

**Advisory Opinion 2018-02 (Cite as: 2018 OK Ethics 02)**

Dear Ms. Hoskin:

We are responding to your advisory opinion request relating to Ethics Rule 2, establishing rules of ethical conduct for elective state office and for campaigns for state initiatives and referenda.<sup>1</sup> You ask, in effect, the following question:

Does Ethics Rule 2.48 extend by 90 days the mandatory dissolution date established by Ethics Rule 2.116 for an officeholder's candidate committee to dissolve?

Your question arises because Ethics Rule 2.116 requires an officeholder's candidate committee to dissolve *before* the officeholder's term expires, but Rule 2.48 provides how surplus funds<sup>2</sup> may be expended *after* the officeholder's term expires.

Ethics Rule 2.116 provides, in pertinent part:

A candidate committee shall dissolve no later than two (2) years after the general election for an office with a two-year term, no later than four (4) years after the general election for an office with a four-year term, and no later than six (6) years after the general election for an office with a six-year term, if not required to dissolve sooner by law or these rules.

Ethics Rule 2.48 provides, in pertinent part:

Any surplus funds remaining in the candidate committee's possession within ninety (90) days after the expiration of the term to which the candidate was elected or, for candidates who were not elected, within (90) days after the second year following the general election, shall be deposited in the general revenue fund of the state.

---

<sup>1</sup> Ethics Rule 2.1.

<sup>2</sup> "Surplus funds of a candidate committee are those funds not otherwise obligated following the election at which the office for which the candidate committee was formed has been determined which, in the candidate's discretion, are not required to be used for campaign expenses or officeholder expenses." Ethics Rule 2.48.

When construing its rules, the Commission's interpretation must be reasonable.<sup>3</sup> In this case, it is unnecessary to apply rules of construction because the Commission's intent is clearly expressed in Ethics Rules 2.48 and 2.116.<sup>4</sup>

Ethics Rule 2.116 expressly provides for the dates candidate committees shall be dissolved. The Commission recognizes these mandatory dissolution dates for candidate committees precede the end of an officeholder's term of office.

Ethics Rule 2.48 is not intended to provide an additional 90 days beyond Rule 2.116's mandatory dissolution date for a candidate committee to dissolve. Because Rule 2.48 does not extend the mandatory dissolution date to the end of an officeholder's term, an officeholder may not expend candidate committee funds for officeholder expenses during that portion of the officeholder's term that extends past the mandatory dissolution date. A candidate committee that fails to dissolve on or before the mandatory dissolution date established by Rule 2.116 may be assessed a compliance fee pursuant to Ethics Rule 6.19. Rather than extending the mandatory dissolution date and allowing a candidate committee to operate past an officeholder's term of office, Rule 2.48 simply provides that any funds in the possession of the candidate committee after the candidate committee dissolves, and within 90 days after expiration of the officeholder's term, must be deposited to the State's general revenue fund.

**Therefore, it is the official opinion of the Ethics Commission that:**

- 1. Ethics Rule 2.48 does not extend by 90 days the mandatory dissolution date established by Ethics Rule 2.116 for an officeholder's candidate committee to dissolve;**
- 2. The Commission recognizes the mandatory dissolution dates for candidate committees, set forth in Ethics Rule 2.116, precede the end of an officeholder's term of office.**
- 3. Because Rule 2.48 does not extend the mandatory dissolution date to the end of an officeholder's term of office, an officeholder may not expend candidate**

---

<sup>3</sup> Compare *Udall v. Tallman*, 380 U.S. 1, 18, 85 S.Ct. 792, 802 (1965) (an agency's interpretation of its rules is given great deference and if the agency's interpretation is not unreasonable, and the language bears the construction, it will be upheld).

<sup>4</sup> See *Fuller v. Odom*, 741 P.2d 449, 452 (Okla. 1987) ("it is unnecessary to apply rules of construction to discern Legislative intent if the will is clearly expressed").

**committee funds for officeholder expenses during that portion of the officeholder's term that extends past the mandatory dissolution date.**

- 4. A candidate committee that fails to dissolve on or before the mandatory dissolution date established by Rule 2.116 may be assessed a compliance fee pursuant to Ethics Rule 6.19; and**
- 5. Any funds in the possession of the officeholder's candidate committee after the candidate committee is dissolved, and within 90 days after expiration of the officeholder's term, must be deposited to the State's general revenue fund.**