

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: Mailings to members of an organization for the purpose of influencing the nomination or election of a candidate is a campaign expenditure that must be made through a political committee.

ADVISORY OPINION 342

SUMMARY

A mailing to members of an association that supports a legislator and announces that the legislator received an award for his voting history is a campaign expenditure that influences the nomination or election of the legislator. This is true even if the award is based on a ranking of legislative voting that is not in itself intended to influence the outcome of an election.

FACTS

As the State Director for an association, and the treasurer for a registered political committee, you ask the Campaign Finance and Public Disclosure Board (the Board) for an advisory opinion based on the following facts:

1. The association does not provide administrative support to the registered political committee, but the organizations are associated.
2. The association rates voting records for Minnesota legislators, and may issue awards to legislators based on their voting record. The association would like to do a mailing (example attached to request) to members of the association announcing that certain legislators have, based on their voting record, received an award. The mailing will be legislative district specific, so that only members who reside in the district of a legislator(s) receiving an award will receive the mailing.

3. The political committee endorses candidates, and sends mailings to members announcing endorsed candidates. The political committee has considered these mailings campaign expenditures and reports them as such to the Board.

ISSUE ONE

If the association sends some or all of its members the example announcement of a legislator earning an award from the association, is the cost of the mailing a campaign expenditure?

OPINION

In the example provided to the Board, members of the organization learn from the mailing that a legislator has earned the award based on their voting record over the last two years. The mailing goes on to extol the understanding the legislator has of the role of the association in the Minnesota economy, and to explain that the legislator is a good friend of the association and a real supporter of the association.”

The award given to the legislator, the listing of the positive qualities of the legislator, and that the mailing announcing the award is sent by district to members who can vote for the legislator goes beyond merely announcing an informational scorecard of legislative voting history. Using the example provided by the association, the Board concludes that the mailing would be a campaign expenditure that must be paid with political committee funds.

The Board recognizes that many organizations wish to evaluate the voting record of legislators against an ideal voting record as defined by the organization. Legislative “scorecards” that track and rank the voting records of legislators are assumed to be educational in nature if presented as factual information to members of the organization, or to the general public at large. However, the inclusion of the legislative scorecard, or any other educational information, does not make a mailing immune from classification as a campaign expenditure if other material or statements in the mailing have the clear purpose of influencing the nomination or election of a candidate.

ISSUE TWO

May an association send out letters, newsletters, or other publications to members only, reporting on a lawmakers past voting performance as measured against the association’s rating criteria, and not have it counted as a political committee expenditure?

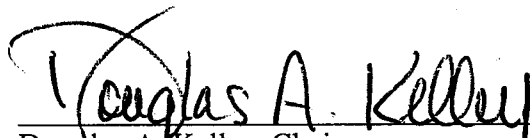
OPINION

Providing a legislative scorecard that contains information on the voting record of members of the legislator when compared to an ideal voting record as defined by an

association is not necessarily a campaign expenditure. An association may have purposes that are not campaign related to inform its membership of legislative voting records.

When the legislative scorecard is used as a tool, or part of an overall effort, to influence the nomination or election of a candidate, it becomes a campaign expenditure as defined in Minn. Stat. §10A.01, subd. 9. Campaign expenditures must be made through a registered political committee.

Issued 8/28/02



Douglas A. Kelley, Chair
Campaign Finance and Public Disclosure Board

Cited Statutes

10A.01 DEFINITIONS.

Subd. 9. **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.

An expenditure is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

An expenditure made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate.

Except as provided in clause (1), "expenditure" includes the dollar value of a donation in kind.

"Expenditure" does not include:

- (1) noncampaign disbursements as defined in subdivision 26;
- (2) services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee, political fund, principal campaign committee, or party unit; or
- (3) the publishing or broadcasting of news items or editorial comments by the news media.

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.

Subd. 3. Exceptions.

(a) The prohibitions in this section do not apply if the gift is:

(1) a contribution as defined in section 10A.01, subdivision 11;

(2) services to assist an official in the performance of official duties, including but not limited to providing advice, consultation, information, and communication in connection with legislation, and services to constituents;

(3) services of insignificant monetary value;

(4) a plaque or similar memento recognizing individual services in a field of specialty or to a charitable cause;

(5) a trinket or memento of insignificant value;

(6) informational material of unexceptional value; or

(7) food or a beverage given at a reception, meal, or meeting away from the recipient's place of work by an organization before whom the recipient appears to make a speech or answer questions as part of a program.

(b) The prohibitions in this section do not apply if the gift is given:

(1) because of the recipient's membership in a group, a majority of whose members are not officials, and an equivalent gift is given to the other members of the group; or

(2) by a lobbyist or principal who is a member of the family of the recipient, unless the gift is given on behalf of someone who is not a member of that family.