

# ARKANSAS ETHICS COMMISSION

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## **ADVISORY OPINION NO. 2002-EC-009** **Issued October 18, 2002**

The Ethics Commission has received a written request for an advisory opinion from Mr. Clayton Blackstock. The question asked is whether it is permissible for a public servant to send a campaign related e-mail from his personal computer at home to a friend, who is also a public servant, at the friend's e-mail address at work?

The statutory provision applicable to this question is Ark. Code Ann. § 7-1-103(a)(3), which provides as follows: "[i]t shall ...be unlawful for any public servant to use for campaign purposes any item of personal property provided with public funds." This provision was recently addressed by the Commission in Advisory Opinion 2001-EC-001.

In said opinion, the Commission concluded that a public servant is prohibited from using a computer purchased, leased, or maintained by a governmental body to send an e-mail message relating to a campaign. The advisory opinion did not, however, address the question of whether a public servant is prohibited from sending a campaign related e-mail from a personal computer at home to another public servant's e-mail address at work.

Under the facts presented, the sender, a public servant, used his own personal home computer to generate and send a campaign related e-mail message. There is no indication that the public servant was on duty at the time the message was sent or that any personal property provided with public funds was used to either generate or send the e-mail message.

Upon considering this matter, the Commission concludes that the mere fact that the e-mail was received on a government computer does not make the sending of the e-mail prohibited under Ark. Code Ann. § 7-1-103(a)(3). This situation is similar to a person placing a telephone call to a public servant who is at work. In such a case, it would be difficult to say that the caller is "using" the government phone.

It does not follow that all campaign related communications received by public servants in their places of employment are allowable. If such a communication generates a

response from the public servant recipient while using government property, the recipient would be subject to the prohibition against using personal property provided with public funds for campaign purposes. Moreover, the recipient would be subject to the prohibition found in Ark. Code. Ann. § 7-1-103(2)(A) against devoting any time or labor toward the campaign of any other candidate during usual office hours.

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

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