



March 13, 2024

Sean J. Cooksey, Chairman  
Ellen L. Weintraub, Vice Chair  
Shana M. Broussard, Commissioner  
Allen J. Dickerson, Commissioner  
James E. Trainor, Commissioner  
Dara Lindenbaum, Commissioner  
Federal Election Commission  
1050 First St. NE  
Washington, DC 20463

**Re: Statement of Policy Regarding Commission Action in Matters  
at the Initial Stage in the Enforcement Process**

Dear Commissioners:

Campaign Legal Center (“CLC”) respectfully submits this comment on the “Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process” (the “new enforcement policy”), which is Agenda Document No. 24-10-A on the Federal Election Commission’s (“Commission”) March 14, 2024, open meeting agenda.<sup>1</sup> We urge the Commission to clarify how matters will be resolved under the new enforcement policy when the Commission deadlocks—*i.e.*, fails either to reach the required four-vote majority to find reason to believe a violation has occurred or to agree upon a basis for dismissing a matter.

As the new enforcement policy notes, the Commission has long adopted the practice of dismissing by a successful vote to close the file in enforcement matters where the Commission either fails to find reason to believe or fails to agree upon a basis for dismissal.<sup>2</sup> The new enforcement policy, however, can be read to suggest that going

<sup>1</sup> See Memorandum re: Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process (Mar. 7, 2024), <https://www.fec.gov/resources/cms-content/documents/mtgdoc-24-10-A.pdf> (“New Enforcement Policy”).

<sup>2</sup> *Id.* at 2 (“The Commission, however, in both public guidance and agency practice, has adopted at least seven possible options by which the Commission has resolved Matters: it may find reason to believe, find no reason to believe, dismiss the allegation, dismiss pursuant

forward, the Commission will exclusively resolve enforcement matters in one of two ways: through a successful vote to find reason to believe or a successful vote to dismiss,<sup>3</sup> effectively foreclosing the agency practice of dismissing by a successful vote to close the file—and thus offering no viable way forward in the event of Commission deadlocks, which occur with concerning frequency.

That would present significant problems for the agency, candidates and committees, and voters, since matters that deadlock would effectively be left in limbo, with potential violations of federal campaign finance laws languishing without resolution. It is imperative that the new enforcement policy outline a solution—such as adding Commission deadlock to the list of bases for a “vote to dismiss” or adding “close the file” as a means to dismiss in cases where the Commission deadlocks—that would provide for the resolution of such cases. As such, we respectfully urge the Commission to explicitly clarify that the new enforcement policy would not foreclose the Commission from dismissing a matter by a successful vote to close the file in matters where the Commission deadlocks.

Respectfully submitted,

/s/ Adav Noti

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to prosecutorial discretion, dismiss with admonishment, dismiss with the issuance of a cautionary letter, or simply close the file without further action.”).

<sup>3</sup> *Id.* at 3 (“Accordingly, the Commission is issuing this policy to apprise complainants, respondents, and the public of its decision to simplify voting options at the initial stage of the enforcement process. Generally speaking, at the initial stage in the enforcement process, the Commission will take one of the following actions with respect to a MUR: (1) find “reason to believe” or (2) dismiss.”).