



February 9, 2022

Federal Election Commission
1050 First St. NE
Washington, DC 20463

Re: REG 2021-01: Candidate Salaries

Dear Commissioners:

Campaign Legal Center (“CLC”) respectfully submits this comment on REG 2021-01: Candidate Salaries. We are pleased that the Federal Election Commission (“Commission”) is addressing this important issue and hope it will take this opportunity to strike the appropriate balance of ensuring that donors’ dollars are not used for personal enrichment, while also recognizing that an individual’s wealth should not determine their ability to run for office and serve as an elected representative.¹ Indeed, concerns about financial barriers to running for office are particularly troubling in light of their connection to the lack of diverse representation among those in elected office.²

¹ See CLC Comment, REG 2021-01: Candidate Salaries, 86 Fed. Reg. 23300 (June 30, 2021), <https://sers.fec.gov/fosers/showpdf.htm?docid=414052> [hereinafter “2021 CLC Comment”].

² See, e.g., Gianna Melillo, *118th Congress is Most Racially Diverse to Date: Research*, THE HILL (Jan. 9, 2023), <https://thehill.com/changing-america/respect/diversity-inclusion/3805580-118th-congress-is-most-racially-diverse-to-date-research/> (“[W]hite members [of Congress] are over-represented compared with the U.S. population.”); John Powell, *Campaign Finance Reform Is a Voting Rights Issue: The Campaign Finance System as the Latest Incarnation of the Politics of Exclusion*, 5 AFR.-AM. L. & POL’Y REP. 1, 18 (2002), <https://lawcat.berkeley.edu/record/1118096?ln=en> (“[T]he very accumulation of wealth in this country is racialized and deeply embedded in racially discriminatory practices and structures of the recent and distant past.”); *Gender and Racial Wealth Gaps and Why They Matter*, NAT’L WOMEN’S L. CNTR. (June 10, 2022), <https://nwlc.org/resource/gender-and-racial-wealth-gaps-and-why-they-matter/#:~:text=For%20every%20%241%20of%20wealth,and%20barriers%20to%20property%20ownership> (“Women have always owned less wealth than men due to historical and ongoing factors like employment discrimination, lack of access to credit, and barriers to property ownership.”); Nirali Vyas, Chisum Lee, & Gregory Clark, Brennan Ctr. for Justice, *Small Donor Public Financing Could Advance Race and Gender Equity in Congress* at 2 (Oct. 15, 2020), <https://www.brennancenter.org/our-work/research->

With respect to the maximum salary a candidate may draw from campaign funds, CLC supports divorcing the maximum salary level from the candidate's earned income in the previous year, which would unfairly impact those that did not earn income during the year prior to running for office, such as someone that was laid off or provided unpaid dependent care. For much the same reason, however, we would also caution against any proposal — *e.g.*, Compensation Cap Alternative E — that would prevent a candidate from drawing a salary because they previously provided dependent care, completed their education, or were unemployed or otherwise unable to earn income. If the Commission is serious about opening the door to federal candidates from a diverse array of economic experiences, its regulations should not foreclose a candidate from drawing a campaign salary merely because of a previous period of unpaid dependent care or unemployment. For example, a candidate who did not earn a prior income while providing dependent care may need to spend personal funds to pay for that very care in order to be able to run for office.³

We likewise support allowing candidates to access the same campaign-subsidized healthcare options as their staff. Because most Americans receive health insurance through their employer, an individual who leaves their job to campaign fulltime (which is often necessary to be a serious candidate in a competitive election) would likely have to pay out-of-pocket for health insurance coverage provided either under the Consolidated Omnibus Budget Reconciliation Act (“COBRA”) or from a health insurance marketplace. The need for alternative healthcare coverage under those circumstances would result from the candidate's status as a federal candidate and is thus a reasonable use of campaign resources.

Finally, with respect to when a candidate may start receiving compensation from their campaign, the Commission should rewrite the current regulation, which inequitably ties candidate compensation to the filing deadline for primary ballot access. As CLC previously noted, the ballot access deadline varies drastically by state and has no relation to when a candidate actually begins campaigning, which is the trigger for when they may need to leave a job or be compensated for their work on the campaign.⁴ We thus support the Commission's proposal to anchor candidate compensation to the registration of a principal campaign committee, which would allow candidates to begin receiving a salary based on when they are actually campaigning.

Restrictions on the personal use of campaign funds are a crucial aspect of our campaign finance regime that ensure candidates don't misappropriate their

[reports/small-donor-public-financing-could-advance-race-and-gender-equity](#) (explaining that early fundraising success is a key measure of a campaign's viability, and candidates who can use their personal funds to hit early fundraising metrics have a great advantage in attracting the support necessary to remain in the race).

³ While the Commission has previously approved the use of campaign funds to pay for childcare expenses directly resulting from campaign activity, *e.g.*, Advisory Op. 2022-07 (Swalwell), under some of the Commission's proposals in this rulemaking, a candidate ineligible for compensation from their campaign would also be ineligible for dependent care benefits.

⁴ 2021 CLC Comment at 2.

supporters' contributions to personally enrich themselves or their family and friends. At the same time, however, CLC supports an approach to those restrictions that recognizes that running for office may require candidates, particularly those that lack personal wealth, to draw a reasonable salary and cover certain expenses — which exist only because the candidate decided to seek elected office — from their campaign. Otherwise, the doors to federal office will be effectively closed for ordinary Americans who aren't independently wealthy — a group that is disproportionately made up of women and people of color.⁵

CLC commends the Commission for taking on the important task of making it easier for individuals of all economic backgrounds to run for public office, and appreciates the opportunity to provide comments on this rulemaking.

Respectfully submitted,

 /s/ Saurav Ghosh

Saurav Ghosh
Shanna (Reulbach) Ports
Campaign Legal Center
1101 14th St. NW, Suite 400
Washington, DC 20005

⁵ See Powell, *supra* note 2; *Gender and Racial Wealth Gaps and Why They Matter*, *supra* note 2.