

# STATE ETHICS ADVISORY COMMISSION

## ADVISORY OPINION 1984-2

Re: Does Chapter 14, Texas Election Code, prohibit a candidate or office holder from donating unexpended contributions to public schools?

This advisory opinion is issued on the initiative of the State Ethics Advisory Commission regarding the following issue:

Does Chapter 14, Texas Election Code, prohibit a candidate or officeholder from donating unexpended contributions to public schools?

Before September 1, 1983, Chapter 14 of the Election Code ("the Code") did not limit the uses of candidate and office-holder contributions. Effective September 1, 1983, however, Chapter 14 was significantly amended to limit the permissible uses of contributions accepted after that date in two respects.

First, Tex Elec. Code Ann. art. 14.03d (Vernon Supp. 1984) now prohibits a person who accepts a contribution as a candidate or office-holder on or after September 1, 1983, from converting such contribution to personal use. Act of June 17, 1983, ch. 444, §5, 1983 Tex. Sess. Law Serv. 2584 (Vernon). The statute defines "personal use" as:

a use which primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office. The term does not include any payments made to defray ordinary and necessary expenses incurred in connection with activities as a candidate or in connection with the performance of duties or activities as a holder of public office . . .

The second amendment to Chapter 14 pertinent to this advisory opinion is Tex. Elec. Code Ann. art. 14.07a, subsection (d), which allows a person to retain unexpended campaign contributions for only six years after that person is no longer a candidate or officeholder. Act of June 17, 1983, ch. 444, § 7, 1983 Tex. Sess. Law Serv. 2584 (Vernon). At the end of the six-year period, the required disposition of unexpended contributions is limited to the list of recipients enumerated in subsection (e) of that article. It provides that the unexpended contributions must be transferred as follows:

- (1) to the political party with which the person was affiliated when his name last appeared on the ballot;
- (2) to a candidate or a political committee;
- (3) to the general revenue fund;
- (4) to any person from whom contributions were received; or
- (5) to a recognized tax-exempt, charitable organization formed for educational, religious, or scientific purposes; or
- (6) to a Public or private postsecondary educational institution or an institution of higher education as defined in Section 61.003(7), Texas Education Code, solely for the purpose of assisting or creating a scholarship program.

Under the definition of personal use found in art. 14.03d, the donation of unexpended contributions to public schools is not a use which primarily furthers individual or family purposes. The restrictions of article 14.07a would not become applicable to unexpended contributions accepted on or after September 1, 1983, until six years after the person is no longer a candidate or officeholder.

## SUMMARY

Chapter 14 of the Election Code does not prohibit a candidate or office-holder from donating unexpended contributions to public schools so long as the donation is made before the end of a six year period during which the donor has not been a candidate or office-holder.

W. Page Keeton, Chairman  
State Ethics Advisory Commission  
Adopted this 24th day of February, 1984.