

Butler County Democrats for Change (DPAC)
P.O. Box 2208
Butler, PA 16003-2208

November 26, 2007

Office of General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

AOR 2008-01

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2007 NOV 30 P 12: 11

Dear Commissioners:

This is a request for an Advisory Opinion for guidance with respect to whether *per se* affiliation pursuant to U.S.C. 441a(a)(5) and C.F.R. 110.5(g) exists between our nonconnected committee, Butler County Democrats for Change (DPAC) and the Butler County Democratic Committee (County Committee), a local party committee.

BACKGROUND

The County Committee is the Pennsylvania State Democratic Committee's representative and authorized body in Butler County, Pennsylvania. It is comprised of Committeemen and Committeewomen representing the precincts of Butler County who are either duly elected or appointed by the Committee Chair. Officers of the County Committee are elected by the County Committee or appointed by the County Committee Chair. The County Committee's Executive Board is comprised of all Officers, persons appointed by the Chair, and elected Democratic officeholders. The County Committee Chair is not a member of DPAC. DPAC has no involvement in the direction or control of the County Committee.

DPAC is a nonconnected political committee with the mission to help elect progressive Democratic candidates to office by conducting exempt function activity as described under Section 527 of the Internal Revenue Code. On August 19, 2007, DPAC added a Federal Fund to support or oppose Federal candidates or legislative initiatives, and is registered with the Federal Election Commission under ID Number C00438333. As stated on the FEC Form 1, DPAC is not connected or affiliated with any organization or other committee—it is not any of the following: a separate segregated fund of a corporation or union, an authorized committee, or a party committee. DPAC Officers are elected for one-year terms by the membership. The DPAC Executive Committee, also elected annually, is comprised of Officers, elected At Large Members and chairpersons of the subcommittees. The County Committee has no involvement in the direction or control of DPAC. DPAC is not sponsored or authorized by the Pennsylvania State Democratic Committee.

Office of General Counsel
Federal Election Commission
November 26, 2007

DPAC has fourteen members, including officers, who are Committeemen and Committeewomen of the approximately eighty-five member County Committee. Three DPAC members are on the approximately twenty-two member County Committee Executive Board, including the current Treasurer of the DPAC Non-Federal Fund who is also the Treasurer of the County Committee, and an At Large DPAC Executive Committee member who is the Vice Chair of the County Committee.

DPAC made a \$100.00 contribution to the County Committee in November 2005, and a \$350.00 contribution in May 2006. In addition, for a limited period of time, between August 2006 and March 2007, DPAC contributed towards the operation of a Democratic Headquarters during the 2006 election cycles, in the amount of \$1,820.00. These payments occurred prior to the establishment of the DPAC Federal Fund. Although the County Committee has continued to maintain a headquarters, DPAC does not contribute to its maintenance. The only other amounts paid to the County Committee were for the placement of DPAC advertisements in the programs for the County Committee's Dinners in May 2006 and April 2007. DPAC has not collaborated with the County Committee at any time since the establishment of the DPAC Federal Fund.

QUESTION PRESENTED

The County Committee has expressed concern that under the Federal Election Commission Act ("Act") and the regulations prescribed under the Act, the County Committee and DPAC may be deemed to be *per se* affiliated committees and thereby subject to the contribution limitations of affiliated committees, *i.e.* as if a single committee.

C.F.R. 100.5(g)(2) states:

All committees (including a separate segregated fund, see 11 CFR part 114) established, financed, maintained or controlled by the same corporation, labor organization, person, or group of persons, including any parent, subsidiary, branch, division, department, or local unit thereof, are affiliated.

C.F.R. 100.5(g)(4) (i) states:

The Commission may examine the relationship between organization that sponsor committees, between the committees themselves, or between one sponsoring organization and a committee established by another organization to determine whether committees are affiliated.

C.F.R. 100.5(g)(4)(ii) and C.F.R. 110.3(a)(3) provides that the Commission, in determining whether committees are affiliated, "will consider the circumstantial factors," which include common or overlapping membership, officers, and the provision by one committee to another of funds on an ongoing basis or in a significant amount.

Office of General Counsel
Federal Election Commission
November 26, 2007

Based on the facts presented above, we request your guidance with respect to whether DPAC has a *per se* affiliation with the County Committee. Would the membership in DPAC of elected or appointed Committeemen and Committeewomen, the small number of individuals who are officers or members of the Executive body of both organizations, or the fact that contributions limited in amount and duration were made by DPAC to the County Committee be cause to deem the two organizations are affiliated committees.

Respectfully yours,



Diane L. Sipe
Treasurer, DPAC Federal Fund

Butler County Democrats for Change (DPAC)
P.O. Box 2208
Butler, PA 16003-2208

February 25, 2008

Office of General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Dear Commissioners:

As requested, below is a supplement to my letter of November 6, 2007 requesting an Advisory Opinion as to whether affiliation pursuant to U.S.C. 441a(a)(5) and C.F.R. 110.5(g) exists between our nonconnected committee, Butler County Democrats for Change (DPAC) and the Butler County Democratic Committee (County Committee), a local party committee not registered as a political committee with the Federal Election Commission. I was specifically asked to provide additional information relating to the criteria in C.F.R. 110.3.

C.F.R. 110.3 (B). Whether a sponsoring organization or committee has the authority to direct or participate in the governance of another sponsoring organization or committee through provisions of constitutions, bylaws, contracts, or other rules, or through formal or informal practices or procedures; . . .

Neither committee sponsors the other. Neither the County Committee nor DPAC has any authority with respect to the governance or day-to-day activities or operation of the other committee. There are no formal or informal practices, procedures, or de facto arrangements whereby one committee participates in the governance or day-to-day operations of the other. DPAC is not associated with the Pennsylvania State Democratic Committee (State Committee), any part of the State Committee, or the Democratic National Committee. DPAC is under the sole direction of its members. The Mission statement contained in the bylaws of DPAC (attached hereto) explicitly state DPAC's independent status in Section 2.2.

The bylaws of the County Committee are explicit regarding the connection of the County Committee to the State Committee. Rule II, Authority, states:

The County Committee of Butler County is hereby authorized and empowered to make such rules to be operative for the selection and organization of the members thereof, not inconsistent with the laws of the State and the rules of the Democratic State Committee of Pennsylvania, as

shall be necessary for the government and the promotion of the interests of the party.

C.F.R. 110.3 (C). Whether a sponsoring organization or committee has the authority to hire, appoint, demote or otherwise control the officers, or other decision-making employees or member of another sponsoring organization or committee; . . .

Neither committee has employees. Neither committee has any authority with respect to the appointment or control of the officers or other decision makers of the other organization. DPAC's officers and its Executive Committee are determined solely by election of its membership. The County Committee members are either elected by the Democratic voters of their precinct or appointed by the County Committee Chair. Its officers and executive body are elected by its members or appointed by the Chair.

C.F.R. 110.3 (D). Whether a sponsoring organization or committee has a common or overlapping membership with another sponsoring organization or committee which indicates a formal or ongoing relationship between the sponsoring organizations or committees; . . .

Individuals may acquire, and some have, membership in both committees by independently seeking membership in each organization. Based on a snapshot picture of the membership of each organization as of December 31, 2007, the membership overlap is as follows:

Of the 89 members of County Committee members published on the County Committee's website, 14 are members of DPAC (two of these 14 had in fact resigned as of December 31, 2007, but have not been removed from the website). As of December 31, 2007, DPAC had 38 members.

C.F.R. 110.3 (E). Whether a sponsoring organization or committee has common or overlapping officers or employees with another sponsoring organization or committee which indicates a formal or ongoing relationship between the sponsoring organizations or committees; . . .

DPAC has no sponsoring organization. The overlap in officers with the County Committee is as follows: of the individuals who belong to both organizations, one was an officer of both committees (treasurer), and one officer of the County Committee was an at-large member of the DPAC Executive Committee. The DPAC terms of office of both of these individuals are set to expire in March, 2008 and they are not seeking reelection. In 2010, the terms of County Committee's officers will expire and new elections held.

One member of DPAC, who is not an officer or member of the Executive Committee, is also a member of the State Committee. Of the 11-member DPAC Executive Committee, 6 are County Committee members.

C.F.R. 110.3 (F). Whether a sponsoring organization or committee has any members, officers or employees who were members, officers or employees of another sponsoring organization or committee which indicates a formal or ongoing relationship between the sponsoring organizations or committees; . .

Four current members of the County Committee Executive Committee were at one time members of DPAC, including the Chair of the County Committee who resigned his membership of DPAC shortly after being elected to the Chair.

C.F.R. 110.3 (G). Whether a sponsoring organization or committee provides funds or goods in significant amount or on an ongoing basis to another sponsoring organization or committee, such as through direct or indirect payments for administrative, fundraising, or other costs, but not including the transfer to a committee of its allocated share of proceeds jointly raised pursuant to CFR 102.17; .

No funds are provided by DPAC to the County Committee and no funds are provided by the County Committee to DPAC. No direct or indirect payments are made by either committee to the other. No facilities, equipment or supplies are shared. In the past, however, the following payments were made by DPAC to the County Committee, prior to filing to becoming a federal political committee in August, 2007.

During the 2006 election cycle, DPAC donated \$1,820 towards the expenses of a temporary Butler County Democratic Headquarters. Following the elections, the County Committee decided to maintain a permanent headquarters, but DPAC did not or does not contribute or donate funds towards the maintenance of the permanent headquarters. The last such donation made by DPAC was on March 12, 2007.

DPAC held meetings at the Democratic Headquarters maintained by the County Committee in late 2006 and for the first few months of 2007, but ceased to use that facility after that.

Other than the above-mentioned donation, other payments to the County Committee were as follows:

Cash donations to the County Committee:

Nov. 21, 2005	\$100
May 16, 2006	\$350

Purchase of DPAC advertisements in Butler County Democratic Committee 2006 and 2007 Spring Dinner Programs:

May 15, 2006	\$100
April 18, 2007	\$100

In-kind contribution in the amount of \$80.00 for the donation of two gift baskets for a County Committee-sponsored Chinese auction.

The County Committee has made no donations to DPAC.

C.F.R. 110.3 (H). Whether a sponsoring organization or committee causes or arranges for funds in a significant amount or on an ongoing basis to be provided to another sponsoring organization or committee, but not including the transfer to a committee of its allocated share of proceeds jointly raised pursuant to CFR 102.17; . . .

DPAC does not cause or arrange any funds, on an ongoing basis or otherwise, to be provided to the County Committee. The County Committee does not cause or arrange any funds, on an ongoing basis or otherwise, to be provided to DPAC.

C.F.R. 110.3 (I). Whether a sponsoring organization or committee or its agent had an active or significant role in the formation of another sponsoring organization or committee; . . .

The County Committee has a long history; its current constitution was adopted on June 29, 1978. As a local committee of the Democratic Party associated with the State Committee, the County Committee was in existence at the time of the 2004 Presidential election but was not an especially dynamic local party committee at the time, although it had been in the recent past. Member meetings were infrequent or were not being held, although the annual County Democratic Dinner fundraisers did occur. Local Democrats who became active during that election year sought and were elected to the County Committee representing their respective precincts. They included among their numbers Democratic activists who were members in the newly-formed DPAC. Consequently, for a period of time, but primarily during 2005 and 2006, many individuals participated in DPAC and also were elected (or appointed) as County Committee members. By the end of 2007, the overlap between the County Committee and DPAC had substantially decreased.

C.F.R. 110.3 (J). Whether sponsoring organizations or committees have similar patterns of contributions or contributors which indicate a formal or ongoing relationship between the sponsoring organizations or committees.

DPAC's contributors are its members and attendees of fundraising events open to the general public. The County Committee holds its own fundraising events. DPAC has made contributions to candidates, such contributions being determined exclusively by vote of the DPAC members. These contributions are made entirely independent of the County Committee, without consultation with or direction from the County Committee or any of its personnel acting as agents of the County Committee. Any contributions made by the County Committee to support candidates have not been done with consultation or direction from DPAC or any of its personnel acting as agents of DPAC.

ANALYSIS

DPAC is a political committee whose members may be any registered Democrat who desires to join the group and pays its annual membership dues. The County Committee is a political party committee, with a long history of activity in the county, one which predates the formation of DPAC by many years. The County Committee's members are elected by the Democratic registered voters of the precincts they represent respectively, or are appointed by the County Committee Chair. There is no ownership or sponsorship between the two committees. The County Committee is a subordinate party of the Pennsylvania State Democratic Committee. DPAC has no relationship with the State Committee or Democratic National Committee whatsoever. Following a period of just a few years prior to the 2004 election, the County Committee had become less active than it previously had been, but was revitalized by the enthusiastic political environment surrounding the Bush-Kerry Presidential election. Simultaneously, DPAC was formed due to that same enthusiasm. As a minority party in relatively small rural county, it was very likely that many Democrats who became active during that time of heightened political activity would be attracted to both organizations. However, any good will that may have existed between the two groups was short lived and by 2007 had ceased to exist. Even though there remain a number of individuals who belong to both organizations, it may be said that the two committees have a tense relationship (it has even been suggested by some members of the County Committee that DPAC should not even use the term "Democrats" in the group's name). As of March of 2008, the two organizations will no longer have any officers or members of their respective executive bodies in common. The two groups do nothing in concert; there is no joint management, control, or operation. There is no transfer of funds, services, or goods between them. Governance of each committee is exclusively by its own members and charters. Neither committee has the ability to participate in the other committee or direct personnel of the other committee. DPAC members—who belong to the County Committee—wear the hat of the County Committee when they act in their capacity as Butler County Committeemen and Committeewomen; they wear the hat of DPAC when they act in their capacity as DPAC members. Discussion of the County Committee concerns or activities is actively discouraged during DPAC meetings; DPAC concerns and activities are not discussed at the County Committee meetings. In summary, DPAC and the County Committee do not in any way operate in conjunction with the other committee and there is no intent to do so by either committee.

Office of General Counsel
February 25, 2008

Federal election law as amended by the Bipartisan Campaign Reform Act has the intent of preventing the use of soft money that is not subject to FEC limitations. DPAC is a political committee registered with the FEC. It has always been the intent to be an independent, grass-roots organization and was never intended to be a Democratic political party committee at either the county or state level. Limiting the ability of grass-roots organizations such as DPAC to promote and contribute to the funding of alternate candidates imposes a severe limit on individuals who are not necessarily part of the established party organization, but who wish to influence their party's candidates choices and have their voices heard. Such small, grass-roots organizations, especially of smaller geographic areas, necessarily draw from a relatively small pool of individuals who share its particular political perspective. Restricting their ability to organize with like-minded individuals to actively promote and support candidates based on the membership of some of the group's members in the local political party committee militates against the democratic expression of the people that is the basis of American democracy. The limitations—imposed by being considered affiliated with the local party committee and acquiring the attendant restrictions on state and local party imposed by the Bipartisan Campaign Reform Act of 2002—would hamper the ability of ordinary people to push forward or support candidates for nomination by their respective party who might not otherwise be considered. The end-result would be to encourage alienation of the average citizen from the political process.

Sincerely yours,



Diane L. Sipe
DPAC Federal Fund Treasurer

CONSTITUTION OF BUTLER COUNTY DEMOCRATS FOR CHANGE (DPAC)

Article I: GENERAL INFORMATION

Section 1.1: The name of this organization is Butler County Democrats for Change, also known as DPAC (Democratic Political Action Committee) and will be operated in accordance with the provisions of this Constitution.

Section 1.2: DPAC is duly registered with the appropriate government entity as a political action group to support candidates for political office and engage in other activities pursuant to the furtherance of its mission.

Section 1.3: This Constitution is adopted by the Executive Committee and ratified by the general membership of DPAC.

Section 1.4: The fiscal year of DPAC will be the calendar year.

Article II: MISSION

Section 1.1: It is the mission of this organization to win control of our Local, Butler County, Pennsylvania and Federal Government for "We The People," by helping to elect Democratic and Progressive candidates to all offices. For purposes of this Constitution "Progressive" means a person who actively favors or strives for progress toward better conditions, in society or government. The means shall include but is not limited to the following:

Section 2.2: DPAC will assist in the election of progressive candidates which may or may not have been endorsed by County, State, and National Democratic organizations.

Section 2.3: DPAC may recommend candidates for political office to the Butler County Democratic Committee and Pennsylvania Democratic Committees.

Section 2.4: DPAC, while recognizing its independent status, shall maintain a close working relationship with other organizations to pursue and implement common objectives.

Section 2.5: DPAC may inform and educate voters by appropriate means of the need for new legislation and/or the necessity to change existing legislation to promote the general welfare of all citizens.

Article III: CODE SECTION 527 POLITICAL ORGANIZATION

Section 3.1: DPAC may elect to become a tax-exempt political organization as provided under Section 527 of the Internal Revenue Code and the regulations promulgated thereunder, organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures for an Exempt Function. An Exempt Function means the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed.

Section 3.2: DPAC, while functioning as a 527, would maintain a segregated fund for the purpose of receiving Exempt Function Income and any earnings thereon ("Exempt Function Fund"). Expenditures from the Exempt Function Fund will be made only for Exempt Functions or for activity necessary to fulfill Exempt Functions. Exempt Function Income means contributions of money or property; membership dues or a membership fee or assessment on DPAC members; proceeds from fundraising events; and sale of political campaign materials.

Section 3.3: Notwithstanding the foregoing, DPAC may continue to engage in activities other than its Exempt Functions that advances its Mission stated in Article II, including but not limited to sponsoring educational workshops not intended to influence or attempt to influence the selection, nomination, election, or appointment of any individual to public office, or to otherwise promote knowledge of and participation in democratic government. However, funding to conduct such activities will not be paid out of the segregated fund described in Section 3.2 above.

Article IV: EXECUTIVE COMMITTEE ("COMMITTEE")

Section 4.1: The Executive Committee, hereafter known as "the Committee," shall consist of the Officers described in Article IV, six At Large Committee Members, the non-voting Ex-President, and the chairperson of each Standing Committee and the chairperson of any ad hoc committee during the tenure of such ad hoc committee described in Article VI ("Committee Members").

Section 4.2: Duties of the Committee. Except as may be provided elsewhere in this Constitution, the affairs of DPAC will be under the general direction of the Committee, who shall administer, manage, preserve, and protect the property of DPAC. It shall be the responsibility of the Committee to bring matters of interest to the general membership for their approval, and steer the organization forward toward the Progressive goals of the organization and its Mission.

Section 4.3: Each Committee Member shall serve for a term of one year or until the member's earlier resignation, death, or removal as provided in Article VI.

Section 4.4: No Committee Member will receive financial remuneration.

Article V: OFFICERS

Section 5.1: The elected Officers of DPAC shall be President, First Vice-President, Second Vice-President, Secretary, and two (2) Treasurers (one for the General PAC and one for the Federal PAC).

Section 5.2: All Officers shall hold office for a term of one year. There shall be no limits placed upon the number of terms of office, consecutive or non-consecutive, which may be served by any Officer, except where an Officer was removed for Cause as described in Section 6.2; in which case the Officer may not hold an office or Committee position for 3 subsequent years.

Section 5.3: Duties of the President. The President shall preside over all DPAC meetings, solicit agenda items for upcoming meetings and perform other such duties as directed by the Executive Committee. The President will be the official spokesperson for the organization and shall always have the future and reputation of the organization as their primary objective.

Section 5.4: Duties of the First Vice-President. The First Vice-President shall preside over DPAC meetings in the absence of the President and perform other such duties as directed by the Executive Committee. The First Vice-President shall also be the official arbitrator over constitutional and other organizational issues.

Section 5.5: Duties of the Second Vice-President. The Second Vice-President shall preside over DPAC meetings in the absence of the President and the First Vice-President and perform other such duties as directed by the Executive Committee. The Second Vice-President shall oversee the development and expansion of standing committees.

Section 5.6: Duties of the Secretary. The Secretary shall keep, or cause to be kept, all minutes of the general meetings and a current record of all active members and member contact information. Approved minutes of the general meetings shall be distributed to the webmaster (for posting on the website) and to the general membership no later than ten days following the meeting by email or surface mail to members who do not have an email address.

Section 5.8: Duties of the Treasurer(s). The Treasurer(s) shall receive and deposit with the authorized bank all monies received by DPAC. All disbursements shall be co-signed with the First Vice-President after authorization has been granted by the Executive committee and ratified by the membership at its regular meetings. The Treasurer(s) will give, or cause to be given, a financial report at each general meeting. The Treasurer(s) will also file all necessary PAC reports with the appropriate agencies in a timely manner.

The treasurer(s) shall update the master member contact information and share this information with the Secretary.

Section 5.9: No Officer will receive financial remuneration.

Article VI: REMOVAL OF OFFICERS AND COMMITTEE MEMBERS

Section 6.1: Any Committee Member or Officer may be removed if he or she becomes incapacitated, is convicted of a felony during his or her tenure as a Committee Member or Officer, or for Cause as defined in Section 6.2 below. If a Committee Member or Officer is arrested for a felony during his or her tenure, he or she will be placed on administrative leave until the situation is resolved.

Section 6.2: "Cause" shall mean any action or inaction which, in the sole discretion of the Committee, materially and adversely affects or may affect DPAC.

Section 6.3: Any vacated Officer position, except President, shall be filled by appointment of the Committee and approved by the general membership.

Section 6.4: The vacated office of President shall be filled by either the First or Second Vice President as determined by a secret ballot of the Committee and ratified by a majority vote of the general membership.

Section 6.5: A Committee Member or Officer who misses three consecutive Committee meetings without notification will be deemed to have resigned. The executive committee will appoint an interim Committee Member until the next election in March.

Article VII: STANDING COMMITTEES

Section 7.1: Each Standing Committee described in Sections 7.2, 7.3, 7.4, and 7.5 shall consist of an unlimited number of participants with one Chairperson per committee. Each committee shall designate one Chairperson for their committee except for the Website Committee -- where the organization's Webmaster shall always be the Chairperson of this committee. The Chairperson of each Standing Committee shall be a member of the Executive Committee with full voting privileges. Any member, including an Officer or Committee Member, may serve on one or more Standing Committees.

Section 7.2: Candidate Search & Support Committee: the purpose of this committee is to recruit progressive Democratic candidates at the State, County and local levels and to help these candidates get elected to office.

Section 7.3: Fundraising Committee: the purpose of this committee is to propose fundraising suggestions to the members, conduct fundraising activities.

Section 7.4: Public Relations Committee: the purpose of this committee is to promote D-PAC to the public at large through various means, such as, but not limited to, press releases, forums and community events.

Section 7.5: Website Committee: the purpose of this committee is to obtain and maintain a web site for the organization. The position of Webmaster shall be appointed by the Executive Committee and ratified by the membership. The Blogmaster and any Listserve administrator will be part of this committee.

Article VIII: AD HOC COMMITTEES

Section 8.1: The President, with Committee approval, shall appoint whatever temporary ad hoc committees that the board feels appropriate to achieve the organizational goals.

Section 8.2: No Committee Member who is running for a future position on the board may be part of any ad hoc committee position for the purpose of vote counting for annual elections – i.e. the vote counter and vote verifier must come from general membership members who are not running for an executive board position.

Article IX: MEETINGS

Section 9.1: Regular general membership meetings of DPAC will be held on a monthly basis, except for the month of December. Meeting locations are to be determined.

Section 9.2: The Committee will meet on a monthly basis and make recommendations to the general membership based upon a consensus of Committee Members present at each meeting. The Committee members present at Committee meetings will be empowered to take action and make recommendations regardless of whether or not a quorum is met. When necessary, recommendations of the Committee shall be ratified by a vote of the general membership.

Article X: ANNUAL ELECTION GUIDELINES

Section 10.1: DPAC Elections will be fair & democratic, open to any active DPAC member, and voted by the “active” DPAC General Membership. For the purpose of elections, “Active” shall be defined as a member who has paid their dues for the current year and is present at the meeting when the election actually takes place.

Section 10.2: Elections will be held every 12 months at the regular March General Membership meeting.

Section 10.3: At least two months prior to the elections, the DPAC president will appoint an Election Nominations Ad Hoc Committee to seek out nominations for each elected position of the DPAC Committee which consists of: President, First Vice-President, Second Vice-President, Secretary, and Treasurer, as well as the At-Large Members of the Committee.

Section 10.4: Any active (or "current dues-paid") DPAC member can make either a self-nomination or can nominate another active DPAC member for any Committee position, and all nominations must be relayed to the Election Nominations Ad Hoc Committee. If someone is nominated by someone else, then the nominated person must officially accept the nomination before the actual elections. If the nominated person does not relay his or her acceptance of the nomination to the Election Nomination Committee, then the nomination will be deemed as "incomplete" and thus dropped from consideration.

Section 10.5: Nominations will be "open" until the actual election itself provided the guidelines are followed.

Section 10.6: If more than one candidate is nominated per position, then candidate speeches will be allowed before the voting itself. Voting will be done by secret, paper ballot, and hand-counted. The DPAC president will appoint a temporary Ballot Ad Hoc Committee to prepare the ballots, count them by hand, and verify the election results. After all ballots have been certified by the Ballot Ad Hoc Committee, then election results will be announced by the President.

Section 10.7: All newly elected Officers of the DPAC Executive Committee will take office during the regular April DPAC meeting.

Article XI: STANDARD OF CARE

Section 11.1: Each Committee Member or Officer shall perform his or her duties as a Committee Member or Officer, including such duties as a member of any committee upon which the Committee Member may serve, in good faith, in a manner he or she reasonably believes to be in the best interests of DPAC, and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. In performing his or her duties, each Committee Member or Officer shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

(a) One or more Officers or members of DPAC whom the Committee Member reasonably believes to be reliable and competent in the matters presented;

(b) Counsel, public accountants or other persons with respect to matters that the Committee Member reasonably believes to be within the professional or expert competence of such persons; and

(c) A committee of DPAC upon which the Committee Member does not serve, with respect to matters within its designated authority, which he or she reasonably believes to merit confidence.

Section 11.2: A Committee Member or Officer shall not be considered to be acting in good faith if he or she has knowledge concerning the matter in question that would cause his or her reliance to be unwarranted.

Article XII: INDEMNIFICATION OF COMMITTEE MEMBERS AND OFFICERS

Section 12.1: DPAC shall indemnify, to the fullest extent now or hereafter permitted by law each Committee Member or Officer (including each former Committee Member or Officer) of DPAC who was or is threatened to be made a party to or a witness in any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that the Committee Member or Officer is or was an authorized representative of DPAC, against all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the Committee Member or Officer in connection with such action, suit or proceeding if such Committee Member or Officer acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interest of DPAC and, with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful.

Section 12.2: Advancement of Expenses. DPAC shall pay expenses (including attorneys' fees) incurred by a Committee Member or Officer of DPAC in defending or appearing as a witness in any civil or criminal action, suit or proceeding in advance of the final disposition of such action, suit or proceeding. The expenses incurred by such Committee Member or Officer shall be paid by DPAC in advance of the final disposition of such action, suit or proceeding only upon receipt of a promissory note by or on behalf of such Committee Member or Officer to repay all amounts advanced if it shall ultimately be determined that the Committee Member or Officer is not entitled to be indemnified by DPAC.

Section 12.3: Procedure for Effecting Indemnification. Unless ordered by a court, any indemnification under this Article VII shall be made only following a determination that the indemnification is proper in the circumstances because the person seeking indemnification has met the applicable standard of care as provided in Section 11.1 above. Such determination shall be made

(a) By the Committee by a majority vote of Committee Members who were not party to the action or proceeding; or

(b) If such a majority is not obtainable or if obtainable and a majority vote of disinterested Committee Members so directs, by independent legal counsel in a written opinion.

Article XIII: AMENDMENT OF THE CONSTITUTION

Section 13.1: This constitution may be altered, amended and or repealed from time to time by the affirmative vote of a majority of Committee Members entitled to vote and ratified by a majority vote of the general membership.

Section 13.2: Committee Members shall be given at least ten days' prior written notice of any meeting of the Committee at which proposed changes to the Constitution of DPAC are to be considered or acted upon. Such written notice shall include a copy of the proposed amendment or a summary of the changes to be effected thereby.