



NORTH CAROLINA STATE BOARD OF ELECTIONS

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Kathleen Davis, Treasurer
Mecklenburg County Republican Executive Committee
2212 Queens Road East
Charlotte, North Carolina 28207

September 22, 2021

Re: Request for an advisory opinion under G.S. § 163-278.23 regarding use of headquarters building fund donations for political party personnel compensation

Dear Ms. Davis,

Thank you for contacting our office. In your letter you asked whether the Mecklenburg County Republican Executive Committee (hereinafter “Mecklenburg REC”) may use headquarters building funds to compensate a treasurer providing accounting and campaign finance reporting services as an independent contractor of the Mecklenburg REC. You noted that the treasurer is not compensated for any time spent on political advocacy.

Donations to a headquarters building fund may only be spent as authorized by G.S. § 163-278.19B. While most of the authorized uses relate to building expenses, G.S. § 163-278.19B(4) also says “personnel compensation and in-kind benefits may be paid to no more than three personnel whose functions are primarily administrative in nature, such as providing accounting, payroll, or campaign finance reporting services, for the party and whose job functions require no more than ten percent (10%) of work time to be spent on political advocacy each calendar year.” At issue here is the scope of “personnel compensation.” Specifically, whether an individual must be an employee of the political party executive committee in order to be compensated.

There is no definition of “personnel compensation” in Chapter 163 or any other Chapter of the North Carolina General Statutes. Black’s Law Dictionary does not define the term, but defines “compensation” as “remuneration and other benefits received in return for services rendered.” BLACK’S LAW DICTIONARY (11th ed. 2019). “Personnel” is defined as “[c]ollectively, the people who work in a company, organization, or military force.” *Id.* The Oxford American Dictionary defines “personnel” as “people who work for an organization or one of the armed forces.” OXFORD AMERICAN DICTIONARY (2nd ed. 2008).¹

¹ Merriam-Webster defines “personnel” as “a body of persons usually employed (as in a factory or organization). Merriam-Webster.com Dictionary,

There is nothing in the statute or the term that clearly limits its application to personnel qualifying as employees for tax purposes or personnel who meet the common-law test of an employee-employer relationship with the political party executive committee. Therefore, an individual who works for the committee as an independent contractor may be compensated for services rendered as well. The political party executive committee may use headquarters building funds to provide personnel compensation and in-kind benefits to a treasurer whose functions are primarily administrative in nature and who otherwise qualifies under G.S. § 163-278.19B.

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 written in a cursive style with a large initial "K".

Karen Brinson Bell
Executive Director
North Carolina State Board of Elections

Cc: Ashley B. Snyder, Codifier of Rules

<https://www.merriam-webster.com/dictionary/personnel> (last visited Aug. 18, 2021). “Employed” is defined as “to provide with a job that pays wages or a salary.” Merriam-Webster.com Dictionary, <https://www.merriam-webster.com/dictionary/employ> (last visited Aug. 18, 2021). While this definition invokes employment, it is not definitive or controlling.

July 28, 2021

Kathleen Davis
Mecklenburg Republican Executive Comm.
Treasurer
2212 Queens Rd East
Charlotte, NC 28207

Ms. Karen Bell,

I am writing as instructed by Lindsey Wakely, NCSBE Associate General Council, to request a formal written opinion as to if funds from a Building Fund may be used to pay an individual who performs accounting and campaign finance reporting duties.

I am the Treasurer for Mecklenburg Republican Executive Committee (MREC) and I am compensated for my time to do accounting and campaign finance reporting duties. I receive a Form 1099 from MREC and I am not considered an employee of MREC. The time I am compensated for does not include any time spent on political advocacy. I have historically been paid out of the MREC General Fund. However, if it is determined that my fees may be paid out of the Building Fund, that would be MREC's preference.

I received the following guidance from Ms. Wakely:

"With regards to your question on treasurer compensation from a political party headquarters building fund, I do not believe G.S. 163-278.19B limits the use of building funds to employee compensation. G.S. 163-278.19B(4) says that "personnel compensation and in-kind benefits may be paid to no more than three personnel whose functions are primarily administrative in nature, such as providing accounting, payroll, or campaign finance reporting services, for the party and whose job functions require no more than ten percent (10%) of work time to be spent on political advocacy each calendar year." An individual who works for the committee as an independent contractor may be compensated for services rendered as well.

If you would like to request a formal written opinion from the Executive Director of the State Board of Elections pursuant to G.S. 163-278.23 on this topic, you are welcome to do so. We ask that you please put your request in the form of a written letter to Executive Director Karen Brinson Bell. This request may be submitted via email to Karen.Bell@ncsbe.gov. I ask that you also please copy legal@ncsbe.gov on your email. Please include your detailed question as well as background regarding the committee's proposed activity."

If you need any further information or have any questions, please feel free to contact me.

I appreciate your assistance with this matter,

Kathleen Davis

Kathleen Davis
Mecklenburg Republican Executive Committee, Treasurer
kathybatteydavis@gmail.com