



FEDERAL ELECTION COMMISSION

Washington, DC 20463

**MEMORANDUM**

**TO:** Commissioners  
Staff Director

**FROM:** Commission Secretary's Office *VJA*

**DATE:** April 18, 2025

**SUBJECT:** Statement Regarding Advisory Opinion 2025-06  
(Campaign Legal Center) – Commissioner Allen J. Dickerson

Attached is a statement from Commissioner Allen J. Dickerson.

Attachment



FEDERAL ELECTION COMMISSION  
1050 FIRST STREET, N.E.  
WASHINGTON, D.C. 20463

**STATEMENT OF COMMISSIONER ALLEN J. DICKERSON  
REGARDING ADVISORY OPINION 2025-06 (CAMPAIGN LEGAL CENTER)**

The FEC’s advisory opinion authority is an extraordinary tool. It allows this Commission to give rapid guidance to those wishing to engage in political speech, mitigating at least some of the grave vagueness concerns underlying the Commission’s mission.<sup>1</sup> And it immunizes those who rely in good faith upon that guidance from “any sanction” under the Federal Election Campaign Act (“FECA” or the “Act”).<sup>2</sup>

With that extraordinary authority, however, comes limitations. The Commission may only opine concerning “the application” of the Act or our regulations “with respect to a specific transaction or activity.”<sup>3</sup> And the affirmative votes of four commissioners are required to provide the immunity contemplated by the Act.<sup>4</sup>

Advisory opinions, in other words, are “shields, not swords.”<sup>5</sup> They are intended to protect participants in the political process who wish to know – in advance – that undertaking a specific “transaction or activity” will not make them the target of enforcement action by the Commission or their political and ideological opponents.<sup>6</sup>

Advisory Opinion 2025-06 is an exception. Rather than seeking the shield of FEC guidance, the Requestor seeks to use the advisory opinion process as a sword to wield against a specific executive order. But, as the sophisticated lawyers representing the Requestor doubtless know, the Commission may only opine on the “applicability of the Act” to a specific “activity or transaction.” An executive order is

---

<sup>1</sup> See, e.g., *Buckley v. Valeo*, 424 U.S. 1, 42-43 (1976).

<sup>2</sup> 52 USC § 30108.

<sup>3</sup> 52 USC § 30108(a)(1).

<sup>4</sup> 52 USC §§ 30106(c) and 30107(a)(7).

<sup>5</sup> Statement of Reasons of Chairman Dickerson and Comm’rs Cooksey and Trainor at 4, MUR 7491 (Am. Ethane Co., LLC), Oct. 27, 2022; accord Statement of Reasons of Chairman Petersen and Comm’rs Hunter and McGahn, MUR 5625 (Aristotle Int’l, Inc.) at 2 n.3, May 10, 2010 (“Of course, it is well-established that advisory opinions cannot be used as a sword, but instead merely a shield from burdensome Commission enforcement action”).

<sup>6</sup> See 52 USC § 30109(a)(8).

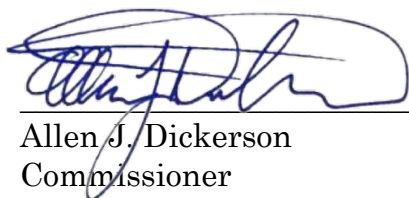
not the Act, and so the FEC may not lawfully opine upon its application. Such questions are for the courts.

Out of respect for the key role advisory opinions play for political participants of all stripes, and as part of a shared commitment with my colleagues to prioritize advisory opinion requests and reach consensus where possible, I voted to approve the portion of this Request that falls within the Commission’s jurisdiction.

But, because this specific opinion is out of step with FECA’s intent, it does little. The Request, once properly limited, is essentially circular: it asks whether the Act permits the filing of a complaint as contemplated by the Act. Of course it does. Requestor is actually seeking to determine the applicability of another source of law – an executive order – upon which we cannot opine. Moreover, because there is no liability under the Act for filing a complaint, Requestor does not even receive the benefit of the Act’s statutory immunity.

But even if this advisory opinion was an exercise in futility, it is unfortunately also part of a nascent effort to transform the protective nature of the advisory opinion process into yet another weapon to be wielded for partisan advantage.<sup>7</sup> Those efforts are misguided. Responsible parties should value the unique service the advisory opinion process provides for true political actors, regardless of ideological or partisan affiliation.<sup>8</sup> Politicizing that process is in no one’s interest.

The Commission should take care, as it did here, to ensure that advisory opinion requests present a specific “activity or transaction” and are strictly limited to the applicability of the Act or Commission regulations. Those appearing before the Commission, meanwhile, should question whether the politicization of the advisory opinion process is truly in the public interest.



---

Allen J. Dickerson  
Commissioner

April 18, 2025

---

Date

---

<sup>7</sup> See Advisory Opinion Request 2024-13 (DSCC, Montanans for Tester, and Gallego for Arizona), Sept. 18, 2024; Letter from Jacquelyn K. Lopez, Esq., on behalf of Requesters, October 3, 2024 *available at* [https://www.fec.gov/files/legal/aos/2024-13/202413C\\_4.pdf](https://www.fec.gov/files/legal/aos/2024-13/202413C_4.pdf).

<sup>8</sup> Because an advisory opinion immunizes the good faith reliance of similarly-situate third parties, a successful advisory opinion request provides the same protection to everyone – including the requestor’s political opponents. 52 USC § 30108(c).