

**State of Minnesota
Campaign Finance and Public Disclosure Board
Suite 190, Centennial Building. 658 Cedar Street. St. Paul, MN 55155-1603**

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provided by the requester**

Issued to: Representative Steve Drazkowski
New House Republican Caucus
327 State Office Building
St. Paul, MN 55155

ADVISORY OPINION 450

SUMMARY

A principal campaign committee may pay for certain expenses related to the operation of a legislative caucus that qualify as non-campaign disbursements under Chapter 10A.

FACTS

As a member of the New House Republican Caucus (NHRC) you request an advisory opinion from the Campaign Finance and Public Disclosure Board based on the following facts that were provided in the letter requesting the advisory opinion and in discussions with Board staff.

1. You are a member of the Minnesota House of Representatives, representing District 21B.
2. You and three other member of the House of Representatives formed the NHRC at the beginning of the 2019 legislative session. The NHRC has been recognized as a legislative caucus by the Speaker of the House. NHRC members have been assigned office space, seating in the House chambers and given the authorization to hire staff and committee assignments based on their membership in the caucus.
3. You are the leader of the NHRC.
4. The Republican Party of Minnesota is the political affiliation of the members of the NHRC.
5. The NHRC will incur certain costs for startup and initial support of the caucus. Not all of these costs will be paid for by the legislature. You seek guidance from the Board on the use of principal campaign committee funds to pay for the costs specified in the advisory opinion request.

6. In particular you ask for guidance on whether the use of principal campaign committee funds to pay for NHRC expenses may be classified as a noncampaign disbursement.

INTRODUCTION

The term “legislative caucus” is not defined in Chapter 10A, and does not appear to be defined in any Minnesota statute. The term is used most often to refer to the organization of members of the legislature, which typically is organized along political party lines. The legislative caucuses elect or appoint members to leadership positions within the caucus, and hire staff to support policy development, provide public education on the issues supported by the caucus, and ultimately support the enactment of the legislative goals of the caucus. The legislature pays caucus staff salaries and extends other administrative support to the caucuses. The legislative caucuses that develop policy and legislation are not registered or regulated by the Board because they are funded with tax dollars, and they are not organized to influence the nomination or election of candidates.

However, prior Board advisory opinions have also used the term “legislative caucus” as a shorthand reference for a political party unit organized within a body of the legislature. In retrospect, the Board’s use of this term was confusing, and requires an explanation. A major or minor political party registered with the Board must at a minimum have a state central committee. A political party may also organize and register additional political party units that in aggregate represent the political party.¹ A major or minor political party may recognize and authorize the registration of a single party unit for each political or geographic area recognized in Chapter 10A.² Critical to this discussion, a political party may also recognize and authorize the registration of one party unit organized within each body of the legislature. Unlike legislative caucuses, the political party units organized for the House and Senate exist to influence the nomination and election of candidates.

Going forward, the Board will use the term “legislative party unit” when discussing a political party unit organized in a legislative body. Prior advisory opinions that use the term “legislative caucus” should be read with the understanding that the reference means a political party unit registered under Chapter 10A.

In this advisory opinion, the Board is asked to provide guidance to members of a newly recognized legislative caucus. The legislature has extended some support to the NHRC, but the caucus has start up and initial operating costs that are not currently funded. The NHRC members wish to develop and promote the legislative policy positions of the caucus and are willing to pay for the expenditures detailed in the advisory opinion request with their principal campaign committee funds if those payments are allowed by Chapter 10A.

¹ Minnesota Statutes section 10A.01, subdivision 29, defines political party as follows: “Political party’ means a major political party or a minor political party. A political party is the aggregate of all its political party units in this state.”

² Minnesota Statutes section 10A.01, subdivision 30, defines political party unit or party unit as follows: “Political party unit’ or ‘party unit’ means the state committee or the party organization within a house of the legislature, congressional district, county, legislative district, municipality, or precinct.”

ISSUE ONE

May members of the NHRC use principal campaign committee funds to pay for signage identifying caucus offices, caucus stationary, and other basic office supplies for the caucus?

OPINION ONE

Yes. In general, money raised for political purposes must be used for expenses related to the conduct of an election campaign or for a noncampaign disbursement listed in Chapter 10A. Minn. Stat. § 211B.12. As discussed above, the NHRC's expenses are not related to the conduct of an election campaign. Consequently, the members of the NHRC may use their principal campaign committee funds for the NHRC expenses only if those expenses qualify as a noncampaign disbursement.

Minnesota Statutes section 10A.01, subdivision 26, provides a list of noncampaign disbursements that may be paid for with principal campaign committee funds. In particular, this statute provides that incumbent legislators may use principal campaign committee funds for the following expense:

(10) payment by a principal campaign committee of the candidate's expenses for serving in public office, other than for personal uses.

The category of costs related to serving in public office includes those costs that would not occur without membership in the legislature and that are ordinary and reasonable expenses incurred in order to better perform the tasks of a legislator.³

Signage for a member's office identifying the member as part of the NHRC, stationery printed with the legislator's NHRC membership, and basic office supplies are all expenses that NHRC members would not have incurred if they were not members of the legislature. These expenses also are ordinary and reasonable expenses incurred to help the member better perform the tasks of a legislator. These expenses therefore may be paid with principal campaign committee funds as a cost of serving in office.

ISSUE TWO

May members of the NHRC use principal campaign committee funds to pay for an NHRC website, social media accounts, telephone expenses, and other communication costs related to supplying NHRC's legislative message to constituents and supporters?

OPINION TWO

Yes, with restrictions. The specified expenses of establishing and operating a website and other communications that promote the legislative positions of the NHRC are not the usual operating costs for a legislator. Consequently, they cannot be paid for as costs of serving in office. In addition, the communications will reach, and are intended to reach, individuals who do not reside in the legislative districts of NHRC members. The broad audience for the

³ See Advisory Opinions 255 and 314.

communications precludes categorizing their costs as services for a constituent under Minnesota Statutes section 10A.01, subdivision 29, paragraph (6).

However, Minnesota Statutes section 10A.01, subdivision 26, paragraph (9), provides that principal campaign committee funds may be used for the following expenses:

(9) payment of expenses incurred by elected or appointed leaders of a legislative caucus in carrying out their leadership responsibilities.

As stated earlier, the term “legislative caucus” is not defined in Chapter 10A. However, there is no reason to believe that this noncampaign disbursement category is not available to the leadership of the NHRC as a legislative caucus recognized by the Speaker of the House. Among other duties, legislative caucus leadership is responsible for providing public education on issues important to the caucus and promoting the legislative positions of the caucus with the ultimate goal of enacting those positions into law. A website, social media posts, and other related communications all are methods that the NHRC leadership can use to accomplish those responsibilities. The NHRC leadership therefore may use principal campaign committee funds to pay expenses that they incur for a website, social media, and other related communications used to fulfill their responsibility to promote the legislative agenda of the NHRC.

The NHRC will need to monitor carefully its communications to ensure that they relate only to the legislative positions and message of the caucus.

ISSUE THREE

May members of the NHRC use principal campaign committee funds to pay for other start-up costs, such as securing legal counsel on the creation and operation of the new caucus?

OPINION THREE

Yes, with restrictions. Legal counsel for the legislative caucus is not a usual expenditure for a legislator and therefore could not be paid for as a cost of serving in office. However, paying for legal advice to successfully launch and operate the NHRC may be seen as a responsibility of caucus leadership. Such costs therefore may be paid for with the principal campaign committee funds of NRHC members in leadership positions.

Issued February 6, 2019

/s/ Margaret Leppik

Margaret Leppik, Chair
Campaign Finance and Public Disclosure Board