

FEDERAL ELECTION COMMISSION

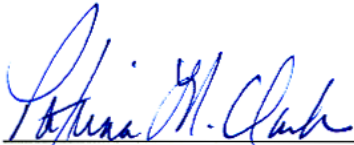
MANUAL OF DIRECTIVES	COMMISSION DIRECTIVE	
	REVOKES: Number 28 Dated January 15, 1980	NO. 28
	EFFECTIVE DATE: October 17, 2006	
Important correspondence from presidential campaigns certifying that the candidate will not be active in a primary election		

This memorandum is to call to your attention important communications from Presidential candidates for which you should be on the alert. The communication is important because it involves the candidate's continuing eligibility to receive public funds during the campaign period, and the Commission has a limited time to make an initial determination about the candidate's continuing eligibility. See 11 C.F.R § 9033.5 and 11 C.F.R § 9033.7(b).

The Commission may determine that a candidate is ineligible to receive public funds if the candidate receives less than 10 percent of the vote in two consecutive primaries, 26 U.S.C. § 9033(c)(1)(B), but the Commission's regulations at 11 CFR § 9033.5(b) permit a Presidential candidate to certify that he or she will not be an active candidate in a primary. Generally, the Commission has a total of 10 business days from the date of receiving the candidate's certification to make an initial determination as to whether it will accept the candidate's certification.¹ 11 C.F.R. § 9033.7(b)

The Presidential candidate must submit a certification to the Commission 25 business days prior to the relevant primary election declaring that he or she will not be active in that primary election. Any staff member who receives or sees such a communication, including any letter referring to 11 C.F.R. § 9033.5(b) or 26 U.S.C. § 9003(c), must immediately forward it to the General Counsel. All such communications must be brought to the immediate attention of the Office of General Counsel. The Office of General Counsel will inform the Audit Division that it has received any such communication within two business days of receipt. Within five business days of receiving the certification, the Office of General Counsel will submit a memorandum to the Commission that recommends whether the Commission should accept the candidate's certification. The Office of General Counsel will notify the candidate of the Commission's initial determination on whether the Commission accepts the candidate's certification.

This Directive was adopted on October 17, 2006.


 Patrina M. Clark
 Staff Director

¹ In limited circumstances described in 11 C.F.R. § 9033.7(b), the Commission may notify the candidate after 10 business days.