



Ohio Elections Commission

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August 5, 1999

OHIO ELECTIONS COMMISSION

Advisory Opinion 99ELC-05

SYLLABUS: A candidate may only use the term “re-elect” in concert with the specific office to which a candidate has been previously elected.

TO: Holly Moore Kowalski

You have requested an advisory opinion on the following issue:

Can a candidate use the term “re-elect” in campaign materials when that candidate is seeking an office which is similar to but different from the office to which the person was previously elected?

The situation which is at issue in this advisory opinion request is one which sometimes occurs when a municipality changes certain aspects of its council make-up.

The specific set of circumstances in this advisory opinion request resulted when the city of Avon Lake reconfigured its voting wards. The provisions of the city’s charter required the city to do this so that each ward within the city contained an equal apportionment of the city’s voting population. The number of wards in the city has been maintained at 4. The changes made, however, altered the boundary lines of each ward to adjust for proportional representation within the city. With these adjustments, current council members from wards 1, 2, and 3 have each been moved to another ward. The new ward 1 seat will not have an incumbent, while ward 4 will have its current incumbent running against the current holder of the ward 3 council seat.

As with a number of cities of this size, Avon Lake has both ward council seats and at-large council seats. While all representatives serve in the legislative body

equally, there are differences between the council seats. The filing requirements for the respective seats are different, the ward council candidates seek the individual ward offices that represent specific areas of the city, the at-large candidates are on the ballot city-wide and neither the ward council candidates nor the at-large candidates compete with each other.

With this as a background, the current ward council members are seeking advise as to the propriety of the use of the term "re-elect" as they prepare for their upcoming races in their respective wards. Ohio Revised Code §3517.21(B)(1) restricts the use of the term "re-elect" and 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.

This statute asserts that the term "re-elect" may be used by any candidate who has ever been previously elected to an office, and is now seeking that same office. For example, if a person was elected to the office of County Prosecutor at any time in the past, that person may use the term "re-elect" in campaign materials. It does not matter if that person is the incumbent office holder or was elected to the position in 1970 or any other year. Once an individual has been elected to that office, the candidate can use the term "re-elect" in any future campaign for the same office.

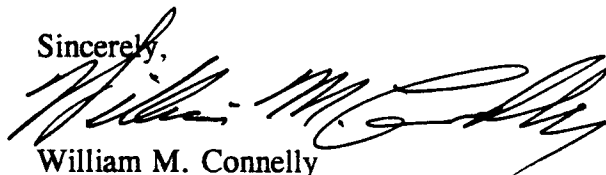
Currently, each of the incumbent candidates involved in the Avon Lake election may properly use the words "re-elect" in connection with the term "ward council". Conversely, it is improper for the candidate currently seated in ward 2 to use the term "re-elect" while seeking the specific office of ward 3 council member (i.e. it is improper to use the slogan "Re-elect Jane Doe to Ward 3", when Jane Doe is currently the Ward 2 seat holder.). Further, this is true even if you take into consideration that some of the same constituents that were in the previous ward 2 may have been re-apportioned into the new ward 3. An incumbent candidate from ward 2 cannot be "re-elected" to a ward council seat for which she "...has never been elected ...", the ward 3 council seat.

This advisory opinion is intended to speak only to the situation present in this advisory opinion request. The terms of this opinion should not be extended beyond the application to candidates similarly situated in ward council elections

in this state.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that a candidate may only use the term "re-elect" in concert with the specific office to which a candidate has been previously elected.

Sincerely,

A handwritten signature in black ink, appearing to read "William M. Connelly". The signature is written in a cursive style with a large, sweeping initial "W".

William M. Connelly
Chairman