



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MEMORANDUM

To: Candidates and political committees
From: Michael J. Sullivan, Director
Subject: Distribution of email solicitations in governmental buildings

The campaign finance law provides that no person, whether state employee or otherwise, shall "in any building occupied for state, county or municipal purposes demand, solicit or receive any payment or gift of money or other thing of value" for political campaign purposes. See M.G.L. c. 55, § 14. This memorandum is issued to provide guidance in response to inquiries regarding the distribution of political fundraising emails to public employees and elected officials using the public employees' work addresses. The inquiries resulted in the office considering whether the sending of such emails involved the solicitation of campaign contributions in a building subject to Section 14.

I. BACKGROUND

The office issued an advisory opinion in 2001 stating that when an email soliciting campaign contributions is sent to a public employee using the public employee's work address, the sender has "solicited" contributions in a manner not consistent with Section 14. See AO-01-20. The office relied on a 1908 U.S. Supreme Court case interpreting a similar statute which concluded that a written solicitation of political contributions is not complete until the letter is delivered to the person from whom the contribution is solicited.

The office stated in AO-01-20 that if a person sends a solicitation to a public employee at the employee's place of work in a governmental building via email, such action is not consistent with section 14. The office stated that a candidate or committee may not accept a contribution made as a result of such a solicitation. A solicitation may, however, be sent to a public employee's home.¹ In addition, the office stated that because a political committee may not accept contributions received in violation of section 14, that any contribution received in response to such a solicitation should be returned to the contributor in its original form.

¹ It could also be sent to an employee's private email account, which the employee may be able to access while at work.



Email has increasingly become a prevalent campaign fundraising tool. Because committees compile large email lists, lists often include the work address of public employees and elected officials. As a result, candidates and committees occasionally send fundraising appeals to public employees and elected officials at their place of work.

II. GUIDANCE FOR CANDIDATES AND COMMITTEES

Candidates and committees should take the following steps to minimize the possibility that fundraising emails will be sent to public employees or elected officials at work:

1. Committees should regularly either “scrub” or segregate their email lists to prevent governmental email addresses from being used for electronic fundraising solicitations. The committee must first identify potential governmental email addresses. Usually these addresses are apparent from the domain name, which is the second part of the email address after the “@” symbol. Commonly, public domain names include: *.gov*, *.state*, *.edu* or *.ma*. Another common public email address format includes the name of the state, county or municipality in the domain name followed by *.org*. Once the governmental email addresses are identified, committees can “scrub” their email address list to remove all of the governmental email addresses found.

Removing public email addresses may not be a workable solution for all committees since a committee may send non-fundraising communications to public employees or elected officials. Rather than removing addresses from an email list, a committee may divide an email list into separate, segregated contact or distribution lists, which can then be used for different purposes. Committees using contact or distribution lists that include public employees or elected officials’ governmental email addresses must take extra precautions to ensure that these lists are not used for electronic fundraising solicitations.

2. Committees should also include a disclaimer notice in their email solicitations, to state that:

- The committee does not intend the fundraising solicitation to be opened in buildings occupied for state, county or municipal purposes,
- If a fundraising solicitation is inadvertently sent to a governmental email address, any public employees or elected officials who receive the message at that address should take no action in response to the solicitation other than to perhaps reply to the sender to advise that they should be removed from the list, and
- The committee requests that the recipient of the email not forward, disseminate, distribute or otherwise copy the email to a governmental email address.

3. In the event that a solicitation is sent to a public employee or elected official at their governmental email address, and the committee is notified or otherwise learns that this has happened, the committee should send a follow-up email asking the public employee or elected official to disregard the solicitation. A copy of the retraction email should be printed and retained in the committee’s records in accordance with M.G.L. c. 55, ss. 2 and 5. Contributions may not be accepted if they are received by the committee solely as a result of the committee having sent an email to a public employee or elected official at their place of work.

4. Committees should periodically review their email lists to ensure compliance with the foregoing advice and with Section 14.

5. Committees should train supporters to ensure that when supporters send fundraising emails, the emails comply with the foregoing advice and with Section 14.

6. Where a candidate wishes to send complimentary invitations to a fundraising event to colleagues via their governmental email accounts, the body of the email should contain a written statement from the candidate or an agent of the candidate's committee indicating that the invitation is complimentary and that no funds will be accepted. Alternatively, the invitation can be clearly marked as complimentary before it is attached to the email being sent.

7. In those instances where fundraising emails are inadvertently sent to public employees or elected officials at governmental email addresses, we recommend that any contributions received in response to those emails be returned.

Please call OCPF at 617-979-8300 with any additional questions about this issue.