

Chapter 8: Union and Employer Funds

Although union funds may be used to pay for nomination and election notices and other expenses for conducting the election, federal law strictly prohibits the use of union and employer funds to promote the candidacy of any person in a union officer election. This prohibition was adopted to prevent a current officer from being able to use the union treasury to help finance an election campaign. It was also intended to prohibit an employer from being able to influence the outcome of a union election. Unfortunately, the use of union or employer funds is a relatively common problem in union officer elections. In many cases, however, the improper use is unintentional since the candidates, union officials, and employers simply do not know the extent of the restriction and that it applies to facilities, equipment, and supplies as well as cash. Election officials are presented with a challenge in that they do not control access to a union's or employer's funds, but are still expected to conduct an election in which no such funds are used. Therefore, election officials should make sure that all candidates, union officials, and union employees are aware of the restriction on the use of union and employer funds and should be alert throughout the election process for any improper use of funds.

Requirements

- A union or employer may not contribute money or anything of value (such as the use of facilities, equipment, or supplies) to promote the candidacy of any individual in a union officer election.
- The restriction on the use of union funds applies to all moneys received by the union by way of dues, assessment, or similar levy.
- The prohibition against the use of union and employer funds applies to any union and any employer, not just the union conducting the election or an employer of the union's members. For example, it is improper for a candidate to have campaign literature duplicated free of charge on a copy machine at a small business owned by a relative of the candidate.
- Any expenditure of union or employer funds on behalf of a candidate, even if the amount is small, is a violation of federal law.
- The use of union/employer funds or facilities is a violation of federal law even if union officials or the employer do not know about or approve of the use.
- The prohibition against the use of union and employer funds applies to direct expenditures from the union or employer as well as indirect expenditures including:
 - campaigning on time paid for by the union or employer
 - use of union/employer owned or leased equipment such as telephones, fax machines, and copy machines
 - use of union/employer supplies such as stamps, paper, and envelopes
 - use of union employees to prepare campaign literature while on union time
 - use of the union letterhead
 - use of union/employer property or facilities
 - printing articles which support or criticize an individual's candidacy in a union newspaper or other publication
 - giving free services or special discounts to a candidate customer such as printing, photocopying, etc.
- A union may adopt additional rules governing contributions to campaign funds such as prohibiting contributions from any person who is not a member of the union.

- Certain uses of union and employer funds which do not support one person's candidacy over another are acceptable, such as providing the use of equipment, facilities, or publications to all candidates on an equal basis after giving them notice of this opportunity.
- Campaigning by union officials which is "incidental" to union business is not a violation of federal law. For example, any campaigning by union officials which occurs as a consequence of conducting legitimate union business, such as shaking hands with members while visiting work sites on official business, is permissible.

Suggestions

- To insure that candidates are aware of the prohibition against the use of union and employer funds, election officials should issue rules explaining the restrictions. See Figure 2 - Election and Campaign Rules.
- Election officials should advise union officials about the prohibition against the use of union and employer funds. See Figure 6 - Union and Employer Funds Prohibition Letter.
- Election officials should advise the editor of any union-financed newspaper or other publication that the publication should not promote or criticize a candidate in any way during the nomination and election period such as by publishing articles complimentary of current officers or letters to the editor which are critical of any candidate.

- Current officers and union employees should be cautioned to take vacation time or a leave of absence if they are going to campaign during work hours, especially on election day.
- If election officials become aware of any improper use of union or employer funds before the election occurs, they should take appropriate corrective action such as requiring a candidate to reimburse the union or employer.
- Election officials should consult with the union's parent body or OLMS if they are unsure as to what specific action should be taken to remedy an improper use of union or employer funds prior to election day.

Common Pitfalls

- Not advising candidates and union officials about the prohibition against the use of union/employer funds and resources so that unintentional violations of federal law can be avoided.
- Assuming that the prohibition against the use of union and employer funds applies only to cash expenditures and not to the use of equipment, supplies, or facilities.
- Allowing the union newspaper or other publications to be used to promote the candidacy of current officers.
- Failing to recognize that the use of funds, equipment, supplies, etc., belonging to other unions or employers which do not employ the union's members is improper.

LMRDA Reference:

Section 401(g) provides that:

No moneys received by any labor organization by way of dues, assessment, or similar levy, and no moneys of an employer shall be contributed or applied to promote the candidacy of any person

Union Constitution Reference: