

ADVISORY OPINION 2001-008

Any advisory opinion rendered by the registry under subsection (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is rendered. KRS 121.135(4).

January 2, 2002

James Peden
6907 Green Manor Dr.
Louisville, Kentucky 40228

Dear Mr. Peden:

This is in response to your request for an advisory opinion regarding a proposal to feature your candidacy in a professional, quarterly newsletter. You state that you are candidate for the Greater Louisville Legislative Council. In addition, you currently are a volunteer firefighter.

You explain that On Scene with Highview Fire, a quarterly newsletter for firefighters in the Highview Fire District, has contacted you regarding announcing your candidacy as a human interest story, which would be similar to profiles of firefighters, regularly presented in each issue. You point out that this article would not be an advertisement or endorsement. Finally, you state that the Highview Fire District is a special taxing district under KRS Chapter 75, but is not incorporated. You ask the following specific questions, the Registry's response to which follows:

(1) Can the fire department print an article about my candidacy without breaking any rules or laws?

There is nothing in KRS Chapter 121 that would prohibit a fire department from printing an article about a firefighter's political candidacy in its membership newsletter. However, other provisions of the Kentucky Revised Statutes, including KRS Chapter 75,

may regulate the political activities of a special taxing district. The issue of whether the conduct proposed by the Highview Fire District would constitute political activity does not fall within the jurisdiction of the Registry. However, the Highview Fire District may wish to seek the opinions of agencies within whose jurisdiction KRS Chapter 75 falls for further information on this point.

(2) If they can print this article are they required to give equal time to other candidates both in my party and out?

Nothing in KRS Chapter 121 requires a member newsletter that prints an article concerning a member who is running for office to offer equal time to other candidates, regardless of party affiliation. However, if On Scene with Highview Fire offers space for paid-for advertising, the provisions of KRS 121.065 would control. KRS 121.065 prohibits the publisher of any printed matter from charging disparate rates for political advertising. Based on the example of the newsletter you provided, it does not appear that On Scene with Highview Fire offers space for paid-for advertising.

(3) If the article is printed and the logging of the donation is required what standard for an amount do I use?

KRS 121.015(6) defines contribution to mean any:

- (a) Payment, distribution, loan, deposit or gift of money or other thing of value, to a candidate ...
- (b) Payment by any person other than the candidate, his authorized treasurer, ... of compensation for the personal services of another person which are rendered to a candidate, slate of candidates, committee or contributing organization, or for inauguration activities;
- (c) Goods, advertising, or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are furnished to a candidate ... without charge, or at a rate which is less than the rate normally charged for the goods or services; or
- (d) Payment by any person other than a candidate, his authorized treasurer ... for any goods or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are utilized by a candidate ...

Specifically excluded from the definition of contribution are (1) volunteer services, (2) a loan of money from a financial institution, and (3) an independent expenditure, which is defined as the expenditure of money for a communication which expressly advocates the election or defeat of a clearly identified candidate and which is made without any coordination, consultation, or cooperation with the candidate. KRS 121.015(7), (12).

The article proposed by your letter does not seek to expressly advocate, endorse your candidacy or solicit funds for your candidacy. Rather, what is proposed is a human

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interest feature on you, a firefighter, who is also running for office. Although this is a communication regarding your candidacy, which has been coordinated with you, the candidate, it does not constitute “advertising ... with a value of more than one hundred dollars (\$100).” In addition, this is a communication by an entity to its membership, and therefore, is generally not the type of communication regulated under KRS Chapter 121.

Therefore, a human interest story about you, which does not advocate your election or solicit funds on your behalf, published in On Scene with Highview Fire and distributed only to members of the Highview Fire District would not constitute a contribution under KRS Chapter 121 and is not required to be reported by you.

Sincerely,

Rosemary F. Center
General Counsel

RFC/jh

Cc: Registry Members
Sarah M. Jackson, Executive Director