

March 25, 2004

Mai R. Dinh, Acting Assistant General Counsel  
Federal Election Commission  
999 E St., NW  
Washington, DC 20463.

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
2004 APR -9 1 A D 28

Dear Ms. Dinh:

We are writing to express concern over the Federal Election Commission's (FEC) March 4, 2004 Notice of Proposed Rulemaking and to recommend that these rules not be adopted.

We are a nonpartisan, [charitable or social welfare] organization that believes in the importance of genuine advocacy about issues.

We submit these comments out of concern that the proposed rulemaking broadly threatens our ability to engage in critically important legislative advocacy and nonpartisan voter education activity. These rules extend beyond the plain language of BCRA and fly in the face of a portion of the Supreme Court decision upholding the statute. In addition, the FEC haste in rushing these rules through in the middle of an election year will lead to confusion and ultimately silence many nonprofit organizations.

When Congress passed campaign finance reform, it did so carefully and deliberately. The concerns about corruption that lead to reform were directed at the national political parties. Nonprofit organizations were specifically left alone because they operate outside the control and coordination of candidates or political parties. Now, without an act of Congress, the FEC is attempting to circumvent Congress and the Supreme Court's thoughtful consideration and treat nonprofits who engage in specific advocacy activity as political committees. We believe that any reconsideration of nonprofits should be done by Congress—not the FEC.

We are additionally worried that this rulemaking seems to be a hurried, last-minute approach to force new rules on groups midway through this election year. We have spent a considerable amount of time trying to understand how the new BCRA rules affect our organization. After carefully planning our election year activities to comply with BCRA and the Internal Revenue Code, we are suddenly faced with the possibility that our time and investment in planning and strategizing has been wasted and we may need to immediately and drastically revise our programs because of this rulemaking. The FEC's role at this time is to monitor whether organizations are complying with BCRA and, if warranted, to propose statutory amendments on the basis of a factual record. It makes absolutely no sense, however, to leap over the important step of monitoring

compliance and jump right to suggesting new rules for problems that the FEC has yet to identify with any precision.

We are not alone in feeling stymied by the confusion presented by this rulemaking. We wish to comply with tax and election law but we do not want to be classified as a political committee for continuing advocacy work that we have been doing for years. Our financial support is largely based on foundation grants and large individual contributions—the type of contributions that the FEC would prohibit to support our advocacy and voter education activity if we are classified as a political committee under these rules. Rather than create new funding streams in the middle of a year, it is much more likely that we will simply be forced to stop legitimate policy and community activism work. This is not what Congress intended when it passed campaign finance reform.

We hope you carefully consider our comments, and that you do not adopt any of the proposed rules. They are hurried, unfair and unwise.

Sincerely,

Monica Thiel