

ARKANSAS ETHICS COMMISSION

910 West Second Street, Suite 100

Post Office Box 1917

Little Rock, Arkansas 72203-1917

(501) 324-9600 Fax (501) 324-9606

Toll Free (800) 422-7773

Paul F. Dumas
Chairman

J. Barrington Minix
Vice Chairman

Anna Bray
William C. Bird III
Robert McCormack
Commissioners

Graham F. Sloan
Director

Todd Elder
Senior Staff Attorney

Teresa Keathley
Kit Acklin
Directors of Compliance



ADVISORY OPINION NO. 2012-EC-004

Issued July 13, 2012

The Arkansas Ethics Commission has received a written advisory opinion request from Doyle Webb, Chairman of the Republican Party of Arkansas. In his request, Mr. Webb asks the following questions:

May a candidate use campaign funds to reimburse himself or herself for attendance to an out-of-state National Presidential Nominating Convention in which the candidate is an elected state delegate or alternate delegate? What if the candidate is a visitor to the Convention and not a delegate or alternate delegate?

A national convention is part of the electoral process and each party establishes the rules for participating in its convention. Every state and territory party is represented by a number of voting representatives, referred to individually as "delegates" and collectively as the "delegation".¹

Historically, the main purpose of a national convention has been selecting a party's nominees to the offices of president and vice president. Other purposes have included adopting a platform² and setting rules for the party's electoral activities.

Changes in election laws have greatly reduced the nominating function of a national convention. Party members now vote in primary elections to decide the party's presidential nominee.³ By the time of the convention, there remains little doubt about

¹ The size of each delegation is determined by factors such as population, proportion of that state's Congressional representatives or state officials who are members of the party, and the state's voting patterns in previous presidential elections.

² A platform is a statement of party principles and goals. It is not binding on either candidates or state parties.

³ Depending upon the laws of a particular state, primary voters may cast a ballot for a party's presidential nominee and a designated group of "pledged" delegates or may vote for the presidential candidate with delegates to be chosen later in keeping with the vote.

who will be the party's nominee.⁴ Sometimes, the eventual nominee even chooses a vice presidential running mate before the convention takes place.

Today, national conventions have been streamlined and important events and speeches are scheduled for prime-time television hours. A good case can be made that the primary function has become marketing the ideas and personalities of the party to the public. Essentially, modern day conventions provide a televised stage to reach voters, showcase rising stars, and allow party members to come together behind their presidential ticket and build enthusiasm for the campaign. If all goes well, the ticket emerges with a surge of support.

With respect to Mr. Webb's first question (i.e., May a candidate use campaign funds to reimburse himself or herself for attending a national convention in which the candidate is an elected state delegate or alternate delegate?), the Commission is aware of no requirement that a candidate be a delegate or vice versa. Essentially, neither role bears a relationship to the other.

In that regard, Ark. Code Ann. § 7-6-203(g) provides, in pertinent part, that "[a] candidate shall not take any campaign funds as personal income." That subsection goes on to provide that:

[A] candidate who uses campaign funds to fulfill any commitment, obligation, or expense that would exist regardless of the candidate's campaign shall be deemed to have taken campaign funds as personal income.

The Commission concludes that serving as an elected state delegate or alternate delegate is a commitment that would exist regardless of a candidate's campaign. Accordingly, it is the Commission's opinion that a candidate may not use campaign funds to reimburse himself or herself for attending a national convention in which the candidate is a delegate.

Turning to Mr. Webb's second question (i.e., What if the candidate is a visitor to the Convention and not a delegate or alternate delegate?), the Commission notes that the closest authority is § 215(a) of the Commission's Rules on Campaign Finance & Disclosure which provides that:

Candidates may use campaign funds to reimburse themselves for attendance to in-state or out-of-state conferences or seminars on general political issues.

⁴ Since the 1970s, convention voting has essentially been perfunctory, requiring only a single ballot (a roll call vote of delegates from the states).

The question becomes whether a national convention constitutes a conference or seminar on general political issues. Looking at the event as a whole, the Commission concludes that a national convention is more in the nature of a scripted media event than a conference or seminar on general political issues. The goal appears to be generating party unity and pride rather than providing education on general political issues. It is, therefore, the Commission's opinion that a candidate may not use campaign funds to reimburse himself or herself for attending a national convention as a visitor.

This advisory opinion is issued by the Arkansas Ethics Commission pursuant to Ark. Code Ann. § 7-6-217(g)(2).

ARKANSAS ETHICS COMMISSION

By:


Graham F. Sloan, Director