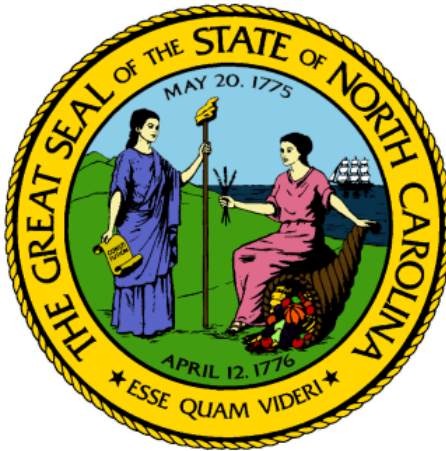


NORTH CAROLINA GENERAL ASSEMBLY LEGISLATIVE ETHICS COMMITTEE



ETHICAL PRINCIPLES AND GUIDELINES AND OPINIONS 1996 - 2012

Issued by:
The Legislative Ethics Committee

North Carolina General Assembly

Legislative Ethics Committee

Ethical Principles and Guidelines and Opinions (1996-2012)

Table of Contents

ETHICAL PRINCIPLES AND GUIDELINES (1) – (6).....	2
Conflict of Interest.....	3
OPINION 001	3
OPINION 002	3
OPINION 003	4
OPINION 004	5
OPINION 005	5
OPINION 006	6
OPINION 007	6
OPINION 008	7
OPINION 009	7
Use of Legislative Stationery and Postage	8
OPINION 010	8
OPINION 011	8
OPINION 012	8
OPINION 013	8
Use of Office	9
OPINION 014	9
OPINION 015 (Also see 016)	9
Use of State Telephones and Mailing Privileges	10
OPINION 016	10
OPINION 017	10
AO-LEC-07-001: Use of Legislative Postage and Stationery to Send Communications upon the Occurrence of a Significant Event, Letters to Newly-Registered Voters, and Holiday Greetings.	11
Ethical Principle and Guideline 7: Use of Legislative Office Materials, Equipment, and Personnel in Campaigns for Elective Office	15
Ethical Principle and Guideline 8: False Certification For Local Bill Filing During Short Session.....	18
Ethical Principle and Guideline 9: Creating and Maintaining a Respectful Workplace.....	20
AO-LEC-12-001 – Further Guidance on the Use of Legislative Resources to Send New Voter Letters	23
Ethical Principle and Guideline 10: Personal Relationships and Appropriate Behavior	24

LEGISLATIVE ETHICS

ETHICAL PRINCIPLES AND GUIDELINES AND
OPINIONS OF THE LEGISLATIVE ETHICS COMMITTEE
1975 - 1996

Issued by:

The Legislative Ethics Committee

August 21, 1996

The Legislative Ethics Committee has reviewed and refined advisory opinions previously rendered to individual legislators. As these edited advisory opinions have not been previously released to the General Assembly members as a whole, the Committee issues these opinions to be effective on October 1, 1996.

LEGISLATIVE ETHICS

ETHICAL PRINCIPLES AND GUIDELINES AND OPINIONS OF THE LEGISLATIVE ETHICS COMMITTEE

ETHICAL PRINCIPLES AND GUIDELINES (1) – (6)

- (1) It is inappropriate to use excessively the State Telephone Network, the legislative computer system, and other State equipment for personal and business reasons. These services and this equipment shall be used primarily for legislative purposes rather than personal and business purposes.
- (2) A legislator shall not use his mailing privileges to mail personal or nonlegislative business related correspondence.
- (3) A legislator shall not copy or have copied nonlegislative materials using State equipment in the Legislative Printing Office; provided that a legislator may copy nonlegislative materials on the duplicating machines if he or she reimburses the Legislative Disbursing Office for the cost of that duplication.
- (4) A legislator mentioning or permitting another to mention the legislative office he or she holds in commercial advertising would improperly take advantage of the confidence and respect accorded that office and that action would therefore be unethical.
- (5) It is inappropriate for any legislator to use or allow another to use his official legislative stationery paid for by the State for soliciting campaign contributions to or thanking contributors to the legislator's political campaign. A legislator may use a facsimile of the legislator's official legislative stationery in soliciting campaign contributions or thanking contributors to the legislator's political campaign as permitted under paragraph (6) of these Ethical Principles and Guidelines.
- (6) When a legislator uses a facsimile of his or her stationery for non-legislative purposes not prohibited under these Principles and Guidelines, the facsimile shall bear a clear disclaimer indicating that the stationery was not printed or mailed at State expense.

Conflict of Interest

OPINION 001

Question: Would the employment of someone as a consultant to the Senate and House Insurance Committees who is currently chair of the insurance research center at an out-of-state university which several years earlier received a \$25,000 grant from the North Carolina Association of Insurance Agents create a potential conflict of interest?

Opinion: A person's previous involvement with an out-of-state university's insurance research center that several years earlier had received a \$25,000 grant from the North Carolina Association of Insurance Agents would not cause that person to be biased as a consultant to the North Carolina Senate and House Insurance Committees.

OPINION 002

Question: May a lawyer/legislator continue to serve as chair of a substantive standing committee and cochair of a legislative oversight committee supervising State-regulated industries when he or she has joined as a partner an international law firm whose clients include a large national company which owns a subsidiary in North Carolina and whose regulations are overseen by the same committees? The legislator indicated his intention not to discuss, debate, or vote on any matter directly affecting the firm's clients.

Opinion: Yes, the legislator may continue to serve as a member and cochair of the committee. G.S. 120-88 provides, in part: "When a legislator must act on a legislative matter as to which he has an economic interest, personal, family or client, he shall consider whether his judgment will be substantially influenced by the interest and consider the need for his particular contribution, such as special knowledge of the subject matter, to the effective functioning of the legislature. If, after considering these factors, the legislator concludes that an actual economic interest does exist which would impair his independence of judgment, then he shall not take any action to further the economic interest and shall ask that he be excused if necessary by the presiding officer in accordance with the rules of the respective body."

The decisive word in the statute is "substantially". In view of the size of the law firm and the indirect relationship of that firm to the subsidiary revealed, there is no reasonable basis for belief that judgment in actions as member and cochair of the committees would be substantially influenced by that relationship.

The Committee notes with approval legislator's stated intention not to discuss, debate, or vote on any matter directly affecting the firm's client.

OPINION 003

Question: May a CPA/legislator's independent firm contract with the State Auditor to conduct and complete annual audit requirements for the State? Legislator is also a member of a legislative commission having administrative powers?

Opinion: (1) Independence of Judgment of Legislator—G.S. 120-88 requires a legislator, when acting on a legislative matter in which he has an economic interest, personal family, or client, to consider whether his judgment would be "substantially influenced by the interest" and the need for his or her particular contribution to the effective functioning of the General Assembly. The legislator must then excuse him/herself from any action advancing the interest if he or she finds that an actual economic interest does exist which would impair his independence of judgment.

(2) Perception of Improper Influence—G.S. 120-86 provides: "no person shall offer or give to a legislator or a member of the legislator's immediate household, or to a business with which he is associated...anything of monetary value, including a gift, favor or service or a promise of future employment, based on any understanding that such legislator's vote, official actions or judgment would be influenced thereby, or where it could reasonable be inferred that the thing of value would influence the legislator in the discharge of his duties."

"A business with which he is associated" means one, among other matters, of which he or a member of his immediate family is an owner, partner, or employee. G.S. 120-85(l)

There are then two concerns set forth in the Legislative Ethics Act. The first is whether, in the legislator's opinion, the firm's being hired to perform accounting services for the State Auditor would compromise his or her independence of judgment of the State Auditor and the functioning of his office; and the second is whether the firm's contract with the State Auditor's Office could result in the reasonable inference that legislator would be influenced in the discharge of legislative duties.

(3) Dual Office Holding Prohibition—G.S. 128-1 prohibits dual office holding, except as provided in G.S. 128-1.1. Subsection (b) of the latter statute allows a person holding an elective office in State or

local government to hold concurrently appointive office, place of trust or profit in State or local government. Thus, if by extension, the firm's contract with State Auditor would constitute a place of trust or profit in State or local government, it would still be permitted under dual office holding provisions. Parenthetically, the Attorney General's Office has traditionally hired local attorneys, including legislators and their law firms, to perform title searches relating to the acquisition of real property.

- (4) Special Nature of State Auditor's Function—The function of the State Auditor is a special one. G.S. 137-64.8 requires the Auditor to maintain independence in the performance of his duties and states that, except as provided by law, no state agency shall have authority to limit the scope, direction, or report of an audit.

In recognition of that function, the General Assembly has, by statute (G.S. 147-64.12), prohibited the Auditor and his employees from serving in any capacity on an administrative board, commission or any other organization that they have the responsibility or authority to audit. The statute sets forth as its purpose "to preserve the independence and objectivity of the audit function."

This legislator also serves as a member of a legislative commission having administrative powers, whose records are audited by the Office of the State Auditor. Although CPA/legislator and firm would not be an employee of the State Auditor's Office, the stated purpose of the G.S. 147-74.12 would be contravened and frustrated by the contemplated contractual relationship and, therefore, would be unethical.

OPINION 004

Question: Are there any legal or ethical impediments to a member of the General Assembly responding to a request for proposal of the University of North Carolina to act as an auctioneer for surplus equipment which the University plans to sell?

Opinion: There are no legal prohibitions on this matter nor any statutes, standards or guidelines on legislative ethics in this regard that have been adopted.

OPINION 005

Question: Does a conflict of interest exist for a legislator who is a real estate broker to sponsor legislation which would permit a broker to contract

with a sales person whereby the sales person agrees to reimburse the broker the cost of workers' compensation insurance?

Opinion: Under existing law real estate broker employees are not allowed to pay any portion of workers' compensation premiums which protect them. The proposed legislation would allow a broker to enter into a contract with its sales person for the latter to reimburse the broker for workers' compensation coverage. The legislator's firm employs fewer than the minimum number of employees for mandatory coverage under the workers' compensation law.

The passage of such legislation and the legislator/broker entering into such a contract with a sales person would not affect the legislator's economic interest. Therefore, there would be no impropriety on the legislator's part by sponsoring the legislation.

OPINION 006

Question: Is there any ethical violation if a lawyer/legislator accepts employment as legal counsel to a regional economic development commission and/or to a non-profit corporation which solicits, receives, and disburses funds associated with the regional development efforts? The legislator sponsored legislation affecting the operations of the agency in the previous legislative session.

The commission was created and funded by the General Assembly and is expected to continue to be funded in the same manner. It is also possible the legislator/attorney would be asked to sponsor other legislation pertaining to the commission and its operation.

Opinion: It is inappropriate for a legislator to accept employment with a commission or an agency tied closely to the commission when the legislator has sponsored legislation affecting the commission in the previous legislative session and contemplates doing so in the future as the employment would compromise the legislator's reputation and the image of the General Assembly.

OPINION 007

Question: Is it inappropriate for a legislator who is the president and owner of a wholesale specialty supply house supplying a particular industry to sponsor and/or support (1) legislation eliminating the sales tax on specialty supply sales to a segment of that industry and (2) legislation modifying licensing fees for wholesale specialty supply distributors to that industry?

Opinion: General Assembly members should not only avoid conflicts of interest but also the appearance of these conflicts so that the legislative institution and its members are not thereby denigrated. Citizens might reasonably believe that there is a conflict of interest in the legislator's introduction of either of the two measures. Since there would be the appearance of a conflict of interest, it is recommended that the legislator not sponsor either. The legislator must resolve whether to actively support or vote on these matters after a self-examination to determine whether an actual conflict of interest exists and, if so, whether it would impair independence of judgment in acting.

OPINION 008

Question: Is it inappropriate that a bill affecting an industry be referred to a substantive standing committee consisting of some members who may have a financial interest in that industry?

Opinion: It is not inappropriate. This is a discretionary matter involving the organizational structure and process of each legislative chamber.

OPINION 009

Question: Is it inappropriate that committee members who are officers or employees of or have financial interest, reportable in the legislative economic interest statements, in businesses regulated by the State serve on and participate in the actions of substantive standing committees overseeing that State regulation?

Opinion: It is not inappropriate. Each legislator has the personal responsibility to determine, under G.S. 120-88, whether his or her independence of judgment is impaired by a financial interest. The individual legislator may ask the Legislative Ethics Committee for an advisory opinion if he or she is in doubt.

Use of Legislative Stationery and Postage

(Also see *Ethical Principles and Guidelines (2), (3), (5), and (6) above.*)

OPINION 010

Question: May a legislator use official legislative stationery to request advice of others in the same profession on legislation affecting that profession and to urge the professionals to join a PAC?

Opinion: A legislator may use official legislative stationery to request the advice of others in the same profession on legislation. A legislator may not use official legislative stationery to urge anyone to join a PAC but may use a facsimile of the stationery if the stationery bears a clear disclaimer that indicates that the stationery was not printed or mailed at State expense.

OPINION 011

Question: May a legislator use official legislative stationery to solicit support from lobbyists for a social event for the members and staff of the General Assembly?

Opinion: A legislator's stationery may not be used for this purpose. A legislator may use a facsimile of the legislator's official stationery for this purpose if the facsimile bears a clear disclaimer that it was not printed or mailed at State expense.

OPINION 012

Question: May a legislator reproduce a letter soliciting support for an environmental organization on legislative stationery if the costs of reproducing and mailing are paid by the organization?

Opinion: The Ethical Principles and Guidelines [set forth herein on page 2] limit the mentioning of legislative status *only* in commercial advertising.

OPINION 013

Question: May a legislator use legislative stationery and postage to (1) send letters of sympathy to constituents who have a death in the family; (2) send letters to constituents who do something outstanding or achieve a great accomplishment; and (3) send letters of appreciation to individuals and groups of constituents who have invited the legislator

to speak?

Opinion: It is appropriate to use legislative stationery and postage to send letters of sympathy and letters of congratulations to constituents.

There is no problem with using legislative stationery and postage to send letters to individuals and groups in appreciation for invitations as long as the correspondence neither solicits nor thanks campaign contributors for their contributions.

Use of Office

(Also see Ethical Principles and Guidelines (4) above.)

OPINION 014

Question: May a legislator who is the senior vice president of a construction firm which is acting as the general contractor for a resort development allow his or her legislative status to be used in an advertising brochure for the resort?

Opinion: The legislator may not. Among the benefits accruing to those holding office as North Carolina State legislators are the confidence and respect of his or her fellow citizens. A legislator mentioning or permitting another to mention the office he or she holds in commercial advertising would improperly take advantage of the confidence and respect accorded that office. The office would thereby be demeaned. The legislator's actions of mentioning or permitting another to mention the legislative status in commercial advertising would therefore be unethical.

OPINION 015 (Also see 016)

Question: May a legislator use title as a legislator in an endorsement of a retail business?

Opinion: The Ethical Principles and Guidelines [set forth herein on page 2] limit the mentioning of legislative status in commercial advertising.

Use of State Telephones and Mailing Privileges

(Also see Ethical Principles and Guidelines (1) above.)

OPINION 016

Question: (1) May a legislator use the State telephone for personal and business calls as long as reimbursement is made for those calls?

(2) May a legislator mail personal and business mail through the legislative post office as long as postage is supplied by the legislator?

Opinion: The Committee promulgated the Ethical Principles and Guidelines [set forth herein on page 2] mindful of the part-time service of citizen/legislators.

(1) The guideline regarding use of the State telephone network leaves to the individual legislator's discretion and sense of propriety the determination of excessive use of the telephone for personal and business-related communications.

(2) Anyone may use the legislative post office through which they may deposit stamped personal or non-legislative, business-related mail. The guideline speaks to use of legislators' mailing privilege of sending official correspondence using postage supplied by the State only.

OPINION 017

Question: May a legislator use the State telephone to make calls to the legislator's personal home and business telephones and answering machines to retrieve messages and concerns from constituents?

Opinion: This use of the State telephone system constitutes conducting appropriate legislative business.



**North Carolina General Assembly
Legislative Ethics Committee**

June 20, 2007

**PUBLISHED ADVISORY OPINION OF THE
LEGISLATIVE ETHICS COMMITTEE**

Re: AO-LEC-07-001: Use of Legislative Postage and Stationery to Send Communications upon the Occurrence of a Significant Event, Letters to Newly Registered Voters, and Holiday Greetings.

A handwritten signature in black ink, appearing to be "J. H. H." or similar, with a long horizontal line extending to the right.

QUESTIONS:

- (1) May a legislator use State funds (legislative personnel, copying facilities, and postage) to send constituents holiday greetings of either a secular nature or religious nature, send communications upon the occurrence of a significant event in their lives (for example: birth, birthday, graduation, marriage, and naturalization) and condolences upon an adverse occurrence?
- (2) May a legislator use State funds to communicate these matters to non-constituents?
- (3) May a legislator use legislative postage to send congratulatory letters to newly-registered voters in the legislator's district? The letter would (1) thank the individual for registering to vote, (2) inform the individual who the individual's representative is and (3) encourage the individual to contact the legislator if the legislator can be of assistance.

CURRENT PRINCIPLES AND GUIDELINES

The Committee has considered questions regarding the appropriate use of legislative mailing privileges for many years. On May 7, 1985, a legislator requested clarification on mailing privileges. Senator Marshall A. Rauch, the then chair of the Committee, noted that Principle and Guideline 2 prohibits a legislator from using his or her mailing privileges to send personal or nonlegislative business related correspondence. However, Senator Rauch noted that anyone could use the

legislative post office to deposit stamped personal or nonlegislative mail.

On April 20, 1995, a legislator asked the Committee (1) if it was appropriate to send letters of sympathy on State stationery to a family of constituents when there is a death in that family, (2) if it was appropriate to use State stationery and mailing privileges to send letters to constituents who do something outstanding or achieve a great feat in the legislator's district, and (3) if it was appropriate to use State stationery to thank individuals and groups in the district who have invited the legislator to speak to them.

The then Chair of the Committee, Senator Beverly Perdue, stated that Committee members agreed that it was appropriate to send the letters of sympathy on State stationery to a family of constituents when there is a death in that family and letters on State stationery noting an outstanding feat in the legislator's district. The Committee also believed it was appropriate to use State stationery to thank individuals and groups in the district who have invited the legislator to speak as long as the correspondence does not solicit or thank campaign contributors for their contributions.

On August 21, 1996, the Committee issued "Legislative Ethics: Ethical Principles and Guidelines of the Legislative Ethics Committee 1975-1996." The publication arose after the Committee reviewed and refined advisory opinions it previously rendered to individual legislators. A few items in the publication are relevant to the issues of mailing privileges and use of legislative stationery and postage.

Principle and Guideline 2 states "A legislator shall not use his [or her] mailing privileges to mail personal or nonlegislative business related correspondence."

Principle and Guideline 5 states "It is inappropriate for any legislator to use or allow another to use his [or her] official legislative stationery paid for by the State for soliciting campaign contributions to or thanking contributors to the legislator's political campaign. A legislator may use a facsimile of the legislator's official legislative stationery in soliciting campaign contributions or thanking contributors to the legislator's political campaign as permitted under paragraph (6) of these Ethical Principles and Guidelines."

Principle and Guideline 6 states "When a legislator uses a facsimile of his or her stationery for non-legislative purposes not prohibited under these Principles and Guidelines, the facsimile shall bear a clear disclaimer indicating that the stationery was not printed or mailed at State expense."

Ethics Opinions 010 through 013 address the use of legislative stationery and postage.

Ethics Opinion 010 states in part "A legislator may not use official legislative

stationery to urge anyone to join a PAC [political action committee] but may use a facsimile of the stationery if the stationery bears a clear disclaimer that indicates that the stationery was not printed or mailed at State expense."

Ethics Opinion 013 states "It is appropriate to use legislative stationery and postage to send letters of sympathy and letters of congratulations to constituents."

SPECIFIC QUESTIONS

A. May a Legislator Use Legislative Postage and Stationery to Send Communications upon the Occurrence of a Significant Event and Condolences Upon an Adverse Occurrence?

A legislator may use legislative postage, stationery and staff to send communications to constituents and non-constituents upon the occurrence of a significant event in their lives and condolences upon an adverse occurrence.

Although Principle and Guideline 2 prohibits legislators from using mailing privileges to mail personal or nonlegislative business related correspondence, Ethics Opinion 013 states that "[i]t is appropriate to use legislative stationery and postage to send letters of sympathy and letters of congratulations to constituents."

The Committee finds that it is appropriate to use legislative postage, stationery and staff to send constituents and non-constituents communications upon the occurrence of a significant event in their lives and condolences upon an adverse occurrence. These communications are analogous to letters of sympathy and letters of congratulations which are permissible under Ethics Opinion 013.

A legislator may use legislative postage, stationery and staff to communicate about the following significant events:

1. Birth of a child.
2. Graduation from high school, college, or other institution of learning.
3. Marriage.
4. Naturalization.
5. Honor roll, athletic successes, and academic successes.
6. Ceremonies or rites signifying an event in a person's life indicative of a transition from one stage of life to another, including confirmations, bar mitzvahs, and bat mitzvahs.
7. Death.

8. Sickness, illness, or disease.
9. Civic awards and accomplishments.

The enumerated list of events is not exhaustive. However, a legislator should never use legislative postage and stationery to primarily further a political campaign or a personal business activity.

This opinion supplements Ethics Opinion 013 and expands its application to letters to non-constituents.

B. May a Legislator Use Legislative Postage and Stationery to Send Letters to Newly-Registered Voters?

The Committee finds that registering to vote is a significant event in a person's life, and under Ethics Opinion 013, analogous to births and graduations. On the other hand, sending letters to newly-registered voters could have a political component. These letters could have the intended or unintended consequence of getting the legislator's name out to constituents at State expense. Further, if the letters were sent shortly before an election, this could give the appearance that the letter was intended to influence the election and was not made for legislative purposes.

For these reasons, a legislator may use legislative postage, stationery and staff to send letters to newly-registered voters in the legislator's district provided that these letters are not sent within 60 days before any election day the legislator is on the ballot in a contested election and so long as the letters only do the following: (1) thank the individual for registering to vote, (2) inform the individual who the individual's representative is and the legislator's contact information, and (3) encourage the individual to contact the legislator if the legislator can be of assistance. "Election" shall include primary election, second primary election, special election, and general election. Nothing in this opinion limits the application of State election laws.

C. May a Legislator Use Legislative Postage and Stationery to Send Holiday Greetings?

A legislator may not use legislative postage, stationery or staff to send holiday greetings or cards.

The Committee finds that sending holiday greetings or cards is a personal correspondence. Therefore, under Principle and Guideline 2, it would be inappropriate to use legislative postage and stationery to send holiday greetings or cards.



North Carolina General Assembly Legislative Ethics Committee

June 21, 2007

To: Members of the General Assembly

From: Senator Dan Clodfelter and Representative Rick Glaizer
Cochairs of the Legislative Ethics Committee

Re: Ethical Principle and Guideline 7: Use of Legislative Office Materials,
Equipment, and Personnel in Campaigns for Elective Office

The Legislative Ethics Committee (Committee) has never issued a formal advisory opinion or a principle and guideline on whether legislators may use their legislative office equipment, facilities, and personnel in campaigns for public office. In 1998, the then Cochair of the Committee, Senator Howard Lee and Representative Julia Howard, were asked for guidance on this subject, but there was no request for a formal advisory opinion from the Committee. Senator Lee and Representative Howard released an explanatory memorandum which offered their own personal thoughts. This memorandum has offered some guidance to legislators for over eight years.

The Committee finds that the explanatory memorandum from Senator Lee and Representative Howard provides useful information on this subject and should be formalized. In accordance with G.S. 120-102(5), the Legislative Ethics Committee issues the following principle and guideline which is based on the guidance in the 1998 Lee/Howard memorandum.

A legislator's campaign activities should not be conducted in the legislator's State supplied office or using State equipment, facilities, materials, or personnel. For purposes of this discussion "campaign activities" would include, but not be limited to, soliciting or receiving campaign contributions, preparing campaign literature, arranging or inviting individuals to campaign events, and urging people to vote for or against a particular candidate.

The Legislative Ethics Committee has previously issued the following principle and guideline regarding the use of State equipment:

Ethical Principle and Guideline 7

June 21, 2007

Page 2

"It is inappropriate to excessively use the State Telephone Network, the legislative computer system and any other State equipment for personal and business reasons. These services and this equipment shall be used for legislative purposes rather than for personal and business purposes."
See Principle and Guideline 1.

The North Carolina Constitution (Article V, § 2(1)) requires that State taxes and State expenditures be for a public purpose. The State Personnel Act prohibits political activity by most State employees while on duty and those employees from using State funds or equipment in political campaigns (G.S. 126-13). Legislative officers and employees, among others, are exempt from that provision (G.S.126-5(c1)(3)).

The furthering of any individual's candidacy for political office is not a public purpose for which State funds may be constitutionally expended. That legislative employees are exempt from the provisions of the general law restricting their political activity during duty hours, does not make such activity either constitutional or ethical. The legislative assistant and clerk are directly responsible to a legislator. They are State employees paid from public funds. Although the individual member is responsible for insuring the hours the legislator's assistant and clerk works, the legislative assistant and clerk are paid by the State for a 40-hour work week. As such, a member's assistant or clerk should not engage in campaign activities during office hours. This prohibition would also apply to other employees paid by State funds over whose duties and activities the legislator has control or responsibility.

The Committee does not seek to restrain the voluntary political activity of legislative employees after office hours and outside of the legislative office. The Committee understands that a legislative office may be the site of occasional and non-substantive campaign activities. These activities may involve the incidental use of State equipment, facilities, or materials, or the incidental participation by a legislative assistant, clerk, or other legislative employee. An example might be answering the inquiry of an incoming caller about the time and place of a campaign event for the member. These occurrences are not unethical as long as the action taken does all of the following:

1. Responds to, rather than initiates, a communication.
2. Is an incidental, rather than a regular or substantial, part of the functioning of the legislator's office.
3. Does not result, other than to a trivial or unascertainable extent, in additional costs to the State.

To guard against the possibility that campaign material might initiate the conducting of a campaign from a legislative office, a member's legislative office address, legislative

Ethical Principle and Guideline 7

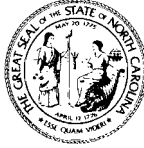
June 21, 2007

Page 3

email address, or legislative telephone number should not be advertised as connected with or associated with the campaign.

The Committee does not extend this analysis to campaigns for referenda or constitutional amendments.

If you have any questions concerning this matter, please let us know.



North Carolina General Assembly Legislative Ethics Committee

July 12, 2007

To: Members of the General Assembly

From: Senator Dan Clodfelter and Representative Rick Glazier, Cochairs of the Legislative Ethics Committee

Re: Ethical Principle and Guideline 8: False Certification For Local Bill Filing During Short Session

The Legislative Ethics Committee (Committee) has been asked to investigate ethical issues arising from the execution and filing of local bill certifications during the Short Sessions of the General Assembly. These local bill eligibility requirements are usually set forth in the Long Session's adjournment resolution. These issues have not previously been addressed by the Committee, and no previous guidance or ethical principle and guideline has been issued. The Committee believes ethical standards do apply in this situation, and legislators should receive guidance on the filing of local bill certifications.

The typical adjournment resolution specifies local bill eligibility in part in the following way:

"During the regular session [Short Session] that reconvenes on _____, only the following matters may be considered:

- (4) Any local bill that has been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 P.M. _____ is introduced in the House of Representatives or filed for introduction in the Senate by _____, and is accompanied by a certificate signed by the principal sponsor stating that ... the bill is approved for introduction by each member of the House of Representatives and Senate whose district includes the area to which the bill applies."

(See Senate Joint Resolution 1184 of the 2005 Session)

Ethical Principle and Guideline 8

July 12, 2007

Page 2

To comply with the adjournment resolution, a member who wants to file a local bill must also file a "Local Bill Certification" with the member's respective Principal Clerk. The certification reads in part:

"The undersigned, principal sponsor of the attached local bill, certifies that: (c) the bill is approved for introduction by each member of the House of Representatives and Senate whose district includes the area to which the bill applies."

The local bill certification requirement is a rule of procedure and not a rule of ethics. The jurisdiction of the Committee does not include the application and enforcement of rules of procedure of the houses. Issues arising from the application of rules of procedure are within the exclusive jurisdiction of the house of which the legislator is a member. An alleged violation of a rule of procedure is subject to a point of order which is subject to appeal to the House or Senate, which is debatable and requires a vote of the chamber.

However, knowingly submitting a falsified local bill certification would be a matter of ethics and would be within the jurisdiction of the Committee. G.S. 120-102(a)(5) authorizes the Committee to prepare ethical principles and guidelines to be used by legislators to identify potential prohibited behavior and to suggest rules of conduct that must be adhered to by legislators. The Committee issues this principle and guideline to advise legislators in filing local bill certifications.

Filing a local bill certification knowing the certification is false is unethical. Under the typical adjournment resolution and the local bill certification filed in compliance with the adjournment resolution, a legislator is presumed to truthfully certify that the bill is approved for introduction by each member of the House and Senate whose district includes the area to which the bill applies. Accordingly, a member filing a local bill certification has an affirmative duty to determine that the facts set forth in the certification are true, including the fact that the member has checked with each member of the local delegation affected and has been affirmatively told by the other members of the delegation that they approve the bill for introduction. The failure by the member to verify these facts before signing the certification makes the certification false, and the signing of a falsified certification is therefore unethical. Other legislators have a right to rely on the truthfulness of statements made on a local bill certification. A knowing violation of that trust constitutes an ethics violation.

Nothing in this Principle and Guideline applies to an alleged violation of any other rule of procedure.



North Carolina General Assembly Legislative Ethics Committee

March 9, 2010

To: Members of the General Assembly

From: Senator Steve Goss and Representative Rick Glazier
Cochairs of the Legislative Ethics Committee

Re: Ethical Principle and Guideline 9: Creating and Maintaining a Respectful Workplace at the General Assembly

It is the responsibility of each legislator to create and maintain a work environment at the General Assembly in which all legislators and employees are free from workplace harassment and are treated respectfully. Workplace harassment of any legislator or employee on the basis of his or her race, sex, creed, religion, national origin, age, color, or disability may be unlawful, discredits the integrity of the General Assembly, and is unethical conduct. Harassing behavior in the workplace will not be condoned or tolerated. The responsibility to create and maintain a respectful workplace also applies to activities that involve legislative business or legislative events that occur away from the State legislative buildings and grounds.

It is unethical for a legislator to retaliate against any person who in good faith files a complaint of workplace harassment. It is also unethical for a legislator to retaliate against any person who gives information relating to a complaint of workplace harassment.

It is unethical to knowingly file a false complaint of workplace harassment.

Special Considerations for Youth Staff

Legislators are reminded that holding office may involve interactions with minors and youth staff. Young people are looking to legislators to be good role models and to set positive examples. Therefore, legislators should give extra attention to their conduct around all youth. For example, there are topics that might be permissible for two adults to discuss and not be in violation of professional conduct responsibilities, but the same topics would not be appropriate for a legislator to discuss with a page.

It is unethical for any legislator to make sexual advances to, make requests for sexual favors of, or exhibit any conduct of a sexual nature, whether physical, electronic, oral, or in writing, in the presence of a minor who is an employee, visitor or guest of the General Ethical

Assembly under any circumstances, even if the legislator believes such conduct is invited or welcome.

Definitions

1. "Employee" includes all of the following: any permanent, temporary, full-time, part-time or other person employed by the Legislative Services Commission, the House of Representatives, or the Senate; any applicant for employment by the Legislative Services Commission, the House of Representatives, or the Senate; any officer of the General Assembly who is not also a legislator or the Lieutenant Governor; and any page, intern or extern.

2. "Workplace harassment" means treatment or behavior that to a reasonable person creates an intimidating, hostile or abusive work environment and includes sexual harassment. Harassment may be based on a person's race, sex, creed, religion, national origin, age, color, or disability.

3. "Sexual harassment" means unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

- (a) A person says or suggests that declining to submit to the conduct will affect another person's job, benefits or business before the General Assembly;
- (b) A person uses submission to or rejection of the conduct as the basis for decisions affecting another person's employment; or
- (c) The conduct has the purpose or effect of unreasonably interfering with another person's performance or creating an intimidating, hostile or offensive environment in which another person works.

"Sexual harassment" includes the following conduct:

- i. Verbal abuse of a sexual nature;
- ii. Graphic and offensive comment about a person's body or attire;
- iii. Touching of a sexual nature;
- iv. Sexual advances and propositions;
- v. Sexually degrading words used to describe a person;
- vi. Display in the workplace, including electronically of any sexually suggestive object or picture; and
- vii. Any threat or insinuation that a person's refusal to submit to a sexual advance will adversely affect that person's employment, evaluation, wages, duties, work shifts or any other condition of employment or business before the General Assembly.

Procedures for Reporting Harassment

A person who has experienced an unpleasant behavior from someone else may simply want the behavior to end. If comfortable and practical, the employee or legislator may talk to the "offender" about his or her behavior, explain that the behavior was offensive, and ask that the behavior stop. The employee or legislator may communicate with the offender in person or in writing. This step is not a prerequisite to any of the following procedures.

If the alleged "offender" is a legislator, the person who has experienced the offensive behavior may file a complaint with the Legislative Ethics Committee (LEC). The LEC shall investigate the complaint according to the procedures provided in G.S. 120-103.1. The filing of a complaint with the LEC does not bar a person from filing a complaint with management pursuant to the Legislative Services Commission (LSC) "Unlawful Workplace Harassment" Policy. The filing of a complaint under the LSC policy does not bar a person from filing a complaint with the LEC. The filing of a complaint with the LEC or the LSC does not bar a person from pursuing any other remedies available under federal or state law.



North Carolina General Assembly Legislative Ethics Committee

July 2, 2012

PUBLISHED ADVISORY OPINION OF THE LEGISLATIVE ETHICS COMMITTEE

Re: AO-LEC-12-001 – Further Guidance on the Use of Legislative Resources to Send New Voter Letters

Questions:

1. May a legislator send letters to newly registered voters residing in the district as the district will exist once redistricting takes effect (i.e. the district to which the legislator would be elected following the November 2012 election, if the legislator wins that election)?
2. Who qualifies as a newly registered voter?

I. Advisory Opinion Overview

Pursuant to G.S. 120-104(a), any member of the General Assembly may ask the Committee for a formal advisory opinion on specific questions involving legislative ethics. Formal opinions are published in a redacted format on the State Ethics Commission's website. Please keep in mind that formal advisory opinions do not confer immunity from criminal investigation or prosecution. Requests for advisory opinions, the opinions themselves, and all materials related to the opinions are confidential and are not public records. G.S. 138A-13(e).

II. Application of AO-LEC-07-001 - May a legislator send letters to newly registered voters residing in the district as the district will exist once redistricting takes effect (i.e. the district to which the legislator would be elected following the November 2012 election, if the legislator wins that election)?

No. The use of legislative postage, stationery, and staff to send letters to newly registered voters is limited to constituents who live in the legislator's district. The phrase "in the legislator's district" refers to the district for which the legislator was issued a certificate of election or letter of appointment under Chapter 163 of the General Statutes and for which the legislator is currently serving out that term of office.

III. Application of AO-LEC-07-001 – Who is a newly registered voter?

Newly registered voters are those individuals who register in that district within the biennium (i.e. January 1 of the odd numbered year until December 31 of the even numbered year.).



North Carolina General Assembly Legislative Ethics Committee

July 24, 2012

To: Members of the General Assembly and Legislative Employees

From: Senator Fletcher Hartsell and Representative Paul Stam
Cochairs of the Legislative Ethics Committee

Re: Ethical Principle and Guideline 10: Personal Relationships and Appropriate
Behavior – Certain Legislative Employees

To guard against inappropriate and unethical behavior, a legislative employee who serves directly at the discretion of a legislator shall not engage in a dating relationship or sexual relations with a registered lobbyist or registered liaison personnel without disclosing that relationship to the legislator. A dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship; a casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship.