

May 9, 2002

**NOTICE AO DRAFT COMMENT PROCEDURES**

The Commission has approved a revision in its advisory opinion procedures that permits the submission of written public comments on draft advisory opinions when proposed by the Office of General Counsel and scheduled for a future Commission agenda.

Today, DRAFT ADVISORY OPINION 2002-06 is available for public comments under this procedure. It was requested by Michael S. Wyman, on behalf of the Green Party of California. The draft may be obtained from the Public Disclosure Division of the Commission.

Proposed Advisory Opinion 2002-06 will be on the Commission's agenda for its public meeting of Thursday May 16, 2002.

Please note the following requirements for submitting comments:

1) Comments must be submitted in writing to the Commission Secretary with a duplicate copy to the Office of General Counsel. Comments in legible and complete form may be submitted by fax machine to the Secretary at (202) 208-3333 and to OGC at (202) 219-3923.

2) The deadline for the submission of comments is 12:00 noon (EDT) on May 15, 2002.

3) No comments will be accepted or considered if received after the deadline. Late comments will be rejected and returned to the commenter. Requests to extend the comment period are discouraged and unwelcome. An extension request will be considered only if received before the comment deadline and then only on a case by case basis in special circumstances.

4) All comments timely received will be distributed to the Commission and the Office of General Counsel. They will also be made available to the public at the Commission's Public Disclosure Division.

**CONTACTS**

Press inquiries: Ron Harris (202) 694-1220

Commission Secretary: Mary Dove (202) 694-1040

Other inquiries:

To obtain copy of draft AO 2002-06 contact Public Records Office-  
Public Disclosure Division (202) 694-1120, or 800-424-9530.

For questions about comment submission procedure contact  
N. Bradley Litchfield, Associate General Counsel, (202) 694-1650.

**ADDRESSES**

Submit single copy of written comments to:

Commission Secretary  
Federal Election Commission  
999 E Street NW  
Washington, DC 20463



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

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May 9, 2002

**MEMORANDUM**

**AGENDA ITEM**

For Meeting of: 5-16-02

**TO:** The Commission

**THROUGH:** James A. Pehrkon  
Staff Director

**FROM:** Lawrence H. Norton  
General Counsel

N. Bradley Litchfield  
Associate General Counsel

Michael G. Marinelli  
Staff Attorney

**SUBJECT:** Draft AO 2002-06

Attached is a proposed draft of the subject advisory opinion. We request that this draft be placed on the agenda for May 16, 2002.

Attachment

1  
2 **ADVISORY OPINION 2002-06**

3  
4 **Michael S. Wyman, Treasurer**  
5 **Green Party of California**  
6 **PO Box 2828**  
7 **Sacramento, CA 95812**

**DRAFT**

8  
9 **Dear Mr. Wyman:**

10 **This refers to your letter dated April 16, 2002, with enclosures, requesting an**  
11 **advisory opinion concerning the status of the Green Party of California (“the Party”) as a**  
12 **State committee of a political party under the Federal Election Campaign Act of 1971, as**  
13 **amended (“the Act”), and Commission regulations.**

14 **Your request includes various documents including a copy of the Party bylaws**  
15 **(the “Bylaws”). This governing document details various aspects of the organization of**  
16 **the Party such as the manner in which the Party, using several different subgroups,**  
17 **including its State coordinating committee, engages in various activities; for example,**  
18 **endorsing Party candidates for statewide office. The Bylaws further explain the**  
19 **procedures for holding the Party’s various meetings such as its general assembly at which**  
20 **the Party chooses the members of its coordinating committee. You state that the Party**  
21 **successfully placed candidates for Federal office on the ballot in the 2000 elections.**  
22 **These candidates were Ralph Nader for U.S. President and Winona LaDuke for Vice**  
23 **President and Medea Susan Benjamin for U.S. Senate.<sup>1</sup>**

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<sup>1</sup> The Party also has a Federal committee, the Green Party of California PAC, which filed its statement of organization with the Commission on June 20, 2000. The Web site address for the Party is [www.cagreens.org](http://www.cagreens.org).

1           Your request states that the Party is officially affiliated with the Green Party of the  
2 United States ("the National Party").<sup>2</sup> On May 2, 2002, the Commission received a letter  
3 from Dean Myerson, political coordinator for the Green Party of the United States,  
4 confirming the status of the Party as the sole affiliate of the National Party in the State of  
5 California.

6           Under the Act and Commission regulations, the term "State committee" means the  
7 organization which, by virtue of the bylaws of a political party, is responsible for the day-  
8 to-day operation of such political party at the State level, as determined by the  
9 Commission. 2 U.S.C. 431(15); 11 CFR 100.14. The definition of State committee also  
10 requires the existence of a political party. The term "political party" is defined under 2  
11 U.S.C. 431(16) and 11 CFR 100.15 as an association, committee, or organization which  
12 nominates a candidate for election to any Federal office whose name appears on the  
13 election ballot as the candidate of such association, committee, or organization. An  
14 individual becomes a candidate for purposes of the Act if he or she receives contributions  
15 aggregating in excess of \$5,000, or makes expenditures in excess of \$5,000. 2 U.S.C.  
16 431(2).<sup>3</sup>

17           As stated in the Act and Commission regulations, the first element of the  
18 requirements for State committee status is that the bylaws of a political party establish  
19 that the party entity is responsible for the day-to-day operation of such political party at

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<sup>2</sup> In Advisory Opinion 2001-13, the Commission concluded that the Green Party of the United States is a national committee of a political party. See 2 U.S.C. 431(14).

<sup>3</sup> Federal candidates must designate a principal campaign committee within 15 days after qualifying as a candidate, and the committee also becomes subject to various registration, recordkeeping, and reporting requirements. 2 U.S.C. 432(e)(1), 433, and 434(a); 11 CFR 101.1, 102.1, and 104.1.

1 the State level.<sup>4</sup> As noted above, the Party's governing document sets out an identifiable  
2 organizational structure for the Party with varying responsibilities. See Bylaws, articles 5  
3 to 8. As they delineate activity commensurate with the day-to-day functions and  
4 operations of a political party on a State level, the Bylaws meet the requirements of 2  
5 U.S.C. 431(15) and 11 CFR 100.14, and they are consistent with the State party rules  
6 reviewed in previous situations where the Commission has affirmed the State committee  
7 status of a political organization. The documentation received also confirms the status of  
8 the Party as the State affiliate of the National Party. See Advisory Opinions 2002-03,  
9 2001-06, and 2001-02. Therefore, the Commission concludes that the Party meets the  
10 first element.

11 The second element for qualifying as a State committee of a political party, and an  
12 essential element for qualifying as a political party, is that the party organization actually  
13 obtains ballot access for one or more Federal candidates, as defined in the Act. Of the  
14 Federal candidates identified in your request, both Mr. Nader and Ms. Benjamin,  
15 according to disclosure reports filed with the Commission, received or expended in  
16 excess of \$5,000 in their 2000 campaigns.<sup>5</sup> Accordingly, these individuals satisfy the  
17 Act's definition of "candidate." 2 U.S.C. 431(2). Since Mr. Nader and Ms. Benjamin

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<sup>4</sup> The Commission has considered either the bylaws of State party organizations or other governing documents in making these determinations. Advisory Opinions 2000-39 and 2000-35. In reviewing State party affiliates of entities that qualified as national committees of political parties under 2 U.S.C. 431(14), the Commission has looked to evidence, either a State affiliate agreement or correspondence from the national party that attested to the relationship and role the State affiliate plays "commensurate with the day-to-day operation of [a political party] on a State level," see Advisory Opinions 1999-26 and 1992-30. The Commission has also found State party committee status with respect to organizations affiliated with national political parties that had not achieved national committee status or organizations that had no affiliation with any national organization. State committee status in these opinions was based on the existence of State bylaws detailing activities commensurate with the day-to-day operation of a party on the State level, and the placement of at least one Federal candidate on the ballot. Advisory Opinions 2001-02, 2000-39, 2000-35, and 2000-27.

<sup>5</sup> Your request includes a letter from Ms. Benjamin supporting State committee status for the Party.

1 appeared on the 2000 ballot in California as a candidates of the Party, the Commission  
2 concludes that the Party satisfies the definition of "political party" under the Act. It thus  
3 meets the second element for establishing State committee status.

4 In view of the fact that both elements discussed in this opinion have been  
5 satisfied, the Commission concludes that the Green Party of California qualifies as the  
6 State committee of a political party under the Act and Commission regulations.

7 This response constitutes an advisory opinion concerning the application of the  
8 Act, or regulations prescribed by the Commission, to the specific transaction or activity  
9 set forth in your request. See 2 U.S.C. 437f.

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Sincerely,

David M. Mason  
Chairman

Enclosures (AOs 2002-03, 2001-13, 2001-06, 2001-02, 2000-39, 2000-35, 2000-27,  
1999-26, and 1992-30)