



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

2015 NOV 16 PM 4:22

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AGENDA ITEM

MEMORANDUM

For Meeting of 11-17-15

TO: The Commission

FROM: Chair Ann M. Ravel 

Commissioner Ellen L. Weintraub 

SUBJECT: Coordination Rulemaking Proposal

SUBMITTED LATE

Revise the Commission's rules in 11 C.F.R. Part 109 Subpart C – Coordination and 11 C.F.R. Part 300 Subpart D – Federal Candidates and Officeholders as follows:

- 1) Create a new category of organization, called a “closely associated organization,” in a new section of the Commission’s rules in 11 C.F.R. Part 109 Subpart C – Coordination.
 - a. Define a “closely associated organization” as an organization that meets both of the following two requirements, regardless of whether it is registered with the Commission as a political committee:
 - i. In a calendar year the organization spends the majority of its “election-related spending” for the benefit of one candidate.
 1. Election-related spending “for the benefit of” a candidate includes both spending supporting the candidate and spending opposing the candidate’s opponents.
 - ii. The organization either:
 1. has an employee, independent contractor or founder who is the candidate’s immediate family member or who previously was employed by or worked as an independent contractor for the candidate or a committee authorized by the candidate in the past year; or
 2. has received fundraising support from the candidate, the candidate's campaign, the candidate’s immediate family member or staff in the past year; or
 3. shares a common vendor with the candidate, and the common vendor provided any of the services listed at 11 C.F.R. 109.21(d)(4)(ii); or

4. has been publicly identified by the candidate as a vehicle for supporting that candidate in the past year.
 - b. For the purposes of this section,
 - i. Define “election-related spending” as funds spent by the organization for the purpose of:
 1. influencing a federal election, including candidate research and polling,
 2. electioneering communications, and
 3. expenditures reported as independent expenditures.
 - ii. The term “election-related spending” would also include a reasonable allocation of the funds spent by the organization on administrative costs, salaries and office space based on the proportion of the organization’s election-related spending to its total spending in a calendar year.
 - c. Create a rebuttable presumption that all election-related spending of a closely associated organization is coordinated with the candidate the organization supports.
 - i. Organizations that meet the test for a “closely associated organization” due to a shared former employee or independent contractor may defeat the rebuttable presumption of coordination if they demonstrate that they established and implemented a firewall that meets the requirements of 11 CFR 109.21(h).
 - ii. The Commission should solicit comment on and consider additional ways in which the rebuttable presumption may be defeated.
- 2) In a new section of the Commission’s rules in 11 C.F.R. Part 109 Subpart C – Coordination, create a rebuttable presumption that the following communications are coordinated:
 - a. Communications that are created, produced, or distributed based on information about the candidate’s or committee’s campaign needs or plans that the candidate or committee provided to the expending person or entity, directly or indirectly, such as information concerning campaign messaging, planned expenditures or polling data.
- 3) Consistent with 52 U.S.C. § 30125(e)(1)(A), revise 11 C.F.R. § 300.64 to supersede Advisory Opinion 2011-12 (Majority PAC and House Majority PAC) and the response to Question 12 in Advisory Opinion 2015-09 (Senate Majority PAC and House Majority PAC), and prohibit Federal officeholders, candidates and national party officers from attending fundraising events and meetings (involving any number of individuals) at which independent expenditure-only political committees will be soliciting funds.
- 4) In a new section of 11 C.F.R. Part 300 Subpart D – Federal Candidates and Officeholders, and consistent with 52 U.S.C. § 30125(e)(1)(A), supersede the response to Question 11 in Advisory Opinion 2015-09 (Senate Majority PAC and House Majority

PAC) and prohibit individuals who are (1) agents and (2) either employees or family members of federal officeholders and candidates from raising funds for independent expenditure-only political committees.

- 5) In a new section of the Commission's rules in 11 C.F.R. Part 109 Subpart C – Coordination, create a rebuttable presumption that, when candidates and federal officeholders have participated in the recording of an advertisement created or paid for by an independent-expenditure-only political committee, the advertisement is coordinated.
- 6) Revise 11 CFR 109.21(c) to include in the “content” prong of the coordinated communications definition communications that “promote, support, attack or oppose” a Federal candidate.
- 7) Revise 11 CFR 109.21(d)(4)(ii) to include common vendors that worked for the candidate, his/her committee or political party within the past year instead of the past four months.
- 8) Revise 11 CFR 109.21(d)(5)(i) to include employees that were former employees of a candidate, his/her committee, or political party within the past year instead of the past four months.