

## Advisory Opinion 11-01E

### **Question**

May a Political Committee give its contributors a copy of the organization's monthly newsletter and a calendar, and provide donors whose contributions exceed a certain level with a t-shirt?

### **Short Answer**

The Elections Code does not prohibit committees from providing such incentives to contributors. The newsletter, calendar and t-shirt would, however, be considered a contribution or an Independent Expenditure if they (i) included political advertising in support of or opposition to a City candidate or ballot issue and (ii) were distributed beyond the organization's membership.

### **Facts**

The Seattle Fire Fighters Union Local 27 Voluntary Political Action Committee (the "PAC") is a political committee primarily supported by members of SFFU Local 27 (the "Union"). Contributions to the PAC are typically made through payroll deduction which members can sign up for on the Union's website. A login is required to sign up for the payroll deduction.

The Union produces a quarterly newsletter called the *Third Rail*, which the PAC would like to give to its contributors. The newsletter is available to the public on the Union's website. The *Third Rail* regularly publishes the Union's endorsements of candidates and ballot issues, and includes articles supportive of various City election campaigns.

### **Relevant Law**

Political advertising, including mass dissemination of flyers, letters, and articles requires sponsor identification and, in the case of candidate campaigns, is subject to contribution limits if made in conjunction with a candidate's campaign, or Independent Expenditure Committee disclosure reporting. Communications with members, however, are not considered contributions or Independent Expenditures, and do not require reporting or sponsor identification.

The Elections Code, SMC 2.04 provides that organizations may communicate with their members without triggering a reporting obligation. However, the law specifies that a "member" must be more than simply a *contributor*. In order to be considered a

member under the Elections Code's definition of "contribution," an individual must either "(i) regularly pay dues in exchange for benefits from the organization, or (ii) [be] able to vote, directly or indirectly, for at least one (1) member of the organization's governing board, or (iii) adhere to a code of conduct, the violation of which may subject the member[] to sanctions that could adversely affect their livelihood, or (iv) participate in the organization's policy-formulating committees." SMC 2.04.010.

### **Analysis**

A political committee can use incentives to attract donors without violating the Elections Code. A t-shirt with the message "I support my local firefighters" is not political advertising, and therefore does not need to be reported by the PAC.

If, however, the t-shirt says "I stand with the firefighters and I'm voting for Pat Smith for City Council," then the value of the t-shirt would need to be reported either as a contribution to Pat Smith's campaign or as an independent expenditure in support of Pat Smith's campaign.

Similarly, mailing a newsletter with a campaign message to a non-member contributor would need to be reported as a contribution or an independent expenditure. The newsletter would also need to include sponsor identification.

In the case of a candidate campaign, contributions in the form of t-shirts or newsletters would both be subject to the contribution limit.

### **Conclusion**

The PAC may distribute incentives, such as t-shirts and newsletters, to its contributors. If those contributors are not members of the organization, and the incentives include political advertising, the PAC will incur additional reporting obligations and be required to include sponsor identification on certain materials.