

State of Wisconsin \ Elections Board

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GREGORY PARADISE
Chairperson

KEVIN J. KENNEDY
Executive Director

March 13, 1997

Terry Craney, President
Wisconsin Education Association Council
6525 West Bluemound Road
Milwaukee, WI 53213-4073

Elections Board Opinion 97-01

Re: Request for Formal Opinion Regarding Application of s.11.26(8), Stats.

Dear Mr. Craney:

On behalf of WEAC-PAC, you have requested that the State Elections Board issue an opinion pursuant to s.5.05(6), Stats., regarding interpretation of s.11.26(8), Stats., and the application of s.11.26(8) Stats., to committees other than a political party or legislative campaign committees. That statute reads as follows:

11.26 LIMITATION ON CONTRIBUTIONS. (1)

(8)(a) No political party as defined in s.5.02(13) may receive more than a total of \$150,000 in value of its contributions in any biennium from all other committees, excluding contributions from legislative campaign committees and transfers between party committees of the party. In this paragraph, a biennium commences with January 1 of each odd-numbered year and ends with December 31 of each even-numbered year.

(b) No such political party may receive more than a total of \$6,000 in value of its contributions in any calendar year from any specific or its subunits or affiliates, excluding legislative campaign and political party committees.

(c) No committee, other than a political party or legislative campaign committee, may make any contribution or contributions, directly or indirectly, to a political party under s.5.02(13) in a calendar year exceeding a total value of \$6,000.

Section 5.02(13), Stats., incorporated by reference into sub.(8)(c) of s.11.26, Stats., reads as follows:

5.02 Definitions. In chs. 5 to 12, unless the context requires otherwise: exclusively for political purposes under whose name candidates appear on a ballot at any election, and all county, congressional, legislative, local and other affiliated committees authorized to operate under the same name. For purposes of ch.11, the term does not include a legislative campaign committee or a committee filing an oath under s.11.06(7).

Your opinion request asks the following questions:

Question 1. Whether under s.11.26(8), Stats., a committee (other than a political party or legislative campaign committee) may make contributions of up to \$6,000 to each separate county, local or other affiliated committee of the State Republican Party or State Democratic Party.

Under s.11.26(8)(c), Stats., "No committee, other than a political party or legislative campaign committee, may make any contribution or contributions, directly or indirectly, to a political party under s.5.02(13) in a calendar year exceeding a total value of \$6,000." Under s.5.02(13), Stats., "Political party" or "party" means a state committee registered under s.11.05 organized exclusively for political purposes under whose name candidates appear on a ballot at any election, and all county, congressional, legislative, local and other affiliated committees authorized to operate under the same name."

Reading those two subsections together, one derives the following rule: "no committee (other than a political party or legislative campaign committee) may make any contribution or contributions, directly or indirectly, to a state committee, registered under s.11.05 organized exclusively for political purposes, under whose name candidates appear on a ballot at any election, and all county, congressional, legislative, local and other affiliated committees authorized to operate under the same name."

Applying that rule to your question, a committee (other than a political party or legislative campaign committee) may not contribute more than \$6,000 to a county or local affiliated committee of a state party like the Republican Party of Wisconsin or the Democratic Party of Wisconsin. Conversely, a committee may make unlimited contributions, i.e., up to \$6,000, and more, to each separate county, local or other unaffiliated committee. An unaffiliated committee is a committee that is not affiliated with any state political party (whether the Republican Party of Wisconsin or the Democratic Party of Wisconsin or any other state political party).

One can readily see that the critical issue is determining whether a local or county committee is an affiliate of a state party. That determination is made on a case-by-case (or committee by committee) basis. Wisconsin's Statutes do not define the elements or tenets of affiliation.

Question 2. Whether a contribution by a committee (other than a political party or legislative campaign committee) to a county, local or other affiliated committee of the Republican Party of Wisconsin or Democratic Party of Wisconsin is an indirect contribution to the Republican Party of Wisconsin or Democratic Party of Wisconsin.

For purposes of computing the limitation imposed by s.11.26(8)(b) and (c), Stats. (which the Elections Board understands to be the context in which the question is being asked), a contribution by a committee (other than a political party or legislative campaign committee) to a county, local or other affiliated committee of a political party is treated as a contribution to the political party with whom the immediate recipient is affiliated. Contributions to unaffiliated committees are unlimited. Again, the critical determination is that a local or county or regional committee is affiliated or unaffiliated with a state party committee.

Question 3. Whether, for purposes of the limitations of s.11.26(8), Stats., a political action committee such as WEAC-PAC is viewed or treated any differently than a candidate's committee such as Taxpayers for Jensen.

Sub.(8) of s.11.26, Stats., does not distinguish or differentiate one contributor committee (other than a political party or legislative campaign committee) from another. Thus, for purposes of computing the limitations imposed by that subsection, a PAC contributor is treated the same as a campaign committee contributor. Under s.11.26(8)(c), Stats., neither a PAC nor a personal campaign committee may contribute more than \$6,000, in a calendar year, to a state political party and to that state party's affiliated committees. Both a PAC and a personal campaign committee may contribute unlimited amounts to unaffiliated committees.

Question 4. If political action committees are viewed or treated differently than candidate committees, what is the basis for that different treatment?

Because for purposes of computing the limits under s.11.26, Stats., all committees (other than political party or legislative campaign committees) making a contribution to a state political party or to one of the party's affiliates are treated the same, there is no basis for different treatment.

STATE ELECTIONS BOARD

Gregory J. Paradise
Chair

GJP/dl

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A committee (other than a political party or legislative campaign committee) may not contribute more than \$6,000 to a county or local affiliated committee of a state party like the Republican Party of Wisconsin or the Democratic Party of Wisconsin. But a committee may make unlimited contributions, i.e., up to \$6,000, and more, to each separate county, local or other unaffiliated committee.

Which committees are affiliated and which are not affiliated is not provided by statute.

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