

**Advisory Opinion Request
AOR-16-01**

Questions Submitted by Ms. Pam Pollard, Chairman, Oklahoma Republican Party

Ethics Rule 2.2 broadly defines the term “contribution” as “any gift, subscription, loan, guarantee or forgiveness of a loan, conveyance, advance, payment, distribution or deposit of money made to, or anything of value given to, or an expenditure other than an independent expenditure made on behalf of, a political party, political action committee or candidate committee, but shall not include the value of services provided without compensation by an individual who volunteers those services.” Previous Ethics Rule 257:10-1-20 allowed candidate committees to transfer surplus funds “to the state, county or congressional district committee of a political party, not to include an affiliated or connected entity of a political party.” Previous Ethics Rule 257:10-1-20 allowed a candidate committee to designate funds as surplus funds at any time, regardless of whether the seat being sought was decided.

In a similar fashion to the previous Ethics Rules, Ethics Rule 2.48 allows candidate committees to use surplus funds to be “contributed to a political party committee in any amount not to exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate.” In contrast to previous Ethics Rules, Ethics Rule 2.48 only allows surplus funds to exist when the funds are “not otherwise obligated following the election at which the office for which the candidate committee was formed has been determined...” Thus, previous Ethics Rules allowed a candidate to designate surplus funds at any time whereas current Ethics Rules allow a candidate to designate surplus funds only after the office being sought is determined.

In the past, candidate committees engaged in a variety of activities and expenditures with political parties that were unquestioned due to the lack of a time requirement in the surplus funds provisions. Current Ethics Rules place the time restriction on contributions to political parties raising the questions presented below about activities and expenditures with political parties by candidate committees where the activities and expenditures arguably fit the definition of campaign expenses or officeholder expenses. Therefore, we are requesting an Advisory Opinion on the following questions to reconcile the apparent conflict in surplus fund provisions and provisions that allow candidate committees to make expenditures for campaign and officeholder expenses.

1. May a candidate committee use funds, as either campaign expenses under Rule 2.43 or officeholder expenses under Rule 2.44, to purchase a ticket to attend an event hosted by a political party committee where the purpose of the event is fundraising for the political party prior to the availability of surplus fund provisions in Rule 2.48?
2. May a candidate committee use funds, as either campaign expenses under Rule 2.43 or officeholder expenses under Rule 2.44, to purchase a ticket to attend an event hosted by a political party committee where the purpose of the event is not fundraising for the political party prior to the availability of surplus fund provisions in Rule 2.48?
3. May a candidate committee use funds to purchase a sponsorship package for an event hosted by a political party where the sponsorship package includes advertising benefits to the candidate such as a reserved table with multiple tickets at the event, signage identifying the candidate's sponsorship, identification in the program of the event, and identification in electronic presentations at the event?
4. May a candidate committee make expenditures to a political party committee to purchase tangible goods or services benefitting the campaign, such as advertising, printing, postage, mailing lists, polling data, and other promotional opportunities?
5. May a candidate committee make an expenditure to a political party committee to purchase space for advertising purposes at a political party event? Space for advertising may include a table and space to post and distribute campaign materials, opportunities to recruit volunteers, an opportunity to address the attendees at the event, and opportunities to solicit and receive contributions.
6. If the answer to question 1, 2, 3, 4, or 5 is yes, are such expenditures considered contributions and, if so, what are the contribution limits?
7. If the answer to question 6 is yes, are these contributions allowed by Rule 2.43, which allows candidate committee funds to "be used to make ordinary and necessary campaign expenses" or Rule 2.44, which allows candidate committee funds to be used for "officeholder expenses"?