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

AGENDA DOCUMENT NO. 24-39-A
AGENDA ITEM
For the meeting of September 19, 2024

TO: The Commission
The Office of the Commission Secretary

FROM: Shana Broussard *SB*
Commissioner

Allen Dickerson *AD*
Commissioner

Dara Lindenbaum *DL*
Commissioner

James E. "Trey" Trainor, III *TT*
Commissioner

DATE: September 10, 2024

RE: REG 2023-02 (Artificial Intelligence in Campaign Ads) -
Draft Interpretive Rule

In connection with REG 2023-02, we ask that the attached Draft Interpretive Rule be added to the Commission's agenda for the Open Meeting of September 19, 2024.

1 **FEDERAL ELECTION COMMISSION**

2 **[Notice 2024 - ____]**

3 **Interpretive Rule Regarding 52 U.S.C. 30124**

4 **AGENCY:** Federal Election Commission.

5 **ACTION:** Notice of Interpretive Rule.

6 **SUMMARY:** The Federal Election Commission is issuing guidance on the scope of 52
7 U.S.C. 30124, which bars the fraudulent misrepresentation of campaign authority.

8 **DATES:** [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

9 **FOR FURTHER INFORMATION CONTACT:** Mr. Robert M. Knop, Assistant
10 General Counsel, or Ms. Jennifer Waldman, Attorney, 1050 First Street, NE., Washington,
11 D.C. 20463, (202) 694-1650 or (800) 424-9530.

12 **SUPPLEMENTARY INFORMATION:** The Federal Election Campaign Act (“FECA”
13 or “Act”) prohibits the fraudulent misrepresentation of campaign authority. It does so in
14 two ways: (1) by barring Federal candidates or their agents from fraudulently
15 misrepresenting themselves or organizations under their control as “speaking or writing or
16 otherwise acting for or on behalf of any other candidate or political party or employee or
17 agent thereof on a matter which is damaging to such other candidate or political party or
18 employee or agent thereof” or “willfully and knowingly” participating in or conspiring to
19 do so; and (2) by barring any person from “fraudulently misrepresent[ing]” themselves “as
20 speaking, writing, or otherwise acting for or on behalf of any candidate or political party
21 or employee or agent thereof for the purpose of soliciting contributions or donations” or
22 “willfully and knowingly” participating in or conspiring to do so. 52 U.S.C. 30124; *see*
23 *also* 11 CFR 110.16.

1 It has been suggested that this statute may have a specific application in light of
2 new developments in technology, especially content generated with the assistance of
3 artificial intelligence (“AI”). For this reason, the Commission is issuing this notice to
4 clarify that 52 U.S.C. 30124 and 11 CFR 110.16 apply irrespective of the technology used
5 to conduct fraudulent misrepresentation.

6 For purposes of 52 U.S.C. 30124, it does not matter whether a regulated person
7 uses any particular form of technology, including AI, in order to “fraudulently misrepresent
8 himself or any committee or organization under his control as speaking or writing or
9 otherwise acting for or on behalf” of another “candidate or political party or employee or
10 agent” or to engage in the “[f]raudulent solicitation of funds” by “misrepresent[ing] the
11 person as speaking, writing, or otherwise acting for or on behalf of any candidate or
12 political party or employee or agent thereof for the purpose of soliciting contributions or
13 donations.” 52 U.S.C. 30124(a)-(b). The legal question is whether the actor fraudulently
14 holds himself or herself out as “acting for or on behalf of any other candidate or political
15 party or employee or agent thereof.” *Id.* This fraud may be accomplished using AI-assisted
16 media, forged signatures, physically altered documents or media, false statements, or any
17 other means. The statute, and the Commission’s implementing regulation, is technology
18 neutral.

19 The Commission believes that this interpretation of its statute and attendant
20 regulation will clarify the scope of 52 U.S.C. 30124 in connection with evolving
21 technology, including AI-assisted media and future developments that remain unknown
22 and unpredictable.

1 This notice is an interpretive rule announcing the general course of action that the
2 Commission intends to follow. This interpretive rule does not constitute an agency action
3 requiring notice of proposed rulemaking, opportunities for public participation, prior
4 publication, or delay in effective date under 5 U.S.C. 533. It does not bind the Commission
5 or any members of the general public, nor does it create or remove any rights, duties, or
6 obligations. The provisions of the Regulatory Flexibility Act, which apply when notice and
7 comment are required by the Administrative Procedure Act or other relevant statute, do not
8 apply here. *See* 5 U.S.C. 603(a).

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11 DATED: _____

12 On behalf of the Commission,

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16 **Sean J. Cooksey,**

17 *Chairman,*

18 *Federal Election Commission.*