



STATE ETHICS COMMISSION

ADVISORY OPINION NO. 2025-07

October 10, 2025¹

Campaign Expenditures for Security Expenses

QUESTION PRESENTED²

Are security expenses – defined as non-structural security devices; structural security devices; professional security personnel and services; and cybersecurity software, devices, and services – incurred as a direct result of campaign activity and holding public office deemed a permissible expenditure in the state of New Mexico?

ANSWER

A candidate may use campaign funds to cover security expenses (as defined in the request) that are reasonably attributable to the candidate's

¹ This is an official advisory opinion of the New Mexico State Ethics Commission. Unless amended or revoked, this opinion is binding on the Commission and its hearing officers in any subsequent Commission proceedings concerning a person who acted in good faith and in reasonable reliance on the advisory opinion. NMSA 1978, § 10-16G-8(C).

² The State Ethics Commission Act requires a request for an advisory opinion to set forth a "specific set of circumstances involving an ethics issue[.]" NMSA 1978, § 10-16G-8(A)(2) (2019). On September 18, 2025, the Commission received a request for an advisory opinion that detailed the issues as presented herein. *See* 1.8.1.9(B) NMAC. "When the Commission issues an advisory opinion, the opinion is tailored to the 'specific set' of factual circumstances that the request identifies." N.M. State Ethics Comm'n Adv. Op. No. 2020-01, at 1-2 (Feb. 7, 2020), *available at* <https://nmonesource.com/nmos/secap/en/item/18163/index.do> (quoting § 10-16G-8(A)(2)). For the purposes of issuing an advisory opinion, the Commission assumes the facts as articulated in a request for an advisory opinion as true and does not investigate their veracity. This opinion is based on current law, and the conclusions reached herein could be affected by changes in the underlying law or factual circumstances presented.

campaign. A legislator may use campaign funds to cover those same security expenses so long as the funds are reasonably attributable to the legislator's duties of office, and are not used to fulfill a commitment, obligation, or expense of the legislator that would exist even if the legislator were not in office. Other than legislators, however, public officers may not use campaign funds to cover security or other expenses that are incurred as a direct result of holding public office.

ANALYSIS

As the State Ethics Commission has noted, campaigns generally enjoy “wide discretion in deciding how to spend their funds.”³ The State generally has no interest in dictating how a candidate spends contributions in pursuit of election (assuming the expenditures are not otherwise unlawful, i.e., bribes and kickbacks). Among the State's legitimate interests is the interest in ensuring that campaign expenditures do not directly or indirectly enrich the candidate. Put differently, the underlying purpose of restrictions on the use of campaign funds is the same as the restriction on contribution amounts: (i) preventing corruption and the appearance thereof; and (ii) “increas[ing] participation in the political process by allowing contributors to support a campaign without worrying that their funds will be converted to personal use.”⁴

New Mexico's Campaign Reporting Act⁵ provides “[i]t is unlawful for a candidate or the candidate's agent to make an expenditure of contributions received, except for . . . (1) expenditures of the campaign; [or] (2) expenditures of legislators that are reasonably related to performing the duties of the office held, including mail, telephone and travel expenditures to serve constituents, but

³ See N.M. State Ethics Comm'n Adv. Op. 2025-01, at 2 (Feb. 7, 2025) (available at <https://nmonesource.com/nmos/secap/en/19133/1/document.do>) (citing Federal Election Commission, *Making disbursements*, <https://www.fec.gov/help-candidates-and-committees/making-disbursements/>); N.M. State Ethics Comm'n Adv. Op. 2025-04, at 3 (June 6, 2025) (available at <https://nmonesource.com/nmos/secap/en/item/19140/index.do>).

⁴ *Id.* (quoting *Federal Election Comm'n v. O'Donnell*, 209 F.Supp.3d 727, 740 (D. Del. 2016)) (quotation marks omitted).

⁵ NMSA 1978, §§ 1-19-25 to -37 (1979, as amended through 2024).

excluding personal and legislative session living expenses[.]”⁶ The New Mexico Secretary of State has promulgated a regulation defining “expenditures of the campaign” which further interprets “personal” expenses:

Expenditures that are reasonably attributable to the candidate’s campaign and not to personal use or personal living expenses are permissible campaign expenditures. Personal use of campaign funds is any use of funds in a campaign account to fulfill a commitment, obligation or expense of any candidate or legislator that would exist regardless of the candidate’s campaign or responsibilities as a legislator. If the expense would exist even in the absence of the candidacy, or even if the legislator were not in office, then it is not considered to be a campaign-related expenditure.⁷

This regulation follows that imposed in federal law. The Federal Election Campaign Act⁸ similarly provides:

A contribution accepted by a candidate, and any other donation received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual –

(1) for otherwise authorized expenditures in connection with the campaign for Federal office of the candidate or individual;

⁶ NMSA 1978, § 1-19-29.1(A)(1)-(2) (2009). Section 1-19-29.1(A) sets out additional permissible uses of campaign funds, but those uses are not relevant to the request.

⁷ 1.10.13.25(B)(2) NMAC.

⁸ 52 U.S.C. §§ 30101–30146.

(2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office⁹

After identifying the permitted uses of contributions, the federal statute identifies prohibited uses, explaining “a contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate’s election campaign or individual’s duties as a holder of Federal office[.]”¹⁰

New Mexico’s Campaign Reporting Act and campaign regulations largely follow the structure set out in federal law; that is, a campaign or legislative officeholder may expend funds for expenditures of the campaign or for expenditures reasonably related to the duties of legislative office, but may not use contributions for personal expenses.¹¹ Because there is no New Mexico case law applying the Campaign Reporting Act’s personal-use prohibition, and because the Campaign Reporting Act and the accompanying regulations are similar to their federal counterparts, the Commission looks to cases and administrative decisions interpreting similar provisions of law outside of New Mexico for guidance in

⁹ 52 U.S.C. § 30114(a).

¹⁰ 52 U.S.C. § 30114(b)(2).

¹¹ While it is ultimately the language of the statute that is controlling, the Secretary of State is charged with “adopt[ing] and promulgat[ing] rules and regulations to implement the provisions of the Campaign Reporting Act.” NMSA 1978, § 1-19-26.2 (1997). The regulations adopted by the Secretary of State follow a comparable provision in federal law and merely expand on what constitutes a “personal” expense under the Campaign Reporting Act. The Federal Election Campaign Act provides “a contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person *that would exist irrespective of* the candidate’s election campaign or individual’s duties as a holder of Federal office[.]” 52 U.S.C. § 30114(b)(2) (emphasis added). New Mexico’s campaign regulations identify personal use as “any use of funds in a campaign account to fulfill a commitment, obligation or expense of any candidate or legislator *that would exist regardless of* the candidate’s campaign or responsibilities as a legislator.” See 1.10.13.25(B)(2) NMAC (emphasis added). While the language is not identical, there is not a material difference between the terms “regardless of” and “irrespective of.” See *Irrespective of*, Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/irrespective%20of> (defining “irrespective of” to mean “regardless of”).

applying the personal use prohibition as it applies to expenditures for security expenses presented by the request.¹²

Under federal law, the Federal Elections Commission has issued nearly two decades of opinions concluding that federal officeholders and candidates may use campaign funds to pay for the costs of security measures where those expenses were incurred in connection with the individuals' duties as federal officeholders or candidates for federal office, or both. These opinions support the use of campaign funds for each of the types of security expenses outlined in the request. This includes physical security devices, such as hardware, locks, alarm systems, motion detectors, security camera systems, wiring, lighting, gates, doors, and fencing, so long as the devices are not for purpose of improving the individual's property or increasing its value.¹³ The opinions also have determined campaign funds may be

¹² See *State v. Martinez*, 2006-NMCA-148, ¶ 12, 140 N.M. 792 (stating that "federal law interpreting [a] rule is instructive," when the federal rule is similar to its New Mexico counterpart), *aff'd*, 2008-NMSC-060, 145 N.M. 220.

¹³ See Fed. Elect. Comm'n Adv. Op. 2023-04 (Guy for Congress) (July 13, 2023) (determining the principle campaign committee of a U.S. Congressman was permitted under the Federal Election Campaign Act and federal campaign regulations to expend campaign funds to protect the Congressman's home against threats arising from the Congressman's duties as a federal officeholder, including for the cost and installation of a security window film to protect those inside the structure against incoming projectiles); Fed. Elect. Comm'n Adv. Op. 2022-25 (Crapo) (Jan. 12, 2023) (concluding a U.S. Senator could use campaign funds for various residential security installations and upgrades to the home of the senator including an electronic home security system, exterior closed-circuit video system, replacing doors, locks, security bars, and locking mechanisms on gates (including possible installation of additional gate posts), security film on accessible windows, automated residential lighting, and a lockable mailbox, where the need for the security measures was to protect from the ongoing threat environment arising from the senator's status as a federal officeholder); Fed. Elect. Comm'n Adv. Op. 2022-02 (Steube) (Apr. 28, 2022) (concluding it was permissible under the Federal Election Campaign Act and federal campaign regulations, and would not constitute a prohibited conversion of campaign funds to personal use, for a U.S. Representative to use campaign funds for the purchase and installation of a locking steel security gate as part of the residential security system, where since taking office, the representative had received direct and specific threats to his safety); Fed. Elect. Adv. Op. 2020-06 (Escobar) (Jan. 22, 2021) (opining that where a U.S. Representative had received numerous direct threats to her safety, which the Capitol Police had investigated, the representative could use campaign funds for wiring and lighting costs necessary for the operation of a residential security system at the representative's home, which had been recommended by the House Sergeant of Arms, without constituting a prohibited conversion of campaign funds to personal use); Fed. Elect. Comm'n Adv. Op. 2017-07 (Sergeant at Arms) (concluding that

used for cybersecurity software, devices, and services.¹⁴ The analysis has also extended to professional security personnel and services, so long as the personnel is bona fide, legitimate, and professional.¹⁵

Turning to the question in the request, a candidate or a legislator may expend campaign funds on security expenses in certain circumstances. Because there is no express language permitting the payment of security expenses for

Members of Congress may use campaign contributions for costs associated with installing, upgrading, and monitoring security systems at Members' residences without such payments constituting an impermissible conversion of campaign funds to personal use, basing its conclusion on information provided in the request about the heightened threat environment experienced by Members of Congress, and cautioning that if the threat environment should diminish significantly at some point in the future the conclusion may no longer apply); Fed. Elect. Comm'n Adv. Op. 2011-17 (Giffords) (Sept. 1, 2011) (determining that a U.S. representative could use campaign funds for security enhancements at her home including security lighting and locks because the need for security enhancements was due to violence and security threats stemming from her activities as an officeholder, the use of campaign funds to pay for those security measures did not constitute personal use of campaign funds and was permissible under the Federal Election Campaign Act and federal campaign regulations); Fed. Elect. Comm'n Adv. Op. 2011-05 (Terry) (concluding that the use of campaign funds to pay for enhanced security upgrades including a CCTV video surveillance system at a U.S. Representative's home did not constitute personal use of campaign funds and was permissible under the Federal Election Campaign Act and federal campaign regulations because the need for enhanced security was due to threats to the representative stemming from his role as an officeholder and a candidate for federal office); Fed. Elect. Comm'n Adv. Op. 2009-08 (May 7, 2009) (concluding that due to the need for enhanced security at a U.S. Representative's home due to threats to the officeholder and his wife stemming from his role as an officeholder and a candidate, the use of campaign funds to pay for such upgrades did not constitute personal use of campaign funds and was permissible under the Federal Election Campaign Act and federal campaign regulations).

¹⁴ See Fed. Elect. Comm'n Adv. Op. 2022-17 (Warren Democrats, Inc.) (Sept. 15, 2022) (concluding a senator's campaign committee could use campaign funds to pay for the costs of reasonable cybersecurity measures to protect her home network without such payments constituting an impermissible conversion of campaign funds to personal use); Fed. Elect. Comm'n Adv. Op. 2018-15 (Wyden) (Dec. 13, 2018) (determining a U.S. Senator could use campaign funds to pay for the costs of security measures to protect the senator's personal devices and accounts without such payments constituting an impermissible conversion of campaign funds to personal use).

¹⁵ See Fed. Elect. Adv. Op. 2021-03 (NRSC/NRCC) (Mar. 25, 2021) (concluding the use of campaign funds for bona fide, legitimate, professional personal security personnel against threats arising from the members' status as officeholders is a permissible use of campaign funds).

expenditures reasonably related to a candidate's campaign or to performing the duties of legislative office, such expenditures must be analyzed in the same way as any other expenditure which is neither "per se personal use" nor expressly permitted. Under this analysis, "personal use" consists of "any use of funds in a campaign account to fulfill a commitment, obligation or expense of any candidate or legislator that would exist regardless of the candidate's campaign or responsibilities as a legislator."¹⁶ Where "the expense would exist even in the absence of the candidacy, or even if the legislator were not in office, then it is not considered to be a campaign-related expenditure."¹⁷ Accordingly, a candidate may use campaign funds to pay for security expenses "reasonably attributable to the candidate's campaign" and a legislator may use campaign funds for security expenses where the expenditures "are reasonably related to performing the duties" of legislative office.

Importantly, this analysis does not provide a candidate or legislator to claim *any* security expense for a candidate's or legislator's home or office, physical or technological, is related to a candidate's campaign or the duties of legislative office. Where a legislator or candidate would have otherwise incurred the same security expenses even in the absence of the campaign or legislative office, for example, if an individual already had a security system in place or paid for a security company before they became a candidate or a legislator and would have continued to pay for those expenditures regardless of their candidacy or legislative office, those expenditures could be considered personal use.¹⁸ A candidate or legislator may use campaign funds for security expenses only in the narrow circumstances where the candidate or legislator incurs security expenses that they would not have incurred but for the individual's campaign activities or legislative responsibilities. And if a candidate or legislator does incur such expenses, those expenditures will need to be reported to the Secretary of State in accordance with the Campaign Reporting Act's reporting requirements.¹⁹ Additionally, where a candidate or legislator incurs security expenses as part of the campaign or

¹⁶ 1.10.13.25(B)(2) NMAC.

¹⁷ *Id.*

¹⁸ 1.10.13.25(B)(2) NMAC.

¹⁹ *See* NMSA 1978, § 1-19-31 (2019).

legislative office, the expenditures must be reasonable, and the candidate or legislator should consider obtaining quotes or researching rates charged by providers, as well as maintain invoices or other records for services rendered which would tend to establish the reasonableness of the expenditure and the specific dates and circumstances of the security expenses in order to document how the expense was related to the campaign or duties of legislative office. This is especially so where the recipient of the expenditure of campaign funds is a relative of the legislator or candidate.²⁰

Critically, the request does not ask about the expenditure of campaign funds by *legislators* only; rather, the request also asks whether security expenses incurred as a direct result of *holding public office* are permissible.²¹ The analysis above does not extend to security expenses by other public officers who are not legislators to pay for security expenditures arising out of their duties of public office. The Campaign Reporting Act permits the use of campaign funds for “expenditures of the campaign” and “expenditures of legislators that are reasonably related to performing the duties of the office held.”²² While the Act contains additional permissible uses, none extend the use of campaign funds to expenses related to the duties of public office beyond legislators. Candidates for those offices are permitted to make security expenditures where security measures are reasonably attributable to the candidate’s campaign, but once those individuals hold office and do not seek reelection, there is no comparable provision permitting the use of campaign funds for security expenditures related to performing the duties of those offices. This conclusion is directed by Section 1-19-29.1(A) of the Campaign Reporting Act, which permits the use of campaign funds for “performing the duties of the office held” only where those expenditures are incurred by legislators.²³

²⁰ See N.M. State Ethics Comm’n Adv. Op. 2023-09, at 4 (Dec. 15, 2023), available at <https://nmonesource.com/nmos/secap/en/18950/1/document.do> (explaining the steps a candidate should take if the campaign pays for bona fide services provided by a candidate’s family member); N.M. State Ethics Comm’n Adv. Op. 2025-01, at 10–11 (recommending the same for use of campaign funds for childcare expenses).

²¹ See § 1-19-29.1(A); 1.10.13.25(B) NMAC.

²² § 1-19-29.1(A)(1), (2). This distinction is a policy decision made by the Legislature and arises perhaps because legislators receive no compensation beyond per diem and mileage whereas other public officeholders receive salaries. See N.M. Const. art. IV, § 10.

²³ § 1-19-29.1(A)(2).

CONCLUSION

A candidate or legislator may use campaign funds to pay for security expenses provided the expenses are incurred as a direct result of campaign activity or the duties of legislative office, are reasonably related to the campaign or related to performing the duties of legislative office, and would not exist but for the candidate's campaign or the legislator's office.

SO ISSUED.

HON. WILLIAM F. LANG, Chair

JEFFREY L. BAKER, Commissioner

STUART M. BLUESTONE, Commissioner

HON. CELIA CASTILLO, Commissioner

HON. GARY L. CLINGMAN, Commissioner

HON. DR. TERRY MCMILLAN, Commissioner

DR. JUDY VILLANUEVA, Commissioner