



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. McTIGUE
DIRECTOR

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AO-94-21

Jonathan S. Schindler, Esq.
Klieman, Lyons, Schindler, Gross & Pabian
21 Custom House Street
Boston, MA 02110

Re: Creation of issues-oriented political group

Dear Mr. Schindler:

This letter is in response to your letter to Brad Balzer dated May 6, 1994, which I will treat as a request for an advisory opinion.

You have stated that your client is an elected official with a political committee that is registered with this office. He intends to form a group entirely independent of the political committee for the primary purpose of fostering debate on public policy issues.¹

You have also stated that the proposed group would neither raise nor expend funds on behalf of any candidate or ballot question. Although your client will likely serve as an officer of the organization, his name will not form any part of the group's name. Funds raised by the group would be used to sponsor debates, rent facilities, pay for speakers, and defray any incidental costs associated therewith. The group may publish a newsletter and occasional reports on its proceedings. The group will also provide state and local candidates with a forum to express their views, and it might endorse candidates (other than your client) or urge the passage or defeat of referendum questions. All fundraising on behalf of the proposed group would be kept strictly segregated from any political committee.

You have asked if the group to be created would be subject to the registration and reporting provisions of M.G.L. c. 55, the campaign finance law.

Section 1 of M.G.L. c. 55 defines a political committee as "any committee, association, organization, or other group of persons, including a national, regional, state, county, or municipal committee, which receives contributions or makes

1. "Formation" of the group would not involve expenditure of campaign funds. You anticipate that the group may or may not be incorporated. The expenditures to begin operations would be minimal, and funds needed by the group to operate would be solicited solely to support the group. The group may meet informally in members' homes, but you do not yet know the scope of the group's activities.

expenditures for the purpose of influencing the nomination or election of a candidate, or candidates, or of presidential and vice presidential electors, or for the purpose of opposing or promoting a . . . question submitted to the voters."

Since the primary purpose of the group would be to foster debate on matters of public concern, the group would not be a "political committee." Occasional endorsements in the newsletter which the group might publish would not, in themselves, cause the group to be considered a political committee. See AO-87-07 (candidate who wished to be a publisher and editor of a newsletter must be sure that receipts and disbursements relative to the newsletter are not actually for the purpose of enhancing the candidate's political future); and AO-90-25 (incidental references in group's newsletter to position on a ballot question does not make group subject to campaign finance law). See also Opinion of the Attorney General, November 6, 1980 (the prohibition against corporate expenditures does not apply to expenses incidental to the publication of an internal newspaper of corporation in the normal course of corporate affairs which has editorialized in favor of a particular candidate or committee).

If the group raises funds specifically to influence the voters on a ballot question or in connection with the nomination or election of a candidate, it would be considered a "political committee" subject to the campaign finance law and would be required to register and file periodic reports with this office pursuant to M.G.L. c. 55.² In addition, even if the group does not raise funds to influence voters, but spends more than 10% of the previous year's gross income, or \$15,000, whichever is less, in an effort to influence voters for any political purpose, it must disclose such expenditures. See IB-88-01, (a copy of which is enclosed).

This opinion has been rendered solely in the context of M.G.L. c. 55 and has been based solely on the representations made in your letter and in telephone conversations with staff. As discussed, my understanding is that your client's political committee will be separate and distinct from the group to be formed and the political committee will in no way control the activities of the new group.

Should you have additional questions, please do not hesitate to contact this office.

Very truly yours,



Mary F. McTigue
Director

MFM/cp
Enclosure

². It is our understanding that the group will not raise or spend funds for the purpose of supporting your client's nomination or election. If that is not the case, all funds raised and spent should be reported by your client's political committee.