



"Wall, Megan" <MeganW@uwsepa.org> on 04/09/2004 02:36:05 PM

To: politicalcommitteestatus@fec.gov
cc:

Subject: comments on Draft Advisory Opinion 2003-37

Dear Commission Secretary:

Please find United way of Southeastern Pennsylvania's comments on Draft Advisory Opinion 2003-37 attached to this email. Thank you for your consideration.

<<Comments to FEC.doc>>
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- Comments to FEC.doc



To: Commission Secretary
Federal Election Commission
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Washington, DC 20463

From: Harriet Dichter, Director: Policy, Planning, and Public Engagement
hdichter@uwsepa.org
Joe Willard, Public Policy Manager, jwillard@uwsepa.org
United Way of Southeastern Pennsylvania
7 Benjamin Franklin Parkway
Philadelphia, PA 19103

RE: Draft Advisory Opinion 2003-37

Date: April 9, 2004

The United Way of Southeastern Pennsylvania is writing to express concern regarding the scope and implications of the General Counsel's draft Advisory Opinion 2003-37.

United Way of Southeastern Pennsylvania supports agencies that are organized as nonprofit corporations under state law and are exempt from federal income taxation under sections 501(c)(3) of the Internal Revenue Code. Some are engaged in educating the public and advocating positions on legislative and policy issues related to their charitable missions, often referencing current elected federal officeholders who have supported or opposed those positions— activities that the Commission noted in its October 23, 2002, rules on “electioneering communications” are considered by the public to be “highly desirable and beneficial.”

It is our understanding that many of the activities that the opinion would treat as expenditures under the Act seem similar to activities of 501(c)(3) organizations that had not been previously treated as expenditures, including activities more appropriately characterized as lobbying or fundraising or nonpartisan voter activation. In its attempts to regulate these activities of political committees, it is critical and essential that the Commission clarify that this will not apply to legitimate, nonpartisan activities by 501(c) organizations.

Effective advocacy work generally requires references to the elected officials who have sponsored or lead efforts to support or oppose particular legislation, yet this opinion appears to define any communication that includes criticism or praise of an elected federal official who is running for re-election as an expenditure that is subject to FECA rules.

Our position is the following:

1. 501(c)(3) and (c)(4) organizations should be excluded from the definition of political committees. Current tax law already limits the lobbying and partisan political activities of these groups.
2. The FEC should maintain its current, clear distinction between “express advocacy” communications (those that clearly call for a vote for or against a particular candidate or political party) and other nonpartisan communications. It should not adopt IRS standards for partisan advocacy, which were designed for a different regulatory and enforcement regime.
3. Voter registration and get-out-the-vote activities should only be considered political expenditures if they are clearly tied to a candidate or party. Activities targeted to specific populations (e.g., women, African Americans, a particular neighborhood, members of a particular organization) should not be considered political “expenditures” simply because those populations may be “more likely” to vote for a particular candidate or party.
4. The FEC should not issue rules without further guidance from Congress. Major changes such as those contemplated deserve full debate and action by elected representatives.

For these reasons, we strongly urge the Commission not to issue the draft opinion in its present form. Please feel free to contact us if you have questions or would like further information.