



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. MCTIGUE  
DIRECTOR

October 16, 1992  
AO-92-30

Mr. James Blodgett  
8 Fales Street  
Worcester, MA 01606

Re: Public Employee Fundraising Restrictions

Dear Mr. Blodgett:

This letter is in response to your June 4 and August 31, 1992, letter requesting an advisory opinion as to whether a member of the Private Counsel Division is subject to political fundraising restrictions. I apologize for the delay in my response.

In your letters you state that William J. Doyle is an attorney member of the Private Counsel Division. He receives compensation for his services from the Commonwealth of Massachusetts via a state check. Approximately thirty five (35) percent of his annual income is derived from this source. His salary is paid from budget line item 0321-1510. Mr. Doyle has signed a contractual agreement with the Private Counsel Division and must take courses to maintain his status on the Division's list.

You have asked whether Mr. Doyle may sign a fundraising letter and solicit contributions on your behalf. You have also asked if he can serve as treasurer of a political committee.

M.G.L. c.55, s.13, states in pertinent part:

No person employed for compensation, other than an elected official, by the commonwealth or any county, city or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment,

subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever (emphasis added).

Based upon your description of Mr. Doyle's position as a member of the Private Counsel Division, it is this Office's opinion that Mr. Doyle would be a "person employed for compensation by the commonwealth," also referred to in this opinion as a "public employee," for purposes of M.G.L. c.55, s.13. Mr. Doyle receives an official "state check" issued by the State Treasurer, derives approximately thirty-five percent of his annual income from the commonwealth and is required to take certain courses to remain "on the list." Hence, Mr. Doyle is subject to continual review and/or supervision by the Commonwealth through the Private Counsel Division.

As this Office stated in AO-84-09 a person who is "subject to the supervision of the Commonwealth in [his] job capacity and [whose] services are ultimately paid for by the state through a contracting process" is a person employed for compensation for purpose of section 13. See also AO-90-10 (anyone receiving any sum from Commonwealth . . . who is not an independent contractor falls within the prohibition of c.55, s.13.)

Having concluded that Mr. Doyle is a public employee, it follows that he is prohibited from soliciting, directly or indirectly, on your behalf. This would, of course, include signing a fundraising letter. In addition, it is this Office's opinion that he could not serve as treasurer of a political committee since the statutory duties imposed upon a treasurer include the receipt of political contributions, an act expressly prohibited by section 13. See AO-84-10. See also OCPF-IB-92-01 and the Office's "A Guide To Political Activity For State, County and Municipal Employees," copies of which are enclosed for your information.

You should also be aware of other relevant provisions of the campaign finance law. Specifically, section 14 of M.G.L. c.55 prohibits political solicitation by any person "in any building or part thereof occupied for state, county or municipal purposes . . ." Section 15 of M.G.L. c.55 prohibits the direct or indirect delivery of a political contribution to any person in the service of the commonwealth or of any county, city or town by another person in such service. In addition, sections 16 and 17 of M.G.L. c.55 provide public employees with protection from political pressure. The full text of all these statutes may be found in the above referenced guide.

This opinion has been rendered solely on the representations made in your letter and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this Office if you should have any additional questions.

Very truly yours,

  
Mary F. McTigue

No longer in effect.

Enclosure