



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

April 2, 2019

The Honorable William Brough
California State Assembly
State Capitol, Room 3141
Sacramento, CA 95811

RE: Assembly Bill 225 (Brough) Use of funds, childcare services – SUPPORT IF AMENDED

Dear Assembly Member Brough:

I am pleased to inform you the bipartisan Fair Political Practices Commission adopted a position of “Support if Amended” to Assembly Bill 225, which would amend the Political Reform Act. AB 225 would authorize the use of campaign funds to pay or reimburse a candidate for the cost of securing child care for the candidate’s dependent child if the child care costs are incurred as a direct result of campaign activity.

As you may know, the Commission has long advised that campaign fund expenditures on baby-sitting services are permissible if there is no substantial benefit to the candidate. In other words, as long as each baby-sitting payment is less than \$200 per event, the campaign fund expenditure is permissible (*Mahoney* Advice Letter, No. A-94-285). In reviewing AB 225, the Commission believes there remain ambiguous language that should be clarified to promote the proper implementation and administration of this policy and prevent potential abuse. Specifically, the bill does not define or describe the type or value of “child care” to be secured. Additionally, AB 225 does not place any clear limit on who may benefit from the expenditures of funds and it is unclear what type of activities might “directly result” from campaign activity.

You will find suggested amendments developed by Commission staff that would further define terms and further clarify the proper use of campaign funds related to child care. Please contact Phillip Ung, Director of Legislation and External Affairs for the FPPC at (916) 322-7635 or pung@fppc.ca.gov if you have any questions. We look forward to working with you on Assembly Bill 225.

Sincerely,

Loressa Hon
Acting Executive Director

89513.

This section governs the use of campaign funds for the specific expenditures set forth in this section. It is the intent of the Legislature that this section shall guide the interpretation of the standard imposed by Section 89512 as applied to other expenditures not specifically set forth in this section.

(a) (1) Campaign funds shall not be used to pay or reimburse the candidate, the elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or employees or staff of the committee or the elected officer's governmental agency for travel expenses and necessary accommodations except when these expenditures are directly related to a political, legislative, or governmental purpose.

(2) For the purposes of this section, payments or reimbursements for travel and necessary accommodations shall be considered as directly related to a political, legislative, or governmental purpose if the payments would meet standards similar to the standards of the Internal Revenue Service pursuant to Sections 162 and 274 of the Internal Revenue Code for deductions of travel expenses under the federal income tax law.

(3) For the purposes of this section, payments or reimbursement for travel by the household of a candidate or elected officer when traveling to the same destination in order to accompany the candidate or elected officer shall be considered for the same purpose as the candidate's or elected officer's travel.

(4) Whenever campaign funds are used to pay or reimburse a candidate, elected officer, his or her representative, or a member of the candidate's household for travel expenses and necessary accommodations, the expenditure shall be reported as required by Section 84211.

(5) Whenever campaign funds are used to pay or reimburse for travel expenses and necessary accommodations, any mileage credit that is earned or awarded pursuant to an airline bonus mileage program shall be deemed personally earned by or awarded to the individual traveler. ~~Neither the~~ The earning or awarding of mileage credit, ~~nor credit~~ and the redeeming of credit for actual travel, ~~shall be~~ travel are not subject to reporting pursuant to Section 84211.

(b) (1) Campaign funds shall not be used to pay for or reimburse the cost of professional services unless the services are directly related to a political, legislative, or governmental purpose.

(2) Expenditures by a committee to pay for professional services reasonably required by the committee to assist it in the performance of its administrative functions are directly related to a political, legislative, or governmental purpose.

(3) Campaign funds shall not be used to pay health-related expenses for a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or members of his or her household. "Health-related expenses" includes, but is not limited to, examinations by physicians, dentists, psychiatrists, psychologists, or counselors, expenses for medications, treatments or medical equipment, and expenses for hospitalization, health club dues, and special dietary foods. However, campaign funds may be used to pay employer costs of health care benefits of a bona fide employee or independent contractor of the committee.

~~(4) This section does not prohibit the use of campaign funds to pay or reimburse a candidate for the cost of securing child care for the candidate's dependent child if the child care costs are incurred as a direct result of campaign activity.~~

(c) (1) Campaign funds shall not be used to pay or reimburse fines, penalties, judgments, or settlements, except those resulting from either of the following:

(A) Parking citations incurred in the performance of an activity that was directly related to a political, legislative, or governmental purpose.

(B) Any other action for which payment of attorney's fees from contributions would be permitted pursuant to this title. However, campaign funds shall not be used to pay a fine, penalty, judgment, or settlement relating to an expenditure of campaign funds that resulted in either of the following:

(i) A personal benefit to the candidate or officer if it is determined that the expenditure was not reasonably related to a political, legislative, or governmental purpose.

(ii) A substantial personal benefit to the candidate or officer if it is determined that the expenditure was not directly related to a political, legislative, or governmental purpose.

(2) Campaign funds shall not be used to pay a restitution fine imposed under Section 86 of the Penal Code.

(d) Campaign funds shall not be used for campaign, business, or casual clothing except specialty clothing that is not suitable for everyday use, including, but not limited to, formal wear, if this attire is to be worn by the candidate or elected officer and is directly related to a political, legislative, or governmental purpose.

(e) (1) Except where otherwise prohibited by law, campaign funds may be used to purchase or reimburse for the costs of purchase of tickets to political fundraising events for the attendance of a candidate, elected officer, or his or her immediate family, or an officer, director, employee, or staff of the committee or the elected officer's governmental agency.

(2) Campaign funds shall not be used to pay for or reimburse for the costs of tickets for entertainment or sporting events for the candidate, elected officer, or members of his or her immediate family, or an officer, director, employee, or staff of the committee, unless their attendance at the event is directly related to a political, legislative, or governmental purpose.

(3) The purchase of tickets for entertainment or sporting events for the benefit of persons other than the candidate, elected officer, or his or her immediate family are governed by subdivision (f).

(f) (1) Campaign funds shall not be used to make personal gifts unless the gift is directly related to a political, legislative, or governmental purpose. The refund of a campaign contribution does not constitute the making of a gift.

(2) ~~Nothing in this section shall~~ *This section does not* prohibit the use of campaign funds to reimburse or otherwise compensate a public employee for services rendered to a candidate or committee while on vacation, leave, or otherwise outside of compensated public time.

(3) An election victory celebration or similar campaign event, or gifts with a total cumulative value of less than two hundred fifty dollars (\$250) in a single year made to an individual employee, a committee worker, or an employee of the elected officer's agency, are considered to be directly related to a political, legislative, or governmental purpose. For purposes of this paragraph, a gift to a member of a person's immediate family shall be deemed to be a gift to that person.

(g) Campaign funds shall not be used to make loans other than to organizations pursuant to Section 89515, or, unless otherwise prohibited, to a candidate for elective office, political party, or committee.

(h) Campaign funds may be used to pay or reimburse a candidate for child care expenses for the cost of securing child care for the candidate's dependent child if the child care costs are incurred as a direct result of campaign activity.

(1) For purposes of this paragraph, the following terms mean:

(A) "Child care expenses" include the reasonable costs of professional daycare services, babysitting or nanny services, food and beverages, transportation to and from the location of the child care service provider, before or after school programs, and preschool services. "Child care expenses" do not include private school tuition, medical expenses, tutoring services, payments to a dependent child's relative unless the relative owns or operates a professional daycare or babysitting service and the costs of the service is no greater than the provider would have usually charged for the service. "Relative" means parent, sibling, grandparent, aunt, uncle, or any person within the third degree of consanguinity to the child.

(B) "Direct result" means the child care was provided at a time when the candidate was performing campaign duties but would have otherwise been primarily responsible for the care of the child (OPTION: "Direct result" means the services were incurred due to campaign activity and would not exist irrespective of those campaign duties.)

SEC. 2.

The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.