

El. Bd. Op. 74-15 (Reaffirmed 11/11/08)

Summary:

A campaign treasurer holds the power to return residual contributions to donors, in whole or in part, after a campaign has been completed. (Issued to Ervin C. Marquardt, September 25, 1974)

This opinion was reviewed by the Government Accountability Board pursuant to 2007 Wisconsin Act 1 and was reaffirmed on November 11, 2008.

Opinion:

You inquire whether you as a candidate may return to yourself contributions from your campaign fund which remain after your campaign has been completed. It is the opinion of the board that while a candidate may not convert campaign funds for personal, non-political use, a campaign treasurer holds the power to return a contribution at any time. Therefore, your campaign treasurer (in this case yourself) may return unspent contributions to any contributor to the campaign up to the amount of the contribution.

Section 11.25 (2), Stats., provides that no person or committee may make or authorize a disbursement from moneys which are solicited for political purposes for a purpose which is other than political, except as specifically authorized by law. Sections 11.19 and 11.22 (5), Stats. (§11.22(5), Stats., is now §§11.12(2) and 11.23(2), Stats.) specifically authorize disposition of residual funds to a charitable organization.

Section 11.06 (2), Stats., (now §11.06(4), Stats.) provides that unless a contribution is returned or donated within 10 days of receipt, a contribution must be reported as received and accepted. Therefore, if the 10-day deadline passes, a contribution is deemed through the action of the law to be accepted. (This does not prevent acceptance before the deadline.)

However, several provisions state that a treasurer may, and under some conditions must return contributions to donors. See §§11.07 (5), 11.24 (2), 11.26 (11) and 11.38 (6). These sections apply whether or not the contribution has been accepted. Therefore, the board concludes that it is not a violation of §11.25 (2), Stats., to return a contribution in whole or in part at any time, because the treasurer holds this power. Such return does not, however, absolve the treasurer of responsibility for accepting an illegal contribution.

This transfer should not be reported as a disbursement within the meaning of §11.01 (6), Stats, but rather a returned contribution for which §11.06 (1) requires separate reporting.

This opinion does not speak to any tax consequence which may result from such an action.