

What you need to know about inaugural and transition activities in Ohio, from a state and federal perspective

November 13, 2014

Now that the election is over, newly elected and reelected officials at the federal, state and local levels are turning their attention to inaugural event planning and other transition activities. Depending on the officeholder and the situation involved, state and federal laws regulating campaign finance, ethics, lobbying and pay-to-play restrictions can apply. Whether it is an individual employee or a corporation that is involved, a careful vetting in advance of the planned inaugural or transition activity should take place to avoid violations. Here's what you need to know:

Ohio law allows a newly appointed or elected state or local officeholder (except the judiciary) to establish a transition fund to receive donations and pay the costs incurred for inaugural or other transition related activities. R.C. 3517.1014. Candidates elected or reelected in the November general election can set up transition funds now or any time prior to the end of this year. Transition funds must be registered, activity must be reported and funds may remain open for no more than 120 days.

Under Ohio law, any person, including a corporation, may make donations to a transition fund. Donations are limited to \$10,000 for the Kasich-Taylor transition fund; donations to all other eligible officeholder transition funds are capped at \$2,500. Donations to a properly established transition fund are specifically exempt from the definition of a "contribution" for purposes of Ohio's campaign finance laws. As such, donations to a transition fund do not count against the limits that apply to contributions made to a political campaign committee, do not violate Ohio's ban on corporate political activity and do not trigger the Ohio pay-to-play restrictions.

But federal pay-to-play rules may apply, even when a state or local officeholder's transition fund is at issue. Broker-dealers, investment advisors and swap dealers who are regulated by various federal pay-to-play rules must still be careful about donations to a transition fund, even if that fund benefits a state or local candidate. For example, the Municipal Securities Rulemaking Board, which regulates broker-dealers and municipal finance professionals, specifically includes donations made for transition or inaugural expenses in the definition of a "contribution" for the purposes of its pay-to-play restrictions. MSRB Rule G-37(g)(i).

Finally, don't forget about the state and federal ethics rules when participating in inaugural events. Presuming no quid pro quo activity, a contribution to a duly established transition fund is not a "gift" to a public official under Ohio laws. But, a gift made to the officeholder personally, even if it is in conjunction with an inaugural or transition event, could be a prohibited thing of value that triggers the ethics laws. Likewise, giving a public official a ticket to attend a swearing-in ceremony or some other inaugural event can also implicate the Ohio ethics and lobbying laws.

The ethics analysis is slightly different under federal law. The U.S. House Committee on Ethics specifically and flatly prohibits lobbyists or other private entities from paying for a House member's [swearing-in reception or inaugural event](#). Other gift laws, as well as any reporting obligations for lobbyists, will also apply.

Authors

Copyright © 2023 Bricker & Eckler LLP. All rights reserved.