

COMMISSIONER OF
POLITICAL PRACTICES



STATE OF MONTANA

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December 8, 2014

K. Virginia ("Ginger") Aldrich
Legislative Attorney
Montana State Legislature

COPP-2014-AO-018

Re: Use of Constituent Accounts to Pay
legislative aides

Via: email (Aldrich, Ginger KVAlldrich@mt.gov)

Dear Ms. Aldrich:

I write in response to your email, dated December 5, 2014, requesting an advisory opinion on the constituent services issue set out below. This letter constitutes that advisory opinion.

Issue Posed

You request an advisory opinion listing activities or areas of activities routinely undertaken by a legislative aide that could and could not be paid for out of a legislator's constituent¹ services account.²

¹ "Constituent" means an individual who resides in, is employed in, provides goods or services in, attends school in, or has an ownership interest in a property or a business in the district or geographic area represented by an eligible elected official", Mont. R. Admin. 44.10.536(2).

² A Constituent Services account is established from surplus campaign funds at the end of an election cycle. An account can only be established once an elected official files a closing report with the COPP, Mont. Code Ann. § 13-37-240. If an elected official still has a campaign account open to raise money and/or pay for election expenses, they are prohibited from establishing a constituency services account until such time as they are able to file a closing report with the COPP

ADVISORY OPINION

Yes, a legislative aide may, under the limited circumstances set out below, be paid from a constituent service account. Montana law (at 44.10.540 ARM) lists the “authorized expenditures” from a constituent services account. Those authorized constituent services expenditures include “compensation paid to an individual, other an eligible elected official or member of an eligible elected official’s immediate family”, Mont. R. Admin. 44.10.540(1)(f).

Because the “authorized expenditures” are itemized and listed, care must be taken to keep any such expenditures squarely within an authorized expenditure area. Thus, a legislative aide can be paid only for providing services to a constituent.³ The Legislator must maintain a detailed log or documentation showing how the work for which the legislative aide was paid specifically benefited at least one specific constituent. 44.10.542(4)(b) ARM. Examples of constituent services work are correspondence with a constituent, attending a constituent event as the elected official’s representative⁴, or assisting in writing constituent newsletters, press releases and other communication. As long as the Legislator can point to at least one specific constituent that the action of the legislative aide supported, then the payment for that portion of their work would be allowed from the Legislator’s constituent services account. 44.10.542(4)(b) ARM.

In contrast, it would not be an appropriate or allowed use of constituent services funds to pay a legislative aide for personal assistant or general administrative aid services. Such non-constituent duties include keeping the Legislator’s schedule, filing non-constituent mail or running general errands. Such duties fall outside of the specifically authorized “constituent services” and cannot be properly compensated as a constituent service from a constituent services account.

LIMITATIONS ON ADVISORY OPINION

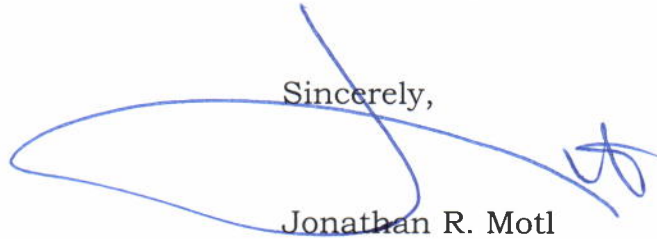
This letter is an advisory opinion based on the specific written facts and questions as presented above. This advisory opinion may be superseded, amended, or overruled by subsequent opinions or decisions of the Commissioner of Political Practices or changes in applicable statutes or rules. This advisory opinion is not a waiver of any power or authority the Commissioner of Political Practices has to investigate and prosecute alleged

³ See FN 1.

⁴ The Legislative Aide or Eligible Elected Official is prohibited from using the constituency account funds to pay for the “travel, lodging, meals, entertainment or other expenses” relating to any event held by a political party, PAC, candidate, etc. *see e.g.* Mont. R. Admin 44-10-540(6)(d-f).

violations of the Montana laws and rules over which the Commissioner has jurisdiction, including alleged violations involving all or some of the matters discussed above.

Sincerely,

A handwritten signature in blue ink, consisting of a large, sweeping loop followed by a smaller, more complex scribble.

Jonathan R. Motl

Commissioner of Political Practices