

STATE ETHICS COMMISSION
ADVISORY OPINION
S.E.C. 2008-05
August 28, 2008

Whether contributions received by independent committees, political action committees or political parties are subject to the ordinary and necessary use provision of O.C.G.A. § 21-5-33(a) or the excess funds provision of O.C.G.A. § 21-5-33(b).

ADVISORY OPINION

The Ethics in Government Act (Act) mandates how contributions may be disposed of for certain individuals and entities in O.C.G.A. § 21-5-33. Specifically, that statute requires that

Contributions to a candidate, a campaign committee, or a public officer holding elective office and any proceeds from investing such contributions shall be utilized only to defray ordinary and necessary expenses....incurred in connection with such candidate's campaign for elective office or such public officer's fulfillment or retention of such office.

O.C.G.A. § 21-5-33(a).¹

This mandate only applies to "a candidate, a campaign committee or a public officer" and only addresses those expenses incurred in connection with "such candidate's campaign or such public officer's fulfillment or retention of office." Id. By referencing "such" candidate or "such" public officer, the Act is clearly restricting the use of contributions made to a candidate or public officer, or the campaign committee of those individuals. Furthermore, independent committees, political action committees (PACs), and political parties do not incur expenses "in connection with" a candidate's campaign or public officer's fulfillment or retention of office.

Therefore, independent committees, PACs, and political parties are not subject to the ordinary and necessary use provision found in O.C.G.A. § 21-5-33(a). On the second issue of whether independent committees, PACs, and political parties are subject to the excess funds provision found in O.C.G.A. § 21-5-33(b), we find that for the same reasons these groups are not subject to the use provision of O.C.G.A. § 21-5-33(a), they are also not subject to the excess funds provision.

Prepared by Kay Baker

¹ The Act also regulates how recall, constitutional amendment, statewide referendum, and ballot committees must dispose of contributions. O.C.G.A. § 21-5-33(d).