



# TEXAS ETHICS COMMISSION



## ETHICS ADVISORY OPINION NO. 521

*December 2, 2014*

*Whether a specific-purpose committee established to support or assist a person as a candidate or officeholder may use political contributions to purchase tickets to entertainment events for the person and the person's spouse and dependent children to attend and engage in campaign or officeholder activities. (AOR-589)*

The Texas Ethics Commission has been asked whether a specific-purpose committee established to support or assist a person as a candidate or officeholder may use political contributions to purchase tickets to entertainment events such as sporting events or concerts, for the person and the person's spouse and dependent children to attend and engage in campaign or officeholder activities, such as building relationships with donors or potential donors and attending or participating in events on behalf of the state.

A specific-purpose committee may not convert political contributions<sup>1</sup> to the personal use of a candidate, officeholder, or former candidate or officeholder. Elec. Code § 253.035(a). "Personal use" means "a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office." *Id.* § 253.035(d). "Personal use" does not include "payments made to defray ordinary and necessary expenses incurred in connection with activities as a candidate or in connection with the performance of duties or activities as a public officeholder." *Id.* § 253.035(d)(1). The critical issue in determining whether a use of political contributions is personal is the primary purpose for which such use occurs. Ethics Advisory Opinion No. 483 (2009).

### **Expenditures in Connection with Activities as a Candidate**

A candidate's attendance at an entertainment event is in connection with candidate activities when the primary purpose for the candidate's attendance at the event is to build relationships with donors or potential donors. See Ethics Advisory Opinion No. 356 (1997) (attending a swearing-in ceremony is in connection with candidate activities when attending the ceremony would assist the candidate in making or maintaining political contacts). A candidate's attendance at an entertainment event is also in connection with candidate activities when the primary purpose for the candidate's attendance at the event is in connection with a specific campaign event, such as a fundraiser.<sup>2</sup> Therefore, a specific-purpose committee may use political contributions to purchase tickets to entertainment events for a candidate when the primary purpose for the candidate's attendance is to build relationships with donors or potential donors or is in connection with a specific campaign event.

### **Expenditures in Connection with Duties or Activities as an Officeholder**

An officeholder's attendance at an entertainment event is in connection with the duties or activities of an officeholder when the primary purpose for the officeholder's attendance at the event is related to his or her official responsibilities, such as providing services or appearing in an official capacity.<sup>3</sup> See Ethics Advisory Opinion No. 407 (1998) (attending a charity event is in connection with an officeholder's duties or activities when the officeholder has been asked to speak at the event or otherwise lend his or her renown to the event). Therefore, a specific-purpose committee may use political contributions to purchase tickets to entertainment

events for an officeholder when the primary purpose for the officeholder's attendance is to appear or participate at the event in his or her official capacity as an officeholder.

## **Expenditures in Connection With a Candidate or Officeholder's Spouse and Dependent Children**

Building Relationships: In Ethics Advisory Opinion No. 405 (1998), the Commission stated:

Even if a candidate reaps a campaign benefit by engaging in typical family activities, those activities cannot be characterized as duties or activities "as a candidate." Presumably a spouse or parent would be engaging in recreational activities with family members regardless of whether he or she was running for office.

Similarly, a candidate attending an entertainment event with his or her spouse and dependent children may gain a campaign benefit by building relationships with donors or potential donors. However, the attendance of a candidate's spouse and dependent children at such events for the primary purpose of building relationships with donors or potential donors cannot be characterized as in connection with candidate activities because the candidate would be attending entertainment events with his or her spouse and dependent children regardless of whether he or she was running for office. Therefore, a specific-purpose committee's use of political contributions to purchase tickets to entertainment events for a candidate's spouse and dependent children is an impermissible personal use when the primary purpose for their attendance is to build relationships with donors or potential donors.

Campaigning for Candidate: The attendance of a candidate's spouse and dependent children at an entertainment event is in connection with candidate activities when the primary purpose for their attendance at the event is to campaign for the candidate. *See* Ethics Advisory Opinion No. 111 (1992) (a candidate may use political contributions to pay the travel expenses of his or her spouse if the spouse is campaigning for the candidate). Therefore, a specific-purpose committee may use political contributions to purchase tickets to entertainment events for a candidate's spouse and dependent children when the primary purpose for their attendance is to campaign for the candidate.

Officeholder Event: The attendance of an officeholder's spouse and dependent children at an entertainment event is in connection with the duties or activities of the officeholder when the primary purpose for their attendance is to substantially participate at the event in a manner that assists the officeholder with his or her duties or activities as an officeholder.<sup>4</sup> *See* Ethics Advisory Opinion No. 378 (1997) (an officeholder's spouse attending a legislative conference is in connection with the officeholder's duties or activities when the spouse substantially participates at the conference). Under those circumstances, a specific-purpose committee may use political contributions to purchase tickets to the entertainment events for an officeholder's spouse and dependent children. Mere attendance alone does not constitute substantial participation.

## **SUMMARY**

A specific-purpose committee may use political contributions to purchase tickets to entertainment events for a candidate when the primary purpose for the candidate's attendance is to build relationships with donors or potential donors or is in connection with a specific campaign event.

A specific-purpose committee may use political contributions to purchase tickets to entertainment events for an officeholder when the primary purpose for the officeholder's attendance is to appear or participate at the event in his or her official capacity as an officeholder.

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<sup>1</sup> The term "political contributions" includes both campaign contributions and officeholder contributions. Elec. Code § 251.001(5).

<sup>2</sup> Whether attendance at an entertainment event is in connection with a specific campaign event is a question of fact.

<sup>3</sup> Whether participation at an entertainment event is in connection with officeholder duties or activities is a question of fact.

<sup>4</sup> Whether a spouse or dependent child is substantially participating at an event is a question of fact.