

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

ONE ASHBURTON PLACE, ROOM 411

BOSTON, MASSACHUSETTS 02108

(617) 727-8352

(800) 462-OCPF

MARY F. McTIGUE
DIRECTOR

November 30, 1992
AO-92-31

Rep. Edward M. Lambert, Jr.
State House Room 167B
Boston, MA 02133

Re: Work-Study Student

Dear Representative Lambert:

This letter is in response to your letter of September 25, 1992 requesting an advisory opinion as to whether your campaign funds can be used to pay a portion of the salary of a work-study student.

You have stated that the majority of the student's salary would be paid by a federal work-study program through Simmons College, a private college in Massachusetts, and that approximately thirty-eight (38) percent would be paid by the employer.¹ You have further stated that the student would be performing constituent and legislative work exclusively and that none of the work conducted in the office by the student, or anyone else on your staff is or would be related to campaign activity.

M.G.L. c.55, s.6 states, in relevant part, that a state legislator's political committee "may receive, pay and expend money or other things of value for the enhancement of the political future of the candidate . . . so long as such expenditure is not primarily for the candidate's or any other person's personal use."

It has been the long standing position of the Office of Campaign and Political Finance ("OCPF") to distinguish between "political purposes" and "legislative or governmental purposes". Accordingly, it was permissible for a political committee to make expenditures only if the primary purpose of the expenditure was political in nature, i.e., for the enhancement of a candidate's political future. Conversely, it was impermissible for a political committee to make expenditures if the primary purpose of the expenditure was legislative or governmental in nature.

1. Your political committee and the federal work-study program through Simmons College would be jointly subsidizing the legislative aide who would, in effect, be working for you.

For example, in AO-87-05A, the Office concluded that a political committee could not purchase a set of Massachusetts General Laws since the primary purpose was to aid the candidate in performing his legislative responsibilities as a state representative. See also AO-88-30.

The statutory basis for OCPF's interpretation was more clearly articulated in AO-91-06 in which it was noted that the term "personal use" was intended to include any non-political uses such as business, governmental, legislative, family or social. It has become clear, however, to OCPF that this interpretation has resulted in a somewhat artificial distinction in certain circumstances since legislators' performance of constituent and legislative services, although part of their official responsibilities, clearly also affects their political future. Therefore, as a matter of public policy, OCPF concluded that it was consistent with the purposes of campaign finance law for political committee funds to be used to support the provision of constituent and legislative services, services which are not primarily political but which clearly have an impact on an incumbent candidate's political future.² Subsequent legislative discussions led to the 1992 amendment to M.G.L. c.55, s.6 embodying this concept.

Section 379 of Chapter 133 of the Acts of 1992 amended M.G.L. c.55, s.6 to exclude specifically expenses related to constituent and legislative services from the term "personal use". As amended, M.G.L. c.55, s.6, in pertinent part, provides:

For the purposes of this section the term "personal use" shall not include expenses relating to the provision of constituent or legislative services or to the opening or maintaining of a legislative district office . . .³

Because the recent amendments to the statute specifically exclude expenses relating to constituent or legislative services from the definition of "personal use," it is OCPF's opinion that you may employ a work-study student who is paid in part by your political committee and in part by Simmons College to perform constituent and legislative services consistent with the requirements of M.G.L. c.55, s.6 as amended by St. 1992, c.173, s.379.

2. As noted below, it continues to be a violation of the campaign finance law to utilize public funds and/or resources for political purposes.


3. The Amendment continues with the proviso that "said expenses are not otherwise paid, provided or reimbursed by the commonwealth or any other governmental body." In OCPF's opinion this language is intended to prohibit dual payments by both a political committee and a governmental body and not to prohibit joint payments from different sources as in this instance.

As noted above, however, I would caution you that although the political committee may pay for the work-study student because of the nature of his work, i.e., the provision of constituent and legislative services for your office, the student may only work on constituent and legislative services while being paid in this manner and assigned to your legislative office. Conversely, the student may not work on campaign matters such as fundraising, polling, election day "get-out-the-vote" drives and the like while so paid and assigned without violating the campaign finance law's prohibition against the use of public resources for political purposes. See Anderson v. City of Boston, 376 Mass. 178 (1978), Interpretative Bulletin OCPF-IB-91-01. See also M.G.L. c.55, s.13 and s.14 which have been enclosed for review.

This opinion has been rendered solely on the basis of the representations made in your letter as well as subsequent telephone calls with your office and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this office should you have additional questions about this or any other campaign finance matter.

Very truly yours,


Mary F. McTigue
Director

Enclosures