

ARKANSAS ETHICS COMMISSION

910 West Second Street, Suite 100
Post Office Box 1917
Little Rock, Arkansas 72203-1917
(501) 324-9600 Fax (501) 324-9606
Toll Free (800) 422-7773

Tom Alexander
Chairman

Jack Kearney
Vice Chairman

Ben Allen
Lacy Kennedy
Sally Kibler
Commissioners



Graham F. Sloan
Director

Melissa Dorn Bratton
Robert L. Roddey
Staff Attorneys

Todd Elder
Teresa Keathley
Directors of Compliance

ADVISORY OPINION NO. 2002-EC-004 Issued May 17, 2002

The Ethics Commission has received a written advisory opinion request from Mr. Jim James. In his advisory opinion request, Mr. James asks whether it is permissible for an incumbent candidate for county clerk to place written campaign materials in attorney “mail slots”¹ at the courthouse.

The distribution of campaign materials in offices or rooms furnished at public expense is addressed in Ark. Code Ann. § 7-1-103(a)(3). Said statute provides, in pertinent part, as follows:

It shall be unlawful for any public servant, as defined in § 21-8-402, to use any office or room furnished at public expense to distribute any letters, circulars, or other campaign materials unless such office or room is regularly used by members of the public for such purposes without regard to political affiliation.

The Commission notes that the term “public servant” as defined in Ark. Code Ann. § 21-8-402(18) means “all public officials, public employees, and public appointees” and that the definition of “public official” set forth in Ark. Code Ann. § 21-8-402(17) includes “any . . . person holding an elective office of any governmental body.” Accordingly, the prohibition set forth in Ark. Code Ann. § 7-1-103(a)(3) is clearly applicable to a person who holds the office of county clerk.

It is the Commission’s opinion that it would be unlawful for an incumbent county clerk to distribute campaign materials in attorney “mail slots” at the courthouse, which are in a room furnished at public expense, unless the “mail slots” are regularly used by members of the public for the distribution of campaign materials without regard to political affiliation.

¹ The mail slots referenced in this opinion are not part of the United States Postal System. They are boxes or slots in which the clerk and staff may place file-marked copies of court pleadings for attorneys who practice in the courthouse.

This advisory opinion is issued by the Commission pursuant to Ark. Code Ann. § 7-6-217(g)(2).

ARKANSAS ETHICS COMMISSION

BY: Melissa Dorn Bratton
Melissa Dorn Bratton
Staff Attorney