



## Ohio Elections Commission

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October 31, 2013

### Ohio Elections Commission

#### Advisory Opinion

2013ELC-02

**SYLLABUS:** It is appropriate for a candidate to make a charitable contribution from his or her campaign funds, pursuant to Ohio Revised Code §3517.08(G), to a 501(c) organization on which the candidate serves as a volunteer member of the organization's Board of Directors, so long as no beneficiary of the campaign fund from which the contribution is made, or any other person, as prohibited by the provisions of R.C. §3517.13(O) et seq., does not convert for personal use or receive any benefit from the contribution, not limited to compensation, reimbursement for expenses, or anything of value that may result from that contribution.

**To:** Kevin Boyce

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

Is it appropriate for a candidate to make a charitable contribution from his or her campaign committee, pursuant to Ohio Revised Code §3517.08(G), to a 501(c) organization on which the candidate serves as a volunteer member of the organization's Board of Directors?

Ohio Revised Code §3517.08(G) states as follows

An expenditure for the purpose of a charitable donation may be made if it is made to an organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code ...

This advisory opinion does not address the fact that the charitable contribution is being made pursuant to R.C. §3517.08(G). The above provision specifically allows for the contribution. The concern of the Commission, and this advisory opinion, addresses the relationship that the candidate has as a member of the Board of Directors of the 501(c) that is the recipient of the contribution.

The prohibition contained in R.C. §3517.13(O) states that “(n)o beneficiary of a campaign fund or other person shall convert for personal use ... anything of value from the beneficiary’s campaign fund ...” There is no conflict between the provisions of R.C. §3517.08(G) that allows for the contribution and the provisions in R.C. §3517.13(O) et seq., that restricts the use of campaign funds for personal use. The Commission believes it is necessary, however, to address the prohibitions of R.C. §3517.13(O) et seq. to assure the appropriate use of campaign funds.

In the situation that outlined in your advisory opinion request, you indicate that you are a volunteer participant on the Board of Directors of an organization that provides scholarships for certain central Ohio students. You further indicate that, along with receiving no compensation for this position, you also do not receive any reimbursement of expenses that you may incur. Presumably then, any contribution made from your campaign funds to the 501(c) organization will flow directly to the intended scholarship recipients. Your particular situation would appear to be an appropriate use of campaign funds in consideration of the prohibitions in R.C. §3517.13(O) et seq.

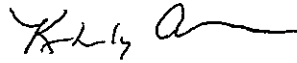
However, any situation in which a charitable contribution is made for which there might be any benefit to the ‘beneficiary’ of a campaign fund, regardless of the allowances in R.C. §3517.08(G), cannot be tolerated.

The concern of the Commission in this scenario, and other similar situations, is the potential abuse of the allowance contained in R.C. §3517.08(G), where the ‘beneficiary’ of the campaign fund may convert for personal use a contribution to a 501(c) organization. A board member who is compensated or receives anything of value from the recipient organization would be prohibited from making a contribution such as this. Further, the prohibitions in R.C. §3517.13(O) et seq. includes not only a beneficiary, which is an extremely broad term, but also includes ‘any other person’. Thus, the Commission states that no contribution can be allowed to a recipient 501(c) organization under the provisions of R.C. §3517.08(G) as long as the candidate, any family member (no matter how distant the relationship may be), or any other person (emphasis added) may convert for personal use or potentially benefit from this contribution so long as the beneficiary of the campaign funds has a relationship with the recipient of the contribution.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that it is appropriate for a candidate to make a charitable contribution from his or her campaign funds, pursuant to Ohio Revised Code §3517.08(G), to a 501(c) organization on which the candidate serves as a volunteer member of the organization’s Board of Directors, so long as no beneficiary of the campaign fund from which the contribution is made, or any other person, as prohibited by the provisions of R.C. §3517.13(O) et seq., does not convert for personal

use or receive any benefit from the contribution, not limited to compensation , reimbursement for expenses, or anything of value that may result from that contribution.

Sincerely,

A handwritten signature in black ink, appearing to read "Kimberly Allison", with a long horizontal flourish extending to the right.

Kimberly Allison  
Chair