

# Senate Ethics Committee

SEAN M. BENNETT  
CHAIRMAN



J. J. GENTRY  
COUNSEL

STEPHANIE MOOD  
EXECUTIVE ASSISTANT

205 GRESSETTE BUILDING  
P.O. BOX 142  
COLUMBIA, SOUTH CAROLINA 29202  
(803) 212-6410  
SETHICSComm@SCSENATE.GOV

## ADVISORY OPINION 2024-1

**DATE:** December 12, 2024

**SUBJECT:** FINAL DISBURSEMENT OF CAMPAIGN ACCOUNTS AND DONOR ADVISED FUNDS

### **SUMMARY:**

A candidate upon final disbursement of a campaign account may contribute campaign funds to a donor advised fund, if the sponsoring organization of the fund is exempt from tax under Section 501(c)(3) of the Internal Revenue Code. The candidate shall take certain measures to ensure that the fund is not for personal use. Additionally, the candidate shall provide the Senate Ethics Committee with a letter from the sponsoring organization acknowledging establishment of the fund.

### **QUESTION:**

May a candidate upon final disbursement of a campaign account contribute campaign funds to a donor advised fund?

### **DISCUSSION:**

South Carolina Code Section 8-13-1370 provides the requirements for final disbursement of a campaign account.

South Carolina Section 8-13-1370(A) provides:

“(A) Contributions received by a candidate that are in excess of expenditures during an election cycle must be used by the candidate upon final disbursement:

- (1) to defray ordinary and necessary expenses incurred in connection with his duties in his public office;
- (2) to be contributed to an organization exempt from tax under Section 501(c)(3) of the Internal Revenue Code of 1986, a political party, or a committee;
- (3) to be maintained in the campaign account for a subsequent race for the same elective office;
- (4) to further the candidacy of the individual for a different elective office only as provided for in Section 8-13-1352;
- (5) to be returned pro rata to all contributors;
- (6) to be contributed to the State's general fund; or

(7) to be distributed using a combination of these options.”

Subitem (2) allows a candidate upon final disbursement of a campaign account to contribute campaign funds to an organization exempt from tax under Section 501(c)(3) of the Internal Revenue Code. According to the Internal Revenue Service, generally, a donor advised fund is a separately identified fund that is maintained and operated by a Section 501(c)(3) organization, called a sponsoring organization. Each account is composed of contributions made by individual donors. Once the donor makes the contribution, the sponsoring organization has legal control over the funds. However, the donor, or the donor’s representative, retains advisory privileges with respect to the distribution of funds to charities and the investment of assets in the account. Pursuant to Subitem (2), a candidate upon final disbursement of a campaign account may contribute campaign funds to a sponsoring organization exempt from tax under Section 501(c)(3) of the Internal Revenue Code for purposes of establishing a donor advised fund. If a sponsoring organization is not exempt from tax under 501(c)(3) of the Internal Revenue Code, a candidate shall not contribute campaign funds to the organization.

Section 8-13-1370(B) also provides, “No candidate may expend contributions for personal use.” Therefore, a candidate who contributes campaign funds to a sponsoring organization shall take certain measures to ensure that the donor advised fund is not for personal use. First, the candidate shall not contribute campaign funds to the candidate’s personal donor advised fund. Second, the candidate shall establish a distinct donor advised fund in the name of the campaign. Third, the candidate shall not receive a personal tax benefit from the donor advised fund. Fourth, the candidate shall not receive funds from the donor advised fund.

Additionally, the candidate shall provide the Senate Ethics Committee with a letter from the sponsoring organization acknowledging that the organization is exempt from tax under 501(c)(3) of the Internal Revenue Code, the name of the campaign donor advised fund, the date the fund was established, and the amount and date of the contribution to the fund. The Committee will maintain the letter in the candidate’s file.

**CONCLUSION:**

A candidate upon final disbursement of a campaign account may contribute campaign funds to a donor advised fund, if the sponsoring organization of the fund is exempt from tax under Section 501(c)(3) of the Internal Revenue Code. The candidate shall take certain measures to ensure that the fund is not for personal use. Additionally, the candidate shall provide the Senate Ethics Committee with a letter from the sponsoring organization acknowledging establishment of the fund.