UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DCCC, Plaintiff, v. FEDERAL ELECTION COMMISSION, Defendant, NRSC, Intervenor-Defendant	Civ. No. 24-2935 (RDM) REPLY IN SUPPORT OF SUPPLEMENTAL BRIEF

FEDERAL ELECTION COMMISSION'S
REPLY IN SUPPORT OF SUPPLEMENTAL BRIEF

Lisa J. Stevenson (D.C. Bar No. 457628)
Deputy General Counsel—Law
lstevenson@fec.gov

James D. McGinley (D.C. Bar No. 1017536)
Associate General Counsel
jmcginley@fec.gov

Greg J. Mueller (D.C. Bar No. 462840)
Shaina Ward (D.C. Bar No. 1002801)
Sophia H. Golvach (D.C. Bar No. 1656365)

Attorneys
gmueller@fec.gov
sward@fec.gov
sgolvach@fec.gov

FEDERAL ELECTION COMMISSION
1050 First Street, NE
Washington, DC 20463
(202) 694-1650

August 14, 2026

The Federal Election Commission ("FEC") demonstrated that this case should be dismissed because: (1) it is moot and (2) DCCC lacks an informational injury caused by the FEC's non-issuance of an advisory opinion to DSCC. In response, DCCC's Supplemental Memorandum (Aug. 10, 2026) (ECF No. 60) ("Pl.'s Suppl.") only confirms those points by presenting what is essentially a new advisory opinion request to the Court, inviting it to consider questions that were not presented to the FEC. The FEC states the following in response to DCCC's Supplemental Memorandum:

1. ***First***, this case is moot. On the face of the Amended Complaint and the relief requested therein, no order from this Court would have any meaningful effect on the rights of the parties given the Supreme Court's decision in *NRSC v. FEC*, 146 S.Ct. 2404 (2026) ("*NRSC*"). DCCC's response does not, and cannot dispute that, because of the *NRSC* decision, DCCC can spend in excess of the now invalidated expenditure limits, "without fear of civil and criminal penalties, leaving it at a competitive disadvantage in federal elections." (Am. Compl. ¶ 9.)

2. Undeterred, DCCC claims that this case is not moot because part of the relief it seeks, vacating the Commission's closeout letter, is still available. Yet such an order would have no legal effect at all, let alone any that would affect DCCC's ability to spend in excess of limits that are now no longer in place. (*See* Am. Compl. ¶ 97 (alleging that the non-issuance of the advisory opinion "chill[ed] Plaintiff from engaging in what would otherwise be protected speech (if such expenditures are consistent with FECA)".) Indeed, the Court made this observation in initially denying plaintiff's motion for a preliminary injunction. (*See* Mem. Op. at 15-16 (ECF No. 21) (explaining that the closeout letter "did not take a position on the lawfulness—or unlawfulness—of the conduct at issue … provide any party with any legal rights, defenses, or obligations," or "affirmatively authorize any conduct [or] establish a safe harbor permitting the

DCCC's opponents to violate FECA").) DCCC simply cannot plausibly claim that its decisions as to its spending on political advertisements are being dictated by the FEC's closeout letter issued in response to DSCC's request.

3. Furthermore, a declaration that the JFC advertisements noted in the request are contributions or coordinated party expenditures is not available relief under the APA, *see Nat'l Black Police Ass'n v. D.C.*, 108 F.3d 346, 349 (D.C. Cir. 1997) (federal court has no "'power to render advisory opinions'"), and such a declaration would have no more than a hypothetical effect on plaintiff or the behavior of its competitors. *See NBC-USA Hous., Inc., Twenty-Six v. Donovan*, 674 F.3d 869, 873 (D.C. Cir. 2012) ("Where an intervening event renders the underlying case moot, a declaratory judgment ... affords the plaintiff[ ] no relief whatsoever.") (citations omitted); *see also* 11 C.F.R. § 112.1(b) (advisory opinion must "set forth a specific transaction or activity that the requesting person plans to undertake or is presently undertaking and intends to undertake in the future. Requests presenting a general question of interpretation, or posing a hypothetical situation, or regarding the activities of third parties, do not qualify as advisory opinion requests.").[1]

---

[1] Moreover, for the first time, DCCC now appears to seek a remand in addition to vacating the closeout letter, requiring the FEC to reconsider the request. (Pl.'s Suppl. at 6) (stating that a declaration in DCCC's favor would afford the FEC "a new opportunity to issue a lawful AO that would help redress DCCC's injuries") Yet this request is notably absent from the Amended Complaint and therefore cannot be considered now. DCCC also curiously asserts that "[e]ven if the agency deadlocks again, such partial relief still avoids mootness," (*id.*), yet such an outcome would be no relief at all, given that the closeout letter did not allow or forbid any particular behavior. DCCC cites *Delaware Riverkeeper Network v. FERC*, 857 F.3d 388, 397 (D.C. Cir. 2017), but this case is not on point. There, vacating the agency's certificate order and remanding to the agency would "halt the project and force FERC to follow the proper sequence of action," where the agency initially issued the certificate without first following proper procedures. *Id.*

4. Regardless, DCCC's response establishes that there is a clear disconnect between what DSCC actually sought in the advisory opinion request, the relief sought in DCCC's Amended Complaint, and its current position post-*NRSC*.[2] This case is moot, and this Court "is not in the practical or constitutional position" to grant DCCC the relief it seeks in its Amended Complaint. *See Newdow v. Roberts*, 603 F.3d 1002, 1008 (D.C. Cir. 2010) (although issue "may be an important question to plaintiffs, [] it is not a live controversy that can avail itself of the judicial powers of the federal courts" and is therefore moot).

5. ***Second,*** DCCC's response confirms the claimed informational injury boils down to quibbles over reporting details. In any event, DCCC informational injury arguments are far removed, and find no support in analysis in *Akins v. FEC*, 524 U.S. 11 (1998), where the political committee status at issue in that case would determine whether the entity would register and regularly report all of its receipts and disbursements as a political committee with the FEC or not register and not report receipts and disbursements at all. *Id.* at 29.

Regardless of whether the information in a joint fundraising advertisement is disclosed as a contribution or an expenditure, the substantive information remains publicly available. FEC's Mot. to Dismiss at 26-29 (ECF No. 34-1); *see also Free Speech for People v. FEC*, 442 F. Supp. 3d 335, 345 (D.D.C. 2020). Like the plaintiffs in *Free Speech for People*, DCCC is "aware of all the players in the transaction at issue" and what it really "seeks is a legal determination" as to how that spending is described in disclosure reports. *Id.*

---

[2] Furthermore, by submitting new arguments here, providing supporting exhibits not presented with the advisory opinion request, and for the first time suggesting a remand as relief, DCCC tacitly admits that it is now asking this Court for an advisory opinion divorced from the questions, record, and even the parties that were before the agency. (*See* FEC Suppl. Br. at 9-10 (ECF No. 58).)

6. Courts in cases involving comparable informational injury claims, where activity is disclosed but legal descriptions or categorizations of the disclosure are disputed, have repeatedly emphasized that plaintiffs seeking how to categorize or the form of disclosure lack standing to maintain their claims.[3]

7. DCCC suggests that understanding JFCs' fundraising and operating expenses requires reverse engineering (Pl.'s Suppl. at 2), but that overstates the math involved. There is a substantial amount of information about the amount of JFC expenses that a JFC participant paid, since the participant discloses each contribution received above a $200 itemization threshold, and the JFC's gross receipts are represented by that transfer of net receipts. And since the net receipts are reported, those total figures reveal the portion of the expenses the participant paid for that JFC transfer of the participant's gross receipts. *See* Transfer of Funds, Collecting Agents, Joint Fundraising, 48 Fed. Reg. 26296, 26300 (June 7, 1983), https://www.fec.gov/resources/cms-content/documents/notice1983-060783.pdf#page=3 (explaining that 11 C.F.R § 102.17(c)(8)(i)(B) "provides that, after the distribution of net proceeds, each participant must report the amount it receives as a transfer-in from the joint fundraising representative. Each committee should also file a memo Schedule A containing an itemization of its share of gross receipts as contributions from the original contributors as required under 11 C.F.R. 104.3(a)").

---

3 *See, e.g.*, *Wertheimer v. FEC*, 268 F.3d 1070, 1075 (D.C. Cir. 2001) (holding that plaintiffs lacked standing to seek determination that certain transactions constitute coordinated expenditures); *CREW v. FEC*, 267 F. Supp. 3d 50, 54 (D.D.C. 2017) (distinguishing *Akins* and holding plaintiff lacked standing); *Judicial Watch v. FEC*, 293 F. Supp. 2d 41, 46-47 (D.D.C. 2003) (holding that a plaintiff lacked standing who was "already aware of the facts underlying his own alleged contributions"); *CREW v. FEC*, 799 F. Supp. 2d 78, 89 (D.D.C. 2011) (holding that plaintiffs lacked a cognizable informational injury where they sought reporting certain expenses as in-kind contributions but failed to "allege any specific *factual information* . . . that [was] not already publicly available").

8. DCCC mistakenly claims that "a participant's share of proceeds and expenses can be determined only by running the formula against each individual contribution listed on separate disclosure," but the guidance document cited by DCCC, (Pl.'s Suppl. at 3), explains that the JFC "must report all disbursements made for the joint fundraiser in the reporting period in which they are made [and] net proceeds to the joint fundraising participants are reported as transfers to affiliated committees and itemized on a separate Schedule B for that category." *See Joint Fundraising with Other Candidates and Political Committees*, FEC, https://perma.cc/RAD7-9GRK. Likewise, DCCC argues it "can never truly know how much their competitors are paying for any JFC Ad buy," (Pl.'s Suppl. at 4), suggesting the itemization requirement for purpose of disbursement reporting for JFCs and party coordinated expenditures are different, when they are not. The itemization of the "purpose of disbursement" by JFCs, and the itemization of the "purpose of disbursement" for party-coordinated expenditures, are the same. *Compare* 11 C.F.R. § 104.3(b)(3)(i)(A)-(B), *with id.* at § 104.3(b)(4)(i)(A); *see also id.* at § 104.3(b)(3)(viii) (including same "purpose" requirement for reporting of party coordinated expenditures); NRSC's Suppl. Brief at 6-7 (Aug. 10, 2026) (ECF No. 59) (describing other sources of publicly available information).

Respectfully submitted,

Lisa J. Stevenson (D.C. Bar No. 457628)
Deputy General Counsel—Law
lstevenson@fec.gov

James D. McGinley (D.C. Bar No. 1017536)
Associate General Counsel
jmcginley@fec.gov

/s/ Greg J. Mueller
Greg J. Mueller (D.C. Bar No. 462840)

August 14, 2026

/s/ Shaina Ward
Shaina Ward (D.C. Bar No. 1002801)
Sophia H. Golvach (D.C. Bar No. 1656365)
Attorneys
gmueller@fec.gov;
sward@fec.gov;
sgolvach@fec.gov

COUNSEL FOR DEFENDANT
FEDERAL ELECTION COMMISSION
1050 First Street, NE
Washington, DC 20463 | (202) 694-1650