



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

DECLARATORY RULING 2008-01

Citizens' Election Program: Use of Nominating Petitions for Grant Eligibility

At its Regular Meeting on July 16, 2008, the Commission voted to adopt a declaratory ruling concerning the grant eligibility for certain candidates who qualified for ballot access as minor parties pursuant to General Statutes §§ 9-700, 9-702, 9-706 (c) & (g).¹

The interplay between Chapters 153 and 157 of the Connecticut General Statutes, and the Secretary of the State's interpretation of Chapter 153, has raised issues regarding the grant qualification process for certain candidate participating Citizens' Election Program (the "Program"). This declaratory ruling clarifies the manner of qualifying for a public grant from the Program for a candidate with (1) ballot access through a minor party whose candidate for the same office received less than ten percent (10%) of the whole number of votes cast for all candidates for such office at the last regular election and (2) nominating petitions that have been approved by the Secretary of the State pursuant to § 9-453o.

Chapter 157: Citizens' Election Program

Chapter 157 of the General Statutes establishes the Citizens' Election Program, under which:

the candidate committee of a candidate nominated by a major party, *or the candidate committee of an eligible minor party candidate or an eligible petitioning party candidate*, for election to the office of state senator or state representative at a special election held on or after December 31, 2006, or at a regular election held in 2008, or thereafter, or for election to the office of Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer in 2010, or thereafter, may receive a grant from the [Citizens' Election Fund] for the candidate's general election campaign for said office.

General Statutes § 9-702 (a) (2) (emphasis added). The statute also explicitly provides:

Any such candidate committee is eligible to receive such grants for a primary campaign, if applicable, and a general election campaign if (1) the candidate certifies as a participating candidate under section 9-703, (2) the candidate's candidate committee receives the required amount of qualifying contributions under section 9-704, (3) the candidate's candidate committee returns all contributions that do not meet the criteria for qualifying contributions under section 9-704, (4) the candidate agrees to limit the campaign expenditures of the candidate's candidate committee in accordance with the provisions of subsection (c) of this section, and (5) the candidate submits an application and the commission approves the application in accordance with the provisions of section 9-706.

General Statutes § 9-702 (b) (emphasis added).

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 General Statutes § 4-183, pursuant to General Statutes § 4-176 (h). Notice has been given to all persons who have requested notice of declaratory rulings on this subject matter.



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

General Statutes § 9-700 (4) defines “eligible minor party candidate” for purposes of Chapter 157 to mean “a candidate for election to an office who is nominated by a minor party pursuant to subpart B of part III of chapter 153.”²

General Statutes § 9-700 (5) defines “eligible petitioning party candidate” for purposes of Chapter 157 as “a candidate for election to an office pursuant to subpart C of part III of chapter 153 whose nominating petition has been approved by the Secretary of the State pursuant to section 9-453o.”

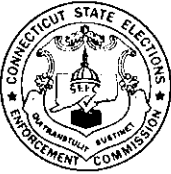
General Statutes Sections 9-705 (c) (1) and 9-705 (g) (1) set forth the procedure for calculating the grant amount which an eligible minor party candidate may be qualified to receive in certain circumstances. If a candidate for the same office representing the same minor party in the prior election received at least 10% of the votes cast for that office, the eligible minor party candidate in the current election may receive one-third of the full grant. If a candidate for the same office representing the same minor party in the prior election received at least fifteen percent (15%) of the votes cast for that office, the eligible minor party candidate in the current election may receive two-thirds of the full grant. If a candidate for the same office representing the same minor party in the most recent regular election received twenty percent (20%) or more of the votes cast for that office, the eligible minor party candidate in the current election may receive the full grant amount.³ See General Statutes §§ 9-705 (c) (1); 9-705 (g) (1).

Sections 9-705 (c) (2) and 9-705 (g) (2) set forth the procedure for calculating the grant amount that an eligible petitioning party candidate may be qualified to receive. In relevant part, these sub-sections provide:

the qualified candidate committee of an eligible petitioning party candidate . . . shall be eligible to receive a grant from the fund for the general election campaign if said candidate's nominating petition has been signed by a number of qualified electors equal to at least ten per cent of the whole number of votes cast for the same office at the last preceding regular election. The amount of the grant shall be one-third of the amount of the general election campaign grant under subsection (a) or (b) of this section for a candidate for the same office, provided (A) if said candidate's nominating petition has been signed by a number of qualified electors equal to at least fifteen per cent of the

² The statute further provides that “[m]inor party” has the same meaning as provided in section 9-372.” General Statutes § 9-701 (9). Section 9-372 defines minor party to mean “a political party or organization which is not a major party and whose candidate for the office in question received at the last-preceding regular election for such office, under the designation of that political party or organization, at least one per cent of the whole number of votes cast for all candidates for such office at such election.” General Statutes § 9-372 (6).

³ Minor party and petitioning candidates who receive less than the full grant amount may continue to raise additional contributions that meet the criteria for qualifying contributions to make up the difference between the grant received and the amount of the full grant. Minor party candidates who receive a grant and report a deficit in post-election disclosure statements may be eligible to receive supplemental grant money depending on the percentage of votes received by such candidate. General Statutes §§ 9-702 (c), 9-705 (c) (3).



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

whole number of votes cast for the same office at the last preceding regular election, the amount of the grant shall be two-thirds of the amount of the general election campaign grant under subsection (a) or (b) of this section for a candidate for the same office, (B) if said candidate's nominating petition has been signed by a number of qualified electors equal to at least twenty per cent of the whole number of votes cast for the same office at the last preceding regular election, the amount of the grant shall be the same as the amount of the general election campaign grant under subsection (a) or (b) of this section for a candidate for the same office . . .

General Statutes §§ 9-705 (c) (2); 9-705 (g) (2).

Chapter 153 & the May 22, 2008 Official Opinion of the Office of the Secretary of the State

The procedure of prescribing, issuing, and verifying nominating petitions falls under the jurisdiction of the Office of the Secretary of the State. *See* General Statutes § 9-453 *et seq.* In an Official Opinion dated May 22, 2008, the Office of the Secretary of the State stated that it will issue nominating petitions to minor party candidates whose party already has obtained ballot access for the office sought, when the minor party candidate wishes to use the nominating petitions for purposes of qualifying for public financing. Official Opinion of the Office of the Secretary of the State, *Validity of Nominating Petition to Gain Ballot Access for Existing Minor Parties* (May 22, 2008), at 1. The Secretary of the State opined that “a nominating petition issued to an existing party may not be valid for the purposes of gaining ballot access”; however, “Chapter 153, Part C ‘Petitioning Parties’ is silent on the use of the nominating petitions by preexisting parties for the purposes of participation in the [Program].”

Analysis

The interplay between Chapter 153 and 157, and the Secretary of the State’s interpretation of Chapter 153, has raised the issue of how a candidate may qualify for a grant if that candidate gained ballot access through a minor party that received 1% to 10% of the votes cast for that office in the prior election. In addressing this issue, the Commission has applied basic tenets of statutory interpretation under Connecticut law.

Section 1-2z of the General Statutes provides that:

The meaning of a statute shall, in the first instance, be ascertained from the text of the statute itself and its relationship to other statutes. If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered.

A statute is deemed to have a “plain meaning” when “the meaning that is so strongly indicated or suggested by the language as applied to [the] facts [at hand], without consideration, however, of its purpose or the other, extratextual sources of meaning . . . that, when the language is read as so applied, it appears to be *the* meaning and appears to preclude any other likely meaning.” *Genesky v. Town of East Lyme*, 275 Conn. 246, 277 (2005) (emphasis in original).



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

In applying this “plain meaning” analysis, the Connecticut Supreme Court instructs, however, that “when a statute is not plain and unambiguous, [one should] also look for interpretive guidance to the legislative history and circumstances surrounding its enactment, to the legislative policy it was designed to implement, and to its relationship to existing legislation and common law principles governing the same general subject matter.” *State ex rel. Grogan v. Koczur*, 287 Conn. 145, 152-53, 947 A.2d 282 (2008). A statutory provision cannot be read in a vacuum.

[T]he legislature is always presumed to have created a harmonious and consistent body of law. . . . This requires us to read statutes together when they relate to the same subject matter Accordingly, in determining the meaning of a statute . . . we look not only at the provision at issue, but also to the broader statutory scheme to ensure the coherency of our construction. . . . In applying these principles, we are mindful that the legislature is presumed to have intended a just and rational result.

S. New England Tel. Co. v. Cashman, 283 Conn. 644, 652-53 (2007) (citations omitted; internal quotation marks omitted). “When more than one construction of a statute is possible, we adopt the one that renders the enactment effective and workable and reject any that might lead to unreasonable or bizarre results.” *Id.* at 653. Statutes should be read to promote constitutionally protected activity, especially where core First Amendment rights are implicated. *See McConnell v. FEC*, 540 U.S. 93, 180 (2003); *Buckley v. Valeo*, 424 U.S. 1, 15 (1976).

Section 9-702 of the General Statutes explicitly provides that *any* candidate for a covered office is eligible to seek to qualify for a public grant. Section 9-705 provides the amount of those grants for major party candidates, minor party candidates whose party’s previous candidate received a certain amount of the vote in the prior election, and candidates whose nominating petition has been approved by the Secretary of the State pursuant to § 9-453o. A candidate who is not associated with any party and who has never previously run for public office can obtain nominating petitions and petition on to the ballot, and use the nominating petitions to seek to qualify for a grant as a petitioning candidate. Similarly, a candidate of a minor party whose candidate in the most recent regular election received *less than* one percent (1%) of votes cast for the office sought can obtain nominating petitions to petition on to the ballot and seek to qualify for a public grant as a candidate of his or her minor party. And a candidate of a minor party whose candidate in the most recent regular election received more than ten percent (10%) of the votes cast for the office sought can seek to qualify for a grant.

Chapter 157 does not explicitly address a grant qualification process for a candidate who gained ballot access through a minor party when the minor party’s candidate for the office in question received *less than* ten percent (10%) of the votes cast for all candidates for that office at the last regular election. It certainly does not forbid such a candidate from qualifying for a grant.

As stated above, the statute unambiguously directs that *any* candidate committee of a candidate for election to an office who is nominated by a minor party may receive a grant from the Citizens’ Election Fund for the candidate’s general election campaign for said office. *See* General Statutes § 9-702. In light of this language, it is clear that the same grant standards apply to a candidate who has obtained a nominating petition approved by the Secretary of the State pursuant to § 9-453o and who has qualified for ballot access under a minor party with less than 10% of the vote in a previous election as to a party who gained ballot access by petitioning. The qualification



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

process for such grants is linked to the amount of signatures collected on a nominating petition approved pursuant to §9-453o, as provided in §§ 9-705 (c) (2) and 9-705 (g) (2).

Chapter 157 must be read as a whole, as required by the “plain meaning” provision in §1-2z. General Statutes Sections 9-700 (4) & (5), 9-702 (a) & (b), 9-705 (c) (1), 9-705 (c) (2), 9-705 (g) (1), and 9-705 (g) (2), together, require the above application of Chapter 157.

The plain language of Chapter 157 compels the conclusion that minor party candidates whose nominating petitions have been approved by the Secretary of the State pursuant to § 9-453o and whose minor party has already achieved ballot access for the office sought but received less than ten percent (10%) of the votes cast at the preceding regular election for that office are eligible to attempt to qualify for a public grant. But even if Chapter 157 was ambiguous on this point, the ambiguity must be construed to allow such minor party candidate to attempt to qualify for a grant. See *McConnell*, 540 U.S. at 180 (statutes should be interpreted to avoid constitutional problems).

Reading Chapter 157 to allow *all* candidates who have obtained ballot access to attempt to qualify for a public grant avoids the untenable result of forcing certain minor party candidates to choose between associating with an already-established minor party or qualifying for a grant by gaining access to the ballot as a petitioning candidate. See *Buckley*, 424 U.S. at 15 (stating “the First and Fourteenth Amendments guarantee freedom to associate with others for the common advancement of political beliefs and ideas, a freedom that encompasses the right to associate with the political party of one’s choice.”) (internal citations and quotation omitted); *McConnell*, 540 U.S. at 180 (declaring that statutes should be construed and applied to avoid constitutional infirmities).

To conclude otherwise would conflict with the plain meaning of § 9-702 (a) (2) and would preclude certain nominated candidates of recognized minor parties which have ballot access for the offices in question from attempting to qualify for a public grant from the Program. Nothing in the text of Chapter 157 supports this unreasonable result. To construe §§ 9-705 (c) (1) and 9-705 (g) (1), which calculate the grants available to candidates who achieved ballot access under a minor party whose candidate in a previous election received 10% or more of the vote, to implicitly prohibit other candidates who gained ballot access through a minor party from any avenue for obtaining a grant yields an absurd and untenable result. It also reads those provisions in isolation from § 9-702. See *S. New England Tel. Co.*, 283 Conn. at 653 (“the legislature is presumed to have intended a just and rational result,” and statutory provisions should be construed within larger statutory framework to avoid “unreasonable or bizarre results” and must be read within “the broader statutory scheme to ensure the coherency of [the statute’s] construction”); *McConnell*, 540 U.S. at 180 (“it is a cardinal principle that this Court will first ascertain whether a construction of the statute is fairly possible by which the question [implicating serious constitutional issues] may be avoided”).⁴

⁴ In addition to serving as the vehicle for ballot access, petitions for nomination now play a key role in the State Elections Enforcement Commission’s determination of whether certain candidates may receive public funds from the Citizens’ Election Program. Accordingly, the Commission recommends that the Office of the Secretary of the State include on each nominating petition page a notice that indicates that the petitions may be used for dual purposes.



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


Conclusion

The fact that a candidate has gained ballot access through a minor party whose candidate for the office in question received less than ten percent (10%) of the whole number of votes cast for all candidates for such office at the previous election does not preclude that candidate from qualifying for a grant through nominating petitions approved by the Secretary of the State pursuant to § 9-453o.

This constitutes a declaratory ruling pursuant to General Statutes § 4-176, and provides guidance about the use of nominating petitions by certain minor party candidates, as provided in §§ 9-700, 9-702, 9-705 (c), and 9-705 (g) of the Connecticut General Statutes.

This declaratory ruling is limited to addressing the specific issues raised.⁵ 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 16 day of July 2008, by Order of the Commission.


Stephen F. Cashman,
Chairman

⁵ This Declaratory ruling addresses only the issue of how a candidate may qualify for a grant if that candidate gained ballot access through a minor party that received 1% to 10% of the votes cast for that office in the prior election, the Commission does not at this time address the qualification criteria for any other minor party candidates.