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By Office of the Commission Secretary at 1:16 pm, Aug 19, 2019



FEDERAL ELECTION COMMISSION
Washington, DC 20463

AGENDA DOCUMENT NO. 19-39-A
AGENDA ITEM
For the meeting of August 22, 2019
SUBMITTED LATE

August 19, 2019

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson *LJS*
Acting General Counsel

Neven Stipanovic *NFS*
Associate General Counsel

Esther D. Gyory *EDG*
Acting Assistant General Counsel

Anthony T. Buckley *ATB*
Attorney

SUBJECT: Notice of Availability for REG 2019-04 (Reporting Segregated Party Accounts)

On August 5, 2019, the Federal Election Commission received a Petition for Rulemaking (“Petition”) from Campaign Legal Center and the Center for Responsive Politics. The Petition asks the Commission to promulgate rules to specifically require reporting of receipts and disbursements of the accounts created by the Consolidated and Further Continuing Appropriations Act, 2015.

The Office of General Counsel has examined the Petition and determined that it meets the requirements of 11 C.F.R. § 200.2(b). Therefore, we have drafted the attached Notice of Availability (“Notice”) seeking comment on whether the Commission should initiate a full rulemaking on the proposal in the Petition. The Notice will be published in the *Federal Register* pursuant to 11 C.F.R. § 200.3(a)(1).

In keeping with the Commission’s usual procedure, the Notice does not address the merits of the Petition. Instead, it states that consideration of the merits will be deferred until the close of the comment period.

The Office of General Counsel requests that this draft be placed on the agenda for the Open Meeting on August 22, 2019.

Attachment

FEDERAL ELECTION COMMISSION

11 CFR Part 104

[NOTICE 2019-XX]

Rulemaking Petition: Requiring Reporting of Segregated Party Accounts

AGENCY: Federal Election Commission.

ACTION: Rulemaking Petition: Notification of Availability.

SUMMARY: On August 5, 2019, the Federal Election Commission received a Petition for Rulemaking asking the Commission to promulgate rules to specifically require reporting of receipts and disbursements of the accounts created by the Consolidated and Further Continuing Appropriations Act of 2015. The Commission seeks comments on the petition.

DATES: Comments must be submitted on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: All comments must be in writing. Commenters are encouraged to submit comments electronically via the Commission's website at <http://sers.fec.gov/fosers/>, reference REG 2019-04. Alternatively, commenters may submit comments in paper form, addressed to the Federal Election Commission, Attn.: Esther Gyory, Acting Assistant General Counsel, 1050 First Street NE, Washington, DC 20463.

Each commenter must provide, at a minimum, his or her first name, last name, city, and state. All properly submitted comments, including attachments, will become part of the public record, and the Commission will make comments available for public viewing on the Commission's website and in the Commission's Public Records Office. Accordingly, commenters should not provide in their comments any information that they do not wish to make public, such as a home street address, personal email address, date of birth, phone number, social

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1 security number, or driver’s license number, or any information that is restricted from disclosure,
2 such as trade secrets or commercial or financial information that is privileged or confidential.

3 **FOR FURTHER INFORMATION CONTACT:** Ms. Esther Gyory, Acting Assistant General
4 Counsel, or Mr. Tony Buckley, Attorney, Office of the General Counsel, 1050 First Street NE,
5 Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

6 **SUPPLEMENTARY INFORMATION:** On August 5, 2019, the Commission received a
7 Petition for Rulemaking from the Campaign Legal Center and the Center for Responsive Politics
8 (“Petition”). The Petition asks the Commission to “promulgate rules and forms requiring
9 national party committees to delineate within their reports the individual and aggregate
10 transactions involving” the accounts created by the Consolidated and Further Continuing
11 Appropriations Act, 2015, Pub. L. No. 113-235, 128 Stat. 2130, 2772 (2014) (“Appropriations
12 Act”). Petition at 6.

13 The Appropriations Act amended the Federal Election Campaign Act, 52 U.S.C.
14 §§ 30101-45 (“FECA”), by establishing separate limits on contributions to three types of
15 segregated accounts of national party committees (collectively “segregated party accounts”).
16 The segregated party accounts are for expenses incurred with respect to (1) presidential
17 nominating conventions; (2) party headquarters buildings; and (3) election recounts or contests
18 and other legal proceedings. 52 U.S.C. § 30116(a)(9). The segregated party accounts are in
19 addition to any other federal accounts that the committee may lawfully maintain.

20 FECA and Commission regulations require a political committee to report its receipts and
21 disbursements. 52 U.S.C. § 30104(a); 11 CFR 104.3(a) (reporting of receipts), (b) (reporting of
22 disbursements). On February 13, 2015, the Commission issued interim guidance regarding the

1 reporting of the activities of the segregated party accounts. See [https://www.fec.gov/updates/fec-](https://www.fec.gov/updates/fec-issues-interim-reporting-guidance-for-national-party-committee-accounts/)
2 [issues-interim-reporting-guidance-for-national-party-committee-accounts/](https://www.fec.gov/updates/fec-issues-interim-reporting-guidance-for-national-party-committee-accounts/).

3 In that guidance the Commission noted that “[a]lthough party committees normally
4 disclose their contributions on Form 3X, Line 11(a), the Commission[’s] forms currently do not
5 provide a clear way to distinguish between contributions deposited into the committees’ separate
6 accounts.” The guidance instructed committees to report contributions to the three accounts on
7 Line 17 of Form 3X titled “Other Federal Receipts.” When itemizing contributions of \$200 or
8 more on Schedule A, the committees were instructed to enter “Convention Account”
9 “Headquarters Account,” or “Recount Account,” as appropriate, in the description field. The
10 guidance instructed committees to report administrative or operating expenses paid from the
11 accounts on Line 21(b) of Form 3X titled “Other Federal Operating Expenditures” (for expenses
12 paid from a convention or headquarters account) and Line 29 of Form 3X titled “Other
13 Disbursements” (for expenses paid from a recount account). When itemizing disbursements on
14 Schedule B, the committees were instructed to enter “Convention Account,” “Headquarters
15 Account,” or “Recount Account,” as appropriate, in the Purpose of Disbursement field along
16 with the required purpose of the disbursement.¹

17 The Petition asserts that “each national party committee reports its receipts to and
18 disbursements from the [segregated party] accounts in inconsistent and insufficient ways. As a
19 result, it is effectively impossible for the public to track the large quantities of funds flowing into
20 and out of the accounts.” Petition at 2. Further, “[e]very political committee is required to file
21 periodic reports that include the committee’s total receipts, total disbursements, and cash-on-
22 hand for the reporting period and election cycle to-date. The national party committees,

¹ Examples provided by the Commission included: “Convention Account – Bookkeeping and Compliance,” “Headquarters Account – Carpeting,” and “Recount Account – Legal Services.”

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1 however, report none of these figures for their [segregated party] accounts.” *Id.* The Petition
2 also asserts that “there is no consistent location or terminology that committees use to denote
3 transactions involving the” segregated party accounts. *Id.* at 2-3. As a result, the Petition claims,
4 “there is no simple way for any member of the public — even the most sophisticated users of
5 FEC data — to determine the amounts of money being received into and disbursed from the
6 [segregated party] accounts.” Petition at 5. The Petition requests that the Commission
7 “promulgate rules and forms requiring national party committees to delineate within their reports
8 the individual and aggregate transactions involving their [segregated party] accounts.” Petition
9 at 6.

10 The Commission seeks comments on the Petition. The public may inspect the Petition on
11 the Commission’s website at <http://sers.fec.gov/fosers/>, or in the Commission’s Public Records
12 Office, 1050 First Street NE, 12th Floor, Washington, DC 20463, Monday through Friday, from
13 9 a.m. to 5 p.m.

14 The Commission will not consider the Petition’s merits until after the comment period
15 closes. If the Commission decides that the Petition has merit, it may begin a rulemaking
16 proceeding. The Commission will announce any action that it takes in the *Federal Register*.

17 On behalf of the Commission,

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21 Ellen L. Weintraub,
22 Chair,
23 Federal Election Commission
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26 DATED: _____