

ETHICAL PRACTICES BOARD

First Floor South, Centennial Building . 658 Cedar Street . St. Paul, MN 55155-1603

The following publication does not identify the requester of the advisory opinion, which is nonpublic data under Minn. Stat. § 10A.02, subd. 12(b)

RE: Allocation of campaign expenditures and noncampaign disbursements

ADVISORY OPINION # 225

SUMMARY

Where a candidate's end of session report includes a fundraising component and a constituent services component, the cost of production and distribution of the piece must be allocated between campaign expenditures and noncampaign disbursements on a reasonable basis. It is reasonable to allocate production costs of a single piece on the basis of the percentage of each component making up the piece. Where distribution costs are not directly related to the size of the piece, it is reasonable to allocate those costs in proportion to the cost of distributing each component separately.

FACTS

As a candidate with a principal campaign committee, you request an advisory opinion from the Ethical Practices Board based on the following facts provided in your request or conveyed by you to Board staff:

1. Your principal campaign committee has produced a 1995 end-of-session report which includes a fundraising solicitation.
2. The report is one 25 1/2" by 11" sheet printed in two colors on both sides and tri-folded to make six 8 1/2" by 11" pages. The front and back of the page which folds to the inside consists of fundraising material. The other four pages contain articles about your votes on legislation, your work on various issues, and similar matters.
3. Your committee distributed the report to your constituents by having it inserted into a local "shopper" publication which is distributed free to residents in your

district. Your committee's cost for this distribution was 4 cents per insertion. The cost would have been the same whether the report had been 2, 4, or 6 pages.

ISSUE

May the costs of production and distribution of your 1995 year-end report and fundraising solicitation be allocated between noncampaign disbursements and campaign expenditures for reporting purposes?

OPINION

Yes, in the case of the particular publication which you present, the costs of publication and distribution may be allocated between campaign expenditures and noncampaign disbursements.

One-third of the cost of production and one-half of the cost of distribution of the report should be allocated to campaign expenditures. Two-thirds of the cost of production and one-half of the cost of distribution should be allocated to noncampaign disbursements.

The report consists of two components: four pages of information to constituents and two pages of fundraising materials.

Pursuant to Minn. Stat. § 10A.01, subd. 10c (f), the costs of constituent services performed prior to adjournment sine die (final adjournment in the second year of the biennium) are noncampaign disbursements. While certain costs of fundraising events are noncampaign disbursements, the costs of producing and distributing fundraising materials are campaign expenditures as defined in Minn. Stat. § 10A.01, subd. 10.

When a publication includes both constituent services information and fundraising materials, in distinctly separate sections, the costs of production and distribution of the material must be allocated on a reasonable basis between noncampaign disbursements and campaign expenditures.

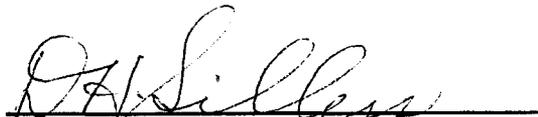
Where the publication is produced as a single piece, and the style and design of the entire piece is consistent, the cost of production is generally proportional to the size of the piece. Therefore, it is reasonable to allocate the cost of production in proportion to the percentage of the publication which falls into each category. In the case of your publication, one-third is fundraising material and thus, one-third of the cost of production must be reported as a campaign expenditure and two-thirds as a noncampaign disbursement.

The cost of distribution of the report must also be allocated on a reasonable basis. However, distribution costs are often not closely related to the size of the piece. In the case of your

report, the cost to separately distribute the constituent services portion would be equal to the cost to separately distribute the fundraising piece.

Where the distribution cost of a piece is not directly related to its size, the distribution costs should be allocated between the components in proportion to what the cost would have been to distribute each component separately. In the case of your report, you should allocate one-half of the distribution cost to noncampaign disbursements and one-half to campaign expenditures.

Issued: 1/26/96


Douglas H. Sillers, Chair
Ethical Practices Board

CITED STATUTES

10A.01 DEFINITIONS

Subd. 10. **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.

Expenditure does not include:

- (a) Noncampaign disbursements as defined in subdivision 10c;

Subd. 10c. **Noncampaign disbursement.** "Noncampaign disbursement" means a purchase or payment of money or anything of value made, or an advance of credit incurred, by a political committee, political fund, or principal campaign committee for any of the following purposes:

- (f) 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;