



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 385

December 12, 1997

Whether a particular campaign brochure violates Election Code section 255.006. (AOR-424)

The Ethics Commission has been asked to interpret Election Code section 255.006, which deals with misleading uses of office titles in campaign materials. The specific question raised is whether a particular campaign brochure violates section 255.006.

The relevant portions of section 255.006 provide as follows:

- (b) A person commits an offense if the person knowingly represents in a campaign communication that a candidate holds a public office the candidate does not hold at the time the representation is made.
- (c) For purposes of this section, a person represents that a candidate holds a public office the candidate does not hold if:
 - (1) the candidate does not hold the office that the candidate seeks; and
 - (2) the political advertising or campaign communication states the public office sought but does not use the word "for" to clarify that the candidate does not hold that office.

Although the text of subsection (b) has been part of section 255.006 since the Election Code was revised in 1987, Acts 1987, 70th Leg., ch. 899, § 1, at 3027, subsection (c) was added by the 1997 Legislature and took effect on September 1, 1997, Act of June 1, 1997, 75th Leg., R.S., ch. 1134, § 9, 1997 Tex. Sess. Law Serv. 4289, 4291.

The brochure in question here is a campaign communication supporting a candidate who is not an incumbent in the office sought. *See* Elec. Code § 251.001(17) (defining campaign communication). The campaign communication states the name of the office sought a number of times, but in only two of those instances does the word "for" appear in conjunction with the name of the office. Because the candidate makes the representations in the campaign materials each time he distributes them, the issue here is whether the distribution of the brochures after September 1, 1997, is in violation of section 255.006(c). *See* [Ethics Advisory Opinion No. 376](#) (1997) (regarding the meaning of "represent").

In our opinion, the brochure in question is in compliance with section 255.006(c). Although the word "for" does not appear in every instance in which the candidate's name is linked to the office sought, we find the two instances in which it does occur sufficient to satisfy the requirement in section 255.006(c).¹

SUMMARY

The distribution of the brochure that is the subject of this opinion request would not violate Election Code section 255.006(b).

¹ Although we find that the brochure in question satisfies section 255.006, we recommend the cautious practice of using the word "for " in any instance in which a non-incumbent candidate 's name is linked to the office sought.