



Justyn Baxley <jbaxley@bostonbar.org> on 04/09/2004 04:20:16 PM

To: politicalcommitteestatus@fec.gov  
cc: rlanders@suffolk.edu, David Pronchick <dpronchick@bostonbar.org>, Deborah Gibbs <dgibbs@bostonbar.org>  
Subject: Comments on Proposed Rules Regarding Political Committee Status

Ms. Mai T. Dinh:

Attached are the comments of the Boston Bar Association on the proposed rules regarding political committee status. A faxed copy and mailed original have also been sent.

Thank you for your consideration of these comments.

Justyn Ann Baxley, Esq.

Assistant Director of Government Relations

BostonBar Association

16 Beacon Street

Boston, MA02108

(617) 778-1944

Fax (617) 523-0127

jbaxley@bostonbar.org



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April 8, 2004

**Via Electronic Mail**

Ms. Mai T. Dinh  
Acting Assistant General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC

**Re: Comments Concerning Notice of Proposed Rulemaking on Political  
Committee Status for Nonprofit Organizations**

Dear Ms. Dinh:

As President of the Boston Bar Association (BBA), I submit these comments in response to the Notice of Proposed Rulemaking on Political Committee Status issued by the Federal Election Commission on March 11, 2004.

The BBA is organized as a nonprofit corporation under state law and is exempt from federal income taxation under section 501(c)(6) of the Internal Revenue Code (IRC). The BBA has over 9,600 members and takes an active interest in issues that affect the operation of the legal system and the administration of justice. The BBA does not support or oppose any candidate for office, nor does it participate in any activities with regard to voter education and voter registration.

We regularly seek to educate the public and to advocate positions on legislative policy issues relating to our organization's mission. The BBA's mission is:

*To advance the highest standards of excellence for the legal profession,  
to facilitate access to justice, and to serve the community at large.*

Our organization has serious concerns that any kind of nonprofit organization whether advocating on issues of fiscal discipline, tax reform, poverty, immigration reform, the environment, or civil rights or liberties would face grave consequences if the Federal Election Commission's (FEC) latest proposed rules pass. We fear the proposed rules will do the following:

- Dramatically impair the vigorous debate about important policy issues, and restrict First Amendment freedoms in ways that are unhealthy for our democracy.

- Have a devastating impact on the issue advocacy and membership activities of nonprofit organizations, transforming them into political committees if they criticize or commend members of Congress or the President based on their policy positions.
- Restrict the ability of nonprofit organizations to communicate with their members on legislative and political subjects.

Most importantly, the FEC should not change the rules for nonprofit advocacy in the middle of an election year, especially in ways that Congress already considered and rejected.

Implementing these changes would go far beyond what Congress decided with the McCain-Feingold campaign finance law limiting unregulated corporate, union and large individual contributions to political parties. In the McConnell opinion upholding McCain-Feingold, the United States Supreme Court clearly stated that the law's limits apply to political parties and not interest groups. Nonprofit organizations such as bar associations serve an important role in public discourse by providing the collective expertise of numerous attorneys with diverse educational and practice area backgrounds when commenting on policy issues. Policy positions are not taken on behalf of individual clients; instead positions are reached after much consideration and debate by association members. Restricting the ability of a nonprofit organization like the Boston Bar Association to advocate for public policy positions would severely affect this function of educating the public on legal issues and issues affecting the administration of, and access to, justice.

We appreciate your consideration of our position and welcome the opportunity to discuss other methods of addressing the FEC's concerns without enacting the proposed rule changes.

Sincerely,



Renée M. Landers  
President

Original to follow