

SUBJECT: ACCEPTANCE OF CAMPAIGN CONTRIBUTIONS

SUMMARY: School board candidates are not prohibited from accepting contributions from district employees unless given to influence official actions or based upon reprisal. Persons conducting business with a school district may contribute to a candidate provided that any contracts awarded have either been through competitive bidding procedures or the candidate took no official action on the award of the contracts.

QUESTION: The Director of Legal Services for the SC School Boards Association raises several questions concerning the acceptance of campaign contributions.

DISCUSSION:

This opinion is rendered in response to a letter dated April 30, 1992 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

When an incumbent school board member is a candidate for re-election to the board of trustees, may he accept campaign contributions from employees of the district?

Section 8-13-1332 provides in part as follows:

It is unlawful for:

- (2) a person to solicit an employee for a contribution and fail to inform the employee of the political purposes of the committee and of the employee's right to refuse to contribute without any advantage or promise of an advantage conditioned upon making the contribution or reprisal or threat of reprisal related to the failure to make the contribution.

The Commission further calls attention to Section 8-13-705 which provides in part as follows:

- (A) A person may not, directly or indirectly, give, offer, or promise anything of value to a public official, public member, or public employee with the intent to:
 - (1) influence the discharge of a public official's, public member's, or public employee's official responsibilities;
 - (2) influence a public official, public member, or public employee to commit, aid in committing, collude in, or allow fraud on a governmental entity; or
 - (3) induce a public official, public member, or public employee to

- perform or fail to perform an act in violation of the public official's, public member's, or public employee's official responsibilities.
- (B) A public official, public member, or public employee may not, directly or indirectly, knowingly ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value for himself or for another person in return for being:
- (1) influenced in the discharge of his official responsibilities;
 - (2) influenced to commit, aid in committing, collude in, allow fraud, or make an opportunity for the commission of fraud on a governmental entity; or
 - (3) induced to perform or fail to perform an act in violation of his official responsibilities.

* * *

- (G) This section does not apply to political contributions unless the contributions are conditioned upon the performance of specific actions of the person accepting the contributions nor does it prohibit a parent, grandparent, or other close relative from making a gift to a child, grandchild, or other close relative for love and affection except as otherwise provided.

The State Ethics Commission advises that political contributions by an employee of a school district to a school trustee running for re-election is not prohibited unless given or accepted to influence specific actions of the recipient or if given or received as a result of reprisal or threat of reprisal.

May a candidate who is not an incumbent accept campaign contributions from employees of the district?

In accordance with the response to question 1 above, an employee of a school district is not prohibited from contributing to a candidate for school trustee unless given or accepted to influence specific actions of the recipient or if given or received as a result of reprisal or threat of reprisal.

May either candidate accept campaign contributions from a person or business which does business with the district?

Section 8-13-1342 provides:

No person who has been awarded a contract with the State, a county, a municipality, or a political subdivision thereof, other than contracts awarded through competitive bidding practices, may make a contribution after the awarding of the contract or invest in a financial venture in which a public official has an interest if that official was in a position to act on the contract's award. No public official or public employee may solicit campaign contributions or investments in exchange for the prior award of

a contract or the promise of a contract with the State, a county, a municipality, or a political subdivision thereof.

Thus, candidates may accept contributions from any person or business conducting business with the school district provided that any contract was either awarded through competitive bidding procedures or the candidate had not taken any official action on the award of the contract.