



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**MEMORANDUM**

**TO:** The Commission  
Staff Director  
Acting General Counsel

**FROM:** Office of the Commission Secretary *LCS*

**DATE:** February 16, 2024

**SUBJECT:** Concurring Statement for Advisory Opinion 2024-02 (Citizens for Waters) – Chairman Sean J. Cooksey

The attached Concurring Statement for Advisory Opinion 2024-02 is circulated for information.

Attachment



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C.

**ADVISORY OPINION 2024-02  
(CITIZENS FOR WATERS)**

**CONCURRING STATEMENT OF CHAIRMAN SEAN J. COOKSEY**

The Commission's advisory opinion concludes that Congresswoman Maxine Waters and her campaign committee, Citizens for Waters, may solicit and receive reimbursements from non-federal sources for their proportional costs to appear on a brochure featuring Congresswoman Waters's endorsements of various federal candidates, state and local candidates, and state ballot initiatives. As is often the case, this response is a compromise.

I write separately only to highlight the important legal interpretation that the Commission announces in this advisory opinion. In approving this proposal, the Commission reasons:

The condition in 52 U.S.C. § 30125(e)(1)(A) that any funds solicited or received in connection with a federal election must be subject to the Act's reporting requirements *does not itself impose any standalone duty to report that would not otherwise exist under the Act*. Therefore, because the Act does not require non-federal candidates and committees to separately report their reimbursement of a federal candidate for their pro-rata share of the brochure, and provided that the non-federal committees are not otherwise required to report to the Commission, then such reimbursement is subject to the reporting requirements of the Act for the purposes of 52 U.S.C. § 30125(e)(1)(A).<sup>1</sup>

The significance of this legal conclusion should not be overlooked. It clarifies that non-federal committees may contribute or transfer funds to federal candidates without taking on any additional federal reporting obligations under § 30125(e)(1)(A), and that federal candidates may solicit and receive such funds in accordance with the statute. It also overturns earlier Commission decisions that had posited a different view of the law.<sup>2</sup>

This is now the Commission's prevailing interpretation of 52 U.S.C. § 30125(e)(1)(A). I look forward to this new rule of law being consistently applied in future Commission matters dealing with soft money.

  
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Sean J. Cooksey  
Chairman

February 16, 2024  
Date

<sup>1</sup> Advisory Op. 2024-02 (Waters) at 5 (emphasis added) (citations omitted).

<sup>2</sup> See, e.g., Factual & Legal Analysis at 5–6, 8 (Aug. 13, 2019), MUR 7337 (Debbie Lesko, *et al.*).