



## STATE OF CONNECTICUT STATE ELECTIONS ENFORCEMENT COMMISSION

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### **Advisory Opinion 2010-04: Formation of Joint Gubernatorial Committee by Governor and Lieutenant Governor Candidates under the Citizens' Election Program**

The Commission has received several inquiries from current candidates regarding the application of General Statutes § 9-709, and whether and when a candidate seeking the office of Governor and a candidate seeking the office of Lieutenant Governor must run under a single “joint” candidate committee under the Citizens' Election Program. This advisory opinion reflects advice given to campaigns considering statewide office during the 2010 election cycle.

#### ***Background:***

Under Connecticut campaign finance law, candidates must choose a funding source for their campaigns when they register as a candidate. The law requires the formation of a candidate committee unless the candidate chooses to test the waters in an exploratory committee or can qualify for one of four exemptions. General Statutes § 9-604. For example, under one exemption, candidates may choose to campaign together by both being funded by a single durational political “slate” committee, or by an existing town committee. General Statutes § 9-604 (b) (1). Note that these funding sources are not commonly used by candidates for statewide office, as the contribution limits to slate committees (which are political committees) and town committees are significantly smaller. Compare General Statutes §§ 9-611 and 9-612. (Eg. \$3500 contribution limit for individuals to gubernatorial candidate committee, \$2000 to Lieutenant Governor candidate committee versus \$750 to a joint slate committee and \$1000 to a town committee). In addition, if candidates choose a political committee or a party committee as their funding vehicle then the provisions of the law which allow candidates to make unlimited contributions to their own candidate committees do not apply. General Statutes § 9-601a (b) (11). If a candidate who has filed an exemption from forming a candidate committee no longer qualifies for such exemption, the candidate committee must amend his registration within three days, and either choose another exemption or form a candidate committee; however, a candidate who has formed a candidate committee no longer qualifies for an exemption. General Statutes § 9-604.

A candidate's candidate committee can only make expenditures to promote the nomination or election of the candidate who established the committee. General Statutes § 9-607 (g) (1). Campaign finance law does recognize a distinction for Governor and Lieutenant Governor candidates who, by law, must appear together on the ballot in the general election so that a voter casts a single vote for both candidates. *See* Connecticut Constitution, Article Fourth § 3; General Statutes § 9-181. Where a Governor candidate and Lieutenant Governor candidate will share the same ballot line and receive single

votes as a unit for the general election, the law allows each committee to make expenditures that promote the election of the other candidate. General Statutes § 9-607 (g) (1) (A) (i); § 9-616 (a). This means that once a party nominates a candidate for Governor and for Lieutenant Governor for the general election where such candidates receive a single vote as a unit, a candidate committee for the Governor can make an expenditure promoting himself and the same party's Lieutenant Governor candidate, and vice versa. Because the voter no longer has a choice to vote for the candidates separately pursuant to General Statutes § 9-181, such expenditures by a Governor candidate and Lieutenant Governor candidate sharing a ballot line are made to promote both candidates.

The CEP provides an additional option for participating candidates: General Statutes § 9-709 requires candidates for Governor and Lieutenant Governor who are each participating in the CEP to "campaign jointly" utilizing a single joint Gubernatorial committee (the Governor's candidate committee) as the funding source to promote both candidates, *at the earliest of* the following:

- The day after the primary is held, whether held for the office of Governor, the office of Lieutenant Governor, or both;
- If no primary is held for the office of Governor or Lieutenant Governor, the fourteenth day following the close of the convention;
- Prior to the primary date, upon a declaration that such candidates will be campaigning jointly, which is accomplished by filing the form titled "Citizens' Election Program-Declaration of Joint Campaign by Participating Candidates for Governor and Lt. Governor" (SEEC Form CEP 18).

General Statutes 9-709 (a). In other words, no later than the start of the general election campaign period, a participating Lieutenant Governor candidate is required to dissolve his or her candidate committee and "campaign jointly" with the Governor candidate, with the participating Governor's candidate committee as the sole funding vehicle promoting both candidates. Before the general election period, such participating candidates have a choice as to whether or not to both be financed by the participating Governor's candidate committee.

It is important to distinguish between a Governor candidate and a Lieutenant Governor candidate who are "campaigning jointly" and are funded by a single joint Gubernatorial committee which can lawfully promote both candidates, and a Governor candidate and a Lieutenant Governor candidate who have two separate candidate committees and make "joint expenditures" whereby each candidate committee pays its pro rata share of the cost.

***Discussion and Analysis:***

***When both Lieutenant Governor and Governor Candidates are Participating in the CEP:***

When the Governor candidate and Lieutenant Governor candidate are each participating in the CEP, the two candidates may choose to “campaign jointly” and be funded by a joint Gubernatorial committee during the primary campaign period, or to wait until the general election campaign period, when, if they are the party-nominated candidates, they will combine into a joint Gubernatorial committee.

A participating candidate for Governor and a participating candidate for Lieutenant Governor may “campaign jointly” under a single committee prior to the general election period if such candidates make a declaration by filing SEEC Form CEP 18.<sup>1</sup> When a participating candidate for Lieutenant Governor is campaigning jointly with a participating candidate for Governor, qualifying contributions raised by the Lieutenant Governor candidate prior to combining into the joint Gubernatorial committee may count towards the qualifying threshold for the Governor candidate.

A Lieutenant Governor candidate is required to raise \$75,000 in qualifying contributions and may receive a primary campaign grant of \$375,000. A Governor candidate is required to raise \$250,000 in qualifying contributions and may receive a primary campaign grant of \$1,250,000. During the primary campaign period, such candidates may maintain separate candidate committees, and each may receive a separate primary campaign grant. Such campaigns may make joint expenditures, whereby each committee pays its pro rata proportional cost of the joint expenditure. Alternatively, the two candidates may file a SEEC Form CEP 18, pool their qualifying contributions, and be funded by the Governor’s candidate committee. General Statutes 9-704 (a) (1).

The participating Lieutenant Governor’s committee may spend the funds it has raised, so long as the committee does not exceed its expenditure limit. Upon filing a SEEC Form CEP 18, however, the Lieutenant Governor’s committee is required to dissolve and distribute any surplus funds. General Statutes 9-704 (b).

Once a SEEC Form CEP 18 is filed indicating that a participating Lieutenant Governor candidate and a participating Governor candidate are campaigning jointly, the Governor’s candidate committee can make expenditures promoting both the Governor and Lieutenant Governor candidates. General Statutes 9-709 (a).

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<sup>1</sup> The filing of SEEC Form CEP 18 is the only way that candidates will be deemed to have made a declaration that they are running jointly. An announcement to the press that a Governor candidate and a Lieutenant Governor candidate will work as a ticket to seek a party’s endorsement or nomination does not, in itself, constitute a “declaration” under General Statutes § 9-709.

***When the Governor candidate is participating and the Lieutenant Governor candidate is not participating in the CEP***

Before the general election campaign period begins, a Governor candidate who is participating in the CEP and a Lieutenant Governor candidate who is not participating in the CEP may make joint expenditures. These expenditures must be reasonably allocated and each committee must pay its pro rata share. Such candidates may *not* file a SEEC Form CEP 18 and campaign jointly as one committee.

If the participating Governor candidate and the nonparticipating Lieutenant Governor candidate both win the party nomination, the nonparticipating Lieutenant Governor candidate must dissolve his candidate committee, distribute surplus as provided in General Statutes § 9-709 (b), and campaign with the participating Governor candidate for the general election campaign period in a joint Gubernatorial committee. The participating Governor candidate's committee thus becomes the funding source for both candidates for the general election campaign period.

***When the Governor candidate is not participating and the Lieutenant Governor candidate is participating in the CEP***

Before the general election campaign period begins, a Governor candidate who is not participating in the CEP and a Lieutenant Governor candidate who is participating in the CEP may make joint expenditures. These expenditures must be reasonably allocated and each committee must pay its pro rata share. Such candidates may *not* file a SEEC Form CEP 18 and campaign jointly as one committee during the primary campaign period.

If the nonparticipating Governor candidate and the participating Lieutenant Governor candidate both win the party nomination, the participating Lieutenant Governor candidate must dissolve his candidate committee, distribute surplus as provided in General Statutes § 9-709 (b), and campaign jointly with the nonparticipating Governor candidate. The participating Lieutenant Governor candidate may *not* opt out of the CEP for the general election campaign period and form a single candidate committee for the general election. Rather, the nonparticipating candidate's Governor candidate committee is the funding source for both candidates for the general election campaign period. That joint Gubernatorial committee may continue to raise contributions, subject to the applicable contribution limits for a single candidate committee for Governor.

***When neither the Governor candidate nor the Lieutenant Governor candidate is participating in the CEP***

Candidates for Governor and Lieutenant Governor not participating in the CEP ("nonparticipating candidates") *cannot* form a joint Gubernatorial committee under General Statutes § 9-709. Nonparticipating candidates must continue to follow the contribution and expenditure rules set forth in Chapter 155. Generally, a candidate

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committee can only make expenditures to promote the nomination or election of the candidate who established the committee. There is one exception to this rule: where a Governor candidate and Lieutenant Governor candidate will share the same ballot line for the general election, the law allows each committee to make expenditures that promote the election of the other candidate. This means that once a party nominates a candidate for Governor and for Lieutenant Governor, a candidate committee for the Governor can make an expenditure promoting himself and the same party's Lieutenant Governor candidate, and vice versa. Expenditures by a Governor candidate and Lieutenant Governor candidate who receive a single vote together as a unit are made to promote both candidates.

The foregoing advice is an Advisory Opinion of the Commission. This Advisory Opinion is issued pursuant to the provision of General Statutes § 9-7b (a) (14).

Adopted this 3th day of June, 2010 at Hartford, Connecticut by a vote of the Commission.



Stephen F. Cashman, Chairman