



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

ONE ASHBURTON PLACE, ROOM 411  
BOSTON, MASSACHUSETTS 02108

MICHAEL J. SULLIVAN  
DIRECTOR

TEL: (617) 979-8300  
(800) 462-OCPF  
FAX: (617) 727-6549

September 18, 2014  
AO-14-05

Thomas R. Kiley, Esq.  
Cosgrove, Eisenberg and Kiley, PC  
One International Place, Suite 1820  
Boston, MA 02110-2600

Re: Massachusetts Realtor Independent Expenditure Political Action Committee

Dear Mr. Kiley:

This letter is in response to your request for an opinion regarding the scope of 970 CMR 1.22 as applied to the Massachusetts Realtors Independent Expenditure Political Action Committee (the Committee) and the 527 organization created by the National Association of Realtors.

You state that the National Association of Realtors Fund (NARF) is a separate fund of the National Association of Realtors, and that NARF is registered with the IRS as a 527 organization. NARF has not and does not intend to solicit funds earmarked for Massachusetts elections. Members of the National Association who pay dues to local affiliates of NARF have no knowledge that their dues may promote or oppose any specifically identified Massachusetts candidate, but those dues paying members "may well have reason to believe that NARF is making independent expenditures around the country."

Based on your previous conversations with OCPF staff, you understand that the regulation does not require NARF to register as a political committee in Massachusetts. You have asked for confirmation of this informal advice regarding the scope of the regulation.

**QUESTION 1**

Is it correct that G.L. c. 55 generally and the regulation specifically do not require NARF to register with OCPF as a political committee?

ANSWER: Yes, an organization that raises funds for political purposes, but does not indicate to donors that the funds may be used to influence state or local elections in Massachusetts, is generally not required to register as a political committee in Massachusetts. This is the case even if a portion of the funds raised in this manner by the organization may subsequently be transferred to a Massachusetts independent expenditure PAC or used by the organization itself to make independent expenditures in Massachusetts.



## QUESTION 2

Is it correct that the duly registered Massachusetts Realtor Independent Expenditure Political Action Committee should report NARF, the 527 Fund that will be writing checks to the committee, as the source of its contributions, as opposed to disclosing, as the contributor, the members who have made dues payments to the national organization or its local subsidiaries.

ANSWER: Yes, the independent expenditure PAC should report NARF as the source of the contributions, not the national association or the individual members who pay dues to the association unless donors to NARF or the national association know that dues will be used at least in part to make independent expenditures to influence Massachusetts state or local elections.

## DISCUSSION

The campaign finance law defines the term "political committee" to include any organization which receives contributions or makes expenditures *for the purpose of influencing the nomination or election of candidates in Massachusetts*. See M.G.L. c. 55, § 1. Whether an organization is considered a political committee is based primarily on whether the organization solicits money or anything of value for the purpose of influencing an election in Massachusetts. See IB-88-01, which states that the determination of whether an organization is required to organize "depends on an assessment of various factors, including the timing and content of solicitations." An organization that raises money for the purpose of making independent expenditures in Massachusetts is an independent expenditure PAC.

The office recently promulgated emergency regulations, 970 CMR 1.22, regarding identification of the sources of funds transferred for purposes of making contributions, electioneering communications, and independent expenditures. The regulations, issued pursuant to Chapter 210 of the Acts of 2014, provide a framework for tracking transfers made by individuals and entities "for the purposes of facilitating the eventual making of contributions, electioneering communications, or independent expenditures." See 970 CMR 1.22(1).

The regulation states that "an organization, whether existing in Massachusetts or in another state, that solicits or receives money or other things of value to make independent expenditures [in Massachusetts] ... is an independent expenditure political action committee and must organize as such prior to soliciting or receiving any money." See 970 CMR 1.22(2).

The regulation also states that if a *donor knows* that funds given to an organization will be used to make an independent expenditure in Massachusetts, the contribution is subject to the disclosure requirements of the Massachusetts campaign finance law. See 970 CMR 1.22(6). An organization that raises money to make independent expenditures in non-Massachusetts elections is not itself a Massachusetts political committee unless contributors to the organization are told or otherwise know, that at least a portion of funds given will be used to influence a Massachusetts election.

When an organization itself makes independent expenditures in Massachusetts, it must file a report disclosing the expenditures. If the organization contributes to a Massachusetts independent expenditure PAC, however, the independent expenditure PAC files the report and must disclose the receipt from the organization.<sup>1</sup> If persons making dues payments to the organization do not know that a portion of the dues payments will be used to influence a Massachusetts election, the organization making the decision to use members' dues to make a contribution to an independent expenditure PAC is disclosed by the independent expenditure PAC as the contributor, and individual members of the organization or the organization's subsidiary groups are not listed as contributors.

This opinion is provided within the context of the Massachusetts campaign finance law and is based solely on the basis of representations in your letter and communications with OCPF. Please contact us if you have further questions regarding this or any other campaign finance issue.

Sincerely,



Michael J. Sullivan  
Director

---

<sup>1</sup> In contrast, organizations that plan to raise money not to make independent expenditures or contributions to independent expenditure PACs, but instead to make contributions to candidates, candidate committees, political party committees or traditional PACs, may not contribute to Massachusetts candidates or candidate committees without first organizing with OCPF as a Massachusetts political committee. See IB-82-01.