

[09]

Advisory Opinion 25-04-CD
The Alaska Republic Party

Presented By:

Heather Hebdon, Executive Director

Number: AO 25-01-CD – Amended¹
Requested By: Stacey Stone on behalf of the Alaska Republican Party (ARP)
Prepared By: Heather Hebdon, Executive Director
Date Issued April 25, 2025
Subject: Promoting candidates, campaigns, or groups via social media
Commission Decision:

I. QUESTION PRESENTED

1. Does the ARP's use of social media to promote a candidate for elected office or a group supporting or opposing a ballot measure incur any reportable costs?²
2. If there is a reportable cost, how should it be calculated or valued?

II. SHORT ANSWER

1. Although the noted social media sites do not charge for posting, there are costs associated with posting that could be reportable.
2. The request lacks necessary details to address valuation.

III. FACTS

The ARP is a political party that supports candidates who will advocate for and in furtherance of ARP's official party platform. The ARP also engages in ballot initiative activity, supporting or opposing measures consistent with its party platform.

The ARP maintains free-to-use social media accounts on Facebook and X (formerly Twitter) and uses these accounts to communicate with voters in Alaska. The ARP uses its social media accounts to create posts in furtherance of its political advocacy activities, to promote candidates for elective office, and to promote other groups supporting or opposing ballot initiatives. It asks if the posts would have a reportable value when the social media is free to use.

¹ After staff issued draft AO 25-01-CD, the requestor provided information not included in the original request. This draft incorporates the new information and replaces the original draft opinion.

² Exhibit A, Request for Advisory Opinion and April 23, 2025, follow up email.

IV. LAW AND ANALYSIS

This advisory opinion request seeks guidance about whether certain social media posts are reportable expenditures or contributions and, if so, how those posts should be valued.

Although Alaska's campaign financial disclosure statutes are generally silent regarding the use of social media, the Commission has previously considered matters involving its use and requirements.³ In Advisory Opinion 10-09-CD (*Gara*), the Commission considered several questions related to an incumbent legislator's use of his personal Facebook page and personal Twitter account to communicate about personal, legislative, and campaign-related matters with his constituents, voters, and personal friends. Given the mixed-use of his social media accounts, the Commission found that so long as he complied with identifier and reporting requirements, he would not run afoul of campaign disclosure law.

The *Gara* opinion is distinguishable from this matter because unlike *Gara*'s mixed-use of his social media accounts, the ARP's accounts are used only for political purposes and have paid-for-by identifiers in the informational section that puts the general public on notice that the pages and its communications are controlled by the ARP. Additionally, whereas *Gara* could not use his contributions to contribute to other candidates or groups, the ARP as a political party is not subject to the same prohibitions; as a political party, they are permitted to contribute to other groups and candidates.⁴

But the *Gara* opinion clarified that posting on Facebook and Twitter—though free in and of itself—does have value and (usually low) costs associated with their use. These costs generally derive from the resources used (i.e., the use of a computer and internet service) or salary paid to create or update the pages or send out messages. In *Gara*, the Commission ultimately declined to regulate a candidate's social media messages as unlawful "contributions" to another candidate in the absence of facts that indicate a significant risk of corruption, but they noted that decision could be revisited.

³ See AO 10-09-CD (Revised), *Gara* (approved July 12, 2010) available at: <https://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=4844>

⁴ AS 15.13.065 and AS 15.13.070(d).

In this matter, a cursory look at the ARP's current Facebook page and Twitter account shows a frequency of posting ranging from once every few days to several times a day. Any work done by compensated staff in creating, managing, and monitoring postings or comments should be considered in the valuation.⁵ If staff time or any other costs are paid, or if there are any other associated costs as noted in *Gara*, they should be reported.⁶ This is consistent with the Commission's longtime view that there is always some cost associated with campaign communications, even if the cost is de minimis.⁷

And, similar to *Gara*, the ARP request does not present specific scenarios that pose a particular risk of corruption. However, of recent note, at the federal level, the Federal Election Commission is currently undertaking rule making for "input costs for internet communications" after allegations that a federal super PAC improperly coordinated millions of dollars of expenditures with a candidate campaign without disclosing them as in-kind contributions in violation of the Federal Election Campaign Act's (FECA) contribution limits.⁸ The super PAC argued the spending was appropriate because it fell under FECA's "internet exemption" which excluded certain expenses related to unpaid internet communications. Unpersuaded, the appeals court affirmed the district court's decision that the commission's dismissal of the complaint was contrary to law, noting that the internet exception "was never intended "as a FECA-swallowing loophole enabling political committees to launder all their coordinated expenditures via unpaid internet postings."⁹

This reasoning highlights that there can be vast differences between a casual posting to Facebook or Twitter that likely falls within the parameters of "a non-monetary contribution...of a single item with a normal cost of \$50 or less" exempted from the

⁵ *But see*, AS 15.13.400(4)(B)(i) (volunteer services are not a contribution).

⁶ *Gara* at n.9 (noting other potential reportable costs could include hired professional help with messaging or paid for ads to promote pages).

⁷ *See also*, Decision and Order, *Hancock v. Marquardt*, 07-02-CD available at: <https://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=5631>.

⁸ *Campaign Legal Ctr. v. Fed. Election Comm'n*, 646 F. Supp. 3d 57 (D.D.C. 2022), *aff'd* 106 F.4th 1175 (D.C. Cir. 2024).

⁹ Federal Election Commission, Legal Resources available at: <https://www.fec.gov/legal-resources/court-cases/campaign-legal-center-et-al-v-fec-19-2336/>

definition of contribution¹⁰ and more sophisticated, consistent, coordinated postings that may entail other substantial input costs such as specialized software, dedicated equipment, polling, and staff.

With this in mind, staff recommends that the Commission decline to decide categorically that posting on Facebook or X is neither a reportable expenditure or contribution simply because it is free to post on those sites. Instead, the Commission should reinforce the relevant aspects of its opinion in *Gara*: posting on social media does have value and costs associated with its use. Though the costs may frequently be low or insignificant, that may not always be the case. Because social media posts do have value for a campaign and meet the definition of a contribution, staff recommends that if the ARP coordinates its posts to social media with either the candidate or group it is supporting, that ARP's related input costs be reported as non-monetary contributions.

Because the request does not provide sufficient details related to the creation and posting that the ARP anticipates, staff cannot meaningfully address other aspects of valuation that may be implicated.

V. CONCLUSION

The ARP's posts to social media that are coordinated with either the candidate or group the ARP is supporting, are reportable non-monetary contributions and should disclose related input costs including paid staff time, if any.

VI. COMMISSION DECISION

Only the Commission has the authority to approve an advisory opinion.¹¹ The Commission will rule on staff's proposed advice at its next regular meeting. The Commission may approve, disapprove, or modify the proposed advice. An advisory opinion must be approved by an affirmative vote of at least four members or it will be considered disapproved. Both staff's proposed advice and the Commission's final advisory opinion apply only to the specific facts and activity for which advice was requested.

¹⁰ 2 AAC 50.990(7)(C)(ii).

¹¹ 2 AAC 50.840.

If you rely on staff's proposed advisory opinion in good faith and the Commission subsequently rejects the proposed advice, staff will take no enforcement action on your activities up to that point if you acted under the specific facts described. If you have any additional questions or would like to discuss this proposed advice, please contact me at (907) 276-4176.

APPLICABLE LAW

ALASKA STATUTES

Sec. 15.13.065. Contributions.

- (a) Individuals, groups, nongroup entities, and political parties may make contributions to a candidate. An individual, group, or nongroup entity may make a contribution to a group, to a nongroup entity, or to a political party.
- (b) A political party may contribute to a subordinate unit of the political party, and a subordinate unit of a political party may contribute to the political party of which it is a subordinate unit.

Sec. 15.13.070. Limitations on amount of political contributions.

- (d) A political party may contribute to a candidate, or to an individual who conducts a write-in campaign, for the following offices an amount not to exceed
- (1) \$100,000 per year, if the election is for governor or lieutenant governor;
 - (2) \$15,000 per year, if the election is for the state senate;
 - (3) \$10,000 per year, if the election is for the state house of representatives; and
 - (4) \$5,000 per year, if the election is for
 - (A) delegate to a constitutional convention;
 - (B) judge seeking retention; or
 - (C) municipal office.

ALASKA REGULATIONS

2 AAC 50.990. Definitions.

- (7) "contribution"
- (A) has the meaning given in AS 15.13.400;
 - (B) includes
 - (i) a subscription, advance, transfer, forgiveness of all or part of a debt, relaxation of credit, or anything of value made for or provided to a candidate or campaign by a person, group, or nongroup entity for the purpose set out in AS 15.13.400(4)(A); and
 - (ii) a personal contribution as provided in 2 AAC 50.254;
 - (C) does not include
 - (i) costs that a media organization, including a broadcasting station, newspaper, or periodical of regular publication, incurs in covering or carrying a news story, editorial, or commentary; however, if the media organization is owned or controlled by a political party, group, or candidate, the cost of the news story, editorial, or commentary is a contribution, unless the media organization carries a bona fide news account as part of a general pattern of campaign-related news accounts that gives reasonably equal coverage to all opposing candidates in the circulation or listening area;
 - (ii) a non-monetary contribution or in-kind donation of a single item with a normal cost of \$50 or less;

(iii) a payment by an individual for the individual's own travel expenses, if the payment is voluntary and is made without an understanding that the payment will be directly or indirectly repaid;

(iv) costs that a business, corporation, trade association, labor union, or other organization not organized primarily to influence elections incurs to communicate directly with the organization's members, employees, or the families of members or employees, on any subject, if the communication is in the same format the organization has used in the past for communications on nonpolitical subjects, and does not solicit contributions or any action other than voting for or against a candidate or ballot proposition or question;

(v) a gift, loan, advance, or deposit of money or anything of value made with respect to a recount of a state or municipal election;

(vi) costs incurred to provide necessary administrative services associated with a payroll withholding plan, if the costs do not include expenses associated with soliciting contributions;

(vii) provision of a service or facility to a candidate, group, or nongroup entity if the entity providing the service or facility is paid at a commercially reasonable rate within a commercially reasonable time or makes the service or facility available to all candidates for a particular office;

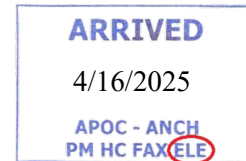
(viii) provision of an organization's membership or mailing list to the group or nongroup entity affiliated with the organization;

(ix) the use of personal money or credit by a campaign treasurer or deputy treasurer for an expenditure allowable under AS 15.13.112, if the amount does not exceed \$500 and is repaid before the end of the report cycle in which the expenditure was made; or

(x) the use of personal money or credit by a candidate for an authorized campaign expenditure, if the amount is repaid no later than three days after the date of the expenditure;

April 16, 2025

Alaska Public Offices Commission
2221 E Northern Lights Blvd #128
Anchorage, AK 99508



Re: Alaska Republican Party Request for Advisory Opinion
Our File No. 1101-29352

In accordance with AS 15.13.374, by and through undersigned counsel of record, the Alaska Republican Party (“ARP”) requests an advisory opinion from the Alaska Public Offices Commission (“APOC”) regarding the promotion of certain candidates, campaigns, and/or groups via ARP social media pages.

I. Background

The ARP is a Political Party registered with APOC. The ARP, among other things, advocates for the election of candidates that will advocate for and further its official platform. The ARP also advocates in favor of ballot initiatives that are consistent with its official platform and against those that are inconsistent with its official platform. As a part of its advocacy, the ARP maintains and utilizes social media accounts on Facebook and X (formerly known as Twitter) to reach and communicate with voters in Alaska.¹ Said social media accounts are free for the ARP, just as they are to the general public.

The ARP would like to create posts on its social media pages in furtherance of its political advocacy activities. Should the ARP do so, it would not cost the ARP any money because the ARP would be posting the same for free as all members of the public can do. Accordingly, the posts themselves cost the ARP nothing and should not be reportable events.

II. Question Presented

If the ARP were to promote a candidate for elected office or a political group advocating for or against a ballot initiative on a social media page that is free to the general public, does the post have value for reporting purposes?

If the referenced post does have value for reporting purposes, how should the ARP calculate and assign a value to the same?

¹ The ARP notes that all social media pages include general disclaimers in the informational section of the page to inform the general public that the page is controlled by the ARP.

III. Legal Analysis

AS 15.13.040 mandates that contributions be reported to APOC. Contributions include “anything of value.” 2 AAC 50.990(7)(B)(i). However, contributions do not include “a non-monetary contribution or in-kind donation of a single item with a normal cost of \$50 or less.” While not necessarily an item, the promotion of a candidate or group on social media is non-monetary because it costs nothing to post. As such, it should not be a reportable expenditure or contribution.

But if APOC disagrees with the ARP’s analysis, the ARP needs guidance to calculate the in-kind donation given that the reportable act is free would require nothing more than a *de minimus* amount of time.

If there are any questions regarding the foregoing, please do not hesitate to contact our office.

Sincerely,

HOLMES WEDDLE & BARCOTT, P.C.

A handwritten signature in blue ink, appearing to read "Stacey C. Stone".

Stacey C. Stone

SCS/bjf

Hebdon, Heather R (DOA)

From: Stacey C. Stone <SStone@hwb-law.com>
Sent: Wednesday, April 23, 2025 5:22 PM
To: Melgar, Michelle C (DOA)
Cc: Bacaj, Robert P (LAW); Hebdon, Heather R (DOA); Stone, Kim S (DOA); Whitlock, John G (DOA)
Subject: Re: Advisory Opinion Request AO 25-01-CD, The Alaska Republican Party

Follow Up Flag: Flag for follow up
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ARRIVED

4/24/2025

APOC - ANCH
PM HC FAX ELE

CAUTION: This email originated from outside the State of Alaska mail system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon-

Thank you for returning this so quickly. Unfortunately it contains an errant and unsupported inference. The social media communications are not published by paid staff. They are done purely by volunteers. Therefore, the question has not been answered as to how to determine the reportable contribution. If an amended or supplemental request is necessary, please advise. Otherwise please correct the errant inference and address accordingly.

Thank you,

Stacey

Get [Outlook for iOS](#)

From: Melgar, Michelle C (DOA) <michelle.melgar@alaska.gov>
Sent: Wednesday, April 23, 2025 3:52:55 PM
To: Stacey C. Stone <SStone@hwb-law.com>
Cc: Bacaj, Robert P (LAW) <robert.bacaj@alaska.gov>; Hebdon, Heather R (DOA) <heather.hebdon@alaska.gov>; Stone, Kim S (DOA) <kim.stone@alaska.gov>; Whitlock, John G (DOA) <john.whitlock@alaska.gov>
Subject: Re: Advisory Opinion Request AO 25-01-CD, The Alaska Republican Party

You don't often get email from michelle.melgar@alaska.gov. [Learn why this is important](#)
Please find the attached document(s) being issued to you from the Alaska Public Offices Commission. You will receive physical copies as indicated within the attachment.

Please note if there are any timeframes established to take action within these documents.

Should you have any questions, please contact our office.

Thank you,

Michelle C. Melgar

Law Office Assistant 3
Alaska Public Offices Commission



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Administration

ALASKA PUBLIC OFFICES COMMISSION

2221 E. Northern Lights Blvd., Rm. 128
Anchorage, AK 99508-4149
Main: 907.276.4176
Fax: 907.276.7018
doa.alaska.gov/apoc

April 25, 2024

Via US Mail and Email

Stacey Stone
Holmes Weddle & Barcott, PC
701 W. Eighth Avenue, Suite 700
Anchorage, AK 99501-3408
sstone@hwb-law.com

Re: Advisory Opinion Request AO 25-01-CD - Amended, *The Alaska Republican Party*

Dear Ms. Stone:

Enclosed, please find staff's amended unapproved draft advisory opinion regarding your April 16, 2025, request for guidance and April 23, 2025, follow up, related to the Alaska Republican Party's promotion of certain candidate, campaigns, and/or groups via social media. The conclusion of this opinion has not yet been approved by the Alaska Public Offices Commission (AS 15.13.374). Only the Commission has the authority to approve an advisory opinion under 2 AAC 50.840.

The Commission will rule on staff's proposed advice at its next regular meeting, currently scheduled for June 25, 2025. You will be notified in advance of that meeting should you wish to participate.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION

Heather R. Hebdon
Executive Director

Encl: Unapproved Draft Advisory Opinion AO 25-01-CD – Amended

cc: APOC Commission Members
Robert Barcaj, Assistant Attorney General
Kim Stone, Campaign Disclosure Coordinator



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Administration

ALASKA PUBLIC OFFICES COMMISSION

2221 E. Northern Lights Blvd., Rm. 128
Anchorage, AK 99508-4149
Main: 907.276.4176
Fax: 907.276.7018
doa.alaska.gov/apoc

June 9, 2025

Via US Mail and Email

Stacey Stone
Holmes Weddle & Barcott, PC
701 W. Eighth Avenue, Suite 700
Anchorage, AK 99501-3408
sstone@hwb-law.com

Re: Commission Meeting Notice

Dear Ms. Stone:


At its upcoming June meeting, the Commission will consider the matter of the advisory opinion request in AO 25-01-CD, *Alaska Republican Party*.

You have a right to participate at the meeting either in-person, by telephone (1-907-202-7104, Access Code 233 147 607#), or via [Microsoft Teams](#).¹ Please notify our office if you intend to participate. The matter is currently scheduled to be heard at **1:00 p.m. on Wednesday, June 25, 2025**.

If you do not participate in the meeting, staff will send you a letter and a final order notifying you of the Commission's decision.

Sincerely

ALASKA PUBLIC OFFICES COMMISSION


Heather R. Hebdon
Executive Director

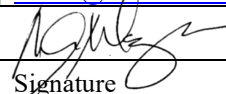
Encl.: Draft Advisory Opinion 25-01-CD

CERTIFICATE OF SERVICE:

I hereby certify that on this date, I caused a true and correct copy of the foregoing to be delivered to:

Stacey Stone
Holmes Weddle & Barcott, PC
701 W. Eighth Avenue, Suite 700
Anchorage, AK 99501-3408
sstone@hwb-law.com

☒ US Mail
☒ Email


Signature

06/09/2025

Date

¹ Meeting ID: 217 752 983 222 7, Passcode: qD2Eb9rH

From: postmaster@hwb-law.com
To: sstone@hwb-law.com
Subject: Delivered: Re: Commission Meeting Notice
Date: Monday, June 9, 2025 8:40:40 AM
Attachments: [Re Commission Meeting Notice.msg](#)

Your message has been delivered to the following recipients:
sstone@hwb-law.com (sstone@hwb-law.com) <mailto:sstone@hwb-law.com>
Subject: Re: Commission Meeting Notice