January 13, 2026

Senator Liz Larson
South Dakota State Senator
500 E. Capitol Ave.
Pierre, SD 57501
Via email: liz.larson@sdlegislature.gov

OFFICIAL OPINION 26-01

Re: Official Opinion Concerning Campaign Expenditures for Childcare and Security Expenses

Dear Senator Larson,

In your capacity as a South Dakota Senator, you have requested an official opinion from the Attorney General on the following question:

QUESTION:

> Are childcare expenses and security expenses, incurred as a direct result of campaign activity and/or holding public office, permissible expenditures of candidate campaign committee contributions?

ANSWER:

> South Dakota statutes do not explicitly permit or forbid candidates from using campaign committee contributions for childcare or security expenses.

FACTS:

Current South Dakota law requires that candidates for public office abide by specific guidelines related to contributions to political campaigns. Candidates must maintain detailed records of all expenditures through campaign finance disclosure statements, and all expenditures must be itemized by specific expense categories. SDCL 12-27-24. There are limitations on the use of campaign committee contributions. SDCL 12-27-50. However, as you stated in your request, it is unclear whether childcare or security expenses incurred as a direct result of candidacy or public office are considered permissible expenditures of campaign contribution funds.

***IN RE* QUESTION:**

Current law requires that contributions received by a candidate's campaign committee can be used only for:

(1) A purpose related to a candidate's campaign;
(2) Expenses incident to being a public official or former public official; or
(3) Donations to any other candidate, political committee, or nonprofit charitable organization.

SDCL 12-27-50. When reviewing statutes, we must "assume statutes mean what they say and that legislators have said what they meant." *Farm Bureau Life Ins. v. Dolly*, 2018 S.D. 28, ¶ 9, 910 N.W.2d 196, 199–200 (quoting *In re Petition of Famous Brands, Inc.*, 347 N.W.2d 882, 885 (S.D. 1984)). "When interpreting a statute, we begin with the plain language and structure of the statute." *Magellan Pipeline Co. v. S.D. Dep't of Revenue & Reg.*, 2013 S.D. 68, ¶ 9, 837 N.W.2d 402, 404. "When the language in a statute is clear, certain and unambiguous, there is no reason for construction, and the Court's only function is to declare the meaning of the statute as clearly expressed." *Moss v. Guttormson*, 1996 S.D. 76, ¶ 10, 551 N.W.2d 14, 17 (citations omitted).

The phrases "[a] purpose related to a candidate's campaign" and "incident to being a public official" are clear and unambiguous, but broad descriptions. Based on my research, it appears the exclusion of specific categories, such as advertising and mailings, in SDCL 12-27-50 was intentional. When it was initially introduced to the Legislature as 2017 Senate Bill 54, the bill's proponent stated they did not want to put specific expense categories in the statute for fear of possibly excluding a

category that should be considered permissible.[1] The result, however, is the issue you have now raised—the inability to know whether an expense which could be considered either campaign-related or personal is permitted or not.

South Dakota is in the majority of states that don't specifically permit childcare and security expenses as allowable campaign expenses. Our statutes, like those of our neighbors in Iowa, Nebraska, and North Dakota, do not specifically allow or forbid childcare or security expenses, so there is ambiguity on whether these expenses are permissible. Some jurisdictions, in contrast, have defined permissible expenditures with specificity. For example, as you correctly noted in your request, the Federal Election Commission explicitly permits candidates for federal office to use campaign contributions for childcare expenses incurred during the candidate's political campaign. As of the date of this letter, fifteen states have enacted similar laws. These states, including our neighbors Minnesota and Montana, permit a candidate to use campaign funds to pay reasonable and necessary childcare or dependent care expenses incurred because of the campaign. *See* Ark. Stat. Ann. § 7-6-203; Cal. Govt. Code § 89513; Colo. Rev. Stat. § 1-45-103.7; Conn. Gen. Stat. §§ 9-601, 9-607; Del. Code Ann. tit. 15, § 8020; Hawaii Rev. Stat. § 11-381; Ill. Rev. Stat. ch. 10, § 5/9-8.10;[2] Minn. Stat. § 10A.01; Mont. Code Ann. § 13-1-101; N.H. Rev. Stat. Ann. § 334:2; N.J. Rev. Stat. § 19:44A-11.2; N.Y. Election Law § 14-130; R.I. Gen. Laws § 17-25-7.2; Utah Code Ann. § 17-16-202; and Wash. Rev. Code § 42.17A.445. A smaller number of states explicitly let candidates pay for security costs with their campaign funds. *See* Cal. Govt. Code § 89517.5; La. R.S. § 18:1505.2; Minn. Stat. § 10A.01.[3]

When considering whether these are permissible expenditures, the key question is whether such expenses are considered a personal benefit or for personal use. Of course, "[a] candidate should not use or permit the use of campaign contributions for the benefit of himself or members of his family." *Matter of Discipline of Hopewell*, 507 N.W.2d 911, 915 (S.D. 1993). It is possible that a trier of fact could determine that childcare expenses are not for a political purpose related to the candidate's

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[1] *See* Senate hearing testimony at 1:07:20, available at https://sdpb.sd.gov/sdpbpodcast/2017/sst21.mp3#t=1620 (last visited December 29, 2025).

[2] Amended December 12, 2025, by Illinois House Bill 576. The amendments do not modify the provision permitting a candidate to use campaign funds to pay for necessary childcare expenses.

[3] Amended effective January 1, 2026, but the amendments do not modify the provision permitting a candidate to use campaign funds to pay for security for the candidate or the candidate's immediate family.

campaign. Similarly, they could determine that personal security detail are not related to the candidate's responsibilities as a public officeholder. Thus, these expenses would likely be considered a personal benefit and therefore prohibited.

On the other hand, a reasonable trier of fact could determine that childcare and security expenses incurred as a direct result of campaign activity may be considered a "purpose related to a candidate's campaign." SDCL 12-27-50(1). Similarly, they could be considered "expenses incident to being a public official." SDCL 12-27-50(2).

States with similar statutes that do not specifically grant permission for childcare and security expenses may prohibit the use of campaign committee contributions for these expenses, treating such as impermissible personal expenses rather than legitimate campaign or official duties expenditures. The critical distinction across jurisdictions appears to be whether the expense would exist "irrespective of" or "but for" the campaign or officeholder duties. Childcare payments, specifically, are considered impermissible personal expenses unless directly tied to campaign-related activities or officeholder duties, thus qualifying as prohibited personal use of campaign contributions. Courts uniformly emphasize the necessity of maintaining public confidence in the proper use of political contributions. So, while some jurisdictions consider these expenses nonpersonal if directly connected to campaign activity, the prevailing view requires a clear campaign or officeholder nexus to avoid classification as an impermissible personal expense.

In summary, SDCL 12-27-50 does not explicitly address or list these as allowable expenses. Thus, absent further legislative guidance, I conclude that childcare and security expenses directly incurred as a result of campaign activity or holding public office, which would not exist but for the campaign or officeholder duties, would likely be considered permissible expenditures so long as there is a clear nexus to the campaign or office and are not for personal benefit.

CONCLUSION

In my opinion and based on the plain reading of the statute, there is ambiguity on whether childcare and security expenses directly incurred as a result of campaign activity or holding public office are considered permissible expenditures, or whether they are a personal benefit and thus prohibited. Based on my research, childcare and security expenses directly incurred as a result of campaign activity or holding public office, which would not exist but for the campaign or officeholder duties, would be considered permissible expenditures so long as there is a clear nexus to the campaign or office and are not for personal benefit. The Legislature has the

power to create and revise statutes and has the duty to clarify the relevant statutes if desired.

Sincerely,

Marty J. Jackley
ATTORNEY GENERAL

MJJ/SLT/dd