



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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September 20, 2011
AO-11-07

Catherine Chaput
375 Church Street
MCLA #5772
North Adams, MA 01247

Re: Candidacy for North Adams City Council

Dear Ms. Chaput:

This letter is in response to your recent request for guidance regarding your candidacy for North Adams City Council.

You have stated that you are a student at the Massachusetts College of Liberal Arts ("the College"), which is a member of the Massachusetts state university system. You work on campus in the work-study program, as commuter lounge supervisor. This involves working for six to eight hours per week, for which you receive a paycheck, but no other employment benefits. You report to the head of student affairs.

You have also stated that you want to use your dorm room as a campaign headquarters, to store campaign material, hold meetings of volunteers, and distribute material to volunteers. In addition, you would like to receive campaign mail at your campus mail box.

QUESTIONS

1. Are you allowed to use your dorm room as your campaign headquarters?
2. Are you allowed to receive campaign mail through your campus mail box?
3. Does work-study make you a "public employee"?

RESPONSE

You would be able to use your dorm room for campaign purposes, if the College allows other students to use their dorm rooms in the same manner. You would also be allowed to receive campaign mail through your campus mail box.



Based on the information provided, as a work-study student you would not be considered a "person employed for compensation" by the Commonwealth. Therefore, you would be able to solicit and receive campaign contributions.

1. Using your dorm room as your campaign headquarters

The campaign finance law provides that "[n]o person shall in any building or part thereof occupied for state, county or municipal purposes demand, solicit or receive any payment or gift of money or other thing of value for [political] purposes." See M.G.L. c. 55, § 14. Section 14 was enacted to protect all persons working in or visiting buildings or parts thereof occupied for state, county or municipal purposes from being subjected to the pressures of political solicitation. See AO-94-17. If the dorm room is "occupied for state, county or municipal purposes," the use of the room as a campaign headquarters would be inconsistent with the campaign finance law.

An interpretation of Section 14 that would cover dorm rooms is not warranted. Section 14 (and 13, which states that public employees may not solicit or receive contributions) reflects "a legislative intent to keep political fundraising and disbursing out of the hands of nonelective public employees and out of city and town halls." *Anderson v. City of Boston*, 376 Mass. 178, 187 (1978). The prohibition in Section 14 does not apply to all parts of a building owned by a governmental entity. Instead, whether the prohibition applies in a particular part of a governmental building depends on whether that part of the building is "occupied for state, county or municipal purposes." See *Massachusetts Prisoners Assn. Political Action Committee v. The Acting Governor, et al.*, 435 Mass. 811 (2002) (stating that inmates in a state correctional facility may not solicit or receive campaign funds in such facility because the inmates are confined for a State purpose).

OCPF has stated that Section 14 applies to common areas at the entrance of the residence area of a state university. See AO-10-04 (concerning the UMass Lowell Inn & Conference Center). Unlike inmates at a correctional facility, however, students enrolled at a state college are there for their own educational purposes and their dorm rooms are not "occupied for a State purpose." Therefore, the campaign finance law would not restrict the use of a private dorm room for a campaign purpose, if the College allows all students to use their dorm rooms in the same manner. In addition, the statute is intended to protect persons visiting the governmental parts of a building from unwanted campaign solicitation, and also to avoid the appearance of impropriety that would exist if campaigning could take place in such areas. This aspect of the statute would not be furthered by an overly broad interpretation that would include the private residential portions of such buildings.

2. Receipt of mail in campus mail box

The office has stated that although a United States Post Office facility might be located in a state building, it is not used for state, county or municipal purposes, but rather for the purpose of receiving United States mail. Therefore, the prohibitions contained in Section 14 are not applicable to a post office box leased from the United States Postal Service. See AO-88-11.

Although your campus mailbox is not a U.S. Post Office box, it is its functional equivalent. You have stated that the campus mail box is for the receipt of mail only. Access is limited and the mail in the box is accessible through use of a combination lock only. Therefore, it may be used to receive campaign related mail, including contributions to your campaign.

3. Work-study employment

The campaign finance law prohibits persons, other than elected officials, who are "employed for compensation" by the commonwealth or a local government entity from directly or indirectly soliciting or receiving any contribution or other thing of value for any political purpose whatsoever. See M.G.L. c. 55, § 13.

Section 13 is designed primarily to prevent corruption or the appearance of corruption on the part of appointed public officials within the context of political fundraising efforts. If a person would reasonably be seen as a public employee at the time he or she solicits or receives contributions, the statute is implicated.

The campaign finance law does not prevent public employees from seeking public office. If a public employee plans to raise money as part of the employee's campaign for public office, the employee/candidate must organize a political committee and have the political committee handle all fundraising activities.

The office has consistently interpreted the term "employed for compensation" to generally include part-time public employees. See OCPF's Interpretive Bulletin IB-92-01, in which the office stated that "persons employed for compensation" include both full-time and part-time employees who receive any amount of compensation. The prohibition applies to such persons at all times, during working and non-working hours.

The office has also defined exceptions to that general rule. OCPF has stated, for example, that a person who is employed only on a few specific days each year is not considered a public employee subject to Section 13 on other days during the year. See AO-95-37, in which the office concluded that a poll worker, who works only on election days, is not a public employee on other days of the year. We indicated that a "part-time employee" is different for purposes of Section 13 than a "temporary" employee who works only a few specific days a year.

We have not previously addressed whether a work-study student should be considered a public employee for purposes of Section 13. We believe, however, that because you are a full-time student and your work-study employment is limited to six to eight hours per week, that you should not be considered to be "employed for compensation" by the College except during the time you are working. Your public employment would be incidental to the principle reason for being at the College, and for the purposes of Section 13, it would not be appropriate for you to be considered a "person employed for compensation" when you are not working.

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This opinion is issued within the context of the Massachusetts campaign finance law and is provided solely on the basis of representations in your letter and OCPF's staff. Please contact us if you have further questions regarding this opinion or any other campaign finance issue.

Sincerely,

A handwritten signature in black ink that reads "Michael J. Sullivan". The signature is written in a cursive, flowing style.

Michael J. Sullivan
Director

MJS:gb