

# FEC Agrees on Coordination Regulations

May 2006

On April 7, 2006, the Federal Election Commission (FEC) voted to amend its regulations with respect to coordinated communications, communications that are impermissible for corporations. The Commission, however, as of May 10, has yet to publish the regulations in their final form or to publish the accompanying and often illuminating Explanation and Justification. Nonetheless, from the discussions and amendments at the April 7, 2006 open meeting, the following details can be gleaned.

With respect to the broadest "content prong" of the coordination rule, which applies to public communications that mention or feature a federal candidate or political party, the Commission loosened its rules for Congressional candidates and tightened its rules for Presidential candidates. On one hand, the Commission shortened to 90 days before an election the coverage of the coordination regulations with respect to public communications that mention or feature Congressional candidates. Previously, the duration had extended to 120 days before an election. On the other hand, the Commission extended the coverage of the regulations vis-à-vis Presidential candidates well beyond the prior 120-day rule.

With respect to one of the "conduct prongs" of the coordination regulations that governs what type of activity constitutes coordination, the Commission reduced the reach of the common vendor and former employees factors to persons who had held such positions within the previous 120 days instead of the much longer "election cycle" rule that had previously existed. Also, the FEC put in its regulations a rule that would allow organizations such as PACs to undertake both coordinated and independent activity with respect to the same candidate or candidates as long as certain rules about partition and separation were observed. Such separation and partition rules apply

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to personnel and information. The Commission refers to their artificial but necessary divisions as "firewalls."