

“reject the incumbent,” or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say “Nixon’s the One,” “Carter ’76,” “Reagan/Bush” or “Mondale!”; or

(b) When taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because—

(1) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and

(2) Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action.

PART 106—ALLOCATION OF CANDIDATE AND COMMITTEE ACTIVITIES

4. The authority citation for 11 CFR Part 106 continues to read as follows:

Authority: 2 U.S.C. 438(a)(8), 441a(b), 441a(g).

5. 11 CFR Part 106 is amended by revising paragraph (d) of section 106.1 to read as follows:

§ 106.1 Allocation of expenses between candidates.

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(d) For purposes of this section, *clearly identified* shall have the same meaning as set forth at 11 CFR 100.17.

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PART 109—INDEPENDENT EXPENDITURES (2 U.S.C. 431(17), 434(c))

6. The authority citation for 11 CFR Part 109 continues to read as follows:

Authority: 2 U.S.C. 431(17), 434(c), 438(a)(8), 441d.

7. 11 CFR Part 109 is amended by revising paragraphs (b)(1), (b)(2) and (b)(3) of section 109.1 to read as follows:

§ 109.1 Definitions (2 U.S.C. 431(17)).

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(b) For purposes of this definition—

(1) *Person* means an individual, partnership, committee, association, qualified nonprofit corporation under 11 CFR 114.10(c), or any organization or group of persons, including a separate segregated fund established by a labor

organization, corporation, or national bank (see part 114) but does not mean a labor organization, corporation not qualified under 11 CFR 114.10(c), or national bank.

(2) *Expressly advocating* shall have the same meaning as set forth at 11 CFR 100.22.

(3) *Clearly identified* shall have the same meaning as set forth at 11 CFR 100.17.

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PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

8. The authority citation for Part 114 continues to read as follows:

Authority: 2 U.S.C. 431(8)(B), 431(9)(B), 432, 437d(a)(8), 438(a)(8), and 441b.

9. 11 CFR Part 114 is amended by revising paragraph (b) of section 114.2 to read as follows:

§ 114.2 Prohibitions on contributions and expenditures.

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(b) Except as provided at 11 CFR 114.10, any corporation whatever or any labor organization is prohibited from making a contribution or expenditure as defined in 11 CFR 114.1(a) in connection with any Federal election.

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10. 11 CFR Part 114 is amended by adding section 114.10 to read as follows:

§ 114.10 Nonprofit corporations exempt from the prohibition on independent expenditures.

(a) *Scope.* This section describes those nonprofit corporations that qualify for an exemption from the prohibition on independent expenditures contained in 11 CFR 114.2. It sets out the procedures for demonstrating qualified nonprofit corporation status, for reporting independent expenditures, and for disclosing the potential use of donations for political purposes.

(b) *Definitions.* For the purposes of this section—

(1) *The promotion of political ideas* includes issue advocacy, election influencing activity, and research, training or educational activity that is expressly tied to the organization’s political goals.

(2) A corporation’s *express purpose* includes:

(i) The corporation’s purpose as stated in its charter, articles of incorporation, or bylaws, except that a statement such as “any lawful purpose,” “any lawful activity,” or other comparable statement will not preclude a finding under paragraph (c) of this section that the corporation’s only express purpose is the promotion of political ideas;

(ii) The corporation’s purpose as publicly stated by the corporation or its agents; and

(iii) Purposes evidenced by activities in which the corporation actually engages.

(3) (i) The term *business activities* includes but is not limited to:

(A) Any provision of goods or services that results in income to the corporation; and

(B) Advertising or promotional activity which results in income to the corporation, other than in the form of membership dues or donations.

(ii) The term *business activities* does not include fundraising activities that are expressly described as requests for donations that may be used for political purposes, such as supporting or opposing candidates.

(4) The term *shareholder* has the same meaning as the term *stockholder*, as defined in 11 CFR 114.1(h).

(c) *Qualified nonprofit corporations.*

For the purposes of this section, a qualified nonprofit corporation is a corporation that has all the characteristics set forth in paragraphs (c)(1) through (c)(5) of this section:

(1) Its only express purpose is the promotion of political ideas, as defined in paragraph (b)(1) of this section;

(2) It cannot engage in business activities;

(3) It has:

(i) No shareholders or other persons, other than employees and creditors with no ownership interest, affiliated in any way that could allow them to make a claim on the organization’s assets or earnings; and

(ii) No persons who are offered or who receive any benefit that is a disincentive for them to disassociate themselves with the corporation on the basis of the corporation’s position on a political issue. Such benefits include but are not limited to:

(A) Credit cards, insurance policies or savings plans; and

(B) Training, education, or business information, other than that which is necessary to enable recipients to engage in the promotion of the group’s political ideas.

(4) It:

(i) Was not established by a business corporation or labor organization;

(ii) Does not directly or indirectly accept donations of anything of value from business corporations, or labor organizations; and

(iii) If unable, for good cause, to demonstrate through accounting records that paragraph (c)(4)(ii) of this section is satisfied, has a written policy against accepting donations from business corporations or labor organizations; and