



Battling college professors retain employee benefits during leave of absence

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Two college professors from Randolph-Macon College in Virginia are running against each other for the U.S. House of Representatives in Virginia's 7th District. After winning the Democratic and Republican primaries, respectively, each was offered and accepted an unpaid leave of absence from the college. Each entered into a memorandum of understanding that provided for the continuation of insurance coverage and other fringe benefits for the duration of the campaign. Each professor filed a request with the Federal Elections Commission (FEC) for guidance regarding payment of fringe benefits while they are on unpaid leave to run a campaign for federal office. AO 2014-14 and AO 2014-15.

Federal law prohibits a corporation from making any contribution in connection with a federal election, and FEC regulations specifically prohibit a corporate employer from paying the employer's share of the cost of fringe benefits while an employee is on leave without pay to participate in a federal campaign. 11 C.F.R. § 114.12(c)(1) and 113.1(g)(6). However, FEC regulations also provide that a corporate employer's payment of vacation or other earned leave time from bona fide employment to an employee who takes leave to run a federal campaign does not violate the prohibition. 11 C.F.R. § 100.54(c).

The FEC resolved the matter in October, concluding that the college may continue to pay the employer's portion of fringe benefits during the professors' unpaid leaves of absence. The FEC ruled that the ban does not apply to fringe benefits for employees who are entitled to take a leave of absence for any purpose. Because the college's benefits policy was pre-existing and not created to benefit an employee seeking federal office, the FEC found it to be part of a consistent policy available to all qualified employees and in keeping with the college's policy of liberally granting sabbaticals and continuing benefits to employees, including those who take unpaid leave for nonpolitical purposes. Read the full opinion [here](#).

