

INTERIM LEGISLATIVE ETHICS COMMITTEE
ADVISORY OPINION 19-01

Pursuant to Section 2-15-9 NMSA 1978, the Interim Legislative Ethics Committee was asked to issue an advisory opinion on whether a legislator may film a political advertisement in support of a candidate in the legislator's office in the State Capitol or if this conduct would violate the provisions of the Governmental Conduct Act or legislative rules. This advisory opinion responds to that request. The committee met on June 24, 2019 to discuss the request and its response.

Advisory Opinion Summary

Legislators should not allow the use of their offices in the State Capitol for the filming of political advertisements.

Discussion

The Governmental Conduct Act sets forth the basic principles that govern ethical conduct of legislators and public officers and employees. (Section 10-16-1 et seq. NMSA 1978.) Guiding principles include the following:

A legislator or public officer or employee shall treat the legislator's or public officer's or employee's government position as a public trust. The legislator or public officer or employee shall use the powers and resources of public office only to advance the public interest and not to obtain personal benefits or pursue private interests. (Subsection A of Section 10-16-3 NMSA 1978.)

Legislators and public officers and employees shall conduct themselves in a manner that justifies the confidence placed in them by the people, at all times maintaining the integrity and discharging ethically the high responsibilities of public service. (Subsection B of Section 10-16-3 NMSA 1978.)

In addition, Senate Rule 26-1 and House Rule 26-1, in relevant part, state that "[t]o avoid the abuse of office, a member shall not . . . grant to, or obtain a special privilege or exemption for himself or another person, which privilege or exemption is not readily available to members of the general community or class to which the beneficiary belongs;".

Legislative offices in the State Capitol are considered official state resources made available to members of the legislature for official business. As such, and similar to this committee's opinions on the use of legislative stationery and use of the legislative email system, their use "should be limited to matters that relate to the conduct of legislative business". (Interim Legislative Ethics Committee Advisory Opinion Nos. 96-1 and 08-02.)

This committee has consistently cautioned that the use of state resources for political campaigns is not acceptable. Accordingly, legislative offices may not be used for the conduct of campaign or political activities. Thus, filming a political advertisement in support of a candidate in a legislator's office in the State Capitol would not be allowable conduct.

Pursuant to Paragraph (3) of Subsection D of Legislative Council Policy No. 16, advisory opinions issued by the Interim Legislative Ethics Committee are prospective only. This advisory opinion does not reflect on previous actions by members. In the future, as provided in Paragraph (4) of Subsection D of Legislative Council Policy No. 16, a legislator who acts in good-faith reliance upon this advisory opinion shall be immune from sanctions for conduct allowed by the opinion unless this advisory opinion is subsequently rejected by the relevant House of Representatives or Senate standing committee prior to the conduct in question.

A copy of this advisory opinion shall be provided to each legislator and retained in the library of the Legislative Council Service.



D. WONDA JOHNSON
Co-Chair, Interim Legislative
Ethics Committee



LINDA M. LOPEZ
Co-Chair, Interim Legislative
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DATE: June 24, 2019