

**INFORMAL OPINION IO-2001-001
ISSUED MAY 21, 2001**

You have asked requested an informal opinion on the following question:

Do the Constitutional Ethics Rules [“the Rules”], Section 1-1-1 et seq. of the Rules of the Ethics Commission, 74 O.S. Supp. 2000, Ch. 62, App., permit a candidate, who has campaign funds left over from a previous state legislative race, to transfer those funds to his or her upcoming campaign for statewide office?

FACTS

You have advised:

- you presently have on hand funds from your 2000 race for a seat in the Oklahoma Legislature.
- all expenses of the last campaign have been paid.
- you would like to transfer these remaining funds into the coffers of your own candidate committee for statewide elective office.
- the run you anticipate making will take place in year 2002.

ANALYSIS

The funds you describe are defined in the Rules as “surplus funds”. They are ones which arise:

Definitions

(1) when a candidate committee has an unexpended balance of funds not otherwise obligated for the purposes specified in Paragraph (1) of Subsection (a) of Section 20 of Chapter 10 of this title.

* * *

Section 257:1-1-2

The Rules, at Section 257:10-1-20(a)(1), provide for use of campaign funds.

Use of campaign contributions and use of surplus funds

(a) **Candidate Committees.**

(1) **Use of campaign contributions.** Contributions accepted by a candidate committee may not be converted by any person to any personal use, but shall be used, together with any interest income earned on such contributions, to defray any campaign expenditures or any ordinary and necessary nonreimbursed

expenses incurred by the person in connection with his duties as a holder of the state office, including, but not limited to, *expenses for use in a future election campaign*, for political activity, for community activity or for nonreimbursed office related expenses. Said contributions shall not be used for any other purposes except as permitted in Paragraph (3) of this subsection.

* * *

Section 257:10-1-20(a)(1)

[emphasis added]

The Rules stipulate that surplus funds may be used as follows:

- (A) deposited with the State Treasurer to the credit of the General Revenue Fund;
- (B) returned to the contributors pursuant to any formula approved by the candidate; provided, any amount returned to a contributor shall not exceed the amount of the original contribution;
- (C) contributed to a charitable organization;
- (D) *retained by the candidate or candidate committee for use in a future election for a six-year period following the General Election for the same or different office;*
- (E) used to defend legal actions or proceedings arising out of the campaign, election, or the performance of the candidate's official duties as a state officer; provided that a candidate/officeholder who, in the course of such legal actions or proceedings, is found to have violated statutes or any provision of this title shall repay funds used for his or her legal defense to his or her candidate committee;
- (F) used for a community activity;
- (G) transferred to the state or local central committee of a political party; or
- (H) distributed using a combination of these options.

Section 257:10-1-20(a)(3)

[emphasis added]

The provision expressly allows surplus funds to be transferred "for use in a future election campaign." The word "campaign" is defined to be that for state office.

Definitions

"Campaign" means and includes all activities for or against the election of a candidate to a specific *state* office for a specific term or the passage or defeat of a ballot measure from the date of acceptance of the first contribution, the making of the first expenditure, or the filing of a declaration of candidacy, whichever is first, until a final campaign contributions and expenditures report is filed.

Section 257:1-1-2

[emphasis added]

The Rules thus permit state candidates to transfer excess contributions to a future race, for the same **or different state office**.

You may therefore close your present legislative campaign and, within a six-year period following the General Election for the same or different office, open a new campaign for statewide office utilizing those funds.

CONCLUSION

It is therefore the informal opinion of the Ethics Commission staff that the Rules expressly permit a candidate to transfer surplus funds from a state legislative race to his or her own campaign for statewide office.

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.