

**ADVISORY OPINION AO-1988-004
RECONSTITUTED AS ETHICS INTERPRETATION EI-1988-004
ISSUED NOVEMBER 9, 1988**

The Oklahoma Council on Campaign Compliance and Ethical Standards has received your request for an advisory opinion asking, in effect:

1. *Do the limitations set out in Title 74 O.S. Supp. 1988, § 4216 apply to "elections" as defined by 2 U.S.C. § 431 (1) and 11 CFR § 100.2 (A)?*
2. *More particularly, may a citizen of the State of Oklahoma make a contribution to a political committee established and maintained by a national political party as defined by 11 CFR 110.1 (c) in an amount not in excess of \$20,000.00?*
3. *Additionally, may a citizen of the State of Oklahoma make a contribution to other political committees as defined by 11 CFR 110.1 (d) in an amount in the aggregate not to exceed \$5,000.00?*

Election is defined in 2 U.S.C. § 431 (1) as follows:

The term "election" means--

- (A) a general, special, primary, or runoff election;
- (B) a convention or caucus of a political party which has authority to nominate a candidate;
- (C) a primary election held for the selection of delegates to a national nominating convention of a political party; and
- (D) a primary election held for the expression of a preference for the nomination of individuals for election to the office of President.

The term "election" is further defined in 11 CFR § 100.2 as:

...the process by which individuals, whether opposed or unopposed, seek nomination for election, or election, to Federal office.

Read together, the term "election" then, as used in the Federal Election Campaign Act, refers to an election for Federal office which is defined in 2 U.S.C. § 431 (3) as "the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress."

Title 2 U.S.C. § 453 states that:

The provisions of this Act, and of rules prescribed under this Act, supersede and preempt any provision of State law with respect to election to Federal office.

Title 74 O.S. Supp. 1988, § 4216 reads, in pertinent part:

No person or family may contribute more than Five Thousand Dollars [\$5,000.00] to a political party or organization in any calendar year.

The limitations contained in § 4216 would thus be superseded and preempted by provisions in the Federal Election Campaign Act governing election to Federal office.

11 CFR § 110 (c) states that:

No person shall make contributions to the political committees established and maintained by a national political party in any calendar year, which, in the aggregate, exceed \$20,000.

11 CFR § 110.1 (c) (2) defines "political committees established and maintained by a national political party" as:

- * * *
- (i) The national committee;
 - (ii) The House campaign committee; and
 - (iii) The Senate campaign committee.

State law in this case would be preempted by Federal law. However, even though each committee can receive \$20,000, the individual is limited to a maximum contribution, in the aggregate, of \$25,000 per year pursuant to 11 CFR § 110.5.

11 CFR § 110.1 (d) states:

No person shall make contributions to any other political committee in any calendar year which, in the aggregate, exceed \$5,000.

This provision would also supersede and preempt the provision Title 74 O.S. Supp. 1988, § 4216 [which places the same limitation on a "person or family"] for political committees receiving contributions and making expenditures organized to influence elections for Federal office.

It is, therefore, the advisory opinion of the Oklahoma Council on Campaign Compliance and Ethical Standards, as voted on at its regular meeting on November 9, 1988, that:

- 1. Any limitation set out in Title 74 O.S. Supp. 1988, § 4216 has been superseded and preempted by The Federal Election Campaign Act of 1971, as amended, for "elections" as defined by 2 U.S.C. § 431 (1) and 11 CFR § 100.2 (a) for Federal office;**
- 2. A citizen of the State of Oklahoma may make contributions to a political committee established and maintained by the national political party, as defined by 11 CFR 110.1 (c) (2) in an amount in the aggregate not to exceed \$20,000.00 per calendar year subject to the individual contribution limitation of \$25,000 in a calendar year; and**

3. **A citizen of the state of Oklahoma may make a contribution to other political committees as defined in 2 U.S.C. § 431 (4) [which receive contributions or make expenditures solely for the purpose of influencing any election for Federal office] in an amount in the aggregate not to exceed \$5,000.00 in any calendar year subject to the individual contribution limitation of \$25,000 in a calendar year.**