



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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August 24, 2018

Stephen J. Kaufman
Kaufman Legal Group
A Professional Corporation
777 S. Figueroa Street, Suite 4050
Los Angeles, CA 90017-5864

Re: Your Request for Advice
Our File No. A-18-163

Dear Mr. Kaufman:

This letter responds to your request for advice regarding the campaign provisions of the Political Reform Act (the "Act").¹ Please note that we can only provide advice as to the provisions of the Act and its regulations; the Commission does not advise on a requestor's duties under a local ordinance.

QUESTION

May Mr. Melvoin use his former campaign account formed for the May 16, 2017 General Election to raise and spend unlimited funds for Los Angeles Unified School District (LAUSD) officeholder expenses that are reasonably related to a legislative or governmental purpose?

CONCLUSION

Yes. As explained below, Mr. Melvoin may use his former campaign account formed for the May 16, 2017 General Election to raise and spend unlimited funds for LAUSD officeholder expenses that are reasonably related to a legislative or governmental purpose.

FACTS

Your firm represents and seeks advice on behalf of Nick Melvoin in regard to raising and spending funds for officeholder related activity. We take verbatim the following facts from your letter:

Mr. Melvoin was a successful candidate for election to the Los Angeles Unified School District (LAUSD) Board of Education in the

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 18110 through 18997 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.

May 16, 2017, municipal election. During the campaign, in accordance with the Political Reform Act (“Act”) and Los Angeles City Charter, he established a controlled committee for the election - Nick Melvoin for School Board 2017 – General (“Campaign Committee”). Following the election, the Campaign Committee was converted to an officeholder account and renamed “Nick Melvoin for School Board 2017 Officeholder Account” to solicit contributions and pay for expenses relating to holding office.

While the Los Angeles City Charter sets forth campaign finance rules that apply to LAUSD campaigns -- including a \$1,100 per election contribution limit, restrictions on when campaign contributions may be received, and limitations on how campaign contributions may be used (see City Charter §§ 803(b), 803(q) -- the Charter is silent as to (1) the establishment of an officeholder account after the election, and (2) fundraising for the purpose of paying expenses related to holding office.² There are no separate rules or regulations adopted by LAUSD.

Following his election to office, Mr. Melvoin requested formal advice from the Los Angeles City Ethics Commission (LACEC) regarding the limitations and restrictions on contributions and officeholder activities that apply to him as a LAUSD Board member. On October 5, 2017, the LACEC responded, in relevant part:

Answers to the questions regarding your LAUSD officeholder committee and your fundraising activity for that committee are governed by state law, not by the Los Angeles City Charter, and the Ethics Commission does not have jurisdiction to advise on those laws.

(See Los Angeles City Ethics Commission letter dated October 5, 2017, attached.)

The Ethics Commission encouraged Mr. Melvoin “to seek advice from the Fair Political Practices Commission regarding the state laws that govern your officeholder committee.” (*Id.*)

² Los Angeles Municipal Code § 49.7.19 expressly authorizes an “elected city officer” to establish and control an officeholder committee. However, this provision only applies to the Mayor, City Attorney and City Controller of the City of Los Angeles and Los Angeles City Councilmembers. It does not apply to Members of the Los Angeles Unified School District Board of Education.

ANALYSIS

Officeholder Accounts for Local Candidates

In the *Quintana* Advice Letter, No. A-12-022, we stated:

An officeholder expense is any expense related to a legislative or governmental purpose. The Act has specific provisions concerning officeholder accounts applicable to state candidates. The Act does not contain contribution limits or specific officeholder account provisions for local candidates. Some local jurisdictions have campaign finance ordinances in effect with officeholder account provisions.

With respect to officeholder accounts for local candidates, we have advised that consistent with the one bank account rule,³ a local elected official may maintain a campaign committee and bank account from his or her most recent election . . . to use for officeholder expenses, and may establish a new campaign committee and bank account to use for campaign expenses for their upcoming election.

Regulation 18525(b) states that an incumbent elected officer may make officeholder expenses “from either the campaign bank account established pursuant to Government Code Section 85201 for election to the incumbent term of office or from a campaign bank account established pursuant to Government Code Section 85201 for election to a future term of office.”

Unless a local ordinance provides otherwise, you may use your campaign committee bank account established for the incumbent term of office for officeholder expenses. (Regulation 18525(b).) The committee needs to keep a reference to the 2011 election in its name. (Regulation 18402(a)(2).) However, you could change the name of the committee from “Quintana for Bell City Council 2011” to something such as “Councilmember Quintana Officeholder Account 2011.” Regulation 18525 describes which expenditures must be made from a campaign account for a future election and which expenditures may be made from an officeholder account.

As stated in *Quitana*, local elected officials may maintain campaign committees and the bank accounts from their most recent election to use for officeholder expenses, which Mr. Melvoins intends to do. Consistent with that advice letter, he has renamed his committee “Nick Melvoins for

³ Section 85201 requires all campaign expenditures to be made from a campaign account and all contributions or loans made to the candidate, to a person on behalf of the candidate, or to the candidate’s controlled committee are required to be deposited in the account. The Commission has interpreted this to mean that a candidate for elective office may have only one campaign bank account and one controlled committee for each specific office to which he or she seeks election. (*Hicks* Advice Letter, No. I-99-120.)

School Board 2017 Officeholder Account” to solicit contributions and pay for expenses relating to holding office.

Restrictions on Officeholder Accounts for Local Candidates

The Act contains restrictions on a fundraising after an election in Section 85316 and Regulation 18531.61; however, these restrictions apply only to state candidates. Under Section 85316(b), “an elected state officer may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee.” The Act does not address contributions to an elected local candidate after an election.

Generally, the Act permits local governments to impose additional requirements relating to campaign finance and disclosure, so long as those requirements do not conflict with the Act. Section 81013 of the Act provides that “[n]othing in this title prevents the Legislature or any other state or local agency from imposing additional requirements on any person if the requirements do not prevent the person from complying with this title.”

Although the Act does not contain contribution limits or specific officeholder account provisions for local candidates, some local jurisdictions have campaign finance ordinances in effect with officeholder account provisions. Barring restrictions imposed by your local jurisdiction, Mr. Melvoin may use his former campaign account formed for the May 16, 2017 General Election to raise and spend unlimited funds for LAUSD officeholder expenses that are reasonably related to a legislative or governmental purpose.

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

Sincerely,

Brian G. Lau
Acting General Counsel

By: 
Jack Woodside
Senior Counsel, Legal Division

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