



North Carolina General Assembly
Legislative Ethics Committee

June 21, 2007

To: Members of the General Assembly

From: Senator Dan Clodfelter and Representative Rick Glaizer, Cochairs of the Legislative Ethics Committee

Re: **Ethical Principle and Guideline 7: Use of Legislative Office, Materials, Equipment, and Personnel in Campaigns for Elective Office.**

A handwritten signature in black ink, appearing to be "D. Clodfelter".

The Legislative Ethics Committee (Committee) has never issued a formal advisory opinion or a principle and guideline on whether legislators may use their legislative office equipment, facilities, and personnel in campaigns for public office. In 1998, the then cochairs of the Committee, Senator Howard Lee and Representative Julia Howard, were asked for guidance on this subject, but there was no request for a formal advisory opinion from the Committee. Senator Lee and Representative Howard released an explanatory memorandum which offered their own personal thoughts. This memorandum has offered some guidance to legislators for over eight years.

The Committee finds that the explanatory memorandum from Senator Lee and Representative Howard provides useful information on this subject and should be formalized. In accordance with G.S. 120-102(5), the Legislative Ethics Committee issues the following principle and guideline which is based on the guidance in the 1998 Lee/Howard memorandum.

A legislator's campaign activities should not be conducted in the legislator's State supplied office or using State equipment, facilities, materials, or personnel. For purposes of this discussion "campaign activities" would include, but not be limited to, soliciting or receiving campaign contributions, preparing campaign literature, arranging or inviting individuals to campaign events, and urging people to vote for or against a particular candidate.

The Legislative Ethics Committee has previously issued the following principle and guideline regarding the use of State equipment:

"It is inappropriate to excessively use the State Telephone Network, the legislative computer system and any other State equipment for personal and business reasons. These services and this equipment shall be used for legislative purposes rather than for personal and business purposes." See *Principle and Guideline 1*.



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The North Carolina Constitution (Article V, § 2(1)) requires that State taxes and State expenditures be for a public purpose. The State Personnel Act prohibits political activity by most State employees while on duty and those employees from using State funds or equipment in political campaigns (G.S. 126-13). Legislative officers and employees, among others, are exempt from that provision (G.S.126-5(c1)(3)).

The furthering of any individual's candidacy for political office is not a public purpose for which State funds may be constitutionally expended. That legislative employees are exempt from the provisions of the general law restricting their political activity during duty hours, does not make such activity either constitutional or ethical. The legislative assistant and clerk are directly responsible to a legislator. They are State employees paid from public funds. Although the individual member is responsible for insuring the hours the legislator's assistant and clerk works, the legislative assistant and clerk are paid by the State for a 40-hour work week. As such, a member's assistant or clerk should not engage in campaign activities during office hours. This prohibition would also apply to other employees paid by State funds over whose duties and activities the legislator has control or responsibility.

The Committee does not seek to restrain the voluntary political activity of legislative employees after office hours and outside of the legislative office. The Committee understands that a legislative office may be the site of occasional and non-substantive campaign activities. These activities may involve the incidental use of State equipment, facilities, or materials, or the incidental participation by a legislative assistant, clerk, or other legislative employee. An example might be answering the inquiry of an incoming caller about the time and place of a campaign event for the member. These occurrences are not unethical as long as the action taken does all of the following:

1. Responds to, rather than initiates, a communication.
2. Is an incidental, rather than a regular or substantial, part of the functioning of the legislator's office.
3. Does not result, other than to a trivial or unascertainable extent, in additional costs to the State.

To guard against the possibility that campaign material might initiate the conducting of a campaign from a legislative office, a member's legislative office address, legislative email address, or legislative telephone number should not be advertised as connected with or associated with the campaign.

The Committee does not extend this analysis to campaigns for referenda or constitutional amendments.

If you have any questions concerning this matter, please let us know.