August 9, 2018

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Opinion of Counsel 2018-05: Use of Public Funds to Offset Candidate’s Childcare Costs

Dear Ms. Clarkson Pereira:

You recently inquired whether public grant funds that your candidate committee received through the Citizens’ Election Program (“CEP”) may be used to cover childcare costs while you are campaigning. We provided an answer to you verbally and would like to take the opportunity to provide you with written guidance as well.

Applicable Law

The CEP is a voluntary clean elections program which allows participants who meet strict program requirements and demonstrate an adequate level of public support to forego special interest and large dollar contributions in favor of a public grant from the Citizens’ Election Fund (“CEF”). See generally General Statutes § 9-700 et seq. Candidates participating in the Program agree to abide by strict contribution and expenditure limits.

In general, all expenditures made by a committee must be for the lawful purpose of the committee in order to be permissible, and for a candidate committee, the lawful purpose means “the promoting of the nomination or election of the candidate who established the committee.” General Statutes § 9-607 (g).

For candidates who have applied for and received a grant from the CEF, the rules are far more strict. They must additionally abide by a set of regulations, including Regs., Conn. State Agencies § 9-706-1 (a) which states:

All funds in the depository account of the participating candidate’s qualified candidate committee, including grants and other matching funds distributed from the Citizens’ Election Fund, qualifying contributions and personal funds, shall be used only for campaign-related expenditures made to directly further the participating candidate’s nomination for election or election to the office specified in the participating candidate’s affidavit certifying the candidate’s intent to abide by Citizens’ Election Program requirements.

(Emphasis added.)
The CEP regulations further provide:

(b) In addition to the requirements set out in section 9-706-1 of the Regulations of Connecticut State Agencies, participating candidates and the treasurers of such participating candidates shall comply with the following citizens’ election program requirements. Participating candidates and the treasurers of such participating candidates shall not spend funds in the participating candidate’s depository account for the following:

1. **Personal use**, as described in section 9-607(g)(4) of the Connecticut General Statutes;

2. The **participating candidate’s personal support or expenses**, such as for personal appearance or the candidate’s household day-to-day food items, supplies, merchandise, mortgage, rent, utilities, clothing or attire, **even if such personal items** (such as the participating candidate’s residence, or business suits) **are used for campaign related purposes**; . . . .

Regs., Conn. State Agencies § 9-706-2 (b) (emphasis added).

General Statutes § 9-607 (g) (4), as referenced in the applicable regulations, states:

[E]xpenditures for “personal use” include expenditures to defray normal living expenses for the candidate, the immediate family of the candidate or any other individual and expenditures for the personal benefit of the candidate or any other individual having no direct connection with, or effect upon, the campaign of the candidate or the lawful purposes of the committee, as defined in [General Statutes § 9-607 (g) (2)]. No goods, services, funds and contributions received by any committee under this chapter shall be used or be made available for the personal use of any candidate or any other individual. No candidate, committee, or any other individual shall use such goods, services, funds or contributions for any purpose other than campaign purposes permitted by this chapter.

**Analysis**

You inquire whether it would be a permissible use of public funds to pay for some childcare costs. You have explained that your husband and you both work full-time jobs, and therefore pay for childcare during the day for your three-year-old daughter. Moreover, your husband, family and friends have been able to cover most of the hours that you have needed to dedicate to your race. You ask whether, because your husband has weeklong business trips coming up in August and the campaign will require more
hours as it gets closer to the election, you may submit receipts for the time you are paying
for a sitter, if the hours are strictly tied to the campaign. Specifically, you ask about two
evening events.

Since the inception of the Program, Commission staff has given advice about various
other scenarios with respect to the personal use limits under the Program. We have been
asked, for example, whether public funds could be used to cover part of the mortgage
payments for a family member’s house that was used as campaign headquarters, to cover
a portion of the candidate’s personal cell phone bill since it was used to make calls to
campaign staff and voters, and to pay for the candidate’s clothing which was purchased
with campaign engagements in mind. We have looked at whether public funds could be
spent to replace the tires of a car that suffered wear and tear crisscrossing the state during
a campaign. We have been asked whether CEP funds could be used to pay for a
candidate’s flight to Amsterdam in order to attend a conference the subject of which was
part of his campaign platform and would result in pictures he could use in mailers.

In many of these cases, we were sympathetic to the request and understood the argument
that the personal items were being used for campaign related purposes; however, in each
situation, applying the Program rules and regulations, we advised the campaigns that
public funds should not be used to pay for these items.

The Citizens’ Election Program regulations provide that funds are not to be spent on
items that are personal in nature, even if some use may be campaign-related. Regs.,
Conn. State Agencies § 9-706-2 (b) (2). The grant monies may only be spent to directly
further the candidate’s nomination for election or election to the specified office. We do
not see a viable way to differentiate childcare costs from the above mentioned examples
or to say that childcare is in direct furtherance of the nomination to a specific office. It is
therefore the opinion of counsel that CEP funds may not be used to pay for a candidate’s
childcare costs.

The foregoing advice is an Opinion of Counsel and not a formal Declaratory Ruling or
Advisory Opinion of the Commission. An Opinion of Counsel differs in effect from the
latter in that it is not binding on the Commission; however, the person to whom an
Opinion of Counsel is rendered may rely upon the opinion with respect to any matter
brought before the Commission based upon the same facts and circumstances. The
Commission emphasizes that if there is an omission or change in any of the facts or
assumptions presented, and such omission, fact or assumption is material to the
conclusion or conclusions presented in this Opinion of Counsel, then the requestor may
not rely on that conclusion as support for its proposed activity.
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August 9, 2018

Please contact me if you have any additional questions or if we can be of further assistance. I may be reached via telephone at 860.256.2975.

Very truly yours,

Shannon Clark Kief
Legal Compliance Director