



Ohio Elections Commission

77 South High Street, Suite 1850
Columbus, Ohio 43215
614•466•3205
www.elc.ohio.gov

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Fax: (614) 728-9408

October 12, 2023

OHIO ELECTIONS COMMISSION

Advisory Opinion 2023ELC-01

SYLLABUS: The provision of cybersecurity software and services by Defending Digital Campaigns, Inc. (DDC) to Ohio political campaign committees and political parties at all levels across the state, on a nonpartisan or bi-partisan basis, is allowable and can be done without violating Ohio Revised Code §3599.03. Further, such provision will not to be considered an in-kind contribution if the cybersecurity software and services are provided at no cost.

TO: Donald J. McTigue, Esq.
Counsel
Defending Digital Campaigns, Inc.

You have requested an advisory opinion on the following issue:

Would the provision of cybersecurity software and services by Defending Digital Campaigns, Inc. (DDC) to Ohio political campaign committees and political parties be prohibited by the terms of Ohio Revised Code (R.C.) §3599.03? If not, would the provision of such software and service constitute an in-kind contribution if provided at no cost?

Your request for an advisory opinion provides some detail concerning the background of the requester, its activities, and the threats involving campaign committees and political parties that utilize computers, social media and other technology products required by modern campaign activities. The request letter further describes the initiative that led to the creation of DDC, the nonpartisan and experienced technical make-up of the persons involved in creating and expanding DDC's leadership, along with the efforts undertaken at the federal level to help campaigns and parties to protect their critical technology on a nonpartisan basis. As also pointed out in the request, state and local campaigns and political parties often have fewer resources available to them than do federal level committees. In addition, the Advisory Opinion request cites the Federal Bureau of Investigation, highlighting that "foreign adversaries are particularly interested in state-level politics," indicating that state and local committees and parties will continue to be active targets for cyber threats.

Further, in reviewing the Advisory Opinion that was earlier issued by the Federal Elections Commission, and made reference to by counsel for DDC (FEC Opinion 2018-12), it goes into great detail concerning various cybercriminal activities that campaigns and parties are subject to dating back as far as 2008 and continuing

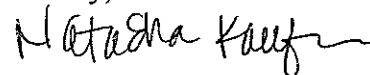
up to the time of the issuance of that opinion. With such threats becoming even more prevalent and serious, the need for the products offered as outlined by DDC are becoming more essential for all users of internet technologies. In the Commission's consideration, all state and local political campaigns and parties are subject to this risk, and the protections potentially offered by DDC may be even more critical at the state and local level.

The Advisory Opinion request letter also declares that DDC has been organized as a §501(c)(4) social welfare organization under the Internal Revenue Code and goes on to say that DDC's governing documents reflect the nonpartisan focus of the organization, demonstrating that the organization strictly adheres to the Code's prohibition on political activity that apply to §501(c)(3) organizations. Additionally, reference is made to Ohio Elections Commission Advisory Opinion 2002 ELC-04, wherein the Commission previously approved a web hosting plan "as long as it is available ... regardless of party affiliation or status," to demonstrate the Commission's inclination to adopt measures that will benefit Ohio's political environment on a nonpartisan or bi-partisan basis.

This Commission believes that such an offering is critical to protect Ohio campaign committees and party organizations at all levels. Such nonpartisan activity is critical to ensure the protection of Ohio's democratic processes and the information made available to Ohio voters. As DDC endeavors to defend Ohio's political campaigns and parties, the voters of the state of Ohio will also benefit. An elector in the state can be secure in the knowledge that their votes will not be swayed by inappropriate interference into a candidate's campaign or an Ohio political party's technology operations.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that the provision of cybersecurity software and services by Defending Digital Campaigns, Inc. (DDC) to Ohio political campaign committees and political parties at all levels across the state, on a nonpartisan or bi-partisan basis, is allowable and can be done without violating Ohio Revised Code §3599.03. Further, such provision will not to be considered an in-kind contribution if the cybersecurity software and services are provided at no cost.

Sincerely,



Natasha Kaufman
Chair