

Advisory Opinion 2023-1

Response to a Request for an Advisory Opinion from Representative Jordan G. Ulery (May 26, 2023)

Pursuant to RSA 14-B:3, I(c), Representative Jordan G. Ulery requested an advisory opinion. He inquired whether, consistent with applicable statutes and the Ethics Guidelines, he could solicit funds directly from lobbyist groups to go into a scholarship fund to help pay for NH legislators to attend various events offered by the American Legislative Exchange Council (ALEC). He stated that he is a member of the NH chapter of ALEC and that ALEC is “an IRS qualified charity not-for-profit” organization.

He described his proposed conduct as follows: “We have set-up the NH Scholarship Fund as a blind trust type so that no Member of NH ALEC knows who has made contributions, only what funds are available for distribution. Distribution requests are made to ALEC in VA and then approved or disapproved by the Co-Chairs in NH and the reimbursement is issued from VA. Approval is based upon actual attendance at the events and participation based upon attendance at the task forces (committees) assigned to the Member. No Member of NH ALEC handles funds in any fashion (does not receive solicited funds nor deposit solicited funds, other than to authorize disbursement). ... All we are looking to do is be able to ask others to make a contribution to the scholarship fund, not to individual legislators. Proceeds from the program would go only to the Scholarship Fund.”

RSA 14-C:3 III (a) provides that it “shall be unlawful for any legislator or legislative employee to solicit or to knowingly accept, directly or indirectly, any gift, as defined in this chapter, or to fail to meet the reporting requirements of this chapter.” Additionally, Ethics Guidelines Section 3, Prohibited Activities, Paragraph II (b), provides that “Legislators shall not solicit, accept, or agree to accept anything of value from another for themselves or other persons, if the legislator receives such thing of value: **** (b) Knowing or believing that the giver is or is likely to become subject to or interested in any matter or action pending before or contemplated by the legislator or the General Court.”

In *Advisory Opinion 2012-3*, the Committee previously advised:

...we are concerned that direct solicitation and receipt by legislators of cash contributions for the proposed event, from any source, would violate the prohibitions set forth in RSA 14-C:3 and Ethics Guidelines Section 3, II(b). We have previously approved of legislators organizing and promoting legislature-related events and activities, so long as there is no direct solicitation or receipt of cash by legislators, and the contributions are directed to charitable organizations which sponsor the event. See *Advisory Opinions 2008-2* (White-Blaisdell Golf Tournament) and *2009-3* (Concord Hospital-Payson Center Rock 'n' Race). (Emphasis supplied.)

We advise as follows:

The Committee determined that the facts presented in his request are substantially the same as the facts presented in *Advisory Opinion 2012-3* and the prior opinions cited therein. Accordingly, we advise that direct solicitation of contributions from lobbyists for a scholarship fund to help pay for NH legislators to attend various events offered by ALEC would violate the prohibitions set forth in RSA 14-C:3 and Ethics Guidelines Section 3, II(b).

We appreciate the opportunity to be of assistance.

Honorable Edward M. Gordon, Esq., Chairman
Honorable Donna Sytek, Vice Chairman
Senator Cindy Rosenwald (Not present and did not participate.)
Senator Ruth Ward
Representative Janet G. Wall
Representative Bob Lynn (Recused and did not participate.)
Honorable David W. Hess

For the Committee,
Edward M. Gordon, Esq.
Chairman

[Vote: 5-0]