

**SENATE ETHICS COMMITTEE
ADVISORY OPINION 2002-002**

June 5, 2002

SUBJECT: PROHIBITION OF SENATE MEMBER'S PREMATURE
ENDORSEMENT OF CANDIDATES FOR THE JUDICIARY

SUMMARY: The Judicial Merit Selection Commission restricts members of the General Assembly from pledging support to a candidate for judicial office until the Commission has formally released to the General Assembly the qualifications of all candidates. (JMSC Rule 24)

QUESTION: Is it permissible for members of the Senate to formally issue written statements stating that they are in support of a particular Judicial Candidate before the Judicial Merit Selection Commission publishes the qualifications of all candidates?

DISCUSSION: On May 15, 2002 The Judicial Merit Selection Commission sent a letter to the Senate Ethics Committee requesting a review of a document signed by several senators that stated support for a particular judicial candidate. A copy this document came into the Commission's possession on May 9, 2002 seven (7) days prior to the release of the Commission's findings regarding the qualifications of all judicial candidates. The document states "we are in support of the candidacy of..., and at the proper time, we intend to seek your support for him to fill this seat." The Commission met on May 15, 2002 and found "there to be substance to an alleged violation of JMSC Rule 24 and §2-19-70(C) of the Code of Law," and "referred it to the Senate Ethics Committee for review and such action as may be deemed appropriate."

The authority of the Senate Ethics Committee to respond to this question lies within Section 8-13-530(2) of the The Ethics, Government Accountability And Campaign Reform Act of 1991 with Amendments Effective January 12, 1995 which states, "Each ethics committee shall (2) receive and hear a complaint which alleges a breach of a

privilege governing a member of the appropriate house, *the alleged breach of a rule governing a member of or a candidate for the appropriate house*, misconduct of a member of or a candidate for the appropriate house.” In that the letter sent by the Judicial Merit Selection Committee alleges the potential violation of a rule that governs members of the General Assembly, but does not constitute a complaint, the Senate Ethics Committee deems it necessary to review the matter and submit an Advisory Opinion.

The pertinent sentence of Rule 24 and §2-19-70(C) that pertains to this issue reads as follows, “No member of the General Assembly may offer his pledge until the qualifications of all the candidates for that office have been determined by the Judicial Merit Selection Commission and until the Commission has formally released its report as to the qualifications of its nominee to the General Assembly.” Since 1997, four letters or memorandums regarding this rule have been distributed by the Judicial Merit Selection Commission and published on the Commission’s website. The Commission has been very specific in stating to all members, candidates, and parties involved that “no member of the General Assembly should, orally or by writing, communicate about a candidacy until 48 hours after release of the Judicial Merit Selection Commission’s final report of candidate qualifications.” (April 18, 2000 Memorandum)

In this particular case, the document signed by several senators was contrary to Rule 24 and §2-19-70(C) of the law in that it stated support for the candidacy of someone seeking a judicial position, and it was issued prior to 48 hours after the release of the Judicial Merit Selection Commission’s final report of candidate qualifications.

IN CONCLUSION the Senate Ethics Committee hereby interprets Rule 24 and §2-19-70(C) to prohibit any member of the Senate from, orally or by writing, communicating about a candidate’s candidacy until 48 hours after the release of the Judicial Merit Selection Commission’s final report of candidate qualifications.