

FEDERAL ELECTION COMMISSION

COMMISSION DIRECTIVE

REVOKES

Directive No. 31  
dated 8/11/80

NO.

31 (Revised)

EFFECTIVE DATE

September 28, 1981

SUBJECT

Confidentiality Requirements of the Act

The Federal Election Campaign Act specifically prohibits all employees from making public information concerning any compliance action pending before the Commission. 2 U.S.C. 437g(a)(12)(B) specifies penalties for any violation of confidentiality requirements. The Commission regulations specifically state:

No complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission, shall be made public by the Commission or by any person.

Staff members must be particularly careful not to communicate with any person outside the agency concerning compliance matters during both working and nonworking hours. All inquiries from members of the press are to be promptly referred to the Press Office. All inquiries from Congressional officials not directly concerned with a particular compliance matter should be referred to the Office of Congressional Affairs. Except for employees who are conducting an investigation or conciliation effort, ex parte communications are prohibited by the Commission's Code of Ethics which states:

(a) . . . no interested person outside the agency shall make or cause to be made to any Commissioner or any member of the Commission's staff involved in handling enforcement actions ex parte communications relative to the factual merits of any enforcement action, nor shall any Commissioner or member of the Commission's staff involved in the decisional process make or entertain any such ex parte communications.

(b) The prohibition of this regulation shall apply from the time a complaint is filed with the Commission pursuant to 2 U.S.C. 437g(a)(1) or from the time that the Commission determines on the basis of information ascertained in the normal course of its supervisory responsibilities that it has reason to believe that a violation has occurred or may occur pursuant to 2 U.S.C. 437g(a)(2), and remains in force until the Commission has finally concluded all action with respect to the enforcement matter in question.

(c) Any written communication prohibited by paragraph (a) of this section shall be delivered to the Staff Director of the Commission who shall place the communication in the file of the case.

(d) A Commissioner or member of the staff involved in handling enforcement actions who receives an oral offer or any communication concerning any enforcement action pending before the Commission, as described in paragraph (a), shall decline to listen to such communication. If unsuccessful in preventing the communication, the recipient thereof shall advise the person making the communication that he or she will not consider the communication and shall prepare a statement setting forth substance and circumstances of the communication within 48 hours of receipt of the communication and shall deliver the statement to the Staff Director for placing in the file in the manner set forth in paragraph (c).

Any person receiving any ex parte communication concerning a compliance action must forward the statement required by the Code of Ethics to this Office within 48 hours of the communication. In addition, staff members are reminded that a compliance action is not officially closed until the closed compliance file has been forwarded from the Office of General Counsel to the Press Office. If there are any doubts about whether a particular compliance action has been officially closed, you should contact the Press Office which will inform you whether the closed compliance file has been received.

If you have any questions concerning this memorandum please contact the Office of Staff Director.

  
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B. Allen Clutter  
Staff Director