
2017 ETH 02
CAMPAIGN FINANCE – INDEPENDENT EXPENDITURE COMMITTEES

You are an organization that sponsors an independent expenditure committee (IEC). You have asked whether your IEC may contribute to a segregated fund of a political party. You have also asked if the IEC may contribute to an organization that is not registered with the Ethics Commission that provides training to candidates.

Summary:

It is the opinion of the Commission that an independent expenditure committee may not contribute to segregated funds established by a political party or a legislative campaign committee; and that an independent expenditure committee may contribute to referendum committees and other independent expenditure committees. An independent expenditure committee may be able to contribute to entities not registered under Chapter 11 with the Ethics Commission such as 501(c)(3), 501(c)(4), and 527 organizations; but the Ethics Commission cannot advise on laws outside its jurisdiction.

Opinion:

An independent expenditure committee as defined by Chapter 11 is a person that either: (1) has the major purpose of making independent expenditures, or (2) uses more than 50% of its total spending in a 12-month period on independent expenditures and expenditures made to support or defeat a referendum. [WIS. STAT. § 11.0101\(17\)](#). Independent expenditure committees may accept unlimited contributions, even from corporations, associations, labor unions, and tribes; but are specifically prohibited from making contributions themselves to any committees other than a referendum committee or another IEC. WIS. STAT. §§ [11.0601\(3\)\(b\)](#), [11.1104\(13\)](#), [11.1112](#).

A. IEC Contributions to Segregated Funds

Segregated funds are separate accounts established and administered by either a party or legislative campaign committee that can accept contributions from otherwise prohibited sources like corporations, cooperatives, unincorporated associations, labor unions, and tribes; but those funds cannot be used for contributions to candidates or for express advocacy. WIS. STAT. §§ [11.1104\(6\)](#), [11.1112](#). Contributions to segregated funds from any person other than an individual or a candidate committee are limited to \$12,000 per year. *Id.* However, this general contribution limit provision does not address the specific statutory prohibition on IECs contributing to committees other than a referendum committee or another IEC. [WIS. STAT. § 11.0601\(3\)\(b\)](#). A rule of statutory interpretation is that when two statutes that are related to the same subject matter conflict, the specific statute controls over the general statute. *State v. Larson*, 2003 WI App 235 (Wis. App. 2003).

While an IEC is barred from contributing to segregated fund, [WIS. STAT. § 11.1110](#) specifically authorizes a committee to return contributions to donors at any time. Those donors could then choose to redirect the contribution to the segregated fund if they wished.

B. IEC Contributions to Other Organizations

As described above, an IEC is prohibited from contributing to a candidate or committee other than a referendum committee or another IEC. However, there is no prohibition within the statutes administered by the Ethics Commission against contributing to other organizations such as a 501(c)(3), 501(c)(4), or 527 organization. The fact that the other organization may provide training to candidates is not relevant to the analysis. A contribution by an IEC to an organization that provides training to candidates is not a contribution by the IEC to the candidate and would be permissible under Chapter 11. There may be federal tax implications for the recipient organization if they accept money from an IEC, but the Ethics Commission cannot advise on those laws.

The only possible issue within the jurisdiction of the Commission is that as a registered IEC, your committee has indicated that its major purpose is express advocacy that is not coordinated with a candidate, candidate committee, or political party. If these contributions to other organizations equal 50% or more of the IEC's expenditures in a 12-month period, your committee may no longer qualify as an IEC.

From: [REDACTED]
To: [ETH Ethics](#)
Subject: Independent expenditure questions
Date: Thursday, April 20, 2017 10:12:02 AM

[REDACTED] has an Independent Expenditure account called [REDACTED].

Can you please tell me if we can contribute to Segregated funds of political parties from our IE account?

Also, can you please tell me if we can contribute to organizations such as [REDACTED] which does political training for [REDACTED] from our IE account?

Thanks you for your assistance

[REDACTED]