

OFFICE OF THE CITY ATTORNEY

OPINION NO. 93-07

**TO:** Janice L. Graziano, City Clerk  
**FROM:** Stephen M. Kemp, City Attorney  
**DATE:** October 6, 1993  
**SUBJECT:** Opinion Request on Campaign Contributions and Expenditures

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**QUESTION:**

1. If a contributor has donated the maximum amount allowed to a candidates campaign and the candidate wins the seat; at what point is the same contributor allowed to donate again to that same candidate.
2. When a candidate carries over either a surplus or deficit to a subsequent campaign, but files his/her nomination paperwork as an incumbent or for another public office, is that candidate considered to be in a new campaign.
3. If a contributor's \$2,000 to candidates donation limit is determined by campaign closures, then that would mean that the contributor could only be able to donate, up to whatever the current limit to any candidate only if his total donations were reduced by the amounts released by candidates closing their campaigns.

**OPINION:**

In regard to the first question, the restrictions on donations are based on the definition of a campaign under A.R.S. §16-901, *et seq.* The campaign begins on the date that the first campaign contribution is received or the date when the initial campaign finance report must be filed. See, A.R.S. §§ 16-901.3; 16-901.7 and 16-905.I.

The campaign is terminated by filing a statement of termination with the appropriate elections officer.<sup>1</sup> Once a campaign is terminated, the candidate may not receive any further contributions or make any further expenditures for that campaign.

Contributors who donated in a prior campaign to a candidate, may again donate to that candidate in their next campaign.<sup>2</sup> The basic rule is that a contributor may not exceed the maximum limit in each campaign. Therefore, a contributor may donate to the same candidate after they have terminated the campaign where the contributor has made the maximum donation and commenced a new campaign in the next election cycle.

In regard to question No. 2, if a candidate terminated their first campaign in accordance with A.R.S. §16-915.01.B, those funds that are surplus from the first campaign may be donated to a subsequent political campaign. At that time, the candidate has received their first financial contribution in the subsequent campaign and commences a new reporting cycle. See, A.R.S. §§ 16-901, 16-905 and 16-915.01. Finally, it must be remembered that it is not the filing of nomination paperwork that invokes the campaign reporting requirements, rather, it is the receipt of the first campaign contribution for the campaign.

In regard to question No. 3, the two thousand dollar (\$2,000) limit is not related to campaign closures. See, A.R.S. §16-905.D. An individual may not contribute more than two thousand dollars in a calendar year to state and local candidates. A candidate closing their campaign does not result in a credit against this amount. Conversely, an individual conceivably could contribute candidate "A"'s prior campaign before termination and make a subsequent contribution to "A"'s new campaign.<sup>3</sup>

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<sup>1</sup> In city elections, the city clerk is the elections officer. See, A.R.S. §16-403.

<sup>2</sup> It should be remembered that a candidate can only have one campaign during an election cycle. Obviously, a candidate cannot have Campaigns 1-99 during a single council election period, otherwise the purpose of the limitations would be defeated.

<sup>3</sup> This could defeat the intent of this law if an individual contributed the maximum amount to "A"'s first campaign, who then closed out the campaign, transferred the funds to a second campaign and the same individual again made the maximum contribution. This would appear to be a violation of A.R.S. §16-905 prohibiting attempts to circumvent the contribution limits. Such violations, if knowing are a class one misdemeanor, or if unknowing a civil penalty and could result in the candidate being

Therefore, a contributor may donate two thousand dollars in each calendar year to state and local candidates. The amount that may be donated to each candidate will be based on prior donations by the individual to a candidate's campaign.<sup>4</sup>

If you should have any questions, please do not hesitate to contact me.

cc: Honorable Mayor and Council

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removed from office.

<sup>4</sup> The result is that if contributor "A" donates exclusively to City candidates and donated \$2,000.00 (\$240.00 each to 8 candidates and \$80.00 to one candidate for a total of \$2,000) in 1993 and no candidate has commenced receiving contributions for new campaigns in 1994, contributor "A" may not be able to donate to any city candidate in 1994.