



State of New Jersey

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March 15, 1993

John S. Wisniewski
956 Main Street
Sayreville, New Jersey 08872

ADVISORY OPINION NO. 03-1993

Dear Mr. Wisniewski:

The Commission has directed me to issue the following response to your recent request for an advisory opinion. You have asked whether activities that you anticipate undertaking in order to obtain the support or endorsement of the Middlesex County Democratic Organization for your 1993 primary election candidacy for State Assembly are subject to the requirements of the Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. (hereafter, the Reporting Act). For the reasons stated below, the Commission concludes that the activities that you have described would be subject to the requirements of the Reporting Act.

You write that the Middlesex County Democratic Organization will be conducting a convention in late March to select candidates for the 1993 primary election for the offices of county freeholder, State Assembly and State Senate. You state that you have announced your intention to seek the support of the political party at this convention for your candidacy for an Assembly seat. You will be seeking donations of money and making expenditures by sending letters to the delegates, having flyers printed, and hosting meetings with the delegates, all for the purpose of obtaining the convention's endorsement of your candidacy for State Assembly in the primary election.

You have noted that the Reporting Act specifically excludes from its coverage persons seeking political party office, and therefore you have inquired whether this exclusion would remove the financial activity that you anticipate undertaking from the requirements of the Reporting Act.

The Commission concurs that the Reporting Act excludes from its scope persons who are seeking political party office. Specifically, the term "candidate" is defined as "... an individual seeking or having sought election to a public office of the State or of a county, municipality, or school district at an election; except that the term shall not include an individual

seeking party office;" see N.J.S.A. 19:44A-3(c). The Reporting Act specifically provides that, with an exception not relevant here, it shall not "apply to elections to party office;" see N.J.S.A. 19:44A-4(d).

While the term "party office" is not defined in the Reporting Act, the definition of that term appears in N.J.S.A. 19:1-1 as follows:

"Party office" means the office of delegate or alternate to the national convention of a political party or member of the State, county or municipal committees of a political party.

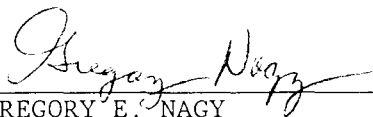
Applying the above definition of "party office" to the facts that you have submitted, the Commission concludes that you are seeking nomination for election for a public office, specifically a member of the State Assembly, not to "party office" as that term is used in the above-cited definition. Further, a primary election comes within the definition of "any election" as that term "any election" is used in the Reporting Act; see N.J.S.A. 19:44A-4(d) which provides that the Reporting Act applies to "any election for any public office of the State," and N.J.S.A. 19:1-1 which defines the term "any election" to include a "primary" election.

The Commission notes that a recent United States Supreme Court opinion has removed restrictions on political party committees that previously prohibited them from endorsing candidates in their primary elections; see N.J.S.A. 19:34-52, which provided criminal sanctions for a political party committee endorsing a candidate for a primary election. A similar statutory prohibition in the State of California was held to be an unconstitutional restriction on the First and Fourteenth Amendment rights of political parties; see Eu v. San Francisco County Democratic Central Committee, 489 U.S. 214, 109 S.Ct. 1013, 103 L.Ed.2d. 271 (1989). As a result of that opinion, local party committees in the State are no longer prohibited from endorsing candidates in a primary election. Therefore, the Commission welcomes this opportunity to advise you and other candidates seeking the endorsement of their political party committees in primary elections that funds solicited or expended to obtain such endorsements are subject to the requirements of the Reporting Act.

Thank you for submitting this inquiry.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By: 
GREGORY E. NAGY
Legal Director