



OHIO ETHICS COMMISSION

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Advisory Opinion No. 75-031

November 5, 1975

Syllabus by the Ohio Ethics Commission:

A person seeking election to city council who voluntarily withdraws from an election within twenty days after filing his petition of candidacy is no longer a candidate within the purview of Section 102.02 (A) of the Revised Code and, therefore, is not required to file a financial disclosure statement.

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A letter directed to the Ohio Ethics Commission asks whether a person seeking election to city council who files his petition of candidacy with the county board of elections on March 7, 1975 and voluntarily withdraws on March 14, 1975 is required by Section 102.02 (A) of the Revised Code to file a financial disclosure statement with the Ohio Ethics Commission.

Section 102.02 (A) of the Revised Code provides:

"(A) Every person who is ... a candidate for a ... city office ... shall file with the appropriate ethics commission on a form prescribed by the commission, a statement disclosing: . . ."

A person who is a candidate for elective office shall file his statement within twenty days after he files a petition of candidacy...."

Chapter 102 of the Revised Code does not, however, define the term "candidate". In an attempt to determine an appropriate definition of the term "candidate" as used in Chapter 102 of the Revised Code, the definitions of the term "candidate", as provided in the election law, Chapter 3501 of the Revised Code, are considered. The general definitional section of the election law, Section 3501.01 of the Revised Code, defines candidate:

"(H) 'Candidate' means any qualified person certified in accordance with the provisions of the Revised Code for placement on the official ballot of a primary, general, or special election to be held in this state, or any qualified person who represents himself to be a write-in candidate, or who knowingly assents to such representation by another at either a primary, general, or special election to be held in this state."

An additional, and broader definition of "candidate" is provided in Section 3517.01 (A) of the Revised Code, the Campaign Finance Reporting Section of the election law:

"(3) 'Candidate' has the same meaning as in division (H) of section 3501.01 of the Revised Code and also includes any person who, at any time prior to or after an election, receives contributions or makes expenditures, has given consent for another to receive contributions or make expenditures, or appoints a campaign treasurer, for the purpose of bringing about his nomination or election to public office. 'Candidate' does not include candidates for election to the offices of member of a county or state central committee, presidential elector, and delegate to a national convention or conference of a political party."

Thus, Section 3505.01 of the Revised Code defines candidate as a person whose petition of candidacy has been certified.

Section 3513.05 of the Revised Code provides candidates shall be certified by the Secretary of State, if a state-wide election, and by the appropriate county board of elections if a local or district election on the sixtieth day before the primary election. Section 3505.01 of the Revised Code provides a similar sixty day deadline for certification of candidates before a general election. Thus, for purposes of Chapter 3505 of the Revised Code no person is a "candidate" until the sixtieth day before the election and then only if the petition of candidacy is certified.

Sections 3505.01 and 3513.05 of the Revised Code also provide a person may file his petition of candidacy any time prior to the seventy-fifth day before the election. A person who files a petition of candidacy more than eighty days before the election is required to file a financial disclosure statement within twenty days. This would be more than sixty days before the election, and prior to the time the person was certified as a candidate within the election law definition. As stated above, Section 102.02 (A) of the Revised Code requires "candidates" to file a financial disclosure statement within twenty days of filing a petition of candidacy. To apply the election law definition, in the example just given, would require a non-candidate to file. This is clearly not the intent of the law, thus, the definition provided in Section 3501.01 of the Revised Code is rejected as inapplicable.

The definition of candidate as expanded in Section 3517.01 of the Revised Code is also inconsistent with Chapter 102 of the Revised Code. Section 3517.01 of the Revised Code includes, as candidates, those who have not yet filed a petition of candidacy. This definition, when read in conjunction with Section 102.02 (A) of the Revised Code, would require many persons to file financial disclosure statements who ceased to be "candidates" before the requirement to file the financial disclosure statement was operative.

It is obvious that "candidate" as used in Section 102.02 of the Revised Code is broader than the term "candidate" as defined in Section 3501.01 of the Revised Code and narrower than the word "candidate" as defined in Section 3517.01 of the Revised Code. The Ohio Ethics Commission, therefore, must define the word "candidate" as used in Section 102.02 of the Revised Code in a manner consistent with the intent and practical implications of that Section. Thus, the Ohio Ethics Commission defines "candidate", as used in Section 102.02 (A) of the Revised Code, to include persons who have filed their petitions of candidacy, whether those petitions have been certified or not.

Applying the Ohio Ethics Commission definition of "candidate", a person becomes a "candidate" when he files a petition of candidacy. As a "candidate" the person has twenty days from the date he filed the petition to file a financial disclosure statement. If, however, the person's petition of candidacy is determined to be invalid, or if the person voluntarily withdraws his petition of candidacy prior to the twentieth day after filing his petition of candidacy, he is no longer a "candidate" and no financial disclosure statement need be filed.

Although Section 102.02 (A) of the Revised Code literally requires that a financial disclosure statement be filed within twenty days after a petition of candidacy is filed, the Ohio Ethics Commission recognizes that the public has very little, if any, interest in the financial disclosure of a person who's candidacy is short-lived. A person who holds himself out to the public as a candidate for less than twenty days after filing his petition of candidacy is not a viable "candidate" for purposes of this filing requirement.

If, however, the person is disqualified or voluntarily withdraws from an election more than twenty days after filing a petition of candidacy, that person **is** a "candidate" within the scope and intent of Section 102.02 (A) of the Revised Code and must file a financial disclosure statement.

Therefore, it is the opinion of the Ohio Ethics Commission, and you are so advised, that a person seeking election to city council who voluntarily withdraws from an election within twenty days after filing his petition of candidacy is no longer a candidate within the purview of Section 102.02 (A) of the Revised Code and, therefore, not required to file a financial disclosure statement.

