



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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Respond to:
P.O. Box 185
Trenton, New Jersey 08625-0185

(609) 292-8700

Website: www.elec.nj.gov/

JEFFREY M. BRINDLE
Executive Director

JOSEPH W. DONOHUE
Deputy Director

STEPHANIE A. OLIVO
Compliance Director

EDWIN R. MATTHEWS
Legal Counsel

April 18, 2023

David Maradie
37 Thornbury Ave.
Glen Rock, NJ 07452

Advisory Opinion No. 01-2023

Dear Mr. Maradie:

You submitted a request for an Advisory Opinion on March 14, 2023 and completed your request on March 20, 2023. You consented to an extension until April 18, 2023 to respond. Your request has been reviewed and I am issuing this response pursuant to N.J.S.A. 19:44A-6(f).

Your request for an Advisory Opinion asked whether, as a simultaneous candidate for United States Senate and Governor of New Jersey, your gubernatorial candidate committee may receive coordinated expenditures from your Senate campaign on an unlimited basis, that is, that expenditures by your Senate campaign to benefit your gubernatorial campaign will not be subject to gubernatorial contribution or expenditure limits and will not affect your ability to obtain matching funds in the 2025 primary election.

Commission Response¹

You are advised that all contributions to your gubernatorial candidate committee will be subject to the contribution limit applicable to gubernatorial candidates in the 2025 primary election, including coordinated expenditures from your Senate committee. You are further advised that if you become a qualified candidate in the 2025 primary election, all coordinated expenditures by your Senate campaign, including those made prior to your application for matching funds, will apply to the expenditure limit applicable for the 2025 primary election, excluding expenses not subject to expenditure limits pursuant to N.J.A.C. 19:25-16.27.

Submitted Facts

You state that you intend to run for United States Senate in 2024 and Governor of New Jersey in the 2025 primary election. You indicate that your “campaigns will be conducted simultaneously and concurrently, in that [you] will be an announced and filed candidate for both seats at the same time, with [the] elections

¹ Nothing in this Advisory Opinion addresses any obligations, reporting or otherwise, you may incur as a candidate for Senate under the Federal Election Campaign Act, 52 U.S.C.S. § 30101 et seq., or related statutes and regulations.

to occur within one year.” You further state that you intend to apply for matching funds in the 2025 primary election.

You indicate that coordinated expenditures by your Senate committee will “directly promote [your] image and candidacy” and “will have the practical effect of building [your] name recognition...” You state that by promoting your name and image through your Senate committee, there will be a “natural effect” of promoting the same for your gubernatorial campaign. You indicate that your Senate campaign will occur in the same geographic area as your gubernatorial campaign. By way of example, you provide that once you create a candidate committee for your gubernatorial election, funds you raise and spend to promote your Senate candidacy “will necessarily aid” your gubernatorial candidacy.

Discussion

As a gubernatorial candidate you will be subject to the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. (Campaign Act) and Commission Regulations, N.J.A.C. 19:25-1 et seq. You are advised that any committee you create as a Senate candidate must be a separate entity from your gubernatorial candidate committee, pursuant to N.J.S.A. 19:44A-9g and N.J.A.C. 19:25-4.3. See also N.J.A.C. 19:25-16.4.

A. Coordinated expenditures are contributions subject to the contribution limit.

All gubernatorial candidates, whether qualified or non-participating, as defined in N.J.S.A. 19:44A-3m and N.J.A.C. 19:25-16.3, are subject to contribution limits. N.J.S.A. 19:44A-29; N.J.A.C. 19:25-16.6 and 19:25-16.8. You indicate that your Senate committee will make coordinated expenditures supporting your gubernatorial candidate committee by using your image and directly promoting your candidacy in the same geographic area as your gubernatorial campaign. Coordinated expenditures benefiting a candidate are in-kind contributions to the candidate receiving the benefit and must be reported as such. N.J.A.C. 19:25-10.4(a), 19:25-10.10(a) and 19:25-10.11(b). Similarly, coordinated expenditures benefiting a qualified candidate are contributions to the gubernatorial candidate receiving the benefit. N.J.A.C. 19:25-16.30. The communications you describe will be contributions to your gubernatorial candidate committee from your Senate committee.

A gubernatorial candidate is prohibited from receiving a contribution in excess of \$4,900 in the aggregate from any contributor. N.J.S.A. 19:44A-29 and N.J.A.C. 19:25-16.6.² Your gubernatorial campaign may not receive any contributions from your Senate committee in excess of the contribution limit, either alone or when aggregated with prior contributions from your Senate committee. If the Commission determines that a submission for matching funds contains a contribution in excess of the contribution limit, public funds will be withheld. N.J.A.C. 19:25-16.21(b).

You assert “that the purpose of the limitations on coordinated expenditures is to prevent other candidates, committees, or groups from promoting the gubernatorial candidate on an unlimited basis and was not meant to restrict candidates from promoting themselves.” Letter from D. Maradie dated March 20, 2023. In support of this assertion, you reference N.J.S.A. 19:44A-29, and argue that it “does not limit expenditures made from other candidate campaign accounts, even if in the same name as the candidate themselves.” Id.

² Gubernatorial contribution limits are adjusted every four years pursuant to N.J.S.A. 19:44A-7.1. The figure that will be applicable in 2025 has not yet been determined.

N.J.S.A. 19:44A-29a and N.J.A.C. 19:25-16.6(a) expressly prohibit a gubernatorial candidate from receiving a contribution in excess of the contribution limit from a single source, either alone or when aggregated with prior contributions from the same contributor. Though the amount you may contribute to your gubernatorial campaign committee is greater than what your committee may receive from any other contributor, for a qualified candidate, that amount is still limited. A qualified candidate in the primary election may contribute up to \$25,000 of the candidate's "own funds" to support the candidate's gubernatorial campaign. N.J.S.A. 19:44A-29g and N.J.A.C. 19:25-16.9(a)1.

"Own funds" means funds to which the candidate is legally and beneficially entitled, but shall not include funds as to which he or she is a trustee or funds given or otherwise transferred to the candidate by any person other than the spouse of the candidate for use in aid of his or her candidacy.

N.J.S.A. 19:44A-29; N.J.A.C. 19:25-16.3.

The funds you raise as a Senate candidate will not be your "own funds," pursuant to N.J.S.A. 19:44A-29 and N.J.A.C. 19:25-16.3. Therefore, any coordinated expenditures by your Senate committee benefiting your gubernatorial candidate committee will be subject to the contribution limit applicable to all other contributions, pursuant to N.J.A.C. 19:25-16.6. There is no exception to the contribution limit for the factual scenario you present.

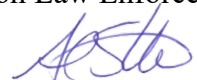
B. Coordinated expenditures benefiting qualified candidates are allocated against the expenditure limit.

All qualified candidates are subject to the expenditure limit. N.J.S.A. 19:44A-7 and N.J.A.C. 19:25-16.9(a)3.³ Coordinated expenditures are also allocated against the qualified candidate's expenditure limit. N.J.A.C. 19:25-16.11(c) and 19:25-16.30(b). You are advised that if you become a qualified candidate in the 2025 primary election, all coordinated expenditures your gubernatorial candidate committee receives from your Senate committee will also be allocated against your gubernatorial expenditure limit, subject to the exceptions to the expenditure limit in N.J.A.C. 19:25-16.27.

Conclusion

The Campaign Act and Commission Regulations do not permit your gubernatorial candidate committee to receive unlimited coordinated expenditures from your Senate committee. All contributions received by your gubernatorial candidate committee from your Senate committee, including coordinated expenditures, are subject to the contribution limit. Should you become a qualified candidate in the 2025 primary election, any coordinated expenditures will also be allocated against the gubernatorial expenditure limit. In addition, public funds will be withheld if your gubernatorial candidate committee accepts and retains contributions in excess of the contribution limit.

Very truly yours,
Election Law Enforcement Commission

By: 
Amanda S. Haines, Esq.

³ Gubernatorial expenditure limits are adjusted every four years pursuant to N.J.S.A. 19:44A-7.1. The figure that will be applicable in 2025 has not yet been determined.



Advisory Opinion Request For Candidates and Committees

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION
P.O. Box 185, Trenton, NJ 08625-0185
(609) 292-8700 or Toll Free Within NJ 1-888-313-ELEC (3532)
Website: www.elec.state.nj.us

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ELEC RECEIVED
MAR 14 2023

PLEASE PROVIDE THE INFORMATION REQUESTED BELOW

A person, committee or entity subject to, or reasonably believing he, she or it may be subject to, any provision or requirement of the Campaign Reporting Act may request that the Commission provide an advisory opinion pursuant to N.J.S.A. 19:44A-6. Such request must include the following:

1. This request for an Advisory Opinion is being submitted on behalf of:

Full name of Person, Committee, or Entity: DAVID MARADIE

Mailing Address:
37 THORNBURY AVE
GLEN ROCK, NJ 07452

*Day Telephone Number: 561-703-8448

*Evening Telephone Number: 11 11

2. Indicate if the above named person, committee, or entity currently files reports with the Commission:

[] Yes [X] No

a. If yes, indicate in what capacity it is filing:

- Candidate committee [] Recall committee []
Joint candidates committee [] Recall defense committee []
Political committee [] Personal financial disclosure statement []
Continuing political committee [] Other (please describe): []
Political party committee []
Legislative leadership committee []

b. If no, indicate if the above named person, committee, or entity has in the past filed reports with the Commission, giving elections (i.e., 2005 general election) or calendar years, and identify filing capacity:

N/A

c. If reports are or were filed under a different name than that appearing in Question #1 above, provide that name:

N/A

3. Please provide below a statement of the cognizable question of law arising under the Campaign Reporting Act, including specific citations to pertinent sections of the Campaign Reporting Act and Commission regulations (if known).

PLEASE SEE ATTACHED QUESTION REGARDING POTENTIAL MATCHING PUNAS CONCERN

*Leave this field blank if your telephone number is unlisted. Pursuant to N.J.S.A. 47:1A-1.1, an unlisted telephone number is not a public record and must not be provided on this form.

4. Please provide below a full and complete statement of all pertinent facts and contemplated activities that are the subject of the inquiry. Your statement must affirmatively state that the contemplated activities have not already been undertaken by the person, committee, or entity requesting the opinion, and that the person, committee, or entity has standing to seek the opinion, that is the opinion will affect the person's or committee's reporting or other requirements under the Act. Attach additional sheets if necessary.

Statement of Facts:

PLEASE SEE ATTACHED

5. Please provide below a statement of the result that the person, committee, or entity seeks, and a statement of the reasoning supporting that result:

PLEASE SEE ATTACHED

6. Person who is submitting this advisory opinion request on behalf of the committee or entity listed in Question #1:

Full Name:

NWA

Mailing Address:

*Day Telephone Number:

*Evening Telephone Number:

Fax Number:

a. Official Capacity of Person Requesting Opinion:

Candidate

Treasurer

Organizational Treasurer

New Jersey Attorney representing requesting person, committee, or entity

Other (please describe):

7. ~~Thereby consent to an extension of the 10-day response period provided in N.J.S.A. 19:44A-6f to a 30-day period for Commission response, which period shall start on the date of Commission receipt of the completed advisory opinion request.~~

~~(CROSS OUT THIS PARAGRAPH IF CONSENT IS WITHHELD).~~

8. A request for an advisory opinion will not be considered filed until a fully completed and signed application is received by the Commission.

3-13-23

Dated:

Daniel M. ...
Signature:

*Leave this field blank if your telephone number is unlisted. Pursuant to N.J.S.A. 47:1A-1.1, an unlisted telephone number is not a public record and must not be provided on this form.

March 12, 2023

VIA UPS OVERNIGHT

New Jersey Election Law Enforcement Commission
P.O. Box. 185
Trenton, New Jersey 08625

Re: Request for Advisory Opinion

Dear Commissioners:

I am writing on behalf of myself, a registered voter in the State of New Jersey. I am planning on running for the U.S. Senate in 2024 as well as for Governor of New Jersey in 2025. My campaigns will be conducted simultaneously and concurrently, in that I will be an announced and filed candidate for both seats at the same time, with elections to occur within one year.

I am writing to request an advisory opinion as to the use of funds expended for my first (non-gubernatorial) campaign and how it will affect my second (gubernatorial) campaign. I am specifically concerned that expenditures related to my first (non-gubernatorial) campaign that directly promote my image and candidacy, and which, in my instances, will have the practical effect of building my name recognition, and will affect my ability to obtain matching funds in my second (gubernatorial) campaign. Given the fact that the elections will occur back-to-back, I am concerned that by virtue of the natural effect of promoting my image and name recognition for the first campaign in the same geographic area as the second campaign and within a very short timeframe, I will be circumventing the purpose of the matching funds by receiving same after having already just spent considerable sums for the same permitted items that I am allowed to expend the matching funds on. I am concerned that if I conduct my campaigns in this manner, the matching funds that I seek to obtain in the second campaign will be reduced accordingly.

For example, if I am raising and spending money to advocate for my candidacy for the U.S. Senate, that will necessarily “aid” my candidacy for Governor so long as I have created the relevant campaign committee and might therefore implicate the spending limits under N.J.S.A. 19:44A-7. Similarly, N.J.A.C. 19:25-15.6 indicates a limit of \$4,900 from any “candidate committee” for “any contribution in aid of the candidacy of or on behalf of such candidates.”¹

Moreover, N.J.A.C. 19:25-15.29 discusses coordinated expenditures and the limitations thereon when a communication “makes a reference to the gubernatorial candidate,” was “consented to” or authorized by the gubernatorial candidate, and when the expenditure was made after the gubernatorial candidate applies for matching funds. While this regulation appears to have been written with a coordinating campaign other than the gubernatorial candidate themselves, it appears to me that it would apply to my situation and therefore provide further limitations to the amount of matching funds to which I would otherwise be entitled.

¹. Simultaneously, there does not appear to be an exception to the limits, for example those provided under N.J.A.C. 19:25-15.26.

I am therefore seeking an advisory opinion as to whether any such expenditures by the first (non-gubernatorial) campaign, and simultaneous in-kind contribution received by the second (gubernatorial) campaign (or, alternatively, coordinated expenditures but which are paid for at least in part by the first campaign), will count against the second campaign's overall contribution and expenditure limits and thus, reduce that committee's ability to obtain matching funds.

Sincerely,

A handwritten signature in blue ink that reads "David Maradie". The signature is written in a cursive style with a large initial "D".

David Maradie

Tel 561-703-8448

Email: David.Maradie@gmail.com

Simultaneous Prospective Candidate

NJ Governor 2025

US Senator 2024

3/20/2023

VIA UPS OVERNIGHT AND EMAIL

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Amanda S. Haines
Deputy Legal Director
New Jersey Election Law Enforcement Commission
P.O. Box. 185
Trenton, New Jersey 08625

MAR 21 2023

Re: Response to Inquiry re: Advisory Opinion

Dear Ms. Haines:

Thank you for your letter dated March 16, 2023. In response to your inquiry:

1. Pursuant to N.J.A.C. 18:25-18.1(a)(5), I am seeking an advisory opinion that states that a candidate who running for two offices simultaneously, with one being Governor of New Jersey, can make unlimited coordinated expenditures by the non-gubernatorial campaign that promotes or aids the gubernatorial candidates' image and likeness without affecting the available matching funds in that gubernatorial campaign since I am already a declared candidate for both at the same time. My reasoning for that request is that it is my understanding that the purpose of the limitations on coordinated expenditures is to prevent other candidates, committees, or groups from promoting the gubernatorial candidate on an unlimited basis and was not meant to restrict candidates from promoting themselves. Moreover, the contribution/expenditure limit contained in N.J.S.A. 19:44A-29 that limits candidates to expending \$25,000 of their own funds does not limit expenditures made from other candidate campaign accounts, even if in the same name as the candidate themselves.

2. I acknowledge that I intend to compete in the 2025 primary for the Democratic Party for Governor of New Jersey. Please extend my references to N.J.A.C. 19:25-15.6, 15.26, and 15.29 to encompass the relevant primary provisions; N.J.A.C. 19:25-6.6, 6.27, and 16.30.

If you have any further questions, please feel free to reach out.

Sincerely,



David Maradie