

ADDENDUM D



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

March 29, 1978

MEMORANDUM

TO: The Commissioners

THRU: Orlando B. Potter, Staff Director *OB.P.*

FROM: Mark Gersh, Director, Planning & Management *M.G.*

SUBJECT: Proposed Revised FEC Form 5 (Report of Independent Expenditures by Persons)

The Office of Planning and Management has completed its review and revision of FEC Form 5, however, in the course of this process, it has been suggested that the Commission might consider a recommendation which would change the reporting system used in the past to improve disclosure of independent expenditures made by persons other than political committees. In order to receive definitive guidance concerning the direction the Commission wishes to proceed during the 1978 election cycle, we have prepared for consideration three alternative reporting formats. The following analysis and explanation of each alternative has also been prepared for your review.

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AGENDA ITEM
 For Meeting of: April 6, 1978
 Agenda Item No: _____
 Exhibit No: _____

March 29, 1978

ALTERNATIVE NO. 1

The attached draft essentially follows the reporting scheme used by the Commission during 1976 and 1977. Under that system, an individual reports, by means of a check-off, that either an independent expenditure or a contribution to an independent expenditure was made. The person reporting must also disclose the payee, the particulars, date, amount and candidate supported or opposed. This reporting scheme follows Parts 109.2 and 109.5 of the Commission's regulations, however, this system presumes that the amount disclosed is derived from personal funds (in the case where only an expenditure is reported) or that, in the case where money expended is not from personal funds, all contributors are aware of and do report the contribution. To illustrate, if five individuals join to make an independent expenditure and four "contribute" to the fifth who then makes the expenditure, the Commission can only assume that the four will report their contributions, while the fifth will report the expenditure. Furthermore, under this system, the disclosure of the expenditure should be the total; however, the fifth person technically need only report his or her one-fifth share.

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March 29, 1978

make contributions toward independent expenditures are aware of the need to and in fact report to the Commission. What this alternative accomplishes is to fix responsibility upon the individual who makes the actual expenditure to disclose the source of funds which comprise the expenditure if they are derived from sources other than his or her own personal funds. Thus if four individuals give money to a fifth who combines that amount with his own (or merely takes the money of others) to make the independent expenditure that person must identify the other four on line 6 and the details of the expenditure on line 7. The authority to require the disclosure of this level of details seems clear from 2 U.S.C. Section 434(e)(1). The applicable phrase, states "Every person who makes contributions or independent expenditures....shall file with the Commission, on a form prepared by the Commission, a statement containing...the information required of a candidate or political committee receiving such a contribution." This seems to imply that both the contributor and expendor, must report. In the event the Commission elects to select this reporting scheme, Alternative No. 3 is offered for approvals. In addition, if this option is selected, Part 109 of the regulations must be changed.

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FORMS
 MARCH, 1978
 FEDERAL ELECTION COMMISSION
 1325 K STREET NW
 WASHINGTON, DC 20543

**REPORT OF INDEPENDENT EXPENDITURES
 AND/OR CONTRIBUTIONS BY PERSONS
 (TO BE USED BY INDIVIDUALS OR ANY GROUP OF
 PERSONS OTHER THAN POLITICAL COMMITTEES)**

1. NAME OF PERSON (IN FULL) _____ 2. IDENTIFICATION NUMBER _____
 b. ADDRESS (NUMBER AND STREET) _____
 c. CITY, STATE AND ZIP CODE _____

3. THIS IS AN INDEPENDENT EXPENDITURE:
 IN SUPPORT OF FEDERAL CANDIDATE(S)
 IN OPPOSITION TO FEDERAL CANDIDATE(S)

4. Type of Report: (Check appropriate box and complete.)
 (a) Abundant for _____ (which report) (d) October 10 Quarterly Report
 (b) April 10 Quarterly Report (e) January 31 Year End Report
 (c) July 10 Quarterly Report
 (f) Tenth day report preceding _____ election on _____ in the State of _____
 (primary, general or convention) (date)
 (g) Thirtieth day report following _____ election on _____ in the State of _____
 (primary, general or convention) (date)

5. THIS REPORT COVERS THE PERIOD _____ THROUGH _____

6. CONTRIBUTIONS

Full Name, Mailing Address and ZIP Code of PERSON TO WHOM CONTRIBUTION MADE OR FROM WHOM RECEIVED	PARTICULAR of Expenditure	Date (month, day, year)	Amount	Name and Office sought of Federal Candidate

7. EXPENDITURES

Full Name, Mailing Address and ZIP Code OF PAYEE	PARTICULAR of Expenditure	Date (month, day, year)	Amount	Name and Office sought of Federal Candidate

7. TOTAL CONTRIBUTIONS MADE OR RECEIVED \$ _____
 TOTAL EXPENDITURES \$ _____

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, concert with, or at the request or suggestion of any candidate or any authorized committee or agent of such candidate or authorized committee. Furthermore, these expenditures did not involve the financing of dissemination, distribution, or republication in whole or in part of any campaign materials prepared by the candidate, his campaign committee, or their agent.

Subscribed and sworn to before me this _____ day of _____, 19____.

My Commission expires: _____

NOTARY PUBLIC

Signature

Date

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. Section 437g or Section 441j (See reverse side of form).

For further information contact:
 Federal Election Commission
 1325 K Street, N.W.
 Washington, D.C. 20543
 800-424-9530

Any information reported herein may not be copied for sale or use by any person for purposes of soliciting contributions or for any commercial purpose.

ALTERNATIVE #3

FEC
DOCUMENT
SEPARATOR

FEDERAL ELECTION COMMISSION

REGULAR MEETING

THURSDAY, APRIL 6, 1978
10:00 A. M.

AGENDA

- I. FUTURE MEETINGS
- II. *CORRECTION AND APPROVAL OF MINUTES - MARCH 30, 1978
- III. ADVISORY OPINIONS
- *A. AO 1978-12. Agenda Document #78-89 circulated March 31
 - *B. AO 1978-17. Agenda Document #78-90 circulated March 31
 - *C. AO 1978-19. Agenda Document #78-91 circulated March 31
 - *D. AO 1977-37. Agenda Document #78-96 circulated April 4
- IV. *DEBT SETTLEMENT PROCEDURES - Agenda Document #78-95 circulated April 4
- V. PROCEDURES FOR INTERNALLY GENERATED MATTERS
- VI. *PROPOSAL FOR EXPEDITING COMMISSION CONSIDERATION OF COMPLIANCE MATTERS
Agenda Document #78-93 circulated April 3
- VII. *COMMISSION AUDIT POLICY. Agenda Document #78-94 circulated April 3
- VIII. *PROPOSED REVISED FEC FORM 5 (Report of Independent Expenditures
by Persons). Agenda Document #78-88 circulated March 31
- IX. FOIA REGULATIONS
- X. APPROPRIATIONS AND BUDGET
- XI. PENDING LEGISLATION
- XII. PENDING LITIGATION
- XIII. LIAISON WITH OTHER FEDERAL AGENCIES
- XIV. CLASSIFICATION ACTIONS
- XV. ROUTINE ADMINISTRATIVE MATTERS

Continued on reverse

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VIII. PROPOSED REVISED FEC FORM 5

Chairman Harris stated that Agenda Document No. 78-88, containing "Proposed Revised FEC Form 5", had been labeled Exhibit VIII for April 6, 1978, and was before the Commission for discussion and action.

Chairman Harris recognized Deputy Director of Planning and Management, John Bronish, who reviewed the document and answered questions. Discussion was held.

Without objection, it was agreed to amend the title on Form 5 as follows:

Lines 3 and 4:

"(To Be Used By An Individual Or A Person Other Than Political Committee)".

Chairman Harris recognized Commissioner Tiernan, who

MOVED adoption of Alternative 2, of the Proposed Revised FEC Form 5 as set forth in Agenda Document No. 78-88, as amended this date.

The motion carried unanimously. (5-0)

IX. FOIA REGULATIONS

No report given.

X. APPROPRIATIONS AND BUDGET

No report given.

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