



STATE OF ALABAMA ETHICS COMMISSION



COMMISSIONERS

J. David Dodd, Chair
George Pierce, Vice-Chair
Greg Pappas
David R. Pruet, III
Hon. Carole Smitherman (Ret.)

MAILING ADDRESS
P.O. BOX 4840
MONTGOMERY, AL
36103-4840

STREET ADDRESS
RSA UNION
100 NORTH UNION STREET
SUITE 104
MONTGOMERY, AL 36104

Thomas B. Albritton
Executive Director

TELEPHONE (334) 242-2997

FAX (334) 242-0248

WEB SITE: www.ethics.alabama.gov

October 7, 2026

ADVISORY OPINION NO. 2026-13

Rep. Matt Simpson
Alabama House of Representatives

Fair Campaign Practices Act (FCPA) / Use of
Campaign Funds / Legal Fees and Costs /
Civil Action / Conduct Reasonably Related
to Performing the Duties of the Office Held /
Conversion of Contributions to Personal Use

The FCPA permits campaign funds to be
used to pay for the legal fees and costs
associated with bringing a civil action that is
related to conduct reasonably related to
performing the duties of the office held.

The Ethics Act prohibits campaign funds
from being used to pay the legal fees and
costs associated with a personal injury claim
that would result in damages being
personally paid to a public official.

The FCPA prohibits a PCC from receiving a
payment of damages from a lawsuit against a
PAC outside of the twelve months prior to an
election in which the person intends to be a
candidate

Dear Rep. Simpson:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request. This opinion applies only to the restrictions of the Ethics Act and the Fair Campaign Practices Act (FCPA) and applies prospectively only.

FACTS

Rep. Simpson is preparing a defamation lawsuit against multiple Political Action Committees (PACs) that sent mailers and other campaign advertisements that he alleges make false statements about how he voted on legislation while serving in the House of Representatives prior to the May 19, 2026 primary election.

As an example, Rep. Simpson provides that there was a digital advertisement that ran on May 17 that asserted that he “protected AI companies generating illicit sexual images of minors.” He says that the vote it purports to describe is HB347 (2026 Regular Session). He says that voted for that bill on third reading on March 3, 2026, and that it passed 104-0. He states that rather than protecting technology developers, HB 347 narrowed the existing safe harbor in Section 13A-6-240 and imposed civil liability on developers and platforms that facilitate the production of child sexual abuse material and nonconsensual intimate imagery. He claims that the advertisement asserted the opposite of the record.

Rep. Simpson also claims that other mailers made similar false claims about legislation he supported or opposed, including mailers indicating that he voted in favor of a bill that he voted against and other mischaracterizations of bills.

QUESTION PRESENTED

Does the FCPA permit campaign funds to be used to pay legal fees associated with bringing a civil defamation action regarding the votes cast by the public official while performing the duties of the office held?

ANALYSIS

Regarding the use of campaign funds, the FCPA states:

(a) Except as provided in subsection (d) and in Section 17-5-7.1, a candidate, public official, or treasurer of a principal campaign committee as defined in this chapter, may only use campaign contributions, and any proceeds from investing the contributions that are in excess of any amount necessary to defray expenditures of the candidate, public official, or principal campaign committee, for the following purposes:

(1) Necessary and ordinary expenditures of the campaign.

- (2) Expenditures that are reasonably related to performing the duties of the office held. For purposes of this section, expenditures that are reasonably related to performing the duties of the office held do not include personal and legislative living expenses, as defined in this chapter.
- (3) Donations to the State General Fund, the Education Trust Fund, or equivalent county or municipal funds.
- (4) Donations to an organization to which a federal income tax deduction is permitted under subparagraph (A) of paragraph (1) of subsection (b) of Section 170 of the Internal Revenue Code of 1986, as amended, or any other charitable, educational, or eleemosynary cause of Section 501 of Title 26 of the U.S. Code.
- (5) Inaugural or transitional expenses.
- (6) Donations to a legislative caucus organization registered under this chapter which does not operate as a political action committee.
- (7) Legal fees and costs associated with any civil action, criminal prosecution, or investigation related to conduct reasonably related to performing the duties of the office held.¹

Subsection (7) permits campaign funds to be used for “Legal fees and costs associated with any civil action, criminal prosecution, or investigation related to conduct reasonably related to performing the duties of the office held.” This subsection does not limit the use of legal fees and costs associated with a civil action to the defense of civil actions. Therefore, if the civil action is related to conduct reasonably related to a public official’s performance of the duties of the office held, the FCPA permits campaign funds to be used to pay for the legal fees and costs associated with the brining of that civil action.

However, the Ethics Act separately provides that “Contributions to an office holder, a candidate, or to a public official's inaugural or transitional fund shall not be converted to personal use.”² Therefore, campaign funds may not be used to pay for a personal injury claim that would result in damages being paid to the public official, personally. If campaign funds are used to pay for the legal fees and associated costs, any and all damages that result from the action would need to be paid to the public official’s Principal Campaign Committee (PCC) rather than to the candidate personally.

Here, the issue is further complicated by the timing restrictions on the acceptance and receipt of contributions. The FCPA’s definition of a contribution includes “Any transfer of anything of value received by a political committee from another political committee, political

¹ Ala. Code § 17-5-7(a).

² Ala. Code § 36-25-6.

party, or other source.”³ Therefore, any payment of damages from one of the PACs involved would be considered a contribution under the FCPA and would be subject to the limitation on the receipt of contributions.

(b) Notwithstanding any other provision of law, including, but not limited to, Section 13A-10-61, a candidate, public official, or principal campaign committee may only accept, solicit, or receive contributions:

(1) To influence the outcome of an election.

(2) For a period of 12 months before an election in which the person intends to be a candidate. Provided, however, candidates for legislative and statewide office and their principal campaign committees may not accept, solicit, or receive contributions during the period when the Legislature is convened in session. For purposes of this section, the Legislature is convened in session at any time from the opening day of the special or regular session and continued through the day of adjournment sine die for that session. However, this subdivision shall not apply within 120 days of any primary, runoff, or general election, and shall not apply to the candidates or their principal campaign committees participating in any special election as called by the Governor. This subdivision shall not apply to a loan from a candidate to his or her own principal campaign committee.

(3) For a period of 120 days after the election in which the person was a candidate, but only to the extent of any campaign debt of the candidate or principal campaign committee of the candidate as indicated on the campaign financial disclosure form or to the extent of reaching the threshold that is required for qualification as a candidate for the office which he or she currently holds, or both.

(4) For the purpose of paying all expenses associated with an election challenge including, but not limited to, quo warranto challenges.

The only time a candidate is permitted to accept a campaign contribution is during the period of twelve months prior to an election in which they intend to be a candidate with the period when the Legislature is convened in session being excluded for legislative and statewide office and for a period of 120 days after the election in which the person was a candidate but only to the limited extent provided. Therefore, unless an award of damages were to be made within the twelve months prior to an election in which Rep. Simpson intends to be a candidate, Rep. Simpson’s PCC would not be permitted to accept any award of damages if his lawsuit were to be successful.

³ Ala. Code § 17-5-2(a)(3)(a)(3).

Whether it is permissible for an award of damages for Rep. Simpson's personal defamation claim to be assigned to Rep. Simpson's PCC and timed so that any award is made within the twelve months prior to an election for which Rep. Simpson intends to be a candidate is outside of the scope of the FCPA and this opinion.

CONCLUSION

The FCPA permits campaign funds to be used to pay for the legal fees and costs associated with bringing a civil action that is related to conduct reasonably related to performing the duties of the office held.

The Ethics Act prohibits campaign funds from being used to pay the legal fees and costs associated with a personal injury claim that would result in damages being personally paid to a public official.

The FCPA prohibits a PCC from receiving a payment of damages from a lawsuit against a PAC outside of the twelve months prior to an election in which the person intends to be a candidate

AUTHORITY

By 3/0 vote of the Alabama Ethics Commission on October 7, 2026.



J. David Dodd
Chair
Alabama Ethics Commission