



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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November 12, 2021

Julie Sauls
Chief of Staff, Senator Andreas Borgeas
State Capitol, Room 3082
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-21-145

Dear Ms. Sauls:

This letter responds to your request for advice on behalf of Senator Andreas Borgeas regarding the personal use provisions of the Political Reform Act (the “Act”).¹

Please note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case, or if the facts underlying these decisions should change, you should contact us for additional advice.

QUESTION

May Senator Borgeas use his campaign funds to pay the fee to attend the two-week Senior Executives in National and International Security online education program offered by the Harvard Kennedy School of Government?

CONCLUSION

Yes. As this expenditure is directly related to a legislative purpose, it is a permissible use of campaign funds.

FACTS AS PRESENTED BY REQUESTER

You serve as Chief of Staff to Senator Andreas Borgeas and seek to confirm whether campaign funds may be used for Senator Borgeas to attend a continuing online education program hosted by the Harvard Kennedy School. The program, “Senior Executives in National and International Security,” will run online from December 6, 2021 through December 17, 2021 and has an associated program fee of \$4,950.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18109 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

You stated that as a Member of the Select Committee on Cybersecurity and Identity Theft Protection, as well as Chair of the Agriculture Committee, and Vice Chair of the Judiciary Committee, Senator Borgeas is involved in issues related to cybersecurity and national security. The program would provide an educational opportunity in areas of policy related to his legislative work.

In a follow-up email, Senator Borgeas stated that his application to the program identified that as Chair of the Senate Agriculture Committee he is focused on pursuing learning the national and international dimensions of food and water security, as well as California's role in protecting food production after the lessons learned from Covid's supply chain vulnerability revelations. Additionally, as Vice Chair of the Judiciary Committee he is focused on privacy matters. And as a member of the Artificial Intelligence, and Cybersecurity subcommittees, he is focused on intellectual property development, misuse, and thievery in these legislative spaces.

ANALYSIS

The "personal use" provisions of the Act are designed to prevent candidates from benefitting privately from their campaign activities. The fundamental purpose of the personal use provisions is "to ensure that candidates, elected officers and the people clearly recognize acceptable and unacceptable uses of campaign funds." (Senate Elections Committee, Analysis of Senate Bill 1431, June 7, 1989.) Therefore, all contributions deposited into a candidate's campaign account are deemed to be held in trust for expenses associated with the election of the candidate to office or expenses associated with holding that office. (Section 89510(b).)

An expenditure is within the lawful execution of that trust if it is reasonably related to a political, legislative, or governmental purpose. However, if an expenditure confers a substantial personal benefit on a candidate, it must be directly related to a political, legislative, or governmental purpose. (Section 89512.) A "substantial personal benefit" means an expenditure of campaign funds which results in a direct personal benefit with a value of more than \$200 to the candidate. (Section 89511(b)(3).) An expenditure of campaign funds results in a "direct personal benefit" when, within six months of the expenditure and without the assistance of an intervening influence or interruption, the candidate: 1) realizes an increase in his or her income or assets, or a decrease in his or her expenses or liabilities, of more than \$200 from the expenditure; or 2) actually makes personal use of an asset obtained as a result of the expenditure. (Regulation 18960.)

We have advised that an officeholder may expend campaign funds for educational development that is designed to improve the official's performance of his or her official duties. (*Braly* Advice Letter, No. A-90-596.) The Commission has also specifically advised that campaign funds could be used for a three-week program offered by Harvard University designed to improve the problem-solving and administrative skills of state and local officials. (*Weintraub* Advice Letter, No. A-90-210.)

In the *Miller* Advice Letter, No. A-98-229, however, we determined that a supervisor could not use campaign funds to pay the tuition for a master's degree program at Stanford University because it was not necessary for the supervisor to hold the degree to effectuate his position. As the benefit of holding the degree was essentially personal to the official, we concluded that the graduate program was not directly related to a political, legislative, or governmental purpose.

Here, the facts indicate that the program will be applicable to Senator Borgeas' current legislative duties. Issues of national and international security are highly relevant in both the agricultural and judicial spheres, as well as in the realm of cybersecurity. Through the program curriculum, he will be able to gain greater expertise in these areas, which could greatly benefit his legislative work. Additionally, the program in question is a of a limited time frame, two weeks, with the curriculum being directly applicable to the Senator's committee assignments. This program will not culminate in a degree or license being conferred upon Senator Borgeas.

Accordingly, Senator Borgeas may use campaign funds to pay the \$4,950 fee to attend the two-week Harvard online continuing education program, as it is directly related to a legislative purpose.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Dave Bainbridge
General Counsel



By: Erika M. Boyd
Senior Counsel, Legal Division

EMB:dkv