



FEDERAL ELECTION COMMISSION
Washington, DC 20463

February 11, 2016

CERTIFIED MAIL
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ADVISORY OPINION 2015-14

Marc E. Elias, Esq.
Jacquelyn K. Lopez, Esq.
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Suite 600
Washington, DC 20005-3960

Dear Mr. Elias and Ms. Lopez:

We are responding to your advisory opinion request on behalf of Hillary for America (the “Committee” or “requestor”) concerning the application of the Federal Election Campaign Act, 52 U.S.C. §§ 30101-46 (the “Act”), and Commission regulations to DePauw University’s (“DePauw”) provision of a stipend and academic credit to a student who interned for the Committee. The Commission concludes that the provision of a stipend and academic credit is permissible under the Act and Commission regulations.

Background

The facts presented in this advisory opinion are based on your correspondences dated October 29, 2015, December 15, 2015, and January 21, 2016.

DePauw is an accredited institution of higher learning holding tax-exempt status under 26 U.S.C. § 501(c)(3). Advisory Opinion Request (“AOR”) at AOR002. DePauw administers two programs that help students gain practical experience to supplement their academic studies. First, the Hubbard Center Summer Internship Grant Program (“Grant Program”) provides stipends to students who accept unpaid internships in non-profits, government, or start-ups. AOR003. The Grant Program “exists to help students with summer internship experiences.” AOR025. Stipends are awarded for the purpose of supporting “basic travel and subsistence expenses” of its students. AOR003. The purpose of the Grant Program stipend is not to pay students for the work they perform, but to “offset the basic living expenses that will be incurred during the period spent interning.” *Id.*

Under the Grant Program, any DePauw student may apply for a stipend of up to \$3,000 by securing a summer internship and submitting a written application and detailed budget to the Hubbard Center, the department that administers the program. The Hubbard Center makes an individualized determination to grant or deny each student's application based on a rubric that weighs how well the internship "relate[s] and connect[s] to [the student's] academic, personal, and professional goals." AOR003; AOR019-021. Participants in the Grant Program are required to be current students of the University, and are required to return to the University the following fall. AOR026.

DePauw requires all students to complete two "Extended Studies" experiences. AOR004. The purpose of the requirement is to ensure students can "intensely focus on a particular topic, problem, or skill-set, which enhances their liberal arts education." *Id.* (citation omitted). Some students fulfill these credits through summer internships. During their internship experience, students are expected to "establish and maintain a blog (with weekly entry requirements) and [to] participate in a summer internship information symposium during fall term." AOR014.

Victoria Houghtalen is a current DePauw student. AOR004. In the spring of 2015, Ms. Houghtalen was offered an unpaid internship with the requestor, the principal campaign committee for presidential candidate Hillary Clinton, for eight weeks during the summer of 2015. Upon receiving the offer, Ms. Houghtalen applied for a stipend through the Grant Program. Her application projected a summer subsistence budget of \$4,735. The Hubbard Center reviewed the application and awarded her a \$3,000 stipend for her eight-week internship. *Id.* Ms. Houghtalen also applied to DePauw to receive Extended Studies academic credit, which DePauw granted. *Id.* Ms. Houghtalen subsequently accepted the offered internship. *Id.* The Committee asks if a stipend or academic credit awarded to Ms. Houghtalen by DePauw would constitute a corporate contribution.

Questions Presented

- (1) *May DePauw, a 501(c)(3) corporation, provide Ms. Houghtalen Extended Studies credit for the requestor's Internship Program without a contribution to the requestor resulting?*
- (2) *May DePauw provide Ms. Houghtalen a stipend without a contribution to the requestor resulting?*

Legal Analysis and Conclusions

- (1) *May DePauw, a 501(c)(3) corporation, provide Ms. Houghtalen Extended Studies credit for the requestor's Internship Program without a contribution to the requestor resulting?*

Yes, DePauw's award of Extended Studies credit does not constitute a contribution to requestor. The Commission has long recognized that college credit received for work on political campaigns is not compensation under the Act, so long as the program is administered in a non-partisan manner and in a manner consistent with accepted accreditation standards

generally applicable to institutions of higher education. *See* Advisory Opinion 1975-100 (Moss); Factual and Legal Analysis at 7, MUR 6620 (Friends of Brian Woodworth) (July 2, 2013). Because DePauw operates in a non-partisan manner, AOR at AOR006, and because the Commission has no reason to doubt that its credit-awarding practices meet generally accepted standards, awarding college credit in this circumstance would not constitute compensation to Ms. Houghtalen within the meaning of the Act. *See* Advisory Opinion 1975-100 (Moss).

(2) *May DePauw provide Ms. Houghtalen a stipend without a contribution to the requestor resulting?*

Yes, DePauw's award of a stipend does not constitute a contribution to the requestor because the stipends here are provided to students for *bona fide* educational objectives and not for the provision of personal services to federal campaigns.¹

The Act and Commission regulations prohibit a corporation from making any contribution to a candidate in connection with a federal election. 52 U.S.C. § 30118(a), (b)(2); *see also* 11 C.F.R. § 114.2(b). This includes "the payment by any person of *compensation for the personal services* of another person which are rendered to a political committee without charge for any purpose." 52 U.S.C. § 30101(8)(A)(ii); 11 C.F.R. § 100.54 (emphasis added).

Here, the student "assisted the [c]ampaign with the preparation of its July quarterly FEC Report, while also spending a significant amount of time engaged in a range of other substantive work pursuant to her interests," including "helping with [the requestor]'s vetting," among other activities. AOR at AOR005. Such "substantive work," AOR005, provides a service to the committee, and accordingly the Committee received the benefit of Ms. Houghtalen's "personal services" for purposes of 52 U.S.C. § 30101(8)(A)(ii) and 11 C.F.R. § 100.54, while her work on legal and accounting compliance is exempt.²

However, just because DePauw offered to compensate Ms. Houghtalen for her travel and subsistence expenses and the Committee received Ms. Houghtalen's personal services does not mean that DePauw's stipend would be compensation *for* the provision of these personal services to the Committee under the Act.

Here, the bases on which DePauw grants stipends establish that the stipend does not constitute compensation *for* personal services within the meaning of the Act. First, DePauw's Grant Program is clearly administered "for the *sole purpose of assisting [students] with an educational experience*," Hillary for America, Comment at 2, (Dec. 16, 2016) (emphasis in original), and "is administered for a general educational purpose." *Id.* DePauw is an accredited institution of higher learning holding tax-exempt status under 26 U.S.C. § 501(c)(3). All

¹ The requestor raises five discrete questions, with four addressing the provision of a stipend. *See* AOR005. The Commission has consolidated these four questions into the broader question of whether DePauw may provide the stipend. Because the Commission answers Question 2 in the affirmative, these remaining questions regarding the stipend are moot.

² Legal and accounting compliance services are specifically exempted from being recognized as "personal services" treated as a contribution. 52 U.S.C. § 30101(8)(B)(viii).

students are required to complete two Extended Studies experiences to graduate. All students who “accept unpaid internships in non-profit, government or start up environments” are eligible to apply to the Grant Program for stipends. AOR003. The Grant Program reviews each student application “to assess the educational benefit of the internship” and to determine “whether the proposed internship will provide an in-depth experience that is focused on the individual student’s learning objectives and interests.” *Id.*; *see also* AOR014. Both the Extended Studies Program and the Grant Program are conducted in a non-partisan manner and not for the purpose of advancing political goals.

Furthermore, the stipends “provide basic financial support to students who accept unpaid internships in a non-profit, government, or start-up environment that might otherwise be cost prohibitive to the student.” AOR003. Students must show that the internship “relate[s] and connect[s] to [the student’s] academic, personal, and professional goals.” *Id.* The fact that the \$3,000 stipend awarded to Ms. Houghtalen was less than her budgeted travel and subsistence expenses for her summer internship (\$4,735) supports requestor’s assertion that the purpose of the stipend is “solely to provide students with financial support for the basic travel and subsistence expenses incurred during the internship experience, not to compensate them for services provided to the organization for whom they intern.” *Id.* Whether a subsistence stipend is awarded to a student, and the amount awarded, does not depend on the entity in which the intern is placed, the number of hours the students work, or the economic value of the work performed. Rather, the stipend is based on the demonstrated financial expenses of the student to complete a *bona fide* educational objective — and even then, as in Ms. Houghtalen’s case, the stipend may not fulfill the student’s entire subsistence need.

These facts establish that the Grant Program stipends are provided to students for *bona fide* educational objectives, not for the provision of personal services to federal campaigns. Allowing Ms. Houghtalen to accept the stipend simply puts her on even footing with fellow students engaging in internships with organizations other than political committees.

Therefore, under the circumstances presented here, DePauw University’s stipend to Ms. Houghtalen is not compensation for personal services provided by Ms. Houghtalen to the Committee and is not a contribution under 52 U.S.C. § 30101(8)(A)(ii). Thus, DePauw’s payment of the stipend would not result in an impermissible corporate contribution to the Committee.

This response constitutes an advisory opinion concerning the application of the Act and Commission regulations to the specific transaction or activity set forth in your request. *See* 52 U.S.C. § 30108. The Commission emphasizes that, if there is a change in any of the facts or assumptions presented, and such facts or assumptions are material to a conclusion presented in this advisory opinion, then the requestor may not rely on that conclusion as support for its proposed activity. Any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which this advisory opinion is rendered may rely on this advisory opinion. *See* 52 U.S.C. § 30108(c)(1)(B). Please note that the analysis or conclusions in this advisory opinion may be affected by subsequent developments in the law including, but not limited to, statutes, regulations, advisory opinions, and case law. This opinion expresses no opinion regarding the

Internal Revenue Code or any other state or federal law. Any advisory opinions cited herein are available on the Commission's website.

On behalf of the Commission,

A handwritten signature in blue ink, appearing to read "Matthew S. Petersen", with a long horizontal flourish extending to the right.

Matthew S. Petersen
Chairman