

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of:)	
)	
Opinion requested by)	
Francis Willmarth,)	No. 75-188
Attorney Representing)	August 3, 1976
California Democratic Council)	
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BY THE COMMISSION: We have been asked the following question by Francis Willmarth, representing the California Democratic Council:

The California Democratic Council (hereinafter referred to as "CDC") is a nonprofit corporation whose members consist, in part, of Democratic Clubs throughout the state. Neither the CDC nor the member clubs are committees or subcommittees of the Democratic Party.

Individual Democrats who join Democratic Clubs customarily pay dues to the clubs ranging between \$3.00 and \$6.00 per person per year. At the time the club collects these dues, it normally does not know the exact use to which the funds will be put. Approximately \$2.00 per person is paid to affiliate the individual member with CDC. The remaining portion of each member's dues is used for various purposes, including: (1) payments to county central committees and to local club federations; (2) payments to print and distribute the regular club newsletter to members; and (3) payments to hold club meetings at which the clubs may have programs on political and social matters of current interest.

The dues are not collected for the purpose of making contributions to candidates or ballot measures. If a club decides to support a candidate or ballot measure, the normal practice is to hold special fund raising efforts to raise money for that candidate or ballot measure.

On the basis of these facts, should the dues be counted as "contributions" in determining whether a club has received sufficient contributions to make it a committee within the meaning of the Political Reform Act?

CONCLUSION

Dues received by the Democratic Clubs are not contributions, unless the dues are "'earmarked' for the making of contributions or expenditures." A payment is "earmarked" when the donor knows or has reason to know that the payment will be used to make contributions or expenditures. Government Code Section 82015, 2 Cal. Adm. Code Section 18215.

ANALYSIS

The term "contribution" is defined in Government Code Section 82015^{1/} to include "a payment ... except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that [the payment] is not made for political purposes." We have adopted a regulation further interpreting the term "contribution," 2 Cal. Adm. Code Section 18215, which provides that all receipts of candidates, controlled committees, official committees of a political party, and organizations the major purpose of which is the election or defeat of candidates and measures should be characterized as "contributions."

The Democratic Clubs are not official committees of the Democratic Party because they are not part of the state central committee and the county central committees that make up the official structure of the Democratic Party in California. Moreover, they are not organized for the major purpose of electing or defeating candidates and ballot measures. Rather, they exist to provide a forum for discussing issues, a place to socialize and a means to perform community services, as well as a mechanism for supporting Democratic candidates.

Under these circumstances, receipts of the Democratic Clubs are contributions only if they are "'earmarked' for the making of contributions or expenditures," that is, if the donor knows or has reason to know that the dues will be used to make expenditures or contributions. 2 Cal. Adm. Code 18215(d). If a club customarily uses dues to make donations to candidates and ballot measures, or to carry on campaign activities supporting or opposing candidates and measures, the dues paying member will be charged with knowledge that all or part of the dues are "contributions." In such a case, the club should determine the percentage of dues receipts that is used for political purposes, and should characterize that portion as contributions received.

^{1/} All statutory references are to the Government Code unless otherwise noted.

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However, it has been stipulated in the present opinion request that club dues seldom are used to make "contributions" or "expenditures." If a club decides to support certain candidates, the club usually carries on a fund raising activity specifically for that purpose. Dues receipts typically are spent to publish the club newsletter and to pay for club meetings. Other payments are made to the California Democratic Council, county central committee and local club federations. Except for the amount paid to the county central committee, none of these disbursements are contributions or expenditures. Payments to a county central committee are contributions to that organization because the county central committee is an official committee of the Democratic Party and, accordingly, all payments to that organization are "contributions" to the committee. 2 Cal. Adm. Code Section 18215(b).^{2/}

If dues receipts routinely are paid to the county central committee, those receipts should be recorded as contributions received by the club. If the amount of such contributions, plus funds generated by specific fund raising activities in support of candidates and measures aggregate \$500 in a calendar year, the club will become a "committee," as defined in Government Code Section 82013(a), and will have to file periodic reports, as required by Chapter 4, Sections 84100, *et seq.* of the Political Reform Act. However, if the club does not receive contributions aggregating \$500 in a calendar year, and does not engage in other activities which would render it a committee within the meaning of Section 82013, it will not have any filing obligations under the Political Reform Act.

Approved by the Commission August 3, 1976. Concurring:
Brosnahan, Carpenter, Lapan, Lowenstein and Quinn.


Daniel H. Lowenstein
Chairman

^{2/} In the Opinion requested by Katherine Rawlings, 1 FPFC Opinions 62 (No. 75-053, July 2, 1975), we concluded that monthly payments paid to a county central committee are contributions.