



Abbie Lane <nexuscain13@gmail.com>

Formal Advisory Opinion

2 messages

Nexus Cain <nexuscain13@gmail.com>

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To: ethics.commission@ncsbe.gov

Hello,

I am requesting a formal advisory opinion to be obtained. Under NC campaign finance guidelines laid out in N.C.G.S. § 163A-1433 it indicates the 9 permitted purposes that campaign fund expenditures can be used for. Under that list it expressly list expenditures resulting from holding public office as well as expenditures resulting from the campaign for public office going on to say that this constitutes anything that isn't for personal use and would be deemed and expenditure that would not have resulted if the candidate was not running for office. There is no further explanation given and much grey area is left for interpretation. Since there is no further explanation given I believe that like most laws it should circumvent back to the federal guidelines since no further state guidelines exist. The FEC (<https://www.fec.gov/help-candidates-and-committees/making-disbursements/personal-use/>) does go into more detail expressly laying out what is and isn't considered personal use and also deeming that campaign expenditures can only be used for those items that would only exist if a candidate was running for office just the same as the NC statute states. It then goes on to list what it deems falls into the category of non personal use of that which it includes candidate salary which it explicitly lays out the very detailed requirements of such. My reasoning for asking for the formal advisory is to have addressed the discrepancy between the vague nature in the language of the NC statute and that of the FEC. I believe that since both state funds can't be used for personal use yet the FEC lays out that a candidate is able to take a salary that in turn that signifies that such an expenditure should be deemed non personal in the absence of any further language under the NC statute pertaining to the matter.

Candidate salary

The candidate may receive a salary from his or her campaign committee only under the following conditions:

- The salary must be paid by the principal campaign committee ;
- The salary must not exceed the lesser of the minimum annual salary for the federal office sought or what the candidate received as earned income in the previous year;
- Individuals who elect to receive a salary from their campaign committees must provide income tax records and additional proof of earnings from relevant years upon request from the Commission;
- Payments of salary from the committee must be made on a *pro-rata* basis (a candidate may not receive a whole year's salary if he or she is not a candidate for an entire twelve-month period);
- Incumbent federal officeholders may not receive a salary payment from campaign funds; and
- The first payment of salary shall be made no sooner than the filing deadline for access to the primary election ballot in the state in which the candidate is running for office.

Salary payments may continue until the date when the candidate is no longer considered a candidate for office or until the date of the general election or general election runoff. For special elections , payments may continue from the date that the special election is set until the date of the special election.

Thank You for your consideration,
Abbie Lane