



MEC
OPINION NO.

2003.07.104

COPY

STATE OF MISSOURI
MISSOURI ETHICS COMMISSION
P. O. BOX 1254
JEFFERSON CITY, MISSOURI 65102

573/751-2020
1-800/392-8660

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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.

At the July 10, 2003 meeting of the Missouri Ethics Commission, your request for an opinion was discussed. The following is the Commission's response to your questions:

1. May a party committee person (whose position is filled by vote of registered voters) form, control or direct a continuing committee during the period that the committee person is a candidate for re-election?

The definition of candidate contained in section 130.011(3) states, "an individual who seeks election to a public office." Later in section 130.011(26), the term public office is defined to include any political party office which is filled by vote of registered voters. A party committee person as stated above is elected by a vote of registered voters. The definition of a continuing committee (130.011(10)) states that such a committee cannot be controlled or directed by a candidate. This definition further states that a continuing committee is a committee other than a candidate committee or campaign committee. From these definitions, a political party committee person who is a candidate for re-election cannot form, control, or direct a continuing committee.

2. If not, which of the following actions would insulate such a party committee person from violation of that prohibition against such activity on the part of a candidate?
 - a. The continuing committee adopts a by-law provision prohibiting the committee from making any contribution or expenditure pertaining to a contest in which a person who directs or controls the committee is a candidate (whether in support of the candidate or in opposition to any of his/her opponents)?
 - b. With or without such a provision, the continuing committee in fact refrains from making any contributions or expenditures pertaining to the committee person's contest (whether in support of the committee person or in opposition to any of his/her opponents)?

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- c. The committee person takes a leave of absence from the continuing committee position involving its direction/control during the period the committee person is a candidate for re-election (i.e., between filing for re-election as committee person and the primary election at which he/she is re-elected or defeated)?
- d. The committee person is unopposed for re-election?
- e. Any other remedies the Commission would suggest?

The Commission's position is that a candidate cannot form, control, or direct a continuing committee. The individual must follow this direction and have no such influence on the committee.

- 3. Is the treasurer of a continuing committee deemed to "direct" or "control" the committee by virtue of his/her position, or would he/she not be deemed to "direct" or "control" the committee if he/she merely carries out directions of others who make the committee's decision?

Section 130.021.1 states that every committee must have a treasurer, who is a resident of this state. In section 130.021.4 and .5 some of the duties of the treasurer are described. The duties appear to have the treasurer direct or control the committee.

- 4. Does a person "direct" or "control" a continuing committee if he/she is one of several persons who participate in the committee's decisions, and any such person can be outvoted by others?

If a person has the potential to have his/her direction or ideas exercised by the committee, he or she would appear to have the ability to direct or control the committee even if these duties are out-voted.

- 5. Are sums received by party committees as filing fees considered "contributions" or "miscellaneous receipts"?

Receipts of filing fees are contributions.

- 6. May a donor pay a candidate's filing fee as an in-kind contribution without violating section 130.031.3?

Yes, so long as the in-kind contribution is noted and so long as the actual contributor is not trying to conceal his/her identity.

- 7. If filing fees are contributions to the party committee, if a donor pays a candidate's filing fee as an in-kind contribution to the candidate, who is the donor to the party committee?

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The person who pays the filing fee for the candidate is the donor to the committee. An in-kind contribution is made to the candidate committee.

8. If filing fees are contributions to the party committee, may a party committee (or the Secretary of State or local election authority) accept cash in payment of a filing fee exceeding \$100 without violating section 130.031.1?

Section 130.031.1 requires all contributions over \$100 not to be in cash. Therefore, a payment of over \$100 in cash cannot be accepted.

Sincerely,

R. F. Connor
Executive Director

RFC:bd