

State of Minnesota
Campaign Finance & Public Disclosure Board
First Floor South, Centennial Building . 658 Cedar Street . St. Paul, MN 55155-1603

THIS ADVISORY OPINION IS PUBLIC DATA
pursuant to a Consent for Release of Information signed by the requester

Issued to: Ken Wolf, State Representative, District 41B
13319 Morgan Avenue South
Burnsville, MN 55337

RE: **Use of principal campaign committee funds for informational mailing**

ADVISORY OPINION 313

SUMMARY

Costs of informational mailing to constituents are reported as noncampaign disbursements for constituent services. Costs of mailing to another legislative district may be reimbursed by legislator from the other district or from the candidate individually. The question of whether costs of mailing outside a candidate's district are a permitted use of campaign funds is determined under Minn. Stat. § 211B.12, which is not in the Board's jurisdiction to interpret. Excess mailing pieces may be sold at their cost of production.

FACTS

As an elected state legislator, you ask the Campaign Finance and Public Disclosure Board (Board) for an advisory opinion based on the following facts:

1. In your capacity as a legislator, you received many calls from residents of the school district which includes your legislative district. These calls concerned cuts that the school district was making. Callers indicated that the school district was telling them that the cuts were necessary due to a lack of funding from the legislature. Calls were coming from school district residents who were your constituents as well as from residents who lived outside your legislative district.
2. In response to these inquiries, you produced an informational booklet titled "Education Finance" and mailed it to 12,000 households in the school district, including households in another legislator's district.
3. You developed the booklet yourself and paid for the printing and mailing with funds from your principal campaign committee.

3. You developed the booklet yourself and paid for the printing and mailing with funds from your principal campaign committee.
4. You have about 1000 copies of the booklet still available that you may want to make available to non-profit organizations for distribution. You may also want to give other organizations the right to re-print the booklet at their expense.

ISSUE ONE

How should your principal campaign committee report the costs of the booklets that were mailed to your constituents?

OPINION

The costs of producing and distributing the booklet to your constituents must be allocated between noncampaign disbursements for constituent services and campaign expenditures.

The booklet consists of four 2-color pages and four black-and-white pages. It is the Board's opinion that the last 2-color page, which includes your positions on the issues, is campaign material. Thus, 1/4 of the cost of the 2-color section should be allocated as campaign expenditures. The remainder of the cost of the booklets distributed to your constituents should be reported as noncampaign disbursements for constituent services.

ISSUE TWO

Is it permissible or required that the other legislator whose constituents received the booklet share in the cost of its production and distribution?

OPINION

It is permissible that the other legislator pay all or some of the cost of production and mailing of the booklet to that legislator's constituents. If such a payment is made, the other legislator should report it as a noncampaign disbursement for constituent services, listing your principal campaign committee as the vendor. Your principal campaign committee should report the payment received as miscellaneous income. You should report the reimbursed part of the cost of production and mailing on schedule B-5, Other Disbursements, with a notation that the costs were reimbursed by the other legislator.

The Board has no jurisdiction to compel the other legislator to pay for the production and distribution of booklets into the that legislator's district.

ISSUE THREE

To the extent that the other legislator does not reimburse you, how should the costs of producing and mailing booklets to people who are not your constituents be reported?

OPINION

Minnesota Statutes Chapter 10A does not provide guidance in reporting this type of expenditure.

In general, use of principal campaign committee funds is governed by Minnesota Statutes Chapter 211B, which is not within the jurisdiction of the Board to interpret. However, the Board notes that Minn. Stat. § 211B.12 states that "use of money collected for political purposes is prohibited unless the use is reasonably related to the conduct of election campaigns or is a noncampaign disbursement as defined in Minn. Stat. § 10A.01, subd. 10c".

None of the noncampaign disbursements defined in Minn. Stat. § 10A.01, subd. 10c, can be interpreted to include producing and mailing informational material to persons who are neither the legislators constituents nor persons entitled to vote for the legislator in the next election. Thus, you must determine if the costs are permitted under the general provisions of Minn. Stat. § 211B.12.

If you determine that the costs of producing and mailing the booklet to households outside your district are not permitted, you may personally reimburse your committee for those costs. In such a case, the reimbursement should be reported as miscellaneous income. The costs of the booklets that are reimbursed should be reported on the schedule B-5, Other Disbursements, with a notation that the costs were reimbursed by the candidate.

If you determine that the costs of producing and mailing the booklet to households outside your district are permitted under Minn. Stat. § 211B.12, you should report those costs on schedule B-5, Other Disbursements, with a description of the disbursement's purpose and a notation explaining that the disbursement does not fit any of the other categories on the reporting form.

ISSUE FOUR

May you make extra copies of the booklet available to other organizations to distribute, or may you allow other organizations to reprint the booklet for distribution?

OPINION

With certain restrictions explained below, you may make the extra copies of the booklet available for distribution, or allow other entities to reprint it.

Your principal campaign committee paid for the production of the excess copies of the booklet. You may make those copies available to other entities at the committee's cost of production. Income should be reported as miscellaneous income with a notation that the income results from the sale of surplus booklets.

Your principal campaign committee does not have a financial investment in the design or development of the booklet, since you performed that task yourself. Assuming that were no other out-of-pocket costs to your principal campaign committee in design or development of the booklet, you may make the original electronic or paper source available to other entities for reprinting at no

cost. If your principal campaign committee does have out-of-pocket costs in design or development of the booklet, it must charge a reasonable fee for the right to reprint the booklet.

If an entity distributes the booklet in its current form to voters in your district with your express or implied consent, a contribution to your principal campaign committee would result. Depending on the status of the entity distributing the booklet, this contribution may be prohibited or limited by other statutes. Such a contribution would be eliminated if the "Opinion Page" and references to you as the author of the publication were deleted.

Issued: 6/14/99

Sidney Pauly

Sidney Pauly, Chair

Campaign Finance and Public Disclosure Board

CITED STATUTES

10A.01 Definitions

Subd. 10c. Noncampaign disbursement. "Noncampaign disbursement" means a purchase or payment of money or anything of value made, or an advance of credit incurred, by a political committee, political fund, or principal campaign committee for any of the following purposes:

- (a) payment for accounting and legal services;
- (b) return of a contribution to the source;
- (c) repayment of a loan made to the political committee, political fund, or principal campaign committee by that committee or fund;
- (d) return of a public subsidy;
- (e) payment for food, beverages, entertainment, and facility rental for a fundraising event;
- (f) services for a constituent by a member of the legislature or a constitutional officer in the executive branch, performed from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held, and half the cost of services for a constituent by a member of the legislature or a constitutional officer in the executive branch performed from adjournment sine die to 60 days after adjournment sine die;
- (g) a donation in kind given to the political committee, political fund, or principal campaign committee for purposes listed in clauses (e) and (f); (h) payment for food and beverages provided to campaign volunteers while they are engaged in campaign activities;
- (i) payment of expenses incurred by elected or appointed leaders of a legislative caucus in carrying out their leadership responsibilities;
- (j) payment by a principal campaign committee of the candidate's expenses for serving in public office, other than for personal uses;
- (k) costs of child care for the candidate's children when campaigning;
- (l) fees paid to attend a campaign school;
- (m) costs of a postelection party during the election year when a candidate's name will no longer appear on a ballot or the general election is concluded, whichever occurs first;
- (n) interest on loans paid by a principal campaign committee on outstanding loans;

- (o) filing fees;
- (p) post-general election thank-you notes or advertisements in the news media;
- (q) the cost of campaign material purchased to replace defective campaign material, if the defective material is destroyed without being used;
- (r) transfers to a party unit as defined in section 10A.275, subdivision 3; and
- (s) other purchases or payments specified in board rules or advisory opinions as being for any purpose other than to influence the nomination or election of a candidate or to promote or defeat a ballot question.

The board shall determine whether an activity involves a noncampaign disbursement within the meaning of this subdivision.

211B.12 Legal expenditures.

Use of money collected for political purposes is prohibited unless the use is reasonably related to the conduct of election campaigns, or is a noncampaign disbursement as defined in section 10A.01, subdivision 10c. The following are permitted expenditures when made for political purposes:

- (1) salaries, wages, and fees;
- (2) communications, mailing, transportation, and travel;
- (3) campaign advertising;
- (4) printing;
- (5) office and other space and necessary equipment, furnishings, and incidental supplies;
- (6) charitable contributions of not more than \$50 to any charity annually; and
- (7) other expenses, not included in clauses (1) to (6), that are reasonably related to the conduct of election campaigns.

In addition, expenditures made for the purpose of providing information to constituents, whether or not related to the conduct of an election, are permitted expenses. Money collected for political purposes and assets of a political committee or political fund may not be converted to personal use.