



*State of New Jersey*  
**ELECTION LAW ENFORCEMENT COMMISSION**

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Trenton, New Jersey 08625-0185  
  
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Legal Director

**JAMES P. WYSE**  
Counsel

October 20, 1999

Stephen Q. Cornman, Esq.  
Election Fund of James W. Treffinger  
3 Colony Drive  
North Caldwell, New Jersey 07006

**Advisory Opinion No. 05-1999**

Dear Mr. Cornman:

The Commission has considered your request for an advisory opinion submitted on behalf of the Election Fund of James W. Treffinger. You have asked whether or not that candidate committee may use its campaign funds to pay for the costs of the attendance of Mr. Treffinger at the New Jersey State League of Municipalities Conference, and for the costs of a reception he proposes to conduct at that event; see attached Advisory Opinion Request No. 05-1999.

**Submitted Facts**

You write that Mr. Treffinger, who holds elected office as the County Executive of Essex County, proposes to attend the New Jersey State League of Municipalities Conference on November 17, 1999, in Atlantic City, and contemplates paying for his applicable registration and lodging costs with funds from his candidate committee. You state that he also proposes to use his candidate committee funds to pay for a reception he is planning to conduct at the conference. You state that Mr. Treffinger recently declared his candidacy for the United States Senate seat from New Jersey, which election will be conducted next year. However, you write that the reception will not be used as a fundraiser, nor will there be "advocacy" of Mr. Treffinger's candidacy for the United States Senate and no signs or other Senate campaign paraphernalia will be displayed. Invitations to the reception will be sent to conference registrants as well as other persons, and they will not mention any elective office other than the one Mr. Treffinger currently holds as Essex County Executive. The costs of printing and mailing the invitations will also be borne by his candidate committee.

You have additionally advised Commission staff orally that none of the costs of Mr. Treffinger's attendance at the conference, or for the reception, will be paid for or otherwise provided or reimbursed by the Essex County government or by any other public entity.

Staff notes that the most recent campaign reports (Form R-1) filed by Mr. Treffinger's candidate committee were received by the Commission on October 14, 1999, which reports are designated for Mr. Treffinger's June, 2002 primary election candidacy for reelection as Essex County Executive. Those reports indicated closing balances in the candidate committee's depository accounts of \$185,494.62 and \$49,940.14, and therefore as of the close of the 1999 third quarterly report period on September 30, 1999, the total closing balance was \$235,434.76.

### Questions Presented

1. Are the costs of an elected New Jersey officeholder's attendance at a conference of elected New Jersey municipal officials permissible uses of the officeholder's candidate committee funds pursuant to the Campaign Contributions and Expenditures Reporting Act (hereafter, the Reporting Act), specifically N.J.S.A. 19:44A-11.3?
2. Are the costs of a reception, including invitations, food, and room rental, which reception is to be conducted by an elected New Jersey officeholder at a conference of New Jersey elected officials, permissible uses of the State officeholder's candidate committee funds pursuant to the Reporting Act notwithstanding that the officeholder is also a declared candidate for federal office?

### Commission Response

1. The Commission hereby advises that the use of Mr. Treffinger's candidate committee funds to pay for the reasonable costs of Mr. Treffinger's attendance at the New Jersey State League of Municipalities Conference is permissible pursuant to Commission regulation N.J.A.C. 19:25-6.7(e) (copy attached) as an ordinary and necessary officeholding expense.

N.J.A.C. 19:25-6.7(e)3 specifically provides that the payment of costs of registration and attendance at conferences or seminars attended by an officeholder in connection with officeholding duties are permissible uses of the officeholder's candidate committee funds as ordinary and necessary expenses of holding public elected office. Citing this regulation in 1994, the Commission advised a State legislator that the costs of attending the National Conference of State Legislatures annual meeting could be paid from that legislator's candidate committee funds as an officeholding expense; see Advisory Opinion No. 09-1994, (copy enclosed). Citing the same regulation in 1997, the Commission ruled that a legislator's reasonable costs to attend the Eastern Regional Conference of the Council of State Governments annual meeting could be paid from the officeholder's candidate committee funds, although it was impermissible to use those funds to pay the costs for the attendance of the legislator's spouse and children, see Advisory Opinion No. 06-1997 (copy enclosed).

The New Jersey State League of Municipalities Conference is an annual event widely recognized as an opportunity for State, county, and municipal elected officials to attend seminars and lectures on municipal governmental subjects, and to exchange ideas and views with each other. The reasonable costs of Mr. Treffinger to attend this event, including reasonable expenses of travel, lodging, and other subsistence expenses arising out of such attendance, are therefore an ordinary and necessary officeholding expense within the meaning of N.J.S.A. 19:44A-11.2a(6), and the above-cited regulation. In reaching this result, the understanding of the Commission is that these expenses are not being reimbursed or otherwise paid for by the State of New Jersey, Essex County, or any other political subdivision. If public funds are used to reimburse or pay for any of these costs, the use of campaign funds would be impermissible under N.J.A.C. 19:25-6.7(e).

2. The Commission also advises that the use of Mr. Treffinger's candidate committee funds to pay for the proposed reception, including invitations, food, and room rental, are permissible uses of Mr. Treffinger's candidate committee funds pursuant to Commission regulation N.J.A.C. 19:25-6.7(e) (copy attached) as ordinary and necessary officeholding expenses, notwithstanding that the officeholder is a declared candidate for federal office.

The advisory opinion request notes that the New Jersey State League of Municipalities annual convention attracts mayors and other elected municipal officeholders, municipal clerks, State and county officials and employees, and staff of quasi-governmental agencies such as public authorities, see page 4 of the request attachment, bottom. Invitations will be sent to conference registrants, and "...people throughout the State"; see page 2 of the request attachment. Pursuant to the Commission regulation on ordinary and necessary officeholding expenses, the sponsorship or holding of a seminar or other meeting to be attended by constituents is specifically permissible; see N.J.A.C. 19:25-6.7(e) 1ii (copy attached). While the invitees of the proposed reception are not strictly constituents of the Essex County Executive, many of them apparently will be the elected representatives of those constituents. Under those circumstances, the Commission finds that the proposed reception comes within the intent of the regulation.

Alternatively, Mr. Cornman also argues that the use of Mr. Treffinger's campaign funds to pay for the proposed reception is permissible as a campaign expense. The Reporting Act provides that a candidate for elected office in this State is permitted to use his or her candidate committee funds for "...the payment of campaign expenses," see N.J.S.A. 19:44A-11.2a(1). That statute defines "campaign expenses" to mean "...any expense incurred or expenditure made by a candidate, candidate committee, joint candidates committee or legislative leadership committee for the purpose of paying for or leasing items or services used in connection with an election campaign, other than those items or services which may reasonably be considered to be for the personal use of the candidate, any person associated with the candidate or any of the members of a legislative leadership committee." This text is also contained in the applicable regulations on use of campaign funds, see N.J.A.C. 19:25-6.5.

Mr. Treffinger's candidate committee is currently filing reports with the Commission for the office of Essex County Executive in the June, 2002 primary election, and he comes

within the definition of "candidate" as that term is used in the Reporting Act, see N.J.S.A. 19:44A-3c, defining "candidate" as an individual seeking election to a public office of a county of this State. Conducting and hosting a reception for elected State and local officials and other persons in political life is an activity commonly undertaken by candidates for elected office and is widely accepted as an appropriate campaign activity. There is no suggestion in the facts submitted in this request that there is any personal purpose for the reception such as might be the case, for example, if a candidate were hosting such a reception with the intent of promoting a personal business or other personal financial enterprise rather than his or her election candidacy.

The circumstance that Mr. Treffinger has declared his candidacy for the U.S. Senate seat from New Jersey in the 2000 primary election does not change or otherwise affect his current "candidate" status under the Reporting Act. He continues to receive contributions and expend funds for that future election for County Executive, and he continues to bear reporting responsibilities under the Act until such time as he winds up his County Executive candidacy, see N.J.S.A. 19:44A-16b. Accordingly, he may use his campaign funds to pay the costs of conducting a reception that promotes his County Executive reelection candidacy.

The Commission has no jurisdiction to express any opinion as to reporting or other obligations Mr. Treffinger may acquire as a candidate for federal office as a result of conducting the proposed reception or as the result of any other activity subject to the Federal Election Campaign Act; see 2 U.S.C.A., Sect. 431, *et seq.* Accordingly, nothing in this advisory opinion is intended to express any opinion on the reporting or other requirements Mr. Treffinger may acquire as a federal candidate, and he must rely on the Federal Election Commission in regard to his federal candidacy requirements.

Thank you for this inquiry, and your interest in observing the requirements of the Reporting Act.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By:   
GREGORY E. NAGY  
Legal Director



## ADVISORY OPINION REQUEST

A person, committee or entity subject to, or reasonably believing he, she or it may be subject to, any provision or requirement of the Campaign Reporting Act may request that the Commission provide an advisory opinion pursuant to N.J.S.A. 19:44A-6. Such request must be in writing (please type or print) and must include the following:

1. This request for an Advisory Opinion is being submitted on behalf of:

Full Name of Person, Committee or Entity

**ELECTION FUND OF JAMES W. TREFFINGER**

Mailing Address

**POST OFFICE BOX 66**

Day Telephone No.

**(973) 765-5515**

Evening Telephone No.

**(973) 857-3568**

**VERONA, NJ 07044**

2. Indicate if the above named person, committee or entity currently files reports with the Commission:

Yes

No

a. If yes, indicate in what capacity it is filing:

Candidate committee

Recall committee

Joint candidates committee

Recall defense committee

Political committee

Lobbyist

Continuing political committee

Legislative agent

Political party committee

Personal financial disclosure statement

Legislative leadership committee

Other (please describe): \_\_\_\_\_

N.J. ELECTION LAW ENFORCEMENT COMMISSION

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b. If no, indicate if the above named person, committee or entity has in the past filed reports with the Commission, giving elections (i.e., 1992 general election) or calendar years, and identify filing capacity:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

c. If reports are or were filed under a different name than that appearing in 1 above, provide that name:

\_\_\_\_\_  
 \_\_\_\_\_

3. Please provide below a statement of the cognizable question of law arising under the Campaign Reporting Act, including specific citations to pertinent sections of the Campaign Reporting Act and Commission regulations (if known).

Whether a reception held by Essex County Executive James W. Treffinger at the New Jersey State League of Municipalities Conference and paid for by the Election Fund of James W. Treffinger is inconsistent with the "use or disposition of campaign funds" regulation (N.J. Admin. Code tit. 19:25-6.5).

(continued on attached sheet)

4. Please provide below a full and complete statement of all pertinent facts and contemplated activities that are the subject of the inquiry. Your statement must affirmatively state that the contemplated activities have not already been undertaken by the person, committee or entity requesting the opinion, and that the person, committee or entity has standing to seek the opinion, that is the opinion will affect the person's or committee's reporting or other requirements under the Act. (Attach additional sheets if necessary).

Statement of Facts:

Please see attached sheet

5. Please provide below a statement of the result that the person, committee, or entity seeks, and a statement of the reasoning supporting that result.

Please see attached sheet.

6. Person who is submitting request on behalf of committee or entity listed in Item 1 above:

Full Name:

Stephen Q. Corman

Mailing Address:

3 Colony Drive

North Caldwell, NJ 07006

Day Telephone No.

(973) 228-4336

Evening Telephone No.

(973) 228-4336

Fax Number:

(973) 427-2812

a. Official Capacity of Person Requesting Opinion:

Candidate

Treasurer

Organizational Treasurer

New Jersey Attorney representing requesting person, committee or entity

Other (please describe): Volunteer, District of Columbia

Attorney

7. I hereby consent to an extension of the 10-day response period provided in N.J.S.A. 19:44A-6f to a 30-day period for Commission response, which period shall start on the date of Commission receipt of the completed advisory opinion request. ~~(CROSS OUT THIS PARAGRAPH IF CONSENT IS WITHHELD)~~. up and until October 20, 1999.

8. A request for an advisory opinion will not be considered filed until a fully completed and signed application is received by the Commission.

October 8, 1999

Dated:

  
Signature

Question # 3 (continued)

The second issue is whether it is legally permissible for a state regulated Election Fund to sponsor a reception held by Essex County Executive James Treffinger at the State League of Municipalities conference when he is a filed and declared candidate for United States Senate ?

Question # 4

**STATEMENT OF FACTS**

The Election Fund of James Treffinger proposes to sponsor a reception held by Essex County Executive James Treffinger at the New Jersey State League of Municipalities conference on November 17, 1999 in Atlantic City. The Election Fund of James Treffinger also proposes to pay applicable registration and lodging costs for County Executive Treffinger at the conference.

Mr. Treffinger two weeks ago formally declared his candidacy for United States Senate.

The proposed activities described below have not been undertaken by the Election Fund of James Treffinger. The proposed reception is still in the early planning process. There have not been any funds expended on the proposed reception.

The Election Fund of James Treffinger has sufficient interest in the outcome of the advisory opinion by virtue of the fact that County Executive James Treffinger is seeking the opportunity to attend the New Jersey State League of Municipalities conference and hold a reception. If County Executive Treffinger is not permitted to utilize the Election of James Treffinger for registration at the conference and hold a



reception, he will not be able to exchange ideas on public policy with State, county and local government officials.

The advisory opinion will determine whether the Election Fund of James will be utilized for Essex County Executive James Treffinger to attend and hold a reception at the New Jersey State League of Municipalities Conference on November 17, 1999.

County Executive Treffinger intends to be fully compliant with applicable federal and state law and regulations.

The reception would be held at Atlantic City on November 17, 1999. The cost of the food would be borne by the Election Fund of Jim Treffinger.

County Executive James Treffinger would meet and greet guests at the reception. A speech by the County Executive is not anticipated.

The reception will not be a fundraiser. Donations from attendees will not be accepted under any circumstances.

No advocacy of Treffinger's candidacy for the United States Senate would be made at the reception, and no signs or other Senate campaign paraphernalia would be displayed.

County Executive Treffinger will not be conducting work on his United States Senatorial bid during the trip to Atlantic City on November 17, 1999.

The President of the New Jersey State League of Municipalities has been informed of the proposed reception.

The reception will be by invitation. Members of the public will also be permitted to attend. The invitation will be sent to conference registrants and people throughout the state.

The invitation will not mention any elective office other than the office that Essex County Executive Treffinger currently holds. The invitation will not include any type of campaign literature. The invitation will not contain any fundraising solicitation.

The printing and mailing costs for the invitation would be borne by the Election Fund of James Treffinger.

The Election Fund of James Treffinger is exclusively devoted to activities of James Treffinger in his role as Essex County Executive. The Election Fund of James Treffinger is not utilized for any other purposes or for seeking any other elective offices.

The Treasurer of the Election Fund of James Treffinger is Tom Apostolik. The address of the Election Fund of James Treffinger is PO Box 66, Verona, New Jersey, 07044.

At this juncture there have not been any funds expended on the reception. It is still in the planning stage.

QUESTION # 5

**I. THE ATTENDANCE OF ESSEX COUNTY EXECUTIVE JAMES TREFFINGER AT THE STATE LEAGUE OF MUNICIPALITIES CONFERENCE AND A PROPOSED RECEPTION HELD BY HIM ARE ORDINARY AND NECESSARY EXPENSES OF HOLDING PUBLIC OFFICE**

N.J.A.C. 19:25-6.5 provides in pertinent part that "all contributions received by a candidate, candidate committee, joint candidates committee or legislative leadership shall be used only for the following purposes: .....

The payment of ordinary and necessary expenses of holding public office, as provided in N.J.A.C. 19:25-6.7." N.J. Admin.Code tit.19:25-6.5 (1995).

The term "ordinary and necessary expenses of holding public office" as used in N.J.A.C. 19:25-6.5(a)6 means any expense that reasonably promotes or carries out the responsibilities of a person holding elective public office except that no funds received by a candidate, candidate committee, or joint candidates committee shall be used for the payment of any expenses, arising from the furnishing, staffing, or operation of an office used in connection with the officeholder's official duties as an elected public official. N.J. Admin.Code tit.19:25-6.7(a) (1995).

The New Jersey State League of Municipalities annual convention attracts Mayors of municipalities, municipal clerks, State and County officials, State and County employees, municipal council members, and staff from quasi-governmental agencies such as public authorities.

County Executive Treffinger would be meeting the Mayors, Clerks and council

members of various municipalities including, but not limited to Essex County.

Conference attendance and the reception held by County Executive Treffinger presents him with an excellent opportunity to exchange ideas on public policy at the State, County and municipal level. County Executive Treffinger benefits immeasurably by the opportunity to informally hear the experience of other State, County and local officials in the making of and implementation of policy. The informal atmosphere of a reception permits the open, uninhibited discussion of public policy issues.

The day-to-day operation demands of county government impedes the ability of County Executive Treffinger to meet with State, county and local officials on a regular basis. The reception held by County Executive Treffinger provides him with the opportunity to meet with many officials that he does not meet with on a regular basis.

A County Executive should be accessible to other government officials at the State, county and local level. The reception facilitates the accessibility of County Executive Treffinger to government personnel.

The County Executive will gain insight from reviewing state of the art exhibits offered by a significant number of State and Municipal exhibits at the convention. The agencies include but are not limited to the NJ Dept. of Labor, NJ Dept. of Environmental Protection, NJ Dept. Of Health and Senior Services, NJ Division of Taxation, NJ Economic Development Authority, NJ Redevelopment Authority, NJ Commerce and Economic Growth Commission. The entire list of State exhibitors is annexed hereto as Exhibit A. Some of the personnel that staff these exhibits are expected to attend the reception held by County Executive Treffinger. The State agency personnel will in all likelihood be discussing the nature of their exhibits and bring new ideas to County

Executive Treffinger. County Executive Treffinger will also tour the State exhibits for the purpose of ascertaining if there are more efficient methods to deliver government services.

The League of Municipalities conference sessions offer the most respected panelists from top levels of State, County and local government. These panelists are on the cutting edge of innovative public policy. Some panelists from the sessions will be invited to the reception. It is anticipated that the panelists will offer their insights into the implementation of public policy to County Executive Treffinger. The opportunity for County Executive Treffinger to meet and interact with the panelists is invaluable. For example, County Executive Treffinger would certainly benefit from interaction with panelists from the following sessions: Attracting and Retaining Business and Industry in Your Community; Closing the Property Tax Relief gap and Keeping It Closed; Winning the Race for Open Space-the key to Liveable, Affordable Communities; Health Insurance Funds; Brownfields 2000; and the Future of New Jersey's Waste Management System. The schedule of all sessions is annexed hereto as Exhibit B.

The League of Municipalities convention also has a significant number of commercial exhibits. The products offered by the vendors include but are not limited to heavy equipment, trucks, signs, markers, uniforms, insurance, health coverage, tax assessment, and financial services. Some of the vendors are expected to attend the reception held by County Executive Treffinger and will probably be anxious to point out how their products can improve the efficiency of County government.

The ideas that arise during attendance at the scheduled seminars and at the proposed reception provides County Executive Treffinger provides him with invaluable

expertise that “reasonably promotes or carries out the responsibilities of a person holding elective public office” pursuant to N.J.A.C. 19:25-6.7.

The definition of “Permissible uses of funds as ordinary and necessary expenses” of holding public office in pertinent part includes, “but not is not limited to, the following provided the costs are not paid for by the State of New Jersey, or by any political subdivision of the State: .....

Costs of dues for membership in educational organizations related to office holding duties, and costs of registration and attendance at conferences or seminars attended in connection with office holding duties. Such costs may include the reasonable expense of travel, lodging, and other subsistence expenses.” N.J. Admin.Code 19:25-6.7 (e)(1995).

County Executive Treffinger’s attendance at the New Jersey State League of Municipalities conference is unequivocally the type of conference contemplated by this provision. County Executive Treffinger’s attendance at the conference can clearly enhance his ability to operate the Essex County government in an effective and efficient manner.

**II. THE ATTENDANCE OF ESSEX COUNTY EXECUTIVE JAMES TREFFINGER AT THE STATE LEAGUE OF MUNICIPALITIES CONFERENCE AND A PROPOSED RECEPTION HELD BY HIM IS A CAMPAIGN EXPENSE IN ANY FUTURE CANDIDACY FOR ESSEX COUNTY EXECUTIVE**

N.J.A.C. 19:25-6.5 provides in pertinent part that "all contributions received by a candidate, candidate committee, joint candidates committee or legislative leadership shall be used only for the following purposes: .....

1. The payment of "campaign expenses."

Regulations of the New Jersey Election Law Enforcement Commission 19:25-6.5.

The term "campaign expenses" means any expense incurred or expenditure made by a candidate, candidate committee, joint candidates committee or legislative leadership committee from a campaign or organizational depository account for the purpose of paying for or leasing items or services used in connection with an election campaign, other than those items or services which may reasonably be considered to be for personal use of the candidate, any person associated with a candidate or any member of a legislative leadership committee. N.J. Admin.Code 19:25-6.5 (b) (1995).

It is conceivable that County Executive Treffinger will be a candidate for re-election for the Office of Essex County Executive. Term limits currently do not exist for the Office of Essex County Executive.

County Executive Treffinger's attendance at the State League of Municipalities conference and the proposed reception heightens his visibility, particularly with municipal officials located in the County of Essex. The opportunity for Essex County

Executive Treffinger to exchange ideas on public policy programs with local officials from Essex County reflects his ability to provide leadership for the entire County of Essex. Any contemplated future candidacy for the Office of Essex County Executive by James Treffinger would be advanced by the opportunity to attend workshops with local officials from Essex and greet them at an informal reception. N.J. Admin.Code 19:25-6.5(b) (1995).

WHEREFORE , The Election Fund of James Treffinger seeks an advisory opinion that holds the sponsorship of a reception held by Essex County Executive James Treffinger at the New Jersey State League of Municipalities conference is not inconsistent with N.J.A.C. 19:25-6.5 or any other applicable State law or regulations.



NJ - CASINO REINVESTMENT DEVELOPMENT AUTHORITY	1427
NJ - CENTER FOR INFORMATION AGE TECHNOLOGY	0628
NJ - COMMERCE & ECONOMIC GROWTH COMMISSION	0459
NJ - DEP - RADON PROGRAM	0854
NJ - DEPT. HEALTH/SENIOR SERVICES	0451
NJ - DEPT. LABOR - PEOSH	0716
NJ - DEPT. OF ENVIRONMENTAL PROTECTION	1152
NJ - DEPT. OF HEALTH & SENIOR SERVICES	0660
NJ - DEPT. OF HUMAN SERVICES	1931
NJ - DEPT. OF MILITARY & VETERANS AFFAIRS	1359
NJ - DEPT. OF PERSONNEL	0144
NJ - DEPT. OF TRANSPORTATION	1110
NJ - DEPTCOR	1059
NJ - DISTRIBUTION & SUPPORT SERVICES	0138
NJ - DIV. OF HIGHWAY TRAFFIC SAFETY	0654
NJ - DIV. OF PENSION & BENEFITS	1146
NJ - DIV. OF STATE LOTTERY	0136
NJ - DIV. OF TAXATION - LPT	1446
NJ - DIV. OF TAXATION - TAXPAYER SERVICES	1448
NJ - DIV. OF TAXATION - UNCLAIMED PROPERTY	1450
NJ - DIV. OF THE RATEPAYER ADVOCATE	0132
NJ - ECONOMIC DEVELOPMENT AUTHORITY	0248
NJ - GOVERNOR'S OFFICE OF VOLUNTEERISM	1347
NJ - HACKENSACK MEADOWLANDS DEVELOPMENT COM	0640
NJ - HOUSING & MORTGAGE FINANCE AGENCY	0127
NJ - KIDCARE	1510
NJ - LOCAL GOVERNMENT BUDGET REVIEW	1452
NJ - OFFICE OF INFORMATION TECHNOLOGY	0460
NJ - PELRA	1025
NJ - PURCHASE BUREAU - COOP. PURCHASING PROGRA	0130
NJ - REAL ESTATE COMMISSION	1256
NJ - REDEVELOPMENT AUTHORITY	0131
NJ - RUTGERS UNIVERSITY	0457
NJ - RUTGERS UNIVERSITY - CENTER FOR GOVERNMENT	0240
NJ - RUTGERS UNIVERSITY - GRADUATE DEPT. OF PUBLI	0124
NJ - STATE LIBRARY	1460
NJ - STATE POLICE OFFICE OF EMERGENCY MANAGEME	1355
NJ - STATE POLICE RECRUITING UNIT	1824

Advisory Opinion Request No. 05-1999  
*EXHIBIT A*

**19:25-6.7 Ordinary and necessary officeholding expenses**

(a) The term "ordinary and necessary expenses of holding public office" as used in N.J.A.C. 19:25-6.5(a)6 means any expense that reasonably promotes or carries out the responsibilities of a person holding elective public office, except that no funds received by a candidate, candidate committee, or joint candidates committee shall be used for the payment of any expense arising from the furnishing, staffing or operation of an office used in connection with the officeholder's official duties as an elected public official.

(b) – (d) omitted.

(e) Permissible uses of funds as ordinary and necessary expenses of holding public office shall include, but not be limited to, the following provided the costs are not paid for by the State of New Jersey, or by any political subdivision of the State:

1. Costs of communications to constituents, including:

- i. The production, circulation and postage of newsletters, mailings or other written materials for officeholding duties;
- ii. The sponsorship or holding of a seminar or other meeting to be attended by constituents;
- iii. The making of donations to charitable or non-profit organizations or activities that promote the welfare of constituents, such as the sponsorship of a neighborhood sports team;
- iv. The framing of honorary resolutions for constituents; and,
- v. The nominal purchase of memorial or get-well gifts, flowers, party favors, or similar items for constituents or other persons involved in the execution of the officeholder's duties.

2. Purchase of items including:

- i. A portable telephone, including a telephone in the vehicle used by the officeholder for official travel;
- ii. Signs indicating the location of the office used by the officeholder for carrying out official duties whether or not such signs are situated on the premises;
- iii. Janitorial supplies and other consumables for the office used in connection with the officeholder's official duties, and funding

of a "petty cash" account established pursuant to N.J.A.C. 19:25-6.4(b) for that purpose.

- iv. Newspapers, magazines or other periodicals used in connection with carrying out officeholding duties.
3. Costs of dues for membership in educational organizations related to officeholding duties, and costs of registration and attendance at conferences or seminars attended in connection with officeholding duties. Such costs may include the reasonable expense of travel, lodging, and other subsistence expenses.
4. Costs of travel by means other than by a vehicle as described in N.J.A.C. 19:25-6.8, Vehicle use, when such travel is undertaken in connection with the performance of duties as an elected officeholder, provided that such travel is not undertaken for any purpose resulting in a personal or financial benefit to the candidate or officeholder.



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

NATIONAL STATE BANK BLDG., 12th FLOOR  
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TRENTON, NEW JERSEY 08625-0185  
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OWEN V. McNANY, III  
CHAIRMAN

William H. Eldridge  
Vice Chairman

David Linett  
Commissioner

September 26, 1994

The Honorable Jeff Warsh  
Assemblyman, 18th Legislative District  
100 Plainfield Ave., Suite 1  
Edison, New Jersey 08817

Advisory Opinion No. 09-1994

Dear Assemblyman Warsh:

The Commission has directed me to issue this response to your request for an advisory opinion concerning permissible uses of candidate funds pursuant to the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. (hereafter, the Act).

In your letter, dated June 29, 1994, you asked whether campaign contributions which you have received could be used to pay for your costs in attending the National Conference of State Legislatures (NCSL) Annual Meeting. By letter dated June 29, 1994, the Commission advised you that it would defer a response to your request pending its implementation of new regulations on the subject of permissible uses of candidate funds. At its meeting of September 20, 1994, the Commission approved for adoption a final text of these regulations, and a copy of that text is enclosed for your reference. Further, the Commission directed me to issue this response to your inquiry.

You have asked whether campaign contributions you have received pursuant to the Act can be used to pay costs incurred by you arising out of your attendance at the NCSL annual meeting. The purpose of this meeting is principally educational, and the Annual Meeting is widely recognized as an opportunity for State legislators and other officials to meet and participate in seminars on issues of concern to state governments.

Please note the text of N.J.A.C. 19:25-6.7(e)3 (page 4 in the enclosed regulations). Pursuant to this provision, the costs of membership in educational organizations related to officeholding duties, and costs of registration and attendance at conferences in connection with officeholding duties are permissible uses of candidate funds. Also, such costs may include reasonable expenses of travel, lodging and other subsistence expenses. The

The Honorable John Gaffney  
September 26, 1994  
Page 2

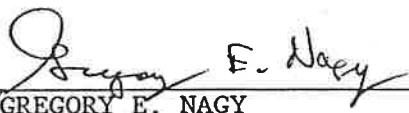
Attachment to A.O. 05-1999

Commission concludes that the NCSL Annual Meeting is related to carrying out the duties of State legislative office as to come under the provisions of the above-cited regulation. Therefore, the costs of registration and reasonable expenses of travel, lodging and other subsistence expenses are permissible uses of candidate funds provided they are not being paid for by the State, see N.J.A.C. 19:25-6.7(e).

Thank you for your inquiry, and for your patience while the regulatory process was being completed.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By:   
GREGORY E. NAGY  
Legal Director

GEN  
enclosure



*State of New Jersey*

**ELECTION LAW ENFORCEMENT COMMISSION**

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November 19, 1997

The Honorable Alex De Croce, Deputy Speaker  
New Jersey General Assembly, District 26  
101 Gibraltar Drive, Suite 2-G  
Morris Plains, New Jersey 07950

**Advisory Opinion Request No. 06-1997**

Dear Assemblyman De Croce:

The Commission has considered your request for an advisory opinion concerning permissible uses of candidate committee funds and has directed me to issue this response. Specifically, you have asked whether or not contributions received by a candidate committee you established may be used to pay expenses incurred by your spouse and children who accompanied you during your attendance at the Eastern Regional Conference of the Council of State Governments (ERC/CSG) annual meeting held in Portland, Maine from July 27 through 30, 1997.

**Submitted Facts**

By letter received on August 25, 1997, you wrote that the ERC/CSG conference is "an opportunity to bring together the largest number of state and corporate leaders from the Northeast to focus on solutions to issues of regional concern." You noted that as a member of the ERC/CSG Transportation Committee, you attended two meetings concerning transportation subjects pertinent to your officeholding duties as Chairman of the New Jersey General Assembly's Transportation and Communications Committee. Further, the Commission notes that on July 2, 1997, you filed with the Commission a designation (Form D-1) of a candidate committee for the 1997 general election under the name Election Fund of Alex De Croce. You propose to pay from the Election Fund of Alex De Croce the following expenses incurred at the conference by your spouse and two dependent children: Registration (3 x \$100) totaling \$300, and hotel expense of \$545.20.

You also wrote: "These meetings are an opportunity for my family to spend time with me while I am out of state to enhance my knowledge of key issues I must deal with in the Legislature. They are an integral part of my life and it is important to me to share my time with them as much as possible. My ability to attend the meeting was contingent on my family being able to join me."

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### Question Presented

Are the costs arising out of the attendance of an elected officeholder's spouse and dependent children at a conference the officeholder attended in carrying out the officeholder's duties "ordinary and necessary" expenses of holding office within the meaning of N.J.S.A. 19:44A-11.2a(6)?

### Response

For the reasons expressed herein, the Commission hereby advises you that the proposed use is impermissible. Although costs arising out of the attendance and participation of yourself in the ERC/CSG annual conference are permissible costs incurred in connection with your officeholding duties pursuant to N.J.A.C. 19:25-6.7(e)3 (quoted below), the Commission finds that the costs arising out of the attendance of your spouse and dependent children were not incurred in connection with your officeholding responsibilities and therefore do not constitute an "ordinary and necessary" expenses of holding elected public office within the meaning of N.J.S.A. 19:44A-11.2a(6). The result is that contributions made to the candidate committee you have established, Election Fund of Alex De Croce, may not be used to pay the costs of your spouse and children.

### Discussion

The 1993 Amendments to the Campaign Reporting Act limited the permissible uses of contributions received by a candidate committee to six specified purposes, among which was one pertinent to this request: "...the payment of ordinary and necessary expenses of holding office." See N.J.S.A. 19:44A-11.2a(6). As a result of these statutory restrictions, the Commission in 1994 promulgated regulations that provided specific examples of permissible and impermissible uses of campaign funds, see 26 N.J.R. 2753 (proposal, July 5, 1994) and 26 N.J.R. 4214 (adoption, October 17, 1994). Among these examples of permissible use was the following, set forth at N.J.A.C. 19:25-6.7(e):

3. Costs of dues for membership in educational organizations related to officeholding duties, and costs of registration and attendance at conferences or seminars attended in connection with officeholding duties. Such costs may include the reasonable expense of travel, lodging, and other subsistence expenses..."

The above-quoted regulation makes no provision for expenses incurred by family members of officeholders attending such conferences.

As noted in the Commission's letter to you dated September 16, 1997, with your consent the Commission deferred action on your request in order to seek the views of the New Jersey Legislature's Joint Committee on Ethical Standards. While it is this Commission, not the Joint Committee, that has sole jurisdiction to decide questions concerning permissible uses of campaign funds, the Commission appreciates your cooperation in extending the time provided for responding to your request so that the Commission could consult for informational purposes with the Joint Committee.

The Commission notes that you write that the presence of your family permitted you to spend time with them while attending the conference, and that your attendance was contingent on your family's presence. Nevertheless, you have not suggested that the attendance of your spouse or dependent children was necessary in order for you to carry out specific officeholding duties, such as might be the case if a spouse were a legislative aide, or otherwise were taking an active role in your participation. The Commission further notes that in the absence of such a specific purpose, expenses arising out of the attendance of an accompanying family member would not typically be reimbursable in the case of a public sector employee.

In the absence of a more specific statement of a supporting role for a spouse and family in carrying out officeholding duties, the Commission does not find a bona fide officeholding reason for payment of costs from campaign funds for their attendance, and therefore concludes that those costs do not constitute "ordinary and necessary" officeholding expenses within the meaning of the statute. Accordingly, the Commission advises that the use proposed in this request is impermissible.

Thank you for submitting this request, and for your interest in the work of the Commission.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By:   
GREGORY E. NAGY

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