election Campaign Act includes an exception that allows a corporation to direct election advocacy communications to its restricted class. 2 U.S.C. 441b(b)(2)(A). For purposes of these communications, the restricted class of an incorporated membership organization, such as BCA is its membership (as well as its executive and administrative personnel and the families of both groups).

Commission regulations at 11 CFR 114.3 allow a corporation to solicit or suggest that its individual members make contributions to candidates, but does not allow the corporation to facilitate the making of contributions or to act as a conduit. A corporation may provide the address of a candidate or political committee to its membership. It

may also solicit its restricted class for contributions to be sent directly to a candidate. 11 CFR 114.2(f)(4)(ii). See also AOs 1996-1 and 1987-29.

In AO 1996-21, the Commission approved BCA's candidate endorsement and contribution solicitation plan. The advisory opinion concluded that corporate members could receive BCA's endorsements through the individuals who normally represented them with BCA. In AO 1995-27, the Commission concluded that noncorporate members of a trade association also could receive solicitations for candidates through their organizations' one or two usual contact persons.

And, in AO 1991-24, the Commission found that an organization—in this instance, a federation of trade associations—could have its membership (trade associations) communicate candidate endorsements to their own memberships (corporations) through their usual contact people. The Commission cautioned, however, that the trade association could “not subsidize the subsequent communications made [by its members]” to their own members.

Thus, while BCA's endorsement communications plan is permissible, it may not provide materials—for example, bulk copies of candidate-related materials—for redistribution by its membership to their restricted classes.¹ This would constitute an unlawful distribution of election advocacy communications to the restricted classes of its corporate members and the personnel of noncorporate members. Distribution of such endorsements must be left to the membership organizations.

Date issued: November, 13, 1997; Length: 6 pages. ♦

¹ However, BCA may provide such materials to its members at a charge.

Advisory Opinion Requests

Advisory opinion requests are available for review and comment in the Public Records Office.

AOR 1997-25

Affiliation of corporate SSFs after spin-off and merger (Hughes Electronics, November 20, 1997; 6 pages plus 65-page attachment)

AOR 1997-26

Nonconnected committee status of PAC formed by members of a nonprofit trade association acting in their individual capacities (Association of Metropolitan Sewerage Agencies, December 1, 1997; 3 pages plus 7-page attachment) ♦

FEC 1998 Conference Schedule

The FEC will hold three conferences in 1998. To register for any of the scheduled conferences, call Sylvester Management at 1/800-246-7277 or send an e-mail message to: TSYLVESTER@WORLDNET.ATT.NET.

Washington, DC

For candidate committees
Date: February 23, 1998
Location: Madison Hotel
Registration: \$175
Hotel rate: \$124

Denver

For candidates, political parties and corporate and labor organizations
Date: March 25-27, 1998
Location: Westin Tabor Center
Registration: \$180
Hotel rate: \$136

Read future issues of the *Record* to get scheduling information for the third conference slated for 1998:

Washington, DC

For nonconnected committees
April 1998

Publications

Updated Corporate/Labor Campaign Guide Available

The Commission has recently published a new edition of the *Campaign Guide For Corporations and Labor Organizations*. The 80-page guide explains the rules and procedures corporations and labor organizations must follow in conducting federal campaign-related activities. This latest edition includes an expanded index and new sections discussing corporate and labor communications, the use of corporate and labor facilities, revised “best efforts” regulations and new rules on disclaimer notices.

Every treasurer of a political committee registered with the FEC should have already received a copy of the updated guide in the mail. However, additional copies are available for free.

The complete guide is available for downloading at the FEC’s web

site at <http://www.fec.gov>. Using Adobe® Acrobat Reader software, you will be able to view and print the publication, including its charts and sample forms and schedules. The FEC’s web site includes a link to Adobe’s web site, where you can download the latest version of its reader software for free.

Political committee staff and others interested in the election law can obtain their own free copies of the guide by calling the FEC at 800/424-9530 (press 1) or 202/219-3420. ♦

Index

The first number in each citation refers to the “number” (month) of the 1998 *Record* issue in which the article appeared. The second number, following the colon, indicates the page number in that

issue. For example, “1:4” means that the article is in the January issue on page 4.

Advisory Opinions

1997-18: Status of committee as local party committee, 1:14

1997-22: Communicating membership corporation’s endorsements of federal candidates to members and their restricted classes, 1:14

Court Cases

FEC v. _____

– National Medical Political Action Committee, 1:3

– Williams, 1:3

_____ v. FEC

National Committee of the Reform Party, 1:2

Reports

Pre-Election Reporting Dates: 1998

Primary and Runoff Elections, 1:8

Reports Due in 1998, 1:6, 1:11

Special Election, California, 1:12

Special Election, Pennsylvania, 1:13

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