



THE COMMONWEALTH OF MASSACHUSETTS
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December 28, 2015
AO-15-04

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Re: MA Correction Officers Federated Union PAC

Dear Mr. Coyne:

This letter is in response to your request for an opinion regarding the MA Correction Officers Federated Union's (the Union's) processing of authorization cards completed by Union members who wish to make contributions to the Union's PAC (MCOFU PAC).

The Massachusetts campaign finance law permits PACs to collect funds from individual contributors through payroll deductions and direct deposit, provided the PACs first obtain authorization cards from each contributor. Authorization cards must verify the amount to be withdrawn and the payment period, if any, in which the contributions will be made. *See* M.G.L. c. 55, § 9A. MCOFU PAC, which raises its funds primarily through payroll deductions from MCOFU members, recently revised its authorization cards to comply with OCPF guidance and, accordingly, must obtain new completed authorization cards from contributors.¹

You have stated that Union members are employed by the Massachusetts Department of Correction (DOC) at various correctional institutions throughout the state. You expect Union stewards or other non-elected public employees to ask fellow Union member employees to complete and sign the new cards. You recognize that the campaign finance law (M.G.L. c. 55, §§ 13 and 14) prohibits political solicitation of contributions by public employees and also prohibits political fundraising in governmental buildings. You contend, however, that the process of gathering new cards does not involve requesting money, "but just completing an administrative act to correct paperwork related to an already existing contribution." You have asked the following questions.

¹ Existing authorization cards specified that funds deducted from pay would be contributed to the MCOFU "Political Education Fund." The Political Education Fund then transferred all contributions received to the MCOFU PAC. Based on consultation with OCPF, the collective bargaining provision is being changed so that all money contributed from members will be deposited directly into the PAC with no intermediate transfer to a Political Education Fund. The revised cards will be more accurate in that they will state that contributions are being made to the MCOFU PAC.



QUESTIONS

- (1) May nonelected public employees ask employees to sign the revised authorization cards, and then gather the completed authorization cards?
- (2) May this activity take place in buildings occupied for state, county or local governmental purposes?

ANSWER

No, for both questions. Public employees may not ask other employees to sign the revised cards. Asking a person to continue making contributions to the MCOFU PAC is a form of solicitation. In addition, public employees may not personally gather the completed cards from other employees, and distribution or collection of the authorization cards should be undertaken by MCOFU staff members who are not public employees.

In addition, members may not be asked, while in a government building, to sign the revised cards. The Union could, for example, mail requests for completion of the cards to employees at their residential addresses, not their governmental addresses, or otherwise distribute the cards outside of the workplace.

DISCUSSION

Section 13 prohibits the solicitation or receipt of political contributions by appointed public employees. Section 14 provides that no person, whether public 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. This applies to both verbal and written solicitations in the workplace. *See* AO-01-20 (advising that the time and place of the receipt of a written solicitation determines where the solicitation takes place). In addition, Sections 16 through 17 of the campaign finance law protect public employees from being forced to contribute to or otherwise support a political candidate or committee.

Asking an employee to sign a new authorization card is, in effect, asking the employee to continue making contributions to the MCOFU PAC; accordingly, such a request constitutes solicitation of political contributions within the meaning of the campaign finance law. Therefore, because DOC employees are appointed, compensated public employees subject to the restrictions of Section 13, they may not distribute authorization cards on behalf of MCOFU PAC or personally gather the completed cards from employees. *See* AO-03-04 (stating that appointed public employees may not solicit contributions to a public employee union from new employees in the course of the orientation process). Similarly, a request for the signing of new authorization cards may not be made in a building "occupied for state, county or municipal [governmental] purposes" including a correctional institution or facility. *See* M.G.L. c. 55, § 14.

Instead, as with all political solicitations, solicitations for PAC contributions made in conjunction with a payroll deduction plan must be made (whether orally, in writing or by e-mail) outside of the workplace or any other government building by a PAC's treasurer, a union member

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who is not employed by the Commonwealth or who is retired from public service, or any other union or PAC agent who is not an appointed public employee.² See AO-97-07 (advising that if a PAC is composed of public employees, public employee members may not solicit prospective new members; instead, solicitation must be done by persons who are not public employees).

After the authorization cards have been completed and signed by employees, however, they may be forwarded to the appropriate DOC staff member for processing.³ These employees may carry out the clerical work subsequently required to administer the deduction plan without implicating Sections 13 or 14 because such functions do not constitute the solicitation or receipt of political contributions. See AO-88-25 (advising that a public employee may perform clerical tasks such as data entry in connection with political fundraising).

This opinion is issued on the basis of representations in your letter and is solely within the context of the campaign finance law. I encourage you to contact us in the future if you have further questions about this opinion or any other aspect of the campaign finance law.

Sincerely,



Michael J. Sullivan
Director

MJS/gb

² To comply with Section 14, emails asking employees to sign the revised card would need to be sent to employees' personal email addresses, not to their work email address. See M-10-01.

³ Public resources such as staff time may generally not be used for any political purpose. See *Anderson v. City of Boston*, 376 Mass. 178 (1978). A governmental entity may, however, process completed authorization cards consistent with the collective bargaining agreement entered into with its employees' union, since the primary purpose of this activity would be to fulfill the entity's obligations under the agreement. See AO-03-04.