



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

TO: The Commission
The Office of the Commission Secretary

FROM: Allen J. Dickerson *AD*
Commissioner

DATE: May 2, 2024

RE: Proposed Directive Concerning Requests to Withhold, Redact, or Modify
Contributors' Identifying Information

The Federal Election Campaign Act's disclosure requirements are not absolute. From the beginning, the Supreme Court has recognized that the compelled publication of individuals' political affiliations, street addresses, and employment details encroaches upon the "privacy of association and belief guaranteed by the First Amendment."¹ Such intrusions have survived constitutional scrutiny only because they have been found properly tailored to the government's legitimate interests.

But they are also subject to individual exceptions. Where a person or group can show "a reasonable probability" that compelled disclosure "will subject them to threats, harassment, or reprisals from either Government officials or private parties," they must be excused from disclosing the information that will put them at risk.²

This is a Constitutional right – Americans are entitled to make political contributions without being attacked, threatened, or fired – but it is also common sense and the right thing to do. The Commission has acted accordingly. For nearly twenty-five years, it granted a blanket exception permitting the Socialist Workers Party to protect its donors' confidentiality.³

¹ *Buckley v. Valeo*, 424 U.S. 1, 64 (1976) (*per curiam*) (collecting cases).

² *Id.* at 74.

³ Consent Decree, *Socialist Workers 1974 Nat'l Campaign Comm. v. Fed. Election Comm'n*, Case No. 74-1338 (D.D.C. 1979) and Advisory Ops. 1990-13 (Socialist Workers Party), 1996-46 (Socialist Workers Party), 2003-02 (Socialist Workers Party), 2009-01 (Socialist Workers Party), 2012-38 (Socialist Workers Party).

More recently, the Commission has granted several private requests to redact or substitute individual mailing addresses on Commission reports. This was commendable. But many individuals may not have been intrepid or connected enough to file a request. Given the importance of the rights involved, the country's charged political atmosphere, and basic principles of fairness, the Commission has an obligation to adopt a formal process providing for "a fair consideration" of particular contributors' situations.⁴

Accordingly, I propose that the Commission begin the process of drafting and adopting a regulation that will bring its procedures into compliance with the Constitution and relevant case law. In the interim, I propose the attached Directive as a stopgap measure until such a regulation can be adopted.

I ask that this matter be placed on the agenda for the Commission's May 16, 2024 Open Meeting.

⁴ *Buckley*, 424 U.S. at 74.