



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 547

June 27, 2018

Whether a candidate may use political contributions to pay childcare expenses incurred during a campaign. (AOR-627)

SUMMARY

Under the facts presented, a candidate may use political contributions to pay childcare expenses to facilitate the candidate's participation in campaign activities.

FACTS

The requestor of this opinion is a candidate for public office who states that, since becoming a candidate for public office, she has had to pay for childcare services (daycare and babysitting) for her two young children while she attends campaign events and meetings. She describes the campaign activities, in part, as commissioners court meetings; public office hours to meet with voters; meetings with campaign volunteers; and attendance at other campaign events and blockwalking. She states that she cannot be an effective and successful candidate without the childcare services for several reasons, including that she is facilitating the meetings, she is required to be "hands-on" at the meetings, that children would be a disturbance during the meetings, that the events occur past the children's bedtime, or that outdoor temperatures are too high for the children to attend. She states that before she was a candidate, she was "a stay-at-home mom" and never incurred costs for childcare other than an occasional babysitter for personal reasons. She states that she desires to use political contributions to pay for the childcare and that a supporter intends to contribute to the candidate's campaign specifically to help defray the costs of childcare.

ANALYSIS

A person who accepts a political contribution¹ as a candidate may not convert the contribution to personal use. Elec. Code § 253.035(a). "Personal use" is a use that primarily furthers individual

¹ "Political contribution" means a campaign contribution or an officeholder contribution. Elec. Code § 251.001(5). "Campaign contribution" means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. *Id.* § 251.001(3).

or family purposes not connected with the performance of duties or activities as a candidate. *Id.* § 253.035(d).

The candidate's payments for childcare services further some individual or family purposes. However, we have previously recognized that "by specifying that the use must not *primarily* serve individual or family purposes, the legislature has indicated that a use is not a prohibited personal use merely because it may have some incidental benefits to the individual candidate." Ethics Advisory Opinion No. 149 (1993) (emphasis in original). According to the facts presented, the candidate began paying for childcare services only after becoming a candidate, and the candidate's stated purpose in acquiring the childcare services is to allow or facilitate her participation in campaign activities. Thus, in our opinion, the payments would not primarily further individual or family purposes not connected with the performance of duties or activities as a candidate and therefore would not constitute personal use.²

² By comparison, the use of political contributions for leadership training, seminars, or courses of study may be connected with the activities of a candidate because they facilitate activities as a candidate. *See* Ethics Advisory Opinion Nos. 546 (2018), 423 (1999), 267 (1995), 247 (1995), and 157 (1993).