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October 16, 2023

Federal Election Commission  
Lisa J. Stevenson, Office of General Counsel  
1050 First Street NE  
Washington, D.C. 20463  
*Submitted via FEC.gov*

**Re: REG 2023-02: Artificial Intelligence in Campaign Ads**

Dear Commission:

The Center for Popular Democracy (CPD) submits this comment in response to REG 2023-02: Artificial Intelligence in Campaign Ads. CPD is a network of community organizations that seeks to create equity, opportunity and a dynamic democracy in partnership with base-building organizations, organizing alliances, and progressive unions across the country.

Advances in artificial intelligence (AI) means that campaigns and candidates can fabricate convincing computer-generated fake images, audio, or video of candidates saying or doing things that never happened. These “deepfakes” have already damaged the ability of voters to make informed decisions in elections, and could destroy their confidence in the election process.<sup>1</sup> Quick and easy to create, these deepfakes misrepresent the identity and actions of the true speaker and aim to deceive voters.<sup>2</sup> Such deceptions risk impacting voters of color in particular, as experts see a rise of election misinformation campaigns targeting Latino voters and immigrant communities heading into the 2024 elections.<sup>3</sup>

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<sup>1</sup> Joe Concha, “The impending nightmare that AI poses for media, elections,” The Hill, April 23, 2023, <https://thehill.com/opinion/technology/3964141-the-impending-nightmare-that-ai-poses-for-media-elections/>.

<sup>2</sup> Alexander Ulmer and Anna Tong, “Deepfaking it: America’s 2024 election collides with AI boom,” Reuters, May 30, 2023, <https://www.reuters.com/world/us/deepfaking-it-americas-2024-election-collides-with-ai-boom-2023-05-30/>; Nicholas Nehamas, “DeSantis Campaign Uses Apparently Fake Images to Attack Trump on Twitter,” The New York Times, June 8, 2023, <https://www.nytimes.com/2023/06/08/us/politics/desantis-deepfakes-trump-fauci.html>.

<sup>3</sup> Christine Fernando, “Election disinformation campaigns targeted voters of color in 2020. Experts expect 2024 to be worse,” AP News, July 28, 2023, <https://apnews.com/article/elections-voting-misinformation-race-immigration-712a5c5a9b72c1668b8c9b1eb6e0038a>.

The use of AI deepfakes in campaign materials will erode the public's trust in democracy. As political operatives harness AI's terrifying power for campaign materials, we urgently need firm guardrails. The FEC must exercise its statutory authority to prohibit the use of these "deepfakes" and other "fraudulent misrepresentation" as outlined in 52 U.S.C. §30124, part of the Federal Election Campaigns Act (FECA):

***§30124. Fraudulent misrepresentation of campaign authority***

*(a) In general*

*No person who is a candidate for Federal office or an employee or agent of such a candidate shall-*

- (1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or*
- (2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).*

*(b) Fraudulent solicitation of funds*

*No person shall-*

- (1) fraudulently misrepresent the person as speaking, writing, or otherwise acting for or on behalf of any candidate or political party or employee or agent thereof for the purpose of soliciting contributions or donations; or*
- (2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).*

We encourage the Commission to amend 11 C.F.R. §110.16(a), which has prohibitions against fraudulent misrepresentation. An amendment to this rule would clarify that AI content in campaign ads and other relevant campaign materials disseminated with the intent to mislead the public would be prohibited. The Commission must provide guidance and spell out that the restrictions and penalties of the law and the Code of Regulations will apply to the deliberate use of AI technology to mislead the public and misrepresent candidates and political parties.

Thank you for the opportunity to comment and express our support for rulemaking on this issue.

Sincerely,

Tam Doan  
Director of Voting Rights & Democracy Program