



# TEXAS ETHICS COMMISSION



## ETHICS ADVISORY OPINION NO. 334

*July 12, 1996*

*Whether an elected city official may accept contributions to a legal defense fund to pay expenses in connection with a federal investigation of and possible indictment for alleged official misconduct. (AOR-372)*

The Texas Ethics Commission has been asked to consider whether an elected city official may accept contributions to a legal defense fund to pay expenses in connection with a federal investigation of and possible indictment for alleged official misconduct. The specific question is whether such contributions are "officeholder contributions" for purposes of title 15 of the Election Code. Title 15 of the Election Code is the state law governing political contributions. There are two types of political contributions: officeholder contributions and campaign contributions. Elec. Code § 251.001(5). An officeholder contribution is

a contribution to an officeholder or political committee that is offered or given with the intent that it be used to defray expenses that:

- (A) are incurred by the officeholder in performing a duty or engaging in an activity in connection with the office; and
- (B) are not reimbursable with public money.

*Id.* § 251.001(4). Expenses incurred in connection with an investigation of an elected officeholder's conduct in office are expenses incurred "in performing a duty or engaging in an activity in connection with the office," *id.* § 251.001(9)(A). See [Ethics Advisory Opinion No. 310](#) (1996) (officeholder may use political contributions to pay legal expenses incurred in connection with federal and state investigations of officeholder for public corruption). Unless expenditures for such a purpose are reimbursable with public money, the expenditures are "officeholder expenditures" for purposes of title 15 of the Election Code. See Elec. Code § 251.001(9)(B). Likewise, contributions to defray such expenditures are "officeholder contributions" for purposes of title 15. See *id.* § 251.001(4).

The request letter states that a city campaign finance ordinance prohibits the acceptance of political contributions during specified time periods. The fact that the city has imposed restrictions on acceptance of political contributions does not change the character of a particular contribution. See generally [Ethics Advisory Opinion No. 328](#) (1996) (holding that title 15 does not preempt field of campaign finance regulation and that Texas Ethics Commission does not have authority to interpret city ordinances).

### SUMMARY

Contributions to an officeholder made with the intent to defray expenses incurred by the officeholder in connection with an investigation of the officeholder for alleged official misconduct are "officeholder contributions" for purposes of title 15 of the Election Code.