

State of Minnesota
Campaign Finance & Public Disclosure 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 NON-PUBLIC DATA
under Minn. Stat. § 10A.02, subd. 12(b)

RE: Definition of first time candidate.

ADVISORY OPINION 322

SUMMARY

First time candidate status is lost if the candidate has previously received contributions or made expenditures in excess of \$100 for an office whose territory contains more than one third of the population of the office currently sought.

FACTS

As a candidate for the office of state senate, you ask the Campaign Finance and Public Disclosure Board (the Board) for an advisory opinion based on the following facts:

1. You are a candidate for the office of state senate, and have registered a principal campaign committee with the Board for that office. The Public Subsidy Agreement filed for that office identifies you as a first time candidate.
2. In 1998 you registered a principal campaign committee for a house seat that represents more than 1/3 of the population in the territory for the office you are currently seeking. The Public Subsidy Agreement filed for that office identifies you as a first time candidate.
3. The previous committee (referred to herein as the "House Committee) filed with the Board on March 9th, 1998. For calendar year 1998 the House Committee raised \$1440 in contributions and disbursed \$235.31 on campaign expenditures.
4. The House Committee terminated on April 27th, 2000.

5. You did not receive the party endorsement for the house seat in 1998. You did not file for the office, therefore your name did not appear on either the primary or general election ballot.

ISSUE

If an individual did not file for office and did not appear on the primary or general election ballot, were they a "candidate" for purposes of determining eligibility for the 10% increase in the expenditure limit given to first time candidates?

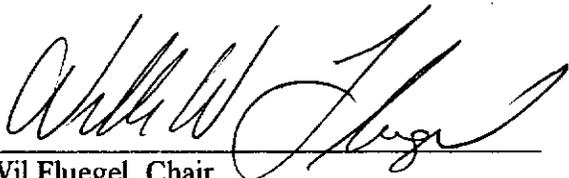
OPINION

Yes, an individual who seeks nomination or election to an office without appearing on the ballot may be a "candidate" for purposes of determining first time candidate eligibility.

Minn. Stat. § 10A.01 subd. 10, defines "candidate" for the purposes of Chapter 10A. It defines a candidate as an individual who seeks nomination or election as a constitutional officer, legislator, or judge. An individual is deemed to seek nomination or election to an office if they have received contributions or made expenditures in excess of \$100. In the previous House campaign, your House Committee exceeded the \$100 limit in both contributions and expenditures. Because that House seat contains territory with more than one third of the population of the Senate seat you now seek, you do not qualify as a first time candidate and are not eligible to receive a 10% increase in your expenditure limit under the provisions of Minn. Stat. § 10A.25, subd. 2(d).

Issued

Sept 21, 2000



Wil Fluegel, Chair
Campaign Finance and Public Disclosure Board

Cited Statutes and Rules

Minn. Stat. §10A.01 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.

Minn. Stats. § 10A.25 Subd. 2. Amounts. (a) In a year in which an election is held for an office sought by a candidate, the principal campaign committee of the candidate must not make campaign expenditures nor permit approved expenditures to be made on behalf of the candidate that result in aggregate expenditures in excess of the following:

- (1) for governor and lieutenant governor, running together, \$1,626,691;
- (2) for attorney general, \$271,116;
- (3) for secretary of state and state auditor, separately, \$135,559;
- (4) for state senator, \$40,669;
- (5) for state representative, \$20,335.

(b) In addition to the amount in paragraph (a), clause (1), a candidate for endorsement for the office of lieutenant governor at the convention of a political party may make campaign expenditures and approved expenditures of five percent of that amount to seek endorsement.

(c) If a special election cycle occurs during a general election cycle, expenditures by or on behalf of a candidate in the special election do not count as expenditures by or on behalf of the candidate in the general election.

(d) The expenditure limits in this subdivision for an office are increased by ten percent for a candidate who is running for that office for the first time and who has not run previously for any other office whose territory now includes a population that is more than one-third of the population in the territory of the new office.