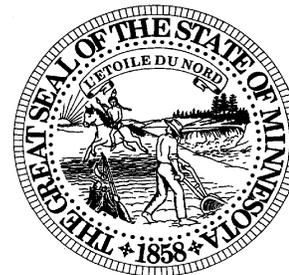


Minnesota

*Campaign Finance and
Public Disclosure Board*



**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)

Advisory Opinion 411

SUMMARY

Use of the noncampaign disbursement category for expenses of serving in office is not available to pay for home health care of a close relative while a public official is traveling. The Board declines to establish a new noncampaign disbursement category to permit the proposed use of principal campaign committee funds.

FACTS

As an elected public official, you ask the Board for an advisory opinion based on the following facts:

1. In your capacity as an elected public official, you are occasionally required to travel to participate in national meetings directly related to your service as a public official.
2. Attendance at these meetings may require you to be out of Minnesota for several days at a time.
3. You are the primary caregiver of a close family member who resides with you and who suffers from a condition that requires home health care when you are absent overnight.

You ask whether the costs of providing home health care for your family member when you are away on official business may be paid using campaign funds of your principal campaign committee.

OPINION

Funds of a candidate's principal campaign committee may be used for activities that are done for "political purposes", which means to influence the voting at an election. The exception to this general requirement is that principal campaign committee funds may also be used for noncampaign disbursements as defined in §10A.01, subd. 26. (Minn. Stat. §211B.12; §211B.01).

The only noncampaign disbursement that might apply to the facts presented is for:

"payment by a principal campaign committee of the candidate's expenses for serving in public office, other than for personal uses". (Minn. Stat. §10A.01, subd. 26(10)).

When interpreting Chapter 10A, the Board is guided by the same statutes that guide the courts when they interpret Minnesota statutes. The first canon of construction is that whenever possible, words and phrases should be given their plain meaning. If the words of the statute are unclear, the intent of the legislature controls.

The language of the noncampaign disbursement quoted above is clear. Its application is limited to "expenses of serving in public office" incurred by the office holder. Its use may not be extended to expenses for "personal uses".

On previous occasions when the Board has reviewed this exception, it has stated that the noncampaign disbursement applies to costs "directly related to" service in office. (Advisory Opinion 255). The Board has also said that the noncampaign disbursement is for "ordinary and reasonable expenses of those activities that are expected or required of a public official or that enhance the official's ability to serve". (Advisory Opinion 314). The Board is of the opinion that a close link between the expense and the official's service is required for use of this noncampaign disbursement.

Every office holder incurs various personal costs as a result of serving in office. These costs may range from loss of income from a job to the need to pay others to take care of obligations that the office holder does not have the time to attend to. Such costs are only indirectly related to the official's public service and are not the ordinary expenses that are expected or required of all officials.

Even if it were to conclude that the language of the statute is insufficiently clear, the Board would still conclude that the noncampaign disbursement exception does not apply to the facts presented.

When attempting to ascertain legislative intent, §645.17 requires that it must be presumed that the legislature intends to favor the public interest as against any private interest. Section 645.16 requires considering the consequences of a particular interpretation of a statute.

The Board recognizes that money received by principal campaign committees consists of donations, primarily from citizens. In the past, these donations were partly refunded to donors through the political contribution refund program, with the result that public money was substituted for individual donations. The public interest suggests that the Board should be cautious in allowing the extension of noncampaign disbursements to expenses not clearly established by the legislature.

STATUTORY CITATIONS

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:

. . .

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

(11) costs of child care for the candidate's children when campaigning;

. . .

211B.01 DEFINITIONS.

Subdivision 1. **Application.** The definitions in chapter 200 and this section apply to this chapter.

. . .

Subd. 6. **Political purposes.** An act is done for "political purposes" when the act is intended or done to influence, directly or indirectly, voting at a primary or other election. This does not include news items or editorial comments published or broadcast by the news media.

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 \$100 to any charity organized under section 501(c)(3) of the Internal Revenue Code annually, except that the amount contributed by a principal campaign committee that dissolves within one year after the contribution is made is not limited by this clause; 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.

645.08 CANONS OF CONSTRUCTION.

In construing the statutes of this state, the following canons of interpretation are to govern, unless their observance would involve a construction inconsistent with the manifest intent of the legislature, or repugnant to the context of the statute:

- (1) words and phrases are construed according to rules of grammar and according to their common and approved usage; but technical words and phrases and such others as have acquired a special meaning, or are defined in this chapter, are construed according to such special meaning or their definition;

645.16 LEGISLATIVE INTENT CONTROLS.

The object of all interpretation and construction of laws is to ascertain and effectuate the intention of the legislature. Every law shall be construed, if possible, to give effect to all its provisions. When the words of a law in their application to an existing situation are clear and free from all ambiguity, the letter of the law shall not be disregarded under the pretext of pursuing the spirit. When the words of a law are not explicit, the intention of the legislature may be ascertained by considering, among other matters:

- (1) the occasion and necessity for the law;
- (2) the circumstances under which it was enacted;
- (3) the mischief to be remedied;
- (4) the object to be attained;
- (5) the former law, if any, including other laws upon the same or similar subjects;
- (6) the consequences of a particular interpretation;
- (7) the contemporaneous legislative history; and
- (8) legislative and administrative interpretations of the statute.

645.17 PRESUMPTIONS IN ASCERTAINING LEGISLATIVE INTENT.

In ascertaining the intention of the legislature the courts may be guided by the following presumptions:

- (1) the legislature does not intend a result that is absurd, impossible of execution, or unreasonable;
- (2) the legislature intends the entire statute to be effective and certain;
- (3) the legislature does not intend to violate the Constitution of the United States or of this state;
- (4) when a court of last resort has construed the language of a law, the legislature in subsequent laws on the same subject matter intends the same construction to be placed upon such language; and
- (5) the legislature intends to favor the public interest as against any private interest.