

July 25, 2002

OHIO ELECTIONS COMMISSION

Advisory Opinion 2002ELC-02

SYLLABUS: Campaign materials may not use the term “re-elect” to a specific district number, even when used by an incumbent candidate who has been previously elected to the General Assembly, unless the General Assembly district to which the candidate seeks election has the same lines and the same number as the previous district.

TO: Larry Householder
Speaker
Ohio House of Representatives

You have requested advisory opinions on the following issues:

Can an incumbent candidate for the General Assembly use the term “re-elect” in campaign materials when the district to which he seeks election has been renumbered?

In the previous advisory opinion issued by this Commission, 2002ELC-01, this Commission responded to a similar question in regards to an incumbent officeholder using the term “re-elect”. In that situation, however, there was no reference made to the district being renumbered. In this situation, along with the district lines being altered, the advisory opinion request asks that the Commission clarify the use of the term “re-elect” in consideration of the fact that the 99 House districts have been renumbered.

Again, the use of the term “re-elect” is limited by Ohio Revised Code §3517.21(B)(1). That sub-division holds as follows:

(n)o person, during the course of any campaign for nomination or election to public office ..., by means of campaign materials, ... shall knowingly and with intent to affect the outcome of such campaign ... use the term "re-elect" when the candidate has never been elected at a primary, general, or special election to the office for which he or she is a candidate.

The restrictions in the statute focus on the statements included in the materials

used by the candidate and the manner in which it portrays the candidate's position. If the candidate's campaign materials make a specific reference to the House, or Senate, district number in which the candidate was previously elected, it is improper to use the term "re-elect" unless the candidate is seeking the same seat in the General Assembly with the same district number and the same district lines. In other words, even if the incumbent candidate was elected to the position in a previous election in "District 1", he or she may not use the term "re-elect" to "District 1", unless the candidate is running for re-election to the "District 1" seat and all aspects of the district are the same, including the district lines.

To support such a holding, the Commission relies on the concluding phrase in R.C. §3517.21(B)(1) which states that it is improper to use the term "re-elect" when "the candidate has never been elected at a primary, general, or special election **to the office for which he or she is a candidate.**" (Emphasis added). In such a situation as stated above, once a change is made to the district lines, even if it retains the same district number, it is a different district. It cannot be said that the candidate was previously elected "to the office for which he or she is a candidate." Under such circumstances, it is improper for a candidate for a seat in the general assembly to use the term "re-elect" to a specific district number in a district in which the lines have changed, even when the district number remains the same.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that campaign materials may not use the term "re-elect" to a specific district number, even when used by an incumbent candidate who has been previously elected to the General Assembly, unless the General Assembly district to which the candidate seeks election has the same lines and the same number as the previous district.

Sincerely,

Judith Sheerer
Chairman