

Federal Election Commission

Annual Report 1979



Federal Election Commission
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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

To the President of the United States:
To the Congress of the United States:

We submit for your consideration the fifth annual report of the Federal Election Commission, as required by the Federal Election Campaign Act of 1971, as amended. This Annual Report 1979 describes the activities performed by the Federal Election Commission in carrying out its duties under the Act and lists the Commission's recommendations for legislative action. We hope you will find this a useful summary of the Commission's efforts to implement the Federal Election Campaign Act.

Respectfully,

A handwritten signature in black ink that reads "Robert O. Tiernan". The signature is written in a cursive style with a long, sweeping tail.

ROBERT O. TIERNAN
Chairman

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Overview

During 1979, the Federal Election Commission prepared for the 1980 Presidential elections while making a concerted effort to improve the overall administration of the election law. To this end, the Commission modified a number of programs to facilitate smooth administration of public financing in the 1980 Presidential elections. Procedures were developed, for example, to expand the scope of information available on Presidential campaign finance activity; ensure swift certification of public funds; and undertake timely, thorough audits of candidates and national nominating conventions receiving public funds. The Commission also prescribed revised regulations governing the public funding of Presidential primary campaigns and national nominating conventions. Chapter 1 describes these programs.

Other program refinements were undertaken, when necessary, to improve FEC administration of disclosure and compliance in general. These program changes are discussed in Chapter 2.¹

On December 20, 1979, Congress passed H.R. 5010,² amending the election law to streamline reporting and bookkeeping requirements and to give party organizations more latitude in participating in activities related to Federal elections. The Commission immediately took steps to make a smooth transition to operating under the revised law.³ During the final weeks of 1979, the Commission began to revise FEC regulations, reporting procedures and informational mailings. The impact of the new law is summarized in Chapter 3.

Chapter 4 includes the Commission's recommendations for legislative changes.

During 1979, the Commission's internal administration changed significantly as a result of a collective bargaining agreement negotiated between FEC management and representatives of the National Treasury Employees Union (NTEU), the exclusive bargaining unit for the Commission. The final chapter discusses the labor/management issue and other aspects of internal administration.

¹For detailed descriptions of the Commission's ongoing operations, see the FEC's 1977 and 1978 *Annual Reports*, available in the Public Records Office.

²President Carter signed the bill into law (Pub. L. No. 96-187) on January 8, 1980.

³Except where noted, legal citations in the text are to the Federal Election Campaign Act as amended in 1974 and 1976 (prior to 1979 amendments), as contained in title 2 of the United States Code. Note also that citations to the FEC regulations (11 CFR), which may be found in Chapter 11 of the Code of Federal Regulations, do not reflect the 1979 amendments to the election law.

Chapter 1

Preparations for the Presidential Election

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The Commission allocated substantial staff resources during 1979 to its preparations for the 1980 Presidential elections. During 1978, the Commission had begun to reassess the public financing program for the 1976 Presidential elections and to develop new programs based on this examination. It had held hearings on the public financing regulations, had approved new Presidential reporting forms and had developed an outreach program for Presidential candidates and their authorized committees.

During 1979, the Commission continued revising the public financing program to accommodate the practical political situations encountered by Presidential campaigns during the 1976 elections and to correct procedural deficiencies in the Commission's own administration of the program.

By the end of 1979, a number of new programs were in place which enabled the Commission to:

- Provide more complete public disclosure of Presidential campaign finance activity;
- Monitor Presidential campaign activity more thoroughly;
- Provide Presidential campaigns with more effective technical assistance in establishing proper recordkeeping, accounting and reporting procedures;
- Expedite both the certifications of public funds and audits of campaigns receiving public funds; and
- Facilitate compliance with the election law by revising the public financing regulations and by issuing a series of advisory opinions on permissible activities related to Presidential campaign finance activity.

Disclosure

During 1979, the Commission developed programs to expand the scope of information available to the public on Presidential campaign finance activity. In addition to enhancing disclosure, the new programs allowed the Commission to monitor the receipt and expenditure of public funds more effectively. Moreover, because a

number of the programs were computer-based, they were implemented at lower costs to the Commission than the manual disclosure and monitoring procedures used to administer the 1976 public funding program.

Expanding Disclosure

For the first time, the Commission made available information submitted by Presidential candidates seeking eligibility for public funding of their primary campaigns. In addition to the reports filed by Presidential candidates on their campaign finance activity, the Public Records Office released lists of contributions (alphabetized by contributor) for which candidates had requested matching payments. During 1979, the Public Records Office released the contributor lists for seven Presidential candidates.

This office also made available to the public the personal financial disclosure statements required of all Presidential and Vice Presidential candidates under the 1978 Ethics in Government Act. Presidential and Vice Presidential candidates must file the Ethics Act reports with the Commission within 30 days of becoming a candidate, under the election law, and on or before May 15 of each successive year in which the individual continues to be a candidate. (Certain high-level FEC staff, as Federal employees, are also required to file reports under the Ethics Act.) While the Commission serves as a filing office for the reports, the Office of Government Ethics oversees enforcement of the Ethics Act.¹

The Commission also provided increased disclosure of Presidential campaign finance activity by expanding the types of data entered into its computer-based information system and by generating new disclosure programs from this data base. For example, the Reports Analysis Division expanded data coding and entry of information contained in Presidential reports

¹ For more information on this program, contact: The Office of Government Ethics, 1900 Eye Street, N.W., Room 5315, Washington, D.C. 20415.

to include all summary information on campaign receipts and expenditures (including receipt of Federal funds), information on exempt fundraising, legal and accounting disbursements, and all information on expenditures of public funds in primary campaigns on a State-by-State basis.

The Commission also entered into its computer system information contained on lists submitted with matching fund requests.² This new data base could provide such up-to-date information on matching fund requests as total contributions submitted for matching funds (by each candidate and a summary figure for all candidates) and total certifications made by the Commission.

Drawing on the expanded data base for Presidential campaign finance activity, the Data Systems Development Division developed other computer programs that provided a context in which to analyze and understand this activity. For example, the division revised a program (Standard Index E)³ which listed all unauthorized — in addition to authorized — campaign committees operating on behalf of, or against, a single candidate. Another computer program presented the candidate's campaign finance activity on a State-by-State basis, and summarized activity by all Presidential campaigns within a particular State.

The *Reports on Financial Activity of Presidential Prenomination Campaigns* will, however, provide the most comprehensive compilation of statistics. Developed during 1979 by the Data Systems Development Division as a new addition to the Commission's *Reports on Financial Activity* series,⁴ this new series of reports will present comparative statistics on the campaign finance

²An alphabetical listing of the contributors and the amounts of their contributions.

³See also Appendix 7.

⁴For a more detailed discussion of this disclosure series, see page 5 of the FEC's 1978 *Annual Report*.

activity of major and minor party Presidential candidates. In 1980, interim reports containing cumulative data will be released monthly during the primary season and will include activity reported through the previous month.

Increased Efficiency of the Disclosure Process

The Commission took several steps to increase the efficiency of the disclosure process as well. It assigned top priority to computer entry of data from Presidential campaign finance reports. It also initiated a voluntary program whereby Presidential candidates could submit matching fund information on computer tapes.⁵

Monitoring Public Funding

With the aid of a *Review Manual for Presidential Candidates* developed in 1979, a special Presidential team of reports analysts began reviewing Presidential campaign finance reports. Standardized procedures established by the manual helped ensure more evenhanded treatment of all campaigns as well as a more accurate review of reports. Moreover, by using the expanded data base of information on Presidential campaigns and the new computer programs (described above), the Presidential team of reports analysts could monitor campaign activity more thoroughly.⁶ For example, the team could cross-check itemized loan information against summary loan figures. Or, data entry of funds spent in primary campaigns would allow the analysts to monitor State-by-State spending limits for candidates receiving matching funds more efficiently than the manual system used for the 1976 primary campaigns. Similarly, the computer program linking all of a candidate's authorized and unauthorized committees could be used to monitor compliance with the contribution limits.

⁵See page 6.

⁶The Commission also established new audit procedures to verify expenditures of public funds by Presidential campaigns and convention committees. See page 5 below.

Assistance to Presidential Campaigns

Outreach Program

The Commission's outreach program directly assisted Presidential candidates in complying with the election law. By assigning an auditor and reports analyst to work with a particular Presidential campaign on an ongoing basis, the Commission effectively coordinated FEC activity related to that campaign. And, by being readily accessible for a quick, informed resolution of most problems, these experts helped Presidential candidates establish sound reporting and accounting systems in the early stages of campaign activity.

The Audit Division initiated FEC contact with candidates by sending a series of letters to each candidate, identifying the auditor and reports analyst assigned to the campaign, informing them of the dates on which contributions could be submitted for matching funds and providing each candidate with a *Financial Control and Compliance Manual for Presidential Candidates Receiving Public Financing*. As one of several publications supplementing the candidate outreach program, this compliance manual included guidelines for establishing accounting, budgeting and reporting systems.

The Commission also distributed two other new publications: the *FEC Guideline for Presentation in Good Order* and the *Campaign Guide for Presidential Candidates and Their Committees*. The *FEC Guideline for Presentation in Good Order* included details on: supporting documentation required for matching funds; unmatchable contributions; criteria for rejection of matching fund submissions; submission and resubmission days; and procedures for resubmissions. The *Campaign Guide for Presidential Candidates and Their Committees* covered the basic requirements of the Act and regulations as they apply to all Presidential candidates, regardless of whether they receive public funds. An additional chapter (VIII) of the *Guide* outlined the special requirements of those candidates seeking matching funds.

Threshold Audits

In conjunction with the outreach program, the Commission performed a threshold audit of the principal campaign committee of each Presidential candidate who established matching fund eligibility. Based on findings of the audit, the Commission would make any recommendations necessary to improve the committee's bookkeeping and accounting procedures. By performing a thorough audit in the early stages of the campaign, the Commission hoped to conserve resources that would otherwise be required to resolve problems at a later stage.

The threshold audits, together with the outreach program, were also intended to reinforce the Audit Division's efforts to expedite certification of matching funds and post-election audits of publicly funded Presidential campaigns and convention committees. By educating campaign staff on the proper format for submitting matchable contributions, for example, the Commission expected to certify requests for matching funds promptly and to minimize the need for additional back-up documents. The Commission could also expect to reduce the time required for post-election audits if campaigns established sound accounting procedures for expending public funds.

Certifications and Audits

During 1979, the Audit Division established new procedures to accelerate matching fund certifications and audits of public fund recipients, while maintaining existing standards of accuracy and thoroughness. All procedures were given a thorough legal review by the Office of General Counsel.

Expediting Matching Fund Certifications

To expedite review and certification of matching fund requests, the Commission engaged the accounting firm of Ernst & Whinney and, in October 1979, the Commission adopted the firm's proposals for a Probability Proportional to Size (PPS) statistical sampling method.

Samples selected were evaluated to determine whether they met requirements for matchable contributions.

Adoption of the PPS method required data entry of information contained in the candidate's matching fund request list.⁷ To expedite data entry and verification procedures, the Commission invited Presidential campaigns to submit certain information required for matching fund requests on computer tapes as well as on a printed listing.

The new data base on matching fund requests also increased efficient management of the certification program by providing accurate, up-to-date information on the status of certifications. For example, audit staff could use computer print-outs to determine total matching funds certified to a candidate and total contributions submitted by the candidate for matching. Based on this information, audit staff could readily determine the candidate's remaining entitlement to matching funds.⁸ Additionally, print-outs could be used to supply the candidate with a status report on matching funds requested and certified, permitting the candidate to adjust matching fund requests accordingly.

In addition, to expedite final approval of matching fund payments during those weeks when the Commission did not meet in formal session, the Commissioners approved certifications on a tally vote basis. As of December 31, 1979, the Commission had certified to the U.S. Treasury initial payments of \$300,000 for the Democratic National Committee's national nominating convention and \$750,000 to the Republican National Committee for its convention. The Commission also certified primary matching payments for the following candidates: Presi-

dent Jimmy Carter, Senator Howard H. Baker, Jr., and Mr. Lyndon H. LaRouche. Actual payments by the U.S. Treasury to the candidates, however, could not be made until after January 1, 1980. 26 U.S.C. §9034(a).

Expediting Audits

The Commission took several steps to expedite audits of Presidential campaigns receiving public funds. Using the Arthur Andersen report as a basis for reexamining the audit program (see page 16), the Commission modified its procedures for auditing 1980 Presidential campaigns, as follows:⁹

Threshold Audits. The Commission decided to conduct threshold audits of campaigns receiving matching funds in order to detect — and help correct — recordkeeping problems at an early stage of the campaign.

Pre-Election Release of Primary Audits. The Commission planned to conduct audits of the two nominees for President immediately after their respective nominating conventions (provided the candidates received primary matching payments). In addition, the Audit Division would give priority to completing these audits as soon as possible after the conventions, with the objective of releasing final audit reports by the end of the calendar year.

Post-Audit Work and Review of Audit Findings by the Office of General Counsel and the Commission. The Commission adopted a series of internal audit deadlines for release of audit reports. It also established a timetable of 18 weeks for release of the final audit report after completion of fieldwork. To ensure adherence to the timetable, the Commission established the following procedures:

⁷See also page 3.

⁸Eligible primary candidates are entitled to 50 percent of the national spending limit for matching fund recipients (i.e., 50 percent of \$10 million plus a cost-of-living adjustment). 26 U.S.C. Section 9034(b).

⁹For complete details on changes in Presidential audit procedures, see Commission Memorandum No. 79-287, available from the Public Records Office.

- The Commission would place a one-month deadline on any inquiry made to a Secretary of State to determine the status of apparent corporate contribution(s) to a campaign.
- No extensions would be granted to Presidential committees for responding to the Commission's letter of audit findings.
- In cases where the Commission determined that a compliance matter (MUR) should be opened, the final letter of audit findings would not address the MUR but would state that the audit uncovered other matters which were referred to the Office of General Counsel for review.
- All Presidential committee responses would be noted in the final letter of audit findings. Any failure to comply with the Audit Division's recommendations would result in a referral to the Office of General Counsel for possible initiation of a compliance matter (MUR), and the final letter of audit findings would note that a matter had been referred to the Office of General Counsel.
- All final letters of audit findings would be forwarded to the Commission for final review prior to public release.

Release of 1976 Audits. To expedite the release of the remaining audits of the 1976 Presidential campaigns, the Commission began to release audit reports to the public immediately after it had approved the final report and determined the final repayment amount, if any. Previously, the Commission's policy had been to provide the audited committee with a copy of the final audit report, resolve any conflicts about repayment amounts and await receipt of final repayment before releasing the audit report to the public.

Advisory Opinions

To facilitate compliance with the election law by Presidential candidates and committees, as well as committees of national nominating conventions, the Commission issued a series of advisory opinions delineating permissible activities in connection with Presidential campaigns.

Draft Committees¹⁰

Advisory Opinions 1979-40 and 1979-49 addressed three important issues raised by "draft committees" (i.e., unauthorized committees disavowed by the individual whose candidacy the committee promotes):

1. Are "draft committees" political committees which are required to register and report?
2. Do the contribution limits of the Act apply to contributions accepted by the draft committee from individual donors?
3. Do any expenditure or contribution limits apply to the expenditures which the draft committee makes to promote an individual's entry into the 1980 Presidential elections?

In Advisory Opinion 1979-40, issued to the Florida for Kennedy Committee, the Commission determined that, since the Florida for Kennedy Committee was an unauthorized draft committee which had been disavowed by Senator Kennedy, and since Senator Kennedy was not a "candidate" under the election law (at the time the request was considered), the committee could accept contributions of more than \$1,000, but not more than \$5,000, from individual contributors during a calendar year.¹¹ (The opinion did not address the then hypothetical question of how contributions to the draft committee would affect the contributor's right to make future contributions to Senator Kennedy if he eventually became a candidate.) The Commission placed no limit on the amount of money which the committee could spend in the State to promote Senator Kennedy's entry into the 1980 Presidential primary elections.

The rationale underpinning the Commission's decision not to place limits on expenditures by

¹⁰In legislative recommendations made to the Congress in its 1975 *Annual Report*, the Commission had suggested that the limits on contributions to candidates also be applied to contributions to draft committees. In its 1976 *Report*, the Commission had suggested that such contributions be subject to the election law's reporting requirements.

¹¹2 U.S.C. Section 441a(a)(1)(C).

the Florida for Kennedy Committee was re-stated in Advisory Opinion 1979-49, an opinion issued to the Independent Campaign to Elect William E. Simon President. In this opinion, the Commission determined that the election law does not prescribe expenditure limits for unauthorized political committees whose activities have been disavowed by the individual being supported by the committee. Since Mr. Simon was not a candidate, the committee's expenditures on his behalf were not considered in-kind contributions or independent expenditures. Therefore, the expenditures were not subject to the \$1,000 per election limit on in-kind contributions or to the special reporting requirements that apply to independent expenditures. (However, an individual's contributions to the committee would count against his or her \$25,000 per calendar year contribution limit for Federal elections.) Moreover, since the Simon for President Committee was a political committee registered under the Act, committee expenditures, as well as committee receipts, were governed by all other reporting requirements of the election law.

Committee for an Alternative Presidential Candidate

In another opinion issued in 1979, AO 1979-41, the Commission focused on permissible activities of a political committee formed to find a Presidential candidate who would be the appropriate standard bearer for the committee's espoused principles. The Commission determined in this opinion that the National Committee for a Democratic Alternative had to register with the FEC and report as a political committee since the committee anticipated raising or spending over \$1,000 to influence the 1980 Presidential elections. The committee planned to influence the elections by seeking "... a better Democratic candidate for President in 1980," by stimulating debate on the policies of the Carter administration, by taking out newspaper ads specifically identifying Carter as the Democrat to whom an alternative was needed, and by distributing information on the delegate selection process.

Other Activities

Several other advisory opinions issued in 1979 helped clarify the types of pre-election activity that are subject to the Federal election law (AO's 1979-7 and 1979-71) and the kinds of activities that individuals may undertake on behalf of Presidential campaigns (AO's 1979-22 and 1979-65).

In AO 1979-7, the Commission determined that the expenses connected with an Affirmative Action Program for selecting delegates to the 1980 Democratic National Convention were not subject to the reporting obligations governing Presidential nominating conventions. Moreover, the funds received and payments made for the Affirmative Action Program did not constitute "contributions" or "expenditures" since they did not influence the election of any person to Federal office or the results of a primary. Therefore, expenditures for the program were not subject to the election law's limits and did not have to be defrayed with funds from the State Committee's Federal account. However, since the State Committee's expenditures for the Affirmative Action Program were in connection with a Federal election, the State Committee could not use prohibited contributions (e.g., contributions from labor organizations or corporations) to pay for them.

AO 1979-71 clarified the definition of an "election" under the Act. In this opinion, the Commission determined that PASPAC, a separate segregated fund, had no reporting obligations with regard to the Iowa Presidential caucuses held in January 1980 since the caucuses did not constitute an "election" under the Act. The caucuses did not constitute an election because they did not:

1. Have the authority to nominate a Presidential candidate;
2. Express a preference for Presidential nominees by a formal primary ballot process; or
3. Select delegates to a national nominating convention by a formal primary ballot process.

Two other advisory opinions issued in 1979, AO 1979-22 and 1979-65, dealt with activities of persons working on behalf of Presidential campaigns. In AO 1979-22, the Commission determined that legal services to ensure compliance with the Act provided to the Carter/Mondale Presidential Committee (the Committee) by an associate of a law firm did not count as either contributions or expenditures under the election law. The amounts paid by the Committee for these services were not, therefore, subject to the Committee's overall expenditure limits, although they were reportable (2 U.S.C. §§ 431(e)(4) and (f)(4)(J)). However, amounts paid by the Committee for any "other legal and political duties" rendered by the same lawyer to the Committee were subject to the Committee's overall expenditure limits. Moreover, the Committee had to reimburse the lawyer's firm for any expenses incurred by the law firm as a result of the lawyer's "other legal and political duties" (e.g., use of the law firm's telephones).

In AO 1979-65, the Commission said that the staff of an inactive Kennedy draft committee (the Committee) could communicate and cooperate with the same candidate's Presidential campaign committee. The facts presented by the Committee did not suggest that the individuals involved would simultaneously be officers or principals of two active committees raising funds for a Federal election or that they would become officers of the Kennedy campaign. Moreover, except for payment of outstanding debts, the draft committee had become inactive. Therefore, provided that none of the candidate's campaign staff participated in the effort to retire the draft committee's debt, staff of the draft committee could participate as individuals in the candidate's campaign without effect on the draft committee.

Revised Regulations

During 1979, the Commission sent to Congress revisions of FEC regulations governing the public financing of Presidential primary elections

and national nominating conventions. These revised regulations were part of a major project undertaken by the Office of General Counsel to reexamine all FEC regulations and make revisions where necessary.

The Commission prescribed the primary election regulations in October 1979 and regulations governing the financing of national nominating conventions in December 1979. Regulations governing certain provisions of primary matching fund eligibility were pending before Congress at the end of 1979. The Commission also submitted to Congress proposed regulations governing funding of Federal candidate debates in December 1979. Brief summaries of these revised regulations appear below.

Primary Matching Fund Regulations^{1 2}

The revised regulations governing the Presidential Matching Payment Account codify and delineate Commission policies and procedures, as follows:

Candidate Responsibility for Documenting Qualified Campaign Expenses. Under the statute, as well as the new regulations, the candidate is required to "obtain and furnish any evidence the Commission may request" regarding qualified campaign expenditures. The regulations also provide that the candidate must assume ". . . the burden of proving that expenditures . . . are qualified campaign expenses." Finally, the regulations specify the documentation which is required as proof that the expenditure was actually made and was related to the campaign.

Definition of Qualified Expense. "Qualified campaign expenses" include expenditures made in connection with the campaign between the date the individual becomes a candidate and the date the candidacy is terminated. Expenses incurred before the date candidacy is established

¹²See 11 CFR, Parts 9032-9038, as revised and renumbered in 1979.

may be qualified campaign expenses if they are incurred for the purpose of determining whether an individual should become a candidate ("testing the waters"); expenses incurred after the date candidacy is terminated may be qualified campaign expenses if they are related to termination of campaign activity ("winding down" costs).

To ensure that public funds are spent only on qualified campaign expenses, the new regulations specify that all funds (both private contributions and public matching funds) may be spent only to defray qualified campaign expenses. This prohibits a candidate who accepts public funds from using either private contributions, including those he or she received prior to establishing his/her eligibility, or public funds for nonqualified campaign expenses. The purpose of this regulation was to avoid a situation where a candidate would require more public funding to restore private funds diverted to nonqualified expenditures.

The regulations entitle a candidate to matching funds after his/her date of ineligibility only if he or she has net outstanding campaign obligations on that date. Matching payments will be made only if the sum of private contributions plus matching funds does not exceed the reported debt.

Recordkeeping Requirements. All submissions to the FEC must be prepared in accordance with the format described in the *FEC Guideline for Presentation in Good Order*. This requirement will expedite the processing of matching fund requests by the Commission. Furthermore, it is the candidate's responsibility to facilitate an FEC audit by gathering all records in a centralized location and providing the necessary space and personnel to assist in performing the audit. Finally, all bank records and supporting documentation for matching fund submissions must be provided by the candidate.

Disputes Procedure. In those cases where a candidate may choose to challenge a Commission determination (initial certification, inactive candidacy, suspension of payments, additional certification, active candidacy, repayments), a procedure has been standardized to conform with due process requirements. The candidate has an opportunity to respond to a Commission decision within a specified time, engage counsel if he/she so desires and submit written evidence in support of his/her position. The Commission is required to thoroughly investigate the evidence submitted, and provide a statement of reasons underlying its final determination.

Applications of Expenditure Limit. Under the new regulations, for any candidate seeking public funds, the expenditure limits will apply from the beginning of the candidacy rather than from the time when the candidate is certified as being eligible to receive public matching funds. Consequently, a candidate who has exceeded the expenditure limits before applying for matching funds will be ineligible to receive public funds. The regulations also provide procedures for candidates to challenge a Commission determination that they are ineligible for public funds.

National Nominating Convention Regulations¹³

The regulations governing national nominating conventions define the process by which certain political parties may qualify for public funds to finance their conventions. The proposed regulations cover:

1. The establishment of a convention committee that is responsible for conducting the day-to-day operations of the convention, receiving all public funds and private contributions and making all expenditures on behalf of the national committee.
2. The payment schedule, providing for a lump sum payment of all public funds to which the

¹³See 11 CFR, Parts 107, 114 and 9008, as revised and renumbered in 1979.

convention committee is entitled, once it has established its eligibility. Formerly, the entitlement was disbursed in quarterly payments.

3. The permissible uses for public funds, including advances which the national committee makes to the convention committee and excluding payment of civil or criminal penalties resulting from a violation of the Act.
4. The limits on the total amount the party may spend on its convention (i.e., the statutory entitlement of \$3 million¹⁴ plus the cost-of-living adjustment) in any combination of private contributions and public funds; and a provision for additional expenditures, though not additional public funds, in "extraordinary and unforeseen circumstances" (e.g., a natural disaster).
5. The permissible contributions and in-kind donations to the convention committee and the host committee (during the "life of the convention") from "local businesses," municipal corporations, government agencies, local labor organizations, corporations, banks and individuals. The regulations define "life of the convention" and "local business."
6. Permissible expenditures by local government agencies and municipal corporations for the convention.
7. The registration and reporting requirements of the convention committee and all other organizations (the host committee, State or local government agencies and municipal corporations) that deal with national party officials in making convention arrangements.
8. The circumstances under which a repayment of public funds is required, and a procedure to resolve disputes when the committee challenges a Commission determination that repayment is required.

¹⁴ Under the Federal Election Campaign Act of 1971, as amended in 1974, the statutory entitlement for each party was \$2 million. That figure was increased to \$3 million by the 1979 amendments (Pub. L. No. 96-187) signed into law on January 8, 1980.

New Regulations Proposed on Candidate Debates

On December 27, 1979, the Commission submitted to Congress proposed regulations on the financing and sponsorship of Federal candidate debates, including debates by Presidential candidates. Previous candidate debate regulations, proposed to Congress on June 12, 1979, were disapproved by the Senate on September 18, 1979.¹⁵ After the Senate's disapproval, the Commission held public hearings on October 23 and 24, 1979. Regulations submitted by the Commission on December 27, 1979, provide that:

Funds to Stage Nonpartisan Candidate Debates Are Neither Contributions Nor Expenditures.

The Act provides that funds spent for nonpartisan activity designed to encourage individuals to register to vote or to vote are exempt from the definition of contribution or expenditure. Therefore, since the educational purpose of nonpartisan candidate debates is similar to the purpose underlying nonpartisan voter registration and get-out-the-vote activities, the proposed regulations provide a similar exemption for funds received and spent by certain nonprofit organizations to stage candidate debates.

Certain Nonprofit Organizations and Bona Fide News Media Corporations May Stage Candidate Debates. The proposed regulations permit nonprofit organizations which do not endorse, support or oppose political candidates or political parties to stage nonpartisan debates. Specifically included are:

1. All organizations exempt from Federal taxation under 2 U.S.C. §501(c)(3). (Under the

¹⁵ In discussing the proposed veto of the debate regulations on the Senate floor, September 18, 1979, Senator Claiborne Pell, Chairman of the Senate Rules Committee, stated: "... any regulation which could be interpreted as being burdensome to organizations which are likely to sponsor candidate debates, or which could in any way impede the heretofore successful debate procedure that has evolved through direct arrangements made between sponsors and candidates should not be allowed to take effect." (See the *Congressional Record*, September 18, 1979, S. 12821.)

tax code, these organizations are prohibited from participating in or intervening in any political campaign.)

2. Any organization exempt from Federal taxation under 26 U.S.C. §501(c)(4), provided it does not engage in any political campaign activities.

The proposed regulations would also permit broadcasters, bona fide newspapers, news gathering services, magazines and other periodical publications to stage nonpartisan candidate debates. The proposed regulations define "bona fide," and specifically exclude from that definition news media that are owned or controlled by a political party, political committee or candidate, and periodical publications which are house organs.

Debate Structure Is Left to the Discretion of the Staging Organization. Rather than prescribing a precise structure for the debates, the proposed regulations specify only a general standard. To be considered nonpartisan, a debate must:

1. Include at least two candidates; and
2. Not promote or advance one candidate over another.

Labor Organizations and Corporations May Contribute to Nonprofit Nonpartisan Staging Organizations. In the same way that labor organizations and corporations are permitted to donate funds for registration and get-out-the-vote activities conducted in conjunction with a nonprofit organization, the proposed regulations permit them to donate funds to nonprofit, nonpartisan organizations for staging candidate debates.

Broadcasters, newspapers, magazines and other periodicals are also permitted to use their own funds to stage nonpartisan debates. Consistent with ordinary practice and applicable FCC regulations, broadcasters may accept both regular commercial advertising and underwriting by corporations and labor organizations to finance the broadcast of debates staged or covered by the broadcaster. Similarly, newspapers, maga-

zines and other periodicals may accept regular paid advertising in an issue which covers a debate, whether staged by the newspaper or another entity. Broadcasters, newspapers, magazines and other periodicals may not, however, accept direct corporate or labor organization payments (other than for regular commercial advertising) to finance the staging of debates.

Chapter 2 Administration of the Election Law

During 1979, the Commission continued to administer the election law by disclosing campaign finance information, monitoring potential violations of the election law, providing assistance to Federal candidates and committees registered with the Commission, issuing advisory opinions and enforcing the election law. When necessary, the Commission modified programs to improve its administration of the law and to conserve its resources. Program developments and refinements that are not specifically related to the 1980 Presidential elections are discussed below.¹

Disclosure

To better administer the election law's disclosure provisions,² the Commission improved the processing of campaign finance information, made more information available to the public and instituted a new policy on the availability of information.

Improved Processing of Campaign Information

In January 1979, the Commission's Reports Analysis Division established a data entry team to enter data disclosed on campaign finance reports into the FEC's computer information system. In July 1979, the division also established new positions to code data for computer entry. In previous years, data coding and entry had been done by an outside contractor or by reports analysts in conjunction with their review of reports. By creating teams that specialized in either data coding or entry tasks, the Commission improved the accuracy of these operations.

¹ For more detailed descriptions of the Commission's ongoing operations, see the FEC's 1977 and 1978 *Annual Reports*. Programs specifically related to the 1980 Presidential elections are discussed in Chapter 1.

² See 2 U.S.C. Section 438(a)(4) (the election law as amended in 1979).

More Information Available to the Public

In 1979, the Commission published two interim studies in its *Reports on Financial Activity* series, a comprehensive study of campaign finance activity by candidates, party committees and nonparty committees.³

The Commission released *Interim Report No. 4* on party and nonparty committees in May 1979, and *Interim Report No. 5* on U.S. Senate and House campaigns in June 1979. These cumulative studies were based on information compiled from campaign finance reports filed with the Commission from January 1, 1977, through December 31, 1978, and entered into the Commission's computer system. Information taken from amended reports received by March 16, 1979, was also included. Figures in these studies would be subject to change after the Commission received and computerized all 1978-79 reports and amendments.

The statistical studies included figures on receipts and disbursements, as well as debt status and cash-on-hand. Typical studies contained in *Interim Report No. 4* are presented in the charts below. Note that in the charts, adjusted disbursements are gross disbursements (i.e., fundraising and administrative costs in addition to contributions to candidates) minus transfers out to affiliated committees; adjusted receipts are gross receipts minus transfers in from affiliated committees. All dollar amounts represent millions of dollars.

The *Reports on Financial Activity* series, along with other campaign finance information, is available to the public in the Commission's Public Records Office.⁴

³ The Commission also developed a disclosure series for the 1979-80 Presidential election cycle. See page 4.

⁴ For a listing of FEC information available in the Public Records Office, see Appendix 12.

**Financial Activity of Nonparty Political Committees
January 1, 1977 – December 31, 1978**

Committee Type	Committees Registered	Committees Contributing to Federal Candidates	Contributions to Federal Candidates	Adjusted Disbursements	Adjusted Receipts	Latest Cash-on-Hand
Corporate PAC's	821	697	\$ 9.8	\$15.3	\$17.7	\$ 3.9
Labor PAC's	281	211	10.3	18.9	19.8	4.8
Political Committees with no connected organization	254	120	2.5	16.8	15.4	.9
Trade/Membership/Health PAC's	543	399	11.5	24.4	25.2	3.6
Cooperative PAC's	12	11	.9	2.0	2.0	1.4
Corporations Without Stock PAC's	27	21	.1	.4	.4	.06
TOTALS	1,938	1,459	\$35.1	\$77.8	\$80.5	\$14.7

**Financial Activity of Party Political Committees
January 1, 1977 – December 31, 1978**

Democrats

Committee Type	Committees Registered	Committees Contributing to Federal Candidates	Contributions to Candidates	Expenditures on Behalf of Federal Candidates	Adjusted Disbursements	Adjusted Receipts
National	9	3	\$.06	\$.06	\$12.4	\$11.3
Senatorial	1	1	.4	0	.9	.3
Congressional	5	1	.5	0	2.5	2.8
State/Local	303	80	.4	.2	8.1	7.7
Other*	8	5	.4	0	3.3	3.3
TOTALS	326	90	\$1.8	\$.3	\$27.2	\$25.4

*Other includes Association of State Democratic Chairpersons, other National committees and Presidential convention committees.

Republicans

Committee Type	Committees Registered	Committees Contributing to Federal Candidates	Contributions to Candidates	Expenditures on Behalf of Federal Candidates	Adjusted Disbursements	Adjusted Receipts
National	9	3	\$.9	\$.3	\$36.0	\$34.2
Senatorial	2	1	.5	2.6	11.7	12.0
Congressional	2	2	1.8	.8	15.7	14.1
State/Local	337	107	.7	.4	19.9	20.1
Other*	9	2	.6	0	2.4	4.4
TOTALS	359	115	\$4.5	\$4.1	\$85.7	\$84.8

*Other includes National fundraising, other National committees and Presidential convention committees.

New Policy on Availability of Information

In December 1979, the Commission adopted a policy which reduced fees for information made available to the public in the FEC's Public Records Office. The policy also addressed the availability of standard computer indexes. The Commission would continue to make available to the public all standard computer indexes on Federal campaign finance activity.⁵ Complete A, B, C, D, E and G indexes would be issued every six months. Under the new policy, however, persons who made 20 or more requests for computer printouts of information on individual candidates or committees available in the indexes — or who requested a computer search of the entire individual contributor file for a particular candidate — would be charged actual costs of computer resources required to fill the requests.

The Data Systems Development Division would also make available at cost computer tapes on statistical information contained in the *Reports*

on *Financial Activity* series. Beginning with the 1979-80 election cycle, the Commission would release this information at the end of each two-year election cycle.

Monitoring the Election Law⁶

The Commission took the following measures to monitor potential violations of the election law more effectively: it revised procedures for review and analysis of campaign finance reports; it enhanced computer capabilities; and it developed new audit procedures based on a major reassessment of its audit program.

Review of Reports

To utilize limited staff resources efficiently, while continuing to ensure a thorough review of reports showing substantial campaign finance activity, the Reports Analysis Division continued to code and enter into the Commission's computer 100 percent of relevant data from all

⁵See Appendix 7 for a full description of these standard indexes.

⁶See Chapter 3 of the FEC's 1978 *Annual Report* for a full description of the Commission's procedures for monitoring compliance with the election law.

campaign finance reports,⁷ but the division no longer reviewed every report it received. Instead, threshold criteria were established for the review of reports. Using the Commission's computer-based indexes, analysts did a complete review of all reports that met the threshold criteria to be sure they were complete and accurate and that the reporting committee had complied with the election law. To detect reporting problems in reports below the threshold, staff employed a computerized error-listing system. Since the error-listing system cross-checked data for consistency (e.g., whether subtotaled receipts added up to gross receipts), analysts could use it to identify reporting errors, as well as errors in data coding and entry procedures. An analyst could then thoroughly review a report with a reporting problem.

Computer Capabilities

A computer program, developed in 1978 and implemented in 1979, enabled reports analysts to monitor individual contributions to candidates, national party committees and other political committees to determine possible instances of excessive contributions. The computer program also allowed the Commission to monitor contributions by political committees as follows: multicandidate committees could be monitored for contributions to candidates, national party committees and other political committees; and party committees could be monitored for transfers to candidates and other political committees.

New Audit Procedures

Recognizing the need to accelerate the audit process, the Commission engaged Arthur Andersen and Company and Accountants for the Public Interest (API) to assess FEC audit procedures.⁸ The Andersen report identified

problem areas and made recommendations to substantially reduce the time required to complete audits and release them to the public. In December 1979, the Commission approved the following Andersen recommendations for discretionary audits:⁹

Change the Objective of the Audit Process. The FEC should consider establishing a more limited audit objective rather than attempt to verify each transaction of every political committee audited. Carrying out this recommendation, the Commission adopted as the main objective of the audit process the following principles:

With its limited resources, the Commission will attempt to expand its coverage to the maximum extent possible by identifying areas of, and concentrating on candidates and committees with, greatest risk of noncompliance; by streamlining audit procedures and limiting their scope when possible and appropriate; and by pursuing and focusing on only those matters involving questions of substantial noncompliance with the Act.

Establish Thresholds. The Andersen report pointed out that the required resolution of minor discrepancies had proven time consuming for both campaign staffs and FEC auditors. Therefore, the Andersen report recommended that thresholds be established so that only significant problems would be included in audit reports and/or referred to the General Counsel.

Expedite Release of Audit Findings. To expedite disclosure of audit reports, the Andersen report recommended that audit findings letters, indicating the scope and findings of the audit, be issued to the audited committee within a specified period of time after the completion of the field work. The audited committee would then be given a reasonable period for response. At the

⁷For a description of data coding and entry procedures, see the FEC's 1978 *Annual Report*, pp. 3-5.

⁸For a full description of former audit procedures, see pages 19-20 of the FEC's 1978 *Annual Report* and pages 12-15 of the 1977 *Annual Report*. See Appendix 4 for the status of audits conducted in 1979.

⁹An Andersen report recommendation to establish an audit advisory committee was pending before the Commission at the end of 1979. The Commission did not adopt Andersen recommendations to limit the number of audit reports reviewed by the Commission or to continue random audits. See the November 1979 issue of the *FEC Record* and Commission Memorandum No. 79-342.

end of that period, the findings letter, together with a summary of issues resolved by the FEC and the committee, would be released as the final audit report.

Separate Audit Reports from Compliance Matters (MUR's). The Andersen report noted that many audit reports were delayed in the Office of General Counsel, pending the resolution of legal questions raised by potential compliance matters (MUR's). In those cases where a MUR had been opened, the Andersen report suggested that the Audit Division issue an audit findings letter that would not address the MUR issue, but rather would state that the Office of General Counsel was reviewing a matter uncovered during the audit.

Implementing the two above recommendations, the Commission established new procedures¹⁰ whereby each audit report was circulated to the Commissioners for approval. If they approved the audit report, the Commission would release it to the public after the auditee had received a copy. If the Commissioners did not approve the circulated report, they then voted on whether to consider the matter in an open or closed session.

In addition, any audit report which was considered in open session, but not given final approval by the Commission, would be available to the public as an interim report. When the Commission later approved the final audit report, that report would replace the interim report as the final public document.

The Commission established two separate timetables for the release of discretionary audit reports. Final reports for Track A audits, i.e., audits with no unresolved legal issues, would be released to the public 10 weeks after comple-

tion of field work. Final audit reports for Track B audits, i.e., audits with unresolved legal issues, would be released 12 weeks after completion of field work.

Establish Proper Campaign Accounting Systems. The Andersen report noted that political committees with adequate recordkeeping systems produced more accurate disclosure reports. The report recommended, therefore, that the Commission develop a simple bookkeeping system specifically tailored to the needs of small, part-time campaign committees. Such a manual would be produced in addition to the existing FEC manuals for political committees and Presidential campaigns.

Miscellaneous Measures. The Commission also adopted Andersen report recommendations requiring strict deadlines for each FEC division or office involved in the audit process and a stronger recruiting program for the Audit Division.

Assistance to Candidates and Committees

The FEC offers assistance to Federal candidates and committees to help them comply with the election law and regulations. For example, Commission staff respond to telephone inquiries and provide candidates and committees with the forms, pamphlets and personal assistance they need to report correctly and otherwise comply with the election law. The Commission also keeps the public and media abreast of Federal campaign finance activity, FEC policies and other activities by disseminating a monthly newsletter, press releases and other informational materials.

During 1979, the Commission expanded these efforts to include more active seminar and press programs, as well as other outreach activities.

¹⁰ Although the Commission conducts as much of its business as possible in open sessions, it had previously discussed audit reports in its (closed) executive sessions, on the grounds that: 1) the reports might involve initiation of a compliance matter; or 2) they might significantly frustrate implementation of a proposed Commission action.

Regional Seminars

During 1979, the Commissioners and FEC staff conducted four campaign finance seminars to meet the information needs of candidates, political committees, parties, separate segregated funds (political action committees or PAC's) and the public. The seminars were coordinated with the regional seminars held by the FEC's Clearinghouse on Election Administration. Seminar sites included Madison, Wisconsin; Sacramento, California; Philadelphia, Pennsylvania; and Austin, Texas. An additional seminar was scheduled for Winston-Salem, North Carolina, in January 1980.

The seminars provided an overview of the Federal Election Campaign Act and the FEC, and featured three separate workshops: one on reporting requirements of the Act; another on requirements of party committees under the Act; and a third workshop on requirements of PAC's under the Act. To accommodate the participants' different interests, several workshops were split into two groups. In a PAC workshop in Sacramento, for example, one group focused on the legal aspects of PAC activity (case law, closed compliance cases, relevant advisory opinions); a second group focused on the "nuts and bolts" of PAC activities such as establishing a PAC, conducting solicitations and undertaking other communication activities.

The seminars were, in effect, a two-way learning process. During each of the seminars, Commissioners and staff devoted a good deal of time to answering specific questions. They, in turn, had an opportunity to learn more about the difficulties that participants had encountered in applying the election law or regulations to practical political situations.

The FEC's Clearinghouse on Election Administration conducted two-day regional seminars simultaneously with the campaign finance seminar program. Geared to the information needs of State and local election officials, the Clearinghouse seminars were developed, and

conducted, with the assistance of election officials from around the country. Seminar workshops concentrated exclusively on the administration of elections, touching on the everyday problems administrators face in training poll workers; selecting polling place locations; voting; planning, managing and costing elections; maintaining registration files; registration outreach programs; media relations; and counting votes on election night.

Coordination of the Clearinghouse seminars with the FEC seminars on campaign finance activity had the advantage of allowing seminar attendees to select from a wide range of workshops. Conducting the seminar series in a non-election year enabled participants to obtain information needed before embarking on their 1980 campaign activities.

Press Outreach and FOIA

During 1979, the Press Office intensified its outreach efforts. To expand and diversify its news audience, the office developed a national mailing list which categorized media contacts on a State-by-State basis. The list supplemented an existing list of approximately 400 Washington-based media contacts. The office also managed to double press release mailings, extend press release coverage to identify closed compliance cases (MUR's), and develop a new press packet. The packet contained biographical sketches of the Commissioners, statistical charts on campaign finance activity, FEC budget information and *FEC Campaign Guides*. One of the Press Office's more effective outreach programs offered editorial boards of publications, news services and broadcasters on-the-record briefings with the FEC's Chairman and other Commissioners to help dispell the image of a faceless bureaucracy.

Manpower limitations, however, required the Press Office to allot most of its time to responding to queries from the media, primarily through telephone calls and discussions requested by reporters. Before 1979, a major portion of telephone queries were from Washington-based

reporters. During 1979, however, approximately 50 percent of all questions came from news reporters and editors throughout the country, indicating a broader awareness of the Commission and the Federal election law. The Press Office also briefed a growing number of foreign correspondents, based both in Washington and overseas.

In 1979, the Press Office handled a larger number of requests filed under the Freedom of Information Act (FOIA): 91 FOIA requests were filed in 1979 as compared to 36 in 1978. These requests were quite specific and reflected a more sophisticated understanding of the election law and the FEC than in previous years. The increased complexity of requests, along with a greater number filed, required more staff time than had been needed in previous years.

Other Outreach Programs

For the first time, the Commission began publishing summaries of closed compliance cases (MUR's)¹¹ in its monthly newsletter, the *FEC Record*. These *Record* summaries provided information on how the Commission resolved potential violations of the Act. Selected from MUR's closed after January 1, 1979, the summaries did not describe every stage in the compliance process; nor did they disclose the identity of those involved. Rather, they provided only enough background to make clear the Commission's determination. The full text of any MUR closed between 1976 and 1979 was, however, available for review and purchase in the Commission's Public Records Office.

¹¹ Compliance cases, referred to as MUR's (matters under review), stem from possible violations of the Act, which come to the Commission's attention either through formal complaints originating outside the Commission or as a result of the FEC's own internal monitoring procedures. The Federal Election Campaign Act of 1971, as amended in 1974 and 1976, required that investigations remain confidential until the Commission made a final determination and the case was closed. At that point, the case file, including the complaint, the findings of the General Counsel's Office and the Commission's actions, were made available to the public.

The FEC's Information Division¹² initiated several other programs in 1979 to increase the agency's contact with candidates, committees and the general public. For example, the Public Communications Office began developing a national network of contacts. Each information specialist in the office was assigned to a multi-State region of the country (e.g., the Southwest or Midwest). The specialist periodically contacted various persons in the region who were directly involved or interested in Federal elections. Contacts included Secretaries of State, election officials and persons associated with public interest groups or party organizations. By creating a two-way information flow between Commission staff and persons involved in Federal elections, the contact system would serve a variety of purposes. Staff could target information to specific audiences, gain knowledge about the types of information needed in a particular region and publicize appearances by Commissioners and staff.

The Public Communications Office also improved and accelerated dissemination of information. The office began to tailor informational mailings to specific categories of filers (e.g., Presidential committees or PAC's). Additionally, it distributed approximately 26,000 copies of the FEC's general information brochure, *The FEC and the Federal Election Campaign Act*, to a wide variety of professional, party and public interest groups.

To keep FEC staff up-to-date on Commission activities, the Public Communications Office expanded internal communication efforts by revamping the FEC's internal newsletter, *The FEC Slate*; by improving the FEC's referral guide to other related government agencies and offices; and by coordinating training sessions for interested staff.

¹² See Chapter 2 of the FEC's 1978 *Annual Report* for a full description of the division's operations.

Advisory Opinions

The Commission issued 64 advisory opinions during 1979 to persons¹³ who raised questions about the application of the election law or FEC regulations to specific factual situations. Any person who requests an opinion and acts in accordance with the opinion is not subject to any sanctions under the election law. The opinion may also be relied on by any other person involved in a specific transaction which is "...indistinguishable in all its material aspects... from the activity or transactions discussed in the advisory opinion."¹⁴ Several opinions that addressed significant issues in 1979 are briefly summarized below. These opinions and all others issued in 1979 are summarized in greater detail in Appendix 6.

Voter Registration and Get-Out-the-Vote Drives

Two opinions clarified the circumstances under which a labor organization or corporation may be involved in get-out-the-vote and registration drives. In AO 1978-102, the Commission determined that the United Mine Workers (UMW) could not use general treasury funds to finance the expenses of radio and television ads urging UMW members to vote for candidates friendly to labor, even though they did not identify or endorse any specific candidate(s) for Federal office or any political party because:

1. The election law prohibits expenditures by labor unions in connection with Federal elections. Although 2 U.S.C. §441(b)(2)(B) permits the use of general treasury funds to conduct get-out-the-vote drives, it restricts such drives to union members and their families.

¹³ Prior to the 1979 amendments, advisory opinions could be issued only to Federal officeholders, candidates and political committees. During 1979, opinions were issued according to this provision. See 2 U.S.C. Section 437f(b)(2) of the Federal Election Campaign Act, as amended in 1974 and 1976. Under the 1979 amendments of the Act, any person may request an advisory opinion. 2 U.S.C. Section 437(a)(1) (the election law as amended in 1979).

¹⁴ See 2 U.S.C. Section 437f(c) (the election law as amended in 1979).

2. If a get-out-the-vote drive extends beyond union members and their families, Commission regulations require that it be jointly sponsored by the union and a nonprofit or civic organization that does not endorse candidates or political committees (11 CFR 114.4(d)).

In this case, the UMW had used "general circulation" media to broadcast its get-out-the-vote message to an audience that included the general public as well as the union members for which it had been targeted. However, the union was the sole sponsor of the ads and thus failed to meet the statutory requirement for joint sponsorship with a nonprofit or civic association. The Commission, therefore, required the Coal Miners Political Action Committee to reimburse the general treasury of UMW for union funds which were used to conduct the get-out-the-vote drive.

Another opinion addressed voter registration activities conducted by a corporate separate segregated fund (i.e., a political action committee or PAC). In AO 1979-48, the Commission determined that Rexnord, Inc.'s political action committee could pay for an advertisement, carried in a general circulation newspaper, which read "Please Register to Vote" and which included the identification of "Rexnord, Inc." in a lower corner of the advertisement. The Commission determined, however, that Rexnord, Inc. could not use corporate funds to pay for the ad since it was not restricted to Rexnord's stockholders and executive or administrative personnel. Since the ad would reach a broader audience, Rexnord was required to jointly sponsor the activity with a civic or nonprofit organization that did not support or endorse candidates or political parties (11 CFR 114.4(d)(1)) — unless the expenses were paid from Rexnord's separate segregated fund. (Commissioner Max L. Friedersdorf filed a dissenting opinion to AO 1979-48.)

Other Activities of Corporations and Labor Organizations

Other advisory opinions issued by the Commission in 1979 further clarified permissible activities by labor organizations and corporations. They are briefly summarized below:

AO 1979-21 concluded that costs for a payroll deduction system to collect voluntary contributions were **not** negotiable between a corporation and a union. The opinion stated that the separate segregated fund of the Communications Workers of America (CWA) had to reimburse the New York Telephone Company for costs incurred by the company in making a payroll deduction plan available to CWA members. The deduction plan would be used to collect political contributions from CWA members for the union's separate segregated fund. (Commissioner Thomas E. Harris filed a dissenting opinion.)

AO 1979-25 dealt with a union's payment of expenses for interns working in a Congressional office. In the opinion, the Commission determined that, since the interns were performing constituent services rather than conducting political electioneering, union payment of intern expenses would not constitute "contributions" under the election law.

AO 1979-36 addressed whether expenses incurred by a corporation that had contracted to conduct a direct mail fundraising program for a Congressional candidate's campaign committee would be "contributions" under the election law. The Commission determined that the expenses were **not** campaign contributions, as long as the fundraising contract between the corporation and the campaign committee conformed with ordinary business practices in the direct mail industry. However, to avoid making an illegal contribution to the committee, the corporation had to bill the committee for its services and any expenses incurred in conducting the fundraiser, as provided by the terms of the contract.

AO 1979-17 addressed whether a national party committee could accept funds or services from

national or State chartered banks in return for the committee's endorsement of the banks' credit card program. The Commission determined that there is no explicit exception under 2 U.S.C. §441b which would permit a political party committee to view payments from a corporation or national bank (not made as loans in the ordinary course of business) as consideration for services rendered, rather than as political contributions. The only circumstances under which the national party committee could accept such corporate funds (other than loans from national banks) would be if they were used exclusively for non-Federal elections or to acquire an office facility and equipment that would not be used for purposes of influencing the elections of candidates for Federal office. (Commissioners Joan D. Aikens and Max L. Friedersdorf filed a dissenting opinion to AO 1979-17.)

Central Reference and Indexing System

To consolidate all information pertaining to advisory opinions in a central source, the Data Systems Development Division started preliminary research on a Central Reference and Indexing System (CRIS) in 1979. As the first phase of a comprehensive information retrieval system covering all phases of Commission activity, this system will index and cross reference advisory opinions by subject categories and by code and regulation citations. The computer-based system will replace several manual systems, including the *Subject Index to Advisory Opinions* issued periodically by the Commission.

Enforcement

Enforcement Trends

In 1979, the Commission entered its fourth year as the independent regulatory agency with jurisdiction over civil enforcement of the election law.¹⁵ A number of discernible trends, highlighted below, emerged from its enforcement activities during 1979.

¹⁵See 2 U.S.C. Section 437d(e) (the election law as amended in 1979).

Annual Caseload -- Chart I			
Status of Cases	1977	1978	1979
Pending at the Beginning of Year	78	93	173
Opened During Year	133	481	268
Closed During Year	118	401	288
Pending at End of Year	93	173	153

Disposition of Cases -- Chart II			
	6-1-75 to 12-31-77	1978	1979
Files* Closed After Preliminary Review	273	169	36
Files Closed After Investigation	35	97	86
Conciliation Agreements Signed	48	97	116
Files Closed Prior to Authorizing Civil Action			
Nonfilers	0	64	150
Other	1	7	6
Files Closed with Authorization of Civil Action			
Nonfilers	36	16	4
Other	10	21	8
Total Files Closed	403	471	406

*A MUR may contain more than one file.

As indicated by Chart I above, the enforcement caseload in the Office of General Counsel doubled during 1979 when compared to 1977, the previous nonelection year. During 1979, the Commission disposed of 65 percent of its caseload. Chart II indicates that in 1979 the majority of all cases proceeded beyond preliminary review and required investigation,¹⁶ reversing the trend of previous years. This phenomenon may reflect the more sophisticated nature of recent complaints, filed by a public increasingly knowledgeable about election law. A number of such complaints contained detailed factual presentations and developed complex legal arguments. Moreover, a growing number of these complaints were systemic. For example, one case required staff to examine the entire solicitation process of a corporate separate segregated fund (a political action committee or PAC) as it affected administrative and executive personnel (MUR 1040).¹⁷

The changing nature of cases resulted in a shift of staff resources as well. The average amount of time taken to find "no reason to believe" in cases dating from 1978 was nine weeks; for the most recent cases in 1979, an average time of less than one week was required. However, the increasingly complex nature of a number of externally generated complaints resulted in a longer initial investigation period.

¹⁶ Under the Federal Election Campaign Act of 1971, as amended in 1974 and 1976, a compliance matter could be closed after a preliminary review during which the Commission found no "reason to believe" a violation of the Act had occurred or after an investigation during which the Commission found no "reasonable cause to believe" a violation had occurred. In the event that a compliance matter proceeded beyond the investigative stage (i.e., RCTB), the Commission resolved the matter either through conciliation or litigation. NOTE: During 1979, the Office of General Counsel processed compliance cases in accordance with procedures established under the Federal Election Campaign Act of 1971, as amended in 1974 and 1976 (the Act). The 1979 amendments to the Act later modified these procedures. See 2 U.S.C. Section 437g(a) et seq. (the election law as amended in 1979).

¹⁷ Files of these closed MUR's are available in the FEC's Public Records Office.

The Office of General Counsel concluded 116 conciliation agreements in 1979, 19 more than it had in 1978. It also took an additional 11 cases to court. The increased offensive litigation workload required almost twice the budget and staff resources allocated to the program in the Commission's FY 1979 Management Plan.

Matters Under Review (MUR's)¹⁸

MUR's 916 and 780,¹⁹ both resolved by conciliation agreements, exemplify how compliance matters can clarify provisions of the election law.

MUR 916, concerning the use of Federal facilities by a Federal officeholder, helped clarify what constitutes a campaign expenditure by an incumbent officeholder.²⁰ (See 11 CFR 104.3(a)(1) and 104.1(a).) In January 1979, an individual had filed a complaint alleging that an incumbent used his Congressional district office as sole headquarters for his 1978 re-election campaign and did not disclose any contributions or expenditures for use of the Federal office space.

The General Counsel pointed out in its report that, in an earlier compliance matter (MUR 672), the Commission had confirmed that the "United States is not a 'person' within the meaning of the Act's contribution reporting provisions."²¹ The use of government facilities or services, therefore, could not be deemed a campaign expenditure. Furthermore, the General Counsel pointed out that in two earlier advisory opinions (AO 1976-34 and 1976-44), the Com-

¹⁸Except where otherwise noted, all citations in this section refer to the Federal Election Campaign Act, as amended, prior to its being amended in 1979.

¹⁹See the explanation of a MUR on page 19, footnote 11.

²⁰For a more detailed summary of this MUR, see the November 1979 issue of the *FEC Record*.

²¹This finding was codified in the 1979 amendments to the election law which specifically exclude Federal Government from the definition of "person." See 2 U.S.C. Section 431(11) (the election law as amended in 1979).

mission had established the general principle that Congress did not intend legislatively appropriated funds to be considered contributions under 2 U.S.C. §431(e). Finally, the Commission had found no reason to believe, in previous MUR's, that a violation of the Act had occurred when there was no reporting of services and goods allegedly provided by the Federal government and State government to Federal candidates.

MUR 780 dealt with whether a national Senatorial committee had exceeded its authority under 2 U.S.C. §441a(d) by making special party expenditures on behalf of a Senatorial candidate as agent of both a State party committee and the national party committee.²² The General Counsel reported in this case that Commission regulations (11 CFR 110.7(a)(4)) specifically grant to the national committee of a political party the right to designate an agent to make special party (§441a(d)) expenditures on its behalf. While the regulations do not specifically grant that same authority to a State committee, neither do they prohibit it. In the absence of any specific prohibition, the General Counsel did not consider such designation improper. Moreover, since 2 U.S.C. §441a(a)(4) permits unlimited transfers of funds between and among political committees which are national and State committees of the same political party, the General Counsel said it was immaterial which committee's funds had been expended under §441a(d).

Litigation

Clarification of the Law. Several issues resolved through litigation in 1979 also helped clarify certain provisions of the election law. A suit brought by Barnstead for Congress Committee (Barnstead Committee) further clarified the types of expenses which, under the election law, are exempt from the definition of "expenditures" in connection with a Federal election. In *Barnstead for Congress Committee v. FEC, et*

²²For a more detailed summary of this MUR, see the October 1979 issue of the *FEC Record*.

al., the Barnstead Committee alleged that the sponsors of a televised film about House Speaker Tip O'Neill (whom Barnstead had opposed in the general election) had violated §441b of the election law. This provision prohibits corporate contributions or expenditures in connection with Federal elections. The Barnstead Committee contended that, since Speaker O'Neill was officially a candidate at the time the film was broadcast, the film was "... in essence a campaign film, which enhanced the political standing of one candidate over another." It argued that costs incurred in producing and broadcasting the film, therefore, were expenditures in connection with a Federal election.

The FEC, on the other hand, maintained that the costs incurred in sponsoring the film by the WGBH Educational Foundation (Public Broadcasting, Channel 2), the Corporation for Public Broadcasting and the Quaker Oats Corporation were news story expenses exempt from the definition of "expenditures" under §431(f)(4)(A) of the election law. This provision of the law states that expenditures do not include: "... any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee or candidate."

The U.S. District Court for the District of Columbia dismissed the suit in June 1979, upholding the FEC's determination that the costs involved in sponsoring the broadcast were, in fact, exempt from the definition of "expenditure" under the election law.

A suit filed by the FEC against the American Federation of State, County and Municipal Employees (AFSCME) clarified the meaning of "communications costs" made by a corporation or union to expressly advocate the election or defeat of a clearly identified candidate.²³ The

Commission alleged that AFSCME had violated the disclosure requirements of 2 U.S.C. §431(f)(4)(C) by failing to report certain costs incurred in communicating with its membership. The Act specifically excludes from the definition of "expenditure" any communications made by a membership organization or a corporation to its members or stockholders. The Act requires, however, that the costs directly attributable to communications expressly advocating the election or defeat of a clearly identified candidate be reported to the Commission if they exceed \$2,000 per election.

The communication in question was a political poster circulated by AFSCME to its members immediately before the 1976 general election. The poster depicted a caricature of President Ford, wearing a lapel button with the words "Pardon Me," and embracing former President Richard Nixon. The poster contained a quote taken from a speech given by Ford as Vice President: "I can say from the bottom of my heart — the President of the United States is innocent and he is right."

In May 1979, the District Court for the District of Columbia dismissed the suit. In the first attempt to apply the Supreme Court's "express advocacy" test, the court found that, although the Nixon-Ford poster included a clearly identified candidate and may have tended to influence voting, it primarily concerned a public issue and did not unambiguously relate to a particular candidate's campaign. Therefore, the court found that the poster expenses were not required to be reported under 2 U.S.C. §431(f)(4)(C).

Commission's Enforcement Powers. In its short existence, the Commission has established before the courts its broad powers as a regulatory agency. For example, by consistently upholding the Commission's powers to obtain additional information from respondents during the agency's enforcement proceedings, the courts

²³For more details on this case, see the July 1979 issue of the *FEC Record*.

have recognized the FEC's authority²⁴ to actively investigate alleged violations of the election law.

The courts have also upheld the Commission's exclusive primary jurisdiction over enforcement of the Act. In 1979, for example, Federal courts dismissed 20 suits which were brought by Henry Walther against Federal candidates and committees on whose behalf the Commission appeared as a friend of the court.²⁵ In dismissing the suits, the courts found that Mr. Walther had not followed the statutory procedure set forth in 2 U.S.C. § 437g(a)(9). This provision of the election law states that parties contending the Commission has acted contrary to law in dismissing a compliance matter must file a complaint against the Commission (rather than against the respondent(s) named in the complaints). In August 1979, therefore, the District Court for the District of Columbia determined that it was "clearly without subject matter jurisdiction [for the court] to entertain Mr. Walther's attempt at the direct enforcement of the Federal election law."

Similarly, in a suit brought against the FEC by the Committee to Elect Lyndon LaRouche, the courts upheld the Commission's statutory role with regard to the Presidential Primary Matching Account (26 U.S.C. § 9031 *et seq.*). In 1976, the Commission had denied primary matching funds to Lyndon LaRouche, U.S. Labor Party Presidential candidate, on the grounds that Mr. LaRouche's matching fund requests lacked proper documentation. Mr. LaRouche stated that he was eligible for funds because he had raised at least \$5,000 in contributions of \$250 or less in each of at least 20 states, the contribution threshold for match-

ing fund eligibility.²⁶ The Commission's denial of matching funds had previously been upheld by the district court. However, Mr. LaRouche and his campaign committee appealed the FEC's determination. On August 23, 1979, the U.S. Court of Appeals for the District of Columbia upheld the Commission's determination in *Committee to Elect Lyndon LaRouche v. FEC*.²⁷ The court concluded that, if the initial matching fund submission contains "patent irregularities suggesting the possibility of fraud, the Commission is authorized to conduct an investigation during the certification process to determine whether the candidate, in fact, has raised the threshold amount."

For the most part, the courts have shown deference to the FEC's judgment in dismissing complaints filed with the Commission. In June 1979, for example, the U.S. District Court for the District of Columbia granted summary judgment to the FEC in two consolidated suits filed by Henry Walther against the FEC on November 3 and 21, 1978. (The courts had previously dismissed 20 suits brought by Mr. Walther against Federal candidates and committees on whose behalf the FEC had appeared as a friend of the court.)

The suits contended that the Commission had acted contrary to law in dismissing 45 complaints filed by Mr. Walther and the National Right to Work Committee pursuant to 2 U.S.C. § 437g(a)(1). The court determined that the Commission's decision not to investigate the complaints was "eminently reasonable" and was not arbitrary or capricious, the standard for judicial review of Commission actions.²⁸

²⁴See 2 U.S.C. Section 437d(a) (the election law as amended in 1979).

²⁵For more details, see the June and September 1979 issues of the *FEC Record*.

²⁶See 11 CFR 9033.2(c)(1), as revised and renumbered in 1979.

²⁷For a detailed summary of this suit, see the October 1979 issue of the *FEC Record*.

²⁸For more details on this suit, see the June and September 1979 issues of the *FEC Record*.

Constitutionality of the Election Law. Several suits in 1979, going beyond the Supreme Court's *Buckley v. Valeo*²⁹ decision of 1976, further clarified the constitutionality of the election law. In *FEC v. Milton Weinsten and Winfield Manufacturing Company*, for example, the Commission alleged that Milton Weinsten, President of Winfield Manufacturing Company (a government contractor), had violated the ban on corporate contributions when he used corporate funds to reimburse employees of Winfield Manufacturing Company for contributions they had made to the 1976 Presidential primary campaign of Milton Shapp. Defendants sought to have various corporate prohibitions in the Act declared unconstitutional. Their argument stated that, taken together, *Buckley v. Valeo*, which upheld contribution limits, and *First National Bank of Boston v. Bellotti*, which overturned a State law prohibiting bank expenditures to influence the outcome of ballot questions, demonstrate the unconstitutionality of those prohibitions. The United States District Court for the Southern District of New York, however, concluded that the following provisions of the Act are constitutional:

- the prohibition on corporate contributions or expenditures in connection with Federal elections (2 U.S.C. §441b);
- the prohibition on contributions by government contractors (2 U.S.C. §441c); and
- the prohibition on contributions made in another person's name (2 U.S.C. §441f).

In reaching its conclusion, the court relied on *United States v. Chesnut*.³⁰ That decision upheld the ban on corporate contributions because the ban: 1) avoided the deleterious influence on Federal elections of money supplied by "those who exercise control over large aggregations of capital," and 2) prevented "corporate and union officials from using corporate or general union

funds for political purposes without the consent of stockholders and union members." Following the court's decision, a consent judgment was entered into on June 11, 1979, in which the defendants admitted violations and agreed to pay a civil penalty.

Another suit decided in 1979 dealt with the constitutionality of the election law's reporting requirements. In *Socialist Workers Party v. FEC*, the FEC concurred, without necessarily agreeing to all the facts presented, that the Socialist Workers Party (SWP) should not be compelled to comply with the reporting requirements of the election law (which require identification of individuals) until the close of the 1984 reporting period. SWP had filed suit against the Commission in July 1976, alleging that specific disclosure provisions of the election law deprived SWP and its supporters of certain First Amendment rights.³¹ The consent decree approved in January 1979 by the U.S. District Court for the District of Columbia noted that SWP and those connected with it "have been subjected to systematic harassment" by individuals and agencies other than the FEC. Citing the standard for the potential unconstitutional application of the disclosure provisions in the 1976 Supreme Court decision (*Buckley v. Valeo*, 424 U.S. 1), the Court's order stated that SWP had demonstrated at least "a reasonable probability that the compelled disclosure" of names of its contributors and recipients of its expenditures would continue to "subject them to threats, harassment, or reprisals from either government officials or private parties." (*Buckley v. Valeo*, 424 U.S. 1 at 74.)

²⁹For a detailed discussion of the *Buckley v. Valeo* decision, see the FEC's 1976 *Annual Report*.

³⁰See *United States v. Chesnut*, 394 F.Supp. 581 (S.D.N.Y. 1975), *aff'd.*, 533 F.2d 40, 50-51 (2d Cir. 1976).

³¹For more details on this suit, see the March 1979 issue of the *FEC Record*.

Chapter 3

Summary of the 1979 Amendments to the Federal Election Campaign Act

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On January 8, 1980, the President signed into law the 1979 amendments to the Federal Election Campaign Act of 1971, as amended (Public Law 96-187). This chapter highlights major changes in the law with particular focus on:

- Changes that apply to all groups;
- New provisions that affect specific groups (candidates, their authorized committees, party political committees and other political committees); and
- Amendments that modify Commission powers.

All citations in this chapter are to the Federal Election Campaign Act of 1971, as amended (including the 1979 amendments), as contained in Title 2 of the United States Code. Generally, this chapter includes only major revisions or modifications to the law. Occasionally, however, to avoid possible confusion, the summary also identifies certain provisions of the election law that have been retained in their original form. Those seeking guidance for their own activity should consult the full text of the Act, as amended.

Changes That Affect All Committees

Registration

The 1979 amendments:

1. Eliminate requirement that each political committee have a chairman. Retain requirement that each committee have a treasurer and that no contribution or expenditure be made when there is a vacancy. Section 432(a).
2. Reduce the 11 categories of information required on the Statement of Organization to six. The following five categories have been eliminated: the area, scope and jurisdiction of the committee; the names, addresses and positions of committee officers other than the treasurer; a statement whether the committee is a continuing one; the disposition of residual funds which will be made in the event of dissolution; and a statement of the reports

required to be filed by the committee with State or local officers. Section 433(b).

3. Add requirement that the type of committee and the type of its connected organization or affiliated committee (if any) be included in the Statement of Organization. Section 433(b).
4. Require only authorized committees to list candidates supported. Section 433(b).

Recordkeeping

The 1979 amendments:

1. Retain \$50 threshold for keeping records of contributions. Section 432(c)(2).
2. Reduce recordkeeping requirements by increasing from \$100 to \$200 per calendar year the threshold requirement for keeping detailed records (i.e., occupation and name of employer) on aggregate contributions from the same person. Section 432(c)(3).
3. Retain requirement for keeping records of all disbursements. Section 432(c)(5).
4. Modify requirements for documentation and detailed recordkeeping of disbursements so that the requirements apply only to those disbursements exceeding \$200 (formerly \$100) and not to aggregate expenditures (as formerly required). Reduce required documentation for such disbursements to a receipt, invoice or canceled check. Section 432(c)(5).
5. Modify the definition of "identification." For recordkeeping and reporting purposes, "identification" for an individual must include the individual's name, mailing address, occupation and the name of his/her employer. For any other person, identification must include the person's full name and address. Section 431(13).
6. Add provision that the committee will be considered to be in compliance with the Act if the treasurer is able to demonstrate that "best efforts" have been made to obtain, maintain and submit the information required by the Act. Section 432(i).

Political Advertising/Solicitation Notices

The 1979 amendments:

1. Repeal requirement for the following notice, formerly required on all campaign solicitations by a political committee:

A copy of our report is filed with the Federal Election Commission, and is available for purchase from the Federal Election Commission, Washington, D.C.

2. Extend the requirement for an authorization notice, previously required only for candidate advocacy statements, to solicitation statements as well. Thus, under the new amendments, a communication that expressly advocates the election or defeat of a clearly identified candidate or solicits contributions through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing or any other type of general public political advertising, must include an authorization notice, as indicated below:
 - a. If the communication is paid for and authorized by a candidate or his/her authorized political committee or its agents, it must state that the communication has been paid for by the authorized political committee.
 - b. If the communication is authorized by the candidate or his/her authorized political committee or its agents, but paid for by another person, it must state that the communication has been authorized by the committee, and paid for by a specific person.
 - c. If the communication is not authorized by the candidate or his/her authorized political committee or its agents, it must clearly state that the communication has not been authorized by the candidate or his/her committee and must clearly state the name of the person who paid for the communication.

Bank Loans

The amendments extend the contribution exemption for bank loans to include loans made by Federally chartered depository institutions or

depository institutions which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation or the National Credit Union Administration — in addition to the currently exempted loans from State and national banks. Section 431(8)(B)(vii).

Reporting

Contents. The amendments redefine and reorder reporting categories under which receipts and disbursements must be reported. (New forms will reflect these changes.) Section 434(b).

Itemization. The amendments reduce reporting requirements by raising from \$100 to \$200 the threshold for itemizing receipts and disbursements.

48-Hour Reports. The amendments modify the requirement for 48-hour reports and limit it to principal campaign committees, which are responsible for reporting last-minute contributions received by all authorized committees. Formerly, contributions of \$1,000 or more which were received after the 15th day but more than 48 hours before an election had to be reported by the recipient committee within 48 hours of their receipt. The amendments extend the 48-hour reporting period to cover contributions received after the 20th day but more than 48 hours before the election. Section 434(a)(6)(A).

Termination

The amendments eliminate the financial activity threshold (\$1,000 or less) for termination. Instead, a committee may terminate only when it has provided the Commission with written notification that it will no longer receive any contributions or make any disbursements. Amendments retain, however, former requirement that the committee have no outstanding debts or obligations. Section 433(d).

Changes That Affect Candidates and Their Authorized Committees

Definition of Candidate

The amendments establish a \$5,000 threshold which, alone, triggers candidate status. An individual becomes a candidate only after he/she receives contributions or makes expenditures in excess of \$5,000. This eliminates the former provision that an individual became a candidate either when he/she made any expenditures or received any contributions, or when the individual took appropriate action under State law to qualify for election to Federal office. Section 431(2).

Candidate's Responsibilities

The 1979 amendments:

1. Eliminate candidate's reporting responsibilities; instead the candidate's principal campaign committee reports all financial activities of the campaign. Section 434(a)(1).
2. Add provision that candidates may accept contributions or make expenditures only as agents of their authorized committees. Section 432(e)(2).
3. Modify requirement for designation of campaign depository(ies) so that only the committee — not the candidate — may make the designation. In addition to national or State banks, the amendments add the following financial institutions to the list of permissible depositories: Federally chartered depository institutions or depository institutions insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation or the National Credit Union Administration. Section 432(h)(1).

Designations by Candidate

Principal Campaign Committee. The 1979 amendments:

1. Require that each candidate (except nominated Vice Presidential candidates) designate a principal campaign committee in writing within 15 days after the individual becomes a

candidate. Formerly, Commission regulations provided 30 days for designation of principal campaign committees. (The principal campaign committee need not register until candidate status is triggered, i.e., the \$5,000 threshold is exceeded.) Section 432(e)(1).

2. Add requirement that candidate's name be included in the name of any authorized committees, including the principal campaign committee. Section 432(a)(4).

Authorized Committees. The 1979 amendments:

1. Add provision that candidate must file written designations of any additional authorized committees with principal campaign committee. The principal campaign committee must file all designations with the appropriate supervisory authority. Section 432(e)(1)(f).
2. Modify registration requirements so that authorized committees must file Statements of Organization with the principal campaign committee (rather than with the FEC, Senate or House) within 10 days of their designation by the candidate. Section 433(a).
3. Add requirement that candidate's name be included in the name of any authorized committee. Section 432(e)(4).
4. Add provision that no committee which supports more than one candidate may be designated as an authorized committee. Amendments define "support," making clear the term does not include a contribution of \$1,000 or less to another candidate's authorized committee. Add provision that candidates may, nevertheless, designate committees established solely for joint fundraising purposes as authorized committee. Retain the provision that Presidential candidates may designate the national committee as the principal campaign committee. Section 432(e)(3).

Contributions

Definition. The 1979 amendments repeal from the definition of contribution "written contract, promise or agreement, whether or not legally enforceable, to make a contribution..." Section 431(8)(A).

Excess Campaign Funds. The 1979 amendments modify provision on use of excess campaign funds. Candidates who were not U.S. House or Senate Members on January 8, 1980, may not convert surplus funds to personal use. Add provision permitting candidates and their authorized committees to transfer unlimited excess campaign funds to party political committees. Section 439a.

Contribution Exemptions. The 1979 amendments expand contribution exemptions (i.e., payments exempted from the definition of contribution) for certain volunteer activities on behalf of candidates by:

1. Establishing a \$1,000 limit (per candidate, per election) for certain types of volunteer activity that individuals may conduct on behalf of candidates. Formerly, the Act placed a \$500 limit on such activities. Any payments exceeding the \$1,000 limit are not exempt. Sections 431(8)(B)(ii), (iii) and (iv).
2. Extending the exemption to permit the volunteer to conduct candidate-related activities in a church or community room that is used on a regular basis by members of a community for noncommercial purposes. Formerly, individuals were limited to the use of their residential premises for such purposes. Section 431(8)(B)(ii).

The 1979 amendments also add a provision permitting any candidate (Federal, State or local) or his/her authorized committee to make payments for campaign materials (e.g., pins, bumper stickers, handbills, brochures, etc.) which include information on or reference to other candidates and which are used in connection with volunteer activities. The payments must be made from funds that are permissible under the Act

and may not be made for general public communication or public political advertising. Section 431(8)(B)(xi).

Reporting

Who Reports. The 1979 amendments eliminate requirement that candidates file reports; instead, amendments require that all reports be filed by the treasurer of the candidate's principal campaign committee. Section 434(a)(2)(A).

Number of Reports. The amendments reduce the number of required reports from a maximum of 24 reports, per election cycle, to a maximum of 9. See below.

When Congressional Campaigns File. With regard to an election year, the 1979 amendments:

1. Eliminate contribution and expenditure thresholds for quarterly reports. Quarterly reports must be filed regardless of amounts received or expended. Quarterly reports must be filed by the 15th day after the close of each calendar quarter (rather than by the 10th day as formerly required) except the 4th quarter report (year-end report) which must be filed by January 31 of the following year. Section 434(a)(2)(iii).
2. Eliminate requirement for post-primary election report.
3. Retain requirement for pre-primary and pre-general election reports. Those reports are due on the 12th day before the election (rather than on the 10th day as formerly required). If sent by registered or certified mail, they must be postmarked no later than the 15th day before an election (rather than the 12th day as formerly required). The reports must be complete as of the 20th day before the election (rather than the 15th day as formerly required). Section 434(a)(2)(A)(i).
4. Retain requirement for a post-general election report, filed by the 30th day after any general election and complete as of the 20th day after the election. Section 434(a)(2)(A)(ii).
5. Waive the requirement for a quarterly report if a pre-election report is due within the

period beginning on the 5th day and ending on the 15th day after the close of a calendar quarter. Section 434(a)(8).

The 1979 amendments eliminate requirement for quarterly reports in a nonelection year. Instead, amendments require two semiannual reports. The first report, covering January through June, must be filed by July 31; the second report, covering July through December, must be filed by January 31 of the following year. Sections 434(a)(2)(B)(i) and (ii).

When Presidential Campaigns File. With regard to a Presidential election year, the 1979 amendments establish rules for filing either quarterly or monthly reports:

1. Presidential campaign committees which have received or spent \$100,000, or which anticipate receiving or spending that amount, must file monthly reports for the first nine months, plus pre- and post-general election reports and a year-end report. If, at any time during the year, a Presidential campaign committee reaches the \$100,000 threshold, it must file a monthly report for the next reporting period after the threshold has been reached. Sections 434(a)(3)(A)(i) and (iii).
2. Other Presidential principal campaign committees (which do not exceed the \$100,000 threshold) must file quarterly reports and pre-election and post-general election reports. Section 434(a)(3)(A)(ii).

During a nonelection year, the 1979 amendments retain option for Presidential committees to file either monthly or quarterly reports. Quarterly reports must be filed by the 15th day after the close of the calendar quarter rather than on the 10th day as formerly required. Sections 434(a)(3)(B)(i) and (ii).

Special Elections. The 1979 amendments add provision that requires the Commission, within five days after a State sets the date for a special election, to establish filing dates for reports required of candidate committees involved in that special election and committees that sup-

port them. The Commission is also required to notify these principal campaign committees of the filing dates. Section 434(a)(9).

Changes That Affect Political Parties

Registration

Which Committees Must Register? The 1979 amendments relax registration requirements for party organizations by modifying definition of "political committees." Local party committees are not considered political committees and will not incur registration and reporting obligations unless they:

- receive contributions aggregating more than \$5,000 a year;
- spend more than \$5,000 a year for payments that are exempted from the definition of contribution or expenditure (see below);
- make aggregate contributions exceeding \$1,000 a year; or
- make aggregate expenditures exceeding \$1,000 a year. Section 431(4)(C).

When Must They Register? The amendments require party political committees to file a Statement of Organization within ten days after becoming a political committee within the meaning of the Act. Section 433(a).

Contribution Exemptions

Volunteer Activity by Individuals on Behalf of Party Committees. The amendments extend to party political committees several contribution exemptions (i.e., payments exempted from the definition of contribution) formerly granted to candidate-related activities.

1. The amendments permit volunteers to use real or personal property, including the cost of invitations, food and beverages, for party-related activities conducted at an individual's residence or a church or community room. The amendments establish a \$2,000 annual limit, per individual, on behalf of all political committees of a political party. Section 431(8)(B)(ii).

2. The amendments permit vendors to sell discounted food and beverages to party committees provided that the charge to the committee at least equals the vendor's cost. The amendments establish a \$2,000 annual limit, per vendor, on behalf of all political committees of a political party. Section 431(8)(B)(iii).
3. The 1979 amendments permit volunteers to pay their own travel expenses made on behalf of a party political committee. The amendments establish a \$2,000 annual limit, per individual, for travel on behalf of all political committees of a political party. Section 431(8)(B)(iv).

Campaign Materials. The 1979 amendments permit State and local party committees to make payments (exempted from contributions) for certain campaign materials (e.g., bumper stickers, pins) used by such committees in connection with volunteer activities on behalf of party candidates. The funds used for the payments must be:

- made from contributions permissible under the Act;
- not designated for a particular candidate; and
- not used for broadcasting, newspapers, magazines, billboards, direct mail or other similar types of general public political advertising. Section 431(8)(B)(x).

Voter Registration and Get-Out-the-Vote. The 1979 amendments add exemption for payments for voter registration and get-out-the-vote activities conducted by State or local party committees on behalf of Presidential candidates, provided that the funds used for these activities are:

- made from contributions permissible under the Act;
- not designated for a particular candidate; and
- not used for broadcasting, newspapers, magazines, billboards, direct mail or other similar types of general public political advertising. Section 431(8)(B)(xii).

Legal and Accounting Services. The 1979 amendments extend to all party political com-

mittees the provision permitting them to accept legal or accounting services, provided the services are paid for by the accountant's or lawyer's regular employer and are not attributable to activities which directly further the election of any candidate to Federal office. The amendments retain requirement that the amount paid or incurred by the regular employer, although not considered a contribution, must be reported by the committee receiving the services. Section 431(8)(B)(ix)(I).

Ballot Access. The 1979 amendments add exemption for payments received by party political committees from candidates as a condition of ballot access. Section 431(8)(B)(xiii).

Slate Card. The amendments retain the slate card exemption. Section 431(8)(B)(v).

Excess Campaign Funds. The amendments permit candidates and their authorized committees to transfer unlimited excess campaign funds to party political committees. Section 439a.

Reporting

The amendments reduce the number of reports required by party political committees.

During an Election Year. The 1979 amendments:

1. Eliminate contribution and expenditure thresholds for quarterly reports. Quarterly reports must be filed regardless of amounts received or spent. Quarterly reports must be filed by the 15th day after the close of each calendar quarter (rather than by the 10th day as formerly required) except the 4th quarter report (year-end report), which must be filed by January 31 of the following calendar year. Section 434(a)(4)(A)(i).
2. Add option to file monthly rather than quarterly reports. Section 434(a)(4)(B).
3. Retain requirement for pre-primary and pre-general election reports. Those reports are due on the 12th day before an election (rather than on the 10th day as formerly required). If sent by registered or certified

mail, they must be postmarked no later than the 15th day before an election (rather than the 12th day as formerly required). The reports must be complete as of the 20th day before an election (rather than the 15th day as formerly required). Section 434(a)(4)(A)(ii).

4. Eliminate the requirement for a post-primary election report.
5. Retain requirement for a post-general election report, filed by the 30th day after the general election and complete as of the 20th day after the election. Section 434(a)(4)(A)(iii).

During a Nonelection Year. The 1979 amendments:

1. Eliminate requirement for quarterly reports.
2. Establish two options for reporting:
 - a. Semiannual reports. The first report, covering the period from January through June, must be filed by July 31. The second report, covering the period from July through December, must be filed by January 31 of the following year. Section 434(a)(4)(A)(iv); or
 - b. Monthly reports. Section 434(a)(4)(B).

Public Financing

The amendments increase from \$2,000,000 to \$3,000,000 the amount of public funds available to the national committees of major political parties for their nominating conventions. Section 9008(b)(1).

Changes That Affect Nonparty, Noncandidate Committees

Definitions

Separate Segregated Fund. The 1979 amendments:

1. Expand definition of political committee to include "any separate segregated fund established under . . . [the Act]," regardless of the amount of financial activity. Section 431(4)(B).
2. Add requirement that each separate segregat-

ed fund include the name of its connected organization in the committee's name. Section 432(e)(5).

3. Add requirement that a separate segregated fund must register within ten days of its "establishment." Section 433(a).

Connected Organization. The 1979 amendments add definition of connected organization as one "which is not a political committee but which directly or indirectly establishes, administers or financially supports a political committee." Section 431(7).

Unauthorized Committee. The 1979 amendments:

1. Retain \$1,000 per calendar year campaign activity threshold for qualifying as a political committee. Section 431(4)(A).
2. Add provision that prohibits an unauthorized political committee from including the name of any candidate in its name. Section 432(e)(4).

Reporting

When Reports Are Filed. Same as for party committees (above).

Reports Filed With State Officers. The 1979 amendments add a provision permitting political committees (other than authorized committees) to file only that portion of the report applicable to candidates seeking election in the particular State. Section 439(a)(2)(B).

Independent Expenditures

The 1979 amendments:

1. Reduce reporting requirements for independent expenditures by persons other than political committees by:
 - a. Raising the reporting threshold from \$100 to \$250; and
 - b. Raising from \$100 to \$200 the threshold for reporting the identity of any person who makes a contribution toward the independent expenditure. Section 434(c).

2. Modify requirement for 24-hour pre-election report of independent expenditures aggregating \$1,000 or more which are made shortly before an election. Formerly, such reports were required when independent expenditures were made after the 15th day but more than 24 hours before the election. The amendments extend that period to cover such independent expenditures made after the 20th day but more than 24 hours before the election. Section 434(c)(2).

Changes That Affect Commission Powers

Advisory Opinions

The 1979 amendments extend the right to request an advisory opinion to any person affected by the Act as long as the request relates to a specific transaction or activity which that person intends to undertake. Section 437f.

Regulations

The 1979 amendments:

1. Add new provision which states that any person who relies on any Commission rule or regulation and acts in good faith in accordance with the rule or regulation shall not be subject to any sanction provided by the Act or Chapters 95 and 96 of Title 26 of the United States Code. Section 438(e).
2. Add provision for expediting regulations that implement the 1979 amendments.

Enforcement

Complaint. The amendments retain provision that any person may file a written, signed and notarized complaint, but add that such complaints are made under penalty of perjury. Also add requirement that the Commission notify the respondent within five days after the complaint is received. Before the Commission can take any action on a complaint, other than a vote to dismiss, the person named in the complaint has 15 days after the notification in which to demonstrate, in writing, why no action should be taken against him/her. Section 437g(a)(1).

Reasonable Cause to Believe. The amendments eliminate "reasonable cause to believe" stage in enforcement process. The Commission will proceed from "reason to believe" to "probable cause to believe."

Probable Cause to Believe and Respondent's Right to Reply. The amendments add provision stipulating that respondent be notified of a recommendation by the General Counsel that the Commission proceed to a vote on "probable cause to believe" the Act has been violated. The notification must include a brief, setting forth the General Counsel's position on the legal and factual issues. Within 15 days, the respondent may submit a reply to the General Counsel's brief, which, if submitted, must be considered by the Commission before it makes a determination. Section 437g(a)(3).

Conciliation Agreement. The amendments modify conciliation provision so that the Commission attempts conciliation only if, by an affirmative vote of four Commissioners, it finds "probable cause to believe," rather than "reasonable cause to believe," as formerly required. Section 437g(a)(4)(A)(i).

Confidentiality. The amendments require (prior to the final closing of an enforcement case) the written consent of the respondent and the Commission before the Commission may make public any action or information derived in connection with a conciliation attempt. Formerly, the respondent's written consent was required to make any notification or investigation public prior to the closing of a case. The amendments retain, however, the requirement that the Commission place a conciliation agreement on the public record, once it has been finalized. Section 437g(a)(4)(B)(i).

Commission Action. The amendments extend from 90 to 120 days the period within which the Commission must act on a complaint filed by an individual. If the Commission does not act on a complaint within 120 days, the complainant may file with the District Court. Section 437g(a)(8)(A).

Clearinghouse

The 1979 amendments:

1. Modify provision for the Commission to act as a national clearinghouse "for the compilation of information and review of procedures with respect to the administration of Federal elections." Section 438(a)(10).
2. Add provision which requires the Commission, in cooperation with the National Bureau of Standards, to conduct a preliminary study on the future development of voluntary engineering and procedural performance standards for voting systems used in the United States. The Commission must report the results of the study to Congress and include recommendations for the implementation of a program of such standards.

Chapter 4 Legislative Recommendations

The Commission is required to include in its annual report "any legislative or other actions the Commission considers appropriate." (2 U.S.C. §438(a)(9), formerly 2 U.S.C. §437e.) On January 8, 1980, the Federal Election Campaign Act Amendments of 1979 were enacted (Public Law 96-187). The 1979 Amendments incorporate many of the improvements in the Act the Commission has recommended over the past three years. The Commission applauds the Congress' efforts in election campaign law reform and is confident that the 1979 Amendments will result in a significant decrease in reporting burdens on candidates and committees. We hope the Amendments will also encourage more vigorous volunteer activity at the grass roots level.

It is too early to determine whether improvements will be needed to the changes made in the 1979 Amendments. There are, however, several areas not addressed by the 1979 Amendments in which the Commission made recommendations in the past. The Commission reiterates its support for these changes and includes them in the following list of legislative recommendations.

Reporting

General Waiver Authority

In the past, there have been instances when the Commission may have wished to suspend the reporting requirements of the law in cases where reports or requirements were excessive or unnecessary. To further reduce needlessly burdensome disclosure requirements, the Commission should have authority to grant general waivers or exemptions from the extensive reporting, recordkeeping and organizational requirements of the Act. Each proposal for a general waiver would, of course, be submitted to Congress in the form of a regulation subject to legislative review.

Point of Entry

The Commission recommends that it be the sole point of entry for all disclosure documents filed by Federal committees. A single point of entry would eliminate any confusion about where can-

didates and committees are to file their reports. It would assist committee treasurers by having one office with which to file, correspond and ask questions. At present, conflicts may arise when more than one office sends out materials, makes requests for additional information and answers questions relating to the interpretation of the law. A single point of entry should also reduce the cost to the Federal government of maintaining three different offices, especially in the area of personnel, equipment and data processing.

The Commission has authority to prepare and publish lists of nonfilers. It is extremely difficult to ascertain who has and who has not filed when reports may have been filed at or are in transit between two different offices. Separate points of entry also make it difficult for the Commission to track responses to compliance notices. Many responses and/or amendments may not be received by the Commission in a timely manner, even though they were sent on time by the candidate or committee. The delay in transmittal between two offices sometimes leads the Commission to believe that candidates and committees are not in compliance. A single point of entry would eliminate this confusion. The Commission notes that the report of the Institute of Politics of the John F. Kennedy School of Government at Harvard University, *An Analysis of the Impact of the Federal Election Campaign Act, 1972-78*, prepared for the House Administration Committee, recommends that all reports be filed directly with the Commission (Committee Print, 96th Cong., 1st Sess., at 122 (1979)).

State Filing Officers

The 1979 Amendments significantly ease the burden on Secretaries of State and equivalent State filing officers by reducing retention requirements. Another concern expressed by State officers not addressed in the 1979 Amendments is the absence of reimbursement by the Federal government for costs incurred in receiving, indexing and maintaining Federal disclosure reports. Such Federal payments could be made on

an electoral vote basis, or some other equitable formula, that would require minimal administrative overhead.

Contribution and Expenditure Limitations

Election Period Limitations

The contribution limitations are structured on a "per-election" basis, thus necessitating dual bookkeeping or the adoption of some other method to distinguish between primary and general election contributions. The Act could be simplified by changing the contribution limitations from a "per-election" basis to an "annual" or "election-cycle" basis. If an annual limitation is chosen, contributions made to a candidate in a year other than the calendar year in which the election is held should be considered to have been made during the election year. Thus, multicandidate committees could give up to \$10,000 and all other persons could give up to \$2,000 to an authorized committee at any point during the election cycle.

Contributions to National Party Committees

An individual may give \$20,000 to the committees established and maintained by a national political party, but a multicandidate committee may give only \$15,000. This appears to be different from the treatment accorded contributions to a candidate's authorized committees by which an individual may contribute only \$1,000 per election while a multicandidate committee may give \$5,000 per election.

Contributions by Minors

The Act does not stipulate at what age a minor child may make contributions. Presently, the Commission is forced to rely on subjective criteria such as whether "the decision to contribute is made knowingly or voluntarily by the minor child." Congress should establish an age below which contributions by children would be considered to have been made by the parent and subject to the parent's \$1,000 contribution limitation.

Multicandidate Committee Qualification Requirements

In order to attain qualified multicandidate committee status to be eligible to give \$5,000 per election to Federal candidates, political committees could be required to make contributions of \$100 or some other specified sum to five Federal candidates. Under the present Act, a political committee need give as little as \$1 to four candidates in order to be eligible to give \$5,000 to the fifth candidate, provided all other criteria are met.

Contributions to Draft Committees

Consideration should be given to the application of contribution limitations to draft movements. Since the \$1,000 limitation on contributions by persons other than multicandidate committees applies only to candidates, a person may give up to \$5,000 per year — the limit applicable to "other political committees" — to a draft committee. Precisely this situation was presented in Advisory Opinion 1979-40. Congress may wish to amend the statute to make the \$1,000 limitation, rather than the \$5,000 limitation, applicable to contributions to political committees whose purpose is to influence a clearly identified individual or individuals to become a candidate.

Although the limitation on contributions by multicandidate committees to candidates or to draft committees is \$5,000, multicandidate committees, as well as other persons, may make two contributions toward the nomination of an individual — one contribution to a draft movement and, if the individual later becomes a candidate, another contribution to the candidate's authorized committee. Accordingly, Congress may wish to consider amending the Act to provide that a person who has contributed to a draft committee with the knowledge that his or her contribution will be expended to draft a clearly identified individual will, for the purposes of the contribution limitations, be considered to have made a contribution to a "candidate." If that individual should become a candidate, the contributors to the draft movement would be eligible to give to the candidate's authorized com-

mittees only to the extent their earlier aggregate contributions did not exceed the “candidate” limits.

Voluntary Services

The Act places no limit on the services that a professional may donate to a candidate. For example: a professional entertainer may participate in a concert for the benefit of a candidate without the proceeds of that concert counting toward the entertainer’s contribution limitations. Congress may wish to circumscribe the use of volunteer professional services when they are donated solely for fundraising rather than for actual campaigning.

Corporate and Labor Organization Political Activity

Registration and Get-Out-The-Vote

Congress may wish to delineate by statute the extent to which the Act allows corporations and labor organizations to conduct nonpartisan registration and get-out-the-vote campaigns to assist the general public without the sponsorship of a nonpartisan organization, so long as they merely urge people to register and to vote. The current language of 2 U.S.C. §441b(b)(2)(C) has been construed as permitting corporations and labor organizations to participate in such activities only if they are cosponsored with and conducted by an organization which does not support or endorse candidates or political parties. The present restrictive statutory language therefore deters corporations and labor organizations from unilaterally engaging in nonpartisan public service activity relating to citizen participation in the election process.

Trade Association

Solicitation Approval

Trade association political action committees must obtain the separate and specific approval of each member corporation to solicit their executive and administrative personnel. Some trade associations have thousands of members, and it is a considerable administrative burden to

obtain approval to solicit every year. The one-year limitation should be removed, and the trade association should be allowed to solicit until the corporation revokes its approval.

Presidential Elections

Delegate Selection

Amendments are needed to delineate the status of delegates and delegate-candidates to Presidential nominating conventions and the applicability of the disclosure provisions and contribution and expenditure limitations to their activities. The Commission is attempting to deal with the application of the contribution and expenditure limits and reporting requirements of the Act to delegate selection through regulations. This task is complicated, however, because the statute gives no explicit guidance as to the status of delegates. Congress should define the extent to which financial activity in connection with delegate selection is subject to the Act.

Compliance Funds

The Act specifically excludes from the definition of “contribution” the payment of legal and accounting services by a regular employer to insure compliance with the Federal Election Campaign Act and Chapters 95 and 96 of the Internal Revenue Code. The Commission’s regulations specifically permit a Presidential campaign to set up a separate account containing private monies to be used for compliance purposes. A major party Presidential candidate may not otherwise receive private contributions. In order to insure the integrity of the Presidential general election public financing provisions and to eliminate the need for any private contributions in the general election, the Presidential Election Campaign Fund Act should be amended to provide a block grant of a specified amount for legal and accounting services for each candidate and committee receiving public funds. Similar grants, perhaps on a pro rata basis, should be considered for candidates who receive matching funds in the primary election.

Presidential Election Campaign Fund

Under current provisions, the Secretary of the Treasury is required to place first priority on funds for convention financing; second priority on funds for general election financing; and third priority on the matching payment account fund. Since the primaries occur before the general election, the Secretary may not have a clear idea of the amount to reserve for the general election. The Secretary may determine that a substantial portion of the entire fund needs to be reserved for a number of possible qualified nominees in the general election, thus denying Presidential primary candidates their full entitlements. On the other hand, the Secretary may make a determination which would not reserve sufficient monies for the general election fund to pay new party candidates who qualify in the general election. Since the amount in the fund is a fixed amount in that it is limited by the number of dollars received as a result of the tax checkoff provision, the Secretary may be faced with a situation where he or she must risk depleting the general election fund to assure full entitlement for Presidential primary candidates. Under some circumstances, the present system could be unworkable. It should therefore be modified either to guarantee full entitlement to all qualified candidates or to eliminate discretion by the Secretary and the Commission in determining how to distribute partial entitlements.

Repayments to the Fund

Repayments under the Presidential Primary Matching Payment Account Act (Chapter 96, 26 U.S.C.) are made to the Presidential Election Campaign Fund, while repayments under the Presidential Election Campaign Fund Act (Chapter 95, 26 U.S.C.) are made to the general fund of the Treasury. All repayments should be made to the Presidential Election Campaign Fund so that dollars checked off by taxpayers for the Fund do not indirectly end up in the general fund.

Use of Contributions Matched by Federal Funds

26 U.S.C. §9038(b)(2)(B) requires the repayment of any matching funds used for any purpose other than “. . . to restore funds . . . which were used, to defray qualified campaign expenses.” This provision requires the repayment of an amount equal to any expenditure from matching funds or private contributions made for nonqualified campaign expenses. (See 11 CFR 9038.2(a)(2).) The Congress may wish to more clearly state in section 9038(b)(2)(B) that a candidate who accepts public funding may not make expenditures from public funds or private contributions for other than qualified campaign expenses.

Qualified Campaign Expense

Chapters 95 and 96 of Title 26 of the Internal Revenue Code contain different definitions of “qualified campaign expense.” Chapter 95 defines a “qualified campaign expense” to mean an expense incurred *to further the election* of a Presidential candidate. Chapter 96 defines “qualified campaign expense” to mean an expense incurred *in connection with a campaign for nomination* to the office of President. The Commission recommends that the broader definition contained in Chapter 96 be incorporated into Chapter 95.

Fundraising Exemption

Congress may wish to consider the results of the application of the 20 percent fundraising exemption as it is presently drafted. The Act clearly makes the 20 percent fundraising exemption applicable to the entire \$10 million limit for Presidential primary candidates, although the legislative history indicates a Congressional intent to apply the exemption only to the \$5 million privately raised. Further, the 20 percent fundraising exemption applies to Presidential nominees who accept partial public funding for the general election. The application of the fundraising exemption in this situation has the effect of increasing the nominee’s spending ceiling and placing nominees who have elected to accept full funding at a lower spending limit.

The 20 percent fundraising exemption should be eliminated and the expenditure limitation raised accordingly.

Commission Duties, Powers and Authority

Number of Legislative Days for Regulation Review

Congress should reduce the current 30 legislative days for the review of regulations to 15 legislative days.

Judicial Review

The Act contains different judicial review provisions, which Congress should consider conforming to each other. As noted by the Court of Appeals for the District of Columbia, no apparent reason exists for the different review provisions in Chapters 95 and 96 of Title 26. This anomaly creates difficulties for the courts because cases brought under one chapter often also involve questions relating to the other chapter. Congress should consider making the provisions of 26 U.S.C. §9011, including the provisions for expedited review of §9011(b), apply to Chapter 96. This could be done by changing §§9040 and 9041 so they become identical to §§9010 and 9011.

Additionally, the Congress should address what the Supreme Court called “the jurisdictional ambiguities” resulting from Title 2 having a totally different expedited review provision (2 U.S.C. §437h) for questions of constitutionality than for questions of statutory construction. The legislative history of §437h indicates it was intended to provide a vehicle for the challenge to the 1974 Amendments heard by the Court in *Buckley v. Valeo*. It has since outlived its purpose and should be repealed. By giving precedence to constitutional questions it is inconsistent with the traditional practice of the courts in not addressing constitutional questions when a case may be resolved on statutory grounds. Legal challenges to the Act, whether constitutional or statutory, could still be considered by

the courts without §437h through the ordinary provisions for judicial review in Title 28, United States Code.

Technical Amendments

26 U.S.C. §527(f)(3)

The cross-reference in 26 U.S.C. §527(f)(3) should be changed from “section 610 of Title 18” to “section 441b of Title 2.”

26 U.S.C. §9011(b)(1)

The term “contrue” in 26 U.S.C. §9011(b)(1) should be “construe.”

The Commissioners and Statutory Officers¹

During 1979, two new Commissioners were appointed to the Commission for six-year terms.² Max L. Friedersdorf was sworn in as Commissioner on March 1 and Frank P. Reiche on July 31. Commissioner Thomas E. Harris was reappointed by the President and reconfirmed by the Senate for his second term on the Commission on June 19.

On May 17, the Commissioners unanimously elected Vice Chairman Robert O. Tiernan to a one-year term as FEC Chairman and Commissioner Max L. Friedersdorf as Vice Chairman. On December 6, the Commissioners appointed Charles N. Steele as FEC General Counsel.

Management Plan

The Commission's appropriation for FY 1980 was \$8.646 million, representing a 4.3 percent increase over the 1979 appropriation.³ Based on this budget appropriation, the Commission's Management Plan⁴ for FY 1980 called for some major program realignments and resource reallocations, while maintaining existing levels of staffing for each division and office. Under the plan, for example, the Reports Analysis Division continued to code and enter into the Commission's computer 100 percent of relevant data from all campaign finance reports, but no longer reviewed every report it received. To support this shift in program priorities, the division reassigned a portion of its review staff

to data coding and entry. In addition, because of the Commission's increased emphasis on Presidential campaigns, several analysts were reassigned to a new team established to review Presidential campaign finance reports and to provide candidates and their committees with assistance.

The Management Plan channeled the Office of General Counsel's enforcement resources into defensive litigation (i.e., suits brought against the Commission) and the resolution of formal complaints originating outside the Commission. Internal referrals of compliance matters involving the public financing provisions of the law continued to receive priority over other internal referrals. The Commission sought to reduce offensive litigation (i.e., suits initiated by the Commission) by continuing to place emphasis on conciliation of cases where possible.

The Audit Division's programs were realigned to devote the bulk of the division's resources to the 1980 Presidential public financing program. The Management Plan reduced the discretionary audit program to two referral audits, 10 non-party committee audits and the resolution of audits begun in FY 1979. These reductions would permit the division to make a full-scale effort to expedite audits of publicly funded Presidential candidates.

Internal Review

As part of a systematic internal review program initiated during 1979, the Office of Planning and Management undertook a review of the Public Disclosure Division, the first of several division-wide evaluations. The Office of Planning and Management tried to determine whether program objectives were being achieved in the most cost effective way. It confined its review to the division's programs, with some consultation with other offices where operations overlapped.

The review of the Public Disclosure Division focused on two major programs: the Public Records Office (which provides reports and other documents to the public) and the Microfilm Processing Branch (which microfilms

¹Biographical sketches of the Commissioners and statutory officers appear in Appendix 1.

²Six Commissioners are appointed by the President to serve staggered, six-year terms. No more than three members of the Commission may be affiliated with the same political party.

³Expenditures from the FEC's FY 1979 budget appropriation and proposed expenditures from the FY 1980 budget appropriation are detailed in Appendix 5. An accompanying graph compares budget allocations for FY 1980 and FY 1981.

⁴The Management Plan is prepared by the Commission's Office of Planning and Management in cooperation with the managers of each division or office. It encompasses all FEC programs for the fiscal year.

reports and other documents). To evaluate the Public Records Office's services, the Office of Planning and Management conducted a survey of 1,735 persons who had used the office's services. Findings of the survey, which had a 31.4 percent response rate, indicated that 92 percent of survey respondents used the FEC as their primary source of campaign finance information. A majority of respondents (92 percent) said that the helpfulness and attitude of the staff were good to excellent, 86 percent of those who responded believed that the hours of operation were sufficient during the nonelection year, and 97 percent of the respondents believed that the extended operating hours during the peak election period were good to excellent. The survey also revealed that a majority of respondents (52 percent) preferred using paper copy files to other information tools, such as microfilm reader printers.

In general, the Office of Planning and Management concluded that the Public Disclosure Division was achieving its objectives in an efficient and effective manner, but made some recommendations for improvement. For example, the office recommended that the division reduce paper document storage by microfilming audit reports and increase indexing and cross referencing of certain Commission documents. Complete findings of the review, as well as recommendations for program changes, are contained in the final report presented to the Commission by the Staff Director.⁵

Labor/Management Relations

In June 1979, the Commission and the National Treasury Employees Union (NTEU) successfully negotiated the Commission's first collective bargaining agreement. The contract was one of the first in the Federal sector to be negotiated under the Civil Service Reform Act of 1978.

During negotiations, labor and management representatives of the Commission reached agreement on a broad range of issues covering personnel procedures and labor/management relations. The contract details the rights of employees as well as the retained rights of management.

Although the contract covers only members of the officially recognized bargaining unit, personnel policies and procedures contained in the agreement will have a significant, long-term impact on all FEC employees. Many of these new policies and procedures were designed to improve employee morale and performance. As a result of the contract, for example, the Commission adopted:

- A flexible working hours system;
- New merit selection procedures;
- Revised grievance procedures, with employee access to binding arbitration; and
- Explicit policy statements on leave earning and usage.

Provisions of the new Civil Service Reform Act also required both negotiating parties to adopt a new system for evaluating employee performance, as well as written performance standards for each position.

To help the Commission draft and implement the new contract, the Commission hired a Special Assistant to the Staff Director for Labor and Management Relations and allocated additional resources to collective bargaining negotiation sessions. Four management staff members comprised Management's team; an equal number of employees represented the Union. Between January and June, the negotiating teams met in more than 20 sessions, averaging five hours each, to draft the contract. They spent additional time preparing for the sessions and apprising the Commissioners of their progress.

Following the successful negotiation of the contract, the Commission conducted a series of management training sessions to prepare supervisors for their new responsibilities under the

⁵Copies of the complete report, Commission Memorandum No. 671, are available from the FEC's Public Records Office.

contract. Additional training sessions were held to assist managers in the ongoing preparation of the new performance evaluation system.

Implementing the new contract during 1979 placed substantial demands on FEC staff time and required an unanticipated allocation of resources. In 1979, approximately \$42,400 in direct personnel costs were devoted to this program, including time spent in negotiations, management training, contract implementation and contract administration.

Appendix 1

Biographical Data on Commissioners and Statutory Officers

Commissioners

Robert O. Tiernan, Chairman
April 30, 1981*

Robert Tiernan, currently Chairman, served as a Democratic Member of Congress from Rhode Island for eight years, and prior to that as a State legislator for seven years. An attorney, he was born in Providence, Rhode Island, and graduated from Providence College and Catholic University Law School. Mr. Tiernan has been admitted to practice in all Federal courts, the State of Rhode Island, and the District of Columbia. He has held various national and State party positions. Originally appointed for two years, he received a five-year term upon reconstitution of the Commission.

Max L. Friedersdorf, Vice Chairman
April 30, 1983

Max L. Friedersdorf, Vice Chairman of the Commission, served as Staff Director of the Senate Republican Policy Committee from January 1977 until his appointment to the Commission in February 1979. A native of Indiana, Mr. Friedersdorf received his B.A. from Franklin College in 1952 and earned an M.A. from American University in 1970. He pursued a journalism career in Indiana before serving as administrative assistant and press secretary for former Congressman Richard L. Roudebush (R-Ind.) from 1961 to 1970. In 1970, he was Director of Congressional Relations for the Office of Economic Opportunity. From 1971 to 1977, Mr. Friedersdorf served in several White House posts. He was Deputy Assistant for Congressional Affairs to President Nixon from 1971 to 1974. He continued as Deputy Assistant to President Ford until 1975, when he became the President's Assistant for Legislative Affairs.

Joan D. Aikens
April 30, 1981

Mrs. Aikens served as Commission Chairman between May 1978 and May 1979. She was formerly Vice President of Lew Hodges/Com-

munications, a public relations firm located in Valley Forge, Pennsylvania. From 1972 until 1974, she was president of the Pennsylvania Council of Republican Women and served on the Board of Directors of the National Federation of Republican Women. A native of Delaware County, Pennsylvania, Mrs. Aikens has been active in a variety of volunteer organizations. She received her B.A. from Ursinus College, Collegeville, Pennsylvania. Her original appointment to the Federal Election Commission in 1975 was for a one-year term. She was reappointed for five years when the FEC was reconstituted.

Thomas E. Harris
April 30, 1985

Mr. Harris was Commission Chairman between May 1977 and May 1978. Before serving on the Commission, he was associate general counsel to the AFL-CIO in Washington, D.C., from 1955 to 1975. He had held the same position with the CIO from 1948 until it merged with the AFL in 1955. Prior to that, he was an attorney in private practice and with various government agencies. A native of Little Rock and a 1932 graduate of the University of Arkansas, Mr. Harris is a 1935 graduate of Columbia University Law School, where he was on the *Law Review* and was a Kent Scholar. After graduation, he clerked one year for Supreme Court Justice Harlan F. Stone. He was originally appointed to the Commission for a four-year term and upon reconstitution received a three-year appointment. In 1979, President Carter reappointed him and, on June 19, 1979, the U.S. Senate reconfirmed Mr. Harris for a six-year term.

John W. McGarry
April 30, 1983

Mr. McGarry served as special counsel on elections to the Committee on House Administration from 1973 until his appointment to the Commission in February 1979. A native of Massachusetts, Mr. McGarry served in the Navy during World War II. After the war, he graduated from Holy Cross College and earned a law degree at Georgetown Law Center. From 1959 to 1962,

*Term expiration date.

Commissioner McGarry was Assistant Attorney General for Massachusetts. In 1962, he was named chief counsel for the House Special Committee to Investigate Campaign Expenditures.

Frank P. Reiche
April 30, 1985

Before his appointment to the Commission in July 1979, Mr. Reiche served as Chairman of the first New Jersey Election Law Enforcement Commission for five years. Prior to that, Mr. Reiche served in a variety of Republican party positions, including eight years as a Republican county committeeman. An attorney specializing in taxation, Mr. Reiche graduated from Columbia University Law School in 1959, and received a Master of Laws degree in taxation from New York University in 1966. Prior to that, he received his A.B. from Williams College in 1951 and an M.A. in Foreign Affairs from George Washington University in 1959. Mr. Reiche was with the Princeton firm of Smith, Stratton, Wise and Heher from 1962 until his appointment to the Commission.

Ex Officio Commissioners

Edmund L. Henshaw, Jr.

Edmund L. Henshaw, an Ex Officio Member of the Commission, was elected Clerk of the House of Representatives on December 17, 1975. Prior to that, he served as Executive Director of the Democratic National Congressional Committee from 1972 to 1975, and as Research Director of the Democratic National Congressional Committee from 1955 to 1972. He received a B.S. degree from the University of Maryland in 1954, and attended George Washington University Law School from 1955 to 1956.

Douglas Patton, attorney, serves as Special Deputy to the Clerk of the House at the Commission.

Joseph Stanley Kimmitt

Stanley Kimmitt, an Ex Officio Member of the Commission, was elected Secretary of the Senate

in April 1977. He previously served as Secretary of the Majority for the Senate (1966-77) and as Administrative Assistant to the Majority Leader of the Senate. A native of Great Falls, Montana, he holds a B.S. degree in political science from Utah State University. Mr. Kimmitt also attended the University of Montana and did graduate work at George Washington University. Mr. Kimmitt was inducted as a private in the U.S. Army in 1941 and retired as a colonel in 1966.

Harriet Robnett, attorney, serves as Special Deputy to the Secretary of the Senate at the Commission.

Statutory Officers

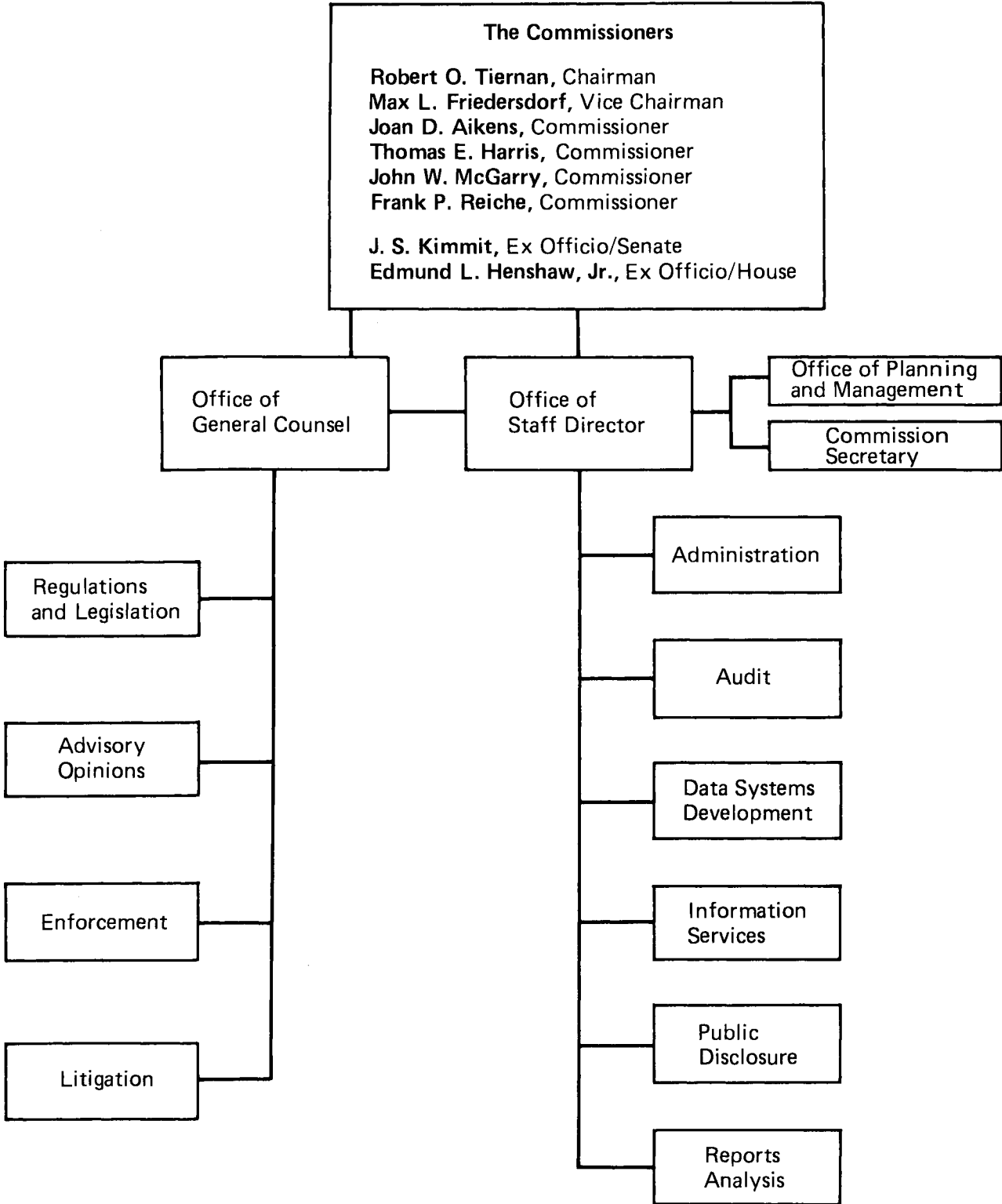
Orlando B. Potter, Staff Director

Before joining the Commission, Orlando Potter was consultant to the Secretary of the U.S. Senate in the administration of campaign disclosure laws. Prior to that, he was legislative assistant to U.S. Senator Claiborne Pell, and in 1968 was a candidate for the U.S. House of Representatives from New York. Mr. Potter previously was a Washington correspondent and editorial writer for the Providence (R.I.) *Journal Bulletin*. A 1950 graduate of Hamilton College, Mr. Potter also holds a master's degree from Yale University. He received a Congressional Staff Fellowship from the American Political Science Association in 1970, and did graduate work in computer science at American University.

Charles N. Steele, General Counsel

Charles N. Steele began serving as General Counsel on December 6, 1979, after being Associate General Counsel for Enforcement and Litigation from April 1977 through October 1979 and Acting General Counsel from November 1979 through December 5, 1979. Mr. Steele received an A.B. from Harvard College in 1960 and an L.L.B. from Harvard Law School in 1965. Prior to coming to the Commission in January 1976, Mr. Steele was a staff attorney with the Appellate Court Branch of the National Labor Relations Board.

Appendix 2 FEC Organization Chart



January

- 1 – National Clearinghouse on Election Administration announces availability of three major reports: *Statewide Registration Systems*, *Ballot Access and Contested Elections and Recounts*.
- 2 – U.S. District Court for the District of Columbia approves a consent decree in a suit filed by the Socialist Workers Party (SWP) against the FEC and Common Cause (which had intervened as co-defendant).
- 24 – Commission releases summary 1977-78 information on nonparty political committees, updating the data contained in *Reports on Financial Activity, Interim Report Number 2* (September 1978).
- 25 – Commission approves the addition of two minority language representatives, Mr. Al Perez and Mr. Henry Der, to the full Advisory Panel of the National Clearinghouse on Election Administration.
- 29-31 – National Clearinghouse on Election Administration sponsors an Advisory Panel Meeting to discuss regional workshops and projects dealing with State and local election administration.
- 30 – Commission releases summary information for 1977-78 Congressional candidates, updating data contained in *Reports on Financial Activity, Interim Report Number 3* (September 1978).
- 31 – 1979 year-end report due.

February

- 15 – Commissioners present budget testimony to the House Appropriations Subcommittee on Treasury, Postal Services and General Government.
- 16 – Commission submits to Congress proposed revisions to the regulations governing the Presidential Primary Matching Payments Account.

- 21 – U.S. Senate confirms the nomination of two new Commissioners: Democrat John W. McGarry and Republican Max L. Friedersdorf.

March

- 1 – U.S. District Court for the District of Columbia grants summary judgment to Citizens for the Republic (CFR), defendants in a suit filed by the FEC.
 - Max L. Friedersdorf sworn in as FEC Commissioner.
- 8 – Commission submits report on 1978 activities under the Freedom of Information Act (FOIA) to Congress and the President.
- 15 – FEC Chairman Joan Aikens testifies before the House Administration Committee on H.R. 1, a proposed bill providing public financing for general election campaigns for the House of Representatives.
- 22 – Commission approves new contract for computer services.
- 31 – Commission transmits to Congress and the President its Annual Report for 1978.

April

- 1 – National Clearinghouse on Election Administration announces availability of *Election Case Law '78* and *Election Law Updates '78*.
- 10 – Quarterly report due.
- 15 – Office account report due.
- 26 – FEC's Public Records Office begins to make available personal financial disclosure reports required of all Presidential and Vice Presidential candidates under the Ethics in Government Act of 1978.
 - Commission modifies procedures for reviewing audit reports.

Appendix 3 Chronology of Events, 1979

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May

- 2 – Commission representative testifies before the Senate Rules Committee on S. 994, a bill to reimburse State election offices for expenses incurred in fulfilling the Federal Election Campaign Act's State disclosure requirements.
- 3 – Commission approves new data entry procedures for the 1980 Presidential elections.
 - Commission prescribes *Guideline for Presentation in Good Order*, a format for submitting matching fund requests.
- 7 – Commission formally prescribes new regulations governing the administration of the Presidential Primary Matching Payments Account.
 - The Commission and the Service Station Dealers PAC agree to a consent judgment issued by the U.S. District Court for the Eastern District of Pennsylvania.
- 10 – Commission releases *Reports on Financial Activity, Interim Report Number 4*, on 1977-78 activity of party and nonparty political committees.
- 14 – U.S. District Court for the District of Columbia dismisses a suit which the FEC had filed against the American Federation of State, County and Municipal Employees (AFSCME).
- 17 – Commission unanimously elects Vice Chairman Robert O. Tiernan as its new Chairman and Commissioner Max L. Friedersdorf as its new Vice Chairman.
 - Commission adopts new procedures for the release of the remaining audits of 1976 Presidential candidates in the primary and general elections.

June

- 1 – Commission begins publishing summaries of selected compliance cases (MUR's), which have been closed and put on the public record, in the *FEC Record*.
- 7 – Commission authorizes a review of FEC audit procedures and practices by Arthur Andersen and Company in conjunction with Accountants for the Public Interest (API).
- 8 – U.S. District Court for the Southern District of New York issues a consent judgment in a suit which the FEC had filed against Milton Weinsten and the Winfield Manufacturing Company on March 2, 1978.
- 12 – Commission publicizes in the *Federal Register* the availability of a comprehensive *Index of Multicandidate Political Committees*.
- 14 – Commission engages accounting firm of Ernst & Whinney to refine aggregation sampling techniques for verifying matching fund requests.
- 15 – U.S. District Court for the District of Columbia grants summary judgment to the FEC in a suit which Henry Walther filed against the FEC on November 21, 1978.
- 19 – Senate reconfirms six-year term for Commissioner Thomas E. Harris.
- 25 – Commissioner Harris sworn in for second term as Commissioner.
- 28 – Commission transmits to Congress proposed regulations governing the funding, sponsorship and structure of Federal candidate debates. (See September 17.)
 - Commission adopts procedures for certification of public funds for national party committee nominating conventions.
 - Commission certifies to the U.S. Treasury an initial payment of \$750,000 for the Republican National Committee's national nominating convention.

July

- 9 – Collective bargaining agreement between FEC and National Treasury Employees Union (NTEU) becomes effective.
- 10 – Quarterly report due.
- 13 – Chairman Robert O. Tiernan, accompanied by Vice Chairman Max L. Friedersdorf, testifies before the Senate Rules Committee on revisions to the Federal Election Campaign Act of 1971, as amended.
- 22-24 – National Clearinghouse on Election Administration holds Regional Seminar on Election Administration in Madison, Wisconsin.
- 23 – Commission holds Campaign Finance Seminar in Madison, Wisconsin.
- 25 – Senate confirms nomination of Frank P. Reiche as FEC Commissioner.
- 31 – Supreme Court Justice William R. Rehnquist swears Frank Reiche in as FEC Commissioner.

August

- 1 – National Clearinghouse on Election Administration announces availability of an updated *Election Directory '79*.
- 16 – Commission certifies to the U.S. Treasury an initial payment of \$300,000 for the Democratic National Committee's national nominating convention.
- 19-21 – National Clearinghouse on Election Administration holds Regional Seminar on Election Administration in Sacramento, California.
- 20 – Commission holds Campaign Finance Seminar in Sacramento, California.
- 23 – U.S. Court of Appeals for the District of Columbia upholds the Commission's action in denying primary matching fund payments to Lyndon LaRouche, a candidate of the U.S. Labor Party, during the 1976 Presidential primary campaign.

September

- 1 – Commission announces availability of the *Financial Control and Compliance Manual for Presidential Candidates Receiving Public Financing* (Primary Election Financing).
- 6 – Commission approves procedures for public disclosure of information from contributions submitted by Presidential candidates who seek public matching funds for the 1980 elections.
- 17 – U.S. Senate disapproves FEC's proposed regulations on candidate debates. (See June 28.)

October

- 10 – Quarterly report due.
- 15 – Office account report due.
- 16 – Commission and the Eastside Democratic Committee agree to a consent judgment issued by the U.S. District Court for the District of Maryland.
- 18 – Commission approves PPS (Probability Proportional to Size) statistical sampling technique for processing, verifying and certifying matching fund requests.
- 23-24 – Commission holds hearings on the Federal funding of candidate debates.
- 25 – Commission approves new Presidential audit procedures.
- 26 – Commission submits to Congress proposed revisions to the Convention Financing Regulations.

November

- 1 – Commission determines Senator Howard Baker (R-Tenn.) is eligible to receive primary matching fund payments.
- 20 – Commission determines President Jimmy Carter is eligible to receive primary matching fund payments.

- 27 – Commission holds repayment hearings for the Udall '76 Committee (the Committee), to provide the Committee with a final opportunity to contest the Commission's determination that the Committee make a partial repayment of public funds to the U.S. Treasury.

December

- 2-4 – National Clearinghouse on Election Administration holds Regional Seminar on Election Administration in Philadelphia, Pennsylvania.
- 3 – Commission holds Campaign Finance Seminar in Philadelphia, Pennsylvania.
- 6 – Charles N. Steele appointed FEC General Counsel.
- 9-11 – National Clearinghouse on Election Administration holds Regional Seminar on Election Administration in Austin, Texas.
- 10 – Commission holds Campaign Finance Seminar in Austin, Texas.
- 13 – Commission adopts new fee schedule for information available in the Public Records Office.
- 18 – Commission determines Lyndon LaRouche is eligible for primary matching fund payments.
- 19 – Commission certifies primary matching funds to Presidential primary candidates Senator Howard H. Baker, Jr. and President Jimmy Carter.
- 20 – Congress adopts amendments to the Federal Election Campaign Act of 1971 (H.R. 5010).
 - Commission approves new discretionary audit procedures.
- 21 – Commission transmits regulations governing Federal candidate debates to Congress.
- 28 – Commission prescribes regulations governing Presidential nominating conventions.
 - Commission certifies primary matching payments to Lyndon LaRouche.

Appendix 4 Statistics on Division Operations

Summary of Disclosure Files

	Total Filers Existing in 1979	Filers Terminated as of 12/31/79	Filers Waived as of 12/31/79	Continuing Filers as of 12/31/79	Number of Reports and Statements in 1979	Gross Receipts in 1979	Gross Expenditures in 1979
Presidential					1,137	\$64,399,814	\$60,205,849
Candidates	209	42	106	61			
Committees	179	24	0	155			
Senate					1,710	32,594,384	22,944,344
Candidates	422	253	128	41			
Committees and Office Accounts	504	117	0	387			
House					6,320	30,166,477	23,794,064
Candidates	1,739	1,306	336	97			
Committees and Office Accounts	1,951	474	0	1,477			
Party	544	66	0	478	1,770	121,594,114	109,594,852
National Level Committees	47	3	0	44			
State Level Committees	147	6	0	141			
Local Level Committees	340	56	0	284			
Convention Committees	5	0	0	5			
Delegates	5	1	0	4			
Nonparty	2,085	85	0	2,000	12,497	55,402,198	34,934,082
Labor Committees	257	17	0	240			
Corporate Committees	969	20	0	949			
Membership, Trade & Other Committees	859	48	0	811			
Communication Cost Filers	84	0	0	84	7	0	2,771
Independent Expenditures by Persons Other Than Political Committees	160	44	0	116	494	985,646	967,662

Reports Analysis Division

Documents processed (Pass I),* filed and controlled	36,581
Documents processed for itemized information (Pass II and III)	18,975
Items entered (individual transactions)	178,604
Reports reviewed	21,507
Requests for Additional Informa- tion (including surface violations)**	4,506
Publication of names of candidates and committees failing to file reports	1,496
Compliance matters referred to the Office of General Counsel or Audit Division	229
Assistance to Secretaries of State (State Election Offices)	798
Notices of failure to file with State election offices	386

Public Records Office

Campaign finance reports made available to the public (total pages)	2,409,000
Visitors served	10,087
Responses to telephone and letter requests for campaign finance reports	4,344
Responses to other telephone requests for information	18,254
Statements and reports copied for requesters (total no. of pages)	352,390

Public Communications Office*Responses to Information Requests by Federal
Candidates, Committees and the General Public:*

Telephone inquiries	34,000
General information letters	250
Requests for FEC materials	10,000
Requests from visitors to the Commission	304

*Outreach Programs Sponsored by
the Commission:*

FEC seminars	4
Informational mailings	11
Public appearances by Commissioners and FEC staff	15

*Computer entry of campaign finance information occurs in two phases. In the first phase (PASS I), summary information, including microfilm location, gross receipts and gross expenditures, is entered into the computer within 48 hours of its receipt. During the second phase (PASS II and III), itemized information is entered.

**If an error or omitted information is discovered on a report, the Commission sends the filer a Request for Additional Information (RAI). Similarly, if a preliminary review of a report indicates on its face an "apparent violation," a Surface Violation Letter is sent to the filer.

Status of Audits*

Type of Committee Audited	Audits Required by Audit Policy	Field Work in Progress	Field Work Completed	Internal Review of Audit in Progress	Audits Completed & Released to Public	Audits to Be Scheduled
Presidential Candidate Public Financing (1976)	19	0	19	0	19	0
Presidential Candidate No Public Financing (1976)	17	0	17	10	7	0
Congressional Candidate Random (1976)	106	0	106	0	106	0
State Party	71	0	71	17	54	0
Congressional Party	9	0	9	0	9	0
National Party	20	1	19	12	7	0
Non-Party, Non-Candidate	51	1	34	17	17	16
Referral Audits**	9	0	9	6	3	0

*Figures reflect status of all FEC audits as of December 31, 1979.

**Referral Audits include candidates and committees, in categories not directly covered by the Audit Policy, which are referred to the Audit Division by the Reports Analysis Division or the Office of General Counsel.

Appendix 5 The FEC's Budget

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In Fiscal Year 1979, the Commission received an annual budget appropriation of \$8,000,000 plus a supplemental appropriation of \$293,000 to compensate for the October 1978 cost-of-living increase. These monies were expended during the fiscal year as follows:

Commission and staff salaries, including benefits	\$5,518,025
Consultants	50
Travel	187,582
Transportation & Motor Pool	10,507
Commercial Space	9,401
Equipment Rental	214,999
Printing	187,647
Contracts	1,207,394
Administrative Expenses	111,748
Supplies	111,180
Library Materials	23,177
Telephone, Telegraph	195,632
Postage	39,050
Space Rental	344,972
Equipment Purchases	36,294
GSA, Services, Other	88,535
TOTAL	\$8,286,193 *

For Fiscal Year 1980, the Commission received an annual appropriation of \$8,646,000. Expenditure of these funds is budgeted as follows:

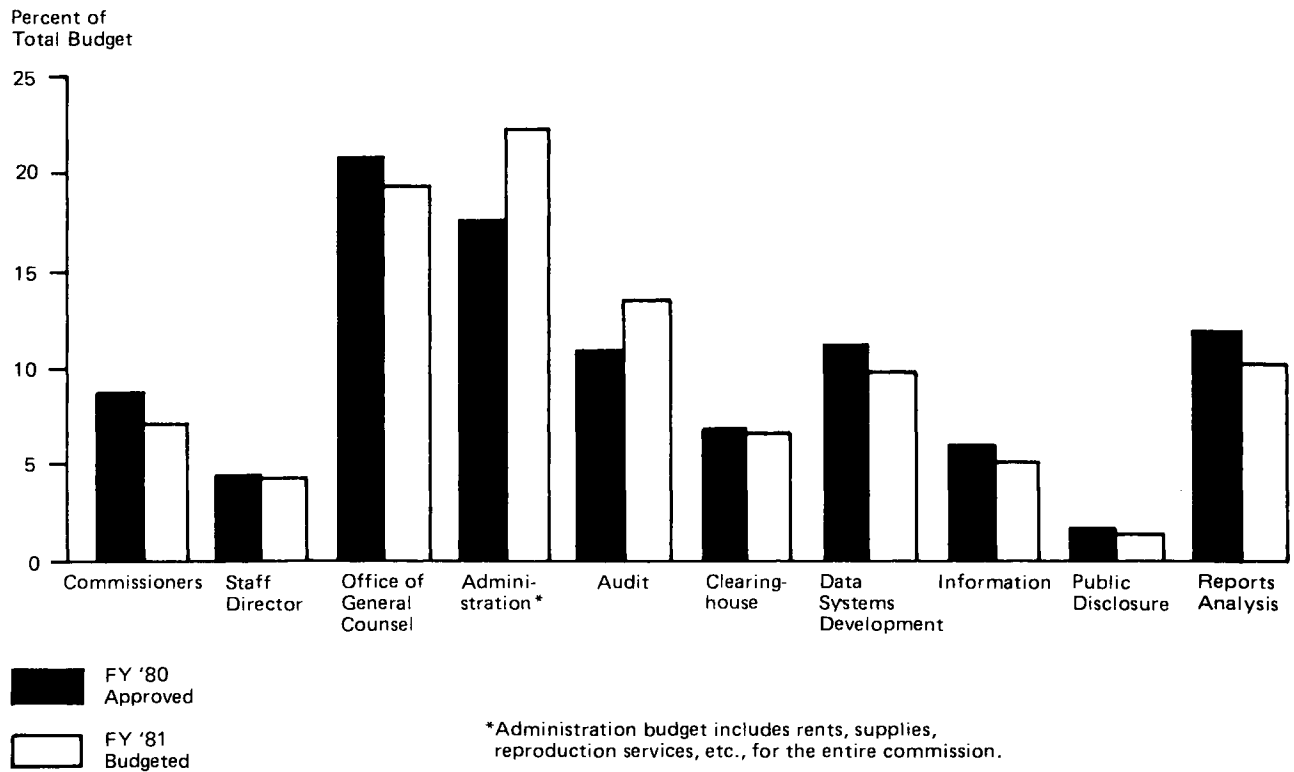
Commission and staff salaries, including benefits	\$5,989,498
Consultants	10,000
Travel	209,832
Transportation & Motor Pool	9,706
Commercial Space	10,000
Equipment Rental	155,200
Printing	284,308
Contracts	1,013,842
Administrative Expenses	65,590
Supplies	109,000
Library Materials	38,500
Telephone, Telegraph	168,900
Postage	60,000
Space Rental	371,624
Equipment Purchases	50,000
Training	30,000
GSA, Services, Other	70,000
TOTAL	\$8,646,000

An appropriation of \$11,530,160 has been requested for Fiscal Year 1981.

*Unexpended funds were returned to the U.S. Treasury.

Budget Allocation

The graph below compares the budget allocation of resources among FEC divisions for Fiscal Years 1980 (approved) and 1981 (proposed).



Appendix 6 FEC Advisory Opinions: Summaries

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The following summaries of Advisory Opinions (AO's) include those issued between January 1, 1979, and December 31, 1979.* Those seeking guidance for their own activity should consult the full text of an advisory opinion and not rely on the synopsis given here. Copies of the full text of AO's are available from the Office of Public Records at the Commission. (Telephone: 202/523-4181 or toll free, 800/424-9530)

AO 1978-83: Use of Authorization Form to Secure Corporate Approval of Solicitations by Trade Association

The Construction Equipment Political Action Committee (CEPAC), a separate segregated fund of a trade association, may set up a booth at the annual convention of that trade association to attempt to secure corporate approval for CEPAC solicitations. Specifically, CEPAC may use the booth to obtain from representatives of the member corporations of the trade association their signatures on an authorization form giving approval for the solicitation of their stockholders and their executive and administrative personnel. 11 CFR 114.8. CEPAC's use of special authorization forms to obtain corporate approval to solicit authorized personnel is permissible as long as:

- The authorization form states its purpose and any limitations that CEPAC wishes to place on the class of persons to be solicited; and
- The authorization form indicates that corporate approval is required and that such solicitations must be limited to one trade association per year.

A booth may be used to secure corporate approval for solicitations provided:

- The solicitation approval request is in writing; and
- The request form is signed by a person authorized to grant such approval.

Once corporate approval has been granted, CEPAC may solicit and accept contributions from the personnel authorized to be solicited by the corporation.

AO 1978-86: Conversion to Multicandidate Committee

The Church for President Committee (the Committee), the principal campaign committee of Frank Church, in his bid for the Presidency, will become a qualified multicandidate committee as soon as it has made contributions to five or more candidates for Federal office. Upon satisfaction of that requirement, the Committee may contribute up to \$5,000 per election to any candidate (and/or his/her authorized committees combined).

The Commission based its conclusion on the fact that the Committee has already fulfilled the other two (of the three) prerequisites for qualification as a multicandidate committee under 2 U.S.C. §441a(a)(4) since:

1. It has been registered with the FEC for more than six months; and
2. It has received contributions from more than 50 persons.

AO 1978-89: Use of Slate Card Exemption

Two publications distributed respectively by two Republican town committees in New York (the Town Committees) are not permissible under the slate card exemption. 2 U.S.C. §§431(e)(5)(E) and 431(f)(4)(G). Payments by the Town Committees for the publications (a pamphlet and a letter) would constitute, in part, an in-kind contribution to the Withers for Congress Committee (the Withers Committee).

The Commission concluded that the two publications do not fall within the slate card exemption because:

1. They contain biographical information on the various local, State and Federal candidates other than that allowed under the statute;

*All citations in the summaries refer to the Federal Election Campaign Act (the Act) as amended in 1974 and 1976 and not to the Act as amended in 1979.

2. They outline the candidates' positions on specific issues;
3. They include statements of party philosophy;
4. The letter solicits contributions on behalf of the named Federal candidate, which is not permissible under the slate card exemption.

Since Commission regulations preclude the Town Committees from making independent expenditures in connection with the campaign of a Federal candidate (11 CFR 110.7(b)(4)) and because the expenditures for the publications do not appear to have been "coordinated party expenditures" made pursuant to 2 U.S.C. §441a(d), an allocable portion of the payments for the publications would be considered an in-kind contribution to the Withers Committee.

AO 1978-91: Transfers from District Committees to State Party

The Commission approved three methods proposed by the North Dakota Democratic-NPL Party (the State Party) for reporting funds transferred to the State Party from local legislative district committees (the District Committees).

The State Party is organized so that each District Committee shares in the financial responsibility by raising a quota of funds from individual contributions and district fundraising events. In its request, the State party outlined the methods it had been using to receive and report contributions from the District Committees. It also proposed several methods (described below) whereby it would not be necessary, in most cases, for the District Committees to register and report.

1. Contributions Received Directly by the State Party

Individual, itemizable contributions received directly by the State Party will continue to be itemized on State Party reports to the Commission. Any person at the district level who receives a contribution for the party which exceeds \$50 must provide a detailed account of the contribution to the State Party treas-

urer. The State Party treasurer, upon receipt of the contribution, must deposit it in a designated campaign depository within ten days.

2. Transfers of Proceeds from District Fundraisers

The State Committee must itemize each transfer of proceeds from district fundraising events as separate "transfers in from affiliated committees." In addition, the State Party must clearly identify the District Committee (by number or in some other fashion) as the source of the transfer.

3. Transfers Exceeding \$1,000

If the State Party establishes a separate Federal campaign committee with a segregated Federal account, the amount over \$1,000 transferred by a District Committee to the State Party within a calendar year could be placed in another account whose funds are not used to influence Federal elections (i.e., a State and/or local account). Under this procedure, District Committees which did not wish to be considered "political committees" as defined in the Act could retain that status. In this case, however, it would be the responsibility of the State Party to request assurance from the transferring District Committee that the contributions originated from sources which are permissible under the Act.

If however, the State Party maintains a single account for Federal and non-Federal candidates, any District Committee which transfers more than \$1,000 to the State Party during the calendar year must register and report to the Commission.

AO 1978-93: Use of Excess Campaign Funds

Senator Lloyd Bentsen may transfer unexpended campaign funds from his 1970 campaign to his reelection committee for use in the 1982 election. Commission regulations provide that a candidate may transfer funds from a previous campaign committee to a currently registered principal campaign committee, as long as none of the transfers consist of funds which would be in violation of the Act.

With regard to this opinion and the following two opinions, the Commission has no jurisdiction over the application of tax laws and House or Senate Rules to the situation described.

AO 1978-94: Use of Excess

Campaign Funds

Excess campaign funds remaining from the principal campaign committee and three other authorized committees of the late Congressman Ralph H. Metcalfe may be used for several purposes consistent with State and Federal laws. The funds may be transferred to Federal, State or local election campaign committees of the Congressman's son, to a political ward organization, to the surviving members of the Congressman's immediate family, to employees of his congressional and campaign committee staffs and to qualified charitable organizations.

For contribution purposes, the four campaign committees are considered a single committee. Thus, any transfers to political committees or candidates involved in Federal elections would be subject to one overall contribution limit. A contribution to Ralph Metcalfe, Jr., as a candidate for Federal office, for example, would be limited to \$1,000 per election. Transfers to a State campaign of Ralph Metcalfe, Jr. would not be limited, however, since contributions made to State and local elections are not subject to the monetary limits of the Act.

AO 1978-95: Use of Excess

Campaign Funds

Congressman James J. Florio may use excess campaign funds to retire a debt remaining from his 1977 gubernatorial campaign provided there are no State or Federal laws prohibiting the transaction. The Act provides that candidates for Federal office may use excess campaign funds to support their activities as Federal officeholders, to contribute to a qualified charitable organization or to defray expenses for "any other lawful purpose." 2 U.S.C. §439a. The committee should report the transfer of funds on the report covering the period when the transfer is made.

AO 1978-96: Honoraria

When Congressman Clarence J. Brown accepts a speaking engagement, he may request that the sponsoring organization donate his honorarium to any of five charitable organizations he suggests in a letter. Under 2 U.S.C. §441i(b), if a sponsoring organization chooses to make a donation to any of the five or more charitable organizations suggested by Mr. Brown (instead of paying an honorarium to Mr. Brown), the payment will not count against Mr. Brown's honorarium limit.

AO 1978-97: Solicitations for

Separate Segregated Fund

A magazine published by the National Association of Postal Supervisors (NAPS), which is circulated to NAPS members and approximately 1,000 nonmembers (representing three percent of the circulation), may contain solicitations for, and articles about, NAPS' separate segregated fund. This conclusion is based on the fact that NAPS intends:

1. To publish, along with each solicitation or article about its separate segregated fund (the Supervisors Political Action Committee), an explicit caveat stating that contributions from nonmembers are not acceptable and will be returned; and
2. To screen and return contributions received from anyone not solicitable under 2 U.S.C. §441b(b)(4).

Under these circumstances, the proposed communications will not be viewed as solicitations directed to persons who may not be solicited.

AO 1978-98: Clearing Account for

Separate Segregated Funds

Plumbers Union Local 690 Political Action and Social Fund (the Fund) may use a clearing account for the deposit and negotiation of checks which combine employees' union dues with their political contributions.

Under the Fund's procedures, union members make both voluntary contributions to the Fund and payments to the union (e.g., dues, pension, etc.) through payroll checkoff plans administered by employers. Employers remit payroll deductions to the union in a single check issued monthly. The union maintains a clearing account to receive and separate the proceeds of the checks, as follows: political contributions are segregated from other union monies and sent to the Fund; union monies are forwarded to the union.

The Commission based its approval of the clearing account procedure on the following assumptions:

1. For reporting purposes, the Treasurer of the Fund is considered to have **received contributions** at the moment an employee or representative of the union receives the checks combining dues payments and voluntary contributions to the Fund.
2. The 10-day deposit period begins to run when the union representative receives the check from the employer. By the tenth day after the union's receipt of the employer's check, a separate check must be drawn on the clearing account and deposited into a separate checking account maintained by the Fund at a bank depository designated by the Fund.

AO 1978-99: Allocation of Debt Between Primary and General Elections

The Citizens for Dale Sprik Committee (the Committee) may treat the entire debt for printed campaign materials as a primary debt, even though they were used during both the primary and general elections. This conclusion is based on the fact that the materials in question were ordered and received before the August 8 primary and the invoice for the materials also predated the primary.

The Commission noted that the invoice constitutes an expenditure in the nature of a "writ-

ten contract, promise or agreement . . . to make an expenditure." 2 U.S.C. § 431(f)(2).

If the Committee chooses to treat the debt as a primary election debt, it may accept contributions designated for the primary to liquidate the debt from those who may have exhausted their contribution limit with respect to the general election, but have not yet exhausted their limit with respect to the primary. (The fact that the candidate was unopposed in the primary is irrelevant for contribution purposes.) In this case, however, the debt must be identified on Schedule C of Form 3 as a primary election debt.

AO 1978-100: Excess Campaign Funds

The Committee to Reelect Senator Case may use excess campaign funds to assist Rutgers University in the establishment of a professorship in public affairs in the Senator's name. The contribution of excess campaign funds to qualified charitable organizations is expressly made lawful by 2 U.S.C. § 439a.

The Commission noted that it was unable to express an opinion regarding possible tax ramifications or the applicability of Senate Rules since those issues are not within its jurisdiction.

AO 1978-102: Union Get-Out-the-Vote Drive

The Coal Miners Political Action Committee (the Committee) must reimburse the general treasury of the United Mine Workers (UMW) for union funds which were used to conduct a get-out-the-vote drive.

Prior to the 1978 general election, the UMW used general treasury funds to finance radio and television ads encouraging UMW members to vote. Some of the ads, which were broadcast in several States, endorsed specific candidates for State office. Others, described as "nonpartisan" by the Committee, were more general, urging UMW members to vote for candidates friendly to labor but not identifying or endorsing specific

candidates or political parties. No candidates for Federal office were specifically identified or endorsed in any ads.

The Commission noted that the announcements supporting specific State candidates were outside the scope of the Act. However, with regard to the nonpartisan ads, the Commission determined that they were not permissible under the Act because:

1. The Act prohibits expenditures by labor unions in connection with Federal elections; although 2 U.S.C. §441(b)(2)(B) permits the use of general treasury funds to conduct get-out-the-vote drives, it restricts those drives to union members and their families.
2. Furthermore, Commission Regulations require that any get-out-the-vote drive which extends beyond union members and their families must be jointly sponsored by the union and a nonprofit or civic organization which does not endorse candidates or political parties (11 CFR 114.4(d)).

Since the UMW get-out-the-vote drive reached the general public and was sponsored solely by the UMW, it was not conducted in compliance with the Act or Commission Regulations. To be in compliance, the Committee must allocate a reasonable portion of expenses for the nonpartisan activity between Federal and non-Federal elections. In this case, a reasonable allocation would be as follows: The amount allocated to Federal candidates should have the same ratio to total expenses for nonpartisan announcements as the number of Federal candidates has to the total number of candidates (local, State and Federal) supported by the union and its PAC. That amount should then be transferred from the Committee to the UMW treasury.

AO 1979-1: Personal Liability for Campaign Debts

In response to a question posed by the Friends of Senator Otterbacher (the Committee), the Commission held that, as a general rule, contributions to retire debts from a past election are

subject to the contribution limits applicable to that election. The Commission also explained that its authority to issue advisory opinions is limited to requests concerning the application of the Act or Commission Regulations to specific factual situations.

The Committee had asked if payment of Committee debts by Committee agents or members who are held personally liable, under State law, would constitute contributions subject to limitation under the Act?

The Commission noted that, since no State judgments had yet been rendered against any committee personnel, such a situation did not currently exist; if it did develop, the Commission would then give further consideration to the application of the Act in that specific situation.

AO 1979-2: Refunds to Committee

NOTE: The Commission emphasized that the following opinion should be narrowly read. Persons wishing guidance in this area should submit separate requests even though their factual situations may appear to be "indistinguishable in all . . . material aspects" from the situation discussed in this opinion.

Congressman Badham is coproducer, with the U.S. Departments of Commerce and Defense, of a Federal Procurement Conference (the Conference). The Badham Congressional Committee (the Committee) may not accept refunds from the Conference for amounts which the Committee advanced to cover Conference costs because of the source of Conference funds. Nor may the Committee accept refunds directly from vendors to whom the Committee paid deposits after those vendors have been paid by the Conference.

Conference income, derived from attendee registration fees, will consist of funds from corporations, many of which are Federal government contractors. In view of that fact, repayment of the advances to the Committee by the Con-

ference or by vendors would result in the Committee's acceptance of indirect prohibited contributions from corporations and Government contractors.

The Commission noted, however, that if the Committee followed the procedures below, no enforceable violation of the Act would occur:

1. Before the Conference date, Representative Badham uses his personal funds to pay the vendors the same amounts the Committee has previously paid those vendors.
2. The vendors immediately refund to the Committee the deposits the Committee has advanced.
3. The Committee reports those refunds on its next required report. Subsequently, the vendors may refund to Congressman Badham the payments advanced by him from personal funds on behalf of the Conference. These refunds would be outside the purview of the Act and Commission Regulations since the financing of the Conference does not appear to involve "contributions" or "expenditures" made for the purpose of influencing Congressman Badham's nomination or election to Federal office.

The Commission expressed no opinion regarding application of House Rules or the possible tax ramifications of this situation since those issues are not within its jurisdiction.

AO 1979-3: Source of Contributor List

The Committee for the Survival of a Free Congress (CSFC) may not copy names of contributors from a report on file with the FEC even though the political committee (Donor) which filed the report specifically authorizes CSFC to compile such a list from a filed report. The Commission approved, however, the following methods of obtaining the list, proposed as alternatives by CSFC:

1. The Donor may give CSFC a photocopy of the list.

2. The Donor may give CSFC, by means other than photocopy, the names and addresses on the list.
3. The Donor may give CSFC selected names from the list.

The fourth alternative, the Donor's written authorization for CSFC to copy names from the report it filed with the FEC, is not permissible because the Act and Commission Regulations prohibit use of information obtained from reports filed with the Commission for the purpose of soliciting contributions.

The Commission also noted that a contributor list provided without charge or at less than the usual charge would be a contribution in-kind by the Donor to CSFC for purposes of disclosure requirements and limitations.

AO 1979-5: Committee Termination

The Brathwaite for Congress Committee (the Committee) may file a termination report if the Committee extinguishes its outstanding debts in the manner which the Committee proposed to the Commission.

Two persons owe refunds to the Committee for campaign services promised but not rendered; the Committee owes the candidate a balance on an outstanding loan which exceeds the sum of the refunds owed to the Committee (refund claims). In order to extinguish its debts, the Committee has proposed the following transfer:

1. The Committee will assign its two refund claims to the candidate.
2. The candidate will give the Committee credit for a loan repayment equal to the sum of the two claims. Since the loan exceeds that sum, the candidate will forgive the remaining balance on the loan.

The Commission concluded that the proposed assignment of Committee claims to the candidate would effectively transfer those obligations owed to the Committee to the candidate. If the

candidate then forgave the balance remaining after the transfer, that action would extinguish the Committee debt.

If the Committee has no other outstanding debts or obligations, and satisfies all other requirements of 11 CFR 102.4(a) and (b), the Committee may file a termination report and end its reporting obligations.

The Commission noted that when the Committee assigns its refund claims to the candidate in full payment of its debt to him, that debt is extinguished whether or not he ever receives the refund payments.

AO 1979-6: Joint Fundraising Effort

The Shasteen for Senate Committee, the Bereuter for Congress Committee and the Elect Daub to Congress Committee (the Committees) may, in order to retire 1978 campaign debts, conduct a joint fundraising effort in accordance with procedures which they have proposed to the Commission. The Agreement for Republican Unity Dinner (the Agreement), submitted by the Committees to the Commission, is in compliance with the Act and Commission Regulations because it contains the following conditions:

1. The Committee will appoint a single agent (the Agent) who will receive all funds and make all disbursements in connection with the dinner.
2. Each of the Committees will formally designate the bank into which the funds are deposited as an additional campaign depository.
3. The Agent will pay all expenses, allocate the costs among the Committees in equal proportions and furnish an itemized statement of expenditures to each Committee.
4. The Agent will divide the net proceeds equally among the Committees and furnish an appropriate itemization of the contributions, along with required information on contributors, to each Committee.
5. If any Committee receives a contribution in excess of limitations allowed by the Act as a result of the described allocation, the excess will be returned to the Agent to be reallocated between the other two Committees or returned to the contributor.
6. If such a reallocation of proceeds is necessary, a corresponding reduction in the proportion of the expenses attributed to the particular Committee will be made.
7. Notice will be printed on all tickets, explaining the pro rata distribution of the contributions; the intended reallocation procedure, if it is necessary, and the availability of the Committees' reports from the Commission.

The Commission noted that the recordkeeping and reporting obligations of the Act are triggered when the Agent receives any contribution or makes an expenditure on behalf of the Committees. The Agent must furnish to the Treasurer of each Committee complete information on any contribution or expenditure which, when allocated among the three Committees, amounts to more than \$100 per calendar year. The Agent is also required to deposit all contributions in the designated depository within ten days.

AO 1979-7: Delegate Selection

Reporting obligations governing Presidential nominating conventions do not apply to activities which the New Jersey State Democratic Committee (the State Committee) undertakes to implement an Affirmative Action Program for selection of delegates to the 1980 Democratic National Convention. Those obligations relate specifically to the convention and do not extend to the delegate selection process which precedes the convention. Funds received and payments made for activities would not constitute "contributions" or "expenditures" within the meaning of the Act since they are not made for the purpose of influencing the election of **any person** to Federal office or of influencing the **results of a primary**. Therefore, they are not subject to the Act's limitations and need not be paid from the State Committee's Federal account. However, other aspects of the Affirma-

tive Action Program may be subject to the provisions of the Act and Commission Regulations, as follows:

1. The State Committee's expenses for such activities **are** in connection with the Federal election process. Therefore, these expenses may not be paid from prohibited contributions; that is, from foreign nationals or from the treasuries of labor unions, corporations and national banks.
2. It is not necessary that a separate account subject to the limits of the Act be established to finance the program activities. However, if the State Committee's regular non-Federal account contains contributions from prohibited sources or foreign nationals, it would be necessary to establish a special account to pay costs associated with the delegate activities.
3. Funds received and disbursed need not be reported unless they are paid from the Federal account of a registered Federal campaign committee; if that is the case, usual reporting procedures would be followed.

AO 1979-8: Administration of Trade Association PAC

Executive and administrative personnel of member corporations which have given prior solicitation approval to the China Clay Producers Group, a trade association, may participate in the operation, administration and solicitation activities of the China Clay Producers Political Action Committee (the PAC) by performing occasional (4 hours per month) services which are incidental to their regular employment.

Since, under the Act, a trade association may use dues monies from its corporate members for the establishment, administration and solicitation activities of the PAC, it may also have the benefit of incidental services of the members' executive and administrative personnel to conduct those same activities.

AO 1979-9: Subordinate State Party Committee Retires Candidate's Debts

The Texas Democratic Voter Participation Project (the Committee), an authorized subordinate committee of the Texas Democratic Party, may help five Federal candidates retire their 1978 campaign debts provided the Committee observes certain conditions outlined by the Commission. Three of the candidates were candidates in the general election; the other two were candidates only in the primary.

In retiring debts, the Committee may make direct payments to the candidates' creditors. In the case of **primary candidates**, a direct payment to a candidate's creditors would constitute a contribution. Any such payment, when combined with a preprimary contribution to the same candidate by the Committee, must not exceed the \$5,000 per candidate limit applicable to primary election contributions.

With regard to **general election candidates**, direct payments to a candidate's creditors would constitute coordinated party expenditures for purposes of 2 U.S.C. §441a(d)(3). All other expenditures the Committee has made for the same candidate during the general election campaign must be combined with the contemplated payments to creditors, and the sum may not exceed the §441a(d)(3) expenditure limits. The Committee may make additional payments to the creditors to the extent it has not yet exhausted its candidate contribution limits prior to the general election.

In soliciting funds to retire the 1978 campaign debts, the Committee is not required to issue a notice stating that contributions will be used to retire debts of specific candidates. However, those notices specified by 11 CFR 102.6 are required.

Individual contributions to the Committee are subject to the \$5,000 limit on a calendar year basis. Any contributions made by an individual to the Committee during the 1979 calendar year

will be attributed to the \$25,000 limit for 1979, despite the fact that they will be used for debts incurred during 1978 elections. 11 CFR 110.5

AO 1979-10: "Union Bug" on Printed Materials

Payments for all candidate printed campaign materials are expenditures which must be reported, regardless of whether a "union bug" appears on them. (A union bug indicates that the printing was done in a unionized print shop.)

The Act and Commission Regulations do not cover questions related to the appearance of the union bug on printed materials mailable under the franking privilege.

AO 1979-11: Delayed Receipt of Campaign Contribution

Hoosiers for Birch Bayh (the Committee) may regard a campaign contribution which was made in 1968, but only recently received by the Committee, as excess campaign funds, and may use those funds to defray noncampaign, non-reimbursable office expenses of Senator Bayh. 2 U.S.C. § 439a.

In 1968, the Lake County Democratic Campaign Committee (LCDC) contributed the proceeds from a fundraiser held on behalf of Senator Bayh to the Committee by bank cashier's check. The check was neither received nor deposited by the Committee, and it never cleared LCDC's account. Bank officials recently informed the LCDC treasurer that the funds had remained in the bank's possession and would soon become the property of the State. The treasurer then issued another check in the amount of the 1968 contribution (\$3,044.07) and sent it to the Committee.

For disclosure purposes, the Committee must:

1. Report the LCDC funds as a miscellaneous receipt rather than as a contribution or a transfer from LCDC (records of contributors to the 1968 fundraiser do not exist);
2. State the nature of the receipt and its intended restricted use; and

3. Disclose disbursements from those funds and provide the same details for those disbursements as is required for expenditures.

The Commission expressed no opinion as to possible application of the Standing Rules of the Senate to this situation or possible tax ramifications; both those issues are outside Commission jurisdiction.

AO 1979-12: Joint Fundraising Effort by State and Federal Committees

Congressman Bill Burlison may proceed with an arrangement he has made with the Butler County Democrats and the Truman Day Committee to sell tickets for their annual fundraiser and retain 50 percent of the proceeds he collects for the Burlison Committee (the Committee). The Committee would be required to assume a pro rata share of expenses for ticket production (and perhaps other fundraising expenses) to avoid accepting in-kind contributions from the Butler County Democrats and the Truman Day Committee. Similarly, the Committee must regard its share of ticket proceeds as contributions subject to all the limits and reporting requirements of the Act.

With regard to reporting requirements, the Commission noted that neither the Butler County Democrats nor the Truman Day Committee is a registered political committee. Consequently, they have no reporting requirements, assuming that they do not engage in activities which would require them to be registered and file reports. The Committee, on the other hand, is subject to reporting requirements. It needs to report only its 50 percent share of the gross price of each ticket sold as itemized or unitemized contributions.

To avoid treating all funds collected by check as contributions to the Committee, checks made payable to the Butler County Democrats or the Truman Day Committee must be deposited within 10 days of receipt in a transmittal or clearing account; 50 percent of the proceeds

would then be forwarded to the Committee by a check drawn on that account. The transmittal account, as well as the Committee's regular account, must be designated as a campaign depository on the candidate's and Committee's Statements of Organization (Form 1). Neither the Committee nor the transmittal account may accept any funds which are prohibited under the Act (e.g., cash contributions exceeding \$100, treasury funds from corporations and labor organizations). The Commission also emphasized the importance of the notice to contributors required by 11 CFR 102.6(b).

AO 1979-13: Solicitation for Separate Segregated Fund

The Raymond Corporation (the Corporation) may not publish a proposed article about the Corporation's separate segregated fund (RAYPAC) in the Corporation's publication because the article is a contribution solicitation for RAYPAC and is sent to people who may not be solicited. The proposed article is considered a solicitation because it describes RAYPAC's activities and encourages employee participation in RAYPAC by commending employees who have already "participated in" (contributed to) RAYPAC. Since the publication is circulated to all Corporation employees (including retired employees) and other interested parties, the article would constitute an improper solicitation because solicitations to nonmanagerial personnel may be made only twice a year under the specific guidelines of 11 CFR 114.6, and contribution solicitations may not be made to non-employees at anytime. (Retirees who hold no stock in the corporation and other interested parties are not solicitable.) The article containing the solicitation is distributed in a manner which does not conform to these requirements under the Act and Regulations and is therefore impermissible.

If RAYPAC took precautionary measures to discourage, screen and return any contributions from people who RAYPAC is prohibited from soliciting at all or who may be solicited only under the conditions of CFR 114.6, and if the

publication's circulation to those people was only incidental, then the inclusion of the proposed article would not be considered an improper contribution solicitation.

AO 1979-14: State Party Registration Requirements

The American Party of Georgia (the State Party) must register and report under the Act if it transfers more than \$1,000 during a calendar year to the American Party National (the National Party), which is a political committee registered with the Commission. Since the National Party maintains a single account (a Federal account) for both Federal and non-Federal candidates (11 CFR 102.6 (a)(2)), the full amount of the State Party's transfers are considered contributions to influence Federal elections. As such, these transfers trigger the State Party's registration and reporting requirements under the Act.

Should the National Party officially terminate its status as a political committee, transfers from the State to the National Party would not thereafter create political committee status for the State Party.

AO 1979-15: Solicitation in Trade Association's Magazine

The Independent Insurance Agents of America, Inc. (IIAA) may not publish a solicitation for its separate segregated fund, the National Agents Political Action Committee (NAPAC), in IIAA's magazine. IIAA is a federation of trade associations comprised of individual and corporate members. Approximately 50.6 percent of the magazine's total circulation is to personnel of corporate members which have not given IIAA the prior solicitation approval required by 11 CFR 114.8. Although IIAA proposed publishing, with the solicitation, an explicit caveat stating that contributions from nonsolicitable persons would be screened and returned, the plan is **not** permissible because:

1. Circulation to nonsolicitable persons (56 percent) is not incidental. Of the nonsolicitable

group, 5.5 percent could never be solicited; the remaining 50.6 percent is not currently solicitable, but could be if their corporate agencies granted prior solicitation approval to IIAA.

2. IIAA's proposal indicates that if a contribution from an individual in the presently nonsolicitable class were received simultaneously with corporate solicitation approval, that contribution would not be returned. This practice does not conform with Commission Regulations which require prior and not simultaneous approval (11 CFR 114.8).
3. The proposed solicitation requests contributions from the families of individual members of IIAA. While Commission Regulations permit the solicitation of families of personnel of **corporate** members who have given prior solicitation approval, families of **individual** (noncorporate) members may not be solicited.

AO 1979-16: Temporary Fundraising Through Trust Arrangement

A single political committee may temporarily solicit members of both the National Association of Women's and Children's Apparel Salesmen Guild (NAWCAS) and the National Association of Men's and Boy's Apparel Clubs, Inc. (NAMBAC) prior to the contemplated merger of those two sponsoring corporations. Until the merger is completed, funds will be collected, segregated and held by the NAWCAS/NAMBAC Political Action Trust, which is currently registered as a multicandidate political committee. The proposed arrangement is permissible since both corporations could currently establish their own separate segregated funds, and then consolidate both funds upon completion of the merger.

Approval of the arrangement is conditioned on the corporations' compliance with the following procedures and restrictions, which they have proposed:

1. Each corporation will solicit its own individual members, pay its own administrative and fundraising expenses and fully segregate all collected funds until the merger is completed; at that time, the two funds will be merged into a single multicandidate committee.
2. Prior to completion of the merger, the Trust will not use the collected funds to contribute to any candidate or campaign, or to make any other contributions or expenditures as defined by the Act.

The Commission emphasized that the Trust, as a currently registered political committee, is subject to all provisions of the Act.

AO 1979-17: Sponsorship of Credit Card Program

The Republican National Committee (the RNC) may not accept funds or services from national or State chartered banks in return for the RNC's endorsement of the banks' credit card programs (except in specifically permissible circumstances described at the end of this opinion). Under the 3 options suggested by the RNC, bank funds would be considered prohibited contributions — not, as the RNC suggests, a commercial exchange between the RNC and the banks.

Under an "affinity group" plan proposed by the RNC, the banks would solicit the RNC's membership, using RNC membership lists, and a letter signed by the Chairman of the RNC. The banks would expect to increase their card holders; in return, the RNC would be compensated under one of the following options:

Option A: The RNC would receive no direct compensation, but periodically it would have the exclusive right to include RNC educational/promotional materials with regular monthly statements sent to Republican sponsored card holders by the bank.

Option B: The RNC would receive a direct payment of \$2.50 for each card issued as a result of the RNC solicitation letter, and would have

periodic use of the monthly statement described above.

Option C: The RNC would receive direct payment, on a monthly basis, of a percentage of the total sales volume, or a percentage of the finance charge balance on Republican credit card accounts; it would also have periodic use of monthly statements.

There is no explicit exception under 2 U.S.C. §441b which would permit a political party to view payments from a corporation or national bank (not made as loans in the ordinary course of business) as consideration for services rendered, rather than as political contributions. Therefore, such payments or valuable services (e.g., use of the monthly statement to mail RNC political materials without charge) would constitute contributions. National banks are prohibited from making contributions or expenditures in connection with any election (11 CFR 114.2(a)), while State banks (chartered as corporations under State law) are prohibited from making any contributions or expenditures in connection with Federal elections (11 CFR 114.2(b)). Since the contributions (payments and services) would be made by prohibited sources, the plan as proposed by the RNC would not be permissible.

The RNC may, however, receive bank funds under options A, B or C, if they are separately accounted for and deposited in separate bank accounts maintained exclusively for the activities described below:

1. The RNC may accept funds from national banks and corporations for the construction or purchase of an office facility not acquired to influence a Federal election. Although such funds are considered receipts rather than contributions, they must be reported. 2 U.S.C. §431(e)(5)(H).
2. The RNC could accept funds from incorporated State banks if the funds were deposited in separate segregated bank accounts and used exclusively in connection with non-Federal

elections. Contributions from national banks would not be permissible, since that prohibition extends to non-Federal as well as Federal elections. Similarly, Option A, which does not include a direct payment, is nevertheless impermissible for national banks, although incorporated State banks may mail RNC materials pertaining exclusively to non-Federal elections. Under the Act, national banks may not do so even if the mailings are limited to non-Federal elections.

The Commission expressed no opinion as to the applicability of the Internal Revenue Code or State law to the proposed plan.

AO 1979-18: Sale of Contributor List

The Federal Election Commission's Former Employees Committee (FEC-FEC) may sell its contributor list to individuals, corporations, unions, candidates or committees. Proceeds from the sale will not constitute a contribution to the FEC-FEC if the list is sold at the "usual and normal charge." However, if the list is sold for less than the usual and normal charge, the FEC-FEC will have made a contribution to any purchaser who is a candidate or political committee. If the list is sold for more, the purchaser will have made a contribution to the FEC-FEC. The amount of the contribution would be the difference between the usual and normal charge for such a list at the time of its sale and the amount the purchaser actually paid for the list.

Payments received from the sale of the list at usual and normal charges must be reported on FEC Form 3 as other income (Line 16). However, if the sale of the list results in a contribution to or by FEC-FEC, the amount exceeding the "usual and normal charge" must be reported on Form 3 as contributions from an individual (Line 14), a transfer from another political committee (Line 15), or a transfer to another political committee (Line 22).

The Commission emphasized that Commission Regulations at 11 CFR 104.13 prohibit the use

of information copied from reports and statements filed with the Commission for the purpose of soliciting contributions or for any commercial purpose.

AO 1979-19: Combined Payment to Trade Association and Separate Segregated Fund

Individual members of the National Cattleman's Association (NCA) may purchase advance tickets for functions at the NCA annual convention and to a fundraiser sponsored by NCA's separate segregated fund, the Cattleman's Action Legislative Fund (CALF), by combining payments for both on one check. Checks may be made payable to NCA and must be drawn on an individual's personal bank account, not a corporate account. (Checks, however, drawn on a corporate account which is the nonrepayable drawing account of an individual NCA member would also be permissible.) The procedure for combining political contributions with payments to NCA is permissible provided that:

1. Contributions by check combining payment for convention events and the CALF fundraiser are treated as contributions received by CALF on the date the combined check is received by any NCA employee or representative; that portion of each check representing a political contribution is deposited in the account of a bank depository designated by CALF within 10 days of its receipt by NCA.
2. NCA provides, upon Commission request, all records of NCA bank accounts in which combined payments have been deposited.
3. NCA makes available, upon Commission request, all usual accounting records of members' convention payments and records indicating which members combined payments. These records must be maintained for three years.

AO 1979-21: Reimbursement for Use of Payroll Deduction Plan

The Political Contributions Committee (PCC), the separate segregated fund of the Communications Workers of America (CWA), must reimburse the New York Telephone Company (the

Company) for expenses incurred by the Company in making a payroll deduction available to CWA for the collection of political contributions from CWA members to the PCC.

The Act and Commission Regulations permit a corporation or labor organization to use general treasury funds to pay for the "establishment, administration and solicitation of contributions to its separate segregated fund." 11 CFR 114.5(b). Therefore, payment by the corporation of the expenses for payroll deduction used for or on behalf of CWA and PCC would be prohibited by 2 U.S.C. §441b. Accordingly, CWA must reimburse the Company.

AO 1979-22: Legal Services Provided to Presidential Candidate Committee

Certain legal services provided to the Carter/Mondale Presidential Committee (the Committee) by Timothy G. Smith do not count as either contributions or expenditures as long as the Committee follows certain conditions, as indicated below. According to a letter of understanding between the Committee and Mr. Smith's regular employer, Rogers and Wells (the Firm), Mr. Smith receives one-third of his compensation from the Firm; the Committee pays the rest of his compensation for services he renders involving "primarily FECA compliance and campaign public financing matters," in addition to "some other legal and political duties."

1. *Compliance with the Act:* Committee payments for legal services which Mr. Smith provides solely to ensure the Committee's compliance with the Act are exempt from the definitions of "contribution and expenditure." 2 U.S.C. §§431(e)(4) and (f)(4)(J). Hence, they are not subject to the Committee's overall expenditure limitations. Nevertheless, all such payments to Mr. Smith and his support staff for these services must be reported.
2. *Other Legal Services:* With regard to Committee payments for other legal and political

duties performed by Mr. Smith on behalf of the Committee, the compensation schedule established by Smith and the Firm precludes the Firm from making an in-kind contribution to the Committee. However, the Committee must periodically reevaluate the schedule to ensure that it continues to accurately reflect the relative amounts of time Mr. Smith devotes to the Firm and the Committee. Committee payments for any "other legal and political duties" which are not rendered for compliance purposes are reportable expenditures under the Act and are subject to the Committee's overall expenditure limitations.

3. *Reimbursement Schedule:* Expenses which are incurred by the Firm as a result of Mr. Smith's work on behalf of the Committee (e.g., occasional use of telephone, support staff and other Firm resources) must be reimbursed by the committee in accordance with a predetermined schedule which reflects the actual cost of the goods and services provided. Amounts paid by the Committee to the Firm for such reimbursement would be reportable expenditures subject to the Committee's overall expenditure limitations. However, if use of Firm resources was incidental to legal and accounting services to assure compliance with the Act, reimbursements would be reportable but not subject to expenditure limitations.

AO 1979-23: Reporting Debt Payments

The Neil Wallace for Congress Committee (the Committee) must report its payment to extinguish a Committee debt on both Schedule C (as retirement of the debt) and Schedule B (as an expenditure), of FEC Form 3. The Act requires continuous reporting of all debts and obligations until they are extinguished. 2 U.S.C. §434(b) (12).

AO 1979-24: Sale of Campaign Materials

A State political action committee (State PAC) may purchase unused campaign materials from Ronald Hein's Federal campaign committee

(the Committee). Although the State PAC is permitted, under State law, to accept corporate contributions, no prohibited contribution to the Committee would result provided the materials are purchased at no more than the usual and normal charge for those materials in the market from which they would ordinarily be purchased.

In addition, Mr. Hein's State Senate Committee may purchase the materials at the usual and normal charge without making a prohibited contribution. The Commission offered no guidance as to whether the State PAC could purchase the materials from the Committee and, in turn, donate them to Mr. Hein's State Senate Committee. That issue is beyond Commission jurisdiction.

AO 1979-25: Payment of Intern Expenses

The Wisconsin Education Association Council (the Council) may pay the expenses of teacher interns working in the mobile district office of Congressman Les Aspin. The teacher interns will not participate in any political activity connected with Congressman Aspin's reelection. They will, however, assist constituents who visit his office and otherwise support his activities as a Federal officeholder. Therefore, since the nature of the interns' work is constituent service rather than political electioneering, Council payment of intern expenses would not constitute "contributions" under the Act.

Council payments would, however, constitute "funds donated" to support the activities of a Federal officeholder. Such funds must be disclosed on a special report as receipts (from the Council) and corresponding disbursements (to the interns). 11 CFR 113.4.

The Commission expressed no opinion on the possible application of House Rules to this situation.

AO 1979-26: "Testing-the-Waters"

Congressman Charles Grassley is not considered a candidate with reporting obligations under the Act, provided that all funds raised and spent by his Exploratory Committee (the Committee) are used exclusively for "testing-the-waters." The sole function of the Committee, which is registered with the Commission, is to determine the feasibility of Mr. Grassley's candidacy for the Senate from the State of Iowa. Under the Act, funds used solely to determine political support for a potential candidacy are not considered contributions or expenditures, unless the individual subsequently becomes a candidate. 11 CFR 100.4(b)(1) and 100.7(b)(2). The Committee's activity, therefore, does not trigger 1980 Senate candidate status or the registration and reporting requirements of the Act. Consequently, Congressman Grassley need not file a FEC Form 2 as a 1980 Senate candidate, and the Committee may terminate its registration with the Commission if its activities are limited to "testing-the-waters" for a possible 1980 Senate candidacy.

AO 1979-27: Administrative Expenses of Separate Segregated Fund

The Associated Milk Producers, Inc. (AMPI), a corporation without capital stock, may use general treasury funds to pay the administrative expenses of its separate segregated fund, the Committee for Thorough Agricultural Education (C-TAPE). 2 U.S.C. §441b(b)(2)(C).

AO 1979-28: Contribution From Unincorporated Association

The Treasury Employees Political Action Committee (TEPAC), the separate segregated fund of the National Treasury Employees Union (NTEU), may accept a political contribution from an unincorporated recreation association of Federal employees (the Association) represented by NTEU.

The Association maintains vending machines in Federal facilities, and the proposed contribution is comprised of profits derived from those

machines. The contribution did not result from a TEPAC or NTEU solicitation. Since the Association is not a corporation, and assuming it is not a government contractor, TEPAC may accept the unsolicited contribution subject to the contribution limits.

AO 1979-30: Transfers Among Subordinate Committees of State Party Committee

The Jefferson-Jackson Day Committee (JJDC), an unregistered fundraising committee of the Democratic Party, may make coordinated party expenditures to retire the debts of the Miller for Senate Committee (the Miller Committee) and the 1978 Virginia Democratic Campaign Committee (VDCC), provided it registers with the Commission, segregates its funds and organizes its operations in accordance with Commission Regulations.

The JJDC has cash-on-hand which includes union and corporate funds. The Miller Committee and the VDCC have outstanding debts. The JJDC may transfer its surplus funds to help these committees retire their debts provided it:

1. Establishes a separate Federal campaign committee which registers as a "political committee" affiliated with the Virginia Democratic Party;
2. Discloses, with regard to this "political committee," the source of any cash-on-hand at the time of registration, and excludes from its cash any contributions not permissible under the Act.

The JJDC may then make coordinated expenditures on behalf of the Miller Committee in either of the alternative methods it has proposed:

1. Directly to the creditors of the Miller Committee; or
2. As a transfer to the VDCC for payment to the Miller creditors.

The JJDC may also transfer additional funds to the VDCC to retire its debts, since Commission Regulations permit unlimited transfers between committees of the same political party.

AO 1979-31: Solicitations by Independent Committee

If Western Enterprise Political Action Committee (WEPAC) is, as it claims, an independent, unaffiliated committee with no connected organization, it may solicit and receive contributions from individuals employed by Hilton Hotels Corporation as well as other individuals and political committees. The contributions it receives must be within the limits of 2 U.S.C. §441a and otherwise lawful under the Act.

The Commission noted that the Act prohibits WEPAC from receiving any contribution of goods, services or anything of value from Hilton Hotels Corporation or any other corporation (2 U.S.C. §441b), and emphasized that WEPAC's receipt of a mailing list of Hilton Hotels Corporation employees would constitute a prohibited contribution, unless WEPAC paid the "usual and normal charge" for such a list. 11 CFR 114.9(d) and 100.4(a)(1)(iii)(B).

AO 1979-32: State Report Does Not Meet Act's Requirements

The Kanawha County Democratic Executive Committee (the Committee) may not submit a State campaign finance report to the Commission to satisfy the Committee's 1978 filing obligations. The State reports fail to provide the mailing address, occupation and principal place of business of contributors to the Committee, as required by the Act. 2 U.S.C. §434(b). To satisfy the reporting requirements of the Act, the Committee must submit the required information to the Commission.

AO 1979-33: Union Reimburses Separate Segregated Fund

District 1199-C of the National Union of Hospital and Health Care Employees (the Union) may use general treasury funds to reimburse the District 1199-C Political Action Fund (the

Fund) for administrative costs inadvertently paid by the Fund.

The Fund spent \$1,050 to purchase tickets to an AFL-CIO Council COPE banquet which the Fund believed was political campaign activity. It later discovered that the banquet proceeds were used exclusively for and contributed to a "segregated and nonpartisan register and vote campaign fund."

A labor organization's financial support for nonpartisan registration and voter drives directed toward its members and their families is excluded from the Act's definition of contribution or expenditure. 2 U.S.C. §441b(b)(2)(B). Since the proceeds of the banquet were used for an exempt activity, the Union could have paid these costs directly from its treasury without violating the Act.

AO 1979-34: Public Financing Payments for New Party Candidate

Mr. Morris Woods, the Presidential candidate of the Freedom Party, is not entitled to receive preelection public financing payments from the Presidential Election Campaign Fund. A new party Presidential candidate is eligible only for "retroactive" public financing payments (i.e., postelection), and then only if the candidate receives five percent or more of the total number of popular votes cast for the office of President in the election. 11 CFR 142.3(a).

AO 1979-35: Joint Fundraising Effort

The Democratic Senatorial Campaign Committee (DSCC) may conduct a joint fundraising effort in cooperation with certain Democratic Senate candidates, provided that the DSCC adheres to those recordkeeping and reporting procedures which DSCC proposed to the Commission. The effort will involve giving art prints to contributors who donate a certain amount to the DSCC in conjunction with a particular candidate. Under the proposed procedures, the DSCC will act as the authorized agent of the candidates. The DSCC will establish a special

account which will be designated as an additional campaign depository by each participating candidate. The DSCC will report the proceeds received into the special account and, after the fundraising expenses have been paid, will distribute the appropriate share to each candidate. Each candidate's principal campaign committee will report its share of contributions received. In addition to approving the procedures proposed by the DSCC, the Commission noted that the following procedures would also be required:

1. The DSCC, as agent of the participating candidates must deposit all contributions into the special account within ten days of their receipt.
2. The DSCC must report **gross** proceeds received into the account and distribute to each participating candidate his or her appropriate share of the net proceeds (gross contributions less allocable share of fundraising costs). Since DSCC will make all fundraiser expenditures, the allocation of fundraising costs must be made on the same basis as the allocation of proceeds to avoid the making of an in-kind contribution by DSCC to any participating candidate. The candidates' committees need not report fundraiser expenditures, provided that they are reported by DSCC.
3. The DSCC must report all relevant contributor information on Schedule A and disclose all fundraiser expenditures on Schedule B. In addition, the DSCC must report the distribution of net proceeds to each candidate as a transfer out, and note (on Schedule B) that the proceeds were the result of a joint fundraising effort with the particular candidate.
4. The DSCC must furnish each candidate's principal campaign committee with aggregate contributor information, including the candidate's share of each **gross** contribution received and reported by DSCC.
5. Each candidate's principal campaign committee must report the actual amount of the transfer received from the DSCC as a transfer in. In addition, each principal campaign committee must itemize (as a memo to Schedule A) the candidate's share of each

gross contribution received by DSCC if that share, together with previous contributions from the same donor during the same calendar year, exceeds \$100.

The Commission noted that the artist's services in creating the original work of art from which the prints are made would constitute a volunteer service rather than an in-kind contribution to the fundraising effort. 2 U.S.C. §431(e)(5)(A).

AO 1979-36: Direct Mail Agreement

Amounts expended in accord with a direct mail agreement by Working Names, Inc. during the initial stages of a direct mail fundraising program which it is conducting on behalf of the Committee for Fautroy (the Committee) would not be considered campaign contributions provided that the proposed agreement, described below, conforms with ordinary business practice in the direct mail industry.

Under the proposed agreement, Working Names will incur the initial expenses in preparing and mailing the fundraising materials; it will then bill the Committee for those expenses and its own fees. Contributions received as a result of the direct mail program will be deposited in the Committee's account, although 75 percent of those contributions will be designated as reimbursement for Working Names. The agreement provides that the cost to the Committee will generally not exceed 75 percent of all contributions collected.

The Commission concluded that the amounts initially advanced by Working Names, which are subject to reimbursement by the Committee, would not be campaign contributions provided that:

1. The provisions regarding initial expenditures by Working Names and the limited liability of the Committee in the event of an unsuccessful fundraising campaign are normal industry practice;
2. The terms of credit are similar to those extended to nonpolitical clients; and

3. Working Names charges the Committee the same rates it charges to all other clients for the same services.

The Commission noted that if any of the provisions deviated from the normal course of doing business, a prohibited contribution could occur.

**AO 1979-37: Donations to
Federal Officeholder**

Donations from partnerships, associations, corporations or unions to a trust established by Representative Daniel Flood to pay his legal defense expenses are not contributions or expenditures under the Act, since they are not made for the purpose of influencing the nomination or election of a person to Federal office. 2 U.S.C. §431(e) and (f). Nothing in the Act or Commission Regulations would limit or prohibit the trust from receiving donations from the described sources. Furthermore, neither Representative Flood nor the trust would be required to file campaign finance disclosure reports.

The Commission expressed no opinion on the applicability of the House Rules, Federal income tax statutes or any other Federal law to the establishment and use of the trust since those issues are beyond Commission jurisdiction.

**AO 1979-38: Solicitation of
Corporation's Licensees**

Hardee's Good Government Fund (the Fund) may solicit contributions from the executive and administrative personnel of Hardee's licensees and their families because Hardee's and its licensees are affiliates. 11 CFR 114.5(g)(1). Since Hardee's maintains continuing direction and control over its licensees through the franchise agreement, Hardee's and its licensees are affiliates within the meaning of the Act and Regulations. Therefore, solicitation of executive and administrative personnel of the licensees by Hardee's is permissible, if conducted in accordance with Commission Regulations.

AO 1979-39: Fundraisers' Commissions

The Crane for President Committee (the Committee) must treat the gross amount of all contributions, which are the result of solicitations by its agent, including amounts deducted to pay commissions to fundraisers, as the amount received by the Committee regardless of whether:

1. The fundraiser turns the gross amount of the contribution over to the Committee and the Committee subsequently pays the fundraiser's commission; or
2. The fundraiser turns the net amount of the contribution over to the Committee, after the fundraiser has deducted his commission.

In either situation, the entire amount contributed must be treated as the contribution received by the Committee. The agent's commission, which is a percentage of the total contribution, represents part of the cost of fundraising. Commission Regulations provide that donation of all or a part of fundraising costs are included in the definition of "contribution." 11 CFR 100.4(a)(2).

**AO 1979-40: Financial Activities of
Unauthorized Committee**

The Florida for Kennedy Committee (FFKC), an unauthorized political committee formed to draft Senator Edward Kennedy as a 1980 Presidential candidate, may receive from each individual and each political committee up to \$5,000 in contributions per calendar year. FFKC's expenditures are not limited by the Act.

Contribution Limitations: Since Senator Kennedy is not a Presidential candidate and because FFKC is not established or maintained by a national political party, the \$5,000 limit on contributions "to any other political committee" governs contributions to the FFKC. 2 U.S.C. §441a(a)(1)(c).

Expenditure Limitations: The Act does not prescribe limits for the expenditures proposed by

FFKC. There are no limits on independent expenditures. Limits apply only if expenditures constitute contributions in-kind. Although expenditures by FFKC are not independent expenditures because Senator Kennedy is not a candidate, the limits still do not apply, because they are not contributions in-kind either. Since Senator Kennedy has not consulted with FFKC and has disavowed its activities on his behalf, the expenditures by FFKC are not in-kind contributions.

The Commission declined to answer FFKC's hypothetical question regarding the effect which contributions to FFKC would have on the contributors' right to make contributions to Senator Kennedy should he eventually become a candidate. Advisory opinions address only specific, factual situations.

AO 1979-41: Registration and Reporting Requirements of Political Committee

The National Committee for a Democratic Alternative (the Committee) is a political committee within the meaning of the Act and is subject to the Act's registration and reporting requirements.

The Committee's purpose is to stimulate debate on certain policies of the present administration and to seek an alternative Democratic candidate for President in 1980. To accomplish this end, the Committee intends to sponsor advertisements to express its views and solicit funds. A prototype of the Committee's intended ads specifically identifies President Carter as the Democrat to whom an alternative is needed, and includes a solicitation for contributions.

The Committee's proposed activity, as represented by the ad, is to influence the 1980 election. And, since the Committee has stated that it anticipates receiving contributions or making expenditures totaling more than \$1,000 during 1979, it is a political committee within the meaning of the Act. 2 U.S.C. §431(d) and

11 CFR 100.14. The Committee is therefore subject to all provisions of the Act.

AO 1979-42: Administration of Separate Segregated Fund

The South Carolina National Bank may pay premiums on liability insurance to protect the officers and members of its separate segregated fund, the South Carolina National Bank Political Action Committee (BANK-PAC), against liability arising from the direction of BANK-PAC.

Although national banks are prohibited from making contributions or expenditures in connection with any election, the Act specifically allows banks (and other corporations and labor organizations) to establish, administer and solicit funds to a separate segregated fund, from which political contributions and expenditures may be made. Since the Bank's payment of the insurance premiums is a cost of establishing and administering a separate segregated fund rather than a contribution, it is permissible under the Act.

AO 1979-43: Vice Presidential Primary

The New Hampshire Vice Presidential primary is not an "election" under the Act or Commission Regulations since the Democratic Vice Presidential nominee is not chosen as a direct result of the New Hampshire primary and because the Vice Presidential primary does not elect delegates to the national nominating convention. The primary election for Vice President is the Democratic National Convention since only that Convention has the authority to select a nominee.

AO 1979-44: Solicitation of Executive and Administrative Personnel

The Public Affairs Fund, the separate segregated fund of United Carolina Bank, Whiteville (Whiteville), a wholly owned subsidiary of United Carolina Bankshares Corporation (UCB), may solicit the executive and administrative personnel of UCB and each of UCB's three wholly

owned subsidiaries after an internal corporate reorganization is completed. Commission Regulations permit a corporation and/or its separate segregated fund to solicit the executive and administrative personnel (and their families) of the corporation's subsidiaries, branches, divisions and affiliates. 11 CFR 114.5(g)(1). Since UCB and its three subsidiaries will become affiliated entities, the Public Affairs Fund may lawfully solicit the executive and administrative personnel of the parent corporation and its wholly owned subsidiaries.

The Commission noted that all separate segregated funds established by a corporation, its affiliates, subsidiaries, branches and divisions are treated as a single political committee and are subject to a single contribution limitation. 2 U.S.C. §441a(a)(5).

AO 1979-46: Permissible Contributions After Conversion to Multicandidate Committee

Americans Organized for Responsibility (Americans) expects to qualify for status as a multicandidate committee after the primary election. Once it qualifies for multicandidate status, Americans may contribute up to \$4,000 to retire the primary election debt of a candidate to whom it contributed \$1,000 during the primary campaign provided that the candidate has a primary debt of at least \$4,000 when he/she receives the post-primary contribution. The contribution must be designated in writing as a contribution to the primary.

Monies donated by Americans for noncampaign officeholder activity are not "contributions" under the Act and, therefore, do not count against the Act's contribution limitations. Such monies are, however, "funds donated" (11 CFR 113.1), which must be reported by Americans on Schedule B, with an explanation that the amount is to support officeholder expenses rather than campaign activities. 11 CFR 104.2(b). Furthermore, the recipient must report those funds as a receipt on his/her biannual report on office accounts. 11 CFR 113.4.

The Commission expressed no opinion on the possible application of the Standing Rules of the Senate or possible tax ramifications. Those issues are not within the Commission's jurisdiction.

AO 1979-48: Voter Registration Advertisement

Rexnord Inc.'s Political Action Committee (the PAC) may pay for an advertisement, carried in a general circulation newspaper, which reads "Please Register to Vote" and which includes the identification of "Rexnord, Inc." in a lower corner of the advertisement.

However, Rexnord Inc. may not use corporate funds to pay for the ad. A corporation may undertake voter registration activity only if it is restricted to the corporation's stockholders and executive or administrative personnel, or if it is jointly sponsored by a civic or non-profit organization which does not support or endorse candidates or political parties. 11 CFR 114.4(d)(1).

AO 1979-49: Contribution and Expenditure Limits for Unauthorized Committee

Since the Independent Campaign to Elect William E. Simon President (the Committee) is an unauthorized draft committee which has been disavowed by Mr. Simon, and since Mr. Simon is not a candidate under the Act, the Committee may accept contributions of more than \$1,000 but not more than \$5,000 from individual contributors during a calendar year. 2 U.S.C. §441a(a)(1)(C). Moreover, there is no limit on the amount of money which the Committee may spend in a State campaign to promote Mr. Simon's entry into the 1980 Presidential election. The Act does not prescribe expenditure limits for unauthorized political committees whose activities have been disavowed by the individual being supported by the committee. Since Mr. Simon is not a candidate, the Committee's expenditures on his behalf would not be subject to the special reporting requirements which apply to independent expenditures.

However, these Committee expenditures, as well as all Committee receipts, would be governed by all other reporting requirements of the Act.

AO 1979-50: Union PAC's Solicitation of Nonmembers

The Public Affairs Council (the PAC), the separate segregated fund of the National Federation of Federal Employees (NFFE), may not publish a contribution solicitation in the NFFE newspaper which reaches 8,000 people who are not members of NFFE. Those 8,000 individuals represent 15 percent of the newspaper's total circulation. Despite NFFE's intention to include a caveat with the solicitation, stating that only contributions from NFFE members and their families will be accepted and retained, the solicitation is impermissible since it would reach more than an incidental number of nonmembers.

The PAC may solicit NFFE employees who are not NFFE members only in accordance with the Commission's twice-yearly solicitation Regulations. 11 CFR 114.6(c) and (d). However, the PAC may accept unsolicited voluntary contributions at any time from NFFE employees who are not NFFE members.

AO 1979-51: Termination of Dual Candidacy

The "testing-the-waters" exemption does not apply to funds used by Congressman Robert Edgar. That exemption applies only to funds used solely to determine political support for a potential candidacy. Since Congressman Edgar filed a statement of candidacy for the Senate and the Edgar for Congress Committee (the House Committee) has been functioning on his behalf, his candidacy for both offices was established. Therefore, the exemption does not apply and the Edgar for Senate Committee (the Senate Committee) must continue to report its contributions and expenditures until it has filed its termination report.

Since Congressman Edgar has decided not to pursue a Senate candidacy, the Senate Commit-

tee may transfer its residual funds to the House Committee subject to the procedures which apply when dual Federal candidates terminate one candidacy and continue with the other. 11 CFR 110.3(a)(2)(v).

AO 1979-52: Use of Corporate Aircraft

The Committee to Elect Ed Howard (the Committee) must reimburse Mr. Howard's corporation, in advance and at the usual and normal charge, for the candidate's use of the corporation's aircraft for campaign purposes. Since Mr. Howard is a pilot and will be flying the aircraft himself, the usual and normal charge would be the charter rate for an aircraft of the same class and type with fuel and without a pilot.

Even though Mr. Howard is the sole stockholder of the corporation which owns the aircraft, reimbursement to the corporation for campaign use of the aircraft is still necessary. Commission Regulations do not distinguish between corporations with many stockholders and those owned by a single stockholder. 11 CFR 114.9(e). If, however, the corporation were dissolved and made a sole proprietorship, 11 CFR 114.9(e) would not apply since the Regulation governs only those aircraft owned (or leased) by corporations and labor unions.

AO 1979-53: Campaign Accounts and Depositories

One individual, designated as treasurer by four different principal campaign committees and a fifth political committee (the Ownership Campaign), may not use a single checking account to handle the financial transactions of all five committees. The Act requires a principal campaign committee to maintain a single checking account for the committee in a campaign depository designated by the candidate. 2 U.S.C. § 432(e) and 437b. Furthermore, Commission Regulations require that all expenditures by the committee be made by checks drawn on that account. Therefore, a separate checking account must be maintained for each committee. All five committees may, however, designate the same

bank as the depository for their separate checking accounts.

AO 1979-56: Affiliation of Political Action Committees

The proposed political action committee of Brunswick, a joint venture corporation established by Scott Paper Company and the Mead Corporation, would be affiliated with the political action committees of both parent corporations (SCOTTPAC and MEADPAC). The management agreement between Scott and Mead gives each corporation the authority to appoint and remove executive officers and board members of Brunswick and otherwise influence decisions made by Brunswick.

When one organization has the authority to influence the decisions of officers or members of another organization, Commission Regulations provide that all political committees established by those organizations are affiliated. 11 CFR 100.14(c)(2)(ii) and 110.3(a)(1)(iii). Thus, Brunswick's proposed political action committee would be affiliated with both SCOTTPAC and MEADPAC. Contributions made by SCOTTPAC and Brunswick's proposed committee would be considered to have been made by a single committee. Similarly, contributions made by MEADPAC and Brunswick's proposed committee would be considered to have been made by a separate single committee. 2 U.S.C. §441a(a)(5). Although the proposed Brunswick committee would be affiliated with both SCOTTPAC and MEADPAC, the Commission found no basis for concluding, from the facts presented in the request, that SCOTTPAC and MEADPAC were affiliated with each other.

AO 1979-57: Contributions by Money Order

The Political Action Committee of the Veterans of Foreign Wars (VFW-PAC) may accept money orders, which represent contributions raised by local VFW posts, provided that the local chapters:

1. Restrict contribution solicitations to VFW members (i.e., raffle tickets can be sold only to VFW members);
2. Do not accept cash contributions of more than \$100; and
3. Record, account for, and deposit the contributions in accordance with Commission Regulations.

AO 1979-59: Solicitation of Personnel Living Abroad

The Container Corporation Political Action Committee may solicit executive employees of the Container Corporation (the Corporation) who are United States citizens assigned to a Corporation office in a foreign country. The Act prohibits contributions by foreign nationals (2 U.S.C. §441e), but American citizens living abroad are not included in that category. All contributions from the Corporation's foreign-based employees are subject to all applicable limits and prohibitions of the Act.

AO 1979-60: Deduction Plan Contributions

The Hoisting and Portable Engineers Local Union 101 (the Union) may solicit contributions to its 101 Political Fund (the PAC) by using a plan which would permit union members to authorize the deduction of a portion of the monies paid to their vacation fund. The amounts deducted would be transferred to the PAC. The plan would be permissible, however, only if the sample authorization, proposed by the Union, were modified to reflect the contributor's right to donate more or less than the amount specified on the authorization card. Commission Regulations require that, although a contribution guideline may be suggested, any solicitation must inform contributors of their right to contribute more or less than the suggested guideline, and the guideline may not be enforced by the union. 11 CFR 114.5(a)(2).

AO 1979-63: Prohibited Transfer of Corporate Funds

The Veterans of Foreign Wars Political Action Committee (VFW-PAC), the separate segregated

fund of the Veterans of Foreign Wars (the Corporation), may not accept unsolicited donations, consisting of membership dues and the proceeds from the sale of food and beverages, from local posts and auxiliaries. The Act prohibits a corporation from contributing general treasury funds (e.g., membership dues) to its separate segregated fund, and also prohibits a separate segregated fund from using funds obtained in commercial transactions conducted by local posts and auxiliaries (e.g., the sale of food and beverages). It would be permissible, however, for the Corporation to use these funds to pay for the administrative expenses of VFW-PAC and for the solicitation of contributions to VFW-PAC. 11 CFR 114.1(b) and 114.5(b).

**AO 1979-64: Application of the Act to
Legislative Support Organization**

The Tourism Caucus may solicit and accept corporate and individual funds without regard to the contribution limitations and prohibitions of the Act. The Tourism Caucus, a legislative support organization created by 112 Members of Congress to "promote and expand the economic viability of the American industry and the jobs of its workers," does not expect to become a political committee as defined by the Act or to be involved in federal elections. This determination is based on the stated intention and proposed activities of the Caucus.

The Commission expressed no opinion regarding application of the House or Senate Rules to the situation described. Those issues are not within the Commission's jurisdiction.

**AO 1979-65: Relationship Between Inactive
Draft Committee and
Authorized Committee**

Officers and personnel of the Virginia Democrats for Leadership and Commitment (the Committee), a draft Kennedy committee which is inactive for all purposes except debt satisfaction, may, as individuals, communicate and cooperate with the Kennedy Presidential campaign without creating a relationship between

the Committee and the Kennedy campaign committee. The facts presented by the Committee do not suggest that the individuals involved would simultaneously be officers or principals of two active committees raising funds for a federal election or that they would become officers of the Kennedy campaign. Assuming that there was no coordination between Committee personnel and agents of Senator Kennedy before the Committee became inactive, and provided that no Kennedy campaign personnel participate in the only activity contemplated by the Committee (payment of outstanding debts), Committee personnel may participate as individuals in the Kennedy campaign without effect on the Committee.

**AO 1979-71: Committee's Pre-Election
Reporting Obligations**

PASPAC, the separate segregated fund of the El Paso Company, need not file a pre-election report for the January 1980 Iowa Presidential caucuses since its contributions to a Presidential candidate have already been disclosed in a previous PASPAC report and because the Iowa caucuses are not "elections" under the Act. The Iowa precinct caucuses do not constitute an election under 2 U.S.C. §431(a) because they do not:

1. Have the authority to nominate a Presidential candidate;
2. Express a preference for Presidential nominees by a formal primary ballot process; or
3. Select delegates to a national nominating convention by a formal primary ballot process.

The caucuses only select delegates to county conventions of the political parties. The fact that the caucuses are not an "election" has no effect on the application of the contribution or expenditure limits.

A Index: Names and Addresses of Candidates

Sorted by type of office sought (President, U.S. Senator, U.S. Representative), and alphabetically by last name or by State/Congressional district.

B Index: Names and Addresses of Committees

Includes name of connected organization, name of treasurer, committee ID number, notation if it is "qualified" as multicandidate committee, and filing frequency. This index can be sorted alphabetically by committee name, by committee ID number, and by type (Presidential, Senate, House, party, nonparty).

C Index: Disclosure Documents Filed by Political Committees

Includes, for each committee, its name, ID number, list of each document filed (name of report, period receipts, period expenditures, coverage dates, number of pages and microfilm location), total gross receipts and expenditures, and number of pages.

D Index: Index of Candidates Supported by Committees

Includes, for each committee, its name, ID number, name of connected organization, notation if it is "qualified" as multicandidate committee, and a listing of all Federal candidates supported, together with total aggregate contributions to or expenditures on behalf of each candidate (1972-79). In the case of party committees, special party expenditures (section 441a(d)) are listed in place of independent expenditures.

E Index: Index of Candidates and Supporting Committees

Includes for each candidate the following:

1. Candidate name, district/State, party affiliation and candidate ID number.
2. Listing of all documents filed by the candidate (type, coverage dates, period receipts, period expenditures, number of pages, microfilm location).
3. Listing of all documents filed by the principal

campaign committee (see C Index for explanation).

4. Listing of all documents filed by other authorized committees of the candidate.
5. Listing of all committees (other than those authorized by the candidate) forwarding contributions to the candidate, the principal campaign committee, or an authorized committee, and the aggregate total of such contributions given to date. This listing also identifies committees making expenditures on behalf of the candidate or party committees making special party expenditures (section 441a(d)), including the aggregate total spent to date.
6. Listing of all persons or unauthorized single candidate committees filing reports indicating they made independent expenditures on behalf of the candidate.
7. Listing of all persons or committees filing unauthorized delegate reports.
8. Listing of all corporations or labor unions filing reports of communication costs on behalf of the candidate.
9. Listing of all unauthorized single candidate committees registering support for or against a candidate. The listing also identifies the committee's receipts and expenditures for the reporting period covered.

G Index: Index of Itemized Transactions for Each Candidate and Political Committee

Itemized receipt and disbursement transactions are listed, along with the amounts of the transactions, keys to reports in which the transactions were indicated, and the microfilm location of the transactions. Five categories are represented:

1. Individual transactions, including individual contributions and loan activity.
2. Selected loan and loan repayment transactions, including loans from banks.
3. Unregistered political organization transactions; that is, contributions to candidates from organizations which are not registered under the election law.
4. Corporate refund/rebate transactions with itemized receipts showing refunds of deposits.

5. Transactions among registered candidates/committees which indicate transfers and loan activity.

Y Index: Special Inquiry

This immediate access system permits direct video display or printout of selected information in the Disclosure Information System. It consists of between 40 and 50 separate programs which may be used to locate, retrieve or display individual items or categories of information.

Continuing Reports

Election Law Updates are a quarterly series, cumulative through the calendar year, which summarize all election code changes in each of the 50 States. The series is designed to provide up-to-date election code information to State legislators, court officials and election administrators.

Election Case Law reports are a quarterly series, cumulative through the calendar year, which summarize election cases in the State and Federal courts. The reports provide updates of judicial developments pertinent to elections.

Campaign Finance Law is an annual report summarizing campaign finance laws in each of the States as well as at the Federal level. The report also provides a convenient chart summary of State and Federal requirements.

Election Directory is an annual report which summarizes the responsibilities of each State's chief election official, election board or commission. Names, addresses and telephone numbers of State election officials, offices and related legislators are also provided.

Topical Reports

Voting Systems is a three-volume report on voting equipment currently on the market. Volume I describes each device in detail and offers local officials step-by-step procedures for defining equipment needs and procuring equipment. Volume II summarizes representative State codes with regard to voting equipment acquisition. Volume III offers recommendations for drafting such legislation.

Statewide Registration Systems 1 & 2 is a report on computerized Statewide voter registration systems. Volume I examines problems involved in implementing a Statewide system and offers suggestions for overcoming them. Volume II describes in detail the forms, procedures, outputs and variations on the basic Statewide computerized system.

Contested Elections and Recounts is a three-volume analysis of the laws and procedures governing contested elections and recounts for Federal offices. Volume I examines those issues and functions within the Federal government's purview, and makes recommendations for improving the handling of contested elections at the Federal level. Volume II examines State issues and options, and makes recommendations for improving the State handling of such cases. Volume III summarizes laws related to contested elections in each of the States and at the Federal level.

Ballot Access is a four-volume report on how candidates gain access to the ballot for Federal office in each of the States. Volume I identifies central administrative issues and problems and makes recommendations for improving the process. Volume II describes the administrative process in each State. Volume III details State legal memoranda and makes recommendations for improving the legal process. Volume IV briefly summarizes ballot access requirements for Federal office in each State.

Mail Registration Systems 1 discusses problems involved in implementing a mail registration system. In addition to a general description of how mail registration systems operate, the report offers practical suggestions for overcoming difficulties.

Bilingual Election Services is a three-volume report on providing election services in languages other than English. Volume I summarizes such services since 1975. Volume II provides a glossary of common election terms in English along with their Spanish and dialectical equivalents. Volume III is a manual for local election officials. It offers practical advice on ways to: identify the language problems in a jurisdiction, provide bilingual registration services and provide bilingual balloting services.

Election Administration is a four-volume set introducing program planning, management and financial control concepts into local election

administration. Volume I provides an overview of election functions and tasks, and introduces the notion of a management cycle. Volume II focuses on planning, provides detailed task/activity checklists and flow diagrams, and demonstrates how tasks can be assigned. Volume III introduces a chart of accounts and demonstrates how budgets can be prepared and costs monitored by applying the chart to each election function. Volume IV is a set of legal memoranda summarizing State code processes with regard to administrative and budgeting responsibilities.

Studies Currently Underway

Training Election Officials examines the problems and methods involved in training poll workers, deputy registrars and chief local election officials for election day. A "how-to" volume will assist State and local officials in designing effective training programs.

Election System Statistics seeks a common set of performance measures that local election officials can use to evaluate their election systems. Manuals will identify relevant data collection and analysis methods. These statistics can then be used to improve effectiveness and efficiency of election services.

Registration File Maintenance and Verification focuses on improving the accuracy of voter registration lists around the country. Product manuals will offer concrete guidance in adding to, deleting, changing and purging file entries. Emphasis will be placed on verifying these steps by both manual and automated file systems.

Voter Education, Information and Outreach will examine and evaluate existing State and local programs as well as look into other forms of mass communication and message design to produce a set of manuals that will help State and local officials develop effective education, information and outreach programs.

Regional Conference Program. See Chapter 2, "Assistance to Committees and Candidates."

The Commission testified before both houses of Congress on several bills dealing with various aspects of campaign financing, election reform and election administration. Testimony presented by the Commission focused on subjects within its area of expertise.

Amendments to the Election Law

Testifying before the Senate Rules Committee on July 13, 1979, FEC Chairman Robert O. Tiernan, accompanied by Vice Chairman Max L. Friedersdorf, recommended several revisions to the Federal Election Campaign Act (the Act). (Since 1975, in compliance with statutory requirements, the Commission has made annual recommendations for legislative revisions to the Act.) In his testimony, Chairman Tiernan reiterated Commission support of the recommendations the Commission had previously made and emphasized three areas of particular concern:

1. *Simplification.* The Commission recommended that reporting requirements be simplified to the greatest extent possible. The FEC's recommendations would reduce the number of required reports by up to 60 percent per election cycle, substantially alleviating the burden on candidates and their committees. Chairman Tiernan pointed out that fewer reports would promote fuller compliance and would probably result in fewer errors. Such simplification, he emphasized, was not only consistent with full disclosure, but would actually improve it.
2. *Encourage Party and Grass Roots Activity.* In response to the concern that the Act had a restrictive effect on party and grass roots political activity, the Commission recommended "vitally needed" changes to encourage local volunteer efforts and to give State and local party committees greater flexibility in their campaign activity. The Commission recommended that State parties be permitted to make coordinated expenditures (2 U.S.C. §441a(d)) on behalf of Presidential candidates. These expenditures would be in addition to those now made by the national party.
3. *Clarification.* The Chairman also recommended several changes which would clarify the Act's requirements on contribution limitations and the public financing of Presidential elections. Finally, the Chairman suggested changes to eliminate cumbersome procedures and reduce delays in the administration of the law. One of the recommended changes would

allow any person subject to the provisions of the Act to have standing to request an advisory opinion.

The Chairman concluded by stating that the proposed revisions were designed to make the Act more effective and less burdensome on those required to comply with it. (The FEC 1978 *Annual Report* contains a complete discussion of previous legislative recommendations.)

A number of the Commission's recommendations were incorporated in amendments to the Federal Election Campaign Act (H.R. 5010) passed by the Senate on December 18, 1979, and the House on December 20, 1979,¹ and signed by President Carter on January 8, 1980. (Pub. L. No. 96-187.)

Block Grant System for State Election Offices

On May 2, 1979, the FEC's Coordinator of State Disclosure testified before the Senate Rules Committee on S. 994. The proposed bill would authorize a \$250,000 appropriation to the Commission to reimburse State election offices for costs incurred in preserving campaign finance reports filed under the Federal Election Campaign Act.²

In his testimony, the FEC's representative agreed with the Senate Rules Committee staff's recommendation that the bill be amended to provide for a block grant system of distributing the appropriation. Under the system, the grant would be distributed by the Commission according to each State's total number of electoral votes. The States would then be free to use the grant without the requirement of a detailed and time consuming voucher system.

¹ See Chapter 3 for highlights of the 1979 amendments to the Federal Election Campaign Act.

² See 2 U.S.C. Section 439 (the Federal Election Campaign Act as amended in 1979).

The recommendations for the block grant system were incorporated in the bill, which passed the Senate on May 10, 1979. The bill is currently pending action in the House Administration Committee.

Congressional Public Financing

On March 15, 1979, Commissioner Joan Aikens (serving then as FEC Chairman) testified before the House Administration Committee on H.R. 1, a proposed House bill which would have provided public financing for general election campaigns for the House of Representatives. At the Committee's request, Commissioner Aikens, accompanied by the FEC's current Chairman Robert Tiernan (serving then as Vice Chairman), testified on the FEC's experience in administering public financing in the 1976 Presidential election.

In its testimony, the Commission took no position on the substantive merits of public financing for Congressional elections. However, the Commission:

1. Stressed the importance of effective safeguards to ensure the integrity of the public financing system, including a certification review process and post-election audits;
2. Recommended a repayment provision for situations where public money is certified in excess of eligibility or used for nonqualified campaign purposes; and
3. Expressed concern about the administrative problems in enforcing expenditure limits.

The Commission estimated, in response to a question from the Committee, that the checkoff fund would require an additional \$35 to \$44 million if public financing were extended to House candidates. In additional testimony prepared at the request of the Committee, on April 10, 1979, Commissioner Aikens responded to questions concerning the assumptions on which the cost estimates had been based. On April 23, 1979, the Commission submitted another estimate based on assumptions specified by the House Administration Committee. The revised figures projected that the cost to the

checkoff fund would be \$27 to \$29 million if House candidates received public financing.

On May 24, 1979, the House Administration Committee voted not to report the bill out of committee.

Appendix 10 FEC Federal Register Notices, 1979

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Notice	Title	Federal Register Publication Date	Citation
1979-1	Presidential Election Campaign Fund and Primary Matching Funds (Revised Regulations on Presidential Matching Funds)	4/4/79	44 FR 20336
1979-2	Presidential Election Campaign Fund and Primary Matching Funds; Correction	4/13/79	44 FR 22407
1979-3	Presidential Election Campaign Fund and Primary Matching Funds; Correction	4/30/79	44 FR 25193
1979-4	Final Rule; Announcement of Effective Date of Revised Regulations on Presidential Election Campaign Fund and Primary Matching Funds	5/7/79	44 FR 26733
1979-5	Proposed Regulations: Presidential Election Campaign Fund; Federal Financing of Conventions	6/6/79	44 FR 32608
1979-6	Freedom of Information Act; Implementation Procedures	6/8/79	44 FR 33368
1979-7	Index of Multicandidate Political Committees; Notice of Publication and Availability	6/12/79	44 FR 33797
1979-8	Public Records and Freedom of Information Act; Correction	6/27/79	44 FR 37491
1979-9	Funding and Sponsorship of Candidate Debates	7/5/79	44 FR 39348
1979-10	Clearinghouse Advisory Committee; Notice of Hearing	8/20/79	44 FR 48937
1979-11	Contributions to and Expenditures by Delegates to National Party Nominating Conventions; Notice of Proposed Rulemaking	9/5/79	44 FR 51962
1979-12	Opinion and Regulation Index Available	9/17/79	44 FR 53800
1979-13	Proposed Regulations: Access to Public Records	9/17/79	44 FR 53923
1979-14	Transfer of Regulations to New Chapter (Reorganizing and Renumbering FEC Regulations)	9/27/79	44 FR 55781

Notice	Title	Federal Register Publication Date	Citation
1979-15	Proposed Regulations: Presidential Primary Matching Fund (Eligibility of Candidates Who Exceed Expenditure Limit)	9/27/79	44 FR 55594
1979-16	Availability of Indices to Statements and Reports	10/9/79	44 FR 58140
1979-17	Proposed Regulations on the Funding of Candidate Debates	10/12/79	44 FR 59162
1979-18	Presidential Election Campaign Fund: Federal Financing of Presidential Nominating Conventions; Transmittal of Regulations to Congress	11/1/79	44 FR 63036
1979-19	Presidential Election Campaign Fund: Eligibility of Candidates Who Exceed Expenditure Limitations Prior to Seeking Matching Funds; Transmittal of Regulations to Congress	11/5/79	44 FR 63756
1979-20	Presidential Election Campaign Fund: Suspension of Matching Fund Payments to Candidates Who Have Received Public Funds and Subsequently Exceed Expenditure Limitations; Proposed Regulations	11/5/79	44 FR 63753
1979-21	Funding of Federal Candidate Debates; Extension of Comment Period on Proposed Regulations	11/7/79	44 FR 64773
1979-22	Availability of Opinion and Regulation Index Supplements	12/13/79	44 FR 72226
1979-23	Multicandidate Political Committee Index; Announcement of Availability	12/27/79	44 FR 76731
1979-24	Funding and Sponsorship of Federal Candidate Debates; Transmittal of Regulations to Congress	12/27/79	44 FR 76734
1979-25	Presidential Election Campaign Fund; Federal Financing of Presidential Nominating Convention; Correction	12/31/79	44 FR 77137

Notice	Title	Federal Register Publication Date	Citation
1979-26	Presidential Election Campaign Fund; Federal Financing of Presidential Nominating Conventions; Final Rule; Announcement of Effective Date and Deletion of Existing Regulations	12/31/79	44 FR 77136

Type of Presidential Candidate	Spending Limit	Exempt Fundraising Spending Limit ¹
PRIMARY ELECTION		
Primary Candidates	a. National Limit: \$10,000,000 + COLA ² b. State Limit: The greater of \$200,000 + COLA or \$.16 x State VAP ³ + COLA	a. National Exemption: 20 Percent of the National Limit + COLA b. State Exemption: 20 Percent of the State Limit + COLA
Primary Candidates Not Accepting Public Funds	No Limit	No Limit
GENERAL ELECTION		
Major Party ⁴ Candidates	a. National Limit: \$20,000,000 + COLA b. State Limit: None	No Limit
Minor Party ⁵ or New Party Candidates ⁶	a. National Limit: \$20,000,000 + COLA ⁷ b. State Limit: None	20 Percent of the National Limit
Candidates Not Accepting Public Funds	No Limit	No Limit

¹ Any fundraising expenditures exceeding 20 percent of the spending limits for primary elections count against the limits. 100.8(b)(21). (NOTE: Fundraising expenditures targeted to a State within 28 days of the State's primary election, convention or caucus are presumed to count against the candidate's spending limit for that State. 110.8(c)(2).)

² COLA is the cost-of-living adjustment. The Department of Labor calculates it annually, using 1974 as the base year.

³ VAP is the Voting Age Population. The Department of Commerce calculates it annually.

⁴ A major party candidate is the nominee of a party receiving 25 percent or more of the total popular votes in the preceding Presidential election. 140.6.

⁵ A minor party candidate is the nominee of a party receiving between 5 percent and 25 percent of the total popular votes in the preceding Presidential election. 140.7.

⁶ A new party candidate is the nominee of any party receiving less than 5 percent of the total popular votes in the preceding Presidential election. 140.8.

⁷ Minor party and new party candidates entitled to retroactive public funding in the general election may spend up to \$20,000,000 + COLA in private contributions and public funds. 141.2(b)(1). Minor party and new party candidates may also spend an amount equal to 20 percent of the expenditure limit for fundraising purposes and not count these expenditures against the overall spending limit. Any fundraising costs exceeding this amount would count against the spending limit. 100.8(b)(21).

Appendix 11 Public Funding Expenditure Limits

Maximum Amount of Public Funds Candidate May Receive	National Party Spending Limit for Candidate	Limits on Spending from Personal Funds
50 Percent of the National Limit	Not Applicable	\$50,000
Not Applicable	Not Applicable	No Limit
\$20,000,000 + COLA	2 cents x VAP of U.S. + COLA	\$50,000
Ratio of: ⁸ $\frac{\text{public funds}}{\$20,000,000 + \text{COLA}} = \frac{\text{candidate's popular vote}}{\text{average popular vote of major party candidates}}$	2 cents x VAP of U.S. + COLA	\$50,000
Not Applicable	2 cents x VAP of U.S. + COLA	No Limit

⁸ A minor or new party candidate is eligible to receive a proportionate amount of the grant available to major party candidates (\$20,000,000 + COLA). Payments are based on the ratio of the minor party or new party candidate's popular vote in the past or current Presidential election to the average vote received by the major party candidates. 142.2 and 142.3.

Appendix 12

Assistance Available from the FEC

Publications

- *The Federal Election Campaign Act*
- *FEC Regulations*
- Registration Forms
- Reporting Forms
- *FEC Bookkeeping and Reporting Manual*
- *The FEC Record*, monthly newsletter
- *Campaign Guide for Congressional Candidates and Their Committees*
- *Campaign Guide for Presidential Candidates and Their Committees*
- *Campaign Guide for Political Committees*
- *Campaign Guide for State and Subordinate Party Committees*
- *Guideline for Presentation in Good Order*
- *Financial Control and Compliance Manual for Presidential Candidates Receiving Public Financing* (applies to Presidential Primary Candidates)
- *The Annual Report*
- *The FEC and the Federal Campaign Finance Law*, brochure for general public

Clarification of the Law

General Assistance. Candidates, committees and the public may obtain information and materials from the FEC's Office of Public Communications. Contact the Commission in Washington, D.C. at 523-4068 or call toll-free 800-424-9530.

Advisory Opinions. For questions relating to the application of the law to a specific, factual situation, any person may request an advisory opinion in writing. Requests for opinions and the opinions themselves are made public. A requesting person who in good faith acts in accordance with the advisory opinion will not be subject to any penalties with regard to the activity in question. See 2 U.S.C. §437f(b)(2).

Public Records Office

This office makes available for public inspection microfilm and paper copies of reports and statements filed by Federal candidates and committees (1972-present). Any document may be copied for a cost of 10 cents per page for copies

from microfilm and 5 cents per page for copies from paper files.* Other documents available for public inspection include:

- FEC Disclosure Reports
 - *FEC Reports on Financial Activity and Disclosure Series* (published indexes which consolidate and summarize data taken from the financial disclosure reports)
 - Daily updated computer printouts of various FEC indexes, as available
 - Index of Multicandidate Political Committees
 - Index of all Registered Political Committees
 - Index of all Federal Candidates
 - Index of Political Committees and Their Sponsors
 - Index of Sponsors and Their Political Committees
- Enforcement cases (index, closed compliance actions)
- Audits (GAO 1972-74, FEC 1975-present)
- Court cases (*Buckley v. Valeo*, etc.)
- FEC publications (*Campaign Guides*, *FEC Record*, *Annual Report*)
- Presidential matching fund certifications
- Presidential and Vice Presidential personal financial disclosure statements filed under the Ethics in Government Act
- Information on contributions submitted by Presidential candidates to establish eligibility for primary matching funds
- Hearing transcripts (upon request)
- General information (newspaper articles, studies on campaign finance by other organizations, informational handouts)

*Anyone using such documents is reminded, however, of the election law's requirement that any information copied from reports and statements may not be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose, other than using the name and address of any political committee to solicit contributions from such a committee.