



NORTH CAROLINA

STATE BOARD OF ELECTIONS

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John Wallace
Wallace and Nordan LLP
3737 Glenwood Avenue, Suite 260
Raleigh, NC 27612

December 23, 2024

Re: Request for an advisory opinion under N.C.G.S. § 163-278.23 regarding use of campaign contributions

Dear Mr. Wallace,

Thank you for your correspondence on behalf of Governor Roy Cooper. The following written opinion is provided in accordance with N.C.G.S. § 163-278.23.

In your email, you shared that Governor Cooper is seeking guidance and approval with respect to his intended use of the remaining funds in the account of his principal candidate campaign committee, Cooper for North Carolina [STA-C0498N-C-002]. You described the following:

Governor Cooper was an active governor, engaged in numerous legislative and policy initiatives in which he has and maintains an active interest. He reasonably anticipates that as a result of having served [i]n public office, he will continue to be called upon to express his views on these and other policy matters and will be called upon to travel in the furtherance of such work. It is expected that such continuing service, which results from having held public office will require staff to assist with scheduling and correspondence, professional and consulting services office equipment and supplies, and travel costs. In addition, he anticipates that his continuing work will require communications capability including cell service and Internet access as well as subscriptions to publications, journals, and databases.

North Carolina permits a candidate or candidate campaign committee to use contributions for “[e]xpenditures resulting from the campaign” or “[e]xpenditures resulting from holding public office.” N.C.G.S. § 163-278.16B(a)(1), (2).

On February 8, 2011, Executive Director Gary Bartlett issued an opinion to former Senator Marc Basnight that permitted the remaining funds of the Senator’s

candidate campaign committee to be spent on continuing the “research and advocacy of various policy initiatives” that the Senator supported while he campaigned and served in elective office. [Written Opinion 2011-02-08](#). Potential expenses associated with this effort included the following:

1. Travel for meetings or research trips;
2. Travel and food expenses when meeting with legislators or policymakers; and
3. Printing, writing or other services associated with finalizing or presenting research to others.

Id.

In 2012, you also requested an opinion, on behalf of your client, outgoing Governor Beverly Perdue. In the resulting opinion, Executive Director Gary Bartlett authorized the use of candidate campaign committee funds for expenses associated with the organization of Governor Perdue’s papers, including “staff, academic and professional services, and technology support and hardware.” [Written Opinion 2012-08-23](#).

Once an entity qualifies as a political committee under N.C.G.S. § 163-278.6(74), it continues to be a political committee if it receives contributions or makes expenditures or maintains assets or liabilities. *Id.* A political committee only ceases to exist when it winds up its operations, disposes of its assets, and files its final report. *Id.* Both the Basnight and Perdue opinions establish that a former candidate may use candidate campaign committee funds for expenditures that result from having held public office. The present request on behalf of Governor Cooper describes activities in line with what was described in these prior opinions. In addition to travel, your request specifically envisions expenses for the following:

1. Staff to assist with scheduling and correspondence;
2. Professional and consulting services;
3. Office equipment and supplies;
4. Cellular phone and service;
5. Internet access; and
6. Subscriptions to publications, journals, and databases.

All of these expenses are consistent with what is required to establish a professional communication and advocacy operation. In recent years, we have seen several former Governors continue to be called upon by media, advocacy groups, and even subsequent Governors to share their unique perspectives and opinions that are derived from holding that office. This has been especially true as

North Carolina has debated new constitutional amendments and statutes that address the separation of powers and the structure of state government. Responding to these requests, especially in a growing digital and social media environment, takes not only time, but resources.

That is not to say that having served provides a former candidate an open-ended opportunity to launch new, unrelated ventures using candidate committee funds. The long-standing test for determining whether an expenditure is permitted is to ask whether the expenditure would have been made absent the campaign or if the candidate did not hold public office. N.C. Campaign Finance Manual at p. 56 (issued Feb. 2022). If the answer is “yes” to that question, the expenditure should not be made from candidate campaign committee funds.

The remaining funds of Cooper for North Carolina may be used to establish the communication and advocacy operation described in your November 28, 2024, request. However, the former candidate and Cooper for North Carolina committee staff should exercise caution and utilize the test described herein to ensure that all expenditures of the committee result from Governor Cooper having held public office.

Expenditures for travel and subsistence are subject to N.C.G.S. § 163-278.8(a). In managing and disclosing travel and subsistence expenses, the candidate campaign committee should comply with the State Board’s March 29, 2024, [Declaratory Ruling](#) regarding reimbursement of costs and expenses related to serving in office.

Pursuant to N.C.G.S. § 163-278.9(a)(4), the Cooper for North Carolina committee will be required to file semi-annual reports disclosing contributions and expenditures. However, during any even-numbered years in which the campaign committee supports or opposes a candidate, the treasurer will be required to file quarterly reports. N.C.G.S. § 163-278.9(a)(3).

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

Sincerely,

A handwritten signature in blue ink, reading "Karen Brinson Bell". The signature is fluid and cursive, with the first name "Karen" being the most prominent.

Karen Brinson Bell
Executive Director
State Board of Elections

From: John Wallace <jrwallace@wallacenordan.com>
Sent: Wednesday, November 27, 2024 7:57 AM
To: Bell, Karen B <Karen.Bell@ncsbe.gov>
Subject: [External] G.S. 163-278.23

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

https://s3.amazonaws.com/dl.ncsbe.gov/Campaign_Finance/Advisory_Opinions/Advisory%20Opinions%20Issued%201998%20-%202018%20/written%20opinion%20-%202012-08-23.pdf

Dear Director Brinson Bell,

I can't tell you how badly I feel writing you regarding a campaign finance matter in the middle of your other responsibilities.

I represent Governor Roy Cooper, and in his behalf I write to seek your guidance and approval with respect to his intended use of some of the remaining funds in the account his principal campaign committee. Cooper for North Carolina. When he leaves office in January of 2025, he will have served 16 years as Attorney General and eight years as Governor.

I am mindful of the provisions of G.S. 163-278.16B(a) providing for the use of campaign funds for "Expenditures resulting from holding public office", as well as the guidance provided by Director Bartlett in his Advisory Opinion of August 23, 2012. In that Advisory Opinion Director Bartlett approved the use of campaign funds for the, organization, management and publication of Governor Perdue's papers, which expenses would "include, but not be limited to staff, academic and professional services and technology support and hardware."

Governor Cooper was an active governor, engaged in numerous legislative and policy initiatives in which he has and maintains an active interest. He reasonably anticipates that as a result of having served in public office, he will continue to be called upon to express his views on these and other policy matters and will be called upon to travel in the furtherance of such work. It is expected that such continuing service, which results from having held public office will require staff to assist with scheduling and correspondence, professional and consulting services office equipment and supplies, and travel costs. In addition, he anticipates that his continuing work will require communications capability including cell service and Internet access as well as subscriptions to publications, journals, and databases.

I write, therefore, to request an advisory opinion pursuant to G.S. 163-278.23 approving the use of these campaign funds for these expenditures which result from having held public office. I will be pleased to put this request in a formal written form but as we approach the end of Governor Cooper's term I would appreciate your thoughts and guidance in the meantime so that he may plan his transition.

Regards, JRW

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