

The State of South Carolina



Office of the Attorney General

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March 1, 1995

Janet T. Butcher, Esquire
General Counsel
South Carolina Department of
Social Services
Post Office Box 1520
Columbia, South Carolina 29202

RE: Informal Opinion

Dear Ms. Butcher:

Thank you for your letter of February 16, 1995, concerning any statutes, rules, or regulations, other than the Ethics Reform Act, which might be applicable to a state employee's offering for election as a family court judge.

The only state law or regulation of which I am aware which would be unique to state employees contemplating such action would be those statutes and regulations concerning the taking of annual leave while the state employee would be conducting activities related to campaigning for the judgeship, if such activities should be undertaken during times when the employee would normally be at work. State employees within the Office of the Attorney General who have offered for judgeships have conducted campaigning activities during lunch hours or have taken annual leave for campaigning conducted at times other than lunch hours, to give you one example of how such may be accomplished.

Another statutory consideration would be the requirements of S. C. Code §2-19-10 et seq., concerning the legislative screening process for candidates for judicial office, though those statutes are not unique to state employees. Of particular importance would be §2-19-70, which statute prohibits the direct or indirect seeking of pledges of members of the General Assembly until the qualifications of all candidates for that office have been

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determined by the judicial screening committee, as well as the offer of a pledge of a member of the General Assembly until the qualifications of candidates have been so determined. The prohibitions of the statute "do not extend to an announcement of candidacy by the candidate and statements by the candidate detailing the candidate's qualifications."

One other consideration would be the possibility of the state employee's appearing before a family court judge against whom he or she would be running. If that should be the circumstance under which the campaign would be conducted, the Rules of Professional Conduct would require consideration.

I trust that the foregoing has adequately responded to your inquiry. If you should need additional assistance, please do not hesitate to ask.

With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General