



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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March 27, 2009
AO-09-04

Ms. Lora M. Pellegrini
21 Main St., Unit D
Charlestown, MA 02129

Re: Massachusetts Women's Political Caucus

Dear Ms. Pellegrini:

This letter is in response to your recent request for guidance.

You have stated that you are the President of the Massachusetts Women's Political Caucus (MWPC), and have also accepted a position as a senior intergovernmental liaison with the governor's office. You have asked for guidance regarding how your new state employment might restrict your involvement with the MWPC.

The MWPC is comprised of three accounts: a 501(c)(3) account dedicated to the education of women about politics and women's issues, a 501(c)(4) account that is involved in lobbying, and a separate state political action committee. As President, you oversee the activities of all three accounts, oversee the work of a full-time Executive Director and Associate Director, and chair a 25-person board that meets monthly.

You have stated that the primary mission of the organization "is to elect women to office." According to information on the MWPC website, the Caucus "is a bipartisan organization that promotes the participation and involvement of women of all ages in the political process." Also, the MWPC "sponsors and hosts events and programs throughout the year to educate women of all ages and provide information, assist women interested in politics meet and network, train women for political campaigns, help increase the number of women in appointed positions and recognize outstanding women and women in business and politics." The "donation" page of the website states that MWPC "helps us increase the number of women in our government, both as elected officials and appointed officials and helps us increase the interest of women in the political process." MWPC hosts quarterly breakfasts with prominent women officials. Attendees pay a small amount to help cover expenses for these events. As President, you would be expected to introduce the speakers at these breakfasts.

The organization also hosts two fundraisers each year. The first fundraiser honors prominent men who have displayed a commitment to women's issues. The second honors prominent women. As President, you would be expected to attend the events, solicit contributions,



and offer brief introductory remarks. Your name would appear on the invitations to the events, but the Executive Director takes primary responsibility for tracking down donation leads and collecting donations.

Money raised at the events goes into the 501(c)(3) and 501(c)(4) accounts, and covers staff salaries, intern stipends, rent, office supplies, mailings, and a PR consultant that you plan to hire soon. Additional funding pays for events the organization may sponsor to educate women about politics and running for elective office.

The organization's PAC operates separately from the 501(c)(3) and 501(c)(4) accounts, and raises funds through its own efforts. Although the PAC has its own board of directors and officers, you feel that you have overall responsibility of the PAC to ensure that it runs effectively. The PAC Board is co-chaired by two MWPC Board members. You have a seat on the PAC Board, but you may recuse yourself from PAC participation and still be an effective President of the organization.

The PAC's primary job is to endorse well qualified female candidates for elective office at the local and state level. Once the MWPC endorses a candidate, the PAC determines whether it will target the race with volunteer resources based on the organization's assessment of whether PAC funds should be donated. PAC funds are raised during special PAC fundraising events and the monies raised by the PAC are not comingled with other MWPC funds. As President, you are expected to attend PAC events and offer a few words about the MWPC and the endorsed candidates.

QUESTION

You have asked for guidance regarding what role, if any, you may play with MWPC in light of your government employment.

ANSWER

Because a primary goal of the MWPC is to increase the number of elected women in state government, you should not be involved in fundraising for the MWPC.

DISCUSSION

Section 13 of the campaign finance law states that "no person employed for compensation, other than an elected officer, by the commonwealth or any county, city or town shall directly or indirectly solicit or receive" money or anything of value "*for any political purpose whatever.*" (Emphasis added). This part of the campaign finance law, in combination with several others, reflects the goal of "assuring the fairness and appearance of fairness in the electoral process" by removing non-elective public employees from political fundraising. See Anderson v. City of Boston, 476 Mass. 178, 186-193 (1978).

The use of the phrase "for any political purpose whatever" reflects an intention on the part of the Legislature to expand the scope of the prohibition beyond the solicitation or receipt of campaign contributions. Before being used in Chapter 55, it was used by the U.S. Congress in the Pendleton Act, which was enacted in 1883 as a civil service measure to address abuses relating to

the use of patronage in federal government, and it is used in various federal, state and municipal statutes and regulations.

In IB-92-01, the office considered the extent to which the phrase “for any political purpose whatever” broadens the scope of Section 13. We stated that organizations that are not political committees can still have a political purpose. See AO-91-12 (redistricting task force organized by members of a political party seeking to support a partisan redistricting effort may not accept corporate contributions).

In contrast, some organizations have a significant public policy component which may be seen as “political,” but not “political” within the context of Section 13. See AO-90-11, in which the office stated that a public employee could raise funds for the Women’s State-Wide Legislate Network of Massachusetts, because the organization was involved in lobbying activities, not the support or opposition of candidates, a political party, or ballot questions. The organization was a non-profit, 501(c)(3) educational organization comprised of individuals and organizations that train women to participate in the public policy process.”

In AO-90-11, the office stated, however, that if the organization’s activities were extended to include “direct or indirect support of one or more candidates, e.g., direct campaign contributions or in-kind contributions of training on how to run a campaign, get out the vote, or the like, or for support of or opposition to questions appearing on the state or local ballot, such activities may be considered to be ‘political’ rather than ‘civic’ or ‘humanitarian.’”

The word “political” has been defined as “relating to, or dealing with the structure of affairs of government, politics, or the state...” The American Heritage Dictionary (Third Ed., 1997). The term should be construed as encompassing activities intended to assist an individual or a class of individuals in their efforts to be elected. Because a major purpose of the MWPC is to help women get elected, the organization has a political purpose within the context of Section 13.¹

It follows that to ensure compliance with Section 13, you should not directly or indirectly solicit or receive contributions for the organization. This means that your name should not appear on any solicitation sent by the MWPC or its PAC, and you should not serve as a draw at any fundraising event held to benefit the MWPC or its PAC. You may attend MWPC fundraising events and make introductory comments at the events, but you may not solicit or receive contributions at the events. In addition, you may be involved during non-work hours in overseeing the MWPC and may participate in the process the PAC uses to decide who to endorse.

You will need to exercise caution to avoid being involved in political activities during the hours in which you are working as a public employee. In addition to ensuring that your campaign-related activities take place only on your own time, you must also avoid any use of governmental resources, e.g., the computers in your State House office, in connection with campaign activities. See Anderson and IB-91-01.

¹ The U.S. Office of Special Counsel administers the Hatch Act, a similar statute restricting the political activities of Federal employees. The regulations issued under the Hatch Act define “political purpose” to include “an objective of promoting or opposing a political party, candidate for partisan political office, or partisan political group.” 5 CFR § 734.101. We understand that the Office of Special Counsel would advise a Federal employee to not raise funds for an organization with the purposes described by MWPC, to ensure compliance with the Hatch Act, 5 U.S.C. § 7323(2).

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Please note that this opinion is issued solely within the context of the campaign finance law based on the representations made in your letter. You should also contact the State Ethics Commission to ensure compliance with M.G.L. c. 268A.

I encourage you to contact us in the future if you have further questions regarding this or any aspect of the campaign finance law.

Sincerely,

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

Michael J. Sullivan
Director

MJS:gb