

State of Minnesota

Campaign Finance & Public Disclosure 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: Contribution limit for merged political funds

ADVISORY OPINION 279

SUMMARY

When two associations which each had a political fund merge, contributions from the pre-merger political funds are attributed to any new political fund formed by the merged associations for the purpose of determining whether the new political fund may make additional contributions to a candidate's principal campaign committee.

FACTS

As representatives of two political funds, you ask the Campaign Finance and Public Disclosure Board (Board) for an advisory opinion based on the following facts:

1. The funds which you represent ("the Funds") are each registered with the Board and supported by a different association. The Funds are not related to each other.
2. The associations supporting the Funds serve similar constituencies and have related goals and objectives. As a result, the associations are considering a merger which would result in a single new association.
3. In the year of the merger, it is possible that each of the Funds may make contributions to candidates' principal campaign committees. In some cases, each Fund may make a contribution to the same candidate's principal campaign committee in the maximum amount permitted from a single entity.
4. You anticipate that after the merger, each of the Funds will terminate and a new fund will be established by the new association.

You ask the Board about the new political fund's right to make contributions to principal campaign committees to which one or both of the predecessor associations' funds have already contributed.

ISSUE

Are contributions from the political funds of associations which merge attributed to a new fund established by the post-merger association?

OPINION

Yes. When two associations merge, contributions from any political fund established by either of the associations prior to the merger are attributed to any new political fund established by the post-merger entity.

Each association currently has its own political fund, which is the "parent" for the association's contributions for reporting purposes pursuant to Minn. Stat. § 10A.15, subd. 3c.

If the two existing funds were not terminated after the merger, the new association would be required to establish a new fund as the parent for the two existing funds, or to designate one of the existing funds as the parent for the other. In either case, contributions from each fund would be attributable to the parent. Attribution of prior contributions to a single parent fund after the merger cannot be avoided by terminating the existing funds before to the merger.

In the case of a bona fide merger, attribution of contributions is applicable only for the purpose of determining whether additional contributions may be accepted from the new parent fund by a principal campaign committee which received contributions from the pre-merger funds.

The fact that pre-merger contributions to a principal campaign committee, when combined and attributed to the new parent, may exceed the limit on contributions from a single entity does not result in a contribution limit violation for the receiving principal campaign committee as long as no additional contributions are accepted after the merger.

The Board notes that creation of a new fund, to which prior contributions are attributed, will make it difficult for treasurers of principal campaign committees to know when aggregate contributions from the new fund have reached the maximum permitted. In view of this fact, you may wish to consider delaying the merger until each existing association has made all of its contemplated contributions to principal campaign committees for the year of the merger.

If associations do not elect this option, the new association's fund should notify principal campaign committees to which it contributes about the effect of this opinion.

Issued: _____

11/21/97



G. Barry Anderson, Chair
Campaign Finance and Public Disclosure Board

CITED STATUTES

10A.15 CONTRIBUTIONS.

Subd. 3c. **Related committees.** An individual, association, political committee, or political fund may establish, finance, maintain, or control a political committee or political fund. One who does this is a "parent." The political committee or fund so established, financed, maintained, or controlled is a "subsidiary." If the parent is an association, the association must create a political committee or political fund to serve as the parent for reporting purposes.

A subsidiary must report its contribution to a candidate or principal campaign committee as attributable to its parent, and the contribution is counted toward the contribution limits in section 10A.27 of the parent as well as of the subsidiary.