

**ETHICS INTERPRETATION EI-1993-002
ISSUED MAY 13, 1993**

The Ethics Commission met in closed session to discuss your request for an Ethics Interpretation.

Is it a violation of 74 O.S. SUPP. 1992 § 4219, or other sections of the Ethics Commission Act, for a corporation or corporations [charitable or non-charitable] to co-sponsor with a political action committee an educational seminar for the benefit of those who are interested in seeking public office. You have indicated that the participation by corporations would include funding and/or in-kind services such as personnel, planning, publicizing and assistance with conducting the event?

ANALYSIS

You are correct in citing Oklahoma Statutes, Title 74, Section 4219, as applicable authority. However, in light of a recent Oklahoma Supreme Court decision striking large portions of the 1992 amendments [codified from House Joint Resolution 1077 and Senate Bill 2392], the answer to this question is found in the 1991 Ethics Commission Act [74 O.S. 1991 § 4200 et seq.]. [*Ethics Commission vs. Cullison et al.*, 850 P2d 1069 (Okla, 1993)] The first of these provides:

Corporate Contributions

A. No corporation chartered under the laws of this state or foreign corporation admitted to do business in this state, shall contribute to any campaign fund of any political party of this state or to any other person for the benefit of such party or its candidates, nor shall they, through any agent, officer, representative, employee, attorney, or any other person or persons so contribute. Nor shall any such corporations directly or through such other person, make any loan of money or anything of value, or give or furnish any privilege, favor or other thing of value to any political party, or to any representative of a political party, or to any other person for it, or to any candidate upon the ticket of any political party. The provisions of this section shall apply to candidates and organizations as well as political parties.

B. The provisions of this section shall not prohibit:

1. A bank, savings and loan association or credit union from loaning money to a candidate in connection with his own campaign which is to be repaid with interest at a rate comparable to that of loans for equivalent amounts for other purposes; or

2. A corporation from contributing to a campaign fund for or against a state or local question.

C. When any official, agent, attorney, or employee of a corporation has been shown to have violated the provisions of this section, it shall be presumed that he was acting for such corporation, and the burden shall be upon the accused corporation to show that such official, agent, attorney or employee was not acting for it or with its sanction.

74 O.S. 1991 §4219

The expressed intent of this law is to prohibit corporations from contributing, directly or through a conduit, to candidate campaigns. It further specifies that corporations, whether charitable or for profit [the statute does not distinguish between the two], may not "give or furnish any privilege, favor or other thing of value" to such. This includes not only money, but in-kind contributions as well. Since "person" is defined to include "...an individual, corporation, association ... committee ... or group of persons who are voluntarily acting in concert", it is clear that political action committees cannot pass through to candidates benefits from corporate sources. 74 O.S. 1991 § 4202 (25)

Neither does your request fall within the exception to the definition of "contribution":

11. "Contribution" means and includes any money, property, or in-kind services, including but not limited to, printing or engraving, radio or television time, billboards, advertising, subscription, forgiveness of indebtedness, personal or professional services or any other thing of value whatsoever which is given or loaned to be used in a campaign. The term "contribution" shall not include:

* * *

d. any payment or obligation incurred by a corporation, labor organization, membership organization, cooperative or corporation without capital stock for the establishment, administration, and solicitation of contributions to a separate segregated fund or political action committee to be utilized for political purposes;

Corporate donations to a seminar are neither costs for the establishment, administration nor solicitation of contributions to your political action committee. The same result would have been reached if the unconstitutional provisions of HJR 1077 had been in consideration.

You have indicated that the instant political action committee contributes to candidates. Corporate donations [whether in-kind or otherwise] passing through this organization would, under the foregoing, be prohibited. Neither can corporate contributions be commingled with "things of value" the political action committee uses to assist candidates. This is made clear by Title 74, Oklahoma Statutes 1991, Section 4211, which specifies:

* * *

F. ...All corporate contributions to a committee or person for or against a state question shall be segregated from, and may not be commingled with, a fund established by such person or committee to contribute to candidates or committees which support or oppose candidates.

74 O.S. 1991 § 4211 (F)

The Commission has previously ruled, in Ethics Interpretation EI-90-009, that a corporation may permit candidates to address or meet employees of the corporation on corporate premises without making a contribution to the candidate's campaign and, thus, without violating Title 74 O.S. 1991, § 4219 if, and only if, notification of and

an equal opportunity is given to all other candidates for the same office to address and meet with the corporation's employees on corporate premises.

Using this ruling as guidance, a political action committee could use corporate premises for an educational seminar only if the facilities were available to other public groups and there were no discrimination of any kind between office-seekers.

CONCLUSION

It is, therefore, the ethics interpretation of the Ethics Commission as voted on at its regular meeting held May 13, 1993, that under Title 74 O.S. 1991 § 4202 (11), 4211(F) or 4219 political action committees, which make contributions to candidates, cannot receive from corporations [charitable or non-charitable] any privilege, favor or other thing of value including co-sponsoring an educational seminar for office-seekers. Corporate premises could be used for such a seminar if, and only if, the facilities were available to other public groups and there were no discrimination of any kind between office-seekers.

Please be aware that state law requires this agency to publish the Ethics Interpretations it issues. This will be done in such a way as to protect the name of the requesting party.