

Using Campaign Funds to Pay for Childcare Costs Associated with Running for Office

By: Kristin Sullivan, Chief Analyst
June 18, 2019 | 2019-R-0117

Issue

Summarize (1) other states' policies that allow candidates to use campaign funds to pay for childcare costs associated with running for office and (2) Connecticut's policy on the issue. **This report has been updated by OLR Report [2019-R-0328](#).**

Summary

According to the National Conference of State Legislatures, one state, Minnesota, has a law allowing candidates to use campaign funds to pay for childcare costs associated with running for office. In at least eight other states (Alabama, Arkansas, California, Kentucky, Louisiana, Maryland, Texas, and Wisconsin), oversight agencies have issued guidance allowing for some form of the same. Additionally, Maryland and Minnesota have a public campaign financing program, and the policy applies to candidates who participate in the program and those who do not.

Generally, Minnesota's law and the guidance specify that childcare costs may be covered only when they directly result from campaigning (i.e., when they would not exist but for the candidacy). This standard, known as the "irrespective standard," was set by the Federal Election Commission in [Advisory Opinion 2018-06](#) for candidates in federal elections.

Connecticut's State Elections Enforcement Commission (SEEC) addressed this issue in an April 3, 2019, declaratory ruling ([Declaratory Ruling 2019-02](#)). In its ruling, SEEC indicated that while campaign funds may generally be used for childcare costs associated with running for office, they

are not currently a permissible expense for candidates who participate in and receive a grant from the Citizens' Election Program (CEP), which is the state's public campaign financing program. In concluding the declaratory ruling, SEEC stated that "campaign funds may be spent on such childcare costs up until the campaign has been approved to receive a clean elections grant from the [Citizens' Election Fund]. Once a committee is approved for a grant, monies may not be spent on childcare. A change in legislation or regulation would be needed to alter this outcome."

Other States

Minnesota has a law allowing candidates to use campaign funds to pay for childcare costs associated with running for office. In at least eight other states, oversight agencies have issued guidance allowing for some form of the same. Table 1 below shows the nine states and briefly summarizes the law or guidance, as applicable.

Table 1: Use of Campaign Funds for Certain Childcare Costs

STATE	DESCRIPTION OF CHILDCARE COVERAGE	SOURCE
Alabama	In a 2018 advisory opinion, the Alabama Ethics Commission held that a candidate may use campaign funds for necessary and ordinary campaign expenditures, including childcare, to the extent that the expenses are incurred as a direct result of campaign activity and are tied to specific campaign events. The payments must be reasonable and customary for the services rendered. (In its opinion, the commission indicated that the guidance is limited to the specific set of facts analyzed.)	Alabama Ethics Commission, Advisory Opinion No. 2018-04
Arkansas	In a 2018 advisory opinion, the Arkansas Ethics Commission held that permissible campaign expenditures include reasonable childcare costs related to a candidate attending campaign events or engaging in campaign activity while his or her spouse is unavailable to care for their children or is needed to attend the campaign event. (In its opinion, the commission indicated that the guidance is limited to the specific set of facts analyzed.)	Arkansas Ethics Commission, Advisory Opinion No. 2018-EC-001
California	In a 2019 staff memorandum concerning proposed legislation, the California Fair Political Practices Commission noted that it has previously advised that expenses incurred by a candidate in providing a babysitter for his or her children are reasonably related to a political purpose, but not directly related. (<i>Mahoney Advice Letter, No. A-94-285.</i>) It advised that campaign fund expenditures on babysitting services are permissible if there is no substantial benefit to the candidate (i.e., if each babysitting payment is less than \$200 per event).	Fair Political Practices Commission, Mahoney Advice Letter, No. A-94-285 (See staff comments on AB 220 (pg. 2))

Table 1 (continued)

STATE	DESCRIPTION OF CHILDCARE COVERAGE	SOURCE
Kentucky	In an October 2018 letter, the general counsel of the Kentucky Registry of Election Finance indicated that if childcare expenses are incurred as a direct result of campaign activity, then the expenses may be paid with campaign funds. However, it is impermissible for a candidate to use campaign funds to pay for childcare expenses that existed before the candidacy or that occur during the candidacy but have nothing to do with the campaign.	Kentucky Registry of Finance informal guidance, issued October 5, 2018 (See Attachment)
Louisiana	In a 2019 advisory opinion, the Louisiana Board of Ethics concluded that candidates are not prohibited from using campaign funds to pay for childcare expenses that exist solely because of a person's candidacy and which would not exist but for the campaign.	Louisiana Board of Ethics, Advisory Opinion 2018-1210
Maryland*	According to Maryland State Board of Elections guidance, childcare expenses are permissible when they have an electoral purpose. In other words, the expenditure would not have occurred but for the fact a candidacy is being promoted, supported, or opposed (e.g., paying for child care so that the candidate can attend a fundraising event).	Maryland State Board of Elections, Guidance issued May 16, 2019
Minnesota*	State law prohibits spending money collected for political purposes unless the expenditure is reasonably related to the conduct of election campaigns or is a noncampaign disbursement. A "noncampaign disbursement" means the purchase or payment of money or anything of value made, or an advance of credit incurred, or a donation in kind received, by a campaign committee for, among other things, the costs of child care for the candidate's children when campaigning.	Minn. Stat. §§ 10A.01 & 211B.12
Texas	Under a 2018 Texas Ethics Commission advisory opinion, a candidate may use political contributions to pay childcare expenses to facilitate the candidate's participation in campaign activities, provided the payments do not constitute personal use. Payments constitute personal use if they primarily further individual or family purposes not connected with the performance of duties or activities as a candidate. However, a use is not prohibited merely because it may have some incidental benefits to the individual candidate.	Texas Ethics Commission, Ethics Advisory Opinion No. 547
Wisconsin	Under a 2018 Wisconsin Ethics Commission advisory opinion, a candidate is permitted to use campaign funds for childcare expenses to the extent that such expenses would be incurred only as a direct result of campaign activity and would not otherwise exist.	Wisconsin Ethics Commission, Advisory Opinion 2018 ETH 01

* Maryland and Minnesota have a public campaign financing program, and the policy applies to candidates who participate in the program and those who do not.

Connecticut

In its April 2019 declaratory ruling, SEEC drew a distinction between candidates who participate in the CEP and those who do not. It indicated that nonparticipating candidates may generally use campaign funds for childcare costs provided “such payments are (1) a direct result of campaign activity which would not exist irrespective of the candidate's campaign; (2) reasonable and customary for the services rendered; and (3) properly documented by the campaign.”

However, for candidates who participate in the CEP and receive a grant from the program, such childcare costs are not currently a permissible expense under program regulations. (SEEC noted that, before receiving a grant, participating candidates may spend campaign funds on childcare costs.) Among other things, CEP regulations specify that grant funds may be used only for campaign-related expenditures made to directly further the candidate's nomination or election to the specified office ([Conn. Agencies Regs., §§ 9-706-1\(a\) & 9-706-2\(b\)](#)). According to SEEC, “[u]nder the regulations, even if personal items are used for campaign related purposes, costs for personal support or expenses may not be paid out of grant monies.”

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(Attachment)



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John R. Steffen
Executive Director
Emily Dennis
General Counsel

October 5, 2018

Josie Raymond, Candidate for State Representative, District 31
3704 Tan Bark Ct.
Louisville, KY 40220

RE: Advisory Opinion Request (Rcvd. 10/01/2018)

Dear Ms. Raymond:

This letter is sent in response to your above referenced request for an Advisory Opinion regarding the following issue:

Are childcare expenses "similar services which are primarily and directly related to the individual's candidacy," as set forth in 32 KAR 2:200? Would childcare workers qualify as campaign staff and their work qualify as "staff services" as laid out in the same statute?

As indicated in our telephone conversation this same date, the Registry is unable to address your question in the context of an Advisory Opinion. An advisory opinion request must "... describe a specific transaction or activity that the requesting person plans to undertake or is presently undertaking and intends to undertake in the future. Requests presenting a general question of interpretation, posing a hypothetical situation, or regarding the activities of third parties, shall not be considered." See 32 KAR 2:060 §1(2). You state that your campaign has no intention to use campaign funds for the purpose of childcare, but you believe the issue should be clear "so that all parents in Kentucky who either are or are considering running for office are better informed about their options." Because your issue involves a general question of interpretation, the Registry is addressing your request as an informal inquiry instead of an advisory opinion request.

Kentucky's campaign finance law does not specifically address childcare as a permissible campaign expense; therefore, the Registry must consider childcare on a case by case basis in light of KRS 121.175(1), which states, " 'Allowable campaign expenditures' means expenditures including reimbursement for actual expenses, made directly and primarily in support of or opposition to a candidate . . . and . . . does **not** include expenditures of funds in a campaign account . . . which would bestow a private pecuniary benefit . . . upon a candidate [or] member of the candidate's family." See KRS 121.175(1). Emphasis added.

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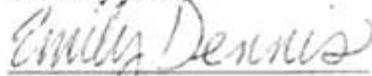
RE: Advisory Opinion Request (Rcvd. 10/01/2018)

Thus, it is impermissible for a candidate to use campaign funds to pay for childcare expenses that existed prior to their candidacy or occur during the candidacy but have nothing to do with the campaign, as that would bestow a "private pecuniary benefit" on the candidate. However, if the childcare enables the candidate to promote his or her campaign in a reasonable way, then it could be considered an actual expense made directly and primarily in support of the candidate.

The bottom line is if childcare expenses are incurred as a direct result of campaign activity, then the childcare expenses may be permissibly paid with campaign fund.

Thank you for your inquiry. If you have any questions or require additional explanation of this response, please do not hesitate to contact me at 502-573-2226.

Sincerely yours,


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Cc: John R. Steffen, Executive Director