



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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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:

One Giant Leap PAC

Mailing Address:

P.O. Box 2153

Purcellville, VA 20134

*Day Telephone Number:

973.585.5330

*Evening Telephone Number:

973.585.5330

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

☐ Yes

☒ No

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

Candidate committee

☐

Joint candidates committee

☐

Political committee

☐

Continuing political committee

☐

Political party committee

☐

Legislative leadership committee

☐

Recall committee

☐

Recall defense committee

☐

Personal financial disclosure statement

☐

Other (please describe):

☒

This AOR is to determine the capacity in which

One Giant Leap is required to file with ELEC

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:

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

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).

Whether One Giant Leap PAC ("OGL"), an Internal Revenue Code Section 527 organization registered with the FEC and that intends to make independent expenditures in excess of \$7,500 per election for at least two consecutive elections, must register with the Commission as a political committee (Form PC) pursuant to N.J.S.A. 19:44A-3(i) and N.J.A.C. 19:25-4.4(a), continuing political committee (Form D-4) pursuant to N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-4.5(a), or as an independent expenditure committee (Form D-6) pursuant to N.J.S.A. 19:44A-3(t), and whether the Commission considers a group's "major purpose" in making such a determination.

*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:

OGL is organized as a political organization under Section 527 of the Internal Revenue Code and files regular reports with the Federal Election Commission ("FEC"). It filed a Statement of Organization with the FEC on October 19, 2023, and has filed regular activity reports with the FEC since then. OGL plans to continue reporting its activity to the FEC going forward. OGL has not previously made independent expenditures specifically related to New Jersey state elections. Starting with the 2025 New Jersey primary election, OGL intends to make independent expenditures in excess of \$7,500 in the aggregate per election to expressly advocate the election and defeat of candidates in New Jersey in each of two or more successive elections. OGL is not yet sure what percentage of its total annual expenditures will be spent on New Jersey elections in 2025. OGL seeks to register with the Commission, however, it has not yet done so because it is not sure whether OGL should be registering as a political committee / continuing political committee or an independent expenditure committee. While OGL is not yet registered with the Commission, OGL is required to register and report with the Commission, and therefore has standing to seek this Advisory Opinion.

For the reasons set forth in the attached letter, incorporated herein as part of this request, OGL requests guidance on how it should register with the Commission.

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:

OGL seeks guidance on whether it should register with the Commission as a political committee by filing form PC, continuing political committee by filing Form D-4, or as an independent expenditure committee by filing Form D-6. OGL specifically hopes for the Commission to provide insight on the factors considered by the Commission in distinguishing between groups registered as independent committees by filing Form D-6, and groups registered as political committees / continuing political committees that make only independent expenditures by filing Form PC or Form D-4, and specifying on the form that they only intend on making independent expenditures.

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

Full Name:

Rajiv D. Parikh

Mailing Address:
PEM Law LLP

1 Boland Drive, Suite 101

West Orange, New Jersey 07052

*Day Telephone Number:

973.585.5330

*Evening Telephone Number:

973.585.5330

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. I hereby 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.

02/25/2025

Dated:


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.



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FEB 26 2025

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February 25, 2025

VIA UPS OVERNIGHT

New Jersey Election Law Enforcement Commission
25 South Stockton St., 5th Floor
Trenton, NJ 08608

RE: Request for Advisory Opinion

Dear Commissioners:

We write to you on behalf of our client, One Giant Leap PAC ("OGL"). OGL is organized as a political organization under Section 527 of the Internal Revenue Code and is registered with the Federal Election Commission ("FEC") as a political action committee ("PAC") that makes only independent expenditures. Kindly accept this request for an Advisory Opinion pursuant to the New Jersey Election Law Enforcement Commission's (the "Commission") regulations regarding the manner in which political organizations such as OGL should register and file with the Commission.

The New Jersey Campaign Contributions and Expenditure Reporting Act¹ (the "Act") and the regulations promulgated thereunder² govern the registration and reporting obligations of continuing political committees and independent expenditure committees. As the Commission is aware, groups organized under Section 527 of the Internal Revenue Code, as well as 501(c)(4) and 501(c)(6) organizations, are required to register with the Commission as an "independent expenditure committee" provided the group makes independent expenditures in excess of \$7,500, in the aggregate, per election and does not fall within the definition of any other organization subject to the Act's provisions. N.J.S.A. 19:44A-3(t).³ As the Commission also knows, groups that

¹ N.J.S.A. 19:44A-1, et seq.

² N.J.A.C. 19:25-1, et seq.

³ See also N.J.A.C. 19:25-1.7 (providing a substantively identical definition of "independent expenditure committee").

have a primary purpose of making independent expenditures in relation to New Jersey elections must register as political committees⁴ or continuing political committees.⁵

OGI seeks to ensure it maintains the highest standards of compliance with the Act and its regulations, and as such, presently seeks the Commission's guidance to determine whether it is required to file with the Commission as a political committee (Form PC) or continuing political committee (Form D-4), or as an independent expenditure committee (Form D-6).

I. FACTUAL BACKGROUND

OGI is organized as a political organization under Section 527 of the Internal Revenue Code and files regular reports with the Federal Election Commission ("FEC"). It filed a Statement of Organization with the FEC on October 19, 2023, and has filed regular activity reports with the FEC since then. OGI plans to continue reporting its activity to the FEC going forward.

OGI has not previously made independent expenditures specifically related to New Jersey state elections. Starting with the 2025 New Jersey primary election, OGI intends to make independent expenditures in excess of \$7,500 in the aggregate per election to expressly advocate the election and defeat of candidates in New Jersey. Currently, OGI has not yet decided whether it will make expenditures in only the upcoming 2025 primary election or whether it will make expenditures in each of two or more successive elections.

OGI seeks guidance on: (1) whether it is required to register with the Commission as a political committee or continuing political committee, or as an independent expenditure committee; and (2) if OGI is required to register as an independent expenditure committee, which contributions must be reported.

II. QUESTIONS PRESENTED

Under the changes introduced by the Elections Transparency Act, because OGI can seemingly qualify as a political committee or continuing political committee (depending on whether its activity will take place in two successive elections), or as an independent expenditure committee, OGI seeks guidance on the following questions:

⁴ See ELEC Form PC, page 4, Certification for Political Committees (asking, "Will this committee engage in only independent expenditure activity?"); wwwnet-elec.state.nj.us/elec_sforms/legacy/SFORM_PC.aspx

⁵ See ELEC Form D-4, page 5, item 19 (asking, "Will this committee engage in only independent expenditure activity?"); wwwnet-elec.state.nj.us/elec_sforms/legacy/SFORM_D4.aspx

- 1) Is OGL required to register with the Commission as a political committee or a continuing political committee based on the independent expenditures OGL intends to make supporting or opposing New Jersey candidates?⁶
- 2) Does the Commission consider a group's "major purpose" when determining whether a group that exclusively makes independent expenditures must register as a political committee or continuing political committee as opposed to an independent expenditure committee?
- 3) Would the Commission determine that OGL's "major purpose" is the support or opposition of New Jersey state or local candidates, and therefore require registration as a political committee or continuing political committee, if:
 - a. OGL's spending in New Jersey comprised more than 10% but not more than 25% of OGL's total expenditures during the 2025 calendar year?
 - b. OGL's spending in New Jersey comprised more than 25% but not more than 33% of OGL's total expenditures during the 2025 calendar year?
 - c. OGL's spending in New Jersey comprised more than 33% but not more than 40% of OGL's total expenditures during the 2025 calendar year?
 - d. OGL's spending in New Jersey comprised more than 40% but not more than 50% of OGL's total expenditures during the 2025 calendar year?
- 4) If the Commission determines that OGL is an independent expenditure committee and must register by filing Form D-6, must it report all contributions received in excess of \$7,500?

III. LEGAL DISCUSSION

1. Is OGL required to register with the Commission as a political committee or a continuing political committee based on the independent expenditures OGL intends to make supporting or opposing New Jersey candidates?

OGL intends to make independent expenditures in excess of \$7,500 in the aggregate to expressly advocate the election and defeat of candidates in the 2025 New Jersey primary election, and will potentially do the same during the 2025 New Jersey general election. In doing this, OGL also intends on receiving contributions and making independent expenditures in excess of \$8,600

⁶ See N.J.A.C. 19:25-4.5(a) (an organization is eligible to be certified as a political committee when it "first receives any contribution or makes or incurs any expenditure that when combined with other contributions received or expenditures made in a calendar year totals \$8,600 or more.")

in 2025 to promote and advocate for the election or defeat of certain candidates. However, before OGL is able to accept contributions and make expenditures relating to the 2025 New Jersey primary and general elections, it must first determine whether it needs to register as a political committee (“PC”), continuing political committee (“CPC”), or independent expenditure committee, so it may properly register with the Commission.⁷

In relevant part, the Act defines the term “political committee” as a group “which is organized to, or does, aid or promote the nomination, election or defeat of any candidate or candidates for public office ... if the persons, corporation, partnership or incorporated or unincorporated association raises or expends [\$3,800]⁸ or more to so aid or promote the nomination, election or defeat of a candidate or candidates[.]” N.J.A.C. 19:44A-3(i).

N.J.A.C. 19:25-4.4(a) provides that a PC is established when the aggregate “contributions received in an election, or expenditures made or incurred in an election, totals \$3,800 or more.” As stated above, OGL intends to receive and make independent expenditures in excess of \$7,500 in relation to the 2025 primary election, and as such, clearly meets the minimum dollar threshold per election to qualify as a PC. However, OGL has not yet decided whether it will receive contributions and make expenditures only in connection with the 2025 New Jersey primary election or whether it will continue making independent expenditures during the general election as well.

The Act and regulations clearly demonstrate a PC exists once a group receives contributions and makes expenditures totaling at least \$3,800. As the Commission is aware, the features distinguishing PCs from CPCs include: a) the minimum dollar threshold required, and b) the amount of time the group will remain active in New Jersey elections. The political committee registration form—Form PC—additionally demonstrates that certain groups making only independent expenditures are required to register with the Commission as a PC, and not an independent expenditure committee.⁹ If OGL’s activities continue through the 2025 general election, it will instead qualify as a CPC.

⁷ See N.J.A.C. 19:25-4.5(b) (requiring prospective continuing political committees to file the Form D-4 registration statement with the Commission no later than 10 days after the prospective continuing political committee becomes eligible to be certified); see also N.J.A.C. 19:25-4.9(b) (requiring independent expenditure committees to file the Form D-6 registration statement with the Commission no later than 10 days after the independent expenditure committee is established).

⁸ See N.J.S.A. 19:25-1.7, updated December 2024 (providing that groups qualify as political committees if they raise or expend at least \$3,800 to promote the nomination or defeat of candidates).

⁹ See ELEC Form PC, page 4 (asking, “Will this committee engage in only independent expenditure activity?”); wwwnet-elec.state.nj.us/elec_sforms/legacy/SFORM_PC.aspx

N.J.A.C. 19:25-4.5(a) sets forth the manner in which a continuing political committee is established, providing:

[a]n organization shall become eligible to be certified by the Commission as a continuing political committee by appointing an organizational treasurer and organizational depository no later than the date on which the prospective continuing political committee first receives any contribution or **makes or incurs any expenditure that when combined with** other contributions received or **expenditures made in a calendar year totals \$8,600 or more.** (emphasis added).

The above regulation clearly demonstrates that a group is eligible to be certified as a CPC by receiving contributions or making expenditures that, when combined, totals at least \$8,600 in a calendar year. The CPC registration form—Form D-4—similarly demonstrates that a group can still qualify as a continuing political committee even if it only makes independent expenditures.¹⁰

While it is clear that groups only making independent expenditures are required in some circumstances to register with the Commission as a PC or CPC, OGL seeks guidance on whether it is required to register as a PC or CPC—and not as an independent expenditure committee—based on its plans to receive contributions and make expenditures exceeding \$8,600 in relation to the 2025 primary election and potential plans to continue making independent expenditures in New Jersey at least through the general election.

Specifically, given that OGL qualifies as a PC pursuant to N.J.A.C. 19:25-4.4(a), and is potentially eligible for certification as a CPC pursuant to N.J.A.C. 19:25-4.5(a), we seek clarification as to whether this renders OGL unable to register with the Commission as an independent expenditure committee.

While the Act and regulations unambiguously set forth criteria differentiating political committees from continuing political committees, the distinction between PCs/CPCs and independent expenditure committees is less clear.

Given OGL's plans to make independent expenditures in excess of \$7,500 during the 2025 primary election, its activities squarely fit into the definition of a "political committee,"¹¹ and if OGL continues making independent expenditures through at least the 2025 general election, it is

¹⁰ See ELEC Form D-4, page 5, item 19 (asking, "Will this committee engage in only independent expenditure activity?"); wwwnet-elec.state.nj.us/elec_sforms/legacy/SFORM_D4.aspx

¹¹ N.J.S.A. 19:44A-3(i)

instead eligible for registration as a CPC.¹² However, under both circumstances, OGL additionally meets the statutory definition of an independent committee under the Act.¹³

While OGL seemingly satisfies the requirements for registration as either a PC/CPC or independent expenditure committee, the Act's unambiguous and exclusionary language suggests this is an anomalous result and that OGL can qualify to register as either a PC/CPC or independent expenditure committee – but not both. See N.J.S.A. 19:44A-3(i) (“the term ‘political committee’ shall not include ... an ‘independent expenditure committee,’”); see also N.J.S.A. 19:44a-3(n) (“the term ‘continuing political committee’ shall not include ... an ‘independent expenditure committee,’”); see also N.J.S.A. 19:44A-3(t) (providing in pertinent part that the term “independent expenditure committee” includes groups organized under Section 527 of the Internal Revenue Code, provided the group “does not fall within the definition of any other organization” subject to the Act’s provisions).

Thus, OGL seeks the Commission’s guidance to differentiate between PCs/CPCs that only make independent expenditures (requiring registration with the Commission by either filing Form PC or Form D-4) and independent expenditure committees (requiring registration with the Commission by filing Form D-6).

2. Does the Commission consider a group’s “major purpose” when determining whether a group that exclusively makes independent expenditures must register as a political committee or continuing political committee as opposed to an independent expenditure committee?

If OGL is not automatically required to register with the Commission as a PC or CPC, as set forth above, OGL seeks clarification as to the factors considered by the Commission in determining whether a group must file as a PC/CPC, as opposed to an independent expenditure committee.

In a series of advisory opinions prior to Citizens United¹⁴, the Commission used a “major purpose” test to determine whether “organization[s] that merely contribute[] to candidates from its resources [versus] one[s] that undertake[] other election-related activities beyond solely making contributions” must register as PCs or CPCs. See Advisory Opinion 01-2011 (citing Buckley v. Valeo, 424 U.S. 1 (1976)). The Commission opined that if such groups “were to solicit

¹² N.J.A.C. 19:25-4.5(a)

¹³ N.J.S.A. 19:44A-3(t) (defining independent expenditure committee as a group “organized under section 527 of the federal Internal Revenue Code ... that does not fall within the definition of any other organization subject to the provisions of P.L. 1973, c.83 (C.19:44A-1 et seq.), that makes independent expenditures in excess of \$7,500, in the aggregate per election.”).

¹⁴ Citizens United v. Federal Election Commission, 558 U.S. 310 (2010)

contributions with the stated or principal purpose of making contributions to New Jersey candidates or committees, or if the extent of [a group]’s overall activities and expenditures made it apparent that its “major purpose” was to aid or promote New Jersey candidates or committees, the PC/CPC definitions would become applicable.” See Advisory Opinion 06-2001.

In these opinions, the Commission evaluated whether such groups are required to register as a PC or CPC by considering: 1) the major purpose of the entity; 2) the solicitation of contributions; and 3) whether or not the entity also filed reports with the Federal Election Commission (FEC). See Advisory Opinion 02-2003 (determining the Continental Airlines, Inc. Employee Fund for a Better America did not qualify as a New Jersey continuing political committee where 1) approximately 2% of contributors were from New Jersey, less than 2% funds received that year came from New Jersey sources, and less than 1% of the group’s contributions went to New Jersey recipients, 2) the group did not solicit contributions with the stated purpose of making contributions to New Jersey candidates, and 3) the group also filed reports with the FEC).

OGL is distinct from these groups insofar as it does not intend to make any contributions to New Jersey-registered committees, and instead will exclusively make independent expenditures. OGL seeks clarification on whether the Commission utilizes the “major purpose” test for organizations like OGL that only make independent expenditures and seemingly satisfy the requirements for registration as either a PC/CPC or independent expenditure committee.

3. If the major purpose framework is applicable, what percentage of New Jersey activity is required for the Commission to determine OGL’s major purpose is the support or opposition of candidates in New Jersey?

If the “major purpose” framework is relevant to the instant matter, and as OGL plans its political spending for the 2025 primary election and potentially for the 2025 general election, OGL seeks clarification as to whether the Commission would determine that OGL’s “major purpose” is the support or opposition of New Jersey candidates, which could require registration as a political committee or continuing political committee, if:

- a. OGL’s spending in New Jersey comprised more than 10% but not more than 25% of OGL’s total expenditures during the 2025 calendar year;
- b. OGL’s spending in New Jersey comprised more than 25% but not more than 33% of OGL’s total expenditures during the 2025 calendar year;
- c. OGL’s spending in New Jersey comprised more than 33% but not more than 40% of OGL’s total expenditures during the 2025 calendar year; and

- d. OGL's spending in New Jersey comprised more than 40% but not more than 50% of OGL's total expenditures during the 2025 calendar year.

4. If the Commission determines that OGL is an independent expenditure committee and must register by filing Form D-6, must it report all contributions received in excess of \$7,500?

If the Commission determines that OGL is an independent expenditure committee, OGL additionally seeks clarification on which contributions must be reported. The Act provides that independent expenditure committees shall file:

a cumulative report on the 11th day preceding the primary election, and after the primary election file a report on the 20th day following the election ... of *all contributions received in excess of \$7,500* in the form of moneys, loans, paid personal services, or other things of value *made to it for the purpose of furthering the independent expenditure*, and of all independent expenditures made, incurred, or authorized by it beginning on the first day of the preceding calendar year and ending on the reporting date.

[N.J.S.A. 19:44A-8(d)(1)] (emphasis added).

Given the clear and unambiguous statutory language, OGL would like to confirm that if the Commission determines it must register as an independent expenditure committee, it will only be required to report contributions in excess of \$7,500 made for the purpose of furthering New Jersey independent expenditures. OGL would like to confirm that because the legislature clearly only intended to require reporting of contributions over \$7,500 if the contributions were made "for the purpose of furthering the independent expenditure," OGL will not be required to report contributions wholly irrelevant to OGL's goal of making independent expenditures to support or oppose candidates in New Jersey.

OGL sees two possibilities of how the Commission can give import to the statutory language that contributions received by an independent expenditure committee must be reported when they were "made to it for the purpose of furthering the independent expenditure":

- a. Option #1: contributions to an independent expenditure committee are only subject to Commission reporting when they exceed \$7,500 and are specifically intended to further independent expenditures—all other contributions received are not subject to disclosure; or
- b. Option #2: contributions to an independent expenditure committee are subject to reporting when they exceed \$7,500 and are eligible to be used for independent

expenditures—in other words, a contributor can opt out of disclosure on Commission reports by specifying that those funds may be used only for overhead or administrative expenses.

Either approach would give meaning to the statute's limitation that only contributions made “for the purpose of furthering the independent expenditure” are subject to disclosure by an independent expenditure committee, and OGL seeks clarification on which approach the Commission recognizes.

IV. CONCLUSION

One Giant Leap respectfully requests the Commission provide it with an Advisory Opinion responsive to this request, so that OGL may appropriately register with the Commission.

Please do not hesitate to contact us should you require any additional information.

PEM LAW LLP

s/ Rajiv D. Parikh

Rajiv D. Parikh, Esq.

Avi D. Kelin, Esq.

Julia Pudimott, Esq.