

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: Funds from a Principal Campaign Committee May Only be Used for
Conduct Related to a Political Campaign or for Specified Noncampaign
Disbursements.**

ADVISORY OPINION 362

SUMMARY

Principal campaign committee funds may only be used to pay for items and services that are related to a political campaign or that are for a specific noncampaign disbursement provided for in statute or administrative rule. Community events that a candidate participates in for purposes unrelated to the conduct of the campaign are not a “constituent service” and may not be paid for with principal campaign committee funds.

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, which were included in your request letter or verbally conveyed to Board staff:

1. In addition to being a candidate you are a performing musician and the leader of a band.
2. You have used your band as a mechanism to draw attention to your campaigns for state office. For example, the band has played in parades with a banner that identifies you as a candidate. On those occasions you have paid band members (but not yourself) with funds from your principal campaign committee and reported the cost as a campaign expenditure.
3. Your band is often asked to perform at community events. Examples of community events include civic ice cream socials, neighborhood celebrations, and as entertainment at city parks. Typically your band is not paid for playing at community events. However, you believe that your band members should be compensated for their time. You do not wish to be compensated for your time because you view the events as civic involvement.

4. During a noncampaign year and until adjournment of the legislature during a campaign year you have paid band members for playing at community events with funds from your principal campaign committee and reported the cost as a noncampaign disbursement. You have classified the payments as a noncampaign disbursement because you do not perform for the purpose of campaigning for reelection.
5. After adjournment of the legislature during a campaign year you have paid band members for playing at community events with funds from your principal campaign committee and reported the cost as a campaign expenditure. The nature of the community event and the purpose for your bands participation in the event does not change during a campaign year. However, you categorize the payments to band members as campaign expenditures because you are a candidate at the time you play at the events and may benefit politically from your band's participation.

ISSUE ONE

May you use principal campaign committee funds to pay your band members for playing at campaign events and classify the cost as a campaign expenditure?

OPINION

Yes. Minn. Stat. §10A.01, subd. 9, defines “campaign expenditure” in part as “...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..” The band is used as a mechanism to draw attention to the campaign and enhance campaign events. Payments to band members for playing at campaign events are a permitted use of campaign funds.

In most instances the cost of paying the band members to play at campaign events would be classified as a campaign expenditure. The exception is provided in Minn. Stat. §10A.01, subd. 26 (5), which states that the payment of costs associated with providing entertainment at a fund-raising event to benefit the candidate should be classified and reported as noncampaign disbursements.

ISSUE TWO

May you use principal campaign committee funds to pay your band members for playing at “community events” and classify the cost as a noncampaign disbursement?

OPINION

No. The funds of a principal campaign committee may only be used for the campaign purposes listed in Minn. Stat. §211B.12, or the list of noncampaign disbursements

provided in Minn. Stat. §10A.01, subd. 26, and Minnesota Rules 4503.0900. Of the permitted noncampaign disbursements the only classification that might be used to justify payments to band members for playing at events unrelated to the campaign is "services for a constituent". However, Minnesota Rules 4503.0100, Subp. 6, precludes that classification. This rule defines services for a constituent and provides in part that constituent services "...does not include gifts, congratulatory advertisements, charitable contributions, or similar expenditures."

It is the Board's view that when the band plays at community events without compensation it is providing a gift to the community. While providing the gift of music and entertainment to the community is laudable, it is not an activity that may be supported with principal campaign committee funds.

The Board notes that Minn. Stat. §211B.12 allows candidates to use funds from their principal campaign committee to make charitable contributions of not more than \$50 to any charity annually. If the community organizations are charitable organizations either registered as such with the Office of the Attorney General under Minn. Stat. § 309.52, or exempt from registration under Minn. Stat. § 309.515, your committee could pay up to \$50 per charity annually for band members to play at community events.

ISSUE THREE

May you use principal campaign committee funds to pay your band members for playing at "community events" and classify the cost as a campaign expenditure?

OPINION

No. As provided in the facts of this request the nature of the community events and the reason for your band's participation in the events does not change from non-election year to election year. While it may be that you will incidentally benefit from increased name recognition and good will for your band's participation in the community event, the purpose of the event remains nonpolitical. Almost all types of community activity, from coaching a child's soccer team to participation in religious services, provide name recognition and a certain amount of good will to the participant. A candidate cannot be expected to view all community activity as being for the purpose of seeking election and account for their participation as a campaign expenditure paid for with principal campaign committee funds.

Activities that may not be categorized as a campaign expenditure or a noncampaign disbursement must not be paid for with principal campaign committee funds. The candidate must reimburse the principal campaign committee for payments to band members for events unrelated to the conduct of the campaign.

Issued October 15, 2004



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.

4503.0100 DEFINITIONS.

Subp. 6. Services for a constituent; constituent services. "Services for a constituent" or "constituent services" means services performed or provided by an incumbent legislator or constitutional officer for the benefit of one or more residents of the official's district, but does not include gifts, congratulatory advertisements, charitable contributions, or similar expenditures.

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.