

State of Minnesota  
**Campaign Finance & Public Disclosure Board**  
Suite 190, 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: Compensation for Staff Services, In-Kind Donation to Pay for Living Expenses of Staff**

**ADVISORY OPINION 357**

**SUMMARY**

Political party units and candidates may jointly hire and compensate staff to work on campaigns and develop assets. The staff's time must be closely tracked and projects between the party units and candidates segregated in order to prevent unauthorized in-kind donations. An association that provides compensation to campaign staff is making an in-kind donation to the principal campaign committee that benefits from the staff's work.

**FACTS**

As a candidate with a principal campaign committee registered with the Campaign Finance and Public Disclosure Board (the Board), you ask for an advisory opinion based on the following facts:

1. Five students from a college (Students) are offering their services as paid staff to two political party senate districts (Senate Districts) and four candidates for the State House of Representatives (Candidates)
2. In addition to the compensated services each of the Students will be completing an unpaid academic internship with your principal campaign committee (Committee). The Committee is also one of the four House of Representative Candidates that will employ the Students as paid staff. When working for the Committee as unpaid interns the Students will work on specific projects that will be separate from the activities they work on as paid staff. The time spent assisting the Committee as an unpaid political intern is the core requirement that will earn the Students academic credit at their college.

3. The Students propose to work a collective total of 1,800 paid hours for the Senate Districts and Candidates. Services to be provided include planning and executing fundraisers, web site development, developing and updating databases, and other similar tasks to benefit the election campaigns of the Candidates, and the structural long-term assets of the Senate Districts. The rate of compensation will be \$10 per student per hour.
4. To compensate for the services provided by the Students each Senate District will pay \$6,000, and each Candidate will pay \$1,500. The combined \$18,000 will be deposited with the state political party (State Party). The State Party will hire the Students, and then pay the Students wages from the \$18,000 provided by the Candidates and Senate Districts. The State Party will provide administrative support by covering the Students with the State Party's workers compensation policy and deduct taxes, workers compensation and any other required amounts from the wages of the Students. The State Party will not pay the Students other than with the funds provided by the Senate Districts and Candidates.
5. The hours of compensated work provided by the Students will be proportional to the amount paid by each Candidate and Senate District. Each Candidate will receive 150 hours of the Students time; each Senate District will receive 600 hours of the Students time. Time provided by the students will be tracked with a predetermined schedule to ensure that each Senate District and Candidate receives the correct number of hours worked. Each Student will work no more than 20 hours per week total for the Candidates and Senate Districts.
6. The College the Students attend has offered to provide the Students with a \$6,000 academic internship grant. The grant is paid to the students. After deductions for FICA, Medicare, and other payroll taxes are removed the Students will receive approximately \$4,500. To receive the compensation from the grant, the Students must serve as political interns to the Committee for at least 35 hours per week per student. In total the Students will work a collective 3,500 hours as political interns. The Committee will not compensate the Students for their work as political interns. To receive academic credit for the internship the students must document their activities. The College will not direct the Students to intern for a particular campaign or political party, and interning for a specific campaign or political party is not a condition of the grant.

### **ISSUE ONE**

Do the Candidates and Senate Districts report to the Board the transfer of funds to the State Party for payment of the Students wages as an expenditure?

## OPINION

Yes. The funds from the Candidate and Senate Districts are payments to the State Party for staff services. As described in the facts of this advisory opinion request the Students are employees of the State Party. The role played by the State Party is similar to that of a vendor who provides temporary employees; the payment goes to the State Party even though the Students will be doing the work. The funds paid by the Candidates and Senate Districts do not represent a contribution to the State Party.

A Candidate must report the payment to the State Party as a campaign expenditure. A Senate District will report the payment to the State Party as an expenditure. Both Senate Districts and Candidates will need to detail the purpose of the payment in sufficient detail to make clear what is being purchased from the State Party.

The State Party is providing the cost of administrative overhead when it places the Students on a worker's compensation insurance policy, calculates and withholds taxes and other deductions, and issues wages. This administrative support has a value to the Candidates and Senate Districts. As defined by the facts of this advisory opinion the administrative support will be an expenditure by the State Party for staff services that will benefit four candidates. Expenditures for staff services that benefit three or more candidates are a multicandidate political party expenditure as provided in Minn. Stat. §10A.275, subd. 1, (5). Therefore, the administrative overhead cost is not considered a contribution to or an expenditure on behalf of any candidate.

The provision for multicandidate political party expenditures does not extend to political party units. As provided in Minn. Stat. §10A.01, subd. 13, a donation in kind is "anything of value". The State Party will need to determine a value for the administrative overhead. If the value of the administrative overhead is in excess of \$20 the State Party must report the cost as an in-kind donation to the Senate Districts. A donation in kind is also an in kind expenditure during the same reporting period in which the contribution is made (Minn. Stat. §10A.20, subd. 3, (b)). If the value of the administrative overhead reaches the threshold at which it must be disclosed, each Senate District will report the administrative overhead as a donation from the State Party and as an in kind expenditure by the Senate District.

## ISSUE TWO

The Students are offering to develop databases, web sites, fundraisers, and other assets for the Senate Districts. If the assets developed for the Senate Districts are used to support the Candidates will the use of the assets represent a donation in kind to the Candidates?

## OPINION

Yes. As described in the facts of this opinion the wages paid to the Students by the Senate Districts are expenditures to develop assets that will belong to the Senate District. The Student's time paid for by the Candidates is for activities to benefit the Candidates. The Students will need to closely adhere to work schedules so that the Candidates and Senate Districts receive the full benefit of the work for which they provide compensation. The Senate Districts and Candidates will need to clearly define the ownership of the projects the Students will work on so that the benefit of a given item of work goes to the Senate District or Candidate that paid for that portion of the Students time used to complete the project. This will be of particular importance when the Students are switching back and forth from their duties as interns to their duties as paid staff for the Committee.

If a Senate District later uses assets developed for it by the Students to support one or more Candidates, then the fair market value of the use of the asset is an in-kind donation to the Candidate. A donation in kind from a Senate District to a Candidate applies to the Candidate's political party contribution limit, and is an in-kind campaign expenditure. A donation in kind is an expenditure on behalf of the candidate and if the value of the in-kind donation is over \$20; the Senate District must obtain prior written authorization from the Candidate before making the expenditure (Minn. Stat. §10.17, subd. 2).

## ISSUE THREE

Will the compensation that the Students receive from the College for serving as political interns constitute a contribution from the College to the Committee?

## OPINION

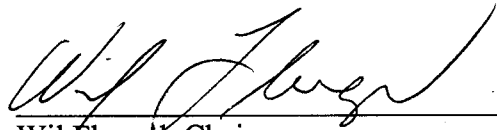
Yes. The Board understands that the College did not choose the candidate to whom the Students are offering their assistance. Nonetheless, the compensation is provided by the College with the condition that the Students each serve as an intern 35 hours a week for the Committee. By paying compensation to the Students, the College in effect gives the Student's time to work for the Committee that could otherwise be used to earn wages.

The compensation paid to the Students by the College becomes a \$6,000 in-kind donation from the College to the Committee. The contribution limit for candidates for state representative in an election year is set at \$500 by Minn. Stat. §10A.27, subd. 1, (5).

In addition, an in-kind donation of staff services is also an in-kind campaign expenditure during the same reporting period in which the donation is received (Minn. Stat. §10A.20, subd. 3 (b)). The value of the grant will count against the campaign expenditure limit of the Committee.

Associations that are not registered under the provisions of Chapter 10A which contribute more than \$100 to a candidate, political party unit, or political committee during a calendar year must provide with the contribution a written statement that provides the same disclosure that would be reported to the Board if the association was registered (Minn. Stat. §10A.27, subd. 13). The itemization of the written disclosure includes the receipts and expenditures of the association during the reporting period in which the contribution is made. The College may wish to consult with their legal advisor to determine if corporate contributions received by the College during the period of disclosure would violate the provisions of Minn. Stat. §211B.15.

Issued May 26, 2004



Wil Fluegel, Chair  
Campaign Finance and Public Disclosure Board

## Cited Statutes

### 10A.01 Definitions.

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.17 Expenditures.

Subd. 2. **Written authorization.** An individual or association may not make an approved expenditure of more than \$20 without receiving written authorization from the treasurer of the principal campaign committee of the candidate who approved the expenditure stating the amount that may be spent and the purpose of the expenditure.

### 10A.20 Campaign reports.

#### Subd. 3. **Contents of report.**

(b) The report must disclose the name, address, and employer, or occupation if self-employed, of each individual or association that has made one or more contributions to the reporting entity, including the purchase of tickets for a fund-raising effort, that in aggregate within the year exceed \$100 for legislative or statewide candidates or ballot questions, together with the amount and date of each contribution, and the aggregate amount of contributions within the year from each source so disclosed. A donation in kind must be disclosed at its fair market value. An approved expenditure must be listed as a donation in kind. A donation in kind is considered consumed in the reporting period in which it is received. The names of contributors must be listed in alphabetical order. Contributions from the same contributor must be listed under the same name. When a contribution received from a contributor in a reporting period is added to previously reported unitemized contributions from the same contributor and the aggregate exceeds the disclosure threshold of this paragraph, the name, address, and employer, or occupation if self-employed, of the contributor must then be listed on the report.

### 10A.275 Multicandidate political party expenditures.

Subdivision 1. **Exceptions.** Notwithstanding other provisions of this chapter, the following expenditures by a party unit, or two or more party units acting together, with at least one party unit being either: the state committee or the party organization within a congressional district, county, or legislative district, are not considered contributions to or expenditures on behalf of a candidate for the purposes of section 10A.25 or 10A.27 and must not be allocated to candidates under section 10A.20, subd. 3, paragraph (g):

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

(2) 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;

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

(4) expenditures for a political party fund-raising effort on behalf of three or more candidates; or

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

#### **10A.27 Contribution limits.**

##### **Subdivision 1. Contribution limits.**

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;
- (2) to a candidate for **attorney general**, \$1,000 in an election year for the office sought and \$200 in other years;
- (3) to a candidate for the office of **secretary of state or state auditor**, \$500 in an election year for the office sought and \$100 in other years;
- (4) to a candidate for **state senator**, \$500 in an election year for the office sought and \$100 in other years; and
- (5) to a candidate for **state representative**, \$500 in an election year for the office sought and \$100 in the other year.

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 imposed by the board of 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.

(c) The treasurer of a political committee, political fund, principal campaign committee, or party unit who accepts a contribution in excess of \$100 from an unregistered association without the required written disclosure statement is subject to a civil penalty up to four times the amount in excess of \$100.