



STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION
20 Trinity Street Hartford, Connecticut 06106—1628

DECLARATORY RULING 2007-02

Citizens' Election Program: Surplus and Deficit of Exploratory Committees

At its Regular Meeting on July 18, 2007, the Commission voted to initiate a declaratory ruling concerning surpluses and deficits of exploratory committees as provided in sections 9-608(f) and 9-704(a) of the Connecticut General Statutes.¹

This declaratory ruling addresses the following issues: (1) whether the surplus of a candidate's exploratory committee may impact the candidate's ability to participate in the voluntary Citizens' Election Program (the "Program"); and (2) whether the deficit of a candidate's exploratory committee may impact the candidate's ability to participate in the Program.

Re: CONN. GEN. STAT. §§ 9-608(f); 9-702; 9-704(a).

Exploratory Committees and Transition to Candidate Committees

An exploratory committee is a committee formed by a candidate who has not yet determined whether to seek a particular public office so that such a candidate may "test the waters." If the candidate decides to run for a particular office, the candidate must dissolve the exploratory committee and form a candidate committee. CONN. GEN. STAT. §§ 9-604(c); 9-608(f).² A candidate committee is a committee designated by a single candidate to promote his or her nomination or election to a specific office. CONN. GEN. STAT. § 9-601(4).

Any surplus or liability of a candidate's exploratory committee transfers to the candidate's candidate committee. CONN. GEN. STAT. § 9-608(f). When filing the notice of intent to dissolve the exploratory committee, the campaign treasurer must file a statement disclosing all contributions received or expenditures made by the exploratory committee since the previous statement and any balance on hand or deficit of the committee. CONN. GEN. STAT. § 9-608(f).

¹ A declaratory ruling has the same status and binding effect as an order issued in a contested case and shall be a final decision for purposes of appeal in accordance with the provisions of Conn. Gen. Stat. § 4-183, pursuant to Conn. Gen. Stat. § 4-176(h). No one is on file with the Commission as having requested notice of declaratory ruling petitions on this subject matter pursuant to Conn. Gen. Stat. § 4-176(c).

² Once the candidate makes a public declaration of intent to seek nomination or election to a specific office, or is endorsed at a convention, or files a candidacy for nomination, the candidate must file a notice of intent to dissolve the exploratory committee within fifteen days, and form a single candidate committee within fifteen days after filing the notice of intent to dissolve the exploratory committee. CONN. GEN. STAT. §§ 9-604(c); 9-608(f).



STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION
20 Trinity Street Hartford, Connecticut 06106—1628

Surplus of Exploratory Committee

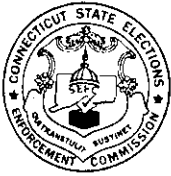
During the exploratory committee stage, a candidate may begin collecting qualifying contributions.³ If the candidate's exploratory committee has a surplus when it is dissolved, and the candidate intends to participate in the Program, the campaign treasurer of the exploratory committee must (1) distribute to the candidate committee the surplus funds that meet the criteria for qualifying contributions pursuant to § 9-704, and (2) distribute any remainder of the surplus to the Citizens' Election Fund. CONN. GEN. STAT. § 9-608(f); §§ 9-704(a)(1) – (4). The failure to abide by these surplus distribution requirements will violate Program requirements and consequently the candidate will not be eligible to receive public funds.

More specifically, if an exploratory committee has a surplus that is *greater than* the total amount of qualifying contributions raised in the exploratory committee, the campaign treasurer of the exploratory committee must distribute to the candidate committee the amount of the surplus that is equal to the qualifying contributions raised in the exploratory committee and must distribute any remainder of the surplus to the Citizens' Election Fund. If an exploratory committee has a surplus that is *equal to or less than* the total amount of qualifying contributions raised in the exploratory committee, the campaign treasurer of the exploratory committee must distribute the entire surplus to the candidate committee. However, if the surplus is comprised of an amount of qualifying contributions which exceeds the required amount of qualifying contributions for the office sought, the required amount of qualifying contributions must be distributed to the candidate committee and the excess qualifying contributions must be transmitted to the Citizens' Election Fund.

For example, a candidate who ultimately decides to run for the office of State Representative and intends to participate in the Program raises \$5,000 in qualifying contributions⁴ and \$2,500 in non-qualifying contributions, and dissolves an exploratory committee with a surplus of \$6,000. Because \$5,000 in qualifying contributions was raised in the exploratory committee, the treasurer of the exploratory committee must distribute \$5,000 of the surplus to the candidate committee, and distribute the remaining \$1,000 to the Citizens' Election Fund.

³ The required number and amount of qualifying contributions varies depending on the office sought. CONN. GEN. STAT. § 9-704(j)(1).

⁴ For the 2008 General Assembly election, a candidate for the office of State Representative must raise a total of five thousand dollars in qualifying contributions, including contributions from at least one hundred fifty individuals residing in municipalities included, in whole or in part, in the district where the candidate seeks office. CONN. GEN. STAT. § 9-704(a)(4).



**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION
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A candidate who ultimately decides to run for the office of State Senator and intends to participate in the Program raises \$5,000 in qualifying contributions⁵ and \$2,500 in non-qualifying contributions in the exploratory committee, and dissolves an exploratory committee with a surplus of \$1,000. Because at least \$1,000 in qualifying contributions was raised in the exploratory committee, the treasurer of the exploratory committee must distribute the \$1,000 surplus to the candidate committee.

A candidate who ultimately decides to run for the office of State Senator and intends to participate in the Program raises \$16,000 in qualifying contributions and \$2,500 in non-qualifying contributions in the exploratory committee, and dissolves an exploratory committee with a surplus of \$17,000. Because at least \$15,000 in qualifying contributions was raised in the exploratory committee, the treasurer of the exploratory committee must distribute the \$15,000 surplus to the candidate committee, and distribute the remaining \$2,000 to the Citizens' Election Fund.

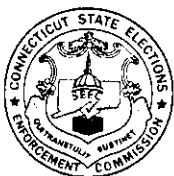
Deficit of Exploratory Committee and Expenditure Limits

The deficit of an exploratory committee also carries over and becomes an assumed deficit of the candidate committee. CONN. GEN. STAT. § 9-608(f). Any such deficit inherited by a candidate committee may impact the candidate's ability to participate in the Program.

An exploratory committee's deficit is deemed by law to be an "expense incurred but not paid" of the candidate committee. *See* CONN. GEN. STAT. § 9-608(f). An "expense incurred but not paid" is a type of expenditure. CONN. GEN. STAT. § 9-601b(c).⁶ Candidates who join the Program must certify that they will abide by the Program's voluntary expenditure limits. CONN. GEN. STAT. § 9-703(a). Consequently, the transfer of a substantial deficit from an exploratory committee to a candidate committee may impact a candidate's ability to certify that she or he will be able to comply with the Program's voluntary expenditure limits.

⁵ For the 2008 General Assembly election, a candidate for the office of State Senator must raise a total of fifteen thousand dollars in qualifying contributions, including contributions from at least three hundred individuals residing in municipalities included, in whole or in part, in the district where the candidate seeks office. CONN. GEN. STAT. § 9-704(a)(3).

⁶ An "expense incurred but not paid" means "any receipt of goods or services for which payment is required but not made or a written contract, promise or agreement to make an expenditure." CONN. GEN. STAT. § 9-601b(c)



STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION
20 Trinity Street Hartford, Connecticut 06106—1628

Expenditure Limits: The *voluntary* Program establishes expenditure limits for three discrete periods of an election cycle: (1) the period before a primary campaign and general election campaign (the “qualifying period”); (2) the period of the primary campaign (if applicable); and (3) the period of the general election campaign.⁷ The qualifying period allows candidates to raise qualifying contributions and demonstrate that they have the threshold of support necessary to join the Program.

During the qualifying period, the expenditure limit is equal to the amount of required qualifying contributions plus any allowable personal funds provided by the candidate, if any. CONN. GEN. STAT. § 9-702(c)(A).⁸ An exploratory committee’s deficit becomes an expenditure of a candidate committee, and counts toward the expenditure limit of a candidate who intends to participate in Program. Consequently, if a candidate committee of a candidate who intends to participate in the Program inherits a deficit from the candidate’s exploratory committee that exceeds the expenditure limit for the qualifying period, the candidate will not be able to comply with the Program’s requirements, and will not be eligible to receive public funds.

In addition, even if the candidate committee inherits a deficit which does not exceed the applicable expenditure limit, the deficit may make it difficult (and in some cases impossible) for the candidate committee to comply with the expenditure limit during the qualifying period. Upon dissolving the exploratory committee and forming a candidate committee, a candidate intending to participate in the Program will need resources to raise the required amount of qualifying contributions or to conduct general campaign activities during the qualifying period. A candidate committee which inherits a deficit from an exploratory committee may be unable to make sufficient expenditures necessary to raise qualifying contributions or advance the candidate’s campaign. Thus, even though the inherited deficit does not exceed the expenditure limit, it still may foreclose the candidate’s ultimate ability to participate in the Program and comply with the Program’s requirements.

For example, if a candidate forms an exploratory committee to decide whether or not to seek the office of State Representative, incurs a deficit of \$7,500, then declares an intent to seek such office, the exploratory committee’s deficit of \$7,500 becomes an expenditure of the candidate committee. The expenditure limit for a state representative candidate,

⁷ “Primary campaign” and “general election campaign” are defined terms under Chapter 157. CONN. GEN. STAT. §§ 9-700(7) & (11).

⁸ The required number and amount of qualifying contributions and the permissible amount of personal funds a candidate may provide during the qualifying period vary, depending on the office sought. CONN. GEN. STAT. § 9-710(c); § 9-704(j)(1).



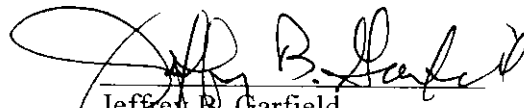
STATE OF CONNECTICUT
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during the period before a primary or general election campaign, is limited to \$5,000 (assuming the candidate provides no personal funds). Because \$7,500 is greater than \$5,000, the candidate will be unable to comply with the Program's voluntary expenditure limit. If the same candidate's exploratory committee incurs a deficit of \$4,500, the candidate committee inheriting the \$4,500 deficit would not exceed the expenditure limit of \$5,000, but would only be able to spend up to \$500 during the qualifying period. Consequently, the inherited deficit still may foreclose the candidate's ability to participate in the Program and comply with the Program's requirements.

This constitutes a declaratory ruling pursuant to Conn. Gen. Stat. § 4-176, and provides guidance about how a surplus or deficit or an exploratory committee may impact a candidate intending to participate in the Citizens' Election Program, as provided in sections 9-608(f) and 9-704(a) of the Connecticut General Statutes.

This declaratory ruling is limited to addressing the specific issues raised. Any further questions regarding the issues discussed in this declaratory ruling may be raised to the staff of the State Elections Enforcement Commission.

Adopted this 12th day of September, 2007, by Order of the Commission.


Jeffrey B. Garfield
Executive Director and
General Counsel