

ARKANSAS ETHICS COMMISSION

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ADVISORY OPINION NO. 2002-EC-005 Issued May 17, 2002

The Arkansas Ethics Commission is issuing this advisory opinion on its own initiative in response to a number of inquiries concerning public servants devoting time or labor during usual office hours toward the campaigns of other candidates. This subject is specifically addressed in Ark. Code Ann. § 7-1-103(a)(2)(A) which provides as follows:

It shall be unlawful for any public servant, as defined in § 21-8-402, to devote any time or labor during usual office hours toward the campaign of any other candidate for office or for the nomination to any office.

Similarly, § 245(a) of the Commission's Rules on Campaign Finance & Disclosure provides as follows:

No public servant shall devote any time or labor during usual office hours toward the campaign of any other candidate for office or for the nomination to any office.

As defined in Ark. Code Ann. § 21-8-402, the term "public servant" includes "all public officials, public employees, and public appointees." Each of these three (3) categories is itself a defined term.¹

On its face, Ark. Code Ann. § 7-1-103(a)(2)(A) prohibits a public servant from devoting time or labor to someone else's campaign during usual office hours. It is the Commission's opinion that

¹ The definitions are set forth in the following subsections of Ark. Code Ann. § 21-8-402:

- (15)(A) "Public appointee" means an individual who is appointed to a governmental body.
- (B) "Public appointee" shall not include an individual appointed to an elective office.
- (16)(A) "Public employee" means an individual who is employed by a governmental body or who is appointed to serve a governmental body.
- (B) "Public employee" shall not include public officials or public appointees.
- (17) "Public official" means a legislator or any other person holding an elective office or any governmental body, whether elected or appointed to the office, and shall include such persons during the time period between the date they were elected and the date they took office.

this statutory provision serves to prohibit a public servant from diverting his or her energy from governmental business to campaigning during his or her normal working hours.² The Commission concludes, however, that the prohibition does not apply to situations in which a public servant has taken vacation or other personal leave to devote time or labor to campaign activities.

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

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² For example, a person who normally works Monday through Friday from 8:00 a.m. to 4:30 p.m. would be prohibited from campaigning for another candidate during those hours. Public servants who have normal office hours but are “on call” for 24 hours a day would only be prohibited from campaigning during their normal office hours.