



MISSOURI ETHICS COMMISSION  
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James Klahr  
Executive Director

February 10, 2017

**Re: Advisory Opinion No. 2017.02.CF.001**

Dear :

At the February 10, 2017 meeting of the Missouri Ethics Commission, your request for an opinion was discussed.

**Opinion**

Pursuant to §105.955.16, RSMo, the Missouri Ethics Commission may issue a written opinion regarding any issue on which the Commission can receive a complaint pursuant to §105.957, RSMo. The Commission receives complaints alleging violation campaign finance provisions of Missouri law. This opinion is issued within the context of Missouri's laws governing such issues, and assumes the facts presented by you in your letter.

The question presented is:

*Do the contribution limits adopted by voters in Amendment 2 of the Missouri Constitution apply to candidates for county and local government offices?*

*If they do not, must a county or local candidate that receives a contribution above the limit established have to return it if the candidate changes his or her mind and runs for a state or judicial office?*

The contribution limits set forth in §23.3(1) do not apply to contributions made to candidates for county or local government offices. A candidate who received a contribution over the \$2,600 limit from December 8, 2016 forward for a county or local office would be required to return the amount exceeding that limit if the candidate later chooses to run for a state office.

**Supporting Analysis**

Article VIII, § 23.3(1), of the Missouri Constitution provides a contribution limit of \$2,600 from any person, other than the candidate, in any one election to elect an individual to the Missouri state offices of:

- Governor
- Lieutenant Governor
- Secretary of State
- State Treasurer
- State Auditor
- Attorney General
- State Senator
- State Representative
- Other State Office
- State Judicial Office

The section defines “office” in §23.7(24) as follows:

As used in this section, the following terms have the following meanings:

(24) "Public office" or "office", any state, judicial county, municipal, school or other district, ward, township, or other political subdivision office or any political party office which is filled by a vote of registered voters;

This definition is consistent with the definition found in §130.011(26), RSMo.

The constitutional provisions specify various state level offices that are subject to the contribution limit per election set out in §23.3(1). The amendment defines “office” to include both state and local offices but this definition lists “any state office” as distinct from other offices such as “municipal, school, or other district, ward, township or other political subdivision office.” The contribution limits set forth in §23.3(1), therefore do not apply to contributions made to candidates for county or local government offices.<sup>1</sup>

The contribution limits took effect on December 8, 2016. Because contribution limits apply to candidates for state and judicial office, a candidate who received a contribution over the \$2,600 limit from December 8, 2016 forward for a county or local office would be required to return the amount exceeding that limit if the candidate later chose to run for a state office. For example, if a candidate initially declared for a county office and received \$4,000 in contributions from a contributor (not the candidate himself) in an election cycle, and later declared his candidacy for one of the state offices listed above instead of county office, the candidate would have to return the amount over the limit (\$1,400) to the contributor.

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<sup>1</sup> While the opinion discusses the question of application of the contribution limits in §23.3(1) to local candidates, other provisions discuss “candidates” and candidate committees without reference to state office candidates or committees, and those other provisions therefore apply to candidates and committees at the local level.

This reasoning is consistent with MEC Opinion No. 2006.01.100, issued by the Commission when contribution limits were previously effect in Missouri. The following is a link to the previous opinion: <http://mec.mo.gov/Scanned/PDF/Opinions/388.pdf>.

Under the question presented, it is assumed that the candidate has changed a Statement of Committee Organization during the same election cycle. It is also possible that a candidate receives contributions for an election to an office not subject to limits, is unsuccessful and terminates, but seeks to transfer contributions to a new committee to run for a future office subject to limits.<sup>2</sup> This opinion does not directly address this issue or the method of determining which contributions may need to be returned as there may be multiple scenarios depending on the amount and timing of contributions accepted and the available money on hand. For these reasons, a candidate for office who accepts contributions above \$2,600 for an election cycle is cautioned of possible scenarios in which contributions in excess will be required to be returned.

§130.036, RSMo contains requirements for recordkeeping for all campaign finance committees. In the event a candidate for an office not covered by the limits in Article VIII, § 23.3(1), accepts contributions in excess of \$2,600 for an election, it is incumbent for the committee to keep good records of contributions in excess of that limit in the event any amount of the contribution is required to be returned.

Sincerely,



James Klahr  
Executive Director

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<sup>2</sup> Art. VIII, §23.7(7) (f) states that funds received by a candidate committee as a transfer of funds from another candidate committee controlled by the same candidate is not a contribution, but such transfer shall be included in the disclosure reports.