



## Ohio Elections Commission

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March 10, 2016

### Ohio Elections Commission Advisory Opinion 2016ELC-03

**SYLLABUS:** The Ohio Elections Commission will consider a Political Contributing Entity (PCE) as sufficiently similar to a Political Action Committee (PAC) as to obligate the PCE to conduct its activities in a manner consistent with Ohio's campaign finance laws and the opinions of this Commission that are applied to a PAC, and that it is permissible for an Ohio PCE to use a portion of its funds to purchase software, primarily a product called Phone 2 Action.

To: Lori Chovanak, MN, APRN-BC  
Ohio Nurses Association

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

Can the Ohio Nurses Association Political Contributing Entity use monies to purchase software, primarily a product called Phone 2 Action?

To date, the Commission has only addressed the Ohio political organization identified as a Political Contributing Entity (PCE) on one occasion. In advisory opinion 2000ELC-02, shortly after the PCE was created as a legal entity, the Commission established parameters for certain contributions that a PCE could receive. Aside from including the statutory definition of a PCE, however, that opinion did not further address the nature of a PCE.

While different by definition, for political activity and reporting purposes in the state of Ohio, a PCE is essentially treated in a manner similar to that of a Political Action Committee (PAC). A PCE is created upon the submission of a form 30-D (Designation of Treasurer form) to the appropriate filing office, just as a PAC or a candidate campaign committee would file. Reports are due, based on the nature and level of activity, on the same schedule as a PAC would be expected to file reports and use the same forms (30-A [Cover Sheet], 31-A [Statement of Contributions], 31-B [Statement of Expenditures], etc.). Therefore, the Commission believes that it is appropriate to consider a PCE to be the equivalent of a PAC under Ohio's campaign finance laws and that it is

appropriate for the Commission to look to previous opinions that apply to PACs as a guide toward giving direction to PCEs in general, and to this situation in particular.

In Ohio Elections Commission Advisory Opinion 2012ELC-03, the Commission equated PACs and campaign committees as it relates to both contributions and expenditures. The Commission went on to state that it “logically follows that all of the provisions concerning the expenditure of funds by a campaign committee must also be applied to PACs.”

In addition, the Commission went on to state that while a

PAC does not have an individual for whom it is responsible ... (a) PAC is more closely related to an issue, public policy or a philosophy and the PAC’s interest in this philosophy will often extend well beyond any single election or any particular activity that would “influence the result of any election”.

These same conclusions must be applied to PCEs.

As with a PAC, a PCE does not exist for the benefit of a ‘beneficiary’ (i.e. a candidate). Similar to the concept of “issue, public policy or philosophy” for which a PAC may exist as stated in 2012ELC-03, a PCE may exist for the benefit of a specific organization or association. Also similar to a PAC, the interests of PCE’s organization or association may extend beyond a particular election. As with the Commission’s approach in 2012ELC-03, an expenditure of PCE funds that will benefit the ongoing organization or association is an appropriate use of the PCE’s funds

In Commission Advisory Opinion 2012ELC-03, the Commission approved the use of PAC funds for an expenditure toward the procurement of the services of a registered lobbyist. It held that there is “a logical nexus between the ongoing existence of the PAC and the possibility of the PAC hiring a registered lobbyist to urge the PAC’s issue, public policy position or philosophy”. Similarly in this scenario, there is a “logical nexus” in the benefits to the PCE in purchasing software that allows the organization to properly represent the interests of its constituents so that its members can effectively reach out to policy makers on behalf of the association.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that the Ohio Elections Commission will consider a Political Contributing Entity (PCE) as sufficiently similar to a Political Action Committee (PAC) as to obligate the PCE to conduct its activities in a manner consistent with Ohio’s campaign finance laws and the

opinions of this Commission that are applied to a PAC, and that it is permissible for an Ohio PCE to use a portion of its funds to purchase software, primarily a product called Phone 2 Action.

Sincerely,

A handwritten signature in blue ink that reads "Helen Balcolm". The signature is written in a cursive style with a large initial 'H'.

Helen Balcolm  
Chair