

**DECLARATORY RULING DR-1988-002  
RECONSTITUTED AS ADVISORY OPINION AO-1988-002  
RECONSTITUTED AS ETHICS INTERPRETATION EI-1988-002  
ISSUED SEPTEMBER 7, 1988**

At the regular meeting on September 7, 1988, the Oklahoma Council on Campaign Compliance and Ethical Standards acted on your request for a Declaratory Ruling.

[Your questions consist of the following:

*Pursuant to the statutory definitions of "campaign" and "candidate", and the Oklahoma Ethics Commission's rule definition of "political action committee", is an organization which has collected \$200 but has not attempted to influence any campaign required to register under Title 74 O.S. Supp. 1987, § 4212?*

*If not, will the Commission return the registration statement of an organization which is currently on file?*

Questions did not appear in original advisory opinion]

At that meeting the following advice was received and decision was reached relevant to your questions:

1. Ned Bastow, the Council's liaison with the Attorney General's office, advised that the new Oklahoma Campaign Compliance and Ethical Standards Act [the "Act"] left in effect rules adopted by the Oklahoma Ethics Commission which were not obviously in conflict with some part of the Act. His support for this conclusion was that:
  - a. Statutes are presumed to operate prospectively only unless there is some clear expression by the Legislature that they meant for the statute to reach back to something that had already happened, which was not expressed in the Act;
  - b. Absent such a clear expression by the Legislature, we would have an implied repealer of the rules. Implied repealers are disfavored by the courts who would require a clearer expression;
  - c. Therefore, as long as the old rules were properly promulgated under the Administrative Procedures Act, the Legislature had an opportunity to review them and disapprove them at that time; therefore, by their action, they have implicitly approved them, and for most purposes they have the same effect and force as statutes properly enacted by the Legislature.

The definition by rule of "political action committee" is, therefore, still in effect since it has not been superseded by the new Act.

2. One of the rules superseded under the Act was the Council's authority to issue declaratory Rulings. It was Mr. Bastow's advice that § 4206 (B) [taking the Council out of the Administrative Procedures Act] would prevent the issuance of Declaratory Rulings; however, he felt that questions filed as Declaratory Rulings could be reconstituted as Advisory Opinions under § 4206 (A) (6).

For this reason your Request for Declaratory Ruling was reconstituted as a Request for Advisory Opinion.

3. The definition of "campaign" was superseded under the Act to mean and include "all activities for or against the election of a candidate to a specific state or local office for a specific term or the passage or defeat of a state question from the date of the first contribution, the making of the first expenditure, the filing of a declaration of candidacy or a public announcement of intent to seek such election, whichever is first" [74 O.S. Supp. 1988, § 4202 (2)].

Under this revised definition, your organization would be required to register as soon as any public announcement of intent to seek re-election had been made by any person it supported or opposed or as soon as such person accepted a contribution or made an expenditure, whichever came first.

4. Both the new Act and the former OEC Act required the Commission, now the Council, to "Accept and file any information voluntarily supplied that exceeds the requirements of this act". [74 O.S. Supp. 1988, § 4206 (A) (2)]

**The Council, therefore, in open session, voted to inform you that previous forms filed with this office under the former law cannot be returned pursuant to 74 O.S. Supp. 1988, § 4206 (A) (2).**