



# TEXAS ETHICS COMMISSION



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## ETHICS ADVISORY OPINION NO. 576

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September 29, 2022

### ISSUE

*Whether candidates for party precinct chair are subject to the campaign treasurer and campaign finance filing requirements of Title 15 of the Texas Election Code. (AOR-667.)*

### SUMMARY

No. Title 15 of the Texas Election Code requires candidates for public office and certain candidates for state and county party offices to designate campaign treasurers and file campaign finance reports. It does not require candidates for precinct offices of political parties to designate campaign treasurers or file campaign finance reports.

### FACTS

The requestor is a precinct officer of a political party. He asks if party precinct officers or candidates for party precinct office are required to file campaign finance reports under Title 15.

### ANALYSIS

State law requires “candidates” for nomination or election to “public office” to appoint a campaign treasurer and report campaign contributions and expenditures. Tex. Elec. Code §§ 252.001, 254.031.

The Election Code does not define “public office.” But from context, it is clear that party offices are *not* public offices. For example, chapter 257—which addresses political parties—states that candidates for *state* chair and certain candidates for *county* chair of a political party are “subject to the requirements of this title that apply to a candidate for public office.” Tex. Elec. Code § 257.005. If the positions of state or county chair were public offices, then this provision would be unnecessary. And, if the Commission were to require all candidates for party office to file campaign finance reports, it would undermine the Legislature’s clear intent to apply those requirements to only certain party offices. Furthermore, while not within the interpretive jurisdiction of the Texas Ethics Commission, section 172.089 clearly distinguishes “party offices” from “public offices,” stating that, “the party offices of county chair and precinct chair

shall be listed on the primary election ballot *after the public offices.*” Tex. Elec. Code § 172.089 (emphasis added).

The requestor cites several statutes that he believes indicate that precinct party offices are “public officers.” First, the requestor cites subsection 251.001(16) of the Election Code, which defines “political advertising” as “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...” Tex. Elec. Code § 251.001(16) (emphasis added). But while this definition indicates that Title 15’s regulations on *political advertising* apply to candidates for party offices, the question posed by this requestor is whether party precinct chairs are subject to Title 15’s *reporting requirements*. As explained in the preceding paragraph, these requirements are expressly limited to certain enumerated party offices, not including precinct offices.

Next, the requestor references section 252.005 of the Election Code, which establishes that “[a]n individual must file a campaign treasurer appointment for the individual’s own candidacy with [...] (2) the county clerk, if the appointment is made for candidacy for a county office, *a precinct office*, or a district office other than one included in Subdivision (1).” Tex. Elec. Code § 252.005 (emphasis added). However, this subsection’s reference to “precinct office” merely indicates that candidates for a precinct’s *public* office—such as a constable—are subject to Title 15’s reporting requirements.

Finally, the requestor raises subsection 32.054(a) in Title 3 of the Election Code, which addresses Election Officers and Observers. This subsection establishes that a person is ineligible to serve as election judge if they are related to “an opposed candidate for a public office *or a party office* in any precinct in which the office appears on the ballot.” Tex. Elec. Code 32.054(a) (emphasis added). Again, this law clearly distinguishes between public and party offices, further buttressing our conclusion. If party offices were public offices, it would have been unnecessary for the Legislature to include the phrase “or a party office.” In any event, a person’s eligibility to serve as an election judge is irrelevant to the question posed by this requestor.

For all the foregoing reasons, we conclude that Title 15 does not require candidates for party precinct chair to appoint a campaign treasurer or report their campaign contributions or expenditures.