



**FEDERAL ELECTION COMMISSION**  
Washington, DC 20463

April 3, 2023

**VIA EMAIL**

[reiff@sandlerreiff.com](mailto:reiff@sandlerreiff.com)

Neil Reiff

Sandler Reiff Lamb Rosenstein & Birkenstock, PC  
1090 Vermont Ave NW  
Washington, DC 20005

RE: MUR 8020  
Pat Ryan for Congress

Dear Mr. Reiff:

On July 5, 2022, the Federal Election Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). On March 30, 2023, the Commission found, on the basis of the information in the complaint and the information supplied by your client, that there is no reason to believe that Pat Ryan for Congress and Wyatt Brown in his official capacity violated 11 C.F.R. § 110.8(d)(1) by concurrently soliciting contributions for two different campaigns. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Crystal Liu, the attorney assigned to this matter, at (202) 694-1273.

Sincerely,

*Mark Shonkwiler*

Mark Shonkwiler  
Assistant General Counsel

Enclosure:

Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION****FACTUAL AND LEGAL ANALYSIS**

**RESPONDENT:** Pat Ryan for Congress and Wyatt  
Brown in his official capacity as treasurer

**MUR 8020****I. INTRODUCTION**

From at least May 16, 2022, to August 23, 2022, Patrick Ryan simultaneously ran for the special election in New York’s 19th Congressional District to complete the 2021-22 term and the primary election in New York’s 18th Congressional District for the upcoming 2023-24 term. He won both elections on August 23, 2022. Pat Ryan for Congress and Wyatt Brown in his official capacity as treasurer (the “Committee”) is Ryan’s designated principal campaign committee for election in New York’s 18th Congressional District,<sup>1</sup> and operated as his principal campaign committee for the special election in New York’s 19th Congressional District. The Complaint alleges that the Committee violated 11 C.F.R. § 110.8(d)(1) by simultaneously soliciting contributions for Ryan’s concurrent campaigns in the 18th and 19th Districts.<sup>2</sup>

As discussed below, as to whether candidates for more than one federal “office” must designate separate principal campaign committees, the Commission has advised that, for the purposes of the Act, different congressional districts within the same state are considered the same office and that different congressional terms for the same district are considered the same office. Therefore, in light of these advisory opinions, we recommend that the Commission find no reason to believe that the Committee violated 11 C.F.R. § 110.8(d)(1) by concurrently soliciting contributions for two different campaigns.

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<sup>1</sup> Pat Ryan for Congress, Amended Statement of Organization at 3 (Oct. 11, 2022), <https://docquery.fec.gov/pdf/118/202210119532128118/202210119532128118.pdf>.

<sup>2</sup> Compl. at 2 (June 27, 2022) (“[H]is [federal campaign committee] is actively pursuing and raising campaign funds for both offices through one single federal campaign account.”).

## 1 II. FACTUAL BACKGROUND

2 On May 3, 2022, the Governor of New York appointed Rep. Antonio Delgado, from New  
3 York's 19th Congressional District, to be New York's new lieutenant governor, which resulted  
4 in a vacancy in the district for the remainder of the 2021-22 term.<sup>3</sup> By May 15, 2022, Ryan  
5 raised more than \$5,000 in contributions for the 19th District special election campaign.<sup>4</sup>

6 On May 16, 2022, Ryan filed a Statement of Candidacy as to New York's 18th  
7 Congressional District for the upcoming 2023-24 term and designated the Committee for that  
8 campaign.<sup>5</sup> The Committee also filed a Statement of Organization indicating that it was Ryan's  
9 principal campaign committee for the 18th District.<sup>6</sup>

10 The next day, on May 17, 2022, Ryan publicly announced, that in addition to his  
11 candidacy in the New York 18th Congressional District, he also would be a candidate in the  
12 upcoming special election for New York's 19th Congressional District to complete the remainder  
13 of the term for the vacancy created by Rep. Delgado's resignation.<sup>7</sup> On May 26, 2022, the  
14 Committee asked the Reports Analysis Division ("RAD") for guidance on how to indicate that  
15 Ryan would be running in both the 18th District primary election and the 19th District special

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<sup>3</sup> Luis Ferré-Sadurní & Nicholas Fandos, *Hochul Chooses Antonio Delgado as New Lieutenant Governor*, N.Y. TIMES (May 3, 2022), <https://www.nytimes.com/2022/05/03/nyregion/antonio-delgado-new-york-lieutenant-governor-hochul.html>.

<sup>4</sup> Pat Ryan for Congress, Amended 2022 July Quarterly Report at 284-85 (Nov. 28, 2022), <https://docquery.fec.gov/pdf/872/202211289547063872/202211289547063872.pdf> (reflecting two contributions of \$2,900 dated May 15, 2022, for a special primary election).

<sup>5</sup> Patrick Ryan, Amended Statement of Candidacy (May 16, 2022), <https://docquery.fec.gov/pdf/379/202205169512364379/202205169512364379.pdf> (reflecting Ryan's candidacy in New York's 18th Congressional District which designated the Committee as his principal campaign committee for that district).

<sup>6</sup> Pat Ryan for Congress, Statement of Organization at 2 (May 16, 2022), <https://docquery.fec.gov/pdf/375/202205169512364375/202205169512364375.pdf>.

<sup>7</sup> *Pat Ryan to Run in Special 19th Congressional Election Before Pursuing 18th Seat*, POUGHKEEPSIE J. (May 17, 2022), <https://www.poughkeepsiejournal.com/story/news/politics/elections/2022/05/17/ulsters-pat-ryan-announces-special-congressional-election-run/9811900002/>.

1 election.<sup>8</sup> On May 27, 2022, RAD advised that the Committee would need to amend its  
2 Statement of Organization to reflect that Ryan would be simultaneously running in the 18th  
3 District primary election and the 19th District special election. RAD also advised that Ryan  
4 would need to amend his Statement of Candidacy to indicate that he would be running in the  
5 19th District special election.

6 On June 23, 2022, the Committee filed an amended Statement of Organization stating  
7 that it was the principal campaign committee for Ryan’s campaign “for office in the New York  
8 18th district special election and the 19th district primary and general elections.”<sup>9</sup> In this filing,  
9 the Committee mistakenly referred to the 18th district elections as the “special election” and the  
10 19th district election as the “primary and general” when it should have been the other way  
11 around. On July 1, 2022, the Committee filed another Amended Statement of Organization  
12 correcting the error and correctly stating that the Committee was the principal campaign  
13 committee for Ryan’s campaigns “for office in the New York 19th district special election and  
14 the 18th district primary and general elections.”<sup>10</sup> During the relevant period, the Committee  
15 collected contributions and functioned as the principal campaign committee for both  
16 campaigns.<sup>11</sup>

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<sup>8</sup> Pat Ryan for Congress Resp.at 2 n.9 (“On or about May 26, 2022, Cassie Tinsmon, of Evans & Katz (committee compliance firm) called the FEC Reports Analysis Division and received guidance on the proper way to disclose the fact that Mr. Ryan was a candidate in two elections on the same date.”).

<sup>9</sup> Pat Ryan for Congress, Amended Statement of Organization at 5 (June 23, 2022), <https://docquery.fec.gov/pdf/613/202206239517754613/202206239517754613.pdf>.

<sup>10</sup> Pat Ryan for Congress, Amended Statement of Organization at 5 (July 1, 2022), <https://docquery.fec.gov/pdf/326/202207019517782326/202207019517782326.pdf>.

<sup>11</sup> See Pat Ryan for Congress, 2022 30-Day Post-Special Election Report at 21 (Sept. 22, 2022), <https://docquery.fec.gov/pdf/256/202209229531813256/202209229531813256.pdf> (reporting contributions for both the special general election in the 19th district and the general election in the 18th district).

1 **III. LEGAL ANALYSIS**

2 **A. The Commission Finds No Reason to Believe that Separate Principal**  
3 **Campaign Committees were Required**

4 “If an individual is a candidate for more than one Federal office . . . he or she must  
5 designate separate principal campaign committees and establish completely separate campaign  
6 organizations.”<sup>12</sup> According to the Act, “‘Federal office’ means the office of President or Vice  
7 President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the  
8 Congress.”<sup>13</sup>

9 The Commission has not squarely addressed whether separate principal campaign  
10 committees are required when a candidate simultaneously runs for office for two different  
11 congressional terms and in two different congressional districts within the same state.<sup>14</sup>

12 However, the Commission’s prior advisory opinions to indicate that forming a separate principal  
13 campaign committee is not required in these circumstances.

14 In Advisory Opinion 1982-22 (Bartlett), the Commission advised that a candidate was  
15 not required to establish a separate principal campaign committee when he initially ran for office  
16 in Texas’s 5th Congressional District and then switched to running for office in Texas’s 3rd

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<sup>12</sup> 11 C.F.R. § 110.8(d)(1).

<sup>13</sup> 52 U.S.C. § 30101(3); *accord* 11 C.F.R. § 100.4.

<sup>14</sup> The Committee appears to suggest that the New York’s 19th Congressional District for the 2020 term and New York’s 18th Congressional District for the 2022 term are actually the same district due to “the shifting of district lines in accordance with 2022 congressional redistricting.” *See* Pat Ryan for Congress Resp. at 1. We disagree that the districts could be considered the same given the partial geographic overlap between the districts. *See Redistricting in New York After the 2020 Census*, BALLOTEDIA, [https://ballotpedia.org/Redistricting\\_in\\_New\\_York\\_after\\_the\\_2020\\_census](https://ballotpedia.org/Redistricting_in_New_York_after_the_2020_census) (last visited Feb. 9, 2023); *cf.* Chris McKenna, *Pat Ryan Triumphs over Colin Schmitt in Tight 18th Congressional Race*, TIMES HERALD-RECORD, Nov. 9, 2022, <https://news.yahoo.com/pat-ryan-triumphs-over-colin-090419725.html> (characterizing Ryan’s win in the 18th Congressional District as “his second win in less than three months after claiming a vacant seat in a *neighboring House district* in a special election in August.”) (emphasis added).

1 Congressional District during the same election cycle.<sup>15</sup> The Commission explained that both  
2 congressional offices were considered one “federal office” under the Act and Commission  
3 regulations because they were in the same state:

4 [N]either the Act nor the Commission’s regulations identify Congressional seats  
5 as separate Federal offices. Moreover, those portions of the Constitution of the  
6 United States and Federal law which provide for the election of United States  
7 Representatives indicate that each Congressional seat within a State does not  
8 constitute a separate Federal office. The Fourteenth Amendment to the  
9 Constitution directs that Representatives be apportioned among the States  
10 according to their population. Since 1842, Federal statutes have provided that  
11 where a State was entitled to more than one Representative, the election should be  
12 by district. See 2 U.S.C. [§§] 2a, 2b, 2c. However, as the Supreme Court  
13 observed, “It has never been doubted that representatives in Congress thus chosen  
14 [by district] represented the entire people of the State acting in their sovereign  
15 capacity.” McPherson v. Blacker, 146 U.S. 1, 26 (1892). Thus, the office of  
16 Representative of the United States is defined not by the geographical boundaries  
17 of the particular district which elects it but rather by the State it represents.<sup>16</sup>

18 In addition, in Advisory Opinion 1980-80 (Crockett), the Commission advised that a  
19 candidate was not required to establish separate principal campaign committees where the  
20 candidate was concurrently a candidate in a primary election in Michigan’s 13th Congressional  
21 District for the upcoming 1981-82 congressional term and in a special election in the same  
22 district for the remainder of the 1979-80 congressional term.<sup>17</sup> The Commission explained that  
23 the definition for the term “federal office” under the Act “makes no reference to the term during  
24 which the office is held” and thus concluded that the candidate was “running for the same office

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<sup>15</sup> Advisory Opinion 1982-22 at 3 (Bartlett). The advisory opinion refers to 11 C.F.R. § 110.8(d)(11), rather than 11 C.F.R. § 110.8(d)(1), *id.*, which appears to be a typo as there was not a 11 C.F.R. § 110.8(d)(1) in 1982.

<sup>16</sup> *Id.* (internal footnotes omitted); *see also Registering a Candidate*, FEC.GOV, <https://www.fec.gov/help-candidates-and-committees/filing-reports/registering-candidate/> (last visited Feb. 9, 2023) (stating that “seek[ing] a different federal office . . . does not include running in another district” and referring to “a different district in the same state [as] the same office.”).

<sup>17</sup> Advisory Opinion 1980-80 at 2 (Crockett).

1 (i.e., Representative in Congress for the 13th Congressional District of Michigan), albeit for  
2 separate terms of that office.”<sup>18</sup>

3 In sum, Advisory Opinion 1982-22 (Bartlett) indicates that different congressional  
4 districts within the same state are considered the same “office” under the Act and Advisory  
5 Opinion 1980-80 (Crockett) indicates that different congressional terms of the same district are  
6 also considered the same “office” under the Act. Taken together, any congressional district  
7 within the same state, regardless of term, is one “office” under the Act.

8 Here, Ryan was concurrently a candidate in the special election for New York’s 19th  
9 Congressional District for the remainder of the 2021-22 congressional term and a candidate in  
10 the primary election for New York’s 18th Congressional District for the 2023-24 congressional  
11 term.<sup>19</sup> In addition, the Committee, which was designated for the 18th District, operated as  
12 Ryan’s principal campaign committee for both elections.<sup>20</sup> Although the elections were for  
13 congressional offices elected by people residing in different districts within the same state and  
14 for different terms, in the opinions described above, the Commission has advised that neither of  
15 those qualities render the offices sought by Ryan as separate for the purposes of 11 C.F.R.  
16 § 110.8(d)(1). Thus, the Commission finds no reason to believe that the Committee violated 11  
17 C.F.R. § 110.8(d)(1) by concurrently soliciting contributions for two different campaigns.

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<sup>18</sup> *Id.*

<sup>19</sup> *Supra* notes 4, 5, 7.

<sup>20</sup> *Supra* notes 5, 10, 11.