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**AGENDA DOCUMENT NO. 15-69-E**  
**AGENDA ITEM**  
**For meeting of February 11, 2016**  
**SUBMITTED LATE**

February 11, 2016

**MEMORANDUM**

TO: The Commission

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Subject: AO 2015-14 (Hillary for America II) Draft E

Attached is a proposed draft of the subject advisory opinion.

For more information about how to submit comments or attend the Commission meeting, go to <http://www.fec.gov/law/draftaos.shtml>.

Attachment

10 Dear Mr. Elias and Ms. Lopez:

11 We are responding to your advisory opinion request on behalf of Hillary for America (the

12 “Committee” or “requestor”) concerning the application of the Federal Election Campaign Act,

13 52 U.S.C. §§ 30101-46 (the “Act”), and Commission regulations to DePauw University’s

14 (“DePauw”) provision of a stipend and academic credit to a student who interned for the

15 Committee. The Commission concludes that the provision of a stipend and academic credit is

16 permissible under the Act and Commission regulations.

17 ***Background***

18 The facts presented in this advisory opinion are based on your correspondence dated

19 October 29, 2015, December 15, 2015, and January 12, 2016.

20 DePauw is an accredited institution of higher learning holding tax-exempt status under 26

21 U.S.C. § 501(c)(3). Advisory Opinion Request (“AOR”) at AOR002. DePauw administers two

22 programs that help students gain practical experience to supplement their academic studies.

23 First, the Hubbard Center Summer Internship Grant Program (“Grant Program”) provides

24 stipends to students who accept unpaid internships in non-profits, government, or start-ups. *Id.*

25 at AOR003. The Grant Program “exists to help students with summer internship experiences.”

26 *Id.* at AOR025. Stipends are awarded for the purpose of supporting “basic travel and subsistence

27 expenses” of its students. *Id.* at AOR003. The purpose of the Grant Program stipend is not to

1 pay students for the work they perform, but to “offset the basic living expenses that will be  
2 incurred during the period spent interning.” *Id.*

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

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

18 Victoria Houghtalen is a current DePauw student. *Id.* at AOR004. In the spring of 2015,  
19 Ms. Houghtalen was offered an unpaid internship with the requestor, the principal campaign  
20 committee for presidential candidate Hillary Clinton, for eight weeks during the summer of  
21 2015. Upon receiving the offer, Ms. Houghtalen applied for a stipend through the Grant  
22 Program. Her application projected a summer subsistence budget of \$4,735. The Hubbard  
23 Center reviewed the application and awarded her a \$3,000 stipend for her eight-week internship.

1 *Id.* Ms. Houghtalen also applied to DePauw to receive Extended Studies academic credit, which  
2 DePauw granted. *Id.* Ms. Houghtalen subsequently accepted the offered internship. *Id.* The  
3 Committee asks if a stipend or academic credit awarded to Ms. Houghtalen by DePauw would  
4 constitute a corporate contribution.

5 ***Questions Presented***

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

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

10 ***Legal Analysis and Conclusions***

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

13 Yes, DePauw's award of Extended Studies credit does not constitute a contribution to  
14 requestor. The Commission has long recognized that college credit received for work on  
15 political campaigns is not compensation under the Act, so long as the program is administered in  
16 a non-partisan manner and in a manner consistent with accepted accreditation standards  
17 generally applicable to institutions of higher education. *See* Advisory Opinion 1975-100 (Moss);  
18 Factual and Legal Analysis at 7, MUR 6620 (Friends of Brian Woodworth) (July 2, 2013).  
19 Because DePauw operates in a non-partisan manner, AOR at AOR006, and because the  
20 Commission has no reason to doubt that its credit-awarding practices meet generally accepted  
21 standards, awarding college credit in this circumstance would not constitute compensation to Ms.  
22 Houghtalen within the meaning of the Act. *See* Advisory Opinion 1975-100 (Moss).

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

3 Yes, DePauw’s award of a stipend does not constitute a contribution to Requestor  
4 because the stipends here are provided to students for *bona fide* educational objectives and not  
5 for the provision of personal services to federal campaigns.<sup>1</sup>

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

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

18 However, just because DePauw offered to compensate Ms. Houghtalen for her travel and  
19 subsistence expenses and the Committee received Ms. Houghtalen’s personal services does not

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<sup>1</sup> 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 1 in the affirmative, these remaining questions regarding the stipend are moot.

<sup>2</sup> 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).

1 mean that DePauw's stipend would be compensation *for* the provision of these personal services  
2 to the Committee under the Act.

3 Here, the bases on which DePauw grants stipends establish that the stipend does not  
4 constitute compensation *for* personal services within the meaning of the Act. First, DePauw's  
5 Grant Program is clearly administered "for the *sole purpose of assisting [students] with an*  
6 *educational experience*," Requestor Supp. Ltr. at 2 (Dec. 16, 2016) (emphasis in original), and  
7 "is administered for a general educational purpose." *Id.* DePauw is an accredited institution of  
8 higher learning holding tax-exempt status under 26 U.S.C. § 501(c)(3). All students are required  
9 to complete two Extended Studies experiences to graduate. All students who "accept unpaid  
10 internships in non-profit, government or start up environments" are eligible to apply to the Grant  
11 Program for stipends. AOR at AOR003. The Grant Program reviews each student application  
12 "to assess the educational benefit of the internship" and to determine "whether the proposed  
13 internship will provide an in-depth experience that is focused on the individual student's learning  
14 objectives and interests." *Id.* at AOR003, AOR014. Both the Extended Studies Program and the  
15 Grant Program are conducted in a non-partisan manner and not for the purpose of advancing  
16 political goals.

17 Furthermore, the stipends "provide basic financial support to students who accept unpaid  
18 internships in a non-profit, government, or start-up environment that might otherwise be cost  
19 prohibitive to the student." AOR at AOR003. Students must show that the internship "relate[s]  
20 and connect[s] to [the student's] academic, personal, and professional goals." *Id.* The fact that  
21 the \$3,000 stipend awarded to Ms. Houghtalen was less than her budgeted travel and subsistence  
22 expenses for her summer internship (\$4,735) supports requestor's assertion that the purpose of  
23 the stipend is "solely to provide students with financial support for the basic travel and

1 subsistence expenses incurred during the internship experience, not to compensate them for  
2 services provided to the organization for whom they intern.” *Id.* Whether a subsistence stipend  
3 is awarded to a student, and the amount awarded, does not depend on the entity in which the  
4 intern is placed, the number of hours the students work, or the economic value of the work  
5 performed. Rather, the stipend is based on the demonstrated financial expenses of the student to  
6 complete a *bona fide* educational objective—and even then, as in Ms. Houghtalen’s case, the  
7 stipend may not fulfill the student’s entire subsistence need.

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

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

17         This response constitutes an advisory opinion concerning the application of the Act and  
18 Commission regulations to the specific transaction or activity set forth in your request. *See*  
19 52 U.S.C. § 30108. The Commission emphasizes that, if there is a change in any of the facts or  
20 assumptions presented, and such facts or assumptions are material to a conclusion presented in  
21 this advisory opinion, then the requestor may not rely on that conclusion as support for its  
22 proposed activity. Any person involved in any specific transaction or activity which is  
23 indistinguishable in all its material aspects from the transaction or activity with respect to which

1 this advisory opinion is rendered may rely on this advisory opinion. *See* 52 U.S.C.  
2 § 30108(c)(1)(B). Please note that the analysis or conclusions in this advisory opinion may be  
3 affected by subsequent developments in the law including, but not limited to, statutes,  
4 regulations, advisory opinions, and case law. This opinion expresses no opinion regarding the  
5 Internal Revenue Code or any other state or federal law. Any advisory opinions cited herein are  
6 available on the Commission's website.

7 On behalf of the Commission,  
8  
9

10 Matthew S. Petersen  
11 Chairman