

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

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December 30, 2019 | 2019-R-0328

Issue

Summarize (1) other states' laws or policies allowing 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 updates OLR Report [2019-R-0117](#).)

Summary

According to the National Conference of State Legislatures, six states (California, Colorado, Minnesota, New Hampshire, New York, and Utah) have laws allowing candidates to use campaign funds to pay for childcare costs associated with running for office. In at least seven other states (Alabama, Arkansas, Kentucky, Louisiana, Maryland, Texas, and Wisconsin), oversight agencies have issued guidance allowing for some form of the same. Two of these states (Maryland and Minnesota) have a public campaign financing program, and the authorization to use campaign funds for certain childcare costs applies to candidates who participate in the program and those who do not.

Generally, the laws and 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). The Federal Election Commission set this standard, known as the "irrespective standard," in [Advisory Opinion 2018-06](#) for candidates in federal elections. In New York and Utah, the law applies to officeholders engaging in official duties, as well as candidates engaging in campaigning activities.

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

Six states have laws allowing candidates to use campaign funds to pay for childcare costs associated with running for office. Oversight agencies in at least seven other states have issued guidance allowing for some form of the same. Table 1 lists the states with laws on childcare costs, and Table 2 lists those with guidance. The tables briefly summarize the law or guidance, as applicable.

Table 1: State Laws on Using Campaign Funds for Childcare Costs

STATE AND CITATION	DESCRIPTION OF CHILDCARE COVERAGE
<p>California</p> <p>CA Gov’t. Code § 89513</p> <p><i>(Effective January 1, 2020)</i></p>	<p>State law authorizes using campaign funds to pay or reimburse a candidate for reasonable and necessary childcare expenses directly resulting from campaign activities. “Directly” means that the candidate would not have incurred the expense if the candidate did not engage in the campaign activities.</p> <p>“Childcare expenses” include the reasonable costs of professional daycare services, babysitting, nanny services, food and beverages, transportation to and from the location of a childcare services provider, before and after school programs, summer day camps, and preschool. Additional qualifying expenses include costs related to a nurse, home care provider, or other care provider for a dependent child with a disability. Childcare expenses do not include private school tuition, medical expenses, tutoring services, or payments to a relative, unless the relative owns or operates a daycare or babysitting service and the cost is no greater than the normal charge.</p> <p>The law specifies that it does not limit the use of campaign funds to pay for childcare expenses resulting from an officeholder engaging in a campaign activity with both political and legislative, or governmental, purposes.</p>
<p>Colorado</p> <p>Colo. Rev. Stat. Ann. §§ 1-45-103.7(6.5) & 1-45-106</p>	<p>State law authorizes a candidate committee to reimburse the candidate for reasonable and necessary expenses for the care of children or other dependents that the candidate incurs directly in connection with the candidate’s campaign activities. The candidate committee must disclose the expenditures in the same manner as other expenditures.</p> <p>The law prohibits contributions to a candidate committee from being used for personal purposes not reasonably related to supporting the candidate’s election.</p>

Table 1 (continued)

STATE AND CITATION	DESCRIPTION OF CHILDCARE COVERAGE
<p>Minnesota*</p> <p>Minn. Stat. Ann. §§ 10A.01 & 211B.12</p>	<p>State law prohibits spending money collected for a political purpose, unless the expenditure is reasonably related to campaigning or is a noncampaign disbursement.</p> <p>Generally, a “noncampaign disbursement” means a purchase or payment of money or anything of value by a campaign committee for, among other things, the costs of childcare for the candidate's children when campaigning.</p>
<p>New Hampshire</p> <p>N.H. Rev. Stat. Ann. § 664:2 (VIII) & (IX)</p>	<p>State law defines a "contribution" as, among other things, a payment, gift, or loan given to a candidate to influence the candidate's nomination or election. With respect to childcare costs, the law (1) authorizes candidates to use contributions for expenses that they incur for childcare and (2) defines “expenditure” to include expenses incurred by a candidate for childcare.</p>
<p>New York</p> <p>N.Y. Elec. Law § 14-130</p>	<p>State law prohibits candidate or political committees from converting contributions to a personal use that is unrelated to a political campaign or holding public office. It defines contributions “converted by any person to a personal use” as expenditures that are exclusively for a personal benefit, and not in connection with (1) running a political campaign or (2) holding a public office or party position. The prohibition includes childcare expenses, other than those incurred while campaigning or executing public office or party position duties.</p>
<p>Utah</p> <p>Utah Code Ann. §§ 10-3-209, 17-16-203, & 20A-11-104</p>	<p>State law prohibits candidates from using campaign account money for personal use expenditures. Generally, it defines a “personal use expenditure” as an expenditure that primarily furthers a personal interest of a candidate or officeholder, or his or her family member, that is not connected with performing a (1) candidate activity or (2) officeholder activity or duty.</p> <p>However, the law exempts from this definition expenditures made to pay the childcare expenses of (1) a candidate while the candidate is engaging in campaign activity or (2) an officeholder while the officeholder is engaging in the duties of an officeholder.</p>

* Minnesota has a public campaign financing program. The law applies to candidates who participate in the program and those who do not.

Table 2: State Guidance on Using Campaign Funds for Childcare Costs

STATE	DESCRIPTION OF CHILDCARE COVERAGE	SOURCE
<p>Alabama</p>	<p>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.)</p>	<p>Alabama Ethics Commission, Advisory Opinion No. 2018-04</p>
<p>Arkansas</p>	<p>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.)</p>	<p>Arkansas Ethics Commission, Advisory Opinion No. 2018-EC-001</p>

Table 2 (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
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 has a public campaign financing program. The guidance 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, 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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