



*State of New Jersey*

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**Advisory Opinion No. 01-2025**

Dear Mr. Parikh:

You submitted a request for an Advisory Opinion on behalf of One Giant Leap PAC (OGL) on February 26, 2025 and consented to an extension until March 19, 2025 to respond. On March 12, 2025, you provided supplemental information requested by the Commission. The Commission considered your request and I am issuing this response pursuant to N.J.S.A. 19:44A-6(f).

Your request for an Advisory Opinion asked 1) If OGL is required to register with the Commission as a political committee (PC) or a continuing political committee (CPC) based on independent expenditures it intends to make to support or oppose New Jersey candidates; 2) Whether the Commission considers an entity's "major purpose" when determining if it is required to register as a PC, CPC, or independent expenditure committee (IEC); 3) If the major purpose framework is applicable, what percentage of New Jersey activity is required for the Commission to determine OGL's major purpose is the support or opposition of candidates in New Jersey; and 4) If the Commission determines that OGL is an IEC, is it required to report all contributions received in excess of \$7,500?

**Commission Response**

You are advised that OGL is not required to register as a PC or CPC based on the independent expenditures it plans to make to support or oppose New Jersey candidates. The activity OGL intends on undertaking falls within the definition of an IEC. You are further advised that the Commission will not be considering OGL's "major purpose" and that it does not need to analyze the percentage of OGL's spending in New Jersey. If OGL registers with the Commission as an IEC, it will be required to report all contributions received in excess of \$7,500 since January 1, 2024, unless a contributor specifically directs that the funds are not to be used in New Jersey elections.

## Submitted Facts

You state that OGL is a political organization under Section 527 of the Internal Revenue Code that filed a Statement of Organization with the Federal Election Commission (“FEC”) on October 19, 2023. You further state that OGL has reported its activity on regular FEC reports and plans to continue doing so in the future. You indicate that OGL has not made any independent expenditures specifically related to New Jersey state elections, but intends to do so in the 2025 New Jersey primary election. You state that these expenditures will be in excess of \$7,500 in the aggregate and will expressly advocate for the election or defeat of New Jersey candidates. You further indicate that OGL also intends to receive contributions and make independent expenditures in excess of \$8,600 to promote and advocate for the election or defeat of certain candidates, but does not intend to make contributions to any New Jersey committees. You state that all funds that have been previously collected and all funds raised in 2025 will be eligible for use in New Jersey elections and that OGL intends to solicit at least a portion of its future funds specifically for the purpose of furthering New Jersey independent expenditures. Finally, you state that OGL does not know whether it will make independent expenditures in New Jersey elections following the 2025 primary election.

## Discussion

### **1. Is OGL required to register with the Commission as a PC or a CPC based on the independent expenditures it intends to make supporting or opposing New Jersey candidates?**

As an entity organized under Section 527 of the Internal Revenue Code that intends to make independent expenditures in excess of \$7,500 for the purpose of expressly advocating for the election or defeat of candidates in the 2025 New Jersey primary election, OGL falls within the definition of an independent expenditure committee. As such, you are advised that OGL is not required to register as a PC or CPC.

N.J.A.C. 19:25-1.7 defines a PC as any group that raises or spends \$3,800 or more to “aid or promote the nomination, election, or defeat of a candidate or candidates or the passage or defeat of a public question,” existing for a term that is not substantially longer than a single campaign. A CPC is similarly defined as an entity that contributes, or expects to contribute, at least \$8,600 to “aid or promote the candidacy of an individual, or the candidacies of individuals, for elective public office, or the passage or defeat of a public question or public questions,” over the course of a calendar year. N.J.A.C. 19:25-1.7. Both definitions include a list of committees that cannot register as a PC or CPC.<sup>1</sup> As the request states that OGL intends to receive contributions and make expenditures in excess of \$8,600, OGL could register as either a PC or CPC, with the determining factor being whether it chooses to also participate in the 2025 general election.

The Elections Transparency Act, L. 2023, c. 30 (ETA), introduced the entity “independent expenditure committee,” defined as:

a person organized under section 527 of the federal Internal Revenue Code...that does not fall within the definition of any other organization subject to the provisions of P.L.1973, c. 83 [...] that makes independent expenditures in excess of \$7,500, in the aggregate per election.

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<sup>1</sup> The definition of a PC does not include single and joint candidate committees, CPCs, political party committees, and legislative leadership committees; the definition of a CPC excludes the same entities, trading PCs for CPCs. N.J.A.C. 19:25-1.7(1).

N.J.S.A. 19:44A-3t. Notably, the ETA also added IECs to the list of committees that cannot also register as a PC or CPC, suggesting that when an entity qualifies as both a PC/CPC and an IEC, the Legislature intended for them to only register as one type of group. N.J.A.C. 19:25-8A.1 further clarifies that an independent expenditure is:

an expenditure by an independent expenditure committee for the purpose of expressly advocating the election or defeat of a clearly identified candidate, or expressly advocating the passage or defeat of a public question, or such an expenditure that amounts to the functional equivalent of express advocacy, that is not coordinated with a candidate or any person or committee acting on behalf of a candidate or political party.

While the activity OGL is contemplating does allow for it to register as a potential PC or CPC, it also falls squarely within the definition of an IEC. The key distinction between the groups is whether there will be coordination with candidates and/or political party committees. PCs and CPCs may contribute to and make coordinated expenditures on behalf of candidates and political party committees<sup>2</sup>; IECs are prohibited from undertaking these activities. N.J.A.C. 19:25-8A.2, 19:25-12.7A. Your request clearly states that OGL plans on receiving contributions and making independent expenditures, which is permitted activity for IECs. N.J.A.C. 19:25-8A.5, 19:25-8A.6. Provided that OGL does not intend to engage in activities prohibited by N.J.A.C. 19:25-8A.2, it may register as an IEC.<sup>3</sup>

**2. Does the Commission consider a group’s “major purpose” when determining whether a group that exclusively makes independent expenditures must register as a PC or CPC, as opposed to an IEC?**

No, the Commission will not consider a group’s “major purpose” when determining whether a group that exclusively makes independent expenditures must register as a PC or a CPC, as opposed to an IEC. In Advisory Opinion 06-2001, the Commission examined whether a group that made a single contribution to the New Jersey Democratic Party and intended to make a contribution to a New Jersey gubernatorial candidate, both within the then applicable contribution limits for an “association,” was subject to the requirements of the Campaign Act and Commission Regulations as a PC or CPC. In doing so, the Commission applied the “major purpose” test as established in Buckley v. Valeo, 424 U.S. 1 (1976), stating that in order to avoid an overbroad and constitutionally impermissible interpretation of what constitutes a political committee, the term should only apply to organizations that 1) are controlled by a candidate, or 2) have as their major purpose the nomination or election of a candidate. AO 06-2001, p. 3. The Commission noted that:

The establishment of separate contributor categories with different contribution limits for a group or association on one hand, and for a PC on

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<sup>2</sup> Subject to the contribution limits of N.J.A.C. 19:25-11.2.

<sup>3</sup> If OGL files a Form D-6 as an IEC and makes an electioneering communication pertaining to the 2025 primary election, it will be required to file 11- and 20-day reports including all contributions made for the purpose of furthering independent expenditures and all independent expenditures going back to January 1, 2024 through the 17<sup>th</sup> day following the election. OGL would be required to file a separate Form D-6 if it participates in the 2025 general election, in which the same information would be required to be reported on 29-, 11-, and 20-day reports. N.J.A.C. 19:25-8A.4.

If OGL files a Form PC as a political committee, it would be required to file 29-, 11-, and 20-day reports for the 2025 primary election. N.J.A.C. 19:25-8.8. OGL would also be required to file 72/24 hour notices for contributions and expenditures received or made immediately before the election, pursuant to N.J.A.C. 19:25-8.9 and 19:25-8.10.

If OGL files a Form D-4 as a CPC, it would be required to file quarterly reports starting with the calendar year quarter in which it registers, reporting all contributions received and expenditures made, and continue to do so until it files a final report. N.J.A.C. 19:25-9.1. OGL would also be required to file 72/24 hour notices for contributions and expenditures received or made immediately before an election pursuant to N.J.A.C. 19:25-9.3 and 19:25-9.4.

the other, inevitability leads staff to the conclusion that the legislative intent is to provide different treatment under the Act for an organization that merely contributes to candidates from its resources, and one that undertakes other election-related activities beyond solely making contributions.

Id., p. 4. The Commission concluded that only a portion of the group's overall activity fell into the category of "contributor" and the definitions for PC or CPC would only become applicable if it became apparent that a group's "major purpose" was to aid or promote New Jersey candidates or committees. Id. It came to a similar determination in Advisory Opinion 01-2011, finding that a group that planned on fundraising in New Jersey in order to support public education, issue advocacy, and independent expenditures, did not have as its "major purpose" the aid or support of candidates, and did not fall within the category of a PC.

The "major purpose" test is not necessary under the circumstances presented in this request. OGL does not intend to engage in any activity in New Jersey beyond the making of independent expenditures and will not be making any contributions to candidates or political party committees. There now exists a category that encompasses this exact type of group: the IEC. The Commission does not need to engage in a "major purpose" analysis because OGL can register and file as an IEC. The test may become relevant if the nature of OGL's activity changes, but under the circumstances presented, it is unwarranted.

**3. If the major purpose framework is applicable, what percentage of New Jersey activity is required for the Commission to determine OGL's major purpose is the support or opposition of candidates in New Jersey?**

As the Commission has advised that the "major purpose" framework is not applicable to this request, it is not necessary to address the percentage of OGL's spending in New Jersey.

**4. If the Commission determines that OGL is an IEC and must register by filing Form D-6, must it report all contributions received in excess of \$7,500?**

If OGL registers as an IEC, it will be required to report all contributions received in excess of \$7,500, according to the schedule set forth in N.J.A.C. 19:25-8A.4 for primary and general elections, unless such contributions have been specifically earmarked by the contributor for elections that fall outside the jurisdiction of ELEC and its regulations. The supplemental information provided to the Commission states:

Prior to OGL's recent decision to become involved in New Jersey state and local elections, OGL solicited funds generally, without reference to potential use in New Jersey. OGL reserves the right to use those generally solicited funds for the purpose of supporting independent expenditures in New Jersey. Now that OGL has decided to engage in independent-expenditure activity in New Jersey, it will solicit at least a portion of funds for the purpose of furthering independent expenditures in New Jersey. OGL views any funds it has previously raised or will raise in 2025 as eligible for use in New Jersey elections.

Considering that previously raised funds have been "solicited generally" and are all eligible for use in New Jersey elections, OGL will be required to report all contributions in excess of \$7,500 that it received since January 1, 2024 on the 11-day and 20-day reports for the primary election. See N.J.A.C. 19:25-8A.4(a).

Going forward, the request proposes two possible options for effectuating the reporting of contributions “made for the purpose of furthering” independent expenditures:

1. Contributions to an IEC are only subject to Commission reporting when they exceed \$7,500 and are specifically intended to further independent expenditures – all other contributions received are not subject to disclosure; or
2. Contributions to an IEC are subject to reporting when they exceed \$7,500 and are eligible to be used for independent expenditures – in other words, a contributor can opt out of disclosure on Commission reports by specifying that those funds may only be used for overhead and administrative expenses.

You are advised that all contributions in excess of \$7,500, in the aggregate, that are eligible to be used for independent expenditures are required to be reported, unless a contributor specifically directs that their donation is not to be used for New Jersey elections.

### **Conclusion**

OGL qualifies as an IEC under the Campaign Act and Commission Regulations and is not required to register as either a PC or CPC. The Commission does not need to evaluate its major purpose in order to make this determination, and does not need to analyze the percentage of OGL’s spending in New Jersey. If OGL registers as an IEC, it will be required to report all contributions raised in excess of \$7,500 since January 1, 2024 through 2025.

Very truly yours,  
Election Law Enforcement Commission

By: \_\_\_\_\_

  
Theresa J. Lelinski, Esq.