



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 184

January 27, 1994

Whether section 255.001 of the Election Code requires that a political advertising disclosure statement be printed on lapel stickers, pens, magnets, and emery boards produced for campaign purposes; whether an invitation to an "open house" held by two officeholders is required to carry the political advertising disclosure set out in Election Code section 255.001. (AOR Nos. 205, 208, 209)

Several individuals have asked the Texas Ethics Commission whether various materials produced for campaign purposes must carry a political advertising disclosure statement. The materials at issue are lapel stickers,¹ pens, magnets, and emery boards. Another requestor has asked whether invitations to an "open house" sponsored by two officeholders must carry such a disclosure statement.

We will first consider the requests concerning lapel stickers, pens, magnets, and emery boards. For purposes of this opinion, we assume that all of the materials include political advertising, as defined in Election Code section 251.001(16).² Section 255.001 provides the following:

(a) A person may not knowingly enter into a contract or other agreement to print, publish, or broadcast political advertising that does not indicate in the advertising:

- (1) that it is political advertising;
- (2) the full name of either the individual who personally entered into the contract or agreement with the printer, publisher, or broadcaster or the person that individual represents; and
- (3) in the case of advertising that is printed or published, the address of either the individual who personally entered into the agreement with the printer or publisher or the person that individual represents.

(b) This section does not apply to tickets or *invitations to political fund-raising events or to campaign buttons, pins, hats, or similar campaign materials.* (Emphasis added.)

In our opinion, lapel stickers, pens magnets, and emery boards all fit within the statutory exception as campaign materials similar to those expressly excepted.

The exception of certain campaign materials from the disclosure requirement first appeared in the Political Funds Reporting and Disclosure Act of 1975.³ Acts 1975, 64th Leg., ch. 711, at 2257. That legislation excluded from the definition of "political advertising" a lengthy, illustrative list of campaign items: "nonpolitical letterheads, ordinary printed invitations to and tickets for fund-raising events or other affairs, campaign pins, buttons, fingernail files, matchbooks, emblems, hats, pencils, and similar materials." *Id.* § 2 at 2259.

In a comprehensive revision of title 15 of the Election Code in 1987, the legislature moved the exception from the definition of political advertising and added it to the section of the code dealing with the disclosure

requirement. *See* Acts 1987, 70th Leg., ch. 899, § 1, at 3026. At the same time, the illustrative list of excepted campaign items was shortened to its present form, excepting tickets or invitations to political fundraising events, campaign buttons, pins, hats, and similar campaign materials. *Id.* We find no indication that the legislature omitted fingernail files, pencils, and other items from the list because it no longer felt they should be excepted. It seems more likely that in revising the code, the legislature simply felt it unnecessary to repeat the rather lengthy list of examples because the deleted items would be covered by the designation "similar campaign materials." We conclude that lapel stickers, pens, magnets, and emery boards bearing political messages are not required to carry the political disclosure prescribed in Election Code section 255.001.

We turn now to the invitations to an "open house" held jointly by two officeholders. The requestor explains that "the open house is in no way a fund raiser. It will merely acquaint constituents with the district office." Again, for purposes of this opinion, we assume the invitations constitute political advertising under section 251.001(16). We conclude that the disclosure statement is not required on political advertising in the form of an invitation to an open house.

The statutory language of the original exception to the disclosure requirement, enacted by the 64th Legislature, extended to tickets or invitations to fundraising events "*or other affairs*, campaign pins, buttons, fingernail files . . . and similar materials." Consistent with our view of the omission of pencils and fingernail files from the list of excepted items in section 255.001(b), as recodified in 1987, we do not believe the legislature omitted invitations "to other affairs" from the shortened list to distinguish events held expressly to raise funds from other events supporting a candidate or officeholder. In our opinion, the statutory exception for invitations to political fundraising events is intended to extend to invitations to events supporting a candidate or officeholder in his or her capacity as a candidate or officeholder, whether or not contributions are explicitly requested at the event. Therefore, we believe the invitation to the representatives' open house party need not contain the information required on political advertising under Election Code section 255.001.

SUMMARY

A political advertising disclosure statement is not required on lapel stickers, pens, magnets, or emery boards, nor on an invitation to an "open house" held by an officeholder.

¹ We have been informed that a "lapel sticker" is a campaign item very similar in form and function to a traditional campaign button, but with an adhesive backing instead of a pin.

² Section 251.001(16) provides the following: "Political advertising" means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that: (A) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; or (B) appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication.

³ A political disclosure requirement for political advertising has been part of the Texas Election Code since its codification in 1951. *See* Acts 1951, 52d Leg., ch. 492, § 1, at 1193.