

**INFORMAL OPINION IO-1994-014
ISSUED SEPTEMBER 26, 1994**

This is in response to your letter of March 6, 1994, wherein you posed the following question:

1. *What are the registration and reporting obligations of a ballot measure committee for educational reform [the "Committee"], which was formed to "explore and develop proposals to change education laws" and which might be submitted to the people either as a referendum or an initiative?*
2. *If registration and/or reporting is required, when are the forms due?*

We note you have asked only for an interpretation under existing statutes [74 O.S. 1991, § 4200 et seq.¹]. As of July 1, 1994, committees must also comply with reporting obligations under the Constitutional Ethics Rules [257:1-1-1 et seq. of the Rules of the Ethics Commission, 74 O.S. Supp. 1994, Ch 62, App.]. Therefore, your question will be analyzed under both sets of authority.

The Ethics Commission Act ["Act"] addresses the issue of registration and reporting by committees supporting or opposing issues. It provides as follows:

Definitions

As used in this act, Section 4200 et seq. of this title:

* * *

7. "Committee" means a candidate committee, political action committee, political party, or organization;

* * *

26. "Political action committee" means a combination of at least two individuals, or a person other than an individual:

a. with the primary or incidental purpose of:

(1) supporting or opposing a candidate or political party, except those required to file with the Federal Election Commission, or

(2) supporting or opposing a state question, and

b. which accepts contributions or makes expenditures aggregating at least Two Hundred Dollars (\$200.00) during a calendar year;

74:4202(7) & (26)

¹Repealed 1995

The Act [supra] requires registration by a committee as follows:

Registration of committees--Form

A. Committees shall register with the Ethics Commission within ten (10) days of organization or within ten (10) days of receiving or expending more than Two Hundred Dollars (\$200.00). The form shall require the following information:

* * *

74:4212(A)

The time for filing the initial campaign contributions and expenditures report is specified as follows:

Time for filing reports of contributions and expenditures

The reports of contributions and expenditures or statements of inactivity shall be filed with the Ethics Commission for candidates or candidate committees for state and county office and committees supporting or opposing state or county candidates and organizations, or with the clerk of the appropriate political subdivision for municipal or school board candidates, candidate committees, and committees supporting or opposing municipal or school board candidates, as follows:

* * *

5. The reports of committees accepting contributions or making expenditures for or against a state question shall be filed with the Ethics Commission as follows:

A. In the case of a campaign for or against an initiative or referendum petition or a legislative referendum, a report shall be filed on or before the fifth day after the initiative or referendum petition or measure containing a legislative referendum is filed with the Secretary of State. The report shall cover the period beginning with the date on which the earliest contribution was accepted or expenditure was made, whichever was earlier, through the day before the petition or measure is filed with the Secretary of State,

* * *

74:4215(5)(A)

In addition to these statutory provisions, the Constitutional Ethics Rules ["Rules"], supra, speak to registration and reporting by committees supporting or opposing issues. They provide as follows:

Definitions

"Ballot measure" means an initiative, referendum, legislative referendum, legislative initiative, state question, or any proposition or measure submitted to voters for their approval or rejection at a statewide election.

* * *

"Committee" means a candidate committee, political action committee, or party committee.

* * *

"Political action committee"

(1) means a combination of at least two individuals, or a person other than an individual:

(A) with the primary or incidental purpose of:

(i) supporting or opposing a candidate or candidates, or a party committee, except those required to file with the Federal Election Commission, or

(ii) supporting or opposing a ballot measure; and

(B) which accepts or gives contributions or makes expenditures from a joint account aggregating at least five hundred dollars (\$500) during a calendar year.

(2) does not include a party committee or a candidate committee.

257:1-1-2

The Rules [supra] require registration by a committee as follows:

Registration requirements

(a) A committee other than a candidate committee, including an out-of-state committee, which accepts one or more contributions or makes one or more expenditures in excess of five hundred dollars (\$500) in the aggregate in this state in a calendar year shall file a statement of organization with the Commission no later than five (5) days after accepting the contribution(s) or making the expenditure(s). A new statement of organization shall be filed between January 1 and January 15 of each year thereafter. Failure to re-register by filing a new statement of organization shall be deemed the committee's intention neither to accept contributions nor make expenditures in excess of five hundred dollars (\$500) in the aggregate during the current calendar year. A statement of that intent shall be filed on or before the final day for filing the next quarterly report. If, thereafter, the committee accepts or expends in excess of five hundred dollars (\$500) in the aggregate in the same or a future calendar year, a new statement of organization shall be filed within five (5) days after accepting the contribution(s) or making the expenditure(s).

257:10-1-11(a)

The time for filing campaign contributions and expenditures reports is specified as follows:

Required reports of contributions and expenditures

(a) Periodic reports by all committees.

* * *

(3) The treasurer of each committee supporting or opposing a ballot measure, or supporting or opposing a candidate and a ballot measure, shall file monthly reports of contributions accepted and expenditures made no later than the tenth (10th) day of each month and include all contributions and expenditures made the previous month. The first report filed by such a committee shall be the next report due following the filing of a statement of organization.

* * *

(b) Pre-election reports by all committees.

(1) A committee shall file a pre-election report for each primary, runoff primary and general election held pursuant to Sections 1-101, 1-102 and 1-103 of Title 26 of the Oklahoma Statutes and for any special election, including a special primary election, if any, for which a registered committee accepts a contribution or makes an expenditure in support of or in opposition to a candidate for office in that election cycle or a ballot measure on the ballot in that election.

(2) A pre-election report shall be filed no later than eight (8) days and no earlier than fourteen (14) days before an election. This pre-election report shall include information for all transactions made since the end of the last reporting period through fifteen (15) days before the date of the election.

(3) The pre-election report filed prior to the Runoff Primary shall substitute for the report due on October 15 for a candidate committee during an election year of the candidate or a committee supporting or opposing only candidates in an election cycle.

257:10-1-13(a)(3) and (b)

You have stated the following facts about the Committee:

1. Certain funds [amount unknown] have been accepted by the Committee in completing the proposed draft of constitutional changes.
2. The funds have been used almost exclusively for the purpose of printing and publishing a quarterly newsletter.
3. Funds have also been used to rent booths at conventions where brochures and copies of the newsletter were distributed.
4. The Committee's proposals were filed during the recent session of the legislature in both the Senate and House as a joint resolution.

5. The joint resolutions were assigned to the Finance and Education Committee where they were "killed" without a hearing.

From the facts you have stated, your expenditures appear to have been made in advance of the first point at which a committee must register under the statutes or the rules. In other words, until the issue The Committee supports becomes an initiative, referendum, legislative referendum, legislative initiative, state question, or any proposition or measure submitted to voters for their approval or rejection at a statewide election, it is not required to register or report. Until that time, The Committee is not a political action committee under the Act or the Rules.

The Act requires registration of a political action committee upon organization or within ten (10) days of accepting or expending more than \$200 in support or in opposition to a state question. The Rules require registration within five (5) days of collecting or expending \$500 for or against a ballot measure, which includes an initiative, referendum, and legislative referendum.

CONCLUSION

In conclusion, although I have attached for your information materials needed to register the Committee under the rules, until such time as your proposed legislation becomes a ballot measure, which is an initiative, referendum, legislative referendum, legislative initiative, state question, or any proposition or measure submitted to voters for their approval or rejection at a statewide election, it has no registration or reporting obligations under either the Act [supra] or Rules [supra].

Please be aware that informal opinions are not official pronouncements of the Commission. Hence, this letter carries no greater weight than the views of any other citizen. The Commission is available to issue interpretations on matters arising from the Ethics Commission Act and the Constitutional Ethics Rules. These are known as Ethics Interpretations. They are official and bind the future action of the Commission.