



March 10, 2025

Lisa J. Stevenson, Esq.  
Acting General Counsel  
Federal Election Commission  
1050 First St. NE  
Washington, DC 20463  
ao@fec.gov

**Re: Request for an Advisory Opinion Regarding CLC's Statutory  
Right to File an FEC Complaint in Light of President Trump's  
Executive Order "Ensuring Accountability for All Agencies"**

Dear Ms. Stevenson:

Campaign Legal Center ("CLC") respectfully submits this request for an advisory opinion, pursuant to 52 U.S.C. § 30108(a), for clarity regarding CLC's statutory right to file a complaint under 52 U.S.C. § 30109(a)(1) that alleges a violation of the Federal Election Campaign Act ("FECA"), under penalty of perjury, notwithstanding a contrary view of the law by the President or Attorney General.

Congress, through FECA, established the Federal Election Commission (the "FEC" or "Commission") as an "independent and inherently bipartisan" agency,<sup>1</sup> tasked with administering, implementing, and enforcing federal campaign finance laws that apply to all federal candidates and officeholders—including presidential candidates and the sitting President of the United States. Neither the Commission nor any other executive branch actor can limit or alter the substantive and procedural requirements Congress established in FECA.

Nevertheless, President Donald Trump's February 18, 2025, Executive Order "Ensuring Accountability for All Agencies" (hereinafter, the "EO") purports to do exactly that by broadly dictating:

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<sup>1</sup> Letter to FEC from CLC President Trevor Potter, *et al.*, re: Executive Order "Ensuring Accountability for All Agencies" ("CLC Letter") at 1 (Feb. 28, 2025), <https://campaignlegal.org/document/fec-letter-trump-executive-order>.

The President and the Attorney General’s opinions on questions of law are controlling on all employees in the conduct of their official duties. No employee of the executive branch acting in their official capacity may advance an interpretation of the law as the position of the United States that contravenes the President or the Attorney General’s opinion on a matter of law, including but not limited to the issuance of regulations, guidance, and positions advanced in litigation, unless authorized to do so by the President or in writing by the Attorney General.<sup>2</sup>

The EO seeks to unconstitutionally overrule Congress. Specifically, the EO is contrary to the statutory structure that provides the FEC with the independence and autonomy necessary to not only regulate all federal candidates and officeholders, including individuals seeking or serving in the office of President, but to also prevent foreign electoral influence at the federal, state, and local level<sup>3</sup>—regardless of the policy preferences of the current President.<sup>4</sup>

Recently, the Department of Justice (“DOJ”) moved to dismiss criminal charges brought against New York City Mayor Eric Adams, who was indicted by a federal grand jury for, among other things, criminal violations of FECA’s provisions prohibiting the solicitation or acceptance of foreign national contributions.<sup>5</sup>

Accordingly, on February 18, 2025, CLC filed a civil enforcement complaint with the Commission, pursuant to 52 U.S.C. § 30109(a),<sup>6</sup> alleging that Adams had violated FECA and urging the Commission to pursue civil enforcement to vindicate FECA’s interests.<sup>7</sup> CLC’s sworn complaint was predicated on the understanding that Congress, through FECA, provided members of the public (like CLC) the right to submit a civil enforcement complaint regardless of DOJ policy decisions or actions

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<sup>2</sup> Executive Order § 7, *Ensuring Accountability for All Agencies* (Feb. 18, 2025), <https://www.whitehouse.gov/presidential-actions/2025/02/ensuring-accountability-for-all-agencies/>.

<sup>3</sup> See 52 U.S.C. § 30121(a).

<sup>4</sup> See CLC Letter at 2–4 (explaining generally how the EO unconstitutionally abrogates Congress’s enactments in FECA).

<sup>5</sup> Nolle Prosequi, *United States v. Adams*, No. 1:24-cr-00556-DEH (S.D.N.Y. Feb. 14, 2025); see Memorandum from Acting Deputy Att’y Gen. Emil Bove, U.S. Dept. of Justice, on Dismissal Without Prejudice of Prosecution of Mayor Eric Adams, to Acting U.S. Attorney & U.S. Attorney’s Office for S.D.N.Y. (Feb. 10, 2025), available at <https://www.nytimes.com/interactive/2025/02/10/nyregion/adams-case-dismiss-memo.html>.

<sup>6</sup> 52 U.S.C. § 30109(a)(1) (“Any person who believes a violation of this Act or of chapter 95 or chapter 96 of title 26 has occurred, may file a complaint with the Commission. Such complaint shall be in writing, signed and sworn to by the person filing such complaint, shall be notarized, and shall be made under penalty of perjury and subject to the provisions of section 1001 of title 18.”).

<sup>7</sup> See Compl. (Feb. 18, 2025), <https://campaignlegal.org/document/clc-files-fec-complaint-against-mayor-eric-adams-violations-ban-soliciting-and-accepting>.

that might be contrary to the legal conclusions in such a filing, given the FEC's independent authority to pursue civil enforcement of FECA violations, including of the FECA provisions that Adams allegedly violated.

The EO, which was issued after CLC filed its complaint against Adams, purports to abrogate both CLC's right to seek, and the FEC's authority to pursue, enforcement of these serious FECA violations. This leaves CLC unclear about its right to seek enforcement for violations of these provisions in FECA when DOJ has declared or otherwise made clear its policy against such enforcement.

CLC plans to file a supplemental complaint against Adams providing additional legal and factual grounds for civil enforcement action. The legal assertions in that filing would be inconsistent with DOJ's position in the Adams prosecution. Indeed, the decision not to prosecute Adams appears to be part of a broader approach to laws prohibiting foreign influence by President Trump and his administration.<sup>8</sup>

**Accordingly, CLC seeks an advisory opinion as to whether section 30109(a)(1) permits CLC to file a complaint with the FEC, under penalty of perjury, alleging violations of FECA, notwithstanding a contrary view of the law by the President or Attorney General, including, in particular, the above-described supplemental complaint against Adams.**

The tension between Congress's enactments in FECA and President Trump's power grab over independent agencies has direct consequences for CLC as an organization that routinely makes use of FECA's prescribed enforcement process to maintain transparency and accountability in our elections. In light of the EO, it is unclear whether CLC legally can, in fact, avail itself of the statutory right in section 30109(a)(1) to submit the contemplated supplemental complaint against Adams, or

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<sup>8</sup> In addition to the decision not to prosecute Adams, many of the Trump administration's recent nonenforcement actions have been predicated on the administration's position that statutes Congress enacted to curtail foreign influence are overbroad or otherwise harmful. *See, e.g.,* Executive Order, *Pausing Foreign Corrupt Practices Act Enforcement to Further American Economic and National Security* (Feb. 10, 2025), <https://www.whitehouse.gov/presidential-actions/2025/02/pausing-foreign-corrupt-practices-act-enforcement-to-further-american-economic-and-national-security/> (curtailing enforcement of the Foreign Corrupt Practices Act, or "FCPA," because that law "has been systematically . . . stretched beyond proper bounds and abused in a manner that harms the interests of the United States"); Press Release, *Treasury Department Announces Suspension of Enforcement of Corporate Transparency Act Against U.S. Citizens and Domestic Reporting Companies* (Mar. 2, 2025), <https://home.treasury.gov/news/press-releases/sb0038> (announcing that the Treasury Department will not "enforce any penalties or fines associated with the beneficial ownership information reporting rule" issued pursuant to the Corporate Transparency Act, and will in fact "be issuing a proposed rulemaking that will narrow the scope of the rule," to "ensur[e] that the rule is appropriately tailored to advance the public interest"); *cf.* Memo to DOJ from Att'y Gen. Pam Bondi, re: General Policy Regarding Charging, Plea Negotiations, and Sentencing at 4 (Feb. 5, 2025), <https://www.justice.gov/ag/media/1388541/dl> (disbanding the FBI's Foreign Influence Task Force, which investigated and countered foreign-led efforts to interfere in American elections, and limiting Foreign Agents Registration Act criminal enforcement to "traditional espionage," citing risks of "weaponization and abuse").

other complaints similarly alleging violations of FECA provisions, the enforcement of which is opposed by the President or Attorney General. In light of the broad authority claimed in the EO and DOJ's clear decision not to enforce the law against Adams, does FECA allow CLC to submit, and include a sworn verification regarding, an enforcement complaint alleging violations of FECA that appear to "contravene[] the President or the Attorney General's opinion on a matter of law"? Or is such a filing no longer permitted under FECA because the EO has removed the FEC's independent authority?

Our position, of course, is that FECA does authorize CLC to file this supplemental complaint—and other similar complaints alleging FECA violations, notwithstanding a contrary position taken by the DOJ or another Executive Branch entity—because neither the President nor the Attorney General has the authority to abrogate the public's statutory right to file complaints seeking enforcement of FECA under section 30109(a)(1). But to confirm that the law passed by Congress remains operational under these extraordinary circumstances,<sup>9</sup> we respectfully seek an advisory opinion on this question.

Respectfully submitted,

/s/ Saurav Ghosh

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

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<sup>9</sup> See 52 U.S.C. § 30108(c)(2) ("[A]ny person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (1) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act.").