



OKLAHOMA ETHICS COMMISSION

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Advisory Opinion 2019-01 (Cite as: 2019 OK Ethics 01)

Dear Ms. Hoskin:

We are responding to your advisory opinion request relating to Ethics Rule 2, establishing rules of ethical conduct for elective state office and for campaigns for state initiatives and referenda.¹ You ask, in effect, the following question:

Does Ethics Rule 2.48 extend by 90 days the mandatory dissolution date established by Ethics Rule 2.116 for an officeholder's candidate committee to dissolve?

Your question arises because Ethics Rule 2.116 establishes mandatory dissolution dates for candidate committees which occur *before* an officeholder's term expires, but Rule 2.44 specifically provides that an officeholder may make expenditures for officeholder expenses until the expiration of the term of office (or other vacation of office) and Rule 2.48 provides how surplus funds² may be expended *after* an officeholder's term expires.

Ethics Rule 2.116 provides, in pertinent part:

A candidate committee shall dissolve no later than two (2) years after the general election for an office with a two-year term, no later than four (4) years after the general election for an office with a four-year term, and no later than six (6) years after the general election for an office with a six-year term, if not required to dissolve sooner by law or these rules.

Rule 2.44 provides, in relevant part,

Contributions to a candidate committee of a candidate who is elected to the office for which the contributions were accepted may be used to make

¹ Ethics Rule 2.1.

² "Surplus funds of a candidate committee are those funds not otherwise obligated following the election at which the office for which the candidate committee was formed has been determined which, in the candidate's discretion, are not required to be used for campaign expenses or officeholder expenses." Ethics Rule 2.48.

expenditures for officeholder expenses until the expiration of the term, resignation, or other vacation of the office.

Ethics Rule 2.48 provides, in pertinent part:

Any surplus funds remaining in the candidate committee's possession within ninety (90) days after the expiration of the term to which the candidate was elected or, for candidates who were not elected, within (90) days after the second year following the general election, shall be deposited in the general revenue fund of the state.

In effect, the Ethics Rules recognize five categories of expenditures for candidate committees: (1) ordinary and necessary campaign expenses; (2) operating expenses; (3) contributions to other candidate committees; (4) officeholder expenses; and (5) surplus funds.³

Construing the provisions of Ethics Rule 2 as a whole, giving effect to each of its provisions, Ethics Rule 2.116 establishes the mandatory dissolution dates for candidate committees.⁴ This date is the final date for authorized committee activity including receipt of contributions and expenditure of funds. However, if a committee does not dissolve and has funds remaining at the time of the mandatory dissolution date there must be options available to lawfully dispose of those remaining funds. For this reason, Rules 2.44 and 2.48 authorize two categories of expenditures to dispose of those funds. First, Rule 2.44 provides for expenditure of funds for officeholder responsibilities through the officeholder's last day in office. Second, Rule 2.48 permits disposal of campaign funds using the surplus funds expenditure options.

In effect this means the mandatory dissolution date in Rule 2.116 applies to a committee that does not have funds remaining in its depository account. For a committee with funds remaining in its depository account, the mandatory dissolution date in Rule 2.116 establishes the date to cease activity *other than* the activity contemplated in Rule 2.44 for officeholder expenses, and Rule 2.48 for disposal of surplus funds.

³ Ethics Rules 2.43, 2.44, and Rule 2.48.

⁴ Dissolution of a candidate committee includes *both* (1) closing the candidate committee's depository account, and (2) filing a final contributions and expenditure report in The Guardian System, the Commission's electronic filing system.

Accordingly, a candidate committee that does not have funds remaining in its depository account at the time of the mandatory dissolution date established in Rule 2.116 is required to dissolve and file a final report of contributions and expenditures no later than the mandatory dissolution date in Rule 2.116. However, a committee with funds remaining in its account at the time of the mandatory dissolution date established in Rule 2.116 must cease all activity other than the activity permitted in Rules 2.44 and 2.48 and is no longer able to accept contributions or make expenditures for contributions to other candidate committees, ordinary and necessary campaign expenses; or operating expenses.

Therefore, it is the official opinion of the Ethics Commission that:

- 1. Ethics Rule 2.116 establishes the mandatory dissolution dates for candidate committees.**
- 2. Candidate committees that have no funds remaining in the committee's campaign depository are required to dissolve and file a final report by the mandatory dissolution date.**
- 3. Candidate committees with funds remaining in the committee's campaign depository on the mandatory dissolution date established in Rule 2.116 may no longer receive contributions or make expenditures for contributions to other candidate committees, campaign expenses, or operating expenses.**
- 4. Candidate committees with funds remaining in the committee's campaign depository on the mandatory dissolution date established in Rule 2.116 may**
 - a. for elected officers, (1) make expenditures for officeholder expenses until the officeholder's term of office is completed or the office is vacated; and (2) make expenditures for surplus funds as provided for in Rule 2.48 for ninety (90) days after the officeholder's term is completed or vacated; or**
 - b. for unelected candidates, make expenditures for surplus funds as provided for in Rule 2.48 for ninety (90) days after the second year following the general election for which the committee was formed.**
- 5. After the ninety (90) day timeframe has ended the only option for expenditure of remaining funds in a candidate committee's depository account is payment to the state's general revenue fund.**