

3/8/2017

Note: This is a draft of the proposed rules that clarify what conduct, actions, or relationships can prevent an expenditure from being independent. The proposed rules are likely to change in the coming weeks based on comments received from the public and discussion of those comments by committee members.

4503.0XXX COORDINATED EXPENDITURES.

Subp. 1. Candidate. For purposes of this part, "candidate" means a candidate as defined in Minn. Stat. section 10A.01, subdivision 10, the candidate's principal campaign committee, or the candidate's agent.

Subp. 2. Election segment. For purposes of this part, "election segment" means:

- A. For a regular election, the period from January 1 of the year prior to an election year through December 31 of the election year.
- B. For a special election, the entire special election cycle.

Subp. 3. Coordinated. For purposes of this part, "coordinated" means 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.

Commented [FK(1): Directly cites the statutory language of "approved expenditure" (which is equivalent to independent expenditure language).

Alternative:
"For purposes of this part, "coordinated" means any of the actions listed in Minn. Stat. section 10A.01, subd. 4 that constitute an approved expenditure."

Subp. 4. Spender. The definitions in Minn. Stat. section 10A.01 apply to the terms used in this subpart. For purposes of this part, "spender" means any of the following:

- A. An individual person.
- B. An association.
- C. A political committee.
- D. A political fund.
- E. An independent expenditure political committee.
- F. An independent expenditure political fund.
- G. A party unit.

Commented [FK(2): Person is a defined term in 10A that includes association, this simply means an individual person.

Subp. 5. Agent. For purposes of this part, "agent" means a person who served during the election segment as the candidate's chairperson, deputy chairperson, treasurer, deputy treasurer, fundraiser, advisor, or business representative, or any other person authorized to act on the candidate's behalf.

Subp. 6. Consultant. For purposes of this part, "consultant" means a person or an association that provides consulting services.

- A. Consulting services includes polling, communications planning and design, advertising, messaging, and any other service that involves campaign strategy.
- B. Consulting services does not include printing or mailing campaign material, legal services that do not involve campaign strategy, or accounting services, or costs for the use of a medium for communications purposes.

Subp. 7. Coordinated expenditures. An expenditure listed below, when expressly advocating for the election of the candidate or the defeat of the candidate's opponent, is a coordinated expenditure that is not independent under Minn. Stat. section 10A.01, subd. 18:

3/8/2017

A. An expenditure made during an election segment by a spender for which that the candidate has ~~engaged in fundraising~~ ~~fundraised for~~ during that same election segment.

Commented [FK(3)]: To keep "fundraising" term consistent.

1. Fundraising includes:

- a. Soliciting, collecting, or directing funds for or to the spender;
- b. Providing names of potential donors to the spender; and
- c. Appearing as a speaker at a fundraising event for the spender.

2. This item applies to fundraising by an individual prior to the individual meeting the definition of a candidate in Minn. Stat. section 10A.01, subd. 10.

3. This item does not apply to a candidate's fundraising on behalf of a party unit.

B. An expenditure that reproduces or disseminates, in whole or in part, campaign material designed, produced, paid for, or distributed by the candidate.

1. This item does not apply to:

- a. Campaign material incorporated into a communication that advocates the defeat of the candidate who prepared the material;
- b. Campaign material used in a news story or editorial; or
- c. The reproduction or dissemination of a candidate's campaign materials if the reproduction or dissemination costs \$20 or less.

Commented [FK(4)]: Small exception. Example: forwarding an email with campaign material in it.

C. An expenditure made during an election segment for consulting services from a consultant that has also provided consulting services to the candidate or the candidate's opponent during that same election segment.

1. This item does not apply when the following conditions are met:

- a. The consultant assigns separate personnel to the spender and the candidate;
- b. The consultant has a written policy that describes the measures that the consultant has taken to prohibit the flow of information between the personnel providing services to the spender and the personnel providing services to the candidate;
- c. The written policy has been distributed to all personnel and clients covered by the policy including the candidate and the spender;
- d. The consultant has implemented the measures described in the written policy; and
- e. No information has been shared between the spender and the personnel provided services to the spender and the candidate and the personnel providing services to the candidate.

D. An expenditure made by a spender ~~formed when the formation of the spender was coordinated with the candidate during the election segment 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.~~

Commented [FK(5)]: Using defined term for clarity and consistency.

3/8/2017

E. An expenditure made by a spender that ~~is~~:

Commented [FK(6)]: Moved for clarity.

1. ~~Is n~~Not a party unit; and
2. ~~Is e~~Established, financed, directed, or managed during the election segment by any of the following:
 - a. The candidate.
 - b. An individual who meets the definition of a candidate under Minn. Stat. section 10A.01, subd. 10, during the same election segment.
 - c. The candidate's spouse, child, parent, grandparent, sibling, or half-sibling, or the spouses of such persons.
 - d. An agent of the candidate.

F. An expenditure made after the spender receives from the candidate information that is not publically available regarding the candidate's campaign plans, strategy, or needs.

G. An expenditure made when:

1. The spender provides information to the candidate regarding the expenditure's contents, intended audience, timing, location or mode, volume, or frequency; and
2. The information is provided to the candidate before the expenditure is communicated to the public.

H. An expenditure made with the candidate's participation in the following:

1. Any of the processes required for the creation and development of the expenditure, including budgeting decisions, media design, acquisition of graphics and text, production, and distribution of the final product; or
2. Any decision regarding the content, timing, location, means or mode, intended audience, volume of distribution, or frequency of the expenditure.

Subp. 8. Non-coordinated expenditures. An action listed below, by itself, does not establish that an expenditure made by the spender was coordinated with the candidate:

- A. A candidate asks a spender not to make any expenditure to support the candidate or oppose the candidate's opponent.
- B. An expenditure uses a photograph obtained from a publicly available source or public event.
- C. ~~or~~ An expenditure uses information obtained from a biography, position paper, press release, or similar material about the candidate from a publicly available source or public event.
- D. The spender contributes to the candidate or endorses the candidate.
- E. An expenditure includes a hyperlink to the candidate's website or social media page.

Commented [FK(7)]: Split this into B and C for clarity.

3/8/2017

- F. An expenditure appears in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication.
- G. The spender discusses the candidate's position on a legislative or policy matter with the candidate.
- H. The spender invites the candidate to appear before the spender's members, employees, or shareholders including the candidate's participation in the event, unless the event promotes the election of the candidate or the defeat of the candidate's opponent, or the candidate requests or accepts campaign contributions at the event.
- I. A candidate appears at a meeting or function of a corporation, as that term is defined in Minn. Stat. section 211B.15, subd. 1, at which the corporation may raise general treasury money.

Commented [SJ(8)]: This provision was added so that a candidate could appear at an event held by a 501(c) or for profit corporation as long as the appearance is not to solicit funds for independent expenditures or the candidate.

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