



Ohio Elections Commission

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January 26, 2012

Ohio Elections Commission Advisory Opinion 2012ELC-02

SYLLABUS: The use of the Ohio Political Party Fund for the payment by the party for website design\setup\hosting\name expenditure and any other reasonably related fees\charges that may be incurred for the work on the website is considered a reasonable and proper expenditure from the Fund.

To: Amy Grubbe
Chair
Erie County Democratic Party

You have requested an advisory opinion on a question concerning Ohio campaign finance law. The essential question posed to the Commission is as follows:

May the use of the Restricted Funds [the Ohio Political Party Fund] for the payment of a website design\setup\hosting\name and any other fees\charges that may be incurred be considered a reasonable and proper expenditure?

The Ohio Political Party Fund (the Fund) is established in Ohio Revised Code §3517.16. Monies from the fund are distributed to the major state and county political parties pursuant to R. C. §3517.17 and imitations on the use of the fund are outlined in R.C. §3517.18. Specifically, R.C. §3517.18(A)(1) states that the Fund may be used for

defraying of operating and maintenance costs associated with political party headquarters, including rental or leasing costs, staff salaries, office equipment and supplies, postage, and the purchase, lease, or maintenance of computer hardware and software.

In previous opinions, Ohio Elections Commission Advisory Opinions 88-03 and 89-01, the Commission addressed the usage of these funds as it related to the establishment of a physical headquarters for a political party. In opinion 88-03, the Commission identified a party headquarters as a place that is “the party’s usual or chief place for managing the affairs of the party”. In opinion 89-01, The Commission relied on this opinion but went on to expand on the use of the

term “directly” as it is used in R.C. §3517.18(B)(1). In the context of that opinion, the Commission stated that

The general assembly included the word “directly” in R.C. 3517.18(B)(1) in recognition of the fact that the operation and maintenance costs associated with a political party headquarters oftentimes indirectly benefit candidates. It appears, therefore, that the general assembly intended to allow such costs to be paid from the Ohio Political Party Fund moneys.

Along with headquarters expenses, another use of the Fund allowed by the terms of R.C. §3517.18(A)(1) is for the “purchase, lease, or maintenance of computer hardware and software”. When these provisions were enacted in 1987, a computer, with its incorporated software, was essentially a stand-alone object for which there was no interconnectivity much less websites, web hosting or any other type of social media that is in vogue today and available around the globe. To state that the statutory scheme has not kept pace with technological advances is a gross understatement. The challenge for the Commission is to offer advice on the statutory intent of aging legislation while reflecting today’s technological environment.

At the time that these statutes were enacted, a person had essentially two options for getting information on a political party and a party website was not either one. A person could make a telephone call to the headquarters and hear a verbal answer to whatever inquiry the caller posed in the telephone call. The second option was to travel to the physical headquarters of the party. Upon doing so, a person could hear a verbal answer to whatever inquiry was posed, similar to the telephone call. Alternatively a person could receive brochures, pamphlets or any other type of printed materials that a party could offer, including materials for an individual candidate (whether on the ballot or not) or, possibly, for a ballot issue if the party endorsed that particular issue. The party headquarters to which the person travelled could have been paid for by the Fund, under the terms of R.C. §3517.18(A)(1), since it was not considered a ‘direct’ benefit to an individual candidate or issue, pursuant the terms of R.C. §3517.18(B)(1).

In the current environment, a website can, and does, perform a function that is no different than an actual physical location. In lieu of travelling to the party’s headquarters a person can make an electronic ‘trip’ to a party’s website, browse it for information concerning the party in general, or potentially log into a message board and have pertinent questions answered about the party. Considering that a person could get information regarding individual candidates

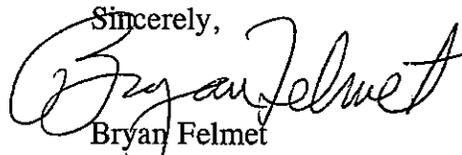
or issues at a headquarters, it is certainly feasible that such could also be obtained either at the website, or through links to a candidate's website, no different than picking up the most recent brochure that a candidate has produced and left at the headquarters. In today's environment, a party's website can act as the technological equivalent to a party's physical headquarters in that it is the "chief place for managing the affairs of the party" on the internet.

As previously referenced, R.C. §3517.18(B)(1)(a) limits the use of the Fund to "influence directly the outcome of any candidate or issue election". (Emphasis added) Since the physical headquarters can offer such information, as long as there is no 'direct' benefit to an individual candidate or ballot issue as directed by the statute, it is certainly logical that a website, presented as a software program on a physical computer of the party, is an allowable expenditure pursuant to the terms of R.C. §3517.18(A)(1).

No different than a headquarters, however, the expenditure from the Fund is only appropriate so long as there is no 'direct' benefit. As the Commission went on to state in opinion 89-1 as it related to headquarters expenditures, "if the sole purpose ... is to serve as a joint campaign office for the party's candidates, the Ohio Political Party Fund moneys may not be used ..." So here in this situation also, any expenditure from the Fund to defray costs related to a party website would be improper if the website were "to serve as a joint campaign [website]." The general assembly included the term "directly" into the wording of the statute for a reason and it is imperative that any expenditure otherwise allowed by this opinion must only 'indirectly' benefit any individual candidate or ballot issue.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that the use of the Ohio Political Party Fund for the payment by the party for website design\setup\hosting\name expenditure and any other reasonably related fees\charges that may be incurred for the work on the website is considered a reasonable and proper expenditure from the Fund.

Sincerely,



Bryan Felmet
Chair