

El. Bd. Op. 86-1 (Reaffirmed 10/6/08)

Summary:

JOINT FUNDRAISERS; a political action committee and a conduit may not conduct a joint fundraiser where the contributions are deposited in a single check in an escrow account and an allocation formula is used to divide the contributions. §§11.05(9) and 11.14(1) and (2), Stats. (Issued to Mr. James Buchen, April 30, 1986.)

This opinion was reviewed by the Government Accountability Board pursuant to 2007 Wisconsin Act 1 and was reaffirmed on October 6, 2008.

Opinion:

You ask whether "a state political action committee, registered and operating pursuant to the requirements of chapter 11, Stats., [may] engage in a fundraising procedure by which it would join in a solicitation drive with a separately [sic] established conduit entity?" You describe the procedure for the proposed fundraiser. Joint contributions would be initially transmitted to the state political action committee treasurer in the form of a single check made out to the state committee. The state committee would deposit each joint contribution with a bank acting as escrow agent. The agent would transfer the appropriate share of each contribution based on a predetermined allocation formula to the conduit account and to the political action committee campaign depository.

Under the procedure you outline, the answer is no.

You propose to deposit the contributions made by a single check in an escrow account with the ultimate transfer of a predetermined amount to a conduit account and to the PAC campaign depository. This conflicts with the law. All funds received by a committee must be deposited initially in the committee's depository account. §11.14(1), Stats. After deposit in the campaign depository, the funds may be transferred to other accounts. §11.14(2), Stats. Your proposal to use an escrow account is therefore not permissible.

In your proposal you state the political action committee determines the allocation to be made to the conduit. However, this procedure conflicts with the provision that the receiving organization acting as a conduit may exercise no discretion as to the amount which is transferred. §11.05(9), Stats. Your proposal to determine the allocation is not permissible.

Because the Board has determined that your proposed joint fundraiser is illegal under the circumstances you describe, the question you raise as to whether such a fundraiser would jeopardize the conduit's exempt status is moot.