



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

2016 AUG 15 PM 5:33

**AGENDA ITEM**

August 15, 2016

For Meeting of 8-16-16

**MEMORANDUM**

**SUBMITTED LATE**

TO: The Commission

FROM: Daniel Petalas *NFS for DP*  
Acting General Counsel

Adav Noti *NFS for AN*  
Associate General Counsel

Neven F. Stipanovic *NFS*  
Acting Assistant General Counsel

Joseph Wenzinger *JW*  
Attorney

SUBJECT: Notice of Availability – Political Party Rules

On June 15, 2016, the Commission received a Petition for Rulemaking (“Petition”) from the Ken Martin, Chair of the Minnesota Democratic Farmer-Labor Party. The Petition asks the Commission to revise existing rules regarding the use of federal funds to pay for certain activities of state, district, or local committees of a political party.

The Office of General Counsel has examined the Petition and determined that it meets the requirements of 11 CFR 200.2(b). Therefore, we have drafted the attached Notice of Availability (“Notice”) seeking comment on whether the Commission should initiate a rulemaking on the proposal in the Petition. The Notice will be published in the *Federal Register* pursuant to 11 CFR 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 August 16, 2016, open meeting.

Attachment

DRAFT

**FEDERAL ELECTION COMMISSION**

**11 CFR Parts 100, 106, 109**

**[NOTICE 2016-XX]**

**Rulemaking Petition: Political Party Rules**

**AGENCY:** Federal Election Commission

**ACTION:** Rulemaking Petition: Notice of Availability

**SUMMARY:** On June 15, 2016, the Federal Election Commission received a Petition for Rulemaking asking the Commission to revise existing rules regarding the use of federal funds to pay for certain activities of state, district, or local committees of a political party. The Commission seeks comments on this petition.

**DATES:** Comments must be submitted on or before December 15, 2016.

**ADDRESSES:** All comments must be in writing. Commenters are encouraged to submit comments electronically via the Commission's website at <http://www.fec.gov/fosers>, reference REG 2016-03, or by email to [address]. Alternatively, commenters may submit comments in paper form, addressed to the Federal Election Commission, Attn.: Mr. Neven F. Stipanovic, Acting Assistant General Counsel, 999 E Street, NW., Washington, DC 20463.

Each commenter must provide, at a minimum, his or her first name, last name, city, state, and zip code. 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 room. 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

DRAFT

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:** Mr. Neven F. Stipanovic, Acting Assistant  
4 General Counsel, or Mr. Joseph P. Wenzinger, Attorney, Office of General Counsel, 999 E  
5 Street, NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

6 **SUPPLEMENTARY INFORMATION:** On June 15, 2016, the Federal Election Commission  
7 received a Petition for Rulemaking from the Minnesota Democratic-Farmer-Labor Party and its  
8 Chair, Ken Martin, requesting that the Commission amend several regulations applicable to  
9 political parties.

10 First, the Federal Election Campaign Act, 52 U.S.C. 30101–46 (the “Act”), as amended  
11 by the Bipartisan Campaign Reform Act (“BCRA”), and Commission regulations provide that a  
12 state, district, or local committee of a political party must pay for “Federal election activity” with  
13 either entirely federal funds or, in other instances, a mix of federal funds and “Levin funds.”  
14 See 52 U.S.C. 30125(b); 11 CFR 300.32. Under Commission regulations, “Federal election  
15 activity” includes certain activities that urge, encourage, or assist people to register to vote or to  
16 vote. See 11 CFR 100.24; Definition of Federal Election Activity, 75 FR 55257, 55260 (Sept.  
17 10, 2010). The petitioners request that the Commission narrow the definition of Federal election  
18 activity in light of recent Supreme Court decisions.

19 Second, Commission regulations provide that political parties must use only a federal  
20 account to pay the salary, wages, and fringe benefits of any employee who spends 25 percent or  
21 more of that individual's compensated time in a given month on “Federal election activities” or  
22 on activities “in connection with a Federal election.” See 11 CFR 106.7(d)(1)(ii). The

DRAFT

1 petitioners ask the Commission to amend this rule to omit “Federal election activities” from the  
2 calculation, covering only activities “in connection with a Federal election.”

3 Finally, the petitioners ask the Commission to consider additional regulatory  
4 modifications and to use Commission Agenda Document No. 15-54-A as a starting point for  
5 discussions. That agenda document was a memorandum and proposed resolution directing the  
6 Office of General Counsel to draft a notice of proposed rulemaking to propose amending several  
7 rules to (1) allow political parties “to discuss issue advertisements with candidates,” “republish  
8 parts of candidate materials in party materials,” and “distribute volunteer campaign materials  
9 without triggering coordination limits,” see 11 CFR 109.37; (2) “[e]xpand political party  
10 freedom to engage in volunteer activities such as volunteer mail drives, phone banks, and  
11 literature distribution,” see id. 100.87, 100.147; and (3) modify the definition of “Federal  
12 election activity” to permit “political parties to register voters and urge citizens to vote on behalf  
13 of state and local candidates free from FEC regulation” and to “employ people to engage in state  
14 and local get-out-the-vote activities with state funds,” see id. 100.24. Memorandum from  
15 Commissioner Lee E. Goodman to Commission at 2, Agenda Doc. No. 15-54-A (Oct. 20, 2015),  
16 [http://www.fec.gov/agenda/2015/documents/mtgdoc\\_15-54-a.pdf](http://www.fec.gov/agenda/2015/documents/mtgdoc_15-54-a.pdf).

17 The Commission seeks comments on the petition. The public may inspect the Petition  
18 for Rulemaking on the Commission’s website at <http://www.fec.gov/fosers>, or in the  
19 Commission’s Public Records Office, 999 E Street, NW., Washington, DC 20463, Monday  
20 through Friday, from 9 a.m. to 5 p.m. Interested persons may also obtain a copy of the petition  
21 by dialing the Commission’s Faxline service at (202) 501-3413 and following its instructions.  
22 Request document #[].

