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VIA SERS.FEC.GOV

Federal Election Commission
Attn: Amy L. Rothstein, Assistant General Counsel for Policy
1050 First Street NE
Washington, DC 20463

Re: REG 2021-01, Candidate Salaries

Dear Ms. Rothstein:

The National Republican Congressional Committee (“NRCC”), by and through counsel, submits this comment regarding the Federal Election Commission (the “Commission”) Notice of Proposed Rulemaking (“NPRM”) on candidate salaries. As the Republican Party’s national committee dedicated to electing Republicans to the U.S. House of Representatives, the NRCC has firsthand experience recruiting, training, and supporting non-incumbent candidates who are directly affected by the candidate salary regulation. The NRCC is responding to three proposals in the NPRM.

Proposed 11 C.F.R. § 113.1(g)(6)(ii) – Cap on Candidate Compensation

The NRCC supports Alternatives D and F of proposed 11 C.F.R. § 113.1(g)(6)(ii), which employ a hybrid approach to establish the maximum amount of compensation that a principal campaign committee may pay a candidate. Both Alternatives D and F would ensure that candidates who did not earn any income during the applicable look-back period would nevertheless be able to receive the annualized hourly minimum wage from their principal campaign committees. At the same time, candidates who did earn income during the applicable look-back period would remain eligible to receive salaries from their principal campaign committees capped at their earned income (or average earned income) during the look-back period or the minimum salary for the federal office sought, whichever is lower. The hybrid approach in Alternatives D and F offers needed flexibility and ensures that compensation is available to candidates from an array of financial backgrounds.

Proposed 11 C.F.R. § 113.1(g)(6)(iii) – Definition of “Compensation”

The NRCC supports Alternative A of proposed 11 C.F.R. § 113.1(g)(6)(iii) with two modifications. First, the NRCC urges the Commission to exclude childcare expenses from the definition of “compensation.” For nearly 30 years, the Commission has viewed childcare expenses directly resulting from campaign activity as permissible campaign expenses—not an employment-related benefit or other form of compensation.¹ The Commission has adopted a

¹ See AO 2022-07 (Swalwell); AO 2019-13 (MJ for Texas); AO 2018-06 (Liuba for Congress); AO 1995-42 (McCrery).

similar analysis with home and personal security expenses for officeholders.² As the NPRM acknowledges, including childcare expenses in the definition of “compensation” would partially supersede Commission precedents and bar incumbent candidates from using campaign funds to pay for childcare expenses directly resulting from campaign activity. If the Commission would like to promulgate a regulation limiting the use of campaign funds to pay for childcare expenses, it would be more appropriate to do so in a separate rulemaking given that this issue affects both non-incumbent and incumbent candidates.

Second, the “direct payments to the candidate” language in all proposed alternatives of the definition of “compensation” could be read to encompass payments to candidates for non-compensation purposes, such as campaign expense reimbursements and campaign loan repayments. We urge the Commission to clarify in the final rule that the definition of “compensation” excludes campaign expense reimbursements and campaign loan repayments.

Proposed 11 C.F.R. § 113.1(g)(6)(v) – Eligibility Period for Receiving Compensation from Campaign Funds

The NRCC supports proposed 11 C.F.R. § 113.1(g)(6)(v), which would permit principal campaign committees to begin paying compensation to candidates earlier in the election cycle than the current regulation. In the NRCC’s experience, many non-incumbent candidates’ campaign activities require them to either work reduced hours or take leaves of absence from their current jobs far in advance of state ballot access deadlines. These candidates may face financial hardship due to their lost earnings and inability to receive compensation from their campaigns until the ballot access deadline. The current regulation’s “gap period” can deter potential candidates from running for office. The NRCC notes that the ballot access deadline continues to be important for purposes of this proposed regulation because a candidate who does not qualify for the primary ballot would cease to be a candidate and could no longer receive compensation from his or her principal campaign committee.

The NRCC also supports permitting successful candidates to continue receiving compensation from their principal campaign committees between the general election (or special or runoff election) and the date on which they are sworn into office. During this brief period, successful candidates typically do not return to their prior jobs and instead focus on winding down their campaigns and preparing to become Members of Congress.

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The NRCC appreciates the opportunity to comment on this important and timely issue.

Respectfully Submitted,



Brandis L. Zehr

Counsel to NRCC

² See, e.g., AO 2022-25 (Crapo); AO 2022-02 (Steube); AO 2021-03 (NRSC/NRCC); AO 2020-06 (Escobar); AO 2017-07 (Sergeant at Arms).