



STATE OF MICHIGAN
TERRI LYNN LAND, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

Draft

Eric E. Doster
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313 South Washington Square
Lansing, Michigan 48933-2193

Dear Mr. Doster:

The Department of State (Department) acknowledges receipt of your letter dated December 23, 2009, in which you sought a declaratory ruling concerning the Department's interpretation of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.*, with respect to candidate workshops. A copy of your request was published on the Department's website beginning December 29, 2009, yet no public comments were submitted for consideration.

The MCFA and Administrative Procedures Act (APA), 1969 PA 306, authorize the Department to issue a declaratory ruling if an interested person submits a written request that includes a reasonably complete statement of facts and a succinct statement of the legal question presented. MCL 24.263, 169.215(2). Although the factual statement you supplied is insufficient to form the basis for a binding declaratory ruling on this topic, the Act requires the Department to issue an interpretive statement "providing an informational response to the question presented" as a substitute. MCL 169.215(2). Accordingly, the Department offers the following interpretive statement in response to your request.

Your clients, some of which are MCFA-registered committees and others that are not, conduct candidate workshops which you describe as "informational seminar[s] pertaining to the day-to-day operation of a campaign." Discussion topics at these events include campaigning, recall elections, fundraising, compliance issues, identification of voters, planning, organization, scheduling, communications, voter turnout, and Election Day activities. You note that:

"[T]hese candidate workshops will not encourage attendees to take specific positions on political issues or advocate for or against the election of any candidate or passage or defeat of a ballot question. These candidate workshops will not infer or suggest what positions prospective candidates should take on issues of public policy. Furthermore, the candidate workshops will not encourage attendees to 'vote for', 'vote against', 'support', or 'oppose' particular candidates or ballot proposals."

You ask whether a candidate workshop constitutes a contribution or expenditure for purposes of the Act and what attributes the Department considers indicative of regulated activity.

The Act governs the making and reporting of contributions and expenditures. In the context of candidate workshops, these terms generally include payments for goods and services “made for the purpose of influencing” or made “in assistance of” the nomination or election of a candidate. MCL 169.204(1), 169.206(1). With respect to the sponsor of such an event, a candidate workshop will fall within the Act’s reach only if it constitutes a contribution or expenditure.

The Department will consider the nature of a candidate workshop before determining whether the sponsor of the event has made an expenditure for purposes of the MCFA. According to your letter, your clients intend to furnish general information concerning organizing and planning a campaign, fundraising, compliance, voter turnout, and the like. The organization that hosts the candidate workshop will refrain from engaging in any express advocacy relating to candidates or ballot questions. The neutral character of the information to be provided at these candidate workshops suggests that, at least in some instances, the information conveyed is so unexceptional or generic that it does not influence or assist the nomination or election of a candidate. MCL 169.204(1), 169.206(1). Certainly, there is no contribution or expenditure attributable to the sponsor of a candidate workshop if candidates and their agents are excluded from attending.

In addition, the Department will ask whether an individual who attends a candidate workshop is required to pay a registration fee. If payment is required and represents the proportional cost of the individual’s attendance, then the workshop sponsor is treated like any other campaign vendor whose goods or services are sold for fair market value. In other words, an organization that collects a registration fee from individuals to compensate for expenses incurred in conducting a candidate workshop does not make an expenditure for purposes of the MCFA. If no registration fee is charged and a candidate or his or her agent attends a candidate workshop, then the host organization may have made an in-kind contribution to the candidate committee.

You also described a number of different circumstances in which your clients may sponsor a candidate workshop and asked the Department to explain how, if at all, those factors alter the Department’s position.

(1), (2) “A person who attends the candidate workshop is a candidate [, or] ... an agent of a candidate.”

The Department’s response depends on whether the sponsoring organization collects a registration fee from candidates and their agents. If attendees must pay a registration fee to compensate the sponsor for expenses it incurs while hosting a candidate workshop, then no expenditure on the part of the sponsor results. If no registration fee is charged for candidates or their agents, then the sponsor of the candidate workshop has made an in-kind contribution.

(3) *“The persons who attend the candidate workshop are members of the same political party, but no sponsor of the candidate workshop is a political party.”*

In this instance, there is no contribution or expenditure with respect to the candidate workshop sponsor if only general campaign information is shared with attendees and no candidates or candidates’ agents attend the event.

(4) – (6) *“A sponsor of the candidate workshop is a political party, but the candidate workshop is not limited to members of the same political party [, or a] sponsor of the candidate workshop is a political party and the attendees of the candidate workshop are limited to members of the same political party [, or a] sponsor of the candidate workshop is an interest group, such as an incorporated trade association, labor organization, or incorporated non-profit organization.”*

If the sponsor of the candidate workshop is a political party or interest group that confines its presentation to the neutral information described in your letter and no candidates or their agents attend, then no expenditure is made by the political party or interest group.

(7) *“A sponsor of the candidate workshop is a candidate committee and the attendees of the candidate workshop are other candidates and/or agents of another candidate.”*

The MCFA prohibits a candidate committee from making a contribution to another candidate committee. MCL 169.244(2). A prohibited in-kind contribution is made unless the host candidate committee and all participating candidate committees share equally in the cost of the candidate workshop.

A candidate workshop is governed by the Act if it constitutes a contribution to a candidate or an expenditure by the sponsoring organization. The Department will take into account the extent to which a candidate workshop furnishes only general campaign information without engaging in express advocacy or urging attendees to adopt certain policy positions, whether candidates or their agents attend a candidate workshop, and whether an individual who attends a candidate workshop is required to pay a registration fee, in determining whether a contribution or expenditure has been made.

Sincerely,

[SIGNATURE BLOCK]