

## **PUBLIC COMMENTS ON DRAFT ADVISORY OPINIONS**

Members of the public may submit written comments on draft advisory opinions.

DRAFT ADVISORY OPINION 2012-36 is now available for comment. It was requested by Christopher Reilly, on behalf of the Green Party of Connecticut, and is scheduled to be considered by the Commission at its public meeting on December 6, 2012. The meeting will begin at 10:00 a.m. and will be held in the 9<sup>th</sup> Floor Hearing Room at the Federal Election Commission, 999 E Street, NW, Washington, DC. Individuals who plan to attend the public meeting and who require special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Commission Secretary, at (202) 694-1040, at least 72 hours prior to the meeting date.

If you wish to comment on DRAFT ADVISORY OPINION 2012-36, please note the following requirements:

- 1) Comments must be in writing, and they must be both legible and complete.
- 2) Comments must be submitted to the Office of the Commission Secretary by hand delivery or fax ((202) 208-3333), with a duplicate copy submitted to the Office of General Counsel by hand delivery or fax ((202) 219-3923).
- 3) Comments must be received by noon (Eastern Time) on December 5, 2012.
- 4) The Commission will generally not accept comments received after the deadline. Requests to extend the comment period are discouraged and unwelcome. An extension request will be considered only if received before the comment deadline and then only on a case-by-case basis in special circumstances.
- 5) All timely received comments will be made available to the public at the Commission's Public Records Office and will be posted on the Commission's website at <http://saos.nictusa.com/saos/searchao>.

## **REQUESTOR APPEARANCES BEFORE THE COMMISSION**

The Commission has implemented a pilot program to allow advisory opinion requestors, or their counsel, to appear before the Commission to answer questions at the open meeting at which the Commission considers the draft advisory opinion. This program took effect on July 7, 2009.

Under the program:

- 1) A requestor has an automatic right to appear before the Commission if any public draft of the advisory opinion is made available to the requestor or requestor's counsel less than one week before the public meeting at which the advisory opinion request will be considered. Under these circumstances, no advance written notice of intent to appear is required. This one-week period is shortened to three days for advisory opinions under the expedited twenty-day procedure in 2 U.S.C. 437f(a)(2).
- 2) A requestor must provide written notice of intent to appear before the Commission if all public drafts of the advisory opinion are made available to requestor or requestor's counsel at least one week before the public meeting at which the Commission will consider the advisory opinion request. This one-week period is shortened to three days for advisory opinions under the expedited twenty-day procedure in 2 U.S.C. 437f(a)(2). The notice of intent to appear must be received by the Office of the Commission Secretary by hand delivery, email ([Secretary@fee.gov](mailto:Secretary@fee.gov)), or fax ((202) 208-3333), no later than 48 hours before the scheduled public meeting. Requestors are responsible for ensuring that the Office of the Commission Secretary receives timely notice.
- 3) Requestors or their counsel unable to appear physically at a public meeting may participate by telephone, subject to the Commission's technical capabilities.
- 4) Requestors or their counsel who appear before the Commission may do so only for the limited purpose of addressing questions raised by the Commission at the public meeting. Their appearance does not guarantee that any questions will be asked.

**FOR FURTHER INFORMATION**

Press inquiries: Judith Ingram  
Press Officer  
(202) 694-1220

Commission Secretary: Shawn Woodhead Werth  
(202) 694-1040

Comment Submission Procedure: Kevin Deeley  
Acting Associate General Counsel  
(202) 694-1650

Other inquiries:

To obtain copies of documents related to Advisory Opinion 2012-36, contact the Public Records Office at (202) 694-1120 or (800) 424-9530, or visit the Commission's website at <http://saos.nictusa.com/saos/searchao>.

**ADDRESSES**

Office of the Commission Secretary  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Office of General Counsel  
ATTN: Kevin Deeley, Esq.  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

**AGENDA DOCUMENT NO. 12-82**

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FEDERAL ELECTION COMMISSION  
Washington, DC 20463

2012 NOV 29 PM 4: 41

November 29, 2012

**AGENDA ITEM**

**MEMORANDUM**

TO: The Commission

For Meeting of 12-6-12

FROM: Anthony Herman  
General Counsel

*AH by BV*

Kevin Deeley  
Acting Associate General Counsel

*KD*

Robert M. Knop  
Assistant General Counsel

*RMK*

Anthony T. Buckley  
Attorney

*ATB*

Subject: Draft AO 2012-36 (Green Party of Connecticut)

Attached is a proposed draft of the subject advisory opinion. We have been asked to have this draft placed on the Open Session agenda for December 6, 2012.

Attachment

1 ADVISORY OPINION 2012-36

2

3 Christopher Reilly

**DRAFT**

4 Treasurer

5 Green Party of Connecticut

6 P. O. Box 231214

7 Hartford, CT 06123-1214

8 Dear Mr. Reilly:

9 We are responding to your inquiry regarding the status of the Green Party of  
10 Connecticut (the "GPC") as a State party committee of a political party under the Federal  
11 Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations.  
12 The Commission concludes that the GPC qualifies as a State party committee because:  
13 (1) the Green Party of the United States (the "GPUS") qualifies as a political party;  
14 (2) the GPC is part of the official GPUS structure; and (3) the GPC is responsible for the  
15 day-to-day operations of the GPUS at the State level.

16 ***Background***

17 The facts presented in this advisory opinion are based on your letter received on  
18 October 22, 2012 and an email from Budd Dickinson of the GPUS received on  
19 October 31, 2012; on information contained on the websites of the GPC  
20 (<http://www.ctgreenparty.org/>) and the GPUS (<http://www.gp.org/index.php>); and on  
21 disclosure reports filed with the Commission.

22 The GPC's Bylaws ("Bylaws") detail various aspects of the functions,  
23 organization, and operation of the GPC. The Bylaws establish a State Central  
24 Committee, which is responsible for "formulation of Statements of Purpose and  
25 Principles and basic plans for organization, programs, financing, and strategy." Bylaws,  
26 Tit. II, Pt. 1. The State Central Committee is also responsible for "acting on petitions for

1 formation and acceptance of new Chapters and for determining and directing all action  
2 required for implementation of established Purposes and Plans.” *Id.* The State Central  
3 Committee is empowered to “establish subordinate committees, expend Party funds, and  
4 take or direct all action required for the execution of established Purposes and Plans, and  
5 coordinate all joint Chapter activities.” *Id.*

6       The Bylaws also describe specific responsibilities of the Party Chairpersons,  
7 Secretary, and Treasurer. *See* Bylaws, Tit. II, Pts. 2a-2c. The Bylaws create an  
8 Executive Committee, consisting of the three Chairpersons, the Secretary, and the  
9 Treasurer. The Executive Committee “shall be responsible for establishing the agenda  
10 for State Central Committee Meetings, duly considering recommendations and requests  
11 by [the] State Central Committee and chapters, and for informing State Central  
12 Committee members and Chapters of the agenda a week in advance of each meeting. It  
13 shall monitor the activities of Party committees and Chapters, assuring a full  
14 understanding of Party standards and objectives; and shall recommend to the State  
15 Central Committee any non-routine action that the State Central Committee should  
16 consider.” Bylaws, Tit. II, Pt. 2g.

17       The GPC has several committees including those responsible for finances, bylaws  
18 and procedures, platform, membership, data management, and dispute resolution. GPC  
19 Procedure Manual, 7-9, [http://www.ctgreenparty.org/images/pdf/procedure-book-](http://www.ctgreenparty.org/images/pdf/procedure-book-103011.pdf)  
20 [103011.pdf](http://www.ctgreenparty.org/images/pdf/procedure-book-103011.pdf) (last visited Nov. 8, 2012).

21       The GPC placed a candidate for President, Ralph Nader, on the Connecticut  
22 general election ballot in 2000. The GPC also succeeded in placing individuals who met

1 the definition of “candidate” pursuant to the Act and Commission regulations on general  
2 election ballots for the U.S. House of Representatives, including Charles Pillsbury (3<sup>rd</sup>  
3 District) in 2002 and Ken Kreyeske (1<sup>st</sup> District) in 2010.

4 The Commission has recognized the GPUS as a “political party” since 2001.  
5 See Advisory Opinion 2001-13 (Green Party of the United States). Pursuant to its  
6 bylaws, the National Committee of the GPUS is composed of representatives of the State  
7 parties apportioned according to a rules document. Bylaws of the Green Party of the  
8 United States, Art. II, sec. 2, <http://www.gp.org/documents/bylaws.shtml> (last updated  
9 May 9, 2010). The GPC is an active, accredited state party under the GPUS and has  
10 apportioned five delegates on the National Committee. Rules and Procedures of the  
11 Green Party of the United States, Art VIII, sec. 8-1,  
12 <http://www.gp.org/documents/rules.shtml#08> (last updated Dec. 20, 2009); Green Party  
13 Committees – Green National Committee (NC),  
14 <http://www.gp.org/committees/nc/delegates/> (last visited Nov. 15, 2012). The GPUS also  
15 allocated ten delegates to the GPC for the 2012 Presidential nominating convention.

16 ***Question Presented***

17 *Does the GPC qualify as a State committee of a political party within the meaning*  
18 *of the Act and Commission regulations?*

1 ***Legal Analysis and Conclusion***

2 Yes, the GPC qualifies as a State committee of a political party within the  
3 meaning of the Act and Commission regulations.

4 A “State committee” is an organization that, by virtue of the bylaws of a “political  
5 party,” is part of the official party structure, and is responsible for the day-to-day  
6 operations of the political party at the State level. 2 U.S.C. 431(15); 11 CFR 100.14(a).

7 A “political party” is an “association, committee, or organization that nominates a  
8 candidate for election to any Federal office whose name appears on the election ballot as  
9 the candidate of such association, committee, or organization.” 2 U.S.C. 431(16); 11  
10 CFR 100.15.

11 The determination as to whether a State party organization qualifies as a State  
12 committee of a national political party turns on three elements: (1) the national party with  
13 which the State party organization is associated must be a “political party”; (2) the State  
14 party organization must be part of the official structure of the national party; and (3) the  
15 State party organization must be responsible for the day-to-day operations of the national  
16 party at the State level. *See, e.g.*, Advisory Opinions 2009-16 (Libertarian Party of  
17 Ohio), 2008-16 (Libertarian Party of Colorado), and 2008-13 (Pacific Green Party of  
18 Oregon). The Commission addresses each of these three elements in turn.

19 ***(1) Qualification of GPUS as a Political Party***

20 First, the Commission must assess whether the national party qualifies as a  
21 “political party” under the Act and Commission regulations. 2 U.S.C. 431(15) and (16);  
22 11 CFR 100.14 and 100.15; *see* Advisory Opinions 2008-16 (Libertarian Party of

1 Colorado), 2008-13 (Pacific Green Party of Oregon), and 2007-06 (Libertarian Party of  
2 Indiana). As noted above, the Commission has determined in a previous advisory  
3 opinion that the GPUS qualifies as a political party. See Advisory Opinion 2001-13  
4 (Green Party of the United States). The Commission is aware of no new facts that would  
5 alter that conclusion.

6 *(2) Status of GPC as Part of Official GPUS Structure*

7 Second, the GPC must qualify as part of the official party structure of the national  
8 party, pursuant to 11 CFR 100.14. According to the GPUS's bylaws and rules referenced  
9 in the bylaws, the GPC is an active, accredited State party with five delegates on the  
10 GPUS's National Committee. The GPUS also allocated ten delegates to the GPC for the  
11 2012 Presidential nominating convention. The GPC is thus part of the GPUS's official  
12 party structure under the GPUS's bylaws. 11 CFR 100.14. In addition, an officer of the  
13 GPUS has confirmed that the GPC is part of the GPUS's official party structure. Email  
14 from Budd Dickinson, GPUS Secretary, to Christopher Reilly, GPC Deputy Treasurer  
15 (Oct. 31, 2012). See, e.g., Advisory Opinion 2008-16 (Libertarian Party of Colorado);  
16 Advisory Opinion 2008-13 (Pacific Green Party of Oregon); Advisory Opinion 2007-06  
17 (Libertarian Party of Indiana); Advisory Opinion 2007-02 (Arizona Libertarian Party).

18 *(3) Responsibility of GPC for Day-to-Day Operations of GPUS in Connecticut*

19 Third, the GPC must maintain responsibility for the day-to-day operations of the  
20 GPUS at the State level. 2 U.S.C. 431(15); 11 CFR 100.14. In previous advisory  
21 opinions, the Commission has evaluated this third element by considering: (a) whether  
22 the organization has placed a "candidate" on the ballot (thereby qualifying as a "political

1 party”); and (b) whether the bylaws or other governing documents of the State party  
2 organization indicate activity commensurate with the day-to-day functions and operations  
3 of a political party at the State level.<sup>1</sup> See Advisory Opinion 2009-16 (Libertarian Party  
4 of Ohio); Advisory Opinion 2008-16 (Libertarian Party of Colorado); Advisory Opinion  
5 2008-13 (Pacific Green Party of Oregon).

6 Ballot placement on behalf of a “candidate” is required because the requesting  
7 organization’s existence as a “political party” is necessary for State committee status. A  
8 State party organization must actually obtain ballot access for one or more “candidates,”  
9 as defined in the Act. See 2 U.S.C. 431(2), (15), (16); 11 CFR 100.3(a), 100.14(a),  
10 100.15; see also, Advisory Opinion 2009-16 (Libertarian Party of Ohio) and Advisory  
11 Opinion 2008-16 (Libertarian Party of Colorado).

12 According to disclosure reports filed with the Commission, Ralph Nader received  
13 contributions or made expenditures in excess of \$5,000 in the 2000 election cycle. He  
14 therefore satisfied the Act’s definition of “candidate.” See 2 U.S.C. 431(2); 11 CFR  
15 100.3(a). Mr. Nader’s name appeared on the 2000 Connecticut ballot as the GPUS’s  
16 candidate for President. Further, two GCP candidates for the House of Representatives,  
17 Charles Pillsbury on the 2002 ballot and Ken Krayske on the 2010 ballot, also received  
18 contributions or made expenditures in excess of \$5,000 according to disclosure reports  
19 filed with the Commission. Accordingly, the GPC qualifies as a “political party” under  
20 the Act.

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<sup>1</sup> As demonstrated by documents submitted with the request, under Connecticut State law, the GPC has qualified as a “political party.”

1           As discussed above, the Bylaws establish the organizational structure of the GPC  
2 and detail specific responsibilities of party officers. The Bylaws spell out activity  
3 commensurate with the day-to-day functions and operations of a political party on a State  
4 level. For example, the Bylaws establish a State Central Committee and an Executive  
5 Committee, which together are responsible for the day-to-day administrative functions of  
6 the GPC. The GPC has also created several committees charged with functions, such as  
7 finances, bylaws and procedures, platform, and membership.

8           The Bylaws are consistent with the State party rules reviewed in previous  
9 situations where the Commission has recognized the State committee status of a political  
10 organization. *See, e.g.*, Advisory Opinion 2008-16 (Libertarian Party of Colorado)  
11 (finding that the Constitution and Bylaws of the Libertarian Party of Colorado  
12 sufficiently established the performance of day-to-day operations because the documents  
13 articulated a clear purpose, operating structure, and duties for officers). Therefore, the  
14 Bylaws satisfy the requirements of 2 U.S.C. 431(15) and 11 CFR 100.14(a).

15           Accordingly, because all three elements of the definition of “State committee” are  
16 satisfied, the Commission determines that the GPC qualifies as a State committee of a  
17 political party under the Act and Commission regulations.

18           This response constitutes an advisory opinion concerning the application of the  
19 Act and Commission regulations to the specific transaction or activity set forth in your  
20 request. *See* 2 U.S.C. 437f. The Commission emphasizes that, if there is a change in any  
21 of the facts or assumptions presented, and such facts or assumptions are material to a  
22 conclusion presented in this advisory opinion, then the requestor may not rely on that

1 conclusion as support for its proposed activity. Any person involved in any specific  
2 transaction or activity which is indistinguishable in all its material aspects from the  
3 transaction or activity with respect to which this advisory opinion is rendered may rely on  
4 this advisory opinion. *See* 2 U.S.C. 437f(c)(1)(B). Please note that the analysis or  
5 conclusions in this advisory opinion may be affected by subsequent developments in the  
6 law including, but not limited to, statutes, regulations, advisory opinions, and case law.  
7 The cited advisory opinions are available on the Commission's website, or directly from  
8 the Commission's Advisory Opinion searchable database at <http://www.fec.gov/searchao>.

9 On behalf of the Commission,

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11  
12  
13

Caroline C. Hunter  
Chair