



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

October 2, 1989

ADVISORY OPINION NO. 89-5

- Syllabus:
1. A prospective candidate for state or local office may establish a campaign committee without stating on the Designation of Treasurer form what office is being sought, but only when the candidate is truly undecided between alternate offices. The Designation of Treasurer form must be amended to indicate the specific office being sought immediately upon the decision to seek a specific office, which may be evidenced by the first written or oral public statement, including solicitations for contributions, in which a specific office is named.
 2. The balance of a candidate's federal campaign committee fund and of a candidate's state central committee fund may be transferred to the candidate's committee for state or local office, with no limitation on the amount transferred. The funds to be transferred may not have been received from a source prohibited by the Ohio Revised Code. By virtue of the transfers, the federal committee and state central committee are transformed into campaign committees under Ohio Revised Code section 3517.01(B)(1) and must comply with the reporting requirements for candidate campaign committees. To conform with Ohio Revised Code section 3517.081, which prohibits having more than one campaign committee, only a one time transfer may be made, the entire balance must be transferred or otherwise distributed, and the donor committee must be terminated at the time its balance is transferred to the candidate's state or local campaign committee.

TO: Robert E. Latta

You have requested an opinion on the following questions:

1. May a prospective candidate for state or local office establish a campaign committee without stating what office is being sought?
2. May the balance of a candidate's federal campaign committee fund and of a candidate's state central committee fund be transferred to the candidate's campaign fund for state or local office? If so, is there a limit as to the amount of money transferable?

Individuals sometimes simultaneously explore a candidacy for more than one public office. The Designation of Treasurer form and campaign finance report forms prescribed by the Secretary of State pursuant to Ohio Revised Code section 3517.10(A) and (D) include a space for the designation of the office sought. The office must be listed when the candidate is seeking a specific office. Moreover, when a candidate establishes an exploratory committee to determine whether to seek a specific office, the candidate must designate the office being sought. Designating the office sought promotes the public disclosure purposes of the law and is important in determining the location where reports must be filed.

The broad definition of "candidate" in Ohio Revised Code section 3517.01(B)(3), however, does not depend upon the individual knowing the specific public office he or she will seek. An individual who receives contributions or makes expenditures to bring about his or her nomination and/or election to a public office is a candidate even if the individual has not decided the specific public office he or she will seek. Furthermore, the Revised Code does not specifically call for stating the office sought. Therefore, where the candidate is truly undecided as to which of alternate offices to seek, the candidate may state "Undecided", rather than a specific office. The candidate must subsequently amend the Designation of Treasurer form to designate the specific office being sought no later than the date the decision is made. That a decision has been made may be indicated by the first written or oral public statement, including solicitations for contributions, in which a specific office is named.

With respect to your second question, the Federal Elections Commission has stated that a transfer of funds from a federal campaign committee to a local campaign committee is permissible, where the transfer is permissible under state law and where the funds so transferred are in fact used in the candidate's local election campaign and not diverted to the candidate's personal use. See FEC Advisory Opinion No. 1986-5. There is nothing in state law which prohibits a transfer of funds from a candidate's federal committee to a campaign committee for state or local office. Moreover, in an earlier opinion, this Commission stated that if a candidate has established separate campaign committees for different offices, the balance from one committee may, under certain conditions, be transferred to the other committee. See Advisory Opinion No. 87-7. Other than the one hundred dollar cash contribution limit set forth in Ohio Revised Code section 3517.13(F), there is no limitation on the amount of a contribution. However, the funds to be transferred may not have been received from a source prohibited by the Ohio Revised Code.

Although a transfer of the balance from one committee to another may be made, consideration must be given to the effect of such transfer. Ohio Revised Code section 3517.01(B)(1) defines a campaign committee as "a candidate or combination of two or more persons authorized by a candidate under section 3517.081 of the Revised Code to receive contributions and make expenditures." Ohio Revised Code section 3517.01(B)(5) defines a contribution as "a loan, gift, deposit, forgiveness of indebtedness, donation, advance, payment, transfer of funds or transfer of anything of value, . . ., which contribution is made, received, or used for the purpose of influencing the results of an election."

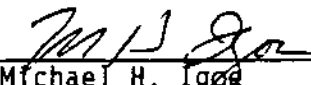
The federal campaign committee raised money in the past for elections not governed by the reporting requirements of R.C. 3517.10. However, by making a transfer of funds to another committee of the same individual established to promote his or her candidacy for state or local office, the committee meets the definition of a "campaign committee" and is subject to the applicable reporting requirements. Ohio Revised Code section 3517.081, however, provides that a candidate may not have more than one campaign committee. Therefore, only a one time transfer may be made, the entire balance must be transferred or otherwise distributed, and the donor committee must be terminated at the time the money is transferred to the candidate's state or local campaign

committee. See Advisory Opinion No. 87-7. The above analysis is also applicable to your question concerning the transfer of funds raised by an individual when he or she was a candidate for the state central committee of a state political party.

For the reasons stated herein, it is the opinion of the Ohio Elections Commission that:

1. A prospective candidate for state or local office may establish a campaign committee without stating on the Designation of Treasurer form what office is being sought, but only when the candidate is truly undecided between alternate offices. The Designation of Treasurer form must be amended to indicate the specific office being sought immediately upon the decision to seek a specific office, which may be evidenced by the first written or oral public statement, including solicitations for contributions, in which a specific office is named.
2. The balance of a candidate's federal campaign committee fund and of a candidate's state central committee fund may be transferred to the candidate's committee for state or local office, with no limitation on the amount transferred. The funds to be transferred may not have been received from a source prohibited by the Ohio Revised Code. By virtue of the transfers, the federal committee and state central committee are transformed into campaign committees under Ohio Revised Code section 3517.01(B)(1) and must comply with the reporting requirements for candidate campaign committees. To conform with Ohio Revised Code section 3517.081, which prohibits having more than one campaign committee, only a one time transfer may be made, the entire balance must be transferred or otherwise distributed, and the donor committee must be terminated at the time its balance is transferred to the candidate's state or local campaign committee.

Approved:



Michael H. Igoe
Vice Chairman