



Ohio Elections Commission

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OHIO ELECTIONS COMMISSION

Advisory Opinion 98ELC-06

SYLLABUS: An expenditure for polls and surveys conducted by a state or county political party which are not for a specific candidate, may be paid from the operating account of the party, and not subject to reporting.

TO: Susan J. Kyte

You are requesting an advisory opinion on the following question:

Can items, such as polls and surveys conducted by a state or county political party not for a specific candidate, be paid for from the operating account of the party, and not subject to reporting?

Political parties in today's political environment operate much like a corporation. They have a substantial staff, various funding sources, and a wide array of expenses. While their primary product is the election of their respective candidates, it is necessary for them to carry on additional tasks in order to efficiently and effectively operate. To properly allocate the monies received and expenses incurred for party activities, a political party will have numerous bank accounts at its disposal. While any fund used to influence the result of an election must be reported to either the Secretary of State or the county Board of Elections, and any monies received from the public or "tax check-off" fund is limited in its use by statute, not all funds available to a political party are required to be reported pursuant to statute.

Ohio Revised Code §§3517.10, 3517.101, and 3517.17 require that a political party file various reports with the appropriate filing office outlining certain contributions or expenditures that it makes. At issue in this opinion is R.C. §3517.10 which requires a political party to report the contributions or expenditures it makes "in connection with the nomination or election of any candidate ..." R.C. §3517.01(B)(6) defines an expenditure, in this context, as a "disbursement ... for the purpose of influencing the results of an election ..."

Both of these phrases are the essential elements of the definitions which are at issue in answering this question.

Some expenses are easily identifiable as expenses which would fit within the definition in R.C. §3517.01(B)(6). Making payment for specific literature which endorses a candidate or for a television advertisement which references a candidate are easily identified as both “in connection with the nomination or election of any candidate” and “influencing the results of an election.” Other expenses, however, are not as easily identified but are still included in the list of expenditures in a campaign finance report. One such expense is a payment for a political poll or survey which would assist the party in determining the popularity of a candidate or an issue which is important to the party.

R.C. §3517.08 states certain exceptions, however, which might otherwise be considered an expenditure under R.C. §3517.01(B)(6). R.C. §3517.08(C) makes a specific exception to the definition of an expenditure which is pertinent to the issue under consideration in this advisory opinion. R.C. §3517.08(C) states in pertinent part that

(a)n expenditure by a ... political party shall not be considered a contribution to any campaign committee or an expenditure by or on behalf of any campaign committee if the purpose of the expenditure is for ... a political poll, survey, index, or other type of measurement not on behalf of a specific candidate.

The submission of a campaign finance report by a political party is a public disclosure of expenditures that are made in connection with the nomination or election of any candidate. The funds which a political party are required to report have significant public policy implications as well as information which citizens may review in order to be aware of the influence of a political party on the results of elections. The funds that the party uses to make contributions to candidates must be scrutinized to insure that all expenditures are proper and that no contributions are received from inappropriate sources. It is also necessary for a party to disclose the receipts and uses for the tax check-off funds, which cannot be used for partisan purposes, as well as the “building fund” which may receive corporate contributions but may only be used for the office space of the party.

Under the definition in R.C. §3517.01(B)(6), a poll or survey when authorized by a political party would be a recognizable contribution from the party to the candidate (or candidates) identified in the poll. Using the exception in R.C.

§3517.08(C), however, when a political party makes an expenditure for a survey or poll which does not identify a particular candidate, the expenditure is not to be considered a contribution to the candidate or an expenditure by the political party on behalf of a candidate. Because of this statutory exclusion, an expenditure by a political party for a poll or survey which cannot be associated with a particular candidate is not an expenditure on behalf of a candidate and, therefore, need not be reported by a campaign committee as an in-kind contribution or by the political party in a campaign finance report which reports partisan political expenditures.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that an expenditure for polls and surveys conducted by a state or county political party which are not for a specific candidate, may be paid from the operating account of the party, and not subject to reporting.

Sincerely,



Alphonse P. Cincione
Chairman