



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

September 29, 1978

AO 1978-28

Mr. Thomas A. Collins, Esq.  
Guild, Hagen & Clark, Ltd.  
Attorneys and Counselors at Law  
102 Roff Way  
P.O. Box 2838  
Reno, Nevada 89501

Dear Mr. Collins:

This refers to your letter of April 19, 1978, requesting an advisory opinion on behalf of the Washoe County Republican Party Federal Committee as to whether the Federal Election Campaign Act of 1971, as amended ("the Act"), requires registration and reporting by the Committee if its activities are limited to conducting a get-out-the-vote drive around election day in November.

You have stated that the Washoe County Republican Party contemplates a get-out-the-vote drive just before election day which will consist largely of a telephone bank operation. This activity is similar to that conducted in the past and will involve contacting Republican voters who have not yet voted on election day to encourage them to vote. The Party has registered the Federal Committee only because you have heard that the Commission requires a local party committee to register in order to conduct get-out-the-vote activity in a Federal election year. Your letter also explains that the County party organization:

"is going to only directly help and support local legislative, commission and judicial candidates. There is no plan at all at this time to help any Federal candidates. At this time in Nevada there would be only one possible Federal candidate and that would be for Nevada's sole seat in the House of Representatives. Therefore, any effect upon a Federal race would be very minimal and indirect, amounting to less than 10% of the expenditure made. At this time, we do not plan to raise or spend more than \$1,000 for a Federal candidate. Actually at this time it is not our plan to spend any money directly on a Federal candidate."

You ask whether expenditures of the Washoe County Republican Party for its 1978 get-out-the-vote drive are subject to the Act and Commission regulations with the result that the Party would have to register as a "political committee," pursuant to one of the alternatives in 102.6(a) of Commission regulations, if its expenditures for the drive will exceed \$1,000. The Act defines the term "expenditure" to include any "purchase, payment, distribution" made for the purpose of influencing the nomination or election of any person to Federal office. 2 U.S.C. 431(f). Any committee, association, or organization which makes "expenditures" during a calendar year in an aggregate amount exceeding \$1,000 is a "political committee" as defined in 2 U.S.C. 431(d) and is required to register with the Commission within 10 days after its organization or, if later, 10 days after it has information causing the committee to "anticipate" it will make expenditures in excess of \$1,000.<sup>1</sup> 2 U.S.C. 433(a); see also 102.1(a) of Commission regulations. The Commission has recently held that expenses of a political party organization for a get-out-the-vote drive in a Federal election year are, at least in part, for the purpose of influencing the election of persons to Federal office even though the drive is not conducted expressly or exclusively on behalf of candidates for Federal office. Advisory Opinions 1978-50 and 1978-10, copies enclosed. The Commission further concluded that the amount of get-out-the-vote expenses attributable to Federal election purposes (required to be paid from a registered and reporting "political committee" that accepted only those funds permissible under the Act, 2 U.S.C. 441a through 441(g) should be computed on a "reasonable basis" under 106.1(e) of Commission regulations.<sup>2</sup>

As respects your specific factual situation, you have estimated that the effect of the County party's 1978 get-out-the-vote drive upon a Federal race in Nevada (the only one in 1978 is for an at-large seat in the United States House of Representatives) would be "very minimal and indirect, amounting to less than 10%" of the expenses for the drive. In a supplemental letter dated September 21, 1978, you indicated that total expenses for the drive are budgeted at \$1,400. Accordingly, if your estimate is made on a reasonable basis and actual expenses are \$1,400, the \$140 amount allocable to Federal election purposes would not by itself cause the County party organization to become a "political committee" under the Act. It will be necessary, however, for the county party to defray the Federal election portion of the expenses from funds which are lawfully contributed under the Act.<sup>3</sup>

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<sup>1</sup> A committee or other organization may also become a "political committee" under the Act if it receives "contributions" exceeding an aggregate amount of \$1,000 during a calendar year. The anticipation of contributions aggregating over \$1,000 in a calendar year similarly invokes the requirement to register under 2 U.S.C. 433(a).

<sup>2</sup> The Commission noted that, in addition to the method stated in 106.1(e), two other allocation formulas were considered reasonable:

- (i) ratio of funds received by reporting Federal political committee to all funds received by party organization for both Federal election and State election purposes; and
- (ii) ratio of number of ballot positions for Federal office in next election to the number of positions for comparable State offices in the next election. See the December 1977 Guideline and the Commission's response to Advisory Opinion Request 1976-72 for a more extensive explanation, copies enclosed.

<sup>3</sup> In particular, contributions from treasury funds of corporations, national banks, and labor organizations are prohibited under 2 U.S.C. 441b, as are contributions from Government contractors under 441c and foreign nationals under 441e.

The 10% estimate is considered reasonable since the Commission has learned that the 1978 general election ballot in Washoe County will include candidates for 6 Statewide executive offices, at least 7 county-wide executive offices, and approximately 13 State legislative offices.

Your supplemental letter also explains that the telephone contacts to be made in the drive will not include any identification or mention of a candidate for Federal office. Therefore, it will not be necessary for the 10% Federal election portion to be treated as a party expenditure on behalf of the general election campaign of a specific candidate for Federal office under 2 U.S.C. 441a(d). See AO 1978-10 and AO 1978-50.

In light of this opinion you should terminate the registration of the Washoe County Republican Party Federal Committee if the County Party's intentions as to its participation in a 1978 Federal election, as well as its actual activity in that respect, do not involve any expenses other than the \$1,400 for the described get-out-the-vote drive.

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act, or prescribed as a Commission regulation, to the specific factual situation set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

Joan D. Aikens  
Chairman for the  
Federal Election Commission

Enclosures (AO 1978-50, AO 1978-10, December 1977 Guidelines, AOR 1976-72)