

**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)**

ADVISORY OPINION 454

SUMMARY

A political party unit may lease meeting space for use by elected members of the party and other individuals who pay a membership fee for use of the facility. The payment of a membership fee is a contribution to the party unit. The value of the facility may, in part, constitute in-kind contributions to the campaign committees of elected members.

Facts

As a representative of a registered political party unit (the party unit), you ask the Campaign Finance and Public Disclosure Board for an advisory opinion based on the following facts which were provided to the Board in a written request and through conversations with Board staff.

1. The party unit holds events for its members during the legislative session. Finding a location to hold these events, and for informal meetings by members, has been complicated by the pandemic and its related restrictions on the use of public space and the limited availability of private space.
2. The party unit intends to lease space for use by the party unit, elected members of the party, staff, and invited guests during the legislative session. The party unit will pay fair market value for use of the space.
3. The party unit views the cost of meeting space for its activities and its members as an expenditure for “office and other space” that supports the political purpose of re-electing its members.¹ The space will be used, in part, to support the development of legislation that supports the party’s political agenda. Passage of legislation and development of policies that are in line with the party’s goals will directly support the election of party candidates.
4. The leased space will not be open to the general public. In order to use the facility elected members of the party will be required to pay a membership fee that is specifically for access to the facility. The amount of the membership fee has not been

¹ Minnesota Statutes section 211B.12 listing permitted uses of funds collected for political purposes.

determined, but any fees collected will be used for the party unit's administrative costs. The party unit does not intend to pay for the lease of the facility through the membership fees paid by elected members of the party.

5. The party unit will offer limited memberships to individuals who are not elected office holders. The limited memberships will provide access to use the facility, but will not provide any other rights or duties within the party unit. Limited memberships will be offered at the discretion of the party unit. The cost of a limited membership may be greater than the membership fee for elected members of the party unit.
6. The party unit will not allow candidates to hold fundraisers at the facility during the legislative session.
7. Food and beverages will be available for purchase at the meeting facility at fair market value. Members will be responsible for the purchase of any food or beverage items for themselves or guests.
8. The party unit and its elected members are aware of and comply with the prohibition on contributions from lobbyists during the legislative session. See Minn. Stat. § 10A.273.
9. The party unit and its elected members are aware of and comply with the gift prohibition between lobbyists and public officials. See Minn. Stat. § 10A.071.

With this background in mind, the party unit asks the following questions.

Issue One

Does providing elected members with a meeting space result in a contribution from the party unit to the elected members which must be reported to the Board?

Opinion One

Yes. Minnesota Statutes section 10A.01, subdivision 4, defines an approved expenditure as follows:

“Approved expenditure” means an expenditure made on behalf of a candidate by an entity other than the principal campaign committee of the candidate, if the expenditure is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of the candidate, the candidate’s principal campaign committee, or the candidate’s agent. An approved expenditure is a contribution to that candidate.

Minnesota Rules part 4503.0800, subpart 4, further provides, “The fair market value of shared office space or services provided to a candidate without reimbursement is a donation in kind.”

As described in the facts of the request, the membership fees paid by elected members will be applied against the administrative overhead of the party unit, and will not pay for the cost of the meeting space. For elected members, the value of the use of the facility is an approved expenditure by the party unit (a type of donation in kind) on behalf of those candidates. By definition, an approved expenditure is a contribution to the elected member's campaign committee.

The approved expenditure for use of the meeting facility is a contribution from a political party unit, and will count against the aggregate political party unit limit of the elected member's campaign committee. Because the approved expenditure counts against the political party contribution limit, if the value of the approved expenditure exceeds \$20 an elected member's campaign committee must provide a written acknowledgement to the party unit of the donation and authorizing the approved expenditure at a set amount.²

In determining the value of the meeting facility to elected members the party unit should subtract from the cost paid for the leased space and any associated costs for operating the facility the value to the party unit of holding its meetings at the location. The remaining cost is a benefit that then would be allocated among the members.

The party unit will report the value of the use of the facility as a contribution to the elected members' campaign committees. The donation will be itemized if the value of the membership is over \$200, or if the value of the membership combined with any other donation made by the party unit to the elected member during the calendar year exceeds \$200. The elected member will also report the donation in kind from the party unit on the schedule for party unit contributions, again itemizing the contribution if the value is over \$200 either individually or in aggregate with other contributions from the party unit. A donation in kind is also reported as either a campaign expenditure or a non-campaign disbursement during the same reporting period in which it is received.³

Issue Two

Does the purchase of a limited membership by a non-elected individual result in a contribution to the party unit?

Opinion Two

Yes. The membership dues are payments for services provided by the party unit, and the party unit is free to use the membership dues for any political purpose. The payment of dues, regardless of whether paid for by an elected or limited member, will be reported as contributions during the reporting period in which the payment is received. Itemization of the donation will occur if the member's dues exceed \$200 in a calendar year, or if the dues in combination with other contributions to the party unit exceed \$200 during the calendar year.

² Minnesota Statutes section 10A.17, subdivision 2

³ Minnesota Statutes section 10A.20, subdivision 3, (c) and (h)

The Board notes that Minnesota Statutes section 10A.271 provides that a political party unit that sells goods or services must provide notice to the purchaser that the payment for the item is a political contribution.

Issue Three

If a limited membership is purchased by a registered lobbyist prior to the beginning of the legislative session, will use of the membership during the session result in a violation of the sessional contribution prohibition?

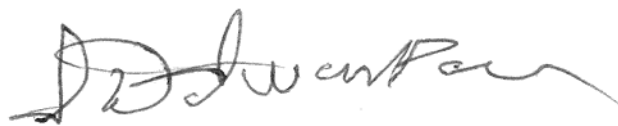
Opinion Three

No. The sessional contribution prohibition applies only to soliciting or accepting a contribution from a registered lobbyist during a regular session of the legislature. A “regular session” starts at 12:00 a.m. on the first day of each annual session and ends at 11:59 p.m. on the last day of each annual session.⁴

Although access to the meeting facility will be provided during a regular legislative session, the contribution occurs when payment of the membership dues is physically received by the party unit, or if the party unit accepts payment of membership dues through electronic means, on the date when the lobbyist makes the contribution.⁵

Lobbyists who purchase limited memberships should do so with personal funds. If the association that the lobbyist represents directly pays for the membership, or reimburses the lobbyist for the membership dues, the result will either be a prohibited corporate contribution to the party unit,⁶ or a contribution from an unregistered association that may require underlying disclosure of the source of funds used to pay the membership dues.⁷

Issued: October 6, 2021



Stephen Swanson, Chair
Campaign Finance and Public Disclosure Board

⁴ Minnesota Statutes section 10A.273, subdivision 3

⁵ Minnesota Statutes section 10A.15, subdivision 2a, paragraphs (b), (c)

⁶ Minnesota Statutes section 211B.15, subdivision 2

⁷ Minnesota Statutes section 10A.27, subdivision 13