

State of Minnesota
Campaign Finance & Public Disclosure Board
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Issued to: Minnesota Democratic-Farmer-Labor Party
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RE: Official Party Sample Ballot

ADVISORY OPINION 302

SUMMARY

A party may publish its official sample ballot under Minn. Stat. § 10A.275, subd. 1(b), in multiple versions and may distribute or publish the ballot multiple times. The sample ballot itself is limited to a ballot like representation which may include only minimal additional information.

FACTS

As the representative of the Minnesota Democratic-Farmer-Labor Party ("the DFL"), you ask the Campaign Finance and Public Disclosure Board ("the Board") for an advisory opinion interpreting Minn. Stat. § 10A.275, subd. 1(b), by posing questions which are restated in the Issues below.

ISSUE ONE

May a major political party, as defined in Minnesota Statutes Chapter 10A, prepare, display, mail or otherwise distribute more than one official party sample ballot?

OPINION

Minn. Stat. § 10A.275, subd 1(b), states that multicandidate expenditures include a party's costs of preparation and distribution of "an official party sample ballot" listing the names of at least three individuals whose names will appear on the ballot for the subject election. The

Board does not interpret the use of "an" in this statute to mean that only a single official ballot may be prepared.

It is obvious that at least as many versions of an official sample ballot as there are versions of the official ballot must be permitted. It is also clear that different sample ballots may be required for the general and primary elections.

It is the opinion of the Board that a party may prepare, display, mail, or otherwise distribute its official sample ballot in multiple forms and on multiple occasions.

A party is not prohibited from providing a sample ballot in multiple versions to the same recipient or providing the same sample ballot to a recipient multiple times.

ISSUE TWO

Does the four page document provided qualify as a sample ballot?

OPINION

Only that part of the document titled "Official DFL Sample Ballot" and outlined with a border (the lower right corner of page 4) qualifies as a sample ballot for multicandidate expenditure purposes.

The first and third pages of the document consist of information for the purpose of influencing the nomination or election of a specific Governor/Lieutenant Governor slate of candidates. Reporting of the costs of these pages will depend on whether there was candidate involvement in their publication and on when the publication takes place. Depending on these factors, the costs may be approved expenditures which constitute contributions to the candidates. See Advisory Opinion 300 and Minn. Stat. § 10A.01, subds. 10a and 10b.

The second page of the document is a publication urging the election of DFL endorsed candidates as a whole. Costs of its preparation and distribution are multicandidate expenditures pursuant to Minn. Stat. § 10A.275, subd. 1(a).

The fourth page of the document includes the official sample ballot in the lower right corner. The proportional costs of production and publication of that part of the document are multicandidate expenditures for a party's official sample ballot.

The remainder of page four consists of information for the purpose of influencing the nomination or election of four specific candidates. Reporting of the proportional costs of those sections will depend on whether there was candidate involvement in the publication and on when the publication takes place. Depending on these factors, the costs may be approved expenditures which constitute contributions to the candidates. See Advisory Opinion 300 and Minn. Stat. § 10A.01, subds. 10a and 10b.

ISSUE THREE

What may be included in a document which constitutes the party's official sample ballot under Minn. Stat. § 10A.275, subd. 1(b)?

OPINION

Minnesota Statutes Chapter 10A does not specifically define what may be included in a party's official sample ballot. However, the plain language of the phrase "official sample ballot" suggests that the document must at least resemble a ballot.

The Board also notes that the costs of an official sample ballot are treated as multicandidate expenditures and, thus, are not attributable as contributions to the candidates listed on the ballot. This suggests that the ballot should be limited so that it does not become merely a mechanism by which general campaign advertising on behalf of candidates may be characterized as a multicandidate expenditure.

With those criteria in mind, the Board has reviewed that part of the document you provided which is identified as "Official DFL Sample Ballot". The Board concludes that that part of the document includes the elements that are required in a sample ballot as well as a number of elements which are optional but permitted.

Specifically, an official sample ballot must identify itself as such and must identify the party which has adopted the document as its sample ballot. If the sample ballot is produced as a separate publication, it must include statutory notices regarding the committee that paid for it.

The sample ballot must, pursuant to Minn. Stat. § 10A.275, subd. 1(b), include the names of at least three individuals whose names will appear on the actual official ballot for the election in question. These individuals may include local or federal candidates in addition to candidates registered with the Board.

The sample ballot may include a photograph of each candidate listed on the ballot along with the candidate's name and the office sought. The photographs should not be disproportionate to the ballot part of the document and no single candidate's photograph should be significantly larger than the others so as to give greater emphasis to that candidate.

The sample ballot may also include a designation of the election to which it applies, the date of the election, and a solicitation urging people to vote in that election.

Issued: 8-28-98



Carolyn Rodriguez, Chair
Campaign Finance and Public Disclosure Board

CITED STATUTES

10A.275 MULTICANDIDATE POLITICAL PARTY EXPENDITURES.

Subdivision 1. Exceptions. Notwithstanding any other provisions of this chapter, the following expenditures by a state political party, a party unit, or two or more party units acting together, with at least one party unit being either: the state party organization or the party organization within a congressional district, county, or legislative district, shall not be considered contributions to or expenditures on behalf of any candidate for the purposes of section 10A.25 or 10A.27, and shall not be allocated to any candidates pursuant to section 10A.22, subdivision 5:

(a) expenditures on behalf of candidates of that party generally without referring to any of them specifically in any advertisement published, posted or broadcast;

(b) expenditures for the preparation, display, mailing or other distribution of an official party sample ballot listing the names of three or more individuals whose names are to appear on the ballot;

(c) expenditures for any telephone conversation including the names of three or more individuals whose names are to appear on the ballot;

(d) expenditures for any political party fundraising effort on behalf of three or more candidates; or

(e) expenditures for party committee staff member services that benefit three or more candidates.

Subd. 2. Application. This section applies to a political committee of a political party as defined in section 10A.27, subdivision 4.

Subd. 3. Party unit. For purposes of this section, "party unit" means the party organization within each house of the legislature; the state party organization; or the party organization within a congressional district, county, legislative district, municipality, or precinct.