



LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

April 17, 1984

Mr. Ron Johnson, Director
Governor's Office of Affirmative Action
1700 West Washington Street, Suite 260
Phoenix, Arizona 85007

Re: I84-054 (R84-005)

Dear Mr. Johnson:

You have requested our opinion as to the applicability of Ariz. Atty. Gen. Op. I83-134 to political action committees and the involvement of city, county and state non-exempt employees as members. Your request is specifically directed to an organization which is registered as a "nonconnected" "multicandidate committee" as those terms are defined in the Federal Election Commission Campaign Guide (August, 1983) ("the guide").

A "nonconnected" committee is defined in the guide as a "political committee which supports or opposes candidates for federal office but which is not established or administered by any candidate, political party, corporation or labor organization." (Page 47.) A "multicandidate committee" is defined as a "political committee with more than fifty contributors that has registered [pursuant to the Federal Election Campaign Act] for at least six months and, with the exception of state party committees, has made contributions to five or more candidates for federal office." (Page 47.) See also 11 CFR § 100.5(e)(3). The term "political committee" is much more broadly defined in the Federal Election Campaign Act,

2 U.S.C. § 431.4. See also 11 CFR § 100.5.^{1/}

As a preliminary matter, we decline to express an opinion with respect to city and county employees whose political activities are subject to regulation by local rules or ordinances. The political activities of non-exempt state employees are regulated by A.R.S. § 41-772.B, which provides:

No employee^{2/} or member of the personnel board may be a member of any national, state or local committee of a political party, or an officer or chairman of a committee of a partisan political club, or a candidate for nomination or election to any paid political office, or shall take part in the management or affairs of any political party or in any

-
1. A "political committee" is defined in 2 U.S.C. § 431.4 as:
 - (A) Any committee, club, association or other group of persons which receives contributions aggregating in excess of a thousand dollars during a calendar year or which makes expenditures aggregating in excess of a thousand dollars during a calendar year; or
 - (B) any separate segregated fund established under the provisions of § 441b(b) of this title; or
 - (C) any local committee of a political party which receives contributions aggregating in excess of five thousand dollars during a calendar year, or makes payments exempted from the definitions of contribution or expenditure as defined in paragraphs (8) and (9) of this section aggregating in excess of five thousand dollars during a calendar year, or makes contributions aggregating in excess of a thousand dollars during a calendar year or makes expenditures aggregating in excess of a thousand dollars during a calendar year.
 2. An employee means a non-exempt state service employee. See A.R.S. §§ 41-762 and 41-771.

political campaign, except that any employee may express his opinion, attend meetings for the purpose of becoming informed concerning the candidates for public office and the political issues, and cast his vote.

Ariz. Atty. Gen. Op. 184³-134 did not specifically address the issue of membership and involvement in a political organization. The question in that opinion was whether state service employees were prohibited from participating in non-partisan elections. We concluded that A.R.S. § 41-772.B prohibited state service employees from taking any part in any political campaign, whether partisan or non-partisan.^{1/} As we noted in that opinion, an employee's membership and involvement in a political club raises issues under A.R.S. § 41-772.B which go beyond merely participating in a political campaign. A.R.S. § 41-772.B also proscribes being "an officer or chairman of a committee of a partisan political club" and taking "any part in the management or affairs of any political party."

The focus of any inquiry concerning employee membership in political organizations is not membership per se, but rather the particular activities in which the employee participates. The issues raised by your letter must, therefore, be addressed based upon the activity at issue, the actual involvement of the employee, and the amount, if any, of party involvement. See Ariz. Atty. Gen. Op. 184-134. In Ariz. Atty. Gen. Op. 71-1 we stated that state service employees are not prohibited from joining political clubs which are, in part, socially oriented or which are, in part, designed to provide political information to their memberships, so long as the employee does not participate in any partisan activities of the club. In Ariz. Atty. Gen. Op. 183-134, we cautioned that employees must avoid any involvement in a political organization which would constitute taking any part in a political campaign, whether partisan or non-partisan. Those

3. Specifically exempted from this prohibition are elections for school boards and community college district governing boards. A.R.S. § 41-772.C.

guidelines apply to the questions raised in your recent letter.

We note that the by-laws accompanying the present request reveal that the particular organization at issue contemplates a wide range of activities. Thus, while an individual may be a member of a "nonconnected committee" and, specifically, the organization addressed in your letter, that individual should nonetheless avoid taking part in any political campaign or participating in any partisan activities of the club. For instance, the employee should not participate in solicitation of contributions or in making expenditures for public political advertisements advocating the election or defeat of identified candidates as contemplated by the by-laws because A.R.S. § 41-772.B prohibits a state employee from taking part in any political campaign. Furthermore, the state employee should not become involved in any activities of the organization which relate to providing financial support on a non-partisan basis to federal, state and local candidates whose positions reflect the views of the membership.⁴ See Ariz. Atty. Gen. Op. 184-134.

Ultimately, the question of whether participation in the activities of a political action committee as described in your letter is prohibited can only be resolved on a case-by-case basis. As we stated in Ariz. Atty. Gen. Op. 183-134, the statute must be applied to particular situations so as not to deny an employee "his civil or political liberties as guaranteed by the United States and Arizona Constitutions." A.R.S. § 41-772.E.

Very truly yours,



BOB CORBIN
Attorney General

BC:SMS:jb

4. These two examples are provided for guidance and are not meant to be exclusive instances in which an employee's activity is proscribed.