

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)**

RE: Noncampaign Disbursements Cost of Providing Food

ADVISORY OPINION 354

SUMMARY

A principal campaign committee may not classify the cost of providing food for staff of an elected official as a noncampaign disbursement.

FACTS

As a candidate with a principal campaign committee registered with the Campaign Finance and Public Disclosure Board (the Board), you ask for an advisory opinion based on the following facts:

1. You are an elected official of the state.
2. Your staff attended an annual training session that was several days in length.
3. This year staff participating in the training got together for an optional after hours “social get together”. At the event you had a program and discussed issues important to the office.
4. You used funds from your principal campaign committee to purchase food for the after training event. Because attendance at the event was optional you did not feel that paying for the food from office budget funds was appropriate.
5. You believed the event was important for staff morale given recent budget cuts and changes in office functions. You feel organizing and supporting the event was a part of your leadership responsibilities to your staff.

ISSUE ONE

Does the expenditure for food described in the facts of this advisory opinion qualify as a noncampaign disbursement?

OPINION


No. The funds available to a principal campaign committee are either donated to it for the purpose of electing a candidate or acquired from a public subsidy payment. Using committee funds for a purpose other than the nomination or election of a candidate must clearly meet one of the noncampaign disbursements defined in Minn. Stat. §10A.01, subd. 26, or provided for in Minnesota Rules 4503.0900. Neither statute nor administrative rule provide for the type of expenditure described in this request.

You suggest that providing the food for the after-work event was a part of providing leadership for your office. However, Minn. Stat. §10A.01, subd. 26 (8), which provides for payment of expenses incurred by the leadership of a legislative caucus, is not a viable categorization of the situation described in the request. While the leadership duties of your office may incur justifiable costs, the statutory language for this type of noncampaign disbursement is limited to legislative caucus leadership, and cannot be expanded by the Board to include other office holders.

Additionally you contend that the cost of providing the food was a cost of serving in office. Minn. Stat. §10A.01, subd. 26 (9), provides that the payment of costs incurred by elected candidates for serving in public office, if not for personal use of the candidate, may be classified as a noncampaign expenditure. In prior advisory opinions on noncampaign disbursements related to the cost of serving in office (see Advisory Opinions 314 and 346 issue 6) the Board has been unwilling to classify as noncampaign disbursements items that are not reasonably expected or required of a public official. The Board sees no reason to deviate from that standard in this opinion. It does not appear to be reasonably required or even expected that an elected official provide dinner for staff attending an after hours event.

If a cost incurred by a principal campaign committee cannot be classified as a noncampaign disbursement it must then be for one of the purposes provided in Minn. Stat. §211B.12. While this statute is outside of the Board's jurisdiction to interpret, the advisory request makes it clear that the purpose of the food was unrelated to the conduct of an election campaign. It is the Board's opinion that your committee should be reimbursed for the cost of the food.

Issued 2-25-04



Wil Fluegel, Chair
Campaign Finance and Public Disclosure Board

Cited Statutes and Administrative Rules

10A.01 DEFINITIONS.

Subd. 9. Campaign expenditure. "Campaign expenditure" or "expenditure" means a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question.

An expenditure 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.

An expenditure made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate.

Except as provided in clause (1), "expenditure" includes the dollar value of a donation in kind.

"Expenditure" does not include:

(1) noncampaign disbursements as defined in subdivision 26;

(2) services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee, political fund, principal campaign committee, or party unit; or

(3) the publishing or broadcasting of news items or editorial comments by the news media.

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.

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.

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. 2. [Repealed, 21 SR 1779]

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.