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FEDERAL ELECTION COMMISSION
Washington, DC 20463

AGENDA DOCUMENT NO. 25-05-A
AGENDA ITEM
For meeting of March 27, 2025

March 20, 2025

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson *NFS for LJS*
Acting General Counsel

Neven F. Stipanovic *NFS*
Associate General Counsel

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Assistant General Counsel

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Attorney

Subject: AO 2025-03 (American Samoa Democratic Party) Draft A

Attached is a proposed draft of the subject advisory opinion.

Members of the public may submit written comments on the draft advisory opinion. We are making this draft available for comment until 12:00 pm (Eastern Time) on March 26, 2025.

Members of the public may also attend the Commission meeting at which the draft will be considered. The advisory opinion requestor may appear before the Commission at this meeting to answer questions.

For more information about how to submit comments or attend the Commission meeting, go to <https://www.fec.gov/legal-resources/advisory-opinions-process/>.

Attachment

1 ADVISORY OPINION 2025-03

2
3 Patrick Ti'a Reid
4 Chair, American Samoa Democratic Party
5 PO Box 252
6 Pago Pago, American Samoa 96799

DRAFT A

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8 Dear Mr. Reid:

9 We are responding to your request on behalf of the American Samoa Democratic Party
10 (the "Requestor") regarding its status as the state committee of a political party under the Federal
11 Election Campaign Act, 52 U.S.C. §§ 30101-45 (the "Act"), and Commission regulations. The
12 Commission concludes that the Requestor qualifies as a state committee of a political party.

13 ***Background***

14 The facts presented in this advisory opinion are based on your advisory opinion request
15 received on February 21, 2025, public disclosure reports filed with the Commission, and other
16 publicly available information.

17 The Democratic Party ("Party") is a national political party. The Democratic National
18 Committee ("DNC") is responsible for the day-to-day functions of the Party.¹ The DNC has
19 recognized by letter that the Requestor is the "sole and official State Democratic Party of
20 American Samoa," and is "authorized to elect DNC members and to organize the process [of]
21 selecting delegates to the DNC."²

22 The Requestor is a Democratic party organization operating within American Samoa, an
23 unincorporated territory of the United States.³ Pursuant to its constitution and bylaws, the

¹ See generally The Charter & The Bylaws of the Democratic Party of the United States (Sept. 10, 2022), <https://democrats.org/wp-content/uploads/2024/12/DNC-Charter-Bylaws-09.10.1022.pdf>.

² Advisory Opinion Request ("AOR") at AOR026.

³ AOR001, 4.

Requestor’s purposes include promoting Democratic Party principles, nominating and assisting in the election of Democratic candidates, and encouraging the promotion and establishment of Democratic Party clubs within American Samoa.⁴

The Requestor coordinates with the DNC to develop a “Delegate Selection Plan,” which governs the process for selecting the Requestor’s delegates to the Democratic National Convention.⁵ As part of this plan, the Requestor organizes and administers a territorial caucus for Democratic presidential candidates in American Samoa.⁶ The Requestor’s at-large delegates are allocated based on the proportional support each candidate received in the caucus.⁷ Voters must register with the Requestor to participate in the caucus, and candidates gain ballot access through the Requestor.⁸ In 2024, three Presidential primary candidates participated in the caucus: Joe Biden, Jason Palmer, and Dean Phillips.⁹

American Samoa is represented in the U.S. Congress by a non-voting Delegate to the House of Representatives.¹⁰ In 2020, the Requestor assisted in placing Oreta Mapu-Crichton, a federal candidate for Delegate to the U.S. House of Representatives, on the general election

⁴ AOR011-12, 21.

⁵ AOR083.

⁶ AOR003, 43.

⁷ AOR051, 53.

⁸ AOR044, 49.

⁹ AOR003. All candidates on the caucus ballot disclosed receiving or spending more than \$5,000 in contributions or expenditures during the 2024 election cycle. See Joseph R. Biden, Jr., *FEC Financial Summary of Reported Activity* at <https://www.fec.gov/data/candidate/P80000722/>; Palmer for President, *FEC Financial Summary of Reported Activity* at <https://www.fec.gov/data/committee/C00855551/>; Dean 24, Inc. *FEC Financial Summary of Reported Activity* at <https://www.fec.gov/data/committee/C00854778/?cycle=2024>.

¹⁰ 48 U.S.C. § 1731.

1 ballot.¹¹ The Requestor helped to gather nominating petition signatures for Ms. Mapu-Crichton
2 to become certified and appear on the ballot.¹² Additionally, the Requestor publicly endorsed
3 Ms. Mapu-Crichton.¹³ Ms. Mapu-Crichton’s campaign committee reported receiving
4 contributions or making expenditures in excess of \$5,000 during the 2020 presidential election
5 cycle.¹⁴

6 ***Question Presented***

7 *Does the Requestor qualify as a state committee of a political party within the meaning of*
8 *the Act and Commission regulations?*

9 ***Legal Analysis***

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

12 The Requestor is a Democratic party organization operating within American Samoa, an
13 unincorporated territory of the United States.¹⁵ The Act defines “state” to include a territory or
14 possession of the United States.¹⁶

¹¹ AOR003, 87, 92.

¹² ARO092; *See* Am. Samoa Code § 6.0301(a) (“Candidates for Delegate to the United States House of Representatives shall also be nominated by petitions, in forms established by the Chief Election Officer, signed by at least 300 registered voters of the Territory.”).

¹³ AOR003.

¹⁴ *See* Oreta for Congress, *FEC Financial Summary of Reported Activity* at <https://www.fec.gov/data/committee/C00755843/> (reflecting total receipts of \$36,273.00 and expenditures of \$20,451.12 from July 1, 2020 through October 14, 2020).

¹⁵ AOR001, 4. *See* 48 U.S.C. § 1661.

¹⁶ 52 U.S.C. § 30101(12).

Whether a state party organization qualifies as a state committee of a national political party turns on three elements: (1) the national organization affiliated with the state party organization must itself be a “political party;”¹⁷ (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.¹⁸ The Commission addresses each of these elements in turn.

(1) Qualification of the Democratic Party as 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.¹⁹

(2) Status of the Requestor as Part of the Official Structure of 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.²⁰ The letter from the DNC confirms that the Requestor is part of the official structure of the Party.²¹

¹⁷ A “political party” is an “association, committee, or organization which 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).

¹⁸ See, e.g., Advisory Opinion 2024-15 (United Libertarians of Massachusetts); Advisory Opinion 2023-12 (Democratic Party of the Northern Mariana Islands); Advisory Opinion 2019-03 (DC Libertarian Party).

¹⁹ See Advisory Opinion 2023-12 (Democratic Party of the Northern Mariana Islands) at 3 (recognizing the Democratic Party is a “political party” for purposes of the Act and Commission regulations).

²⁰ See, e.g., Advisory Opinion 2024-15 (United Libertarians of Massachusetts); Advisory Opinion 2023-12 (Democratic Party of the Northern Mariana Islands); Advisory Opinion 2019-03 (DC Libertarian Party).

²¹ See AOR026.

(3) *Responsibility of the Requestor for Day-to-Day Operation of the Party at the State Level*

To determine whether a state party organization is responsible for the day-to-day operations of a national party at the state level, the Commission considers: (a) whether the state organization has obtained ballot access for a federal candidate, and (b) whether the bylaws or other governing documents of the state party organization indicate activity commensurate with the day-to-day functions and operations of a political party at the state level.²²

(a) *Candidate on the Ballot*

The Requestor assisted in placing Oreta Mapu-Crichton, a candidate for Delegate to the U.S. House of Representatives, on the general election ballot.²³ The Act includes “the office of . . . Delegate” within the definition of “Federal office.”²⁴ Ms. Mapu-Crichton’s campaign committee received contributions or made expenditures in excess of \$5,000 according to public disclosure reports filed with the Commission, therefore satisfying the Act’s definition of a “candidate.”²⁵

(b) *Day-To-Day Functions and Operations*

In addition to gaining ballot access for a candidate for federal office, the Requestor must show, in its bylaws, constitution, or other governing documents, that it is responsible for activity

²² See, e.g., Advisory Opinion 2024-15 (United Libertarians of Massachusetts); Advisory Opinion 2023-12 (Democratic Party of the Northern Mariana Islands); Advisory Opinion 2019-03 (DC Libertarian Party).

²³ AOR003, 87, 92. See Advisory Opinion 2016-17 (Libertarian Party of Michigan Executive Committee, Inc.) (granting state party committee status for organization that “assisted in placing” federal candidate on the ballot).

²⁴ 52 U.S.C. § 30101(3); see also 11 C.F.R. § 100.4.

²⁵ 52 U.S.C. § 30101(2); see also 11 C.F.R. § 100.3(a).

1 commensurate with the day-to-day functions and operations of a national political party at the
2 state level.

3 Here, the Requestor's governing documents indicate that the Requestor engages in
4 various political party activities in American Samoa.²⁶ These activities include promoting
5 Democratic Party principles, nominating and assisting in the election of Democratic candidates,
6 sending delegates to the Party's national convention, and encouraging the promotion and
7 establishment of Democratic Party clubs within American Samoa.²⁷ Notably, the Requestor
8 organizes and administers a territorial caucus for Democratic presidential candidates in
9 American Samoa, overseeing voter engagement, candidate selection, and delegate allocation—
10 key functions of the Party at the state level.²⁸

11 Thus, the Requestor's activities are commensurate with the day-to-day functions and
12 operations of a national political party at the state level and are similar to other state party
13 activities that the Commission has found sufficient to qualify an organization for state-committee
14 status.²⁹ The Requestor therefore satisfies the requirement of being responsible for the day-to-

²⁶ See AOR012-25.

²⁷ AOR012-13, 21.

²⁸ AOR003, 4; See e.g. Advisory Opinion 2019-03 (DC Libertarian Party) (noting that nominating and sending delegates to party's national convention, and managing District of Columbia party conventions, are activities commensurate with day-to-day operation of political party at state level).

²⁹ See, e.g., Advisory Opinion 2024-15 (United Libertarians of Massachusetts) (concluding that requestor's responsibilities to promote party principles, endorse candidates for public office, send delegates to party's national convention, and recognize local affiliates, among other duties detailed in its bylaws, demonstrated requestor's responsibility for day-to-day functions and operations of national party at state level); Advisory Opinion 2023-12 (Democratic Party of the Northern Mariana Islands) (concluding that requestor's responsibilities to nominate candidates for state and federal offices, elect delegates to national party's national convention, and organize membership meetings at which delegates to national convention are elected, among other duties detailed in its bylaws, demonstrated requestor's responsibility for day-to-day functions and operations of national party at state level); Advisory Opinion 2019-03 (DC Libertarian Party) (concluding that requestor's political party activities described in its bylaws, including recruiting, nominating, and training candidates for partisan public office, nominating and sending delegates to party's national convention, managing District of Columbia party conventions, and other duties, established requestor's responsibility for day-to-day operation of national party at state level to

1 day operation of the national party at the state level pursuant to 52 U.S.C. § 30101(15) and 11
2 C.F.R. § 100.14(a).

3 The Commission concludes that the Requestor qualifies as the state committee of a
4 political party under the Act and Commission regulations because: (1) the Party qualifies as a
5 political party; (2) the Requestor is part of the official structure of the Party; and (3) the
6 Requestor is responsible for the day-to-day operation of the Party at the state level.

7 This response constitutes an advisory opinion concerning the application of the Act and
8 Commission regulations to the specific transaction or activity set forth in your request.³⁰ The
9 Commission emphasizes that, if there is a change in any of the facts or assumptions presented,
10 and such facts or assumptions are material to a conclusion presented in this advisory opinion,
11 then the Requestor may not rely on that conclusion as support for its proposed activity. Any
12 person involved in any specific transaction or activity which is indistinguishable in all its
13 material aspects from the transaction or activity with respect to which this advisory opinion is
14 rendered may rely on this advisory opinion.³¹ Please note that the analysis or conclusions in this
15 advisory opinion may be affected by subsequent developments in the law including, but not
16 limited to, statutes, regulations, advisory opinions, and case law. Any advisory opinions cited
17 herein are available on the Commission's website.

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19 On behalf of the Commission,
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qualify for state committee status).

³⁰ See 52 U.S.C. § 30108.

³¹ See *id.* § 30108(c)(1)(B).

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James E. “Trey” Trainor III
Acting Chairman