



FEDERAL ELECTION COMMISSION
WASHINGTON, D. C. 20463

March 5, 1981

MEMORANDUM

TO: FRED EILAND
PRESS OFFICE

FROM: BOB COSTA *RC*

SUBJECT: PUBLIC ISSUANCE OF FINAL AUDIT
REPORT-NATIONAL EDUCATION
ASSOCIATION POLITICAL ACTION
COMMITTEE

Attached please find a copy of the final audit report of the above mentioned Committee which was approved by the Commission on February 25, 1981.

Informational copies of the report have been received by all parties involved and this report may be released to the public.

Attachment as stated

cc: FEC Library
BAD
Public Record



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION ON THE NATIONAL EDUCATION ASSOCIATION POLITICAL ACTION COMMITTEE

I. Background

A. Overview

This report is based upon an audit of the National Education Association Political Action Committee ("the Committee") undertaken by the Audit Division of the Federal Election Commission in accordance with the Commission's audit policy to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 438(a)(8) of Title 2, United States Code, which, at the time of the audit, directed the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of the Act.

The Committee registered with the Office of the Secretary of the United States Senate on April 17, 1972. The Committee maintains its headquarters in Washington, D.C.

The audit covered the period January 1, 1977 through April 30, 1979, the coverage date of the most recent report filed by the Committee at the time of the audit. The Committee reported a beginning cash balance at January 1, 1977 of \$41,916.72, total receipts of \$835,843.22, total expenditures of \$416,436.97, and a closing cash balance at April 30, 1979 of \$461,322.97.

The National Education Association (NEA) is a nationwide teachers organization with an NEA association in each state, further divided into approximately 10,500 local NEA associations at the school district level. As of July, 1977, NEA membership totaled approximately 1.7 million individuals.

Generally, contributions are solicited at the local level by payroll deduction whereby the local school district deducts Committee contributions from members' salaries along with local, state, and NEA dues and contributions for NEA local and state political action committees, if any. These funds are transmitted to the local NEA associations where local dues and political contributions, if any, are retained. The remaining funds are then transmitted to the state NEA associations where they are deposited, split, and contributions forwarded to the Committee. Committee officials estimated that approximately 75% of the Committee's contributions were collected by the payroll deduction method.

Since a significant portion of the Committee's receipts are raised at the local level and transmitted through the state NEA associations, the Audit staff determined that, in order to test the Committee's overall compliance with the Act and Commission regulations concerning solicitation and recordkeeping for contributions, a review of records maintained at the state level would be necessary. Accordingly, two (2) state NEA associations were selected for review, based on their relatively large proportion of receipts transmitted to the Committee, as follows:

- (1) The Pennsylvania State Education Association, (PSEA) Harrisburg, Pa.
- (2) The Michigan Education Association, (MEA) East Lansing, Mi.

The findings resulting from our review of records at the state NEA affiliate level are presented following the Committee's (Headquarter's) section of this report.

This audit report is based on documents and working papers supporting each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in this report and were available to Commissioners and appropriate staff for review.

B. Key Personnel

The principal officers of the Committee for the period covered by the audit were Mr. John Ryor, Chairman and Mr. Terry Herndon, Treasurer.

C. Scope

The audit included such tests as verification of total reported receipts and expenditures and individual transactions; review of required supporting documentation; analysis of Committee debts and obligations; and, such other audit procedures as deemed necessary under the circumstances.

II. Audit Findings and Recommendations

A. National Headquarters Activity

1. Solicitation and Collection of Contributions by Reverse Check-off Payroll Deduction Method

Section 441b(b)(3)(A) of Title 2, United States Code, in part, prohibits a separate segregated fund from making a contribution or expenditure by utilizing money or anything of value secured by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment. Section 114.5(a) of Title 11, Code of Federal Regulations, in part, provides that fees or monies paid as a condition of acquiring or retaining membership or employment are monies so required even though they are refundable upon request of the payor.

On September 28, 1977, the Federal Election Commission filed suit against the National Education Association, et al, alleging that the Committee's method of soliciting and collecting contributions by payroll deduction constituted a reverse check-off method and, therefore, was prohibited by 11 CFR 114.5(a). Under the Committee's method which was in effect during part of the audit period, when a teacher signed his NEA membership application, he thereby automatically agreed, in addition to a deduction for dues, to a deduction for the \$1.00 annual political contribution. If the NEA member did not want to make the contribution, he had to submit a separate written request for a refund rather than being able to disallow the deduction in the first place.

On July 20, 1978, the U.S. District Court of the District of Columbia granted the Commission's motion for summary judgement, and held that NEA had violated the Act when they used the reverse check-off system to collect contributions for the Committee. The Court enjoined NEA from further use of the method and directed them to inform their members of the lawsuit and the Court's decision, and to afford NEA members the opportunity of obtaining refunds.

B. State NEA Affiliate Activity

Overview

As indicated previously, Committee contributions are solicited and collected at the local school district level via payroll deduction together with NEA dues and transmitted to the Committee through the local association's state NEA affiliate. In order to review this process, two (2) state NEA affiliates were selected for review by the Audit staff. Their records pertaining to Committee activity were reviewed and NEA officials on site were interviewed. The findings resulting from this review of Committee activity at the state NEA affiliate level are presented below.

1. Timely Deposit of Contributions Into Campaign Depository

Section 103.3(a) of Title 11, Code of Federal Regulations requires, in part, that all contributions received by political committee(s) shall be deposited in a checking account in the appropriate campaign depository by the treasurer of the committee or his/her agent, within 10 days of receipt. Subsequent to the audit fieldwork, Section 432(b)(2) of Title 2, United States Code was amended to require, in part, that contributions be forwarded to the Committee treasurer within 30 days of receipt, or in the case of contributions in excess of \$50.00, within 10 days of receipt.

Our review of the Pennsylvania State Education Association (PSEA) and Michigan Education Association (MEA) payroll deduction plans indicated that Committee contributions were deposited along with NEA dues into the state associations' general treasury accounts. In neither instance were Committee contributions subsequently split and transferred on to the Committee within the 10 (30) day period as was previously (is now) required by 11 C.F.R. 103.3(a) (2 U.S.C. 432(b)(2)). In the case of the PSEA, Committee contributions were held at the state level and transferred in one lump sum at the end of the membership year.

During our review of the MEA, we also noted that when the reverse check-off deduction was ruled illegal, the MEA turned to a "special projects" concept of soliciting and raising funds on the Committee's behalf which consisted of various fundraising events, such as rallies and dances. Our review of MEA records revealed that contributions raised through these events were deposited in a special segregated account but the funds were not always transferred to and deposited by the Committee in a timely manner. The length of time elapsed ranged from 7 to 79 days.

In the interim audit report, dated November 21, 1980, the Audit staff recommended that the Committee devise and implement written procedures to insure that contributions are collected and forwarded within the required time periods as cited above. It was further recommended that these written procedures be submitted to the Audit staff for review prior to distribution to the Committee's collection agents, locals, and state affiliates.

On January 9, 1981, the Audit staff received correspondence from the Committee stating that corrective action had been taken soon after the conclusion of the audit fieldwork to comply with the then in effect "10-day rule" by sending a memorandum to state affiliate officials. This

memorandum has since been revised as a result of recent amendments to the Act. Copies of these memoranda and related attachments were included in the Committee's response to the interim audit report.

Recommendation

Since the Committee has submitted copies of written procedures furnished to officials of the state affiliates advising them of the provision for timely deposit of contributions, including guidelines for implementation, the Audit staff recommends that no further action be taken on this matter.

2. Payment of Fundraising Expenditures

Section 441b(b)(2)(C) of Title 2, United States Code, provides that a labor organization may make expenditures for the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes.

Section 114.5(b)(2) of Title 11, Code of Federal Regulations, provides that a labor organization may utilize a raffle or fundraising device which involves a prize, as long as State law permits and the prize is not disproportionately valuable. Dances, parties, and other types of entertainment may also be used as fundraising devices. 11 C.F.R. 114.5(b)(2) further provides that when using raffles or entertainment to raise funds, a reasonable practice to follow is for the separate segregated fund to reimburse the labor organization for costs which exceed one-third of the money contributed.

During our review of MEA fundraising events held on behalf of the Committee, we noted that expenditures associated with the events were paid by the MEA from general treasury funds. Through our analysis of the proceeds and expenditures relating to each event, we determined that the MEA paid total expenses which exceeded 1/3 of the money contributed by \$3,874.03.

As previously mentioned, on January 9, 1981, the Committee submitted copies of written procedures which had been furnished to Committee officials at the state affiliate level.

These guidelines require that the fundraising agents provide NEA-PAC officials with a description of the financial arrangements of the fundraising activity. In addition, Committee officials advised the Audit staff that the MEA fundraising events discussed above are being investigated, and that the appropriate corrective action will be taken.

Recommendation

The Audit staff recommends that no further action be taken on this matter.

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