

COPY



MEC  
OPINION NO.

1998.04.100

**STATE OF MISSOURI**

MISSOURI ETHICS COMMISSION  
P. O. BOX 1254  
JEFFERSON CITY, MISSOURI 65102

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May 7, 1998

**NOTICE**

**Anyone examining this advisory opinion should be careful to note that an opinion of the Missouri Ethics Commission deals only with the specific request to which the opinion responded and only as to the law as it existed at the date of the response and cannot be relied upon for any other purpose or in any other manner.**

At the April 24, 1998 meeting of the Missouri Ethics Commission, your request for an opinion was discussed. The following is the Commission's response to your questions:

*1. May an individual who is a candidate for federal office, or is a current federal officeholder, create a Missouri continuing committee, provided his or her candidacy does not receive contributions from this committee?*

An individual who is a "candidate" may not create, control or direct a Missouri continuing committee because candidates are prohibited from doing those things by section 130.011(10), RSMo.

Candidates for federal office are exempted from many of the requirements of Missouri's campaign finance law not by a definitional exclusion, but rather by section 130.086, RSMo, which tells when federal candidates will be deemed to have complied with Chapter 130. That approach indicates that the General Assembly intended to include federal candidates under Chapter 130, but to exempt most of them from complying with the reporting, recordkeeping and filing requirements of Missouri law (because most of them will comply with federal laws with regard to their federal campaigns).

However, because section 130.086, RSMo shows a legislative intent to include at least some federal candidates under the full purview of Chapter 130 (for example, any federal candidate who fails to comply with federal laws), any ambiguity in the definition of "public office" in section 130.011(3), RSMo should be resolved in favor of the conclusion that "candidate" covers not only state and local candidates but also federal candidates. That is also consistent with relative broad

definitions of "public office" given by Missouri courts. (See, e.g., State ex rel. Eli Lilly & Co. v. Gaetner, 619 S.W.2<sup>nd</sup> 761, 764 (Mo. App. 1981).) Had the General Assembly wanted to exclude federal candidates from some or all of Chapter 130 in any other way, the Commission believes that it would have inserted specific language to that effect (as it did with a separate definition of "federal office" in the election laws in section 115.013(11), RSMo).

For the foregoing reason, the Commission believes that candidates for federal offices are "candidates" under Chapter 130, and while they do not have to comply with Missouri recordkeeping and reporting requirements with regard to their federal campaigns, as long as they comply with federal campaign finance laws they would have to comply with Missouri statutes if and when they become involved in campaigns in support of or in opposition to state or local candidates or measures. Therefore, a federal candidate could not form, control or direct a Missouri non-federal committee.

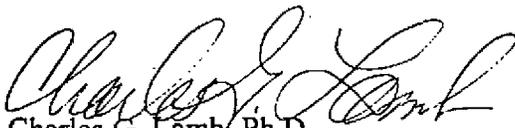
If a federal officeholder is not a "candidate" under Section 130.011(3), RSMo, then the above-referenced prohibitions would not apply unless and until that person became a candidate.

2. *May such an individual take an active role in a Missouri continuing committee created and established by other individuals, provided his or her candidacy receives no contributions from the committee?*

Such an individual may become active in a Missouri continuing committee established by others, but no "active role" could include the "control" or "direction" of that committee because of the section 130.011(10), RSMo prohibitions. The Commission notes that sometimes it might be difficult to establish a line between those roles.

If you have any further questions, please feel free to contact this office.

Sincerely,



Charles G. Lamb, Ph.D.  
Executive Director

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