



Commonwealth  
of Massachusetts

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*Office of Campaign and Political Finance*  
*One Ashburton Place, Room 411*  
*Boston, MA 02108*

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Advisory Opinion

June 20, 2007  
AO-07-06

Paul J. Murphy, Esq.  
Harmon, Curran, Spielberg & Eisenberg, LLP  
1726 M Street, NW, Suite 600  
Washington, DC 20036

Re: Leadership development training program

Dear Mr. Murphy:

This letter is in response to your recent request for an advisory opinion.

You have stated that you represent several individuals who would like to incorporate a nonprofit organization to serve as a forum for identifying, inspiring, and educating Democratic women who wish to increase their level of participation in local and statewide politics and government (the Forum”).

The Forum would accomplish its purposes primarily by operating a leadership development training program (“the Leadership Program”). The Leadership Program is expected to consist of a series of informational forums held one weekend per month for seven consecutive months each year. The curriculum would not be tailored for the particular circumstances of any one participant. Rather, participants would receive general instruction in an array of subjects useful to anyone seeking and serving in leadership roles in politics, government, and their communities, such as:

- Public speaking;
- fundraising;
- general campaign strategies;
- field organizing;
- identifying and working with constituent groups;
- networking;
- media skills and messaging; and
- ethics in government.

In addition to operating the Leadership Program, the Forum may recruit volunteers with experience in the subjects taught to serve as mentors to the Leadership Program’s participants.

The Forum will also host meetings and various social events for Democratic women to provide the opportunity for former participants of the Leadership Program to exchange information and ideas with current participants. The Forum will neither make contributions to nor expressly advocate the election or defeat of any candidate for office.

The Leadership Program would be open to all women who are registered to vote as Democrats. You state that women are underrepresented in positions of political and governmental leadership, and those who are registered as Democrats “are considered more likely to reflect the progressive ideals of the individuals who seek to create the Forum.” The Forum would also select participants for the Leadership Program using criteria designed to gauge the level of an applicant’s leadership abilities and interest in applying the skills learned.

Although you assume that at least some of the women who graduate from the Leadership Program will eventually decide to run for public office in Massachusetts, an individual’s participation will not be conditioned on her agreement to do so. “Whether a graduate of the Leadership Program goes on to lead a nonprofit advocacy organization, organize neighbors to construct a playground in a local park, or run for governor will be entirely up to the individual. Moreover, the skills the graduate will have acquired by participating in the Leadership Program would serve her well in all such endeavors. The Forum’s activities will contribute importantly to the betterment of society by instructing participants in how to operate clean campaigns (political or otherwise) and serve their communities ethically in whatever role they may eventually achieve.”

Women who are selected to participate would be required to pay a fee based on the fees charged by similar educational forums operated by other institutions. The amount of the fee has not been established, but would likely be set between \$750 and \$1,000. The Forum may waive a fee in cases of financial hardship or other circumstances, but would not waive the fee for any participant who: (1) qualifies as a candidate under Massachusetts law; (2) is an employee or agent of a Massachusetts candidate’s campaign committee; or (3) is an employee or agent of a Massachusetts political party committee.

In addition to charging fees, the Forum would solicit donations from supporters to pay the costs of operation. The Forum would not solicit or accept any contributions to be used as political “contributions” or “expenditures” as defined under the Massachusetts campaign finance law, and would not engage in any fundraising on behalf of any candidate or political committee.

Finally, you state that the Forum will not coordinate its activities with the Democratic Party, and you have also indicated that “the Forum will be operated for the educational and developmental benefit of Democratic women. It will not be operated for the benefit of the Democratic Party.” For these reasons, you contend that the activities of the Forum should not be considered “party-building” or otherwise undertaken in support of the Party. The name under which the Forum will be incorporated will not include the word ‘Democrat.’ In addition, the Forum will not be established, financed, maintained, or controlled by any political committee of the Democratic Party and will not make any contributions to or expenditures on behalf of any candidate or political committee.

QUESTION

Would the activities described above require the Forum to register and report as a political committee under M.G.L. c 55, § 1?

ANSWER

No. Based on the facts in your letter, the Forum would not be required to register and report as a political committee.

DISCUSSION

The campaign finance law defines a “political committee” as any association, organization, or other group of persons “which receives contributions or makes expenditures for the purpose of influencing the nomination or election of a candidate, or candidates . . .” See M.G.L. c. 55, § 1. Section 1, in addition to defining “political committee,” also defines the terms “contribution” and “expenditure.” A “contribution” includes the giving of money or anything of value for the purpose of influencing the nomination or election of a candidate, political party committee,<sup>1</sup> or ballot question. An “expenditure” includes the payment of money or other things of value “for the purpose of influencing the nomination or election” of candidates.

An organization that solicits funds for the purpose of supporting a particular political party committee is soliciting contributions. In contrast, however, an organization that raises funds for the purpose of providing information to persons affiliated with a particular political party, independently of the party committee, does not involve the receipt of contributions. The fact that some of the people who may benefit from attending the Forum might use information received from the Forum to enhance a possible candidacy for public elected office does not alter the analysis.

The definition of “contribution” should not be expanded to include the receipt of funds for the purpose of benefiting persons based simply on their identification as members of a particular party or the likelihood that the organization’s activities might benefit candidates of a particular political party. The statute could have been written more broadly, i.e., it could have defined the raising of funds to directly or indirectly promote the interests of a political party as a “contribution.” Compare the language in M.G.L. c. 55, § 8, which states that corporations may not “directly or indirectly” use funds “for the purpose of aiding, promoting the interest of any political party.” Because there is no such broad language in the definition of “contribution,” and a “contribution” occurs only if something of value is given to a party committee or there is an expenditure promoting the party made in coordination with a party committee, the funds raised by the Forum, independently of any interaction with the State Party Committee, should not be considered contributions. See IB-06-01 (coordinated expenditures may be treated as in-kind contributions even in the absence of express advocacy).

The office interprets the term “expenditure” narrowly to avoid concerns of vagueness and overbreadth that would burden political speech and associational rights protected by the First Amendment. For example, when considering whether a particular communication involves the making of an “expenditure” subject to the campaign finance law, the office has stated that the communication must contain “express advocacy.” See IB-06-01.

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<sup>1</sup> Section 1 was amended in 1998 to insert language specifying that something of value given “for the purpose of supporting or opposing a political party committee” is a “contribution.” See Section 6 of Chapter 395 of the Acts of 1998.

The office has stated that the Republican Club of Massachusetts, a group similar in certain respects to the Forum, did not need to register as a PAC because the Club did not make contributions to candidates or expenditures subject to the campaign finance law. The Club published a calendar of events of interest to Republican Party activists and supporters, and sponsored unity luncheons as a means of raising funds to offset the Club's operating costs and to provide a forum for bringing activists and supporters together. See AO-94-43. The office concluded that such primarily social and informational "party building" activities did not constitute "contributions" as defined by the campaign finance law. See also AO-93-28 (the Middlesex Club, which stated that its purpose was "to preserve, teach and foster time-honored Republican principles, in the tradition of Abraham Lincoln, and to develop social intercourse among [Club] members" would not be required to become a PAC).

Also, in AO-97-23, the office stated that a group organized to provide training on subjects useful to seeking and serving in leadership roles in the public sector was not necessarily a political committee. We stated that such an organization "is not required to register or report as a political committee even if the effect of its activities may indirectly encourage support of a particular group of candidates." In that opinion, we assumed that the school would be open to all candidates, but did not explore what difference it would make if the circumstances were different. The opinion was issued prior to the amendment to Section 1 limiting the definition of "contribution" to the solicitation or receipt of funds for the purpose of supporting or opposing a political party committee, and it is our belief that merely limiting enrollment to persons registered as Democrats or Republicans would not in itself lead to a conclusion that the group should be considered a PAC.

In contrast, in AO-95-19, the office determined that the Association of Massachusetts Republican Town & City Committee Chairmen (AMRC) should register as a PAC because the AMRC made expenditures primarily to assist the Republican Party. Specifically, the AMRC bylaws stated that the organization "will provide consulting services and hands-on assistance to the local committees in forming and strengthening their organizations by attracting party activists and assisting with fund raising, speakers, programs, committee recruitment and other services." See also AO-96-19 (a group called the Western Mass. Republicans, which acknowledged that it raised funds to be used to make contributions to candidates, was properly a PAC.)

Consistent with these opinions, we believe that the Forum is not a political committee. As suggested by the facts in your letter, however, any candidate for elected office, or any employee or agent of a political committee who enrolls in the Leadership Program, should pay the full amount of the fees normally assessed (i.e., the fair market value). By doing this, the Forum will not be making a contribution to the candidate or committee, and will not be making expenditures subject to the campaign finance law.<sup>2</sup> In addition, if the Forum provides a candidate with anything to assist in a candidate's campaign (e.g., software, office space, mailing lists, or printing), it would be making a contribution to the candidate, and our analysis concerning the Forum's status would change.

Even if the Forum is not a political committee, however, the campaign finance law states that corporations may not "directly or indirectly" use funds "for the purpose of aiding or promoting "the interest of any political party." See M.G.L. c. 55, § 8. Because of this broad prohibition, a business or

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<sup>2</sup> In your letter, you state that to avoid making contributions or expenditures subject to the campaign finance law, "the Forum will not waive the fee for any participant who (1) qualifies as a candidate under Massachusetts law; (2) is an employee or agent of a Massachusetts candidate's campaign committee; or (3) is an employee or agent of a Massachusetts party committee." The Forum should also not waive the fee of any participant who is an employee or agent of any other Massachusetts political committee, i.e., a PAC, people's committee or ballot question committee.

professional corporation may not contribute to the Forum, since the Forum's programs will be available only to members of one political party. Even if the name of the Forum does not include a reference to the Democratic Party, the circumstances described in your letter indicate sufficient benefit to the Party, in general, to support a conclusion that the donation of funds by a corporation would not comply with Section 8.

This opinion is solely within the context of the campaign finance law and is provided on the basis of representations in your letters and conversation with OCPF staff.

Please contact us if you have further questions regarding the campaign finance law.

Sincerely,

A handwritten signature in black ink that reads "Michael J. Sullivan". The signature is written in a cursive style with a long, sweeping underline.

Michael J. Sullivan  
Director

MJS/gb