



FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 16, 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 2010-29

Cathy Highet, Esq.
Portland Law Collective, LLP
1130 SW Morrison Street
Suite 407
Portland, OR 97205

Dear Ms. Highet:

We are responding to your advisory opinion request regarding the status of the Working Families Party of Oregon (the “WFP OR”) as a State committee of a political party under the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations. The Commission concludes that the WFP OR qualifies as a State committee of a political party because: (1) the WFP OR qualifies as a political party; (2) the WFP OR possesses an official party structure; and (3) the WFP OR is responsible for the day-to-day operations of a political party at the State level.

Background

The facts presented in this advisory opinion are based on your letter received on November 2, 2010, and on information publicly available on the Commission’s and the Oregon Secretary of State’s websites.

The WFP OR is not affiliated with any national political party. The WFP OR qualifies under Oregon law as a “minor political party.” *See* Letter from Ms. Candy Broucek, Compliance Specialist, Office of the Secretary of State of Oregon, to Ms. Barbara Dudley, Co-Chair, WFP OR (August 4, 2010) (“Oregon Secretary of State Letter”).

The organizational structure of the WFP OR is set out in the WFP OR’s Bylaws. *See* Bylaws of the WFP OR (the “Bylaws”), Arts. 4-7, and 9. The Bylaws describe membership in and governance of the WFP OR.

The WFP OR is governed by a State Committee. *See* Bylaws, Art. 7. The State Committee manages the WFP OR’s day-to-day activities and operation, including but not

limited to establishing criteria for membership, chapter formation, organizational affiliation, candidate endorsements and nominations, allocation of financial resources, and political party policies. *See* Bylaws, Art. 7, Para. 1. The State Committee appoints two Co-Chairpersons, a Secretary, and a Treasurer (the “officers”). *See* Bylaws Art. 9, Para. 1. The Co-Chairpersons supervise and control the affairs of the WFP OR and the activities of the officers, perform all duties incident to their offices, required by the Bylaws or by law, or which are prescribed from time to time by the State Committee. *See* Bylaws, Art. 9, Paras. 1 and 3.

The WFP OR placed two candidates on the 2010 general election ballot in Oregon as candidates of the WFP OR: Bruce Cronk for the U.S. Senate and Representative Peter DeFazio for the U.S. House of Representatives (Oregon’s 4th District). Both Mr. Cronk and Representative DeFazio were identified on the ballot as candidates of the WFP OR.¹ Mr. Cronk and Representative DeFazio each received contributions and made expenditures in excess of \$5,000 in their respective campaigns for the U.S. Senate and the U.S. House of Representatives during the 2010 election cycle, according to disclosure reports filed with the Commission.²

Question Presented

Does the WFP OR qualify as a State committee of a political party within the meaning of the Act and Commission regulations?

Legal Analysis and Conclusion

Yes, the WFP OR qualifies as a State committee of a political party within the meaning of the Act and Commission regulations.

A “State committee” of a political party is an organization that, by virtue of the bylaws of a political party, is part of the official party structure and is responsible for the day-to-day operation of such political party at the State level, as determined by the Commission. 2 U.S.C. 431(15); 11 CFR 100.14(a). A “political party” is an association, committee, or organization that nominates a candidate for election to any Federal office

¹ The Commission notes that Representative DeFazio appeared on the 2010 general election ballot as a candidate of the WFP OR, the Progressive Party, and the Democratic Party. The political party identification of Representative DeFazio on the general election ballot appears on the Oregon Secretary of State’s website at <https://secure.sos.state.or.us/orestar/cfFilings.do?cfSearchButtonName=&cfName=defazio&cfyearActive=&cfOffice=&cfPartyAffiliation=&cfFilingFromDate=&cfFilingToDate=&cfWithDrawFromDate=&cfWithDrawToDate=>, and the political party identification of Mr. Cronk appears at <https://secure.sos.state.or.us/orestar/cfFilings.do?cfSearchButtonName=&cfName=cronk&cfyearActive=&cfOffice=&cfPartyAffiliation=&cfFilingFromDate=&cfFilingToDate=&cfWithDrawFromDate=&cfWithDrawToDate=> (last visited 11/23/10).

² Disclosure reports for Mr. Cronk and Representative DeFazio appear on the Commission’s website at <http://query.nictusa.com/cgi-bin/fecimg/?C00491084> and <http://query.nictusa.com/cgi-bin/fecimg/?H6OR04047>, respectively (last visited 11/23/10).

whose name appears on the election ballot as the candidate of the association, committee, or organization. 2 U.S.C. 431(16); 11 CFR 100.15.

The determination as to whether a State party organization that is not affiliated with a national political party qualifies as a State committee of a political party turns on three elements: (1) the State party organization must itself qualify as a “political party”; (2) the State party organization must possess an official party structure; and (3) the State party organization must be responsible for the day-to-day operations of a party at the State level. *See, e.g.*, Advisory Opinions 2010-22 (Working Families Party of Connecticut), 2008-12 (Independent Party of Oregon), and 2007-23 (Independence Party of New York). The Commission addresses each of these three elements in turn.

(1) Qualification of the WFP OR as a Political Party

To qualify as a political party, the WFP OR must have at least one candidate for Federal office whose name is on the ballot as a candidate of the WFP OR. *See id.* An individual qualifies as a candidate for Federal office if the individual, the individual’s authorized committee, or other persons authorized by the individual have received contributions aggregating in excess of \$5,000 or have made expenditures aggregating in excess of \$5,000. *See* 2 U.S.C. 431(2); 11 CFR 100.3(a)(1). Mr. Cronk and Representative DeFazio each received contributions and made expenditures in excess of \$5,000 in their respective campaigns for the U.S. Senate and the U.S. House of Representatives during the 2010 election cycle; thus, both Mr. Cronk and Representative DeFazio qualify as Federal candidates under the Act and Commission regulations. Additionally, both candidates appeared on the November 2010 Oregon general election ballot as candidates of WFP OR.³ Further, the Oregon Secretary of State Letter noted above evidences the WFP OR’s status as a minor political party under Oregon law.

Accordingly, the WFP OR qualifies as a political party. *See* Advisory Opinions 2010-22 (Working Families Party of Connecticut), 2010-13 (Libertarian Party of Florida), 2008-12 (Independent Party of Oregon), and 2000-14 (New York Working Families Party).

(2) Official Party Structure of the WFP OR

The WFP OR is not affiliated with any national political party. In cases involving a State party organization that is not affiliated with a national political party, the State party organization must itself possess an official party structure. *See* Advisory Opinions 2010-22 (Working Families Party of Connecticut), 2008-12 (Independent Party of Oregon), and 2007-23 (Independence Party of New York). The Commission concludes

³ As noted previously, Representative DeFazio also appeared on the 2010 general election ballot as a candidate of the Progressive Party and the Democratic Party. In previous advisory opinions, the Commission has concluded that a candidate’s association with more than one political party is not relevant when reviewing a party’s qualification for State committee status. *See, e.g.*, Advisory Opinion 2010-22 (Working Families Party of Connecticut) at n.3, and Advisory Opinion 2007-23 (Independence Party of New York) at n.6 and advisory opinions cited therein.

that the WFP OR possesses an official party structure because: (1) the WFP OR's Bylaws establish an official party structure; and (2) the Oregon Secretary of State has determined that WFP OR qualifies for status as a minor political party under Oregon law and, as such, placed two candidates on its party line on the 2010 general election ballot. Accordingly, the WFP OR satisfies the second element required to qualify as a State committee of a political party.

(3) Responsibility of the WFP OR for Day-to-Day Operations of the Party

The third element in determining whether a State party organization is a State committee of a political party is whether the organization, by virtue of its bylaws or by operation of State law, is responsible for the day-to-day operations of a political party at the State level. *See* 2 U.S.C. 431(15); 11 CFR 100.14(a); *see also* Advisory Opinions 2010-22 (Working Families Party of Connecticut), 2008-12 (Independent Party of Oregon), and 2007-23 (Independence Party of New York).

The Bylaws clearly identify the role and responsibilities of the WFP OR, through its State Committee, for the day-to-day functions and operations of the party at the State level. *See* Bylaws, Arts. 7 and 8. The WFP OR's responsibility for the operations of the party at the State level is commensurate with the responsibility of other State party committees that the Commission has previously recognized. *See, e.g.*, Advisory Opinions 2010-22 (Working Families Party of Connecticut) and 2008-12 (Independent Party of Oregon). Thus, the WFP OR is responsible for the day-to-day operations of a political party at the State level.

Because all three elements of the definition of "State committee" are satisfied, the Commission determines that the WFP OR qualifies as a State committee of a political party under the Act and Commission regulations.

This response constitutes an advisory opinion concerning the application of the Act and Commission regulations to the specific transaction or activity set forth in your request. *See* 2 U.S.C. 437f. The Commission emphasizes that, if there is a change in any of the facts or assumptions presented, and such facts or assumptions are material to a conclusion presented in this advisory opinion, then the requester may not rely on that conclusion as support for its proposed activity. Any person involved in any specific transaction or activity which is indistinguishable in all its material respects from the transaction or activity with respect to which this advisory opinion is rendered may rely on this advisory opinion. *See* 2 U.S.C. 437f(c)(1)(B). Please note that the analysis or conclusions in this advisory opinion may be affected by subsequent developments in the

law, including, but not limited to, statutes, regulations, advisory opinions and case law. The cited advisory opinions are available on the Commission's website, www.fec.gov, or directly from the Commission's Advisory Opinion searchable database at <http://saos.nictusa.com/saos/searchao>.

On behalf of the Commission,

(signed)
Matthew S. Petersen
Chairman