



Commonwealth  
of Massachusetts

## *OCPF Online*

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*Office of Campaign and Political Finance*

*One Ashburton Place, Room 411*

*Boston, MA 02108*

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### Advisory Opinion

July 30, 2001

AO-01-18

Paul A. Simmons, Jr.  
3476 Washington Street  
Boston, MA 02130-2602

Re: Formation of non-profit corporation to raise and spend funds for district office

Dear Mr. Simmons:

This letter is in response to your request for an advisory opinion.

You have submitted your request on behalf of a Boston City Councilor who currently maintains a district office. The councilor uses campaign funds to pay for expenses associated with the office such as rent and utility payments.

No campaign work is done from the office. Rather, the office is used and will continue to be used to provide constituent services. For example, the councilor may use the office to prepare a mailing to advise constituents regarding when and where a Boston City Council hearing regarding educational testing will take place. The councilor considers this constituent communication work to be separate from his elective duties. The office will not be used for campaign mailings, which will instead be done from the councilor's home.

#### QUESTION

May the councilor organize a non-profit corporation, separate from his political committee and not subject to the limits and requirements of the campaign finance law, for the purpose of raising and spending funds to maintain a district office?

#### RESPONSE

Donations made to a non-profit corporation created to fund the councilor's district office may be considered "contributions," and as such, they would be subject to the requirements and limitations

of the campaign finance law. For example, they would need to be deposited into the committee's account and disclosed on campaign finance reports filed by the committee.

Section 1 of chapter 55 defines the terms "contribution" and "expenditure" to include any "receipt or disbursement" resulting from purchases made by a candidate or person acting on behalf of a candidate "whether through the device of tickets, advertisements, or otherwise, for any fund-raising activity, including a testimonial, held on behalf of said individual, *regardless of the purpose of said activity.*" (Emphasis added). A "candidate" is defined in part as anyone who "holds public elective office" in Massachusetts. The broad definitions of "contribution" and "expenditure" are designed to ensure that where fundraising activities as described in the statute are held on behalf of a candidate or elected office holder, such activity must, even if not undertaken in connection with campaign activity, be undertaken by the candidate's political committee, and would be subject to the limits and disclosure requirements specified in the campaign finance law.

Your question may also raise issues under the state conflict of interest law, M.G.L. c. 268A. For guidance on that statute, you should consult the State Ethics Commission at 727-0060.

This opinion is issued within the context of the campaign finance law and is provided solely on the basis of representations in your letter and in your conversations with OCPF staff. Please contact us if you have further questions.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan". The signature is written in black ink and is positioned to the left of a vertical line that extends downwards from the end of the signature.

Michael J. Sullivan  
Director