



MEC  
OPINION NO.

1996.06.135

**STATE OF MISSOURI**

**MISSOURI ETHICS COMMISSION**  
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July 12, 1996

COPY

At the June 1, 1996 meeting of the Missouri Ethics Commission, your request for an opinion was discussed. The following is the Commission's response to your questions:

***1. Do the same answers apply to the Democratic State Committee as were issued in MEC Opinion No. 96.01.110 and posed by (the Missouri Republican Party) a political party committee?***

ANSWER: In response to this question, the Missouri Ethics Commission states that it has not changed its response as contained in MEC Opinion No. 96.01.110. However, the Commission draws your attention to question number 9 of that opinion. The response to that question assumed that there was no candidate for the political office as the word "candidate" is defined by section 130.011(3), RSMo.

***2. If the Republican State Committee makes expenditures for a media campaign against a specific Democratic candidate for statewide office, will "expenditures" by the Democratic State Committee which are not transferred to the candidate or to his or her "candidate committee" be considered to be a "contribution" to the Democratic candidate and included within the "contribution" limit specified in Section 130.032.5, RSMo, if the "expenditures" are made to oppose a possible Republican opponent of the Democratic candidate and the "expenditures" are made by the Democratic State Committee and not directed or controlled by the Democratic candidate?***

ANSWER: Expenditures made by the State Democratic Committee in support of a specific candidate are not considered contributions to that candidate if those expenditures were made by the State Democratic Committee and such expenditures were not requested to be made by, directed or controlled by, or made in cooperation with, or made with the express or implied consent of the candidate. (See Buckley v. Valeo, 424 U.S. 1, 78 (1976).)

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3. *If the Republican State Committee makes expenditures for a media campaign against a specific Democratic candidate for statewide office, will "expenditures" by the Democratic State Committee which are not transferred to the candidate or to his or her "candidate committee" be considered to be a "contribution" to the Democratic candidate and included within the "contribution" limit specified in Section 130.032.5, RSMo, if the "expenditures" are made in direct response to the Republican media campaign and in support of the Democratic candidate and the "expenditures" are made by the Democratic State Committee and not directed or controlled by Democratic candidate?*

ANSWER: The answer to this question has been answered in question number 2. If the expenditures made by the State Democratic Committee are made by the Committee, and the candidate has not requested the expenditures be made, the candidate does not direct or control the expenditures and the expenditures were not made with the cooperation of the candidate or with the express or implied consent of the candidate, they are not contributions to the candidate.

4. *The Democratic State Committee proposes to make "expenditures" in support of specific Democratic candidates for statewide office. The expenditures will not be transferred to a candidate for statewide office or to the "candidate committee" for any such candidate for statewide office. Instead, the funds to be expended and how they will be expended will at all times remain and be subject to the direction, control and determination of the Democratic State Committee and not the candidate.*

a. *Will the expenditures be considered as "contributions" of the Democratic State Committee to the candidate within the meaning of the "contribution" limit set forth in Section 130.032.5, RSMo, if they are made, directed and controlled by the Democratic State Committee and not the Democratic candidate?*

ANSWER: An expenditure is not a contribution to such a candidate so long as the expenditure is made by and directed or controlled by the State Democratic Committee, so long as the candidate and the State Democratic Committee do not cooperate on the expenditure, and so long as the candidate does not, expressly or impliedly, consent to the expenditure. The candidate cannot direct or control the expenditure, nor can the expenditure be made in cooperation with, or with the express or implied consent of, the candidate.

b. *Will the expenditures be considered as "contributions" by the Democratic State Committee to the candidate within the meaning of the "contribution" set forth in Section 130.032.5, RSMo, if the Democratic State Committee merely advises the candidate relative to the expenditures of funds in support of the candidate with, however, the Democratic State Committee retaining the decision making authority with respect to such expenditures at all times, and*

*with the Democratic State Committee actually making the final determination as to the amount of such funds to be expended and how such funds will be expended with there being no participation by the candidate in the making of such final determinations?*

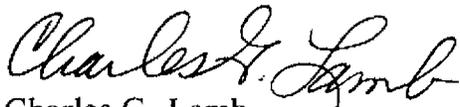
ANSWER: The Commission would examine each expenditure on an individual basis. For an expenditure to be independent and not a contribution to the candidate, such expenditure must be free from the direction, control, request, or influence of the candidate, either express or implied. The expenditure also cannot be made with the cooperation or consent of the candidate. If a candidate is advised of the proposed expenditure ahead of time, it might be construed to be an expenditure made either with the cooperation or implied consent of that candidate.

*5. The Democratic State Committee proposes to make "expenditures" in support of a slate of or multiple Democratic candidates for multiple public offices. The expenditures will not be transferred to any individual candidate or the "candidate committee" for any individual candidate. Instead, the funds to be expended and how they will be expended will at all times remain beyond the direction or control of any individual candidate for public office. Will such expenditures be considered as "contributions" to any individual candidate?*

ANSWER: It is the traditional roles of political parties to support a list or slate of candidates of the party. As previously stated, so long as the expenditure is not directed, controlled, requested or influenced by such candidate, and as long as it is made without the cooperation or consent of the candidate, such expenditure is not a contribution to that candidate.

If you have any further questions, please feel free to contact this office.

Sincerely,



Charles G. Lamb  
(Acting) Administrative Secretary

MCR:bd

**NOTICE**

Anyone examining this advisory opinion should be careful to note that an opinion of the Missouri Ethics Commission deals only with the specific request to which the opinion responded and only as to the law as it existed at the date of the response and cannot be relied upon for any other purpose or in any other manner.