



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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September 27, 1989

Peter Verniero, Esq., Executive Director
New Jersey Republican State Committee
310 West State Street
Trenton, NJ 08618

Advisory Opinion No. 21-1989

Dear Mr. Verniero:

The Commission at its public meeting of September 19, 1989 considered your request for an advisory opinion as contained in your letter of September 18, 1989, and has directed me to issue this response. You have asked on behalf of the New Jersey Republican State Committee whether a script that will be used for electronic media advertising prior to the 1989 general election would result in any allocation of the expense of those advertisements towards the expenditure limit of the gubernatorial candidate of the Republican Party; see N.J.S.A. 19:44A-7, as amended by P.L. 1989, c.4, section 2.

You have submitted with your inquiry a single page script entitled: "TV Advertisement Script, No. 1," which script is hereby incorporated by reference in this advisory opinion.

In regard to the substance of the scripts you have submitted, the Commission notes that in Advisory Opinion 33-1981, Question 2, the Commission was asked to consider whether institutional advertising by a State political party committee would result in an allocation to a gubernatorial candidate. The Commission concluded that the issue turned on whether or not expenditures for such advertising were made ". . . on behalf of a gubernatorial candidate." Specifically, the Commission wrote:

"Such an expenditure would be made, at least in part, on behalf of the gubernatorial candidate, and thereafter allocable to some extent to the gubernatorial candidate, if (1) either of the gubernatorial candidates is named or visually depicted or referred to; or (2) the office of Governor is named or referred to; or (3) the incumbent governor is named or visually depicted or referred to; or (4) the identity of the candidate, the opponent, or the incumbent governor is apparent by unambiguous reference."

Advisory Opinion No. 33-1981, p.2.

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The above quoted criteria were also relied upon recently in Advisory Opinion 19-1989, and resulted in a determination that expenditures by the New Jersey State Democratic Committee/Campaign '89, Inc. related to a television advertising campaign would not result in an allocation to the 1989 Democratic gubernatorial candidate.

Applying the above criteria to the script you have submitted, the Commission concludes that the text of the script in itself would not result in any allocation to the 1989 Republican gubernatorial candidate. Nothing in the text names or refers to a gubernatorial candidate. Further, the Commission is satisfied that nothing in the script refers to the incumbent Governor, and believes the language in the text is substantially similar to the language considered in Advisory Opinions 38-1981, 39-1981 and 19-1989. Therefore, the Commission concludes that the cost of the contemplated advertising constitutes political party building expenditures not allocable to a gubernatorial candidate.

The Commission wishes to note that you have not submitted the video portion of the proposed advertising for the Commission's consideration, and therefore nothing contained herein should be construed as a determination whether the accompanying videos give rise to a possible allocation to a gubernatorial candidate. This advisory opinion is limited to the submitted text only.

Thank you for your inquiry.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

BY: 
GREGORY B. NAGY

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