

events in other capacities, such as when the candidate is also a faculty member.

Although the proposed rules in the Notice covered candidate appearances on college campuses, they did not specifically address candidate debates. As noted by the commenters, there is a long tradition of holding candidate debates in college auditoriums. The Commission did not intend to curtail this practice, and the final rules do not prevent such debates from being held. Colleges and universities that qualify for tax-exempt status under 26 U.S.C. 501(c)(3) may stage candidate debates in accordance with the requirements set out in 11 CFR 110.13 and 114.4(f).

The proposed rules in section 114.4(c)(7)(i) would have required educational institutions to have an established policy allowing associated organizations, such as student groups, to sponsor candidate appearances so long as the policy does not favor one candidate or party over any other. Several commenters questioned the need for such a policy, and expressed concern that colleges and universities would be forced to grant access to their facilities to groups not connected with the educational institution. Consequently, the language in new section 114.4(c)(7) is being amended to include a more general requirement that the educational institution does not favor any one candidate or political party in allowing the appearances.

The proposed rules also sought to ensure that admission to a candidate's appearance would not be based on party affiliation, or any other indications of support for or opposition to the candidate by requiring either the educational institution or the sponsoring group to control access to the facility, rather than the candidate's campaign committee. This proposal has been dropped as impracticable.

The NPRM indicated that one objective was to ensure that these candidate appearances will not become campaign rallies, fundraising events, or opportunities for the school or group issuing the invitation to expressly advocate, or encourage the audience to expressly advocate, the election or defeat of the candidate who is appearing. Accordingly, the proposals sought to restrict the presence of campaign banners, posters, balloons and other similar items which would be viewed as indicative of a campaign rally. Several commenters and witnesses recognized the necessity for educational institutions to refrain from express advocacy, so as to avoid jeopardizing their nonprofit status. However, the comments also emphasized the practical difficulties in trying to control

expressions of support or opposition by the audience, and trying to ensure that a campaign rally atmosphere does not ensue. They also questioned distinctions between posters and hats or buttons. Finally, they argued that colleges are public fora, and the government's ability to restrict speech in public fora is limited.

The revised rules in paragraph (c)(7)(ii)(B) retain the prohibition against the educational institution engaging in express advocacy. However, the language regarding a campaign rally atmosphere has been modified to require the educational institution to make reasonable efforts to ensure that the appearance does not turn into a campaign rally. This does not require the college or university to monitor buttons or campaign materials brought in or worn by members of the audience. These provisions are consistent with the requirement that exempt organizations under 26 U.S.C. 501(c)(3) refrain from participating in or intervening in political campaigns.

The NPRM also proposed a prohibition against candidates collecting contributions during the appearance, coupled with language allowing candidates to ask for contributions to be sent to their campaign committees. The Notice also suggested a provision barring educational institutions from soliciting contributions. The comments generally supported these proposals as consistent with the nonprofit status of these educational institutions under the Internal Revenue Code. They also suggested that candidates be informed in advance that they may not collect contributions.

It is not necessary to include in the final rules these restrictions on soliciting and collecting contributions. They are already subsumed within the requirement that the educational institution make a reasonable effort to ensure the candidate appearance does not become a campaign rally. In addition, candidate appearances at incorporated private colleges and universities are already subject to additional requirements under the Internal Revenue Code and regulations issued thereunder.

The NPRM also included provisions allowing educational institutions to invite the media to cover these candidate appearances and to broadcast them to the general public, provided the schools follow the same guidelines that would apply to other corporations, as set forth in section 114.3(c)(2)(iii) and section 114.4(b)(1)(viii). The Commission has decided not to include this provision in the final rules and to

allow educational institutions and the news media to work out their own arrangements.

9. Candidate Appearances in Churches

The NPRM presented the possibility of issuing rules regarding candidate appearances in churches and religious facilities. However, this topic received little attention from the commenters. The large number of other more immediate issues in this rulemaking may have overshadowed considerations of candidate appearances in religious settings. At this point, the Commission has decided to defer this matter for further consideration.

10. Registration and Get-Out-The-Vote Drives

Voter registration and get-out-the-vote drives aimed at the general public or at employees outside the restricted class have been moved from previous paragraph (c) to renumbered paragraph (d) of section 114.4. The NPRM included several revisions to this provision, most of which are included in the attached final rules. First, the regulations distinguish between the speech and nonspeech components of voter drives. Thus, the rules conform to the MCFL decision by applying an express advocacy standard to the speech components of voter drives. Hence, new language in paragraph (d)(1) indicates that communications containing express advocacy may not be made during voter drives aimed at employees outside the restricted class, or during voter drives aimed more broadly at the general public.

The revised voter drive rules also include changes regarding the nonspeech components of voter drives. Under section 114.4(d), corporations and labor organizations may conduct voter registration and get-out-the-vote drives without the involvement of a nonprofit organization which is described in 26 U.S.C. 501 (c)(3) or (c)(4). To the extent that AO 1978-102 indicates that such drives must be jointly sponsored with a civic or nonprofit organization, that opinion is superseded by the regulatory changes to this section. However, the validity of AO 1980-45, which affirmed the ability of a 501(c)(3) nonprofit corporation to conduct a voter registration drive, is not affected by the revised rules. Paragraph (d)(2) specifies that these drives cannot be coordinated with any candidate or political party. Moreover, under paragraph (d)(5), workers cannot be paid only to register voters supporting a particular candidate or political party.

Both the proposed and the final rules in section 114.4(d)(4) contemplate