



DRAFT Advisory Opinion 2025-02 (Cite as: 2025 OK Ethics 02)

Dear Senator Lonnie Paxton, Senator Julia Kirt, Representative Kyle Hilbert, and Representative Cyndi Munson:

We are responding to your advisory opinion request asking whether expenses for safety and security measures would be considered a valid officeholder expense under the Oklahoma Ethics Rules. Specifically, you are asking:

Are expenses incurred to implement security measures at the residences of the members of the legislature, considered a valid officeholder expense under Rule 2.44 and included within the definition of officeholder expenses in Rule 2.2(15)?

When a candidate for state office is elected for the office sought, that candidate often has funds remaining in the campaign committee account. The Ethics Rules allow the elected official to use remaining campaign funds for officeholder expenses. Rule 2.44(A) addresses officeholder expenses and provides in part:

A. Contributions to a candidate committee of a candidate who is elected to the office for which the contributions were accepted may be used to make expenditures for officeholder expenses until the expiration of the term, resignation or other vacation of the office.

This Rule makes it clear that as long as the candidate holds the office for which campaign contributions were accepted, that candidate, now an officeholder, can use those funds for officeholder expenses.

Rule 2.2(15) defines officeholder expenses:

“Officeholder expenses” means ordinary and necessary expenses incurred in connection with a candidate’s duties as holder of a state elected office, provided that the expenses are not otherwise reimbursed or paid for by the state. “Ordinary and necessary expenses” are those that would not exist but for the fact that the candidate was elected to and holds a state elective office.

This definition uses the phrase “in connection with” the candidate’s duties as an elected official. It requires that the expense incurred be an expense that is closely related to, and a direct result of, the office for which the individual has been elected.

The reference to “but for” is a test used in other places in the Ethics Rules. As used in the context of officeholder expenses, the test is whether the elected official would have incurred the expense

but for the fact that they were elected to state office. If the expense would exist with or without the elected office, it does not pass the but-for test.

Applying the parameters of Rules 2.2 (15) and 2.44 to expenses incurred for safety and security requires that we determine whether expenses incurred for safety and security measures are a direct result of and closely related to the office for which the individual has been elected. The officeholder must need security to respond to dangers or threats related to the office held, and not simply for security that any member of the public would need. Further, the dangers or threats are related not just to *any* elected office within the State of Oklahoma, but the office held by *that* elected official.

The FEC Rule, 11 CFR §113.1(g)(10), requires the security expenses “address ongoing dangers or threats that would not exist irrespective of the individual’s status or duties as a federal candidate or federal officeholder.” This requirement is similar to the but-for test: would the officeholder need security to address dangers or threats that would exist without the office? If so, they do not meet the definition of a valid officeholder expense under Oklahoma’s Ethics Rules. However, if the dangers or threats are directly related to the office for which the individual has been elected, and are incurred in connection with that office, then they would be a valid officeholder expense.

Ethics Rule 2.39 prohibits the use of campaign funds for personal use. Personal use is defined in Rule 2.39 to include use of funds to fulfill a commitment, obligation or expense of any person that would exist irrespective of the fact that the individual holds state elective office. As with Rule 2.2(15), the officeholder must make sure funds are spent only on safety and security related to the fact s/he holds office, and not safety and security that would exist outside of holding that office.

The ordinary and necessary verbiage in Rule 2.2(15) also encompasses reasonableness. Although the words “ordinary and necessary” are not specifically defined in the Ethics Rules, the plain meaning of ordinary is commonplace and not of special quality.¹ The plain meaning of necessary includes required, essential and indispensable for a particular situation.² Applying the plain meanings of ordinary and necessary requires that an officeholder who uses campaign funds for his or her safety and security expenses must ensure the expenses are ordinary, commonplace and not of special quality. Some examples of reasonable expenses for safety and security might include a security camera system, motion detectors, cybersecurity software, and monitoring services. Expenses for safety and security outside the scope of what is reasonable under the Ethics Rules include hiring a security guard or security detail, purchasing weapons, or installing complex, high-end equipment.

¹ Collins Online Dictionary. (2025). *Collins Dictionary*. Retrieved August 1, 2025, from <https://www.collinsdictionary.com/us/dictionary/english/ordinary>.

² Merriam-Webster. (n.d.) *Merriam-Webster.com dictionary*. Retrieved August 1, 2025, from <https://www.merriam-webster.com/dictionary/necessary>.

Any tangible safety and security items purchased by the officeholder should be disposed of in compliance with Rule 2.118.

It should be noted that this Opinion relates solely to safety and security expenses as they relate to the individual officeholder, not the officeholder's family, staff or other persons connected with the office or the officeholder.

It is therefore the official opinion of the Ethics Commission that:

Ordinary and necessary expenses incurred for safety and security measures to respond to dangers or threats posed to a state elected official as a direct result of holding elected state office fall within the definition of officeholder expenses, so long as (1) the safety and security expenses would not be incurred if the individual did not hold the elected office; (2) the dangers or threats posed to the state elected official are a direct result of and closely related to office held by that elected official; and (3) the expenses are reasonable.
