

RAVI MEHTA  
CHAIRMAN



## FAIR POLITICAL PRACTICES COMMISSION

March 27, 1997

The Honorable Howard Kaloogian  
Assembly Member, 74<sup>th</sup> District  
California Legislature  
State Capitol  
Sacramento, California 95814

**Re: Your Request for Advice  
Our File No. A-97-111**

Dear Assembly Member Kaloogian:

This letter is a response to your request for advice regarding the provisions of the Political Reform Act (the "Act").<sup>1</sup>

### QUESTIONS

May a legislator use campaign funds and officeholder account funds to pay for the membership dues to join the American Legislative Exchange Council ("ALEC")? May a legislator use these funds to go to the annual convention?

### CONCLUSION

A legislator may use campaign funds or officeholder account funds to pay for the membership dues to join ALEC and to attend ALEC's annual convention, because the payment of these expenses is "directly related to a legislative or governmental purpose" and "related to carrying out the official duties" of the legislator.

### FACTS

According to the facts you have provided, ALEC is the nation's largest bipartisan individual membership association of state legislators. Membership in ALEC is educational and involves active participation. Members routinely receive information on issues facing other state legislators, participate on committees, attend conferences and seminars, and interact with

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<sup>1</sup> Government Code sections 81000 - 91014. Commission regulations appear at title 2, sections 18109 - 18995, of the California Code of Regulations.

members of legislatures from other states.

Members of ALEC are required to pay a membership fee of \$50 every two years. The membership fee entitles them to utilize the resources of ALEC, including publications, to serve on committees, and to attend conferences and workshops. It is a highly beneficial and educational experience for legislators to participate in.

### ANALYSIS

The general rule of the "personal use" provisions of the Act which regulate the expenditure of campaign funds is that any expenditure of campaign funds must be, at a minimum, reasonably related to a political, legislative, or governmental purpose. However, where an expenditure confers a substantial personal benefit on the candidate or elected officer, the expenditure must be directly related to a political, legislative, or governmental purpose. (Section 89512.)

Expenditures from officeholder accounts permitted by Proposition 208 must be "for expenses related to assisting, serving, or communicating with constituents, or with carrying out the official duties of the elected officer ...." (Section 85313(a).)

#### 1. ALEC Dues.

As you described, ALEC is the nation's largest bipartisan membership association of state legislators. ALEC's members receive information on issues facing other state legislators, and interact with members of legislatures from other states. Because the payment of your membership dues in ALEC is directly related to a legislative or governmental purpose, you may use campaign funds to pay the dues. See *Garcetti* Advice Letter, No. A-93-042 (Los Angeles District Attorney may use campaign funds to pay membership dues for local bar associations); and *Eckel* Advice Letter, No. A-91-488 (local official may use campaign funds to pay membership dues for chamber of commerce). Similarly, the payment of your membership dues to ALEC is related to carrying out your official duties as a member of the Assembly, as required by section 85313. Therefore, you may pay ALEC dues with either campaign funds or funds from an officeholder account set up pursuant to section 85313.

#### 2. Attendance at ALEC's Annual Convention.

The personal use law sets forth specific standards concerning the use of campaign funds for travel expenses. Section 89513(a)(1)-(2) provides:

"(a) 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.

(1) 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.

(2) 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."

The test set forth in section 89513(a) is whether there is a direct relationship between a political, legislative, or governmental purpose and the trip the candidate wishes to take. Travel and accommodations related to your attendance at the annual convention of ALEC is directly related to a legislative or governmental purpose. Thus, you may use campaign funds to pay for travel, accommodations, and the registration fee required to attend the convention. See *Smith* Advice Letter, No. A-96-099 and *Farley* Advice Letter, No. A-92-299 (campaign funds may be used to pay for travel and accommodations for political party conventions).

Section 89513(a)(1) provides that 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 those of Internal Revenue Code sections 162 and 274 for deductions of travel expenses under the federal income tax law. Internal Revenue Code section 162(a)(2) sets forth general rules which permit the deduction of all ordinary and necessary traveling expenses while away from home in the pursuit of a trade or business. Pursuant to this section, campaign funds may be used for "business portions" of the trip. To the extent that any day is not a "business day" (such as days on which there are no meetings or formal activities), campaign funds may not be used.

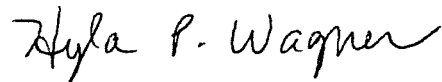
Similarly, the use of officeholder account funds for payment of your travel and accommodations at the annual convention of ALEC would also be permissible, because attending the convention is related to carrying out your official duties as an assembly member. (Section 85313(a).)

Any personal expenses you incur at the convention for recreational activities, etc., that are not related to a governmental purpose or carrying out your official duties, may not be paid with campaign or officeholder account funds. Such expenses must be paid with personal funds.

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

Sincerely,

Steven G. Churchwell  
General Counsel

A handwritten signature in cursive script that reads "Hyla P. Wagner".

By: Hyla P. Wagner  
Staff Counsel, Legal Division

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