

State of Minnesota
Campaign Finance & Public Disclosure Board
First Floor South, Centennial Building . 658 Cedar Street . St. Paul, MN 55155-1603

THE FOLLOWING PUBLICATION DOES NOT IDENTIFY
THE REQUESTER OF THE ADVISORY OPINION, WHICH IS NONPUBLIC DATA
under Minn. Stat. § 10A.02, subd. 12(b)

RE: Use of principal campaign committee funds

ADVISORY OPINION 318

SUMMARY

Costs of civil litigation which is not related to a candidate's election or to the candidate's principal campaign committee are not the type of legal fees that may be paid as a noncampaign disbursement. Costs of litigation are not expenses of serving in office that may be paid as a noncampaign disbursement.

FACTS

As an elected official, you ask the Campaign Finance and Public Disclosure Board (the Board) for an advisory opinion based on the following facts:

1. You are a state legislator with a principal campaign committee registered with the Board.
2. You have certain complaints about your treatment by and support from the legislative body in which you serve.
3. You would like to file a lawsuit against the body in which you serve to seek a remedy for your grievances. You want to pay the legal expenses and costs of the legal action with assets of your principal campaign committee.

ISSUE

Does Minn. Stat. § 10A.01, subd. 10c, which provides for payment of certain costs as noncampaign disbursements, permit use of principal campaign committee funds to pay the anticipated expenses of litigation and legal fees for proposed legal action?

OPINION

The anticipated expenses and attorneys' fees are not noncampaign disbursements under Minn. Stat. § 10A.01, subd. 10c. Uses of principal campaign committee funds other than for noncampaign

disbursements is controlled by Minnesota Statutes Chapter 211B, which is not within the Board's jurisdiction to interpret.

Use of principal campaign committee funds for noncampaign disbursements is narrowly tailored by the Board since such uses may divert to other purposes money donated to promote the nomination or election of a candidate.

The Board also notes that political contributions are often refunded to donors through the political contribution refund program. The effect of this refund is that donor money is replaced by public money. The state's public subsidy program encourages use of public money for the election of candidates. However, the fact that public money may also be used for noncampaign disbursements requires that those categories of committee spending be narrowly interpreted.

Only two noncampaign disbursements appear on their face to have possible application to the expenses you describe. They are Minn. Stat. § 10A.01, subd. 10c(a), which covers payment for legal services and subd. 10c(j), which covers payment of a candidate's expenses of serving in office, other than for personal uses. The Board has examined each noncampaign disbursement and concludes that neither applies in this matter.

Minn. Stat. § 10A.01, subd. 10c(a) provides that "legal services" incurred by the principal campaign committee are noncampaign disbursements. It seems obvious that the use of principal campaign committee funds for legal services must have some limitation beyond the mere words of the statute. One would not expect a principal campaign committee to pay for legal services that met the purely personal needs of a candidate or the candidate's family. The statute carries with it the implication that there is a relation between the services and the principal campaign committee. It is up to the Board to determine the scope of legal fees which are permitted under the statute as noncampaign disbursements.

It is the Board's opinion that legal services under Minn. Stat. § 10A.01, subd. 10c(a) are limited to legal costs, expenses, and attorneys' fees for services related to the operation of the principal campaign committee or to the election of the candidate. The costs described in this request do not meet this relationship test.

Finally, it is the Board's opinion that the noncampaign disbursement in Minn. Stat. § 10A.01, subd. 10c(j) for expenses of serving in office includes ordinary and reasonable expenses of those activities that are expected or required of a public official or that directly enhance the official's ability to serve. In the present matter, the subject litigation is not an activity that is expected or required of an official as a part of public service. Neither will a lawsuit against the body in which an official serves directly enhance the official's ability to serve in office. Thus, the noncampaign disbursement is not applicable to the costs of this litigation.

Issued: 10/13/99



Sidney Pauly, Chair
Campaign Finance and Public Disclosure Board

CITED STATUTES

Minn. Stat. § 10A.01 Definitions

Subd. 10c. **Noncampaign disbursement.** "Noncampaign disbursement" means a purchase or payment of money or anything of value made, or an advance of credit incurred, by a political committee, political fund, or principal campaign committee for any of the following purposes:

(a) payment for accounting and legal services;

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