

September 19, 1988



Ohio Elections Commission
State Office Tower, 14th Floor
Columbus, Ohio 43266-0418
(614) 466-2585

ADVISORY OPINION NO. 88-3

Syllabus: Moneys from the Ohio Political Party Fund may be used to defray the costs associated with a permanent or temporary political party headquarters, but only to the extent that such costs, in whole or part, are unrelated to furthering the election or defeat of a candidate or group of candidates or influencing directly the outcome of any candidate or issue election.

To: Mrs. Fanchion Finney, Treasurer, Erie County Republican Party

You have requested an opinion on the following:

May the Erie County Republican Party use moneys received from the Ohio Political Party Fund for a temporary headquarters from September 1, 1988 through November 8, 1988?

You have indicated that the Erie County Republican Party desires to establish a temporary party headquarters from September 1, 1988, through November 8, 1988. The party desires to use moneys from the Ohio Political Party Fund to pay for the rent and utilities of such office and for installation and rental of telephones for a phone bank. The office will also be used to distribute Republican candidates' materials.

Division (A) of R.C.3517.18 sets forth the sole purposes for which moneys from the Ohio Political Party Fund may be used. R.C.3517.18(A)(1) provides that such funds may be used for:

The defraying of operating and maintenance costs associated with political party headquarters, including rental or leasing costs, staff salaries, office equipment and supplies, postage, and the purchase, lease, or maintenance of computer hardware and software.

It is well settled that public funds may only be disbursed by clear authority of law, and when there is doubt as to the right to expend public moneys, the doubt must be resolved in favor of the public and against the grant of authority. State ex rel. Locker v. Menning, 95 Ohio St. 97 (1916).

It is equally well settled that public funds may not be used to assist a private enterprise, but must serve a public purpose. See, Ohio Const. art. III, sec. 4. In apparent adherence to this constitutional limitation, the Ohio General Assembly set forth in division (B) of R.C.3517.18 prohibitions on the use of such moneys. Unlike the specific purposes authorized by division (A), the prohibitions in division (B) are general in nature. R.C.3517.18(B)(1) and (2) provide that moneys from the Ohio Political Party Fund shall not be used:

- (1) To further the election or defeat of any particular candidate or to influence directly the outcome of any candidate or issue election;
- (2) To pay party debts incurred as the result of any election.

Division (B) serves as a limitation upon the scope of the categories of permissible purposes set forth in division (A). By its inclusion, the General Assembly sought to insure that the public purposes, such as encouraging voter registration and participation, to be served by the use of these public funds could not be turned to partisan political advantage. It should be noted that the General Assembly carefully inserted the word "directly" in connection with influencing the outcome of elections, but made no such distinction with respect to promotion of the election or defeat of particular candidates. This is a recognition of the fact that activities such as voter registration and GOTV indirectly influence elections. However, so long as they are conducted so as not to affect the outcome of particular candidate or issue elections, they serve a public purpose. On the other hand, any use of Ohio Political Party Fund moneys to directly or indirectly further the election or defeat of a particular candidate is prohibited. Furthering the election or defeat of a particular candidate includes furthering the election or defeat of more than one particular candidate. See, R.C.1.43(A).

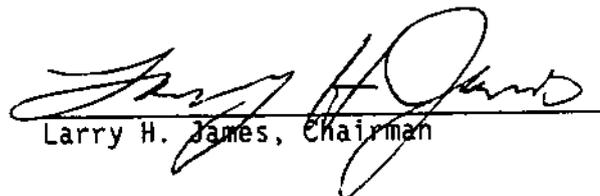
Having set forth the general principles that guide decisions regarding the use of Ohio Political Party Fund moneys, attention is now turned to the specific request. In order to determine the permissibility of expenditures associated with a party headquarters, the term "headquarters" must be defined. While this term is not defined in the Ohio Revised Code, it is defined in Webster's as "a chief or usual place of business; the administrative center of an enterprise". Webster's Third New International Dictionary (Unabridged 1971). The term "party headquarters", therefore, refers to the party's usual or chief place for managing the affairs of the party. This may be a temporary or permanent location.

While moneys from the Ohio Political Party Fund may be used to defray operating and maintenance costs associated with a party headquarters, they may not be used to defray costs associated with furthering the election or defeat of particular candidates or influencing directly the outcome of any candidate or issue election. Obviously, one function of a political party is to provide support for its candidates. Therefore, many general party headquarters expenses, such as for rent, utilities, equipment, and staff, will relate in part to providing support to the party's candidates. In such instances, the expenses may be proportioned and Ohio Political Party Fund moneys may be used to pay for the portion of the expense that does not relate to promoting the election or defeat of particular candidates or to influencing directly the outcome of any election. However, a political party headquarters expense incurred for the specific benefit of one or all of the parties' candidates, such as a phone bank or party sample ballot, may not be paid from such funds.

The activities planned for the Erie County Republican Party headquarters, as presented in your letter, appear to relate solely to directly influencing the upcoming November 8, 1988, election, i.e., distribution of candidate materials and use of a campaign phone bank. Under this set of facts, the expenses of operating the office are not payable from Ohio Political Party Fund moneys.

For the reasons stated herein, it is the opinion of the Ohio Elections Commission that moneys from the Ohio Political Party Fund may be used to defray the costs associated with a permanent or temporary political party headquarters, but only to the extent that such costs, in whole or part, are unrelated to furthering the election or defeat of a candidate or group of candidates or influencing directly the outcome of any candidate or issue election.

APPROVED:



Larry H. James, Chairman

0463E