



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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May 26, 1981

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ADVISORY OPINION No. 18-81

Dear Mr. Katz:

On behalf of the Election Law Enforcement Commission, I am responding to your recent request for an advisory opinion from the Commission. You have asked whether candidates for State Committee offices come under the jurisdiction of the Commission as set forth in N.J.S.A. 19:44A-4 and therefore are subject to the reporting requirements of the Campaign Contributions and Expenditures Reporting Act (N.J.S.A. 19:44A-1 et seq.). For the reasons stated herein, the Commission has concluded that candidates for State Committee office are not within the scope of N.J.S.A. 19:44A-4 and therefore are not subject to reporting requirements.

In pertinent part, N.J.S.A. 19:44A-4 reads as follows:

"The provisions of this act shall apply:

- a. ...
- b. ...
- c. ...
- d. In any primary, general, special, school or municipal election for any public office of the State or any political subdivision thereof; provided, however, that this act shall not apply to elections for county committeeman or committeewoman."

Also, the term "candidate" is defined similarly at N.J.S.A. 19:44A-3(c). Unless the office of political party State committee is a "public office" within the meaning of N.J.S.A. 19:44A-4(d), or within the meaning of N.J.S.A. 19:44A-3(c), the provisions of the Reporting Act would not apply to candidates for that office.

Donald Katz, Esq.  
May 26, 1981  
Page 2

The term "public office" is defined at N.J.S.A. 19:1-1 as follows:

"Public office" includes any office in the government of this State or any of its political subdivisions filled at elections by the electors of the State or political subdivisions."

The term "party office" is separately defined in N.J.S.A. 19:1-1 as follows:

"Party office" means the office of delegate or alternate to the national convention of a political party or member of the State, county or municipal committees of a political party.

(emphasis added)

No reason suggests itself why the definitions contained in N.J.S.A. 19:1-1 should not apply to the Reporting Act. N.J.S.A. 19:1-1 states that the definitions are "(A)s used in the Title..." that is Title 19 (Elections) of the Revised Statutes. Applying the definition of "public office" contained in N.J.S.A. 19:1-1 to that term as used in N.J.S.A. 19:44A-4 and 19:44A-3(c), it must be concluded that "public office" cannot include State committee office. To the contrary, State committee office expressly comes under the definition of "party office."

It has been suggested that "public office" as used in N.J.S.A. 19:44A-4(d) implicitly includes candidates for State committee within its meaning because they are not expressly excluded as is the case with county committee candidates. However, a statute calling for penal sanctions as the Reporting Act does in N.J.S.A. 19:44A-22 will not be held to create a liability not clearly fixed by the words of enactment. State v. Leonardo, 109 N.J. Super 442 (App. Div. 1970)

To the extent anything contained in Commission Regulation N.J.A.C. 19:25-1.7 (defining "candidate") appears to the contrary, this opinion should be regarded as superceding and controlling.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By: Gregory E. Nagy  
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