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MEMORANDUM

To: Candidate and political party committees
From: Michael J. Sullivan, Director *MJS*
Subject: Joint Fundraising and Joint Campaign Activities

Two or more candidate or party committees may conduct joint fundraising events or may jointly make expenditures for campaign-related goods or services. This memorandum is intended to summarize and explain the requirements for such activity and to answer frequently asked questions.

I. JOINT FUNDRAISING

A joint fundraising event may not be used to circumvent the contribution limits and disclosure requirements of the campaign finance law. A committee making *all* of the expenditures associated with a fundraising event held jointly with another committee would be deemed in most instances to be making an in-kind contribution to the other committee equal to 1/2 of the total cost of the event. Such contributions from one committee to another are subject to the limits in the campaign finance law. To avoid one participating committee making a contribution to another participating committee, the costs for holding such an event should generally be evenly shared by each committee, and each committee should make payments directly to the vendor.

A. Party Committees Raising Funds With Other Party Committees

OCPF regulations define two alternative ways that political party committees may raise money jointly with other political party committees. See 970 CMR 2.12. *The simplest and preferable method* is for each committee to (1) allocate costs according to the percentage of total contributions expected to be received by each committee; (2) pay vendors directly; (3) ensure that contributors write separate checks directly to the participating committees; and (4) maintain complete records regarding the event.

Alternatively, sponsoring party committees may appoint a "joint fundraising agent" and have contributors write checks or make credit card contributions to the joint fundraising agent. The



joint fundraising agent is responsible for paying expenses associated with the event (using funds provided in advance by participating committees, or funds received at the event) and depositing contributions in a separate account designated for that purpose. A joint fundraising agent may either be an individual or an entity. Joint fundraising agents must complete a written summary of the event, the "Report of Joint Fundraising Agent" (Form 102JT), within 30 days of a fundraising event. A copy of the report must be provided to each sponsoring committee.

Party committees should review 970 CMR 2.12 and contact OCPF for guidance before appointing a joint fundraising agent.

B. Party Committees Raising Funds With Candidate Committees

Joint fundraising agents may not be used when a political party committee holds a joint fundraising event with a state or local candidate. *See* 970 CMR 2.12(1)(e). For these events, contributors must give their contributions directly to each sponsoring committee and each committee must pay vendors directly. Party committees may make in-kind contributions to candidate committees without limit. Each committee must maintain records regarding the event and disclose all contributions received and expenditures made.

II. OTHER TYPES OF JOINT CAMPAIGN ACTIVITIES

Two or more Massachusetts candidate committees or political party committees may jointly make expenditures with other candidates or political party committees for campaign material (such as campaign advertisements, bumper stickers or buttons), or for office space. *See* 970 CMR 2.11, which allows candidates or party committees to make joint expenditures with other committees for non-fundraising expenses without the expenditure resulting in an in-kind contribution from one committee to another. To the extent that a committee pays less than its share of the cost, and a joint expenditure is made other than as provided in 970 CMR 2.11, the committee is deemed to have received an in-kind contribution from the other committee(s).

Under 970 CMR 2.11, vendors of goods and services used for joint campaign material, office space, or a joint campaign event that is not a fundraising event must be paid directly by each participating committee. *See* 970 CMR 2.11(9). As with joint fundraising expenditures, if the primary purpose for a committee's expenditure is not the promotion of the party for which the committee was organized, or the candidate, the expenditure would result in the making of an in-kind contribution to the other participating committee(s) or candidate(s). Although committees generally pay equal amounts, costs may instead be allocated based on objective facts, e.g., the amount of print space in an advertisement that supports both candidates but uses more space for one candidate.

The use of shared office space by political party committees and candidate committees may involve the making of a joint campaign expenditure. Each committee must pay its portion of the costs according to the benefit reasonably expected to be derived. Such costs include rent, utilities, computers, phones, furnishings, or any other expenditure made relating to the office. Generally,

each committee pays an equal amount, but if a committee uses larger portion of the office, it should pay expenses that are proportionate to the extent of space used. In contrast, if a committee only uses a corner of the office for storage, and does not otherwise use the office, the amount that should be paid by the committee would be limited to the market value of the space used.¹

Committees must be sure that expenditures paid to vendors are equal to the fair market value of space or goods received and must keep complete records relating to all such expenditures, and clearly disclose the expenditure, and any related in-kind contributions, in campaign finance reports. See IB-88-02.

III. JOINT ACTIVITY WITH FEDERAL COMMITTEES

Massachusetts state and local political party committees raising money with a federal candidate or committee, or involved in any joint campaign activity with a federal candidate or committee (or the federal account of a state party committee), must ensure compliance with both federal and state campaign finance law. Committees should consult the Federal Election Commission's regulations concerning allocation (11 C.F.R. Parts 106 and 300), joint fundraising (11 C.F.R. 102.17), and coordination (11 C.F.R. Part 109), to ensure compliance with federal law prior to jointly raising money, or making expenditures, with any federal committee. Further guidance for party committees is available in the FEC's Campaign Guide for Party Committees, which is available on the FEC's website (www.fec.gov).

If office space is used jointly for federal and state campaign finance activity, the expenditures for rent and utilities are subject to federal allocation rules. This means that such costs may be allocated between federal and state accounts in accordance with federal rules. The minimum that must be paid from the federal account varies from one election to another, depending on the federal offices on the ballot.

Even if expenditures are made from the federal account of a state party committee in accordance with federal rules, state or local party committees must also comply with the recordkeeping and disclosure requirements of M.G.L. c. 55. In addition, committees subject to the Massachusetts campaign finance law must ensure that contributions they receive into a state account comply with the limits and prohibitions of the Massachusetts campaign finance law, including the prohibition on the receipt of any transfers from a federal committee. See M.G.L. c. 55, § 7. Funds from federal party committees, or from federal accounts of state party committees, may not be deposited into state or local party committees' accounts that are subject to the Massachusetts campaign finance law.

¹ Issues generally relating to the calculation of market value for office space are discussed in IB-88-02.

IV. EXAMPLES

Example 1 (Treatment of contributions that do not comply with campaign finance law): As part of a joint fundraising event held by several party committees, a basket is left near the front door for cash contributions. No record is kept of who the contributors are. In addition, several business corporations make contributions by check. Since the anonymous cash contributions and corporate contributions are prohibited, the committees holding the event may not keep the anonymous cash or corporate contributions received. The corporate checks should not be deposited by the recipient committees, but instead returned to the contributor. Since they are not deposited, they are deemed to not be received. Anonymous contributions must be deposited and then must be disgorged in a manner consistent with the residual funds clause in M.G.L. c. 55, § 18, *i.e.*, by a payment to the general fund of the Commonwealth, the general fund of a city or town, or by a payment to a charitable or religious entity or scholarship fund. Anonymous contributions must be disclosed in campaign finance reports filed by the committees.

Example 2 (Joint fundraising by party committees): Five local party committees hold a fundraising event to jointly raise money. They each expect to benefit equally from the event. They do not use a joint fundraising agent. Each participating committee pays 1/5 of the cost. Contributors should write separate checks to the committees they want to support.

Example 3 (Joint fundraising by candidate and a party committee): A candidate and a party committee decide to hold a joint fundraising event. Each person attending the event must write separate checks to each committee. A contributor may give one check to the candidate, and another to the party committee. Committees holding the event must pay for all goods and services (including, for example, advertising, hall rental, and food) by making direct payments to vendors. Each committee pays one-half of the costs associated with the event, or apportion payment of costs based on expected distribution of contributions.²

Example 4 (Joint expenditure by candidates and party committee): A local party committee and two candidates decide to print and mail a flyer supporting the candidates. The flyer may be paid for entirely by the party committee as an in-kind contribution to the candidates. In-kind contributions may be made by party committees to candidates without limit, but both the party committee making the expenditure and the committees receiving the in-kind contribution must disclose the transaction in their campaign finance reports. One-half of the cost would be attributed as an in-kind contribution to each candidate if the flyer devotes the same amount of space to each candidate.

Example 5 (Joint campaign event by candidates and party committee): A local party committee and four candidates hold a joint campaign event (not a fundraiser) to benefit the party committee and the candidates. The party committee may pay all the costs associated with the event, in which case the payments would result in in-kind contributions by the party committee to the candidates (one-fifth of the total cost would be considered an in-kind contribution to each

² Alternatively, the party committee may pay for a greater share of expenditures (and may pay all costs if desired), but the candidate committee would need to report the additional payment by the party committee as an in-kind contribution.

candidate). If the party committee does not have the funds to pay all the costs for the event, the five committees (the party committee and the four candidate committees) should each pay vendors directly, according to the benefit reasonably expected to be derived by each committee, no in-kind contributions from one committee to another would result.

Example 6 (Joint use of office space): Two candidates for state office and a local party committee set up an office to be used on a temporary basis (for the months of July-November in an election year) for their campaigns. Each committee/candidate will jointly use the several phones and desks in the office, and will also use a conference room, to hold meetings and store yard signs. The party committee may pay for all costs associated with the office, but the candidates would be required to report the receipt of an in-kind contribution from the party committee. Alternatively, the party committee and candidates could each pay one-third of the cost.

Example 7 (Use of office by party committee, federal candidates on ballot): A local party committee uses an office space in the two month period before an election in which both state and federal candidates are on the ballot. To comply with federal rules, the state party makes payments for the office from its federal account. The local party committee must report the receipt of an in-kind contribution from the state party committee.

For further information and guidance with respect to this memorandum, please contact OCPF at 617-979-8300.