

**RELIGIOUS ACTION CENTER  
OF REFORM JUDAISM**

April 5, 2004

**Via Electronic Mail**

*The Religious Action Center  
pursues social justice and  
religious liberty by  
mobilizing the American  
Jewish community and  
serving as its advocate  
in the nation's capital*

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Rabbi David Saperstein  
Director and Counsel

Mark J. Pelavin  
Associate Director

Jane Wishner  
Chair  
Commission on Social Action  
of Reform Judaism

Rabbi Marla Feldman  
Director  
Commission on Social Action  
of Reform Judaism

*The Religious Action Center  
is under the auspices of  
the Commission on Social  
Action of Reform Judaism,  
a joint instrumentality of  
the Central Conference of  
American Rabbis and  
the Union for Reform Judaism  
with its affiliates  
American Conference  
of Cantors,  
ARZA/WORLD UNION,  
North American,  
National Association of  
Temple Administrators,  
National Association of  
Temple Educators,  
North American Federation of  
Temple Brotherhoods,  
Women of  
Reform Judaism, and  
North American Federation  
of Temple Youth*

Ms. Mai T. Dinh  
Acting Assistant General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, D.C.

**Re: Comments and Request to Testify Concerning Notice of Proposed  
Rulemaking on Political Committee Status.**

Dear Ms. Dinh:

On behalf of the Religious Action Center of Reform Judaism, I submit these comments to oppose the Notice of Proposed Rulemaking on Political Committee Status issued by the Federal Election Commission on March 11, 2004 (hereinafter "NPRM"). In addition to these comments, I request an opportunity to testify at the hearings scheduled on April 14-15, 2004. The Religious Action Center of Reform Judaism is the public policy arm of the Union for Reform Judaism, whose more than 900 congregations across North America encompass 1.5 million Reform Jews, and the Central Conference of American Rabbis, whose membership includes over 1800 Reform rabbis.

The rulemaking proposal under consideration by the FEC threatens to seriously impede our ability, and that of many other 501(c)3 organizations, to advocate on behalf of policies and legislation that affect our most deeply held values and morals. As the Washington advocacy office of the nation's largest denomination of Judaism, we are especially concerned that this proposal would silence the prophetic voice of religion in American society. In particular, we are alarmed by the proposal to expand the definition of "expenditure" to include communications that "promote, support, oppose or attack" a federal candidate or a policy position of a candidate. Equally troubling is the proposed rule that would convert many nonprofits into "political committees" if they spend \$50,000 or 50% of total disbursements in the current year or any of the past four years on these kinds of communications or voter mobilization.

As vigorous advocates of the wall separating church and state, we have, nevertheless, always maintained that religious organizations can and must speak out on the moral issues of our times. Martin Luther King, Jr. wrote that houses of worship must be the "conscience of the state," yet these proposed regulations would put a stranglehold on the ability and right of religious organizations to bring their much needed voice of conscience into the public arena. How could a religious organization speak out in support of affordable housing for the poor without addressing the appropriate legislation's sponsors and opponents? This past September, I stood with President Bush as he signed into law the Prison Rape Reduction Act. This vitally important bill only succeeded through the support of hundreds of religious advocacy groups, churches, synagogues, and mosques.

We are also very concerned by the potential effect of these proposals on voter registration drives and get-out-the-vote efforts organized by religious organizations. Under the NPRM, an organization could not safely undertake a voter participation program aimed at groups showing "likely" voting preferences without risking a full FEC investigation. This risk could deter religious organizations from registering their own congregants to vote, when statistics show that members of a particular religious denomination are more or less likely to vote for a particular candidate or party. Further, many religious groups are deeply motivated to empower underrepresented minorities through political participation, yet this urgently needed expansion of democracy would be stifled by the proposed regulations.

Our opposition to this rulemaking proposal should not be seen as opposition to campaign finance reform or campaign regulations. Indeed, we spearheaded a religious coalition to support the McCain-Feingold Bipartisan Campaign Reform Act of 2002 (BCRA). We celebrated BCRA's ban on the raising and soliciting of "soft money" contributions to federal elections and its limitation on "issue ads," which are often thinly-veiled candidate endorsements, in the weeks prior to an election. However, Congress consciously decided to stop short of applying its soft money regulations in BCRA to non-profit interest groups, which do not present the same potential for corruption or the appearance of corruption as political parties. The U.S. Supreme Court, in *McConnell v. FEC*, acknowledged that Congress "is fully entitled to consider the real-world differences between political parties and interest groups when crafting a system of campaign finance regulation." Congress may exercise its prerogative to revisit the issue of non-profit political advocacy in the future, but the FEC exceeds its power and authority in attempting to write changes into the law through this regulatory fiat.

Not only do these proposed regulations deny the constitutional right of free speech to hundreds of non-profit advocacy groups, but they also inherently curtail the constitutionally guaranteed freedom of religious organizations and houses of worship to engage in religious expression. For a wide array of diverse faiths in America, the exercise of religion is inseparable from the struggle for social justice, a religious obligation to address the issues and policies that touch the moral core of American society. In the Jewish tradition, we hear this call from one of our greatest teachers, Rabbi Hillel, who proclaimed, "Do not separate yourself from the community." The prophet Isaiah demands of us, "Devote yourselves to justice: aid the wronged, uphold the rights of the orphan, defend the cause of the widow" [Isaiah 1:17]. Indeed, under NPRM, religious organizations would be forced to separate themselves from the American community and compelled to shy away from devoting themselves to justice.

I strongly oppose the rules proposed in the NPRM and welcome any opportunities to discuss this matter further.

Respectfully,

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Rabbi David Saperstein  
Director, Religious Action Center of Reform Judaism

[dsaperstein@rac.org](mailto:dsaperstein@rac.org)

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