

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: Multicandidate expenditure for political party fundraising effort on behalf of candidates

ADVISORY OPINION 305

SUMMARY

Multicandidate expenditure for party fundraising efforts need not take a particular form or use specific language; however, it must be clear that the undertaking is a fundraising effort. Other materials included with multicandidate fundraising materials may be recognized separately from the multicandidate expenditure. A political Party may include solicitation on its own behalf or on behalf of federal or local candidates with materials for multicandidate fundraising effort. Contributions resulting from multicandidate fundraising effort must be made directly to the candidate or the candidate's principal campaign committee.

FACTS

As attorney for the a political party (the Party) registered with the Campaign Finance and Public Disclosure Board (Board), you ask the Board for an advisory opinion based on the following facts:

1. The Party is a political party as defined in Minn. Stat. Chapter 10A.
2. The Party intends to make expenditures to conduct party fundraising efforts on behalf of its candidates and to report those expenditures as multicandidate expenditures pursuant to Minn. Stat. § 10A.275.

The party seeks Board advice with respect to the requirements for and limitations on party fundraising efforts under Minn. Stat. § 10A.275.

The Party has posed a series of questions which are repeated or paraphrased in the issues section below.

ISSUE ONE

Is there a specific form that a political party fundraising effort under Minn. Stat. §10A.275, subd. 1(d), must take (e.g., fundraising dinner; media solicitation; written/direct mail solicitation; telephone solicitation, in-person solicitation, etc.)?

OPINION

No. A fundraising effort that qualifies as a multicandidate expenditure under Minn. Stat. § 10A.275 may include any party activity that has as its purpose the raising of money for three or more of the party's candidates.

ISSUE TWO

How is the classification of fundraising materials as a multicandidate expenditure affected by the inclusion of materials that are for the purpose of influencing the nomination or election of a candidate or materials expressly advocating the election or defeat of a candidate?

OPINION

A multicandidate fundraising effort under Minn. Stat. § 10A.275 is defined by its purpose, which is to raise money for three or more of the party's candidates. If the materials or communications supporting the effort make it clear that this is the purpose of the effort, the multicandidate expenditure classification applies.

If other information is incorporated into, or included with, the communications supporting a party's multicandidate fundraising effort, there will be a point at which those materials will be recognized in their own right and will not be considered a part of the multicandidate expenditure.

Without specific examples on which to base an opinion, the Board will not consider where or how the line between fundraising materials and other materials will be drawn.

ISSUE THREE

Must the content of a fundraising effort be equally devoted to each of the three or more candidates on whose behalf the solicitation is made?

OPINION

Yes. A fundraising effort conducted under Minn. Stat. § 10A.275 is a multicandidate effort. Therefore, materials or presentations should be on behalf of the candidate group generally and should not emphasize one candidate over another.

ISSUE FOUR

Must a political party fundraising effort under Minn. Stat. §10A.275, subd. 1(d) identify itself as such and identify the party which has adopted the effort as a fundraising effort?

OPINION

Classification of an activity as a multicandidate fundraising effort generally requires that written materials or verbal messages regarding the effort include a clear solicitation of money. Invitations to a fundraising event must identify the purpose of the event as fundraising.

You are referred to Minnesota Statutes Chapter 211B for guidance concerning the requirements for identification of the originator of political material. Chapter 211B is not under the jurisdiction of the Board.

ISSUE FIVE

Must the political party fundraising effort be intended to benefit three or more candidates who are subject to Chapter 10A, or may the effort be designed to assist local or federal candidates in addition to candidates registered with the Board? *If local or federal candidates are included, does this affect the application of the exemption?*

OPINION

A party fundraising effort under Minn. Stat. § 10A.275 must include at least three candidates subject to Chapter 10A. Only that portion of the effort that benefits Chapter 10A candidates constitutes a multicandidate expenditure. The same fundraising effort may also include the party's local or federal candidates. If such candidates are included, the costs of the effort must be divided between Chapter 10A candidates and other candidates on a reasonable basis. The proportion of the allocation attributable to Chapter 10A candidates is a multicandidate expenditure. The proportion attributable to non-Chapter 10A candidates is a general disbursement of the party.

It is to be noted that costs of a fundraising effort for three or more Chapter 10A candidates and for non-Chapter 10A candidates are all reported as general party disbursements. The only reason for allocating the costs is that a state party unit's share of funds from the political contribution checkoff program may be used for the multicandidate expenditure portion of the costs, while those funds may not be used for the non-multicandidate expenditure portion.

ISSUE SIX

May the fundraising effort also solicit funds on behalf of the political party sponsoring the effort, or will such solicitations on behalf of the party violate the "earmarking" prohibitions under Minn. Stat. §10A.16?

OPINION

The fundraising effort may also include a solicitation of funds for the party itself. Allocation of costs will be the same as described in Issue Seven. The earmarking prohibitions of Minn. Stat. § 10A.16 are not applicable to a party's solicitation of funds on its own behalf.

ISSUE SEVEN

If a political party sponsors a qualifying fundraising effort, may the political party collect and deliver contributions to the candidates on whose behalf the effort is conducted, or must contributions be delivered by the contributor directly to the candidate/campaign committee to avoid the bundling prohibitions of Minn. Stat. §10A.27, subd. 1?

OPINION

In any multicandidate fundraising effort, donors must issue their checks directly to the committee of the candidate to be benefited. They may be directed to mail their checks to the principal campaign committee, or, in the case of an event such as a dinner, a member of the candidate's principal campaign committee may be in attendance to accept the contributions.

The party's acceptance and delivery to principal campaign committees of checks made payable to candidate's principal campaign committees would constitute bundling under Minn. Stat. § 10A.27, subd. 1. The party's acceptance of checks made payable to the party with the intent that they be thereafter directed to particular candidates would constitute earmarking and be prohibited under Minn. Stat. § 10A.16.

ADDENDUM

In your advisory opinion request, you note that the Board recently issued advisory opinion 302, which related to the definition of a sample ballot, the costs of which are a multicandidate expenditure. You state that advisory opinion 302 "strictly limits the content" of a sample ballot and that it "requires" certain things of a sample ballot. You conclude by stating that your request is, in part, to clarify the applicability of advisory opinion 302 to political party fundraising efforts.

Your statements concerning the effect of advisory opinion 302 suggest a misunderstanding of the role advisory opinions play in the Board's administration of Minnesota Statutes Chapter 10A. The Board believes that this misunderstanding may be shared by others; thus, it takes this opportunity to clarify the role of advisory opinions.

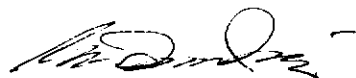
Advisory opinions are, as the name suggests, opinions of the Board, not statements of law. They are advisory in nature, not binding on the requester or others. Thus, an advisory opinion cannot impose limits or requirements. Rather, it explains limits and requirements implicit in the statute being interpreted.

The advice given in an advisory opinion provides a safe haven for the requester who chooses to follow it. The Board is bound by its opinion in any subsequent Board proceeding involving the requester. The opinion is a defense in a judicial proceeding that involves the subject matter of the opinion and is brought against the requester.

The Board does recognize that its opinions are used for guidance by others as they try to understand Chapter 10A. Thus, a goal of the Board is to be consistent in its interpretation of statutory provisions. As a result, recent advisory opinions can usually be taken as a representation of the Board's position on matters subject to interpretation.

Readers of advisory opinions are cautioned to recognize that each advisory opinion is based on particular facts and may not be relevant to even slightly different fact situations. Additionally, as subsequent requests for opinions on the same subject are considered, the issues are narrowed and become clearer. As a result, subsequent Board opinions on the same subject often become more refined and the Board's position may change. In any case, legal authority for Board action arises from statutes and administrative rules. Advisory opinions are a merely a reflection of the Board's understanding of the meaning and intent of those statutes and rules.

Dated: 2-1-99



Carolyn D. Rodriguez, Chair
Campaign Finance and Public Disclosure Board

CITED STATUTES

10A.16 EARMARKING CONTRIBUTIONS PROHIBITED.

An individual, political committee, or political fund may not solicit or accept a contribution from any source with the express or implied condition that the contribution or any part of it be directed to a particular candidate other than the initial recipient. An individual, political committee, or political fund who knowingly accepts any earmarked contribution is guilty of a gross misdemeanor.

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:

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

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.