



Ohio Elections Commission
30 East Broad Street, 14th Floor
Columbus, Ohio 43266-0418
(614) 466-3205

June 13, 1995

ADVISORY OPINION NO. 95-1

SYLLABUS: Moneys from the Ohio Political Party Fund may be used to help defray expenses incurred in publishing a newsletter and sending that newsletter to all of the registered Democrats in Van Wert County so long as there is no material in the newsletter that is related to any particular candidate or election or that promotes the election or defeat of a particular candidate or that directly influences the outcome of a candidate or issue election.

TO: Don Bachman, Treasurer
Van Wert County Democratic Executive Committee

You have requested an advisory opinion on the following question:

May the Van Wert County Democratic Executive Committee use some of the Ohio Political Party Fund to help defray the expenses incurred in publishing a newsletter and sending that newsletter to all of the registered Democrats in Van Wert County?

Your request states that the newsletters will be mailed to the registered Democrats in Van Wert County. You do not explain the purpose of the newsletter or what you anticipate to be the contents of the newsletter.

R.C. 3517.16 creates the Ohio Political Party Fund and explains how it shall be financed. R.C. 3517.18(A) sets forth the purposes for which moneys from the Ohio Political Party Fund may be used. The language of R.C. 3517.18(A) clearly shows that these purposes are intended to be the only permissible purposes. "A political party receiving moneys from the Ohio political party fund may expend the moneys only for the following purposes:" (Emphasis added). R.C. 3517.18(A).¹ Therefore, if moneys from the Ohio Political Party Fund may be used to publish and distribute a newsletter then the authority to use the funds in this manner must be found within R.C. 3517.18(A).

¹ This language has not been altered by Am. Sub. S.B. 8, which was signed by the Governor on May 24, 1995 and takes effect on August 23, 1995.

R.C. 3517.18(B) sets forth specific limitations on the use of moneys from the Ohio Political Party Fund. R.C. 3517.18(B) states that "(m)oneys from the Ohio political party fund shall not be used for any of the following purposes."² Therefore, it is necessary to ensure that using the moneys from the Ohio Political Party Fund to defray the costs incurred in publishing and distributing your newsletter will not violate any of the restrictions found in R.C. 3517.18(B).

R.C. 3517.18(A)(5) states that moneys from the Ohio Political Party Fund may be used for "(d)irect mail campaigns or other communications with the registered voters of a party that are not related to any particular candidate or election." (Emphasis added.)³ A prohibition similar to the one contained in R.C. 3517.18(A) is found in R.C. 3517.18(B)(1).⁴ R.C. 3517.18(B)(1) prohibits using moneys from the Ohio Political Party Fund "(t)o further the election or defeat of any particular candidate or to influence directly the outcome of any candidate or issue election." Therefore, if the newsletter that the Van Wert County Democratic Executive Committee plans to publish and distribute contains any material that relates to a particular candidate or election or is designed to further the election or defeat of any particular candidate or to influence directly the outcome of any candidate or issue election then the expenses related to the publication and distribution of that newsletter may not be defrayed by funds from the Ohio Political Party Fund. However, if the newsletter will not contain anything that is directly related to a particular candidate or election or that would further the election or defeat of any particular candidate or influence directly the outcome of any candidate or issue election then the expenses related to its publication and distribution may be defrayed by moneys from the Ohio Political Party Fund.

In order to properly implement this advice it is necessary to examine both the definition of "candidate" and to examine prior advisory opinions of this body.

The definition of "candidate" applicable to R.C. 3517.18 is set forth in R.C. 3501.01(H). This provision defines a candidate as:

(A)ny qualified person certified in accordance with the provisions of the Revised Code for placement on the official ballot of a primary, general, or special election to be held in this state, or any qualified person who represents himself to be a write-in candidate,

² Am. Sub. S.B. No. 8 places this language in R.C. 3517.18(B)(1). This does not alter the impact of this language on permissible uses of moneys from the Ohio Political Party Fund.

³ Am. Sub. S.B. No. 8 retains this language.

⁴ Am. Sub. S.B. No. 8 places this provision in R.C. 3517.18(B)(1)(a). This does not effect its impact on permissible uses of moneys from the Ohio Political Party Fund.

or who knowingly assents to such representation by another at either a primary, general, or special election to be held in this state.⁵

It should also be noted that the Commission has found that one who declares their candidacy must be considered a candidate for purposes of R.C. 3517.18. Therefore if you wish to include an article, advertisement or any other item in your newsletter relating to a particular individual then you must ensure that that individual is not a "candidate."

It is also helpful to examine two opinions of the Commission, both issued in 1992, in order to understand what may and may not be included in the newsletter if you use moneys from the Ohio Political Party Fund to defray the costs associated with it. In Advisory Opinion 92-1 the Commission explained that "(m)onies from the Ohio Political Party Fund may not be used to pay for the publication and distribution of a yearbook featuring the members of that party who are candidates for public office." A.O. 92-1, Syllabus. This is because "a yearbook featuring all officeholders affiliated with a particular party would be directly supporting those officeholders who are seeking re-election." A.O. 92-1. Therefore, any similar material could not be included in the newsletter that you propose to publish if you use moneys from the Ohio Political Party Fund to defray the costs associated with the publication and distribution of that newsletter.

However, the limitations imposed by R.C. 3517.18(B) are not to be read too broadly. As the Commission stated in A.O. 92-2 "while virtually any use which a political party may make of funds from the Ohio Political Party Fund will aid endorsed candidates to some extent, only expenditures which are clearly and distinctly made to aid a candidacy will be affected by this section." Therefore, the restrictions of R.C. 3517.18(B) must not be interpreted too broadly. Of course, anything that might be published in the newsletter would have to be carefully screened to ensure that it does not relate to or directly influence any particular candidate or issue election.

For the reasons stated herein, it is the opinion of the Ohio Elections Commission that monies from the Ohio Political Party Fund may be used to defray the expenses incurred in publishing a newsletter and mailing that newsletter to the registered Democrats of Van Wert County so long as there is no material in that newsletter that is directly related to any particular candidate or election or that furthers the election or defeat of any particular candidate or that directly influences the outcome of any candidate or issue election.


Charles A. Schneider, Chairman

⁵ Am. Sub. S.B. 8 does not effect this definition.