



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

January 5, 2024

ADVISORY OPINION 2023-12

Nola K. Hix
Executive Director
Democratic Party of the Northern Mariana Islands
P.O. Box 504789 CK
Saipan, MP 96950

Dear Ms. Hix:

We are responding to your advisory opinion request (“AOR”) on behalf of the Democratic Party of the Northern Mariana Islands (the “Committee”) regarding its status as the state committee of a political party under the Federal Election Campaign Act, 52 U.S.C. §§ 30101-30145 (“the Act”), and Commission regulations. The Commission concludes that the Committee qualifies as the state committee of a national political party.

Background

The facts presented in this advisory opinion are based on information in your advisory opinion request received on November 9, 2023, publicly available information referenced in your advisory opinion request, disclosure reports filed with the Commission, and other public information.

The Commonwealth of the Northern Mariana Islands (“CNMI”) is a commonwealth government comprised of 14 islands in the West Pacific. Following World War II, the United Nations established the “Trust Territory of the Pacific Islands,” which included the CNMI, the Republic of Palau, the Marshall Islands, and the Federated States of Micronesia. The United States initially functioned as a trustee over the Trust Territory, with the CNMI eventually seeking to form its own relationship with the United States, apart from the other islands. Negotiations between U.S. and CNMI representatives resulted in the creation of a governing document, the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (the “Covenant”), which, *inter alia*, sets forth the applicability of U.S. laws to the CNMI. CNMI voters adopted the Covenant in 1975, and it was signed into law on March 24, 1976.

The Covenant provides that “laws of the United States in existence on the effective date of this Section and subsequent amendments to such laws will apply to the Northern Mariana

Islands, except as otherwise provided in this Covenant.”¹ The Covenant does not exclude the Act.

The Democratic Party (“Party”) is a national political party. The Democratic National Committee (“DNC”) is responsible for the day-to-day functions of the Party. On September 12, 2012, the Party amended its charter and bylaws to include as members of the DNC four members of the Committee.²

The Committee’s bylaws list among its purposes “[to n]ominate and assist in the election of Democratic candidates for elected offices in the Commonwealth of the Northern Mariana Islands; and support and assist in the election of Democratic candidates for national offices”; to “[r]aise and disburse monies needed for the successful operation of the Democratic Party”; and to “[w]ork with Democratic public officials at all levels to achieve the objectives of the Democratic Party.”³

Gregorio Kilili Camacho Sablan, the CNMI's Delegate to the U.S. House of Representatives, appeared on the 2022 ballot as a candidate of the Committee. Mr. Kilili⁴ received contributions and made expenditures in excess of \$5,000 according to disclosure reports filed with the Commission.⁵

The bylaws set forth the organization and duties of various aspects of the Committee. For example, Article 7 sets out the membership and powers of the Central Executive Committee (CEC), which is charged with the day-to-day management of the Committee.⁶ Members of the CEC are elected at the general membership meeting, which is held once every two years.⁷ The CEC is empowered to employ staff to carry out its functions.⁸ The bylaws also provide for an Executive Board elected by the CEC that acts on behalf of the party when action is immediately required and cannot wait for a properly noticed special meeting of the CEC.⁹

¹ Covenant, § 502

² AOR005-007.

³ Party Bylaws, The Democratic Party of the Northern Mariana Islands, Article 5 (Mar. 2023), https://www.nmidems.org/files/ugd/c483d3_06e3b1a813564b5ea06c446ea08e972e.pdf (“Party Bylaws”).

⁴ Although Gregorio Kilili Camacho Sablan’s official House website uses “Sablan” as his last name, your request uses “Kilili,” and his principal campaign committee is registered with the Commission as “Kilili for Congress.” Accordingly, the Commission is identifying Gregorio Kilili Camacho Sablan as “Mr. Kilili” for purposes of this opinion.

⁵ See, e.g., Kilili for Congress, 2022 Post-General Report at 2 (Dec. 8, 2022), <https://docquery.fec.gov/pdf/998/202212089547386998/202212089547386998.pdf>

⁶ Party Bylaws at Article 7.

⁷ *Id.* at Article 10.

⁸ *Id.*

⁹ *Id.* at Article 8.

Question Presented

Does the Committee qualify as a state committee of a political party within the meaning of the Act and Commission regulations?

Legal Analysis

Yes, the Committee qualifies as a state committee of a political party within the meaning of the Act and Commission regulations.¹⁰

The determination as to whether a state party organization qualifies as a state committee of a national political party turns on three elements: (1) the national party with which the state party organization is affiliated must itself be a “political party;”¹¹ (2) the state party organization must be part of the official structure of the national party; and (3) the state party organization must be responsible for the day-to-day operation of the national party at the state level.¹² The Commission therefore addresses each of these three elements in turn.

(1) Qualification of the Democratic Party as a Political Party

The Democratic Party has placed numerous candidates for federal offices on election ballots in every state. Accordingly, the Democratic Party is a “political party” for purposes of the Act and Commission regulations.

(2) Status of the Committee as Part of the Official Structure of the Democratic Party

To determine whether a state party organization is part of the official structure of a national party, the Commission evaluates documentation from the national party.¹³ According to the request, the charter of the Democratic Party includes the Committee as a member.¹⁴ The website of the Democratic Party, in introducing the list of state party committee websites, which includes the Committee’s website, describes the state party committees as “the ones tasked with

¹⁰ CNMI is a territory of the United States, which is included in the Act’s definition of “State.” See 52 U.S.C. § 30101(12).

¹¹ A “political party” is an “association, committee, or organization that nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee, or organization.” 52 U.S.C. § 30101(16); 11 C.F.R. § 100.15. An individual is a candidate if the individual or his or her authorized committee has received contributions aggregating in excess of \$5,000 or made expenditures aggregating in excess of \$5,000. See 52 U.S.C. § 30101(2); 11 C.F.R. § 100.3(a)(1).

¹² See, e.g., Advisory Opinion 2016-14 (11 Libertarian State Committees); Advisory Opinion 2015-01 (Green-Rainbow Party); Advisory Opinion 2012-39 (Green Party of Virginia).

¹³ See, e.g., Advisory Opinion 2016-18 (Ohio Green Party); Advisory Opinion 2016-14 (11 Libertarian State Committees); Advisory Opinion 2015-01 (Green-Rainbow Party); Advisory Opinion 2012-39 (Green Party of Virginia).

¹⁴ AOR005-007.

the essential work of building the political infrastructure needed to win at the ballot box. . . .”¹⁵ These references indicate that the Committee is part of the official party structure of the Democratic Party.

(3) Responsibility of the Committee for Day-to-Day Operation of the Democratic Party at the State Level

The Commission has long explained that a state party organization is deemed responsible for the day-to-day operations of a national party at the state level if (a) the state party organization has placed a federal candidate on the ballot (thereby itself qualifying as a “political party” under the Act); and (b) the state party organization’s bylaws or other governing documents indicate activity commensurate with the day-to-day functions and operations of a political party at the state level.¹⁶

(a) Candidate on the Ballot

The Committee nominated Mr. Kilili for Delegate and he appeared on the CNMI’s general election ballot as the Committee’s candidate in 2022.¹⁷ Because Mr. Kilili disclosed receiving or spending more than \$5,000 in contributions or expenditures, he was a “candidate” under the Act.¹⁸ The Committee thus placed a federal candidate on the ballot and thereby qualified as a political party under the Act and Commission regulations.

(b) Day-to-Day Functions and Operations

Pursuant to its bylaws, the Committee nominates candidates for state and federal offices (Article 6), elects delegates to the Democratic Party’s national convention (Article 13), and organizes a membership meeting at which delegates to the DNC are elected and other party business is conducted (Article 14). The bylaws also establish the Committee’s organizational structure and empower its executive organs — the CEC and the Executive Board — to manage the Committee’s day-to-day affairs. Accordingly, the governing documents demonstrate the Committee’s responsibility for the day-to-day functions and operations of the Democratic Party

¹⁵ See *State Party Websites*, DNC, <https://democrats.org/who-we-are/state-parties/state-party-websites/> (last visited Jan. 2, 2024); *ASDC*, DNC, <https://democrats.org/who-we-are/state-parties/> (last visited Jan. 2, 2024).

¹⁶ See, e.g., Advisory Opinion 2016-18 (Ohio Green Party); Advisory Opinion 2016-14 (11 Libertarian State Committees); Advisory Opinion 2012-39 (Green Party of Virginia); Advisory Opinion 2012-36 (Green Party of Connecticut).

¹⁷ AOR002, 017-018.

¹⁸ See 52 U.S.C. § 30101(2); 11 C.F.R. § 100.3(a). The Act specifically includes “Delegate or Resident Commissioner to[] the Congress” within the definition of “Federal Office.” See 52 U.S.C. § 30101(3).

at the state level, similar to other state party rules that the Commission has found sufficient to qualify an organization for state committee status.¹⁹

In sum, the Commission determines that the Committee qualifies as the state committee of a national political party under the Act and Commission regulations because: (1) the Democratic Party is a political party; (2) the Committee is part of the Democratic Party's official party structure; and (3) the Committee is responsible for the day-to-day operation of the Democratic Party at the state level.

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.²⁰ 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 requestor may not rely on that conclusion as support for its proposed activity. 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. Any advisory opinions cited herein are available on the Commission's website.

On behalf of the Commission,

A handwritten signature in black ink that reads "Sean J. Cooksey". The signature is written in a cursive, flowing style.

Sean J. Cooksey
Chairman

¹⁹ See, e.g., Advisory Opinion 2016-18 (Ohio Green Party); Advisory Opinion 2016-14 (11 Libertarian State Committees); Advisory Opinion 2015-01 (Green-Rainbow Party); Advisory Opinion 2012-39 (Green Party of Virginia); Advisory Opinion 2012-36 (Green Party of Connecticut).

²⁰ See 52 U.S.C. § 30108.