



# NORTH CAROLINA

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## STATE BOARD OF ELECTIONS

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Representative Julie von Haefen  
1311 Legislative Building  
16 W. Jones Street  
Raleigh, NC 27601-1096

June 22, 2023

Re: Request for an advisory opinion under N.C.G.S. § 163-278.23 regarding dependent care expenses

Dear Representative von Haefen,

Thank you for contacting our office. The following written opinion is provided in accordance with N.C.G.S. § 163-278.23.

In your March 14, 2023 letter, you asked the extent to which campaign funds may be used for caregiving expenses, which you define 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.” You also sought clarity on whether the candidate may be physically present in the home while these services are being provided.

A candidate or candidate campaign committee may use contributions only for the purposes specifically listed in N.C.G.S. § 163-278.16B. This includes “expenditures resulting from the campaign for public office” and “expenditures resulting from holding public office.” N.C.G.S. §§ 163-278.16B(a)(1) & (a)(2).

In a written opinion issued April 20, 2020, I determined that a candidate “may use committee funds to hire a babysitter or to obtain the services of a licensed childcare facility (“childcare expenditures”) when childcare expenditures directly result from your absence at times when you would have personally cared for your children because you are attending campaign meetings or events.” [Written Opinion 2020-04-20](#). The opinion was specific to childcare expenses. However, many candidates and officeholders today are responsible for a much broader scope of dependent care. Research indicates that more than one in ten parents in the United States are also caring for an adult. Gretchen Livingston, *More than one-in-ten U.S. parents are also caring for an adult*, Pew Research Center (Nov. 29, 2018), <https://www.pewresearch.org/short-reads/2018/11/29/more-than-one->

[in-ten-u-s-parents-are-also-caring-for-an-adult/](#). The analysis and conclusion in the April 20, 2020 written opinion are not unique to the care of dependents under age 18. Therefore, it is my conclusion that committee funds may also be used to care for, protect, and supervise a person with a disability or medical condition for whom a candidate has direct caregiving responsibility.

In [Written Opinion 2020-04-20](#), I highlighted the agency's history of concluding that personal expenditures caused by the necessity of being away from home and traveling were authorized under N.C.G.S. § 163-278.16B. Consistent with that line of opinions, I concluded that when childcare is a direct result of the candidate's absence from the home due to campaign activities, childcare expenses are permitted under N.C.G.S. § 163-278.16B(a).

During the pandemic, how and where we work evolved. Virtual meetings are now a regular practice in both the public and private sectors. Home offices and telework are common. While public bodies have largely returned to in-person meetings, our homes continue to be a place where public business is conducted. N.C.G.S. § 163-278.16B requires that the caregiving expense be the direct result of a candidate's campaign or the holding of public office. The relevant question in this analysis is not whether the campaign or public office is requiring the candidate to be away from the home to provide care; instead, the key question is whether those campaign or office-holding activities are keeping the candidate from personally providing the supervision or care for which they are otherwise responsible, regardless of whether the candidate is physically present in the home.

In conclusion, under N.C.G.S. § 163-278.16B, a candidate or office holder may use committee funds for caregiving expenses, such as the cost of a nanny to look after a child or a nurse or other caregiver to look after an elderly parent, if the need for such services results from the candidate or office holder carrying out work or activities for the campaign or office holding. For such expenses to "result[] from" the campaign or public office holding, N.C.G.S. § 163-278.16B(a)(1)–(2), the candidate or office holder would need to otherwise be responsible for personally providing the supervision or care, and the demands of the campaign or office holding must be keeping the candidate or office holder from providing that supervision or care.

It is up to you to obtain documentation and to appropriately account for the caregiving expenses that result from your campaign versus the caregiving expenditures that result from non-campaign activities.

The opinion will be filed with the Codifier of Rules to be published unedited in the North Carolina Register and North Carolina Administrative Code.

Sincerely,

A handwritten signature in blue ink that reads "Karen Brinson Bell". The signature is fluid and cursive, with "Karen" and "Bell" being the most distinct parts.

Karen Brinson Bell  
Executive Director  
State Board of Elections

Cc: Ashley B. Snyder, Codifier of Rules



North Carolina General Assembly  
House Of Representatives

REPRESENTATIVE JULIE VON HAEFEN  
36TH DISTRICT, WAKE COUNTY

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16 W. JONES STREET  
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March 14, 2023

Executive Director Karen Brinson Bell  
North Carolina State Board of Elections  
6400 Mail Service Center  
Raleigh, NC 27603

**Re: Advisory Opinion Request**

To Whom It May Concern:

My name is Julie von Haefen, North Carolina State Representative for House District 36. I am writing to request an ethics ruling on the use of campaign funds to pay for dependent care expenses directly related to both campaign activity and legislative duties.

**Question Presented**

Are 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 North Carolina, regardless of if the candidate is absent from the home.

**Analysis**

Under federal guidelines, as cited in AO 2018-06, candidates for Federal office are allowed to use private campaign funds to pay for childcare expenses, “to the extent such expenses are incurred as a direct result of campaign activity.” Childcare costs are considered a permissible expense at the federal level if the care expenditures would not otherwise exist if not for the campaign.

Under current North Carolina state law, it is unclear if dependent care costs incurred as a direct result of candidacy is considered a necessary and permissible expenditure. According to N.C.G.S. § 163-278.16B(a)(1), candidates for public office must abide by the following guidelines:

“A candidate for public office may not use campaign funds to pay for the care of a child or other person with a disability or a medical condition for which the candidate has direct caregiving responsibility – incurred as a direct result of campaign activity and holding public office – unless the candidate is physically present at the location where the care is provided.”

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“(a) A candidate or candidate campaign committee may use contributions only for the following purposes:

1. Expenditures resulting from the campaign for public office by the candidate or candidate's campaign committee.
2. Expenditures resulting from holding public office.
3. Donations to an organization described in section 170(c) of the Internal Revenue Code of 1986 (26 U.S.C. § 170(c)), provided that the candidate or the candidate's spouse, children, parents, brothers, or sisters are not employed by the organization.
4. Contributions to a national, State, or district or county committee of a political party or a caucus of the political party or an affiliated party committee.
5. Contributions to another candidate or candidate's campaign committee.
6. To return all or a portion of a contribution to the contributor.
7. Payment of any penalties against the candidate or candidate's campaign committee for violation of this Article imposed by a board of elections or a court of competent jurisdiction.
8. Payment to the Escheat Fund established by Chapter 116B of the General Statutes.
9. Legal expense donation not in excess of four thousand dollars (\$4,000) per calendar year to a legal expense fund established pursuant to Article 22M of this Chapter.”

In addition, according to WO-2020-04-20, state and local candidates in North Carolina can also use their campaign funds on childcare expenses that are a direct result of the candidate's absence from the home due to campaign activity. My concern is that many candidates, myself included, engage in campaign activity at home - such as calltime from the kitchen table - which requires full attention, creating a need for dependent care support, even at home.

I am requesting that the North Carolina State Board of Elections determine whether dependent care expenses incurred in connection with running for office or holding public office in North Carolina are considered personal use under the law or are considered a permissible campaign expenditure.

If you have any questions or need additional information in connection with this Advisory Opinion Request, please contact me at Julie.vonHaefen@ncleg.gov.

Sincerely,



Representative Julie von Haefen  
North Carolina, District 36