



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

ONE ASHBURTON PLACE, ROOM 411
BOSTON, MASSACHUSETTS 02108
(617) 727-8352
(800) 462-OCPF

MICHAEL J. SULLIVAN
DIRECTOR

June 7, 1995
AO-95-19

A. Richard Hersum, President
Association of Massachusetts
Republican Town & City Committee Chairmen
P.O. Box 295
Weston, MA 02193

Re: Association of Massachusetts Republican Town & City Committee
Chairmen ("AMRC") bylaws

Dear Mr. Hersum:

This letter is in response to your May 5, 1995 request for an advisory opinion regarding the bylaws of the AMRC.

You have stated that the AMRC "is an organization whose principal purpose is to develop and strengthen the infra-structure of the Massachusetts Republican Party at the city, town, ward, and precinct level. Recent By-law changes have clarified AMRC's role as a political association, having drawn a distinction from a PAC (Political Action Committee) as now defined in the new campaign finance laws under M.G.L. c. 55, as amended, which took effect on January 1, 1995. According to Article II, Section 3 of the AMRC By-laws we are not empowered to make direct contributions to any specific candidate or ballot question . . . Stated objectives of the association are to provide hands-on assistance and consulting services to the local committees and clearly not to function as a PAC."

You have suggested that in light of AO-94-43, an advisory opinion recently issued by this office relating to the Republican Club of Massachusetts, the AMRC is not a political committee. You have asked this office to review AMRC's by-laws and confirm that AMRC is not required to file a statement of organization as a political committee and is not generally subject to the limitations of M.G.L. c. 55, the campaign finance law.¹

¹ You have acknowledged that even if AMRC is not required to register as a political committee, AMRC may not accept contributions from corporations since AMRC makes expenditures "promoting the interest" of a political party. See M.G.L. c. 55, s. 8, which states that business corporations incorporated in Massachusetts or doing business in Massachusetts may not directly or indirectly give money to aid or promote the interest of any political party.

For the reasons which follow, the by-laws suggest that unlike the Republican Club of Massachusetts, the AMRC makes expenditures primarily to assist the Republican Party, and therefore, unlike the Republican Club, AMRC should be considered a political action committee subject to the disclosure provisions and limitations of the campaign finance law.

Section 1 of the M.G.L. c. 55, the Massachusetts campaign finance law, 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 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." (Emphasis added).

The use of the name of a political party by a group suggests that the group might be a political committee within the context of section 1. As we indicated in AO-94-43, however, such use is not the determining factor.² A group which uses the name of a political party is not a "political party committee" unless the group is a political committee organized in accordance with M.G.L. c. 52 on behalf of a political party. See M.G.L. c. 55, s. 1. Rather, such a group would be considered a political action committee if it receives contributions or makes expenditures for the purpose of influencing the nomination or election of candidates. Id. Since a political party committee's purpose is to influence elections, a group which is organized primarily to support or oppose a political party committee must be considered a political action committee.

In AO-94-43, the Republican Club's "party-building" activities were primarily social or informational in nature and appeared to primarily benefit the activists and supporters of the Republican Party, not the Party itself: As summarized in AO-94-43, the Club "publishes a calendar of events of interest to Republican Party activists and supporters, sponsors unity luncheons following the Republican Party's convention and primary as a means of raising funds to offset the Club's operating costs and to provide a forum for bringing activists and supporters together." The Statement of Organization of the Club reflected a primary purpose of "holding informative forums." Similarly, in AO-93-28, in which this office discussed limitations on contributions to the Middlesex Club, the Club was not seen as a political committee since its purpose was primarily social. The Club 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 [the Club's] members."

² M.G.L. c. 56, s. 42 states that organizations cannot use the name of a political party in circulars, advertisements or publications, except with the written consent of the duly elected state committee representing such political party. You should contact the Secretary of State, Elections Division, if you have questions regarding compliance with this provision.

In contrast, the AMRC by-laws suggest that the purpose of AMRC is primarily to assist the Republican Party by providing valuable services to enhance the Party's ability to influence elections. According to Article II of the by-laws:

The principle purpose of the AMRC is to develop and strengthen the infra-structure of the Massachusetts Republican Party at the city, town, ward, and precinct level. It 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. [Emphasis added].

The description set forth above reflects primarily the provision of services with substantial value to the Republican Party: instead of the Party's paying for consulting services, such services may be obtained free of charge from AMRC. The focus of the organization, given the description in the by-laws, is on advancing the interests of the Republican Party, rather than the social interests of individuals.

Most importantly, the major distinction between the organizations referenced in AO-94-43 and AO-93-28 and AMRC is that a major purpose of the AMRC is to make contributions, whether directly or in-kind, to organizations (ward, town and city party committees, i.e., "regulated organizations") whose financial activities are regulated by M.G.L. c. 55. In contrast, the organizations referenced in AO-94-43 and AO-93-28 do not contribute to regulated organizations, nor do they make expenditures to influence the nomination or election of candidates.

Since the by-laws suggest that AMRC would receive contributions and make expenditures to directly further the interests of the Republican Party, and AMRC is not itself a political party committee, AMRC should register as a political action committee and file periodic campaign finance reports in accordance with M.G.L. c. 55, s. 18.³

We also note that Article II, Section 3 of the by-laws only prohibits contributions "to any political candidate." If AMRC intends not to act as a political committee, the by-law should be amended to also prohibit contributions, including in-kind contributions, to any political committee, including committees organized on behalf of candidates.

³ We realize that our reading of the by-laws may not accurately reflect the activities of AMRC. For example, if AMRC is primarily a social or informational group, and any services provided to the Republican Party are incidental to AMRC's activities, the by-laws could be amended accordingly.

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This opinion is solely in the context of M.G.L. c. 55 and is based solely on the representations made in your letter. Should you have additional questions, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan". The signature is written in dark ink and is positioned above the typed name.

Michael J. Sullivan
Director

MJS/cp