



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 384

December 12, 1997

Whether a private research group that was "started with the knowledge and approval" of a legislative caucus is itself a "legislative caucus" as that term is defined in Election Code section 253.0341. (AOR-423)

The Texas Ethics Commission has been asked whether a private research group that was "started with the knowledge and approval" of a legislative caucus is itself a "legislative caucus" as that term is defined in Election Code section 253.0341.

A legislative caucus is required to file periodic reports of contributions and expenditures. Elec. Code § 254.0311. In addition, a legislative caucus is prohibited from accepting contributions during a period just before and during a regular legislative session. *Id.* § 253.0341(b). For purposes of those provisions, a "legislative caucus" is

an organization that is composed exclusively of members of the legislature, that elects or appoints officers and recognizes identified legislators as members of the organization, and that exists for research and other support of policy development and interests that the membership hold in common. *The term includes an entity established by or for a legislative caucus to conduct research, education, or any other caucus activity.* An organization whose only nonlegislator members are the lieutenant governor or the governor remains a "legislative caucus" for purposes of this section.

Id. § 253.0341(e) (emphasis added); *see also id.* § 254.0311(h). The italicized language was added to Section 253.0341(e) in 1997. Act of June 1, 1997, 75th Leg., R.S., ch. 1136, § 5, 1997 Tex. Sess. Law Serv. 4289, 4290. The remaining portions were part of section 253.0341(e) as originally adopted in 1995. Acts 1995, 74th Leg., ch. 43, § 1.¹

The question raised here is whether the private research group described in the request letter is "an entity established by or for a legislative caucus to conduct research, education, or any other caucus activity." The answer to that question involves the resolution of two fact issues: whether the private research group was established "by or for" a legislative caucus and whether the purpose of the private research group is to "conduct research, education, or any other caucus activity."

In regard to the issue of whether the private research group was established "by or for" a legislative caucus, the request letter states that the group was incorporated by three members of a legislative caucus and that it "was started with the knowledge and approval of [the caucus board]." It appears, therefore, that the incorporators established the private research group "for" the caucus.

The remaining issue is whether the purpose of the private research group is to "conduct research, education, or any other caucus activity." We interpret the words "any other caucus activity" to modify the words "research" and "education." In other words, the fact that an organization established by or for a legislative caucus conducts research or education does not by itself make the organization a legislative caucus. Rather, the research or education makes the organization a legislative caucus only if the research or education is a "caucus activity." The language of section 253.0341 makes clear that a "caucus activity" is an activity that supports the policy development and interests that the members of the caucus hold in common.

The request letter takes the position that the research and education efforts of the research group in question are not caucus activities. In support of that position the request letter states that the group makes available materials "intended to inform the private sector, elected officials at all levels of government and the general public" and that it makes the materials available to all members of the legislature. The fact that the group makes information available to individuals and entities other than members of the establishing caucus does not necessarily signify that the group does not support policy development and interests that the members of the establishing caucus hold in common. Whether a particular organization was established to support policy development and interests that the members of a caucus hold in common is a fact question that the Ethics Commission cannot resolve. If the group was established to support policy development and interests that the members of the establishing caucus hold in common, it is itself a legislative caucus.

SUMMARY

An entity established by or for a legislative caucus to conduct research or education is itself a legislative caucus if the research or education is a "caucus activity." A "caucus activity" is an activity that supports the policy development and interests that the members of the establishing caucus hold in common.

¹ The language providing that certain entities established by legislative caucuses are themselves legislative caucuses was adopted as an amendment to the definition of "legislative caucus. " In our opinion, the requirement in the previous part of the definition that limits caucuses to groups composed solely of legislators does not apply to an entity described by the added sentence. In other words, an entity established by or for a caucus to conduct research, education, or any other caucus activity is itself a legislative caucus regardless of who its members may be.