

ETHICAL PRACTICES BOARD

First Floor South, Centennial Building . 658 Cedar Street . St. Paul, MN 55155-1603

The following publication does not identify the requester of the advisory opinion, which is nonpublic data under Minn. Stat. § 10A.02, subd. 12(b)

RE: Candidate without public subsidy agreement exceeding campaign spending limit

ADVISORY OPINION # 243

SUMMARY

A candidate may sign a public subsidy agreement even if the limits it imposes were exceeded in a previous year.

FACTS

As the treasurer for a candidate's principal campaign committee, you request an advisory opinion from the Ethical Practices Board (Board) based on the following facts:

1. The candidate will be running for election in 1996 and has not signed a public subsidy agreement for the current election cycle.
2. Last year the principal campaign committee spent more money on campaign expenditures than would have been permitted if the candidate had a signed public subsidy agreement filed with the Board.
3. This year the candidate is within the spending and contribution limits applicable to candidates who have signed and filed public subsidy agreements.
4. The candidate is now considering signing a public subsidy agreement and participating in the public subsidy program.

ISSUE

May the candidate sign and file a public subsidy agreement and participate in the public subsidy program even though the committee spent more in a prior year than would have been permitted if the candidate had a public subsidy agreement in place during that year?

OPINION

Yes. The statutes do not specifically prohibit the candidate from signing a public subsidy agreement and participating in the public subsidy program in such a situation.

The Board reaches this conclusion only because the adoption of administrative rules to implement the intent of the statute has not been completed; not because the conclusion reflects the statutory intent.

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Carolyn D. Rodriguez, Chair
Ethical Practices Board