



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MICHAEL J. SULLIVAN
DIRECTOR

October 2, 1996
AO-96-29

Representative Harriett L. Stanley
State House - Room 167
Boston, MA 02133-1020

Re: Candidate's writing column for newspaper

Dear Representative Stanley:

This letter is in response to your September 16, 1996 request for an advisory opinion.

You have stated that you write a "State House Column" which is published by a local newspaper. The column entails discussion on public issues in the legislature and issues relevant to your district. You do not, in the column, solicit contributions or expressly advocate the nomination, election, or defeat of any candidate. In short, the column does not include campaign or election-related references.

You have asked if you may continue to write the column during the months immediately preceding an election even if your opponent is not invited to write an opposing column in the same paper.

The campaign finance law defines a contribution as any "thing of value [given] for the purpose of influencing the nomination or election" of a candidate" See M.G.L. c. 55, s. 1. Contributions must be disclosed and are subject to limitations imposed by the law, and corporate contributions to candidates are prohibited. See M.G.L. c. 55, s. 8.

The jurisdiction of this office is limited to Chapter 55 of the General Laws, the Massachusetts campaign finance law, which generally does not regulate media organizations. Section 8A of Chapter 55 does specify, however, that "[a] media organization may make time or space available to a qualified candidate at no cost or at reduced cost for the purpose of presentation of the candidate's own political advertising" if (1) the same amount of space and the same market value is provided to opposing candidates and (2) the media organization discloses the arrangement in accordance with rules and regulations issued by this office. See M.G.L. c. 55, s. 8A. (Emphasis added). A media organization which complies with section 8A has not made a contribution within the meaning of section 8.

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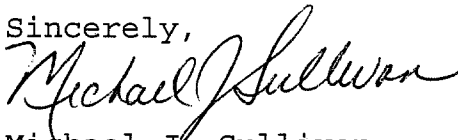
The campaign finance law does not restrict newspapers from exercising their First Amendment freedoms by using columns to disseminate political views. See Opinion of the Attorney General, November 26, 1980 (in which the Attorney General, citing First National Bank of Boston v. Bellotti, 371 Mass. 773, 789 (1978), observed that "section 8 does not bar such activities [as publishing a house organ or newspaper expressing political views] which are in the normal course of . . . corporate affairs").

Although this office has not defined if and when the provision of space for a column might involve the receipt of a contribution, i.e., when the "column" might actually be an advertisement, we believe the Federal Election Commission's approach to similar questions is instructive. The Commission has stated that where a communication does not involve "(i) the solicitation, making or acceptance of contributions to the candidate's campaign," and does not "expressly advocat[e] the nomination, election or defeat of any candidate" such communication does not involve the receipt of a "contribution" or the making of an "expenditure" on behalf of a candidate. See FEC AO 1994-15 (applying the standard to the hosting of a monthly public affairs series to be televised on local cable television stations) and opinions cited therein.

Based on the information submitted by you, I believe that the column is not an "advertisement" subject to section 8A and its publication does not result in your receipt of a contribution. A newspaper may therefore, provide you with space to write a column, even if similar space is not provided to your opponent.

This opinion is solely in the context of M.G.L. c. 55, and is based solely on the representations made in your letter. Should you have additional questions, please do not hesitate to contact this office.

Sincerely,



Michael J. Sullivan
Director

MJS/cp