

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date October 19, 1976

To Steven F. Wright, Municipal Coord. Dept. Election Division - Secretary of State
From Donald G. Alexander, Deputy Dept. Attorney General
Subject Application of Campaign Financing Law to Citizens For Life

FACTS:

The Greater Bangor Citizens For Life is a non-profit organization dedicated to, in their words:

- "1. Promoting respect for human life,
- 2. Protecting human life,
- 3. Educating the public with respect to the life issue."

As part of their activities, they publish a newsletter which discusses, among other things, why a "human life amendment" is needed and include in that letter the names of candidates for the state legislature which support a human life amendment. A copy of the newsletter has been enclosed.

QUESTION:

With this factual background and copies for the Citizens For Life materials, the question is posed whether and to what extent the campaign financing laws apply to Citizens For Life.

ANSWER:

Questions as to the applicability of campaign financing laws to activities of interest groups who may identify specified candidates as agreeing or disagreeing with their positions, must be addressed on a case by case basis. Accordingly, it maybe appropriate for the Secretary of State or the Commission on Governmental Ethics and Election Practices to publish some regulations for guidance of interest groups in this area. In this specific case, with a review of the limited facts available, it is our advice that:

- 1. Citizens For Life is not a political committee required to register and file campaign reports.
- 2. The Citizens For Life Newsletter in question need not include a disclaimer that it is not specifically authorized by the candidates.

DISCUSSION:

Citizens For Life is an interest group which dedicates its efforts to achieving through legislative or executive action certain policy goals, in this case enactment of the human life amendment. As such,

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it is similar to many other interest groups which take positions on a wide range of policy issues which are not subject to an initiative or referendum and thus are not, for that reason, subject to the campaign financing laws. As part of their policy advocacy activities, such interest groups often publish the names of legislators who may agree or disagree with their positions. Such publications are, however, incidental to the more general purpose of the organization which is to advocate certain public policy positions. Where names of legislators and legislative candidates are published as an incidental activity of an interest group generally interested in policy issues, we do not believe that that interest group must register as a political committee (21 M.R.S.A. § 1393-3) or file reports (21 M.R.S.A. § 1393-4) until the activities of the interest group reach the stage of actively and openly advocating election or defeat of specific candidates on a more than incidental basis. We do not believe that the Legislature intended that all interest groups which may as part of their general activities, publish the names of individual legislators or lists of legislators, who support or oppose their special interest positions, will be required to register as political committees and file reports. It will be noted that the newsletter in question simply lists the candidates, it does not contain advocacy language. As such, it is more in the nature of providing information than advocating the election or defeat of a candidate. Filing reports is only required by those "expressly advocating the election or defeat of a clearly identified candidate." § 1397-A. As this law has criminal penalties attached, it must be strictly construed.

Again, however, it must be emphasized that these determinations must be made on a case by case basis. Factors to be considered in determination of whether the activities of an interest group in publishing names of legislators reaches the level of advocacy to require them to register as political committees and file reports would include:

1. The extent to which the organization's activities focus on identifying legislators as compared with the other policy advocating activities of the organization.

2. The language used in specific newsletters or other communications and the extent to which this language involves advocacy rather than simply conveying information.

3. The timing of the creation of a group. If a group was created close to the election and engages in a number of activities relating to identifying candidates as associated with issues, it may be more likely that that group is an advocacy group required to register as a political committee than some other group which has long been in existence and simply publishes a newsletter identifying candidates.

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4. The relationship, if any, between the interest group in question and any political campaigns or political parties. The existence of any such relation would, at least prima facie, indicate that the group in question was a political committee.

Similarly, because of the lack of advocacy language in the newsletter and the doctrine that statutes with criminal penalties, such as 21 M.R.S.A. § 1394 must be strictly construed, we do not believe that the newsletter in this case reaches the level of "expressly advocating the election or defeat of a clearly identified candidate" such as would trigger the requirements of § 1394. Here, as was noted, the newsletter contains no advocacy language. It simply provides information on a position. Accordingly, based on the facts of this case, it is our view that Citizens For Life is not a political committee as defined in 21 M.R.S.A. § 1393-3 and which must report under § 1397-4.

Nor, is the newsletter, a copy of which has been provided with the materials requesting this opinion, required to contain a disclaimer of non-authorization as required in 21 M.R.S.A. § 1394.


DONALD G. ALEXANDER
Deputy Attorney General

DGA:mfe

cc: Governmental Ethics and Election
Practices Commission