

ADVISORY OPINION 2024-1
INDIANA ELECTION COMMISSION

COUNTY OF MARION)
)
)
STATE OF INDIANA) IN RE: EXPENDITURES PERMITTED UNDER
) IC 3-9-3-4 REGARDING THE PAYMENT OF A
) CANDIDATE'S CHILDCARE EXPENSES BY THE
) CANDIDATE'S COMMITTEE

WHEREAS, pursuant to Indiana Code ("IC") 3-6-4.1-14, the Indiana Election Commission ("Commission") is required to administer the election laws of the State of Indiana;

WHEREAS, pursuant to IC 3-6-4.1-25, the Commission is authorized to issue advisory opinions;

WHEREAS, the Commission reviewed a question presented to the Election Division dated February 12, 2024 asking if "caregiving expenses - defined as direct care, protection, and supervision of a child or other person with a disability or a medical condition for which a candidate has direct caregiving responsibility – incurred as a direct result of campaign activity and holding public office deemed a permissible campaign expenditure in the state of Indiana;

WHEREAS, IC 3-9-3-4(a) provides the money received by a candidate or committee as a contribution may be used by a candidate or committee to:

- (1) defray any expense reasonably related to the person's or committee's campaign for federal, state, legislative, or local office, continuing political activity, or activity related to service in an elected office;
- (2) make an expenditure to any national, state, or local committee of any political party or another candidate's committee; or
- (3) upon dissolution of a committee, in a manner permitted under IC 3-9-1-12;

WHEREAS, IC 3-9-3-4(b) provides that money received by a candidate or committee as a contribution may not be used for primarily personal purposes by a candidate or by another person except as described in IC 3-9-3-4(a);

WHEREAS, the Federal Election Commission has issued advisory opinions concluding that childcare expenses that are a direct result of the candidate's campaign activities may be paid for by the candidate's committee (see FEC AO 2022-07, 2019-13, 2018-06, 1995-42);

WHEREAS, the Federal Election Commission has not addressed the issue of caregiving expenses that are not childcare expenses;

WHEREAS, the Commission has determined that the issuance of an Advisory Opinion to clarify the application of IC 3-9-3-4 to childcare expenses would be beneficial to Indiana candidates and committees;

WHEREAS, the Commission has determined that the Election Division should advise county election boards in accordance with Indiana Code 3-6-4.1-14 regarding the applicability of IC 3-9-3-4 to childcare expenses;

WHEREAS, the Commission, upon duly considering this matter, has determined that the adoption of an advisory opinion by the Commission will benefit the administration of Indiana election laws;

NOW, THEREFORE, THE INDIANA ELECTION COMMISSION ISSUES THE FOLLOWING ADVISORY OPINION:

SECTION 1. This Advisory Opinion applies to a candidate's committee as defined in IC 3-5-2-7.

SECTION 2. As provided in this Advisory Opinion, "childcare expenses" refers to expenses incurred for the care of a candidate's minor child, including the direct care, protection, and supervision of the candidate's child.

SECTION 3. Indiana Code 3-9-3-4(b) permits contributions to a candidate's committee to be used to pay for the following childcare expenses that are:

- (1) a direct result of the candidate's campaign activities;
- (2) a direct result of the candidate's participating in continuing political activity.
- (3) a direct result of the elected official's activity related to service in an elected office.

SECTION 4. In providing advice and instructions to candidates, political parties, county election boards, and other interested persons regarding the issues set forth in this Order, the Election Division shall refer to SECTIONS 1 through 3 of this order and advise candidates, political parties, county election boards, and other interested persons to proceed accordingly.

SECTION 5. The Commission directs the Election Division to promptly forward a copy of this Advisory Opinion to each county election board, and to the State Chairs of the Democratic, Libertarian, and Republican Parties of Indiana.

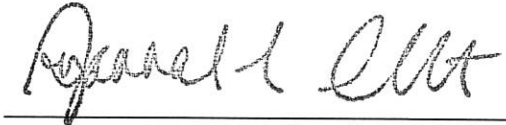
SECTION 6. The Commission respectfully recommends to the Indiana General Assembly that the policy set forth in this Advisory Opinion be codified by enacting appropriate remedial legislation.

Issued the 27th of February, 2024,

By the Indiana Election Commission:



Paul Okeson, Chairman



Suzannah Wilson Overholt, Vice Chair



Litany A. Pyle, Member



Karen Celestino-Horseman, Member