



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**MEMORANDUM**

**TO: The Commission**

**FROM: Commission Secretary's Office**

**DATE: June 12, 2013** *(Signature)*

**SUBJECT: Comments on Draft AO 2013-03  
(Erin Bilbray-Kohn)**

**Attached is a timely submitted comment from Daniel C. Burdish.**

**Attachment**



Advisory Opinion Request 2013-03 (Bilbray-Kohn)

Dan Burdish

to:

AO

06/11/2013 06:44 PM

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From: Dan Burdish <

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To: AO@fec.gov,

Dear Commissioners,

I am writing in response to Advisory Opinion Request 2013-03 (Bilbray-Kohn). Both the request and the draft opinion appear to overlook an important issue. According to the request, Ms. Bilbray-Kohn will remain engaged in "Emerge Nevada's training program and conducting candidate training sessions." Both the request and the draft response indicate that this candidate training program "help[s] elect Democratic women to State and local offices in Nevada ... [and] trains participants in 'all aspects of running a political campaign,' including public speaking and communications, fundraising, media and messaging, networking, field operations, and technology and new media."

The draft response approaches the request entirely from the perspective of the relationship between Ms. Bilbray-Kohn, her likely candidacy, and Emerge Nevada. There is no discussion of the relationship(s) between Ms. Bilbray-Kohn and the State and local Democratic candidates that she will be training. Will any of these State and local Democratic candidates appear on the same ballot as Ms. Bilbray-Kohn? If so, it seems highly likely that the communications, messaging, and field operations training that Ms. Bilbray-Kohn provides will be informed by her own campaign plans and strategies, which in turn could raise coordination issues between Ms. Bilbray-Kohn's campaign and the campaigns of the State and local Democratic women that receive training from Ms. Bilbray-Kohn. If these State and local candidates make spending decisions based on any non-public information provided by Ms. Bilbray-Kohn during their training sessions, that spending could potentially be deemed coordinated with Ms. Bilbray-Kohn's campaign, yielding an impermissible, non-federal in-kind contribution to Ms. Bilbray-Kohn's campaign.

The draft response also avoids any discussion of the potential for coordination between Ms. Bilbray-Kohn and Emerge Nevada. The request likely assumes that Emerge Nevada will take all steps necessary to avoid engaging in any coordinated activity with Ms. Bilbray-Kohn's campaign. However, given that the draft opinion grants permission for Ms. Bilbray-Kohn to work directly with an organization solely purposed to "help elect Democratic women to State and local offices in Nevada" during the time that Ms. Bilbray-Kohn herself will be a candidate for office in Nevada, I think it important for the response to clarify that any expenditures made by Emerge Nevada to benefit, directly or indirectly, Ms. Bilbray-Kohn's campaign could result in an impermissible, non-federal in-kind contribution.

I strongly encourage the Commission to consider these issues in any response provided in this matter. The Commission should clearly state that there are potential restrictions that apply to Ms. Bilbray-Kohn's relationship with Emerge Nevada, as well as with the State and local Democratic candidates that she trains.

Daniel C. Burdish

6/12/2013