



Michael Green <michaelbgreen@worldnet.att.net> on 04/09/2004 12:52:09 PM

To: politicalcommitteestatus@fec.gov
cc:

Subject: fec_prop527

Ms. Mai T. Dinh
Acting Assistant General Counsel

Dear Ms. Dinh:

I oppose the rule changes that put 527 in the PAC category. My full name and address are at the end of this message.

The Facts on the FEC's Proposed Rules Regarding Political Committees that Could Adversely Affect Nonprofit Advocacy

Summary

On March 4, 2004, in a 5-1 vote, the Federal Election Commission (FEC) proposed new rules that will potentially redefine many nonprofits as political committees. The following information summarizes the possible effects of these proposed regulations that relate to the nonprofit community.

Q. What is the definition of a political committee today under federal election law?

A. The current rules define a political committee as any organization that

has \$1,000 in contributions or expenditures and whose major purpose is to elect federal candidates to office. Organizations meeting this threshold have to register and report to the FEC, and are subject to certain fundraising restrictions.

Q. What are the new definitions of political committee that the FEC is proposing?

A. The proposed regulations change the factors that the FEC considers when it decides if an organization is a political committee. The following categories of groups and activities will lead to political committee status if the new rule is approved:

1. All 527 organizations (except campaign committees; 527s that influence the nomination of individuals to a federal office; and possibly 527 organizations that act only at the state and local level).

2. Any other entity--all 501(c)(3)s, 501(c)(4)s (including Qualified Nonprofit Corporations ¹), 501(c)(5)s, 501(c)(6)s – if:

a. The major purpose of the organization is to promote, support, oppose, or attack federal candidates, plus they spend \$10,000 on:

(1) communications that promote, support, oppose and attack a federal candidate for office; OR

(2) voter registration within 120 days of an election; OR

(3) get-out-the-vote activity; OR

(4) voter identification.

1 A Qualified Nonprofit Corporation, also known as an “MCFL Organization”, is a 501(c)(4) that, among other things, exists exclusively to promote political ideas; does not engage in business activities; and receives no funds from unions or for-profit corporations.

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The FEC will review the organization’s public communications to determine whether electing federal candidates is their major purpose.

Example: A 501(c)(4) organization whose major purpose is to elect federal candidates, spends \$10,000 registering and mobilizing Latino voters two months prior to the November 2004 election.

A 501(c)(3) organization that spends \$10,000 on an ad asking readers to support President Bush’s Medicare Prescription Drug Benefit Plan.

b. The organization has in any one of the previous four years spent 50% of its budget on:

- (1) communications that promote, support, oppose and attack a federal candidate for office; OR
- (2) voter registration within 120 days of an election; OR
- (3) get-out-the-vote activity; OR
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Example: A 501(c)(3) organization that spends its entire budget registering college students to vote.

c. The organization has in any one of the previous four years spent \$50,000 on:

(1) communications that promote, support, oppose and attack a federal candidate for office; OR

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Example: A 501(c)(3) environmental organization that spends \$50,000 in ads in this election year criticizing President Bush for weakening regulations on toxic mercury emissions from coal-fired plants.

Q. Is there any other way that our organization would be affected even if it is not a political committee?

A. Yes. Under the definition of expenditure in the proposed regulations, all corporations, including nonprofits, will be prohibited from spending money on public communications that promote, support, oppose, or attack a candidate for federal office.

Q. Do these new rules only apply to communications broadcast on television or radio?

A. No, these new rules consider any communication that your organization makes – for example, web advertisements, email alerts, speeches, canvassing messages, direct mail marketing, print ads etc.

Q. How will the FEC determine if the activity promotes, supports, opposes, or attacks a federal candidate?

A. The FEC has not proposed any definition for this standard. The

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Supreme Court has suggested in the *McConnell vs. FEC* opinion that any person can figure out what promote, support, oppose, or attack means, however, the Commission itself had difficulty dealing with this same issue in considering an advisory opinion on February 18.

Q. If the FEC determines that we are a political committee will this affect our fundraising?

A. Yes. In addition to having to register with the FEC and report all contributions and expenditures, political committees cannot accept soft money contributions. Soft money contributions are contributions from foundations, corporations, or unions, or individuals in excess of \$5,000.

Example: A 501(c)(3) civil rights group that has been designated as a political committee can no longer hold its annual fundraiser at a corporate-donated facility, and it must refuse donations or grants from donors that have already given \$5,000 for that year.

Q. Will these new regulations affect the activity that my organization engages in this year?

A. Although the new regulations may not go into effect until this summer, the regulations may apply retroactively. For example, if your organization is a political committee under the new regulations, the FEC is considering whether to look at last year's activity as well as the current year in which you are deemed a political committee. If you raised any money from foundations, corporations, or unions, or individual contributions in excess of \$5,000 and that money was used to fund activity that triggers political committee status, your organization would have a hard money debt. This means you would have to determine how much soft money you raised for those political committee activities and raise an equal amount of hard money – funds from individuals in amounts less than \$5,000 per person. Your organization could not proceed with any additional political committee activity until that hard money debt is satisfied.

Q. What are the administrative costs of having to comply with these new regulations?

A. The FEC aggressively pursues reporting errors. Since July of 2000, the FEC has assessed over \$2 million in fines from over 1,000 "political committees." Organizations that become "political committees" under these rules will likely require the professional services of a knowledgeable attorney and accountant to comply with the new regulations.

Q. What can we do to express our concern over these proposed rules?

Any combination of the following:

1. Participate in the public comments. Write the FEC and express your concerns. Comments must be filed by with the FEC by April 9, 2004 (April 5th if you wish to also testify at the hearings on April 14 and 15). Comments should be sent to the Federal Election Commission, 999 E St., NW, Washington, DC 20463. The FEC is encouraging electronic submission of comments at

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commenter. For more information, including a link to the FEC proposed rules and information on where to send your comments go to <http://www.fec.gov/register.htm>

2. Contact your legislative representatives and ask them to write the FEC opposing the new rule.

3. Write a letter to your newspaper's editorial board.

4. Subscribe to AFJ alerts and check our web site regularly for updates, and sample comments, letters, and opeds.

5. Keep up to date by visiting our website at <http://www.afj.org>

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- fec_prop527.pdf



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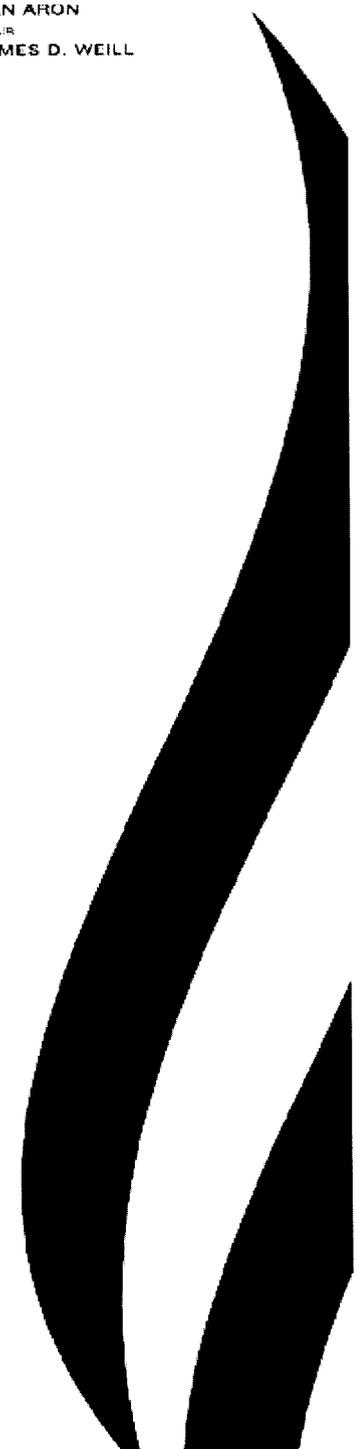
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