



North Carolina General Assembly
Legislative Ethics Committee
July 16, 2015

**PUBLISHED EDITED ADVISORY OPINION OF THE LEGISLATIVE ETHICS
COMMITTEE**

Re: **AO-LEC-15-003** – Use of Legislative Resources to Send Letters of
Recommendation *July 16*

Question: To what extent may a member of the North Carolina General Assembly use legislative resources (including postage, stationery, and legislative staff) to send letters of recommendation for the following:

1. An individual applying for a volunteer internship position?
2. An individual applying for a job?
3. An individual applying for admission to an institution of higher education?
4. An individual applying to enter the military or a military institution?

Answer: It is appropriate for a member of the North Carolina General Assembly to use legislative resources (including postage, stationery, and legislative staff) to send letters of recommendation for the four categories of individuals described in the request.

The following previously issued principles and guidelines and ethics opinions are applicable to this request.

Principle and Guideline 1

It is inappropriate to use excessively the State Telephone Network, the legislative computer system, and other State equipment for personal and business reasons. These services and this equipment shall be used primarily for legislative purposes rather than personal and business purposes.

Principle and Guideline 2

A legislator shall not use his or her mailing privileges to mail personal or nonlegislative business related correspondence.

Principle and Guideline 5

It is inappropriate for any legislator to use or allow another to use his or her official legislative stationery paid for by the State for soliciting campaign contributions to or thanking contributors to the legislator's political campaign. A legislator may use a facsimile of the legislator's official legislative stationery in soliciting campaign contributions or thanking contributors to the legislator's political campaign as permitted under paragraph (6) of these Ethical Principles and Guidelines.

Principle and Guideline 6

When a legislator uses a facsimile of his or her stationery for non-legislative purposes not prohibited under these Principles and Guidelines, the facsimile shall bear a clear disclaimer indicating that the stationery was not printed or mailed at State expense.

Ethics Opinion 010 (Effective October 1, 1996)

A legislator may use official legislative stationery to request the advice of others in the same profession on legislation. A legislator may not use official legislative stationery to urge anyone to join a PAC but may use a facsimile of the stationery if the stationery bears a clear disclaimer that indicates that the stationery was not printed or mailed at State expense.

Ethics Opinion 013 (Effective October 1, 1996)

It is appropriate to use legislative stationery and postage to send letters of sympathy and letters of congratulations to constituents.

There is no problem with using legislative stationery and postage to send letters to individuals and groups in appreciation for invitations as long as the correspondence neither solicits nor thanks campaign contributors for their contributions.

Advisory Opinion AO-LEC-07-001 (June 20, 2007)

It is appropriate to use legislative postage, stationery and staff to send constituents and non-constituents communications upon the occurrence of a significant event in their lives and condolences upon an adverse occurrence. These communications are analogous to letters of sympathy and letters of congratulations which are permissible under Ethics Opinion 013.

AO-LEC-07-001 also stated that it would be permissible for a legislator to use legislative postage, stationery and staff to communicate to constituents and non-constituents about the following significant events, which was not an exhaustive list:

1. Birth of a child.
2. Graduation from high school, college, or other institution of learning.
3. Marriage.
4. Naturalization.
5. Honor roll, athletic successes, and academic successes.
6. Ceremonies or rites signifying an event in a person's life indicative of a transition from one stage of life to another, including confirmations, bar mitzvahs, and bat mitzvahs.
7. Death.
8. Sickness, illness, or disease.
9. Civic awards and accomplishments.

AO-LEC-07-001 also concluded that a legislator was permitted to use legislative postage, stationery and staff to send letters to newly-registered voters in the legislator's district, subject to certain conditions. However, the opinion concluded that

Principle and Guideline 2 would not permit a legislator to use legislative postage, stationery or staff to send holiday greetings or cards, because "sending holiday greetings or cards is a personal correspondence."

Analysis

The letters of recommendation described in the request are not personal or non-legislative business correspondence, but are related to a legislator's official duties. Therefore, it is appropriate for a legislator to send letters of recommendation for the four categories of individuals described in the request using legislative resources, including postage, stationery, and legislative staff.

G.S. 138A-31(b) is the provision of the State Government Ethics Act that prohibits legislators and other covered persons from mentioning or authorizing another person to mention their public position "in nongovernmental advertising that advances the private interest of the covered person or others."

Although the term "nongovernmental advertising" is not statutorily defined, the term "advertising" in its common usage refers to a public announcement, typically proclaiming the qualities or advantages of a product or business. By contrast, each of the letters of recommendation described in the request is directed to the attention of specific individuals who are involved in making hiring or admission decisions regarding the person who is the subject of the letter, and is not a public announcement intended to increase the demand for a product or a business. The letters of recommendation for the four categories of individuals described in the request therefore do not constitute "nongovernmental advertising" within the meaning of G.S. 138A-31(b), and a legislator is not prohibited from mentioning the legislator's public position in such letters of recommendation.

Conclusion

For the reasons stated above, it is appropriate for a legislator to use legislative resources, including postage, stationery and legislative staff, to send letters of recommendation for the following:

1. An individual applying for a volunteer internship position.
2. An individual applying for a job.
3. An individual applying for admission to an institution of higher education.
4. An individual applying to enter the military or a military institution.

It is also permissible for the legislator to mention the legislator's public position in such correspondence.

The analysis of ethics issues under the Act is extremely fact-specific, and therefore any variation in the facts from those upon which this opinion is based may lead to a different conclusion.