

**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: Costs of candidate recruitment and education**

**ADVISORY OPINION 404**

**SUMMARY**

Costs of candidate recruitment do not fall under the jurisdiction of Minnesota Statutes Chapter 10A. The value of a candidate school or a training clinic is a campaign contribution if provided to a candidate, but is not under the jurisdiction of Chapter 10A if provided to an individual who is not already a candidate.

**FACTS**

As the representative of a Minnesota membership-based association (“the Association”), you ask the Campaign Finance and Public Disclosure Board, (“the Board”), for an advisory opinion on behalf of the Association and its members (which are also associations) based on the following facts:

1. The Association is a Minnesota-based nonprofit corporation.
2. The Board takes notice of the fact that the Association supports members who share common interests and that it engages in lobbying activities to further the interests of its members.
3. The Association wishes to engage in the political process in Minnesota by recruiting and training candidates for local and state offices.
4. The Association has an associated political committee or fund that is registered with and reports to the Board. The Association is a supporting nonprofit corporation for this committee as permitted under Minnesota Statutes, Section 211B.15, subd. 17.
5. The Association has submitted three hypothetical situations, presented in the sections below, and asked the Board to issue its opinion regarding treatment of financial transactions associated with each hypothetical situation.

## **Hypothetical Number 1**

A candidate for the Minnesota legislature is invited to, and attends, an event sponsored by the Association and referred to by the Association as a “candidate school”. The event is promoted as an opportunity for candidates to hone public speaking, campaign organization, and other skills for the express purpose of aiding the candidate in a run for office. The value of attendance at the candidate school exceeds \$100. However, the school is offered free of charge and is open to the public.

### **Issue One**

What is the value of the campaign school described in the hypothetical for the purposes of Chapter 10A?

### **Opinion One**

A “contribution” is “money, a negotiable instrument, or a donation in-kind that is given to a political committee, political fund, principal campaign committee, or a party unit”. Minnesota Statutes, Section 10A.01, subd. 11. A donation in-kind is “anything of value that is given, other than money or negotiable instruments . . .” Minnesota Statutes, Section 10A.01, subd. 13.

Minnesota Statutes, Section 10A.20, subd. 3(b) provides that the recipient of a donation in-kind must report that donation at “its fair market value”. Minnesota Rules, Part 4503, subp. 3a, defines “fair market value” as “the amount that an individual would pay to purchase the same or similar service or item on the open market.”

The value of the subject campaign school is important both with respect to the threshold for reporting donations in-kind and with respect to determining whether the subject contribution may be made consistent with the requirements of Chapter 10A by an entity not registered with the Board.

The question is whether the proposal of the Association to make the campaign school “open and free to the public” results in the school having a fair market value of zero. In other words, has the Association placed this event “in the open market” in such a way that it is free and available to anyone?

The facts presented are insufficient to establish that the campaign school will be widely publicized and conducted with sufficient frequency or class sizes to conclude that it is being offered free in the open market. Based on the stated facts, the cost of the school exceeds \$100. For the purposes of this opinion, the Board considers the value of the school to be more than \$100. The requester may seek another opinion on the question of value of the school. Such a request should detail the advertising and promotion plan for the school; the dates it would be offered, and the number of people that can be accommodated as well as any other relevant details.

Thus, the Board assumes that, for the purpose of Chapter 10A and this opinion, admission to the campaign school has a value of more than \$100.

## **Issue Two**

Is the value of admission to the school described in the hypothetical a contribution to the principal campaign committee of the candidate who attends?

## **Opinion Two**

A “contribution” is “money, a negotiable instrument, or a donation in-kind that is given to a political committee, political fund, principal campaign committee, or a party unit”. Minnesota Statutes, Section 10A.01, subd. 11. A donation in-kind is “anything of value that is given, other than money or negotiable instruments . . .” Minnesota Statutes, Section 10A.01, subd. 13.

Based on the applicable statutes the provision of a campaign school is a donation in-kind and thus, a contribution, to the candidate. While the Board recognizes that there may be items, such as personal gifts, that could be given to a person who is a candidate and not be reportable under Chapter 10A, any item or benefit that may directly or indirectly influence the candidate’s ability to be nominated or elected falls within the scope of Chapter 10A. A campaign school is such an item.

In Issue One, the Board concluded that the value of attendance at the school exceeds \$100. Since the candidate is not paying for the school, the amount of the contribution is the value of attendance.

The Association is not registered with the Board and, thus, is prohibited from making a contribution of more than \$100 to a candidate. To avoid a violation of Minnesota Statutes, Section 10A.27, subd. 13, the candidate must pay for the campaign school or a political committee or fund, such as the Association’s affiliated political committee or fund, must pay the Association for it. In the latter case, the contribution is from the political committee or fund that paid the Association for the cost of the school.

## **Issue Three**

If an attendee of the campaign school is not a candidate at the time the individual attends the school but subsequently registers a principal campaign committee with the Board, does the value of attendance at the campaign school then become a contribution to the individual’s principal campaign committee?

## **Opinion Three**

Since the person receiving the benefit is not a “candidate” at the time of the transaction, the question is whether receipt of admission to the campaign school causes the recipient to become a candidate under Chapter 10A. If so, the recipient would be required to register with the Board and report the contribution on the candidate’s next Report of Receipts and Expenditures.

Minnesota Statutes, Section 10A.01, subd. 10, defines “candidate” as “an individual who seeks nomination or election as a state constitutional officer, legislator, or judge”. The statute goes on to say that “[a]n individual is deemed to seek nomination or election if the individual . . . has received contributions . . . in excess of \$100 . . . for the purpose of bringing about the individual’s nomination or election”.

The receipt of admission to a candidate school by an individual who might at some future time run for office, but is not already a candidate, is sufficiently remote in the process of “seek[ing] nomination or election” that it will not cause a non-candidate to become a candidate by operation of Section 10A.01, subd. 10.

Likewise, if the attendee himself or herself pays the cost of the campaign school, that payment will not make the attendee a candidate under Chapter 10A.

### **Hypothetical Number 2**

One or more of the Association’s members sponsors an event, which may or may not be co-sponsored by the Association itself. The event is a one-day clinic with sessions aimed at encouraging local activism on issues of concern to the Association and its members. The value of attendance at the clinic is more than \$100, however there is no cost to attendees.

Among the skills taught by the clinic’s faculty are public speaking, grassroots organizing, and fundraising. The clinic’s leaders expressly encourage attendees to get involved in local, state, and national political campaigns as volunteers or candidates for office. Faculty members do not expressly encourage attendees to file for a specific office. Following the clinic, an attendee decides to file as a candidate for the Minnesota Legislature.

### **Issue Four**

The attendee is not a candidate at the time of attendance at the clinic. Does the attendee’s subsequent registration of a principal campaign committee with the Board, even in close proximity to the date of the clinic, result in the value of the clinic being treated as a contribution to the subsequently formed principal campaign committee?

### **Opinion Four**

For the reasons stated in Opinion One, the Board considers the value of the clinic to be in excess of \$100.

The receipt of admission to the described clinic by an individual is sufficiently remote in the process of “seek[ing] nomination or election” that it will not cause a non-candidate to become a candidate by operation of Section 10A.01, subd. 10.

Likewise, if the attendee himself or herself pays the cost of the clinic, that payment will not make the attendee a candidate under Chapter 10A.

The fact that the attendee registers a principal campaign committee with the Board shortly after attending the clinic does not change the status of transactions that were not within the scope of Chapter 10A when they occurred.

The Board notes that the request does not seek advice under Hypothetical Two for the case where the attendee is already a candidate at the time of attending the clinic. The result in such a case would be the same as described in Opinion Two above.



## Statutory Citations

### 10A.01 DEFINITIONS.

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Subd. 10. **Candidate.** "Candidate" means an individual who seeks nomination or election as a state constitutional officer, legislator, or judge. An individual is deemed to seek nomination or election if the individual has taken the action necessary under the law of this state to qualify for nomination or election, has received contributions or made expenditures in excess of \$100, or has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$100, for the purpose of bringing about the individual's nomination or election. A candidate remains a candidate until the candidate's principal campaign committee is dissolved as provided in section 10A.24.

. . .

Subd. 11. **Contribution.** (a) "Contribution" means money, a negotiable instrument, or a donation in-kind that is given to a political committee, political fund, principal campaign committee, or party unit.

. . .

Subd. 13. **Donation in-kind.** "Donation in-kind" means anything of value that is given, other than money or negotiable instruments. An approved expenditure is a donation in-kind.

### 10A.071 CERTAIN GIFTS BY LOBBYISTS AND PRINCIPALS PROHIBITED.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Gift" means money, real or personal property, a service, a loan, a forbearance or forgiveness of indebtedness, or a promise of future employment, that is given and received without the giver receiving consideration of equal or greater value in return.

(c) "Official" means a public official, an employee of the legislature, or a local official of a metropolitan governmental unit.

Subd. 2. **Prohibition.** A lobbyist or principal may not give a gift or request another to give a gift to an official. An official may not accept a gift from a lobbyist or principal.

### 10A.20 CAMPAIGN REPORTS.

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Subd. 3. **Contents of report.**

. . .

(b) . . . A donation in-kind must be disclosed at its fair market value.

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## **10A.27 CONTRIBUTION LIMITS.**

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Subd. 13. **Unregistered association limit; statement; penalty.** (a) The treasurer of a political committee, political fund, principal campaign committee, or party unit must not accept a contribution of more than \$100 from an association not registered under this chapter unless the contribution is accompanied by a written statement that meets the disclosure and reporting period requirements imposed by section 10A.20. This statement must be certified as true and correct by an officer of the contributing association. The committee, fund, or party unit that accepts the contribution must include a copy of the statement with the report that discloses the contribution to the board. This subdivision does not apply when a national political party contributes money to its affiliate in this state.

(b) An unregistered association may provide the written statement required by this subdivision to no more than three committees, funds, or party units in a calendar year. Each statement must cover at least the 30 days immediately preceding and including the date on which the contribution was made. An unregistered association or an officer of it is subject to a civil penalty imposed by the board of up to \$1,000, if the association or its officer:

(1) fails to provide a written statement as required by this subdivision; or

(2) fails to register after giving the written statement required by this subdivision to more than three committees, funds, or party units in a calendar year.

(c) The treasurer of a political committee, political fund, principal campaign committee, or party unit who accepts a contribution in excess of \$100 from an unregistered association without the required written disclosure statement is subject to a civil penalty up to four times the amount in excess of \$100.

## **4503.0100 DEFINITIONS.**

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Subp. 3a. **Fair market value.** "Fair market value" means the amount that an individual would pay to purchase the same or similar service or item on the open market.