



Susan Bysiewicz

LIEUTENANT GOVERNOR
STATE OF CONNECTICUT

WRITTEN COMMENTS

I hereby submit these written comments taking exception to the Proposed Declaratory Ruling 2019-02 (the "Draft Ruling") of the State of Connecticut State Elections Enforcement Commission ("SEEC").

On October 19, 2018, Ms. Caitlin Clarkson Pereira ("Pereira") filed a petition with the SEEC (the "Petition") for a declaratory ruling about whether a candidate for State office could use Citizens' Election Program ("CEP") funds for reasonable childcare costs incurred outside of the ordinary course of conduct. See Petition at 1. Pereira explained that her request was with respect to childcare costs that, specifically, "exist solely because of the campaign and are incurred solely as a result of necessary participation in campaign-related activities..." *Id.* The Draft Ruling explains that such costs cannot be paid with CEP funds and that to allow otherwise would require a change in legislation. See Draft Ruling at 6. Respectfully, I disagree with the position that, under existing legal authority, childcare costs which are the subject of Pereira's Petition are not permissible campaign expenditures for CEP candidates and I ask that the SEEC revise its Draft Ruling, accordingly.

The SEEC has already determined that childcare costs are permissible campaign expenditures when interpreting just statutory language. See Draft Ruling at 4 – 5 (describing SEEC Advisory Opinion 1976-23 that found that the cost of care for a dependent was akin to travelling expenses and, therefore, a permissible campaign expenditure and further noting that the SEEC is not retracting Advisory Opinion 1976-23 as applied to "privately raised" campaign funds). Therefore, nothing in Conn. Gen. Stat. § 9-607 (g) is persuasive in determining that childcare expenses are not qualified campaign expenditures for CEP candidates as long as they are "(1) a direct result of campaign activity which would not exist but for the candidate's campaign; (2) reasonable and customary for the services rendered; and (3) properly documented by the campaign." See Draft Ruling at 5.

In reaching the conclusion that such childcare costs are not qualified expenses for candidates participating in the CEP, the SEEC relies on its agency regulations which state:

"All funds in the depository account of the participating candidate's qualified candidate committee, including grants and other matching funds distributed from the Citizens' Election Fund, qualifying contributions and personal funds, shall be used only for campaign-related expenditures made to **directly further** the participating candidate's nomination for election or election to the office specified in the participating candidate's affidavit certifying the candidate's intent to abide by Citizens' Election Program requirements." Regs. Conn. State Agencies § 9-706-1 (a) (emphasis added); and

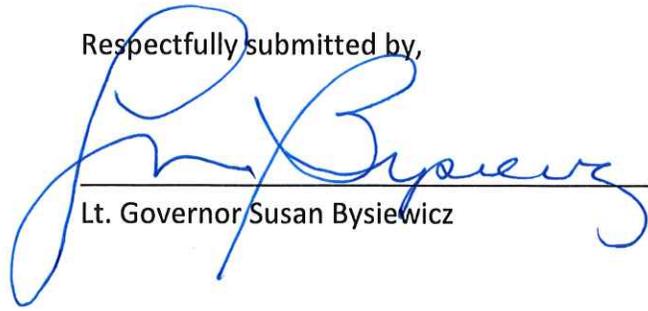
"Participating candidates and the treasurers of such participating candidates shall not spend funds in the participating candidate's depository account for the following:...

The participating candidate's personal support or expenses, such as for personal appearance or the candidate's household day-to-day food items, supplies, merchandise, mortgage, rent, utilities, clothing or attire, even if such personal items (such as the participating candidate's residence, or business suits) are used for campaign related purposes;" Regs. Conn. State Agencies § 9-706-2 (b) 2.

Necessary childcare expenses are clearly distinct from the "personal support expenses" described in Regs. Conn. State Agencies § 9-706-2 (b) 2. All of the costs mentioned in this regulation are costs that would be incurred by an individual irrespective of such person's candidacy for State office. Pereira specially describes the childcare costs at question as those which "exist solely because of the campaign and are incurred solely as a result of necessary participation in campaign-related activities" and which costs are for expenses incurred as a result of campaign "activities scheduled outside of [her] control and taking place during times when [she] would typically be [her] child's primary caregiver." See Petition at 1-2. Hence, the childcare costs Pereira describes would not exist BUT FOR the campaign and, therefore, "directly further" (in accordance with Regs. Conn. State Agencies § 9-706-1 (a)) the candidate's nomination. Further, the Draft Ruling likens these childcare costs to other costs noted in SEEC Opinion of Counsel 2018-05 that have been determined to not qualify as campaign expenses under CEP, such as a portion of a personal cell phone bill, clothing, tire replacement and a voluntary trip to Amsterdam. I disagree that that these costs are in any way similar to childcare costs that are incurred solely as a result of the campaign (which costs are distinct from cell phone, clothing and tire wear expenses that will be incurred irrespective of the campaign) and which are not voluntary (which is distinct from a trip to Amsterdam to support a candidate's platform). More persuasively, and as acknowledged in the Draft Ruling, the SEEC has already reasoned that "freeing a candidate to travel by paying for his or her childcare [is] as necessary as procuring a bus ticket or renting a car since 'if such care were not purchased, the candidate, presumably, would not be able to travel to attend whatever campaign functions were required, as surely as if the candidate could not purchase a ticket on public transportation.'" See Draft Ruling at 4 (describing and, in part, quoting SEEC Advisory Opinion 1976-23). Consistent with this analysis, childcare costs that are necessary for participation in campaign events are more akin to travel and mileage expenses which are explicitly permissible under Conn. State Agencies § 9-706-2 (a) 9 and 10, respectively.

Given all of the foregoing, I ask that the SEEC reconsider its current interpretation of the law with respect to necessary childcare expenses. While I am prepared to advocate for legislative changes, the SEEC has sufficient legal authority to determine that such expenses are permissible from the CEP fund under the existing statutes and regulations and such determination would be consistent with prior rulings of the SEEC.

Respectfully submitted by,



A handwritten signature in blue ink, appearing to read 'Susan Bysiewicz', is written over a horizontal line. The signature is fluid and cursive, with a large initial 'S' and 'B'.

Lt. Governor Susan Bysiewicz