

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

**THIS ADVISORY OPINION IS PUBLIC DATA PURSUANT TO A  
CONSENT FOR RELEASE OF INFORMATION SIGNED BY THE REQUESTER**

Issued to: Christopher Dietzen  
Larkin, Hoffman, Daly & Lindgren, Ltd.  
1500 Wells Fargo Plaza  
7900 Xerxes Avenue South  
Bloomington, MN 55431-1194

**RE: Noncampaign Disbursements for Expenses of a Transition Office.**

**ADVISORY OPINION 346**

**SUMMARY**

Certain expenses related to the operation of a transition office may be paid by the principal campaign committee of the candidates and reported as non-campaign disbursements.

**FACTS**

As the legal representative for Governor- Elect Tim Pawlenty, you ask the Campaign Finance and Public Disclosure Board (the Board), for an advisory opinion based on the following facts:

1. Governor-Elect Tim Pawlenty has assembled a Pawlenty/Molnau Transition Office (the transition) to prepare for the change in administrations.
2. The Pawlenty for Governor Committee (Committee) has funds available that could be used to support certain efforts of the transition.

**FOREWORD**

Before addressing the specific questions contained in this advisory request, it is useful to review the statutory provisions used by the Board to determine if a particular expenditure by a principal campaign committee is appropriate. Generally, funds in a candidate's principal campaign committee may only be used for expenditures related to the conduct of an election campaign as listed in Minn. Stat. §211B.12, specific noncampaign disbursements contained in Minn. Stat. §10A.01, subd. 26, or other activity that the

Board determines involves a noncampaign disbursement within the meaning of subdivision 26. Other expenditures may be either a prohibited expenditure or a conversion to personal use. Costs of the transition are not related to the conduct of an election campaign, therefore, the Board must determine whether activities of the transition may be classified as one or more of the existing statutory noncampaign disbursements, or the Board may specify in this opinion additional types of expenditures and noncampaign disbursements, under Minn. Stat. §10A.01, subd. 26, (18)

The function of the transition is to insure a smooth transfer of power, a continuation of government services, and to provide that the new Governor can effectively serve in office. Therefore, some of the expenses of the transition may be seen as a cost of serving as Governor. Costs incurred by a candidate because the candidate is serving in public office are allowable noncampaign disbursements under Minn. Stat. §10A.01, subd. 26, (9), and may be paid for with principal campaign committee funds. In Advisory Opinion 253 the Board concluded that a winning non-incumbent candidate could incur costs of serving in office before the candidate is sworn into that office. The Board relies on the concepts of that opinion in its response to the current request.

All expenditures paid with principal campaign committee funds, including noncampaign disbursements, must be disclosed on the Report of Receipts and Expenditures (Report) of the principal campaign committee. When reporting a noncampaign disbursement with a value of over \$100 a principal campaign committee must identify the purpose of the expenditure to justify the specific classification as a noncampaign disbursement (Minn. Rules 4503.0900, subp. 3), as well as the name and address of the vendor or recipient of such disbursements.

### **ISSUE ONE**

May the Committee use its funds to pay for staff salaries of the transition?

### **OPINION**

Yes. In order to carry out its function the transition must employ full time staff for a wide variety of activities. Staffing costs may be classified and reported as noncampaign disbursements under Minn. Stat. §10A.01, subd. 26, (9).

### **ISSUE TWO**

May the Committee use its funds to pay for accounting and legal services of the transition?

### **OPINION**

Yes. Ensuring that the transition operates within various statutory provisions and is able to account for its expenses are necessary costs. Accounting and legal services used by the transition may be classified and reported as noncampaign disbursements under Minn. Stat. §10A.01, subd. 26, (9). Such costs should be reported separately from any legal or

accounting expenditures made directly on behalf of the Pawlenty for Governor Committee. Accounting and legal services for the Pawlenty for Governor Committee should be reported as noncampaign disbursements under Minn. Stat. §10A.01, subd. 26, (1).

### **ISSUE THREE**

May the Committee use its funds to pay for the purchase or leasing of office equipment (cell phones, computers, photocopying services, etc.) of the Transition Office?

### **OPINION**

Yes. To effectively carry out its function, the transition will need standard office equipment. However, equipment purchased for the transition with campaign funds becomes the property of the Pawlenty for Governor Committee. Any equipment purchased as a noncampaign disbursement cannot be later used for campaign purposes. The Committee may wish to lease the necessary office equipment to avoid the problems associated with tracking the use, and eventual disposal, of equipment after the transition period is concluded. The cost of purchase or lease of office equipment used for the transition should be reported as noncampaign disbursements under Minn. Stat. §10A.01, subd. 26, (9).

### **ISSUE FOUR**

May the Committee use its funds to pay for books, periodicals, and other materials used in the transition?

### **OPINION**

Yes. In its answer, the Board assumes that books and periodicals purchased for the transition will be used as reference materials in conducting office functions and that “other materials” are office supplies commonly used in running any office. The cost of purchasing reference materials and general office supplies are reasonable costs necessary to carry out the function of the transition. The cost of reference material and office supplies used by the transition should be reported as noncampaign disbursements under Minn. Stat. §10A.01, subd. 26, (9).

### **ISSUE FIVE**

May the Committee use its funds to pay for airfare, lodging and conference costs associated with Tim Pawlenty and Carol Molnau attending a national Governor’s Conference?

**OPINION**

Yes. Costs of attending a Governor's Conference are clearly related to serving in that office. Such costs may be paid for by the Committee and reported as noncampaign disbursements under Minn. Stat. §10A.01, subd. 26, (9).

**ISSUE SIX**

May the Committee use its funds to pay for meals associated with interviewing candidates for various positions in the administration?

**OPINION**

No. Interviewing candidates over a meal may be seen as a common courtesy, however meals are not a required part of the interview process. Paying for meals with Committee funds may violate the conversion to personal use prohibition in Minn. Stat. §211B.12.

**ISSUE SEVEN**

May the Committee use its funds to pay for other expenses that are incurred by the transition in providing constituent services to the citizens of Minnesota?

**OPINION**

Without knowing the specific services that may be provided, the Board is unable to determine if such expenses may be reported as noncampaign disbursements or if the use of Committee funds is appropriate. Generally, constituent services are classified as noncampaign disbursements only if they occur "from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held" (Minn. Stat. §10A.01, subd. 26, (6)).

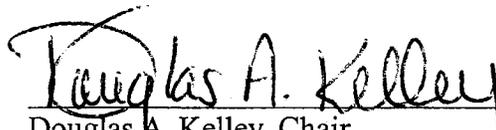
**ISSUE EIGHT**

May the Committee use its funds to pay for other expenses incurred by the transition if they qualify as a noncampaign disbursement?

**OPINION**

Without knowing which specific noncampaign disbursement will be made, the Board is unable to determine if the expenses may be classified as noncampaign disbursements.

Issued November 20, 2002

  
\_\_\_\_\_  
Douglas A. Kelley, Chair  
Campaign Finance and Public Disclosure Board

## Cited Statutes and Rules

### 10A.01 DEFINITIONS.

Subd. 26. **Noncampaign disbursement.** "Noncampaign disbursement" means a purchase or payment of money or anything of value made, or an advance of credit incurred, or a donation in kind received, by a principal campaign committee for any of the following purposes:

- (1) payment for accounting and legal services;
- (2) return of a contribution to the source;
- (3) repayment of a loan made to the principal campaign committee by that committee;
- (4) return of a public subsidy;
- (5) payment for food, beverages, entertainment, and facility rental for a fund-raising event;
- (6) services for a constituent by a member of the legislature or a constitutional officer in the executive branch, performed from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held, and half the cost of services for a constituent by a member of the legislature or a constitutional officer in the executive branch performed from adjournment sine die to 60 days after adjournment sine die;
- (7) payment for food and beverages provided to campaign volunteers while they are engaged in campaign activities;
- (8) payment of expenses incurred by elected or appointed leaders of a legislative caucus in carrying out their leadership responsibilities;
- (9) payment by a principal campaign committee of the candidate's expenses for serving in public office, other than for personal uses;
- (10) costs of child care for the candidate's children when campaigning;
- (11) fees paid to attend a campaign school;
- (12) costs of a postelection party during the election year when a candidate's name will no longer appear on a ballot or the general election is concluded, whichever occurs first;
- (13) interest on loans paid by a principal campaign committee on outstanding loans;
- (14) filing fees;

(15) post-general election thank-you notes or advertisements in the news media;

(16) the cost of campaign material purchased to replace defective campaign material, if the defective material is destroyed without being used;

(17) contributions to a party unit; and

(18) other purchases or payments specified in board rules or advisory opinions as being for any purpose other than to influence the nomination or election of a candidate or to promote or defeat a ballot question.

The board must determine whether an activity involves a noncampaign disbursement within the meaning of this subdivision.

A noncampaign disbursement 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.

#### **4503.0900 NONCAMPAIGN DISBURSEMENTS.**

Subpart 1. **Additional definitions.** In addition to those listed in Minnesota Statutes, section 10A.01, subdivision 26, the following expenses are noncampaign disbursements:

A. transportation, meals, and lodging paid to attend a campaign school;

B. costs of campaigning incurred by a person with a disability, as defined in Minnesota Statutes, section 363.01, subdivision 13, and which are made necessary by the disability;

C. the cost to an incumbent or a winning candidate of providing services to residents in the district after the general election in an election year for the office held;

D. payment of advances of credit in a year after the year in which the advance was reported as an expenditure; and

E. payment of fines assessed by the board.

Subp. 3. **Reporting purpose of noncampaign disbursements.** Itemization of an expense which is classified as a noncampaign disbursement must include sufficient information to justify the classification.

## **211B.12 LEGAL EXPENDITURES.**

Use of money collected for political purposes is prohibited unless the use is reasonably related to the conduct of election campaigns, or is a noncampaign disbursement as defined in section 10A.01, subdivision 26. The following are permitted expenditures when made for political purposes:

- (1) salaries, wages, and fees;
- (2) communications, mailing, transportation, and travel;
- (3) campaign advertising;
- (4) printing;
- (5) office and other space and necessary equipment, furnishings, and incidental supplies;
- (6) charitable contributions of not more than \$50 to any charity annually; and
- (7) other expenses, not included in clauses (1) to (6), that are reasonably related to the conduct of election campaigns. In addition, expenditures made for the purpose of providing information to constituents, whether or not related to the conduct of an election, are permitted expenses. Money collected for political purposes and assets of a political committee or political fund may not be converted to personal use.