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Proper Reporting and Use of Stipends and Gifts to Candidate Campaign

Volunteers – GUIDANCE

In 2018 an issue of payments of campaign funds to campaign volunteers at the end of an election cycle were addressed in two separate decisions involving the 2016 election cycle. One candidate provided a campaign volunteer with what was described in their report as a ‘gift’ and another provided a volunteer what was described as a ‘stipend’.

Providing a Gift to a Candidate’s Campaign Volunteer

In [*Eaton v. Perry* COPP-2018-CFP-011](#), the Commissioner examined the question of whether a payment provided to a volunteer qualified as an expenditure, and if the laws regarding Surplus Campaign Funds, Mont. Code Ann. § 13-37-240, apply. **The Commissioner found the gift provided to volunteers at the end of a campaign cycle are an acceptable expenditure, however they must not exceed \$250 in the aggregate**, Mont. Admin. R. 44.11.608(4)(b). In other words, a campaign may give one \$250 gift or ten \$25 gifts, but the total campaign gift aggregate may not exceed \$250. Any such gift(s) to a candidate’s campaign volunteer should be reported as an expenditure on the date provided with the description of the purpose of the expenditure as a “volunteer (volunteer name) gift”.

Gifts to campaign staff are related to the campaign and must be made prior to dispersing surplus campaign funds or establishing constituent accounts. Mont. Code Ann. § 13-37-240 and Mont. Admin. R. 44.11.702(6)(c). The disposal of surplus campaign funds is strictly controlled by statute and administrative rules.

See e.g., Mont. Code Ann. §§ 13-37-240, 402; Mont. Admin. R. 44.11.608(5), 44.11.701, *et seq.* Surplus campaign funds are defined as:

those campaign funds remaining when all debts and other obligations of the campaign have been paid or settled, pursuant to ARM 44.11.608, no further campaign contributions will be received, and no further campaign expenditures will be made.

Mont. Admin. R. 44.11.702(2).

Providing a Stipend to a Campaign Volunteer

In [*Eaton v. Brown COPP-2018-CFP-019*](#), the Commissioner found the use of a stipend is an acceptable campaign expenditure, however **cautions campaigns that employment related processes and costs such as workers compensation and unemployment insurance may also be required** should a candidate's campaign consider using a stipend. Use of a 'stipend' may change the a person's status from 'Volunteer' to 'Employee' and the campaign should handle accordingly. Any such stipend provided to a candidate's campaign volunteer should be reported as an expenditure on the date provided and include detail as to the expenditure.

A stipend is defined¹ as:

A stipend is a regular fixed sum of money paid for services or to defray expenses, such as for scholarship, internship, or apprenticeship. It is often distinct from an income or a salary because it does not necessarily represent payment for work performed; instead it represents a payment that enables somebody to be exempt partly or wholly from waged or salaried employment in order to undertake a role that is normally unpaid or voluntary, or which cannot be measured in terms of a task.

While a stipend is a widely recognized tool available to business, organizations, and governments, a stipend is not represented in Montana's campaign finance statutes or rules as either an allowed or disallowed expense.

Until such time as the Legislature, or a citizen's initiative, further addresses the use of gifts or stipend in candidate campaigns, the Commissioner will address each instance on the information provided by the campaign and volunteer, including length and amount of time of volunteer service provided and the activities of volunteer service, and how those facts compare with the amount and timing of a gift or stipend expenditure.

¹ COPP's rules do not specifically define "stipend," and thus the Commissioner looks to the common understanding of the word. See Wikipedia (July 2018).