

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 NON PUBLIC DATA**
under Minn. Stat. § 10A.02, subd. 12(b)

RE: Definition of first time candidate.

ADVISORY OPINION 333

SUMMARY

Regardless of whether a candidate received the party endorsement or filed an affidavit of candidacy for a given office, a candidate who raises or spends more than \$100 in a year for a given office cannot qualify for first-time candidate status for that same office in subsequent election cycles.

FACTS

As a candidate for state level office, you ask the Campaign Finance and Public Disclosure Board (the Board) for an advisory opinion based on the following facts:

1. You have registered a principal campaign committee with the Board. The Public Subsidy Agreement you have filed does not identify you as a first-time candidate. However, you reserve the right to amend that agreement pending the Board response to this advisory opinion request.
2. In 1997 you registered a principal campaign committee for the same office you to which you currently aspire (referred to herein as the “1997 Committee”). The Public Subsidy Agreement you filed in 1997 identifies you as a first-time candidate.
3. During calendar year 1997, the 1997 Committee raised over \$100 in contributions and spent over \$100 on campaign expenditures. During calendar year 1998, the 1997 Committee again raised over \$100 in contributions and spent over \$100 on campaign expenditures.
4. The 1997 Committee terminated its registration with the Board in 1998.

5. You did not receive your party endorsement for the office you sought in 1998. You did not file an affidavit of candidacy for that office, therefore your name did not appear on either the primary or general election ballot.

ISSUE

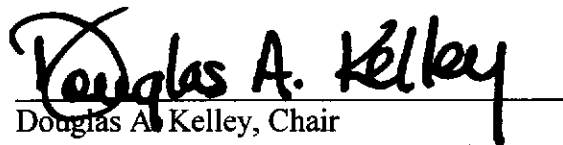
Does a candidate who registered a campaign committee for a given office that raised more than \$100 in contributions and made more than \$100 in expenditures in a previous election cycle but did not receive party endorsement, file an affidavit for office nor appear on a primary or general election ballot still remain eligible in a subsequent election for the 10% increase in expenditure limits accorded first-time candidates?

OPINION

No, although party endorsement and placement on the primary or general election ballot are considerations in determining first-time candidacy, additional factors may disqualify an individual from qualifying as a first-time candidate for a given public office for purposes of the expenditure limits established by Minn. Stat. § 10A.25, subd. 2(d).

A "candidate" for purposes of Minnesota Statutes Chapter 10A includes anyone who seeks nomination or election as a constitutional officer, legislator, or judge. See Minn. Stat. §10A.01, subd. 10. An individual is deemed to have sought nomination or election to an office if they, or someone acting on their behalf, received contributions or made expenditures in excess of \$100. In 1997 and again in 1998, your committee exceeded the \$100 limit for both contributions and expenditures for the same office for which you are currently a candidate. Accordingly, you are not a first-time candidate for that office, and are therefore ineligible to receive a 10% increase in your expenditure limit under Minn. Stat. § 10A.25, subd. 2(d).

Issued 10/24/01



Douglas A. Kelley, Chair
Campaign Finance and Public Disclosure Board

Cited Statutes and Rules

Minn. Stat. §10A.01 Subd. 10. Candidate. "Candidate" means an individual who seeks nomination or election as a state constitutional officer, legislator, or judge. An individual is deemed to seek nomination or election if the individual has taken the action necessary under the law of this state to qualify for nomination or election, has received contributions or made expenditures in excess of \$100, or has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$100, for the purpose of bringing about the individual's nomination or election. A candidate remains a candidate until the candidate's principal campaign committee is dissolved as provided in section 10A.24.

Minn. Stats. § 10A.25 Subd. 2. Amounts. (a) In a year in which an election is held for an office sought by a candidate, the principal campaign committee of the candidate must not make campaign expenditures nor permit approved expenditures to be made on behalf of the candidate that result in aggregate expenditures in excess of the following:

- (1) for governor and lieutenant governor, running together, \$1,626,691;
- (2) for attorney general, \$271,116;
- (3) for secretary of state and state auditor, separately, \$135,559;
- (4) for state senator, \$40,669;
- (5) for state representative, \$20,335.

(b) In addition to the amount in paragraph (a), clause (1), a candidate for endorsement for the office of lieutenant governor at the convention of a political party may make campaign expenditures and approved expenditures of five percent of that amount to seek endorsement.

(c) If a special election cycle occurs during a general election cycle, expenditures by or on behalf of a candidate in the special election do not count as expenditures by or on behalf of the candidate in the general election.

(d) The expenditure limits in this subdivision for an office are increased by ten percent for a candidate who is running for that office for the first-time and who has not run previously for any other office whose territory now includes a population that is more than one-third of the population in the territory of the new office.