



Commonwealth
of Massachusetts

OCPF Online
www.mass.gov/ocpf
Office of Campaign and Political Finance
One Ashburton Place, Room 411
Boston, MA 02108

Advisory Opinion

July 20, 2005
AO-05-09

Miles R. Fidelman
542 California Street
Newtonville, MA 02460

Re: Use of campaign funds to pay candidate a salary

Dear Mr. Fidelman:

This letter is in response to your request for an opinion regarding whether campaign funds may be used to pay a salary to a candidate for municipal office.

You have stated that it is your understanding that federal law allows a campaign fund to pay a salary to a candidate, subject to limitations detailed in 11 CFR 113.1(g)(1)(i)(I). Such payments to federal candidates, if made consistent with the federal regulation, do not constitute “personal use.” The rationale behind the regulation, according to your summary of relevant federal rulemakings and advisory opinions, is that “but for the candidacy, the candidate would be paid a salary in exchange for services rendered to an employer,” and “a salary paid to a candidate would be in return for the candidate’s services provided to the campaign and the necessity of that salary would not exist irrespective of the candidacy.” *See Using Contributions to Pay Salaries to Candidates*, 67 Fed. Reg. 76971 (2002).

QUESTION: Does the Massachusetts campaign finance law, M.G.L. c. 55, similarly allow campaign funds to be used to pay a candidate a salary?

ANSWER: No. Such a use of campaign funds would not be consistent with Section 6 of the campaign finance law.

Section 6 prohibits the expenditure of campaign funds for any person’s personal use. Although the statute does not address this particular type of expenditure, a regulation issued by this office allows expenditures for “campaign staff and consultants,” if such individuals are compensated in a reasonable manner solely for work actually done” for a political committee. *See 970 CMR 2.05(2)(i)*, made applicable to municipal candidates by *970 CMR 2.06(3)*. The regulation does not contemplate that campaign funds might be used to pay salary to a candidate.

To ensure compliance with Section 6, the office closely scrutinizes any arrangement between a political committee and the candidate on whose behalf the committee is organized if the arrangement would involve a financial gain by the candidate. Such an arrangement typically does not reflect an “arms length” business relationship between the candidate and the committee. *See* Interpretive Bulletin IB-88-02 (Lease of Real or Personal Property by Candidates and Political Committees) which states that leases of property are permitted, subject to significant restrictions described in the Bulletin, to ensure that the expenditures are not primarily for the candidate’s or any other person’s personal use. Unlike a lease of property, where a candidate might provide something tangible and quantifiable to the committee, payment of a salary to a candidate would be impossible to reconcile with Section 6. A candidate is traditionally involved in campaign strategy and campaign appearances in support of his or her own campaign, even if not paid for such assistance. If a candidate could receive payment for services rendered to a committee, the committee would be paying for something it would have received anyway, and therefore payment to the candidate of a salary would be inconsistent with the basic purpose of Section 6.

In addition, the federal regulation is not controlling in the context of the Massachusetts campaign finance law.

This opinion is issued within the context of the Massachusetts campaign finance law and is provided solely on the basis of representations in your letter. Please contact us if you have further questions.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan". The signature is written in black ink and is positioned to the left of a vertical line that extends downwards from the end of the signature.

Michael J. Sullivan
Director