

## *State Regulation of Public Utilities Review Committee*

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### **ADVISORY OPINION**

October 8, 2019

#### **SUBJECT: ATTENDANCE BY CANDIDATES FOR THE PUBLIC SERVICE COMMISSION AT POLITICAL GATHERINGS**

Pursuant to Section 58-3-30(B), members of the Public Service Commission are bound by the Code of Judicial Conduct. Canon 5 of the Code of Judicial Conduct states “a judge or judicial candidate shall refrain from inappropriate political activity.” Section (A) in Canon 5 states, in part, “a judge or a candidate\* for election or appointment to judicial office shall not:

- (a) act as a leader or hold an office in a political organization\*;
- (b) publicly endorse or publicly oppose another candidate for public office;
- (c) make speeches on behalf of a political organization;
- (d) attend political gatherings; or
- (e) solicit funds for, pay an assessment to or make a contribution to a political organization or candidate, or purchase tickets for political party dinners or other functions.”

Section (A) provides for certain exceptions to these prohibitions, as described in Sections 5B(2), 5C(1) and 5C(3), depending on whether the candidate is subject to public election or appointment to judicial office.

Section 58-3-130(1)(a) charges the Public Utilities Review Committee (hereinafter referred to as “Review Committee”) with nominating no more than three qualified candidates for each seat on the Public Service Commission to be elected by the General Assembly. The Review Committee strives to ensure that all candidates are afforded equal treatment. The Review Committee also strives to uphold integrity throughout the screening process so that members of the General Assembly and members of the public can have confidence in the screening process.

In its 2006 advisory opinion, the Review Committee summarizes Canon 5 as prohibiting “commissioners and commission candidates from attending political gatherings.” In the context of the screening for Public Service Commission, the Review Committee establishes an official

position that all Public Service Commission candidates, including incumbent commissioners seeking reelection, should abide by the prohibitions listed in Canon 5, section (A), and that candidates are not subject to the exceptions provided in Canon 5, Sections 5B(2), 5C(1) and 5C(3). Failure to follow the guidelines set forth in this opinion on or after October 11, 2019 will be considered by the Review Committee as a negative factor in its screening process. This advisory opinion does not alter the advisory opinions previously issued by the Review Committee.

**THIS OPINION IS ADVISORY IN NATURE ONLY. THE STATE ETHICS COMMISSION IS RESPONSIBLE FOR ENFORCING VIOLATIONS BY INCUMBENT COMMISSIONERS OF THE STATE ETHICS ACT AND THE CODE OF JUDICIAL CONDUCT. THE REVIEW COMMITTEE WILL CONSIDER VIOLATIONS WHEN IT CONSIDERS A CANDIDATE'S QUALIFICATIONS.**