



June 28, 2017

Ms. Jodi Pope  
Campaign Finance and Public Disclosure Board  
190 Centennial Office Building  
658 Cedar Street  
Saint Paul, Minnesota 55155

**VIA ELECTRONIC MAIL**

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Dear Ms. Pope,

The Minnesota Chamber of Commerce (the "Chamber") submits these comments in response to the rulemaking work being completed by the Minnesota Campaign Finance and Public Disclosure Board (the "Board") with respect to issues related to independent expenditures in Minnesota (the "Proposed Rules").

The Chamber appreciates the Board's efforts to clarify certain aspects of the regulations surrounding independent expenditures so as to avoid uncertainty and to ensure consistency in the campaign finance process. That being said, the Chamber has concerns regarding some of the language that is included in the Proposed Rules.

Specifically, section 4503.0XXXX, subp. 8(E)(2) of the "Fourth Draft of Proposed Coordination Rules" as published by the Board on June 22, 2017 automatically characterizes an expenditure as "coordinated" if the expenditure is made by a spender that

*"Is established, financed, directed, or managed during the election segment by any of the following:*

- a. The candidate.*
- b. An individual who meets the definition of a candidate under Minn. Stat. section 10A.01, subd. 10, during the same election segment.*
- c. The candidate's spouse, child, parent, grandparent, sibling, or half-sibling, or the spouses of such persons.*
- d. An agent of the candidate."*

While the Chamber understands the attractiveness of creating a bright-line test for coordination, by creating an irrefutable presumption of coordination based on blood or marital relationships, the Proposed Rules (a) constitute a significant expansion of previous Board interpretation and (b) threaten to unfairly restrict certain types of political speech based on family status. Candidate

involvement has traditionally been viewed as tainting the independence of an expenditure but extending the assumption of coordination to a candidate's family members unfairly assigns agency to individuals based solely on their blood or marital relationships with no opportunity to evaluate whether the family member has an actual agency relationship with the candidate or campaign. This simplistic approach unfairly targets certain family relationships while ignoring others. Why, for example, is the spouse of a half-sibling of a candidate prohibited from participating in a potential independent expenditure while a step-sibling of a candidate is not? Rather than assume that family ties necessarily result in impermissible coordination, the Board can simply rely on the agency language in (E)(2)(d) to determine, on a case-by-case basis, whether the family or marital relationship in question actually results in coordination.

Accordingly, the Chamber requests that the Board remove (E)(2)(c) from proposed subpart 8 of Proposed Rule 4503.0XXX. Alternatively, if the Board retains this language, the Board should include a list of conditions that, if satisfied, overcome the assumption of coordination when a family member is involved, as the Board has done with Proposed Rules related to the distribution of campaign materials and the use of common consultants.

We appreciate your consideration of these comments and our concerns. We look forward to continuing to participate in the discussion of this important issue.

Very truly yours,

MINNESOTA CHAMBER OF COMMERCE