

# ARKANSAS ETHICS COMMISSION

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Opinion No. 92-EC-015

May 28, 1992

Honorable Wayne Dowd  
Arkansas State Senator  
P. O. Box 2631  
Texarkana, AR 75501

Dear Senator Dowd:

On May 11, 1992, this office received your request for an official opinion under authority of Initiated Act 1 of 1988 and Initiated Act 1 of 1990.

Your letter of request discusses the many problems you and others have encountered in your attempts to comply with Arkansas campaign finance laws. Your questions numbers one and two combined and paraphrased are:

"Under Arkansas law, when does an  
'election cycle' begin and end?"

In the context of your letter and its references to campaign finance, it is obvious that your inquiry is not an idle one. Instead the answer to the inquiry appears to be central to a number of actions a candidate or an incumbent elected official must take regarding campaign finance and disclosure. Unfortunately, this is one of several areas of Arkansas Ethics and disclosure law where important issues are not properly addressed.

In this instance, Arkansas law has completely failed to address this important issue. The one oblique reference that this Commission has found in our statutes is ACA §7-6-201(3) which states:

"Candidate" means any person who has knowingly and willingly taken affirmative action, including the solicitation of funds, for the purpose of seeking nomination for or election to any public office;"

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This Commission interpreted that statute, in Opinion No. 91-EC-004, to mean that a person becomes a candidate for an upcoming election when she took positive steps toward securing her party's nomination. That definition would seem to define a "campaign cycle" of a first-time candidate, up to the primary election. That, of course, does not begin to answer the question of election cycles as it relates to campaign finance for incumbents, those who seek to retire past campaign debts, and many others.

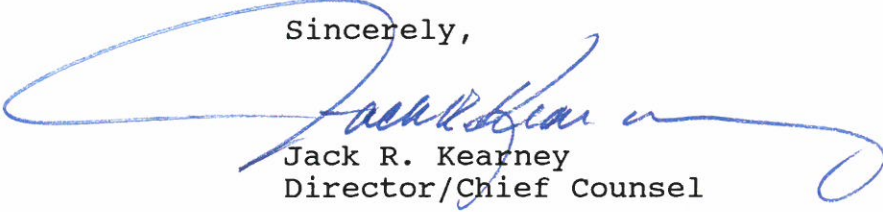
It is our position that we cannot create legislation where there is none. There is no definition for an election cycle in Arkansas, and despite the problems which may be created by the absence of this definition, we simply cannot supply one. As with other areas of our new law, we must await our next legislative session and hope that you and your colleagues in the General Assembly will correct this oversight.

Your question #2, paraphrased is:

How does the Ethics Commission reconcile the restrictions in Arkansas statutory law which prohibit a candidate from accepting contributions more than two (2) years before the election to which he seeks nomination or election [ACA §7-6-203 (F)] and the Arkansas constitution which requires that every ten (10) years state senators be reassigned to two (2) or four (4) year terms? These senators could not know before the convening of the new session whether they have a two (2) or four (4) year term, and thus whether they could begin fund raising.

We do not attempt to reconcile these conflicting areas of the law. This is, again, an area of the law which will require specific legislative attention. We will await the considered action of the legislature or the initiated action of the people to resolve this conflict.

Sincerely,



Jack R. Kearney  
Director/Chief Counsel

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