



FEDERAL ELECTION COMMISSION

11 CFR Part 113

[NOTICE 2018-14]

Rulemaking Petition: Personal Use of Leadership PAC Funds

AGENCY: Federal Election Commission

ACTION: Rulemaking Petition: Notification of Availability

SUMMARY: On July 24, 2018, the Federal Election Commission received a Petition for Rulemaking, which asks the Commission to revise and amend the existing regulation concerning the personal use of campaign funds, to specify that that regulation applies to leadership PAC funds. 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/rulemaking.htm?pid=2933211>, reference REG 2018-02. Alternatively, commenters may submit comments in paper form, addressed to the Federal Election Commission, Attn.: Mr. Robert M. Knop, 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 security number, or driver's license number, or any information that is restricted from disclosure, such as trade secrets or commercial or financial information that is privileged or confidential.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Knop, Assistant General Counsel, or Mr. Joseph P. Wenzinger, Attorney, Office of General Counsel, 1050 First Street NE, Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: On July 24, 2018, the Commission received a Petition for Rulemaking from Campaign Legal Center, Issue One, and five former United States Representatives, asking the Commission to revise and amend 11 CFR 113.1(g) — which regulates the personal use of campaign funds — to specify that that regulation applies to leadership PAC funds.

The Federal Election Campaign Act, 52 U.S.C. 30101-45 (the “Act”), identifies six categories of permissible uses of contributions accepted by a federal candidate, and any other donations received by an individual as support for activities of the individual as a federal officeholder. 52 U.S.C. 30114(a). These permissible uses include “any . . . lawful purpose” that does not convert campaign funds to “personal use.” 52 U.S.C. 30114(a)(6), (b)(1). Commission regulations define “personal use” as “any use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate’s campaign or duties as a Federal officeholder.” 11 CFR 113.1(g); see also 52 U.S.C. 30114(b)(2).

As defined by the Act and Commission regulations, leadership PACs are political committees directly or indirectly established, financed, maintained, or controlled by federal candidates or officeholders that are neither authorized committees of a federal candidate or

officeholder nor affiliated with an authorized committee of a federal candidate or officeholder. See 52 U.S.C. 30104(i)(8)(B); 11 CFR 100.5(e)(6). The term “leadership PAC” does not include a political committee of a political party. 52 U.S.C. 30104(i)(8)(B); 11 CFR 100.5(e)(6).

The petition asks the Commission to open a rulemaking to “clarify that the statutory prohibition” on personal use of campaign funds applies to leadership PACs. The statutory prohibition applies, the petition argues, because a contribution to a leadership PAC qualifies under 52 U.S.C. 30114(a) as both a “contribution accepted by a candidate,” and a “donation received by an individual as support for activities of the individual as a holder of Federal office.” The petition suggests that the Commission revise 11 CFR 113.1(g) to include leadership PACs.

The Commission seeks comments on the petition. The public may inspect the petition on the Commission’s website at <http://sers.fec.gov/fosers/showpdf.htm?docid=399206>, or in the Commission’s Public Records Office, 1050 First Street NE, 12th Floor, Washington, DC 20463, Monday through Friday, from 9 a.m. to 5 p.m.

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

On behalf of the Commission,

Dated: September 7, 2018

Caroline C. Hunter,
Chair,
Federal Election Commission.

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