

Constituent accounts

MCA 13-37-240, regulates the disposal and use of surplus campaign funds. There are certain prohibitions on the use of such funds, and a candidate is required to provide a supplement to the closing campaign report showing the disposition of the funds.

13-37-240. Surplus campaign funds. (1) A candidate shall dispose of any surplus funds from the candidate's campaign within 120 days after the time of filing the closing campaign report pursuant to 13-37-228. In disposing of the surplus funds, a candidate may not contribute the funds to another campaign, including the candidate's own future campaign, or use the funds for personal benefit. The candidate shall provide a supplement to the closing campaign report to the commissioner showing the disposition of any surplus campaign funds.

(2) For purposes of this section, "personal benefit" means a use that will provide a direct or indirect benefit of any kind to the candidate or any member of the candidate's immediate family.

The rule implementing this law is ARM 44.10.335. Subsection (6)(c)(iii) of that rule establishes the following as an example of a permissible use of surplus campaign funds:

"Upon election, use of the funds to establish an account to serve a public purpose related to the officeholder's public duties, so long as the funds will not result in personal benefit or a contribution to a campaign."

This is what is commonly referred to as a constituent services account.

Below is the rule implementing this section. As you'll see, there is very little said about permissible use and just a little more said about impermissible use.

March 23, 2007
Dennis Unsworth
Commissioner of Political Practices

44.10.335 DISPOSAL OF SURPLUS CAMPAIGN FUNDS (1) Candidates shall dispose of surplus campaign funds within 120 days of filing the closing campaign report required by 13-37-228, MCA.

(a) The candidate's closing report shall be filed whenever all debts and obligations are extinguished and no further contributions or expenditures will be received or made which relate to the campaign.

(b) No closing report needs to be filed following a primary election campaign if the candidate will advance to the general election.

(2) "Surplus campaign funds" are those campaign funds remaining when all debts and other obligations of the campaign have been paid or settled, no further campaign contributions will be received, and no further campaign expenditures will be made.

(3) Surplus campaign funds will be considered to have been "disposed of" on the date payment is made by the candidate or the candidate's committee to a permissible person, entity, or account.

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(4) The candidate shall be responsible for obtaining a receipt containing the requisite information from all recipients of any surplus campaign funds. Payment of surplus campaign funds shall be evidenced by a receipt from the recipient containing the following information:

- (a) The full name and mailing address of the recipient;
- (b) The date the funds were received;
- (c) The full name of the candidate from whose campaign the funds were received, and;
- (d) The exact amount of funds received.

(5) Those candidates with surplus campaign funds shall file a supplement to the closing campaign report, on a form prescribed by the commissioner, showing the disposition of surplus campaign funds. The report shall be accompanied by copies of all receipts required by (4) of this rule. The supplement shall be filed within 135 days after the closing report is filed.

(6) A candidate shall abide by the prohibitions on the use of surplus campaign funds specified in 13-37-240, MCA.

(a) For purposes of the restrictions on the disposal of surplus campaign funds set forth in 13-37-240, MCA, "personal benefit" is defined in 13-37-240(2), MCA. For purposes of this definition, a candidate's "immediate family" includes the candidate's spouse and minor children only.

(b) For purposes of the restrictions on the disposal of surplus campaign funds set forth in 13-37-240, MCA, "campaign" means any organized effort to secure or prevent the nomination or election of a candidate for public office, or secure or prevent passage of a ballot issue.

(c) The following are examples of permissible uses of surplus campaign funds:

- (i) Return of the funds to the contributor, so long as the funds will not result in personal benefit or a contribution to a campaign;
- (ii) Donation of the funds to any organization or entity, so long as the use of the funds will not result in personal benefit or a contribution to a campaign;
- (iii) Upon election, use of the funds to establish an account to serve a public purpose related to the officeholder's public duties, so long as the funds will not result in personal benefit or a contribution to a campaign.

(7) A candidate shall not contribute surplus campaign funds to a political committee, including a leadership political committee maintained by a political officeholder. However, nothing in this subsection shall be construed as prohibiting contribution of surplus campaign funds to a political party or a political party committee, so long as the funds are not earmarked for a specific campaign.

(8) Upon a determination that a candidate made a prohibited disposal of surplus campaign funds, the commissioner may employ any enforcement measures within his or her jurisdiction.

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