

Senate Ethics Committee

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SENATE ETHICS COMMITTEE ADVISORY OPINION # 92-3

To: Members, South Carolina Senate

From: Edward E. Saleeby, Chairman
Senate Ethics Committee

Re: In-Kind Contributions

Date: January 29, 1992

The following question was presented and considered by the Committee on Ethics at its meeting on January 15, 1992.

Are "legal research services and other research services" provided by a law student to a candidate committee an "in-kind contribution" and thereby subject to the reporting provisions of Chapter 13 of Title 8 when the student serves as a volunteer and is not compensated for these services from any source?

This question calls for the Committee to review two definitional provisions of Section 8-13-1300. Item (7) provides:

"Contribution" means a gift, subscription, loan, guarantee upon which collection is made, forgiveness of a loan, an advance, in-kind contribution or expenditure, a deposit of money, or anything of value made to a candidate or committee to influence an election or ballot measure; or payment or compensation for the personal service of another person which is rendered for any purpose to a candidate or committee without

charge. "Contribution" does not include volunteer personal services on behalf of a candidate or committee for which the volunteer receives no compensation from any source.
(Emphasis added.)

Item (20) of that section states that an "in-kind contribution' or expenditure" means goods or services which are provided to or by a person at no charge or for less than their fair market value." (Emphasis added.)

Read together, these provisions may seem to create an ambiguity at best and a contradiction at worst. An important distinction, however, may be deduced from the omission of the words "volunteer personal" before the word "services" in Item (20), when compared to the last sentence of Item (7).

This language leads one to the conclusion that the intent of this provision is to draw a distinction between "volunteer personal services" and "goods or services" provided at no charge or less than their fair market value. Although it cannot be said that the services of a law student providing legal or other research has no value, this type of service cannot stand alone in the market place. In other words, these services are provided to attorneys who, according to the Canons of Legal Ethics, must assume responsibility for accuracy or completeness of the work product. A law student cannot independently establish himself in the marketplace as an attorney or provide such services to the general public.

Thus, a law student can easily be differentiated from an attorney, accountant, or someone who is or has been in the business of providing goods and services such as advertising, public relations, campaign consulting, sign making or printing. The Committee, therefore, concludes that legal research services provided by a law student to a candidate or candidate committee is not an in-kind contribution and does not have to be reported as such when the student serves as a volunteer and is not compensated for these services from any source.