

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: Providing the Services of An Employee to a Candidate is an In-Kind  
Donation From the Employer.**

**ADVISORY OPINION 341**

**SUMMARY**

Providing a paid sabbatical leave to an employee so that the employee may work in the campaign of a state candidate is an in-kind donation from the employer to the candidate.

**FACTS**

As the legal counsel for an organization, you ask the Campaign Finance and Public Disclosure Board (the Board) for an advisory opinion based on the following facts:

1. The organization you represent is the sponsoring organization for a political fund registered with the Board.
2. The organization has a collective bargaining agreement with many of its employees. One provision of the collective bargaining agreement provides that an employee may request sabbatical leave. If the sabbatical is granted the employee receives three-fourths of their full salary, plus full health and retirement benefits, for the duration of the leave.
3. The organization has received a sabbatical request from an employee who wishes to work for the principal campaign committee of a candidate for governor.
4. If the sabbatical is granted, the organization you represent will not communicate with the employee about election plans or activities of the candidate for governor.

**ISSUE**

If the sabbatical leave is granted, will the organization have made a contribution to the candidates campaign?

## OPINION

Yes. A campaign gains the services of an individual through one of three means; the individual is paid for their services, the individual is a volunteer, or the individual's services are an in-kind donation to the campaign. From the facts provided it is clear that neither the individual, nor the organization asking for this opinion, has a vendor/buyer relationship with the candidate.

In order for the employee to be a volunteer for the candidate he or she would need to meet the qualification stated in Minnesota Statutes §10A.01, subd. 11 (c), which provides in part that a contribution "...does not include services provided without compensation by an individual volunteering personal time on behalf of a candidate". To qualify as "personal time" the volunteer must be free to provide their services without the permission of the employer. For example campaign work done after business hours, on the weekend, or while on vacation, is on "personal time" and is not limited by the provisions of Chapter 10A. However, sabbatical leave, as described in the facts of this request, does not qualify as personal time. In the scenario provided the organization is authorizing the employee to work on a campaign in lieu of the employee's regular duties. The employee is not free to use the time in any way he or she would like. In addition, the services would be provided with compensation because the organization is paying and providing benefits to the employee while the employee is working for the campaign.

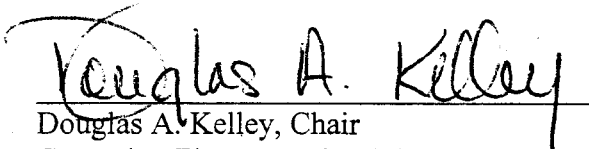
This leaves the final category in which the employee's services are an in-kind donation to the candidate. (Minn. Stat. §10A.01, subd. 13). A donation in-kind to a candidate for governor is limited by the contribution limit set in Minn. Stat. §10A.27, subd. 1(a)(1). For an election year that limit is \$2,000. The compensation and benefits that would be provided to the employee during sabbatical leave by the organization constitute an in-kind donation to the candidate of the employees services based on the provisions of Minnesota Rules, Part 4503.0500, subp. 4. That subpart reads as follows:

"An individual or association that pays for or provides goods or services, or makes goods or services available, with the knowledge that they will be used for the benefit of a political committee or a political fund, is the contributor of those goods and services."

If the organization grants the sabbatical leave it will be both paying for and making the services of one of its employees available knowing that those services will be used to benefit a specific candidate. Therefore, the organization would be the contributor of the donation in-kind. Because the organization requesting this opinion is not a registered political committee it would be required to provide the disclosure required in Minn. Stat. §10A.27, subd. 13, if the value of the in-kind donation exceeded \$100.

Issued

June 6, 2002

  
Douglas A. Kelley, Chair

Campaign Finance and Public Disclosure Board

## Cited Statutes and Rules

### 10A.01 DEFINITIONS.

#### Subd. 11. Contribution.

(a) "Contribution" means money, a negotiable instrument, or a donation in kind that is given to a political committee, political fund, principal campaign committee, or party unit.

(b) "Contribution" includes a loan or advance of credit to a political committee, political fund, principal campaign committee, or party unit, if the loan or advance of credit is: (1) forgiven; or (2) repaid by an individual or an association other than the political committee, political fund, principal campaign committee, or party unit to which the loan or advance of credit was made. If an advance of credit or a loan is forgiven or repaid as provided in this paragraph, it is a contribution in the year in which the loan or advance of credit was made.

(c) "Contribution" does not include services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee, political fund, principal campaign committee, or party unit, or the publishing or broadcasting of news items or editorial comments by the news media.

**Subd. 13. Donation in kind.** "Donation in kind" means anything of value that is given, other than money or negotiable instruments. An approved expenditure is a donation in kind.

### 10A.27 CONTRIBUTION LIMITS.

#### Subdivision 1. Contribution limits.

(a) Except as provided in subdivision 2, a candidate must not permit the candidate's principal campaign committee to accept aggregate contributions made or delivered by any individual, political committee, or political fund in excess of the following:

(1) to candidates for governor and lieutenant governor running together, \$2,000 in an election year for the office sought and \$500 in other years;

#### Subd. 13. Unregistered association limit; statement; penalty.

(a) The treasurer of a political committee, political fund, principal campaign committee, or party unit must not accept a contribution of more than \$100 from an association not registered under this chapter unless the contribution is accompanied by a written statement that meets the disclosure and reporting period requirements imposed by section 10A.20. This statement must be certified as true and correct by an officer of the contributing association. The committee, fund, or party unit that accepts the contribution must include a copy of the statement with the report that discloses the contribution to the board. This subdivision does not apply when a national political party contributes money to its affiliate in this state.

(b) An unregistered association may provide the written statement required by this subdivision to no more than three committees, funds, or party units in a calendar year. Each statement must cover at least the 30 days immediately preceding and including the date on which

the contribution was made. An unregistered association or an officer of it is subject to a civil penalty up to \$1,000 if the association or its officer:

(1) fails to provide a written statement as required by this subdivision; or

(2) fails to register after giving the written statement required by this subdivision to more than three committees, funds, or party units in a calendar year.

An officer of an association who violates this paragraph is guilty of a misdemeanor.

#### **4503.0500 CONTRIBUTIONS**

**Subp. 4. Identification of contributor.** An individual or association that pays for or provides goods or services, or makes goods or services available, with the knowledge that they will be used for the benefit of a political committee or a political fund, is the contributor of those goods or services.