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April 8, 2004

Ms. Mai T. Dinh
Assistant General Counsel
Federal Elections Commission
999 E Street N.W.
Washington, D.C. 20463

RE: Proposed Additions and Modifications to 11 C.F.R. Parts 100, 104, 106 and 114, as Promulgated in the Federal Register, March 11, 2004

Dear Ms. Dinh:

I am writing to comment on behalf of the Minnesota Disability Law Center (MDLC) of the Legal Aid Society of Minneapolis concerning the FEC's proposed rules.

The Legal Aid Society of Minneapolis is the federally funded Protection and Advocacy agency designated by the Governor of Minnesota. Each state has such a federally funded and state appointed Protection and Advocacy Agency pursuant to 42 U.S.C. § 10801 *et seq.* and 42 U.S.C. § 6042. The Legal Aid Society carries out its duties through the Minnesota Disability Law Center (MDLC). Our agency's mission and purpose is to protect and advocate for the rights of persons with disabilities under various federal and state statutes. The most recent addition to those statutes was the Help America Vote Act (HAVA), 42 U.S.C. § 15301 *et seq.*, signed into law by President Bush in October 2002. Specifically, HAVA mandates that the Protection and Advocacy agencies "ensure the full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote and accessing polling places." 42 U.S.C. § 15461. Activities pursuant to this mandate may include helping to determine what voting equipment the state will buy and ensuring its accessibility to persons with disabilities, assisting in the training and education of voters with disabilities and election officials who will be working with them in using the equipment, assisting in ensuring that polling places throughout the state are accessible, providing access for voters with disabilities to register to vote, and assisting them with such registration if necessary. The Protection and Advocacy agencies receive federal funding to carry out these activities.

We are concerned that the FEC's proposed rules create a barrier to the fulfillment of our responsibilities under HAVA. The Legal Aid Society of Minneapolis is a 501(c)(3) nonprofit

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Assistant General Counsel
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organization. The proposed rules indicate that the FEC intends to broaden the definition of "political committee status" to include organizations who engage in any voter registration activities, even if such activities include nonpartisan registration of voters. Under the proposed rules, the criteria for being considered a political committee would be broadened to include any communication that "promotes, supports, attacks or opposes" any political candidate for federal office. There appear to be no definitions of such support or opposition.

The HAVA came into effect because Congress realized in the 2000 election that many voters with disabilities and voters of color are disenfranchised in many ways in the voting process. Organizations which work to bring those voters into the voting mainstream could be considered to be focusing on a specific group of people. The proposed rules would prohibit voter registration or GOTV activities focused on any group of people "pre-disposed" to vote for a certain candidate or party. We are concerned that if under the proposed rules the FEC decides that people with disabilities as a group are more likely to vote one way than another, our federally funded work under HAVA would be called into question.

Application of the proposed FEC rules to the HAVA work raises the issue of whether the FEC rules would override the requirements of HAVA, which mandates us to do nonpartisan voter registration and education. Would the FEC consider the activities of a Protection and Advocacy agency like the MDLC to be partisan activities? These essential issues are not addressed or resolved in the proposed rule.

The MDLC urges the Commission not to accept these proposed rules, and to reconsider the issue more carefully, in light of the potential conflict with clear Congressional mandates.

Sincerely,

MINNESOTA DISABILITY LAW CENTER



Pamela S. Hoopes
Legal Director

PSH:nb