

The State of South Carolina

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Office of the Attorney General

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August 7, 1990

The Honorable Patrick B. Harris
Member, House of Representatives
213 Blatt Building
Columbia, South Carolina 29211

Dear Representative Harris:

You have asked that this Office issue an opinion as to whether advisory opinions concerning legislative ethics requested from and issued by the House of Representatives Legislative Ethics Committee pursuant to House rule 4.16(a)(1) are confidential. I understand that the Committee's present practice is to maintain the opinions in a notebook which is accessible to the public. It is my opinion that with certain exceptions, there is no apparent basis upon which to make the opinions confidential. Of course, any final determination must remain with the Committee, due to the exclusive authority of each House of the General Assembly to frame and interpret its own rules. See S. C. CONST. Art. III, § 12; State v. Lewis, 181 S.C. 10, 186 S.E. 625 (1936).

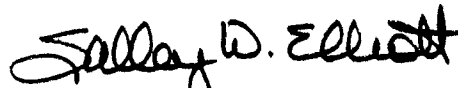
House rule 4.16 establishes the duty of the Committee, upon request, to issue advisory opinions on legislative ethics when such would serve the public interest. See also. S. C. Code Ann. § 8-13-230(4) (The Committee shall act "as an advisory body to the General Assembly and individual members" on possible conflict of interest questions). Such Rule also directs that the Committee make available to the House each year a "compilation of principles set forth in the advisory opinions rendered." Rule 4.16(a)(2) of Rules of House of Representatives. Also, Rule 4.16(b) provides that "(a)ll papers, documents and proceedings relating to conduct or disciplinary action against members shall be confidential ...". See also S. C. Code Ann. § 8-13-240 ("All [C]ommittee investigations and records relating to the preliminary investigation shall be confidential"). Where related statutes and the applicable Rule provide specifically for confidentiality of certain papers and documents and does not so provide for confidentiality of ethics advisory opinions generally, it is the opinion of this Office that unless the advisory opinion relates to member "conduct or disciplinary action", including those

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matters designated in S. C. Code Ann. §§ 8-13-230(1) and 8-13-240(a), there appears to be no requirement of confidentiality, particularly where the Committee appears to have made the matters public. Of course, because a Rule of the House of Representatives is involved, separation of powers requires that the House be the final interpreter of such rules. See, Op. Atty. Gen., July 17, 1990.

If additional information or discussion is required, please advise.

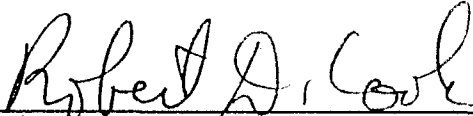
Sincerely,



Salley W. Elliott
Assistant Attorney General

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REVIEWED AND APPROVED BY:



Robert D. Cook
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