

2015 February



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

October 12, 2000

The Honorable Maggie Glover
Senator, District No. 30
910 West Sumter Street
Florence, South Carolina 29501

Re: Informal Opinion

Dear Senator Glover:

By your letter of October 3, 2000, you have asked whether an "election commissioner can serve in that capacity if a family member (spouse) is elected to public office." Because your letter did not specify either the commission or the public office in question, for the purposes of this response, I will assume that the commissioner serves on a county or municipal election commission with jurisdiction over the spouse's election.

While I have been unable to locate a statute that would require an election commissioner to resign if his or her spouse should be elected to public office, South Carolina Code Ann. § 7-13-75 provides as follows:

No member of a county or municipal election commission, voter registration board, or combined election and voter registration commission may participate in political management or in a political campaign during the member's term of office. No member may make a contribution to a candidate or knowingly attend a fundraiser held for the benefit of a candidate over whose election the member has jurisdiction. Violation of this section subjects the member to removal by the Governor or appropriate appointive authority.

When interpreting a statute, a court must apply the clear and unambiguous terms of a statute according to their literal meaning. State v. Blackmon, 304 S.C. 270, 403 S.E.2d

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660 (1991). The words of a statute must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation. Bryant v. City of Columbia, 295 S.C. 408, 368 S.E.2d 899 (1988). The American Heritage Dictionary (3rd ed. 1993) defines "participate" as meaning to take part in something or to share in something. See also 31 Words and Phrases 227 (1957). Applying the terms of § 7-13-75, in accordance with their plain and ordinary meaning, it is my opinion that an election commissioner is prohibited from taking part in either the management or the conduct of his or her spouse's political campaign. Enclosed for your review are three prior opinions of this Office that address examples conduct that may constitute a violation of § 7-13-75.

Finally, I have located a statute in the Ethics Reform Act of 1991 ("the Act") that may pertain to your situation. In relevant part, South Carolina Code Ann. § 8-13-700(B) provides:

(B) No public official, public member, or public employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which . . . a member of his immediate family . . . has an economic interest. A public official, public member, or a public employee who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of . . . a member of his immediate family . . . shall:

(1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision;

. . .

(5) if he is a public member, he shall furnish a copy to the presiding officer of any . . . commission . . . on which he serves, who shall cause the statement to be printed in the minutes and shall require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause such disqualification and the reasons for it to be noted in the minutes.

As you know, the South Carolina General Assembly has given primary responsibility for interpreting the Act's provisions to the State Ethics Commission. Accordingly, this Office must defer to the State Ethics Commission's opinion as to the applicability of § 8-13-700(B)

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to your specific question. You may contact the Commission by writing to Mr. Herbert Hayden, Executive Director, State Ethics Commission, 5000 Thurmond Mall, Suite 250, Columbia, SC 29201.

This letter is an informal opinion only. It has been written by a designated deputy attorney general and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With best personal regards, I am

Sincerely yours,



Zeb C. Williams, III
Deputy Attorney General

ZCW/an
Enclosures