

INTERIM LEGISLATIVE ETHICS COMMITTEE

ETHICS ADVISORY OPINION NO. LEC 97-1

Pursuant to Section 2-15-9 NMSA 1978, the Interim Legislative Ethics Committee was asked to issue an ethics advisory opinion regarding the use and distribution of certain legislative business cards, specifically four-sided, fold-over cards the same size and shape as traditional business cards. The request was submitted by Senator Leonard Lee Rawson, who has waived confidential treatment of his advisory opinion request. This opinion responds to that request.

The Interim Legislative Ethics Committee met on August 4, 1997, September 19, 1997 and January 19, 1998 to discuss and review issues relevant to the appropriate uses of legislative business cards.

Discussion

During the 1996 interim, Senator Rawson purchased a supply of four-part, fold-over business cards. The cards were purchased with campaign funds, and a note to that effect was included on the cards. The cards include Senator Rawson's name and address in Las Cruces, the designation "New Mexico State Senate", a reproduction of the state seal, the senator's committee assignments, his legislative goals and personal information about his family and background. A detailed copy of the card may be found in Attachment 1 to this advisory opinion.

Senator Rawson states that he distributes these cards as he walks his district in the hope that constituents will save the cards and have a means to contact him in the future. He indicates that he does not hand out campaign literature or solicit votes at the same time that he hands out the cards.

With this background, Senator Rawson asks the following questions of the Interim Legislative Ethics Committee:

1. In light of Ethics Advisory Opinion No. LEC 96-1, is it appropriate for me to continue to print and distribute business cards such as the one shown in Attachment 1 in the manner in which I have described I use them?
2. Are there any circumstances in which it would be inappropriate for me to distribute these legislative business cards?

3. Whether or not LEC 96-1 applies to this case, what is the appropriate standard of ethical conduct for the use of legislative business cards in general, including the official business cards all legislators receive and the cards shown in Attachment 1?

For convenience, we will respond to Senator Rawson's last question first.

What is the appropriate standard of conduct for the use of legislative business cards in general?

Business cards are a unique form of communication that are designed simply to introduce the bearer and assist the recipient in contacting the bearer in the future. As such, business cards are not stationery, and the standards set out in LEC 96-1 regarding the use of official legislative stationery do not apply.

In our discussion, we will deal with two types of business cards: "official legislative business cards" that contain the state seal and that are issued to members by the chief clerk of the House or Senate, including additional copies of these cards that are paid for by individual members; and "unofficial legislative business cards" that are not issued by the chief clerks and are paid for privately, but that in some way indicate that the bearer is a member of the legislature.

We believe that it is appropriate to distribute official legislative business cards in virtually any situation. As mentioned above, business cards serve only to introduce a legislator and provide a means for the recipient to contact the legislator in the future. Since legislators comprise the branch of government closest to the people, they interact with people more frequently, more directly and in more circumstances than do other state office holders. Members of the legislature are expected to be more accessible to the public than are the officeholders in the other branches of government. The public rightly expects to be able to contact a legislator at the legislator's capitol office, at the legislator's place of business and at the legislator's home. The public does not have the same expectation of other officeholders. It is therefore appropriate for a member to distribute official legislative business cards in almost any situation, including when walking a district, since the state seal on the card serves merely to authenticate the fact that the bearer is a member of the legislature. Members should not, however, distribute official legislative business cards when they are campaigning.

With regard to unofficial legislative business cards as defined above, as long as these cards do not contain a reproduction of the state seal it is appropriate for a member to include virtually any other information on his business card, including information about the member's chamber, duties or responsibilities within the legislature, as well as personal, philosophical or political information and to use the card in any circumstance permitted by law.

In addition to the above new standards regarding business cards, the provisions of LEC 96-1 dealing with the definition and use of legislative stationery need to be modified. This

committee has determined that the presence or absence of the state seal is the only factor in determining whether stationery is "official legislative stationery". As such, official legislative stationery is stationery that is issued to legislators by the chief clerk of the House or Senate and that includes a reproduction of the state seal, including additional copies of this stationery that are paid for by individual members. The same standards governing the use of stationery as set out in LEC 96-1 apply; only the definition of what constitutes official legislative stationery is changed.

Is it appropriate for me to continue to print and distribute business cards such as the one shown in Attachment 1 in the manner in which I have described I use them? Are there any circumstances in which it would be inappropriate for me to distribute these legislative business cards?

As we stated above, unofficial legislative business cards may not contain a reproduction of the state seal. As such, it would be inappropriate for Senator Rawson to continue to print and distribute the business cards shown in Attachment 1. If Senator Rawson were to remove the state seal from the cards shown in Attachment 1, it would be appropriate for Senator Rawson to print and distribute the cards in virtually any situation.

Pursuant to the provisions of Paragraph (3) of Subsection D of Legislative Council Policy No. 16, advisory opinions issued by the Interim Legislative Ethics Committee are prospective only. This advisory opinion is not intended to reflect on prior uses of legislative business cards since no opinion or other guidance on the use of legislative business cards has previously been available.

In the future, as provided in Paragraph (4) of Subsection D of Legislative Council Policy No. 16, any legislator who acts in good-faith reliance upon this advisory opinion shall be immune from sanctions for conduct allowed by the opinion unless this advisory opinion is subsequently rejected by the relevant House of Representatives or Senate standing committees prior to the conduct in question.

A copy of this advisory opinion shall be mailed to all legislators and shall be retained in the library of the Legislative Council Service.

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Co-Chair, Interim Legislative Ethics Committee

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State Representative
Co-Chair, Interim Legislative Ethics Committee

Date: January 19, 1998