

South Carolina State Ethics Commission
5000 Thurmond Mall, Suite 250
Columbia, South Carolina 29201

SEC AO2006-001

July 20, 2005

SUBJECT: CAMPAIGN SIGNS ON PUBLIC PROPERTY

SUMMARY: The Commission concludes that when determining whether a campaign sign placed on public property violates Section 8-13-1346, it will review the predominant purpose of that property at the time.

QUESTION: This opinion is issued in response to the ongoing concern the State Ethics Commission has regarding potential violations of Section 8-13-1346 by candidates for elective office who place their campaign signs on public property.

DISCUSSION: The State Ethics Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act no. 248 of 1991; Section 2-17-5 et seq. and Section 8-13-100 et seq., as amended, 1976 Code of Laws of South Carolina). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation. Failure to disclose relevant information may void the opinion.

Section 8-13-765 provides in part as follows:

(A) No person may use government personnel, equipment, materials, or an office building in an election campaign. The provisions of this subsection do not apply to a public official's use of an official residence.

(B) A government, however, may rent or provide public facilities for political meetings and other campaign-related purposes if they are available on similar terms to all candidates and committees, as defined in Section 8-13-1300(6).

Section 8-13-1346 provides in part:

(A) A **person** may not use or authorize the use of public funds, property, or time to influence the outcome of an election. (Emphasis added).

Placing campaign signs on or inside a government office building is a clear violation of Section 8-13-765(A). Such signage is using a government office building in an election campaign. In SEC AO2004-002 the Commission opined on the use of government office buildings in campaign elections. The Commission looked to the initial use of the government owned building and determined that the “predominant purpose” of the public building must be examined to determine whether the building was being used in a campaign. In the hypothetical a candidate had been invited to speak to a group, such as a book club or a senior citizen’s group, which meets in a government building.

The question before the Commission is the placing of campaign signs on public property. The Commission is again required to interpret the term “use” in Section 8-13-1346 of the Ethics Reform Act cited above. The Commission believes that “predominant purpose” is the proper starting point for interpreting the term “use” in Section 8-13-1346.

When does a candidate or a candidate’s supporter use public property to influence the outcome of an election? The Commission asserts that public employees who place campaign signs on school grounds, in their car windows or on their cars parked on school grounds during school hours are using public property to influence the outcome of an election. One should not modify one’s vehicle, i.e. place signs on or around it, on public property when the property is being used for the predominant government purpose. The predominant purpose of the public school property during the school day is the public education of children. The placement of campaign signs during a sporting event, such as a football game, to which the general public is invited is not using public property to influence the outcome of an election. The predominant purpose of the public property during that time is to provide entertainment, not the public education of children.

CONCLUSION: The Commission concludes that when determining whether a campaign sign placed on public property violates Section 8-13-1346, it will review the predominant purpose of that property at the time. Questions regarding the placement of campaign signs should be addressed to the State Ethics Commission before placement. Nothing in this opinion precludes a school district from prohibiting the display of campaign signs at all times.

KEY WORDS: public property, campaign sign and predominant purpose
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ANNOTATIONS: 8-13-765, 8-13-1346
