

Attn: Kari Fresquez–Proposed Campaign Finance Rule
RE: Rio Grande Foundation proposed comments (revised)
Sent via email to: sos.rules@state.nm.us

August 18, 2017

Please consider these comments with regard to the Secretary of State’s proposed rules for campaign finance made by Paul J. Gessing on behalf of the Rio Grande Foundation.

The Rio Grande Foundation is a non-profit 501c3 organization based in Albuquerque. We are a non-partisan policy research organization working to promote economic liberty in New Mexico. We have been in existence since 2000, and I personally have been the head of the Foundation since 2006.

For starters, we applaud the Secretary of State for narrowing the scope of the proposed rules. Nonetheless, the Rio Grande Foundation remains concerned about the rules as written and the vague and complicated language and requirements they contain.

The first significant issue remains procedural. Despite having been revised and narrowed, these are still sweeping new regulations that should be handled through the legislative process, as our Constitution and democratic principles require. Imposition through the authority of one government official remains an inappropriate mechanism for such wide-ranging and impactful new policies.

In terms of our concerns regarding the proposed rule itself, we would like to see clarification that the Rio Grande Foundation and similar 501c3s would not be covered by the rule. In particular, we recommend that you consider revising the rulemaking again by amending the “advertisement” definition to explicitly exempt 501c3 organizations engaging in grassroots lobbying. If this change was made, it would remedy the Foundation’s chief concern about the rulemaking.

While some of the new language represents an improvement over the previously-proposed disclosure rules, we do have some serious concerns regarding the newly-added language in the “Coordinated Expenditures” section of the revised rulemaking.

Coordination is a highly complex – but crucially important – aspect of campaign finance law, especially for those that aren’t well-versed in the subject. The additions in this area are incredibly complicated and potentially speech-chilling. We are concerned that the revised language in the “coordinated expenditures” section of the revised rulemaking would, for example, affect current or former staff of the Foundation and/or that the new language could limit our ability to select vendors for mailers and the like put out by our organization. Effectively, the proposed rules would strain small organizations, like the Rio Grande Foundation, who have limited options on staff and vendors.

The issue of donor disclosure remains a hot-button issue for citizen groups across the State including the Rio Grande Foundation. In my previous comments, I noted how the City of Santa

Fe's more onerous disclosure rules impacted our efforts to engage in educational efforts on that City's proposed soda tax.

While I certainly appreciate the many differences between your revised proposal and the laws on the books in Santa Fe, the Rio Grande Foundation was sufficiently concerned as to bring a lawsuit against the City of Santa Fe to challenge what we see as the speech "chilling" portions of that very aggressive law. Donor disclosure, its inherent privacy violations, and the attendant paperwork are significant burdens for professionally-managed organizations like mine. They can be insurmountable burdens for volunteer-run grassroots organizations.

In conclusion, we do applaud you and your office for narrowing the scope of the proposed regulations. We hope you'll consider clarifying the rules in order to specifically address the 501c3 issue, and we hope you'll consider addressing the other issues and especially the complexity of some of the added language.