



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 386

December 12, 1997

Whether an officeholder may use a state-owned computer to electronically file campaign finance reports with the Texas Ethics Commission. (AOR-425)

The Texas Ethics Commission has been asked whether an officeholder may use a state-owned computer to electronically file campaign finance reports with the Texas Ethics Commission. Penal Code section 39.02 provides that a public servant commits an offense if the public servant misuses government property, services, personnel, or any other thing of value belonging to the government, or violates a law relating to his or her office, if the public servant does so with the intent to obtain a benefit or harm or defraud another. Penal Code § 39.02(a). Section 39.01(2) of the Penal Code defines "misuse" as dealing with government property contrary to:

- (A) an agreement under which the public servant holds the property;
- (B) a contract of employment or oath of office of a public servant;
- (C) a law, including provisions of the General Appropriations Act specifically relating to government property, that prescribes the manner of custody or disposition of the property; or
- (D) a limited purpose for which the property is delivered or received.

In [Ethics Advisory Opinion No. 172](#) (1993) we stated that use of state equipment or state employees to handle campaign contributions would be a misuse of government property, services, and personnel. We noted in that opinion that the Appropriations Act contains riders prohibiting the use of appropriated funds for other than state purposes or to affect the outcome of an election. *See* General Appropriations Act, 75th Leg., ch. 1452, art. IX, §§ 5 (Political Aid and Legislative Influence Prohibited), 12 (Limitations on Use of Appropriated Funds), 149 (State Property Use for State Purposes Required), 1997 Tex. Sess. Law Serv. 5535, 6355, 6364, 6422; *see also* Tex. Const. art. III, § 51 (prohibition on the use of state funds for private purposes). Similarly, use of state computers and personnel for other campaign purposes, such as the preparation of campaign reports required under Title 15 of the Election Code, would be a misuse of state property.¹

SUMMARY

The use of state computers or personnel to prepare campaign reports for officeholders would be a misuse of government property.

¹ In [Ethics Advisory Opinion No. 260](#) (1995), we stated that it is a matter for the legislature, subject to constitutional limitations, to determine the appropriate uses of legislative resources, such as laptop computers, and to determine whether there are circumstances in which legislators may use state property for personal use and reimburse the state for any costs incurred by the state.