

**INFORMAL OPINION IO-1999-009  
ISSUED JANUARY 31, 2000**

You have requested an informal staff opinion on the following:

*Pursuant to the Constitutional Ethics Rules [“the Rules”], Section 1-1-1 et seq. of the Rules of the Ethics Commission, 74 O.S. Supp. 1999, Ch. 62, App., what, if any, limits apply with respect to individual contributions to a political action committee formed for the sole purpose of supporting or opposing a citizens’ initiative?*

**FACTS**

You have advised:

- You represent a political action committee [“PAC”] which supports or opposes a citizens’ initiative.
- Your client is concerned about instructions on the reverse side of the Statement of Organization [“Form SO-2”], which appear to limit to \$5,000 per calendar year individual contributions to committees “other than candidate committees”. You question whether the latter applies to a PAC, like the instant one, formed for the sole purpose of supporting or opposing an initiative effort.

**ANALYSIS**

The landmark decision of *Buckley vs. Valeo*, 424 U. S. 1, 46 L. Ed. 2d 659, 96 S. Ct. 612 (1976), set parameters for regulating contributions to political campaigns within the context of the First Amendment. While permitting limits for candidate races, *Buckley* struck those respecting ballot measures.

The Rules are in accord. Consistent with *Buckley* [supra], ballot measures campaigns are free of contribution limits.

The answer to your question hinges upon whether the Rules deem a citizens’ initiative a “ballot measure.” We note that the former is expressly included within the Rules definition of the latter.

**Definitions**

\* \* \*

**“Ballot measure”** means an *initiative*, referendum, legislative referendum, legislative initiative, state question, or any proposition or measure submitted to voters for their approval or rejection at a statewide election.

\* \* \*

In fact, rules setting limits on contributions apply strictly to committees supporting or opposing *candidates*. Other campaigns are exempt.

**257:10-1-2. Contributions**

**(a) Limitations on contributions from a person.**

(1) No person or family may contribute more than five thousand dollars (\$5,000) to a political action committee or a party committee in any calendar year. No political action committee or party committee shall knowingly accept a contribution from a person or family in excess of five thousand dollars (\$5,000) in a calendar year.

(2) No person or family may contribute more than five thousand dollars (\$5,000) to a candidate for state office or to a candidate committee authorized by such a candidate to accept contributions or make expenditures on his behalf during a campaign as defined in Chapter 1, Section 2 and as provided in Paragraphs (4) and (5) of this subsection. No candidate or candidate committee shall knowingly accept a contribution in excess of five thousand dollars (\$5,000) from a person or family during a campaign.

(3) *These restrictions do not apply to:*

(A) *a committee supporting or opposing a ballot measure; or*

(B) *a candidate making a contribution of his or her own funds, to his or her campaign.*

[emphasis added]

The limits thus apply to contributions given to candidate committees and committees supporting or opposing candidates. These include political parties, PACs and other unincorporated entities which support or oppose those running for office. They do not apply to a committee supporting or opposing a ballot measure which, as noted, includes a citizens' initiative.

The ban on corporate contributions does not apply to ballot measure committees. This holding of *Buckley* is expressly provided for in the Rules.

**(c) Prohibitions and exceptions to corporate contributions.**

(1) No corporation shall contribute to any campaign fund of any party committee of this state or to any other person for the benefit of such party committee or its candidates, nor shall it, through any agent, officer, representative, employee, attorney, or any other person or persons, so contribute. Nor shall any such corporation, 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 party committee, or to any representative of a party committee, or to any other person for it, or to any candidate upon the ticket of any political party.

(2) A corporation shall not make a contribution or expenditure to, or for the benefit of, a candidate or committee in connection with an election, except that *this provision shall not apply to:*

(A) *a campaign or committee solely for or against a ballot measure or local question; or*

(B) the establishment, administration, and solicitation of contributions to a political action committee to be utilized for political purposes by a corporation.

(3) No candidate, candidate committee or other committee shall knowingly accept contributions given in violation of the provisions of Paragraphs (1) and (2) of this subsection.

(4) The provisions of this subsection shall not apply to a bank, savings and loan association or credit union 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 equivalent loans for other purposes.

[emphasis added]

Corporations may thus contribute to this citizens' initiative PAC and may do so in an unlimited amount.

## CONCLUSION

**It is therefore the informal opinion of the Ethics Commission staff that the Rules place no limit on contributions to ballot measures, which include citizens' initiatives. As such, the initiative effort you describe is free of contribution limits. Corporations may contribute, without limit, to this PAC, which was formed solely for the purpose of supporting or opposing the initiative.**

**The limit referred to on the reverse side of Form SO-2 applies to committees "other than candidate committees" which support or oppose candidates. Examples of the latter are political parties, PACs and unincorporated entities formed to support or oppose those running for office. The statement does not apply to ballot measure committees.**

Like ethics interpretations, informal staff opinions are fact specific. They answer only the question or questions put forth in the request according to information described in the "Facts" section [*supra*]. While they may shed light on other situations, this opinion does not necessarily control them.

The Rules permit the Commission staff to issue informal opinions, upon the approval of the Chair or Vice Chair, provided the matter is reasonably susceptible to a single analysis and is not the subject of litigation, investigation or legislation. We hope these informal letters shed light on the issues and provide guidance. They are not, however, official pronouncements.

This opinion letter has been approved by the Commission Chairman. According to policy, this opinion will be submitted to the members, any of whom can request that the matter be converted to an ethics interpretation and considered by the full Commission.

Informal opinions are published with sufficient deletions to prevent identification of the persons or entities involved. The name of the requestor is considered confidential. This letter has been labeled accordingly.