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August 18, 2023

Cincinnati Elections Commission
801 Plum Street
Cincinnati, Ohio 45202
Cincinnati, Ohio

Re: Request for Advisory Opinion

Dear Commission Members:

On behalf of my client, the Hamilton County Democratic Party, I respectfully request an advisory opinion on the proper interpretation of the contribution limit in the Cincinnati City Charter applicable to political party contributions to candidates for Cincinnati municipal candidates>

As you know, Article XIII, Section 1b provides that a political party may contribute not more than \$10,500, subject to periodic adjustment. The Charter does not define what activities by a political party count toward this limit, except to state in Section 7b that the definitions in Ohio Revised Code section 3517.01 apply to terms used in Article XIII unless otherwise set forth. Commission Rule 14A provides that “contributions” includes in-kind contributions as defined in Revised Code section 3517.01(C)(16) and shall be reported as required in Revised Code section 3517.10.

The Revised Code, however, provides that certain expenditures by a political party shall not be considered a contribution to or an expenditure on behalf of the candidate, i.e., not in-kind contributions. Because these are an exception to the definition of contribution, they are not reportable as contributions under R.C section 3517.10. See, Ohio Elections Commission Advisory opinion 98ELC-06.

Ohio Revised Code Section 3517.08 states that:

(B)(1) An expenditure by a political action committee or a political contributing entity shall not be considered a contribution by the political action committee or the political contributing entity or an expenditure by or on behalf of the candidate if the purpose of the expenditure is to inform only its members by means of mailed publications of its activities or endorsements. (2) An expenditure by a political party shall not be considered a contribution by the political party or an expenditure by or on behalf of the candidate if the purpose of the expenditure is to inform predominantly the party's members by means of mailed publications or other direct communication of its activities

or endorsements, or for voter contact such as sample ballots, absent voter's ballots application mailings, voter registration, or get-out-the-vote activities.

(C) An expenditure by a continuing association, political contributing entity, or political party shall not be considered a contribution to any campaign committee or an expenditure by or on behalf of any campaign committee if the purpose of the expenditure is for the staff and maintenance of the continuing association's, political contributing entity's, or political party's headquarters, or for a political poll, survey, index, or other type of measurement not on behalf of a specific candidate.

Also relevant is R.C. Section 3517.102 (A) (8), relating to state contribution limits, which provides that "Contribution" means any contribution that is required to be reported in the statement of contributions under section [3517.10](#) of the Revised Code. As noted, certain expenditures by a political party that would otherwise be in-kind contributions are not and not required to be reported.

The categories of party expenditures listed in the Revised Code are central to the existence of political parties communicating with their members and for party membership building in general. This is likely the reason the exceptions exist.

QUESTION PRESENTED

The question presented on which an advisory opinion is requested is whether the City's reliance upon state law in defining the scope of "contribution" includes the exceptions set forth in state law with respect to certain political party expenditures, specifically R.C. 3517.08(B) and (C)?

Respectfully submitted,

Don McTigue

Donald J. McTigue