

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: Registration and Reporting Requirements for Political Committees and
Political Funds**

ADVISORY OPINION 359

SUMMARY

An association that endorses candidates is conducting an activity to influence the nomination or election of one or more candidates. The association must register as a political committee or political fund if it raises or spends more than \$100 on the endorsement process.

FACTS

As a member of an association (the Association), that is considering activities that may come under the provisions of Minnesota Statutes Chapter 10A, you ask the Campaign Finance and Public Disclosure Board (the Board), for an advisory opinion based on the following facts:

1. The Association formed an endorsement committee in 2004. As of the date of this request the endorsement committee has not met, conducted activities, nor received funding.
2. The Association anticipates endorsing candidates for the state level office in 2004.
3. The endorsement process will consist of sending a letter to candidates in a contested election. The letter will invite the candidate to apply for the Association's endorsement. The letter will state the criteria the Association will use to endorse candidates.
4. The endorsement committee will be empowered by the Association to review requests for endorsement and issue endorsements to selected candidates.

5. The Association will not contribute money or time to candidates it endorses. The Association will not spend funds to publicize the endorsement. It will be left to each endorsed candidate to publicize the endorsement.
6. Some members may be willing to contribute to the Association small amounts of money, postage, supplies, or time to cover the costs of the endorsement process.
7. The anticipated costs of postage for the mailings will be less than \$100.

ISSUE ONE

If the anticipated endorsement activities of the Association occur, will the Association need to register with the Board?

OPINION

The Board believes that there is no reason for any association to endorse candidates other than to influence their nomination or election. Associations that seek to influence the nomination or election of state constitutional officers, legislators, or judicial candidates are either a political committee or political fund as defined in Minn. Stat. §10A.01, subds. 27 and 28.

Registration and reporting under the provisions of Chapter 10A is required when the political committee or political fund has received contributions, made a contribution, or made expenditures in excess of \$100. The facts of this request provide that the postage for the endorsement process is anticipated to be less than \$100; however the cost of the endorsement process will also include the cost of paper, envelopes, and any other supplies used in the mailings. If the endorsement committee member's time needed to process the endorsement mailing and responses is volunteered without compensation it is not a "contribution" or an "expenditure" for the purposes of Chapter 10A (Minn. Stat. §10A.01, subd. 9 and 11). If the time of the endorsement committee members, or any support staff, is compensated, then the fair market value of that time is applied to the \$100 contribution or expenditure threshold.

ISSUE TWO

May members donate to the Association small amounts of money, postage, supplies or time to cover the costs of the endorsement process?

OPINION

Yes. If Association members provide items other than money to support the endorsement process the items are a "donation in kind" that must be counted at the fair market value of the item towards the \$100 registration threshold (Minn. Stat. §10A.01, subd. 13).

ISSUE THREE

What are the registration and reporting requirements if the Association collects or spends more than \$100 on the endorsement process?


OPINION

Minn. Stat. §10A.14, subd. 1, provides that the Association must register with the Board as a political committee or political fund no later than 14 days after the Association has received contributions, made a contribution, or made expenditures in excess of \$100 to influence elections. During a state general election year political committees and funds must submit a Report of Receipts and Expenditures 15 days before the primary election, 10 days prior to the general election, and a year end report (Minn. Stat. §10A.20, subd. 2). The reporting requirements of Chapter 10A apply to political committees and political funds until the political committee or political fund terminates its registration with the Board as provided in Minn. Stat. §10A.24.

BOARD NOTE

The facts of this advisory opinion request do not indicate the funding mechanisms of the Association. If the Association funds any costs of the endorsement process directly, the requester should be aware of the provisions of Minn. Stat. §211B.15, which prohibit corporations from directly or indirectly contributing to organizations to influence the nomination or election of a candidate. Any item or money provided by the Association for the endorsement process would be subject to this prohibition.

Issued July 22, 2004



Wil Fluegel, Chair
Campaign Finance and Public Disclosure Board

Cited Statutes

10A.01 Definitions.

Subd. 9. **Campaign expenditure.** "Campaign expenditure" or "expenditure" means a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question.

An expenditure is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

An expenditure made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate.

Except as provided in clause (1), "expenditure" includes the dollar value of a donation in kind.

"Expenditure" does not include:

(1) noncampaign disbursements as defined in subdivision 26;

(2) 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

(3) the publishing or broadcasting of news items or editorial comments by the news media.

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.

Subd. 27. **Political committee.** "Political committee" means an association whose major purpose is to influence the nomination or election of a candidate or to promote or defeat a ballot question, other than a principal campaign committee or a political party unit.

Subd. 28. **Political fund.** "Political fund" means an accumulation of dues or voluntary contributions by an association other than a political committee, principal campaign committee, or party unit, if the accumulation is collected or expended to influence the nomination or election of a candidate or to promote or defeat a ballot question.

10A.14 Registration.

Subdivision 1. **First registration.** The treasurer of a political committee, political fund, principal campaign committee, or party unit must register with the board by filing a statement of organization no later than 14 days after the committee, fund, or party unit has made a contribution, received contributions, or made expenditures in excess of \$100.

10A.20 Campaign reports.

Subd. 2. **Time for filing.**

(a) The reports must be filed with the board on or before January 31 of each year and additional reports must be filed as required and in accordance with paragraphs (b) and (c).

(b) In each year in which the name of the candidate is on the ballot, the report of the principal campaign committee must be filed 15 days before a primary and ten days before a general election, seven days before a special primary and a special election, and ten days after a special election cycle.

(c) In each general election year, a political committee, political fund, or party unit must file reports 15 days before a primary and ten days before a general election.

10A.24 Dissolution or termination.

Subdivision 1. **Termination report.** A political committee, political fund, principal campaign committee, or party unit may not dissolve until it has settled all of its debts and disposed of all its assets in excess of \$100 and filed a termination report. "Assets" include credit balances at vendors and physical assets such as computers and postage

stamps. Physical assets must be listed at their fair market value. The termination report may be made at any time and must include all information required in periodic reports.

Subd. 2. Termination allowed. Notwithstanding subdivision 1, a committee, fund, or party unit that has debts incurred more than six years previously, has disposed of all its assets, and has met the requirements of section 10A.20, subdivision 7, may notify any remaining creditors by certified mail and then file a termination report.