



Ohio Elections Commission
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May 21, 1987

ADVISORY OPINION NO. 87-6

Syllabus: A candidate or public officeholder may directly pay for the purchase and operational costs of a car telephone from campaign funds, so long as the phone is used exclusively for the purposes set forth in Revised Code section 3517.13(O). If the car telephone is used for such purposes and other purposes, then the expenses may not be paid directly from campaign funds, but may be reimbursed to the state representative or other individual who pays the expenses, in an amount not to exceed the costs related to use of the phone for the purposes listed in R.C. 3517.13(O).

TO: The Honorable Marc D. Guthrie, 67th District, House of Representatives:

You have requested an opinion on the following question:

May a state representative pay for the purchase and operational costs of a car telephone from campaign funds?

Division (O) of R.C. 3517.13 provides that no beneficiary of a campaign fund, i.e. the candidate or officeholder for whose benefit the fund exists, shall convert or accept for personal or business use anything of value from the campaign fund except as reimbursement for:

1. Legitimate and verifiable prior campaign expenses incurred by the beneficiary;
2. Legitimate and verifiable, ordinary, and necessary prior expenses incurred by the beneficiary in connection with duties as the holder of a public office, including, without limitation, expenses through participation in nonpartisan or bipartisan events where the participation of the holder of a public office would normally be expected;
3. Legitimate and verifiable, ordinary, and necessary prior expenses incurred by the beneficiary while: (A) engaged in activities in support of or opposition to a candidate other than the beneficiary, political party, or ballot issue; (B) raising funds for a political party, political action committee, campaign committee, or other candidate; (C) participating in the activities of a political party, political action committee, or campaign committee; or (D) attending a political party convention or other political meeting.

Division (R)(1) of R.C. 3517.13 provides that division (O) does not prohibit a campaign committee from making direct advance or post payments to vendors for goods and services for which reimbursement is permitted under that division. Division (R)(2) provides that when any expense that may be reimbursed under division (O) is part of other expenses that may not be paid or reimbursed, the separation of the two types of expenses for the purpose of allocating for payment or reimbursement those expenses that may be paid or reimbursed may be by any reasonable accounting method.

The effect of R.C. 3517.13(O) is that campaign funds may only be used for the purposes specified in that division or as otherwise authorized in the Revised Code. See Advisory Opinion 87-3. It is clear that, pursuant to R.C. 3517.13(O), campaign funds may be used to pay for the purchase and operational cost of a car telephone, so long as the telephone is used for the purposes set forth in that division. These include use of the telephone in campaign work, in connection with the duties of a public officeholder, and in activities in support of or opposition to other candidates, a political party, or ballot issue. As long as the car telephone is used exclusively for the purposes specified in R.C. 3517.13(O) and is not used for any other purpose, then payments from campaign funds may be either by reimbursement or direct payment to a vendor.

However, if the car telephone is used for purposes other than those which are set forth in R.C. 3517.13(O), then payments from campaign funds may be made only for those expenses that relate to a purpose set forth in R.C. 3517.13(O). Therefore, for example, if a monthly charge for operation of the car telephone encompasses both permissible and non-permissible expenditures under R.C. 3517.13(O), then payment for the permissible portion of the expenditure may be made from campaign funds only by reimbursement to you or the individual who paid the expense. This is because campaign funds may not be used to pay expenses not authorized by the Revised Code, even if the campaign fund was to be subsequently reimbursed. R.C. 3517.13(O) prohibits loans or advances to a candidate or officeholder from campaign funds, even for a temporary period. In calculating the proper amount of reimbursement, an expense which relates to use of the phone for reimbursible and nonreimbursible calls may be divided by a reasonable accounting method. R.C. 3517.13(R)(2). Any expenses that are attributable solely to a reimbursible call, such as from an itemized bill of calls made with the charge for each, may be figured into the reimbursible amount. If the phone is used for purposes not set forth in R.C. 3517.13(O), it will be necessary to keep a log of all calls. Further information on proper recordkeeping is contained in Advisory Opinion 87-3.

For the reasons stated herein, it is the opinion of the Ohio Elections Commission that a candidate or public officeholder may directly pay for the purchase and operational costs of a car telephone from campaign funds, so long as the phone is used exclusively for the purposes set forth in Revised Code section 3517.13(O). If the car telephone is used for such purposes and other purposes, then the expenses may not be paid directly, but may be reimbursed to the state representative or other individual who pays the expenses, in an amount not to exceed the costs related to use of the phone for the purposes listed in R.C. 3517.13(O).


Larry H. James Chairman

Member Harry J. Lehman recused himself from consideration of this opinion.