

**NEW YORK STATE
BOARD OF ELECTIONS
ADVISORY OPINIONS
OPINION No. 86-1**

DATE: JUNE 2, 1986

May a member of the Legislature, who does not ordinarily reside in Albany County, use campaign funds to pay for travel expenses to Albany County to attend a regular or special Session of the New York State Legislature?

Section 14-130 of the Election Law prohibits the personal use of contributions received by a candidate or political committee if such personal use is unrelated to a political campaign or the holding of a public office or party position.

Members of the Legislature are reimbursed by the State of New York for expenses which are related to their official duties. These reimbursements from the State must be used first to pay the expenses of official duties. Under no circumstances may a member of the Legislature receive payment from the State and payment from his or her committee for the same expenses. However, using contributions to pay for expenses over and above those expenses reimbursed by the State for travel expenses directly related to the attendance at regular or special sessions of the Legislature would not violate the provisions of §14-130 because the use of such funds is directly related to the holding of public office.

Cf. 1979 Board of Elections Opinion No. 3.

This opinion relates only to the facts presented and is solely the interpretation of the Board of the term "personal use". It does not express an opinion on the ramifications of any other state or federal law.

**NEW YORK STATE
BOARD OF ELECTIONS
ADVISORY OPINIONS
OPINION 86-2**

DATE: JUNE 2, 1986

In case of a legislator's death while an office holder, may a political committee transfer all or part of its assets to the legislator's widow or widower, children or members of his or her office staff?

Section 14-130 of the Election Law states that contributions received by a candidate or a political committee may be expended for any lawful purpose but it prohibits the conversion by any person for a personal use which is unrelated to a political campaign or the holding of a public office or party position.

It is the opinion of the Board that such funds may be used to honor the deceased legislator (i.e. sending a floral arrangement, memorial service, etc.) But they may not be given for the personal use of the surviving spouse or children of the deceased legislator or for the personal use of any of the deceased legislator's office staff if such use was for a purpose which is not directly related to a political campaign or the holding of a public office or party position.

This opinion relates only to the facts presented and is solely the interpretation of the Board of the term "personal use". It does not express an opinion on the ramifications of any other state or federal law.

**NEW YORK STATE
BOARD OF ELECTIONS
ADVISORY OPINIONS
OPINION 86-3**

DATE: JUNE 2, 1986

May an office holder or candidate use campaign funds to pay personal income taxes to the Federal or New York State Governments?

Section 14-130 of the Election Law states that contributions received by a candidate or a political committee may be expended for any lawful purpose but it prohibits the conversion by any person for a personal use which is unrelated to a political campaign or the holding of a public office or party position.

It is the opinion of the Board that the use of campaign funds to pay personal income taxes is a use which is prohibited by §14-130 of the Election Law. Such a conversion of contributions would be for purely personal use unrelated to the holding of public or party office or the conduct of a campaign.

This opinion relates only to the facts presented and is solely the interpretation of the Board of the term "personal use". It does not express an opinion on the ramifications of any other state or federal law.

**NEW YORK STATE
BOARD OF ELECTIONS
ADVISORY OPINIONS
OPINION No. 86-4**

DATE: JUNE 2, 1986

May an automobile which is being leased by a candidate under a personal lease be transferred to the candidate's political committee and be paid for by campaign contributions? The car is used primarily for political purposes of campaigning for office or serving the constituents of the political subdivision.

Section 14-130 of the Election Law prohibits the personal use of contributions received by a candidate or political committee if such personal use is unrelated to a political campaign or the holding of a public office or party position.

It is the opinion of the Board that the lease may be transferred to the political committee based on the conditions set forth above. However, if the candidate uses the car for any purpose which is not in connection with campaigning or the holding of a public office, it would be considered personal use and the candidate would have to reimburse the committee for anything relating to such personal use.

This opinion relates only to the facts presented and is solely the interpretation of the Board of the term "personal use". It does not express an opinion on the ramifications of any other state or federal law.

**NEW YORK STATE
BOARD OF ELECTIONS
ADVISORY OPINIONS
OPINION NO. 86-5**

DATE: JUNE 2, 1986

May a political committee terminate its activities as a political committee by contributing the funds remaining in its campaign account to a charitable cause?

Section 14-130 of the Election Law permits a political committee to expend its funds for any lawful purpose. The section prohibits the personal use of such funds if such personal use is unrelated to a political campaign or the holding of public office or party position.

It is the opinion of the Board that a political committee which terminates its activities by contributing the money in its accounts to any charity which is recognized as such by the United States Internal Revenue Code would not be violating Section 14-130 of the Election Law.

This opinion relates only to the facts presented and is solely the interpretation of the Board of the term "personal use". It does not express an opinion on the ramification of any other state or federal law nor is it an acknowledgment that the proposed recipient of funds is a charity recognized by the United State Internal Revenue code or that the proposed purposes are charitable.

**NEW YORK STATE
BOARD OF ELECTIONS
ADVISORY OPINIONS
OPINION NO. 86-6**

DATE: JULY 14, 1986

If a political committee has purchased an item for use in a candidate's campaign, may the candidate acquire the item after the campaign is over?

Section 14-130 of the Election Law prohibits the personal use of contributions received by a candidate or political committee if such personal use is unrelated to a political campaign or the holding of a public office or party position.

It is the opinion of the Board that once a campaign is over and the committee seeks to dispose of items which were purchased for the campaign with the committee's money, the candidate may, as private citizen, purchase an item from the committee for an amount which would be equal to the market value of the item. By purchasing the item from the committee for its fair market value, the candidate would not be using contributions to a committee for his or her personal use.

This opinion relates only to facts presented and is solely the interpretation of the Board of the term "personal use." It does not express an opinion on the ramifications of any other state or federal law.

**NEW YORK STATE
BOARD OF ELECTIONS
ADVISORY OPINIONS
OPINION NO. 87-1**

DATE: JULY 29, 1987

May a political committee use campaign funds to pay legal fees in relation to the following issues:

(a) A candidate receives in his own name summonses by the New York City Environmental Control Board for being deemed guilty of unlawfully posting on the basis of campaign posters having been posted on a regular and ongoing basis, which posters contained in relevant part a photograph of the candidate, a statement requesting voters to vote for the candidate and the date which the election was to be held;

(b) Whether a candidate who is sued civilly for an incident occurring on the date of the primary elections, and on the premises of the campaign headquarters. The civil lawsuit alleges tort actions by the candidate himself and a volunteer campaign worker. The incident was instigated by a newspaper reporter and photographer who had come to the campaign headquarters allegedly to interview the candidate and who are plaintiffs in the lawsuit together with the newspaper they represent;

(c) Whether it is permissible for a candidate and/or political committee to make a personal loan to the candidate for the purpose of paying a legal retainer for the incidents (a) and (b) above. The loan would be repaid by the candidate in the near future. And whether or not the candidate and/or political committee can forgive said loan assuming that said loans are permissible in the first instance.

Section 14-130 of the Election Law permits a political committee to expend contributions received by a political committee for any lawful purpose but it prohibits the conversion of such funds by any person for a personal use which is unrelated to a political campaign or the holding of public office or party position.

With regard to question (a), the Board is of the opinion that while the act in question is not a penal or criminal act it is nonetheless a violation of New York City Local Law No. 30 of 1985 which specifies such violation and sets forth civil penalties for such violation. Since the putting up of posters was a direct violation of a local law, the Board is of the opinion that campaign funds cannot be used to pay fines associated with unlawful conduct. Therefore, a campaign committee may not pay a fine or the legal expenses associated with defending a person charged with a violation of a local law of the City of New York.

Neither does the Board consider alleged tortious conduct by a candidate to reasonably be considered to enhance or further the nomination or election of any person. Since such alleged conduct is of a personal nature which is unrelated to a political campaign or the holding of public office or party position, any use of campaign funds to defend such personal conduct would be precluded by §14-130 of the Election Law.

In answer to question (c), the Board is of the opinion that since both of the above questions request the use of campaign funds for a personal use, the political committee may not loan the money to the candidate for such use.

**NEW YORK STATE
BOARD OF ELECTIONS
ADVISORY OPINIONS
OPINION NO. 90-1**

DATE: MARCH 28, 1990

May a candidate/officeholder establish a scholarship fund with campaign monies, which would be administered by an independent committee making awards based only upon academic qualifications?

Article 14 of the Election Law prohibits the conversion of campaign funds to personal uses. In its relevant part it states:

§14-130. Campaign funds for personal use. Contributions received by a candidate or a political committee may be expended for any lawful purpose. Such funds shall not be converted by any person to a personal use which is unrelated to a political campaign or the holding of a public office or party position.

In the past this Board has held that an underlying purpose of the Election Law was "...not to restrict contributions by...candidates to bona fide charitable institutions.", 1975 Op. St. Bd. Elec. #17, emphasis added.

Standing alone, the use of campaign funds to defray the costs of an individual's education, books or expenses would be prohibited by Article 14 of the Election Law as a conversion to a "personal use" of such funds. The additional facts which indicate an independent committee will make scholarship awards does not change the personal use of campaign monies that is inherent to the situation. It is, therefore, the opinion of the Board that the proposed use of campaign funds to provide scholarships is prohibited by §14-130 of the Election Law.

If the committee administering scholarship monies were to qualify itself as a "bona fide charitable institution" under New York State law; or, in the alternative, scholarship monies are transferred outright to an academic institution recognized as a charity; the proposal would avoid the prohibitions of the Election Law and become permissible use of campaign funds.

This opinion relates only to facts presented and is solely the interpretation of the Board of the term "personal use." It does not express an opinion on the ramifications of any other state or federal law.

**NEW YORK STATE
BOARD OF ELECTIONS
ADVISORY OPINIONS
OPINION NO. 90-2**

DATE: MARCH 28, 1990

May a candidate use campaign funds to pay for child care services in circumstances where the candidate and his/her spouse must attend campaign related events or events related to the holding of public office?

Section 14-130 of the Election Law states that:

“Contributions received by a candidate or a political committee may be expended for any lawful purpose. Such funds shall not be converted by any person to a personal use which is unrelated to a political campaign or the holding of a public office or party position.”

It is the opinion of the Board that ordinary child care costs are generally to be considered personal expenses of the parents and that, pursuant to §14-130 of the Election Law, would not be properly paid for out of campaign funds.

This Board does, however, recognize the roles that candidates' and public officials' spouses play in relation to a candidacy for office or the duties and obligations that flow from public service. The activities of a spouse representing his or her wife or husband at a public or campaign related function necessarily creates an extraordinary imposition upon the obligations of that individual to his or her children. The rearing of children and public life are not mutually exclusive; people with families should be able to participate in the electoral process.

It is the opinion of the Board, therefore, that in cases where both parents of a child are engaged in activities directly related to a campaign or the holding of public office, one as the candidate or officeholder, the other as a representative of or accompanying his or her spouse, the payment of child care services out of campaign funds would be permitted and consistent with requirements of Article 14 of the Election Law.

We note here that the choice of a candidate to use such funds for this purpose should be held to a high level of scrutiny, and that documentation of the event(s) requiring the attendance of both the candidate/officeholder and his or her spouse must be retained by the committee pursuant to §14-122 of the Election Law.

This opinion relates only to facts presented and is solely the interpretation of the Board of the term “personal use.” It does not express an opinion on the ramifications of any other state or federal law.

**NEW YORK STATE
BOARD OF ELECTIONS
ADVISORY OPINIONS
OPINION NO. 93-1**

DATE: SEPTEMBER 27, 1993

May an officeholder who has chosen not to run for re-election use all or a portion of remaining campaign funds to underwrite the research, production and authorship of a book whose topic would be a historical account of the operation of city government during the time period that the officeholder occupied the position of mayor?

May the political committee of an officeholder use all or a portion of the remaining campaign funds to pay the expenses of a reception for individuals who have previously made campaign contributions to the committee?

Section 14-130 of the Election Law prohibits the conversion of campaign funds to personal uses not related to a political campaign or the holding of a public office or party position.

The first question posed implies that the former mayor would use a portion of campaign funds in the pursuit of writing a book regarding events in the city government during his tenure of mayor. This book would, presumably, be written after the person has left their public office and, while recounting events occurring during the holding of public office, would not relate to the holding of present public office or party position. As such, this would be a personal use of campaign money under §14-130 of the New York State Election Law.

The second proposal is to pay the expenses of a reception for campaign contributors. This reception would presumably be an appreciation gesture on behalf of the committee for those who have contributed to the committee. This is similar to the practice which some former officeholders have undertaken to return unused contributions to the contributors. This practice is permissible as it merely returns the money to those who originally contributed the money. Since the reception for campaign contributors serves the same function as returning the money to the original contributors, this is permissible use of campaign money. Should money remaining in the committee be returned to contributors as cash, this should be on a pro-rata basis to insure that no contributor receives more in return than they gave to the committee.

This opinion relates only to facts presented and is solely the interpretation of the Board of the term "personal use." It does not express an opinion on the ramifications of any other state or federal law.

**NEW YORK STATE
BOARD OF ELECTIONS
ADVISORY OPINIONS
OPINION NO. 93-2**

DATE: DECEMBER 8, 1993

May a political committee spend campaign funds for a portrait of the mayor who has chosen not to run for re-election to be hung in the office of the mayor at City Hall?

Section 14-130 of the Election Law prohibits the conversion of campaign funds to personal uses not related to a political campaign or the holding of a public office or party position.

This question indicates that the only reason that this portrait would be placed on display at City Hall is because the person who is the subject of the portrait has served as the mayor of this city. It is apparent that the creation and use of this portrait is directly related to the individual's holding of public office and that by hanging the portrait in City Hall, there is not a personal use of the portrait. According to the letter of request, a portrait of most of the mayors who have served the city are displayed in the mayor's office. On this basis, this is a permissible use of campaign money under the New York State Election Law.

This opinion relates only to facts presented and is solely the interpretation of the Board of the term "personal use." It does not express an opinion on the ramifications of any other state or federal law.

**NEW YORK STATE
BOARD OF ELECTIONS
ADVISORY OPINION
OPINION NO. 95-1**

DATE: APRIL 26, 1995

In the event that the State withholds salary checks of legislative employees during protracted budget negotiations, may a legislator use surplus campaign funds to make salary payments to employees until the budget is enacted and the state resumes issuing salary checks to legislative employees?

Section 14-130 of the Election Law prohibits the personal use of contributions received by a candidate or political committee if such personal use is unrelated to a political campaign or the holding of public office or party position.

The maintaining and staffing of offices in Albany and a legislator's district, in order to carry out the responsibilities of his/her office and provide services to his/her constituents, is directly related to the holding of public office. Accordingly, campaign funds may be used for these purposes without violating §14-130 of the Election Law.

The payment of salaries to employees is just one of many costs involved in maintaining such offices. Therefore, this Board is of the opinion that a legislator may use surplus campaign funds to pay salaries to employees in the event the state should withhold those salaries pending the enactment of a state budget. However, it must be clear that such payments are loans that are to be reimbursed when the state resumes issuing salary checks to legislative employees. All such loans, and the reimbursements, must be reflected on the campaign committee's financial disclosure statement. Any unreimbursed loans become a gift, and therefore a personal use of campaign funds which is prohibited by §14-130.

This opinion relates only to facts presented and is solely the interpretation of the Board of the term "personal use." It does not express an opinion on the ramifications of any other state or federal law.

**NEW YORK STATE
BOARD OF ELECTIONS
ADVISORY OPINIONS
OPINION NO. 95-2**

DATE: MAY 31, 1995

Is the following an appropriate use of surplus campaign funds?

An individual who has not held public office for nearly 10 years, and who has not terminated his or her campaign fund since leaving office, proposes to make a donation to a local charity using funds in the campaign account. The charitable donation is one of the terms of an agreement to settle a civil lawsuit arising out of the individual's former employment. The terms of the agreement provide that the settlement will remain effective regardless of the legality of the proposed donation.

Election Law §14-130 specifically prohibits the conversion of campaign funds to personal use not related to running a campaign or the holding of public office or a party position. In the past, this Board has held that it is permissible to terminate a campaign fund by making donations to charities recognized by the United States Internal Revenue Service. See Advisory Opinion 86-5.

Standing alone, the charitable donation would be permissible use of the remaining campaign funds. However, the donation does not stand alone, but is presented as part of a settlement agreement for a lawsuit that arises out of the circumstances of the individual's former employment. The provision which severs the donation, should it be found impermissible, does not alter its nature as part of an agreement to settle a personal lawsuit that is unrelated to holding public office or party position or the running of a campaign. Therefore, the proposed charitable donation is an impermissible personal use of campaign funds.

This opinion relates only to facts presented and is solely the interpretation of the Board of the term "personal use." It does not express an opinion on the ramifications of any other state or federal law.

**NEW YORK STATE
BOARD OF ELECTIONS
ADVISORY OPINIONS
OPINION NO. 95-3**

DATE: JULY 31, 1995

May a political action committee sponsor and pay for the production of a public access cable television program for the discussion of political or governmental issues which are of concern to the political action committee or to promote candidates for party or public office?

Section 14-130 of the New York Election Law prohibits the personal use of contributions received by a candidate or political committee if such personal use is unrelated to a political campaign or the holding of a public office or party position.

The expenditure of funds by a political committee to promote candidates for party or public office clearly fits within the permissible use of political funds since the expenditures are related to a political campaign listed in §14-130 as an allowable use.

Section 14-130 of the Election Law also permits a political committee to expend its funds for any lawful purpose which is not personal use. The expenditure of funds by a political committee to pay for a television program to discuss political and governmental issues is not a personal use and is a permissible use of campaign money. The use of this money must be strictly limited to the ordinary and necessary expenses incurred in relation to the production of the television program. In addition, all other requirements of Article 14 of the New York State Election Law must be complied with. This includes limitations on contributions to candidates specified in §14-114 of the New York Election Law if the subject matter of the television program is campaign related.

This opinion relates only to facts presented and is solely the interpretation of the Board of the term "personal use." It does not express an opinion on the ramifications of any other state or federal law.

**NEW YORK STATE
BOARD OF ELECTIONS
ADVISORY OPINIONS
OPINION NO. 97-1**

DATE: SEPTEMBER 3, 1997

May a political committee terminate its activities as a political committee by contributing the funds remaining in its campaign account to a research organization formed to analyze social trends? The organization is a charitable organization under section 501(c)(3) of the Internal Revenue Code.

Election Law section 14-130 prohibits the conversion of campaign funds to personal uses, as follows:

Contributions received by a candidate or a political committee may be expended for any lawful purpose. Such funds shall not be converted by any person to a personal use which is unrelated to a political campaign or the holding of a public office or party position.

The Board has previously held that the campaign funds may be given to “bona fide charitable organizations,” 1975 Board Opinion #17, to “any charity which is recognized as such by the United States Internal Revenue Code,” Advisory Opinion No. 86-5, and to “an academic institution recognized as a charity.” Advisory Opinion No. 90-1. These opinions do not, however, address the circumstances under which a charitable contribution by a political committee would result in a violation of §14-130. For example, if a charitable organization uses funds from a political committee to compensate individuals associated with that committee (*e.g.*, candidates, committee staff, candidate and staff family members), the prohibition against personal use of the funds would be violated. In this regard, the charitable organization is under the same statutory prohibition as applies to the committee itself. In addition, such individuals should refrain from exercising any control over the funds after receipt by the charitable organization. Finally, these restrictions would apply until the organization expended the entire amount received from the committee.

Accordingly, it is the Board’s opinion that the use of campaign funds described above is permissible, as long as the recipient organization does not use the funds to compensate individuals associated with the political committee or members of their families and as long as such individuals do not exercise control over the disposition of the funds by the charitable organization.

This opinion relates only to facts presented and is solely the interpretation of the Board of the term “personal use.” It does not express an opinion on the ramifications of any other state or federal law.