

# Senate Ethics Committee

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## ADVISORY OPINION 2016-1

**TO:** Members of the South Carolina Senate

**FROM:** Luke A. Rankin, Chairman 

**RE:** Rules Governing Legislative Special Interest Caucuses

**DATE:** February 5, 2016

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Recently, some Senate Members have expressed an interest in joining and participating in one or more newly-formed legislative special interest caucuses within the South Carolina Senate. While legislative special interest caucuses are permissible in the Senate, given the numerous statutory restrictions imposed thereon, I find it necessary to make you aware of the governing rules to ensure compliance with South Carolina's ethics laws.

The term "legislative special interest caucus" is defined in S.C. Code Ann. Section 2-17-10(21) (Supp. 2014) as follows:

'Legislative special interest caucus' means two or more legislators who seek to be affiliated based upon a special interest. Under no circumstances may a legislative special interest caucus engage in any activity that would influence the outcome of an election or ballot measure. Each legislative special interest caucus must register with the Clerk's Office of the Senate . . . in a manner mandated by the Clerk's Office. However, each legislative special interest caucus must provide, and the Clerk's Office must maintain a record of:

- (a) the name and purpose of the caucus;
- (b) the names of all caucus members; and
- (c) the date of creation, and dissolution, if applicable.

The Clerk's Office must maintain these records for at least four years following the dissolution of the caucus. A legislative special interest caucus may include, but is not limited to, a representation of sportsmen and women desiring to enhance and protect hunting, fishing, and shooting sports.

(Emphasis added)

S.C. Code Ann. Section 8-13-1333(C)(1) (Supp. 2014) further states:

A legislative special interest caucus must not solicit contributions as defined in Section 8-13-100(9), however, it may solicit funds from the general public for the limited purpose of defraying mailing expenses, including cost of materials and postage, and for members of the legislative special interest caucus to attend regional and national conferences. Legislative special interest caucus members may attend a regional or national conference only if the conference is exclusively comprised of legislative special interest caucus counterparts and convenes for the purpose of interacting and exchanging ideas among caucus members and the conference is sponsored by a national organization with which the legislative special interest caucus is affiliated. Attendance at any conference is prohibited if the conference is sponsored by any lobbying group or extends an invitation to persons other than legislators. Under no circumstances may a legislative special interest caucus accept funds from a lobbyist. Each special interest caucus must submit a financial statement to the [Senate Ethics Committee] by January first and July first of each year showing the total amount of funds received and total amount of funds paid out. It must also maintain the following records, for not less than four years, which must be available to the [Senate Ethics Committee] for inspection:

- (a) the total amount of funds received by the legislative special interest caucus;
- (b) the name and address of each person or entity making a donation and the amount and date of receipt of each donation;
- (c) all received bills, canceled checks, or other proof of payment for any expenses paid by the legislative special interest caucus.

(Emphasis added) Additionally, Section 1333(C)(2) states that a legislative special interest caucus “may not accept a gift, loan, or anything of value, except for funds permitted in subsection(C)(1) above.”

These statutes specifically and expressly limit the activities of a legislative special interest caucus and its members. Participating in activities that influence the outcome of an election or ballot measure, such as soliciting or making campaign contributions, is prohibited. Members of a legislative special interest caucus are permitted to attend a regional or national conference, but only if the following conditions are met: (1) the conference is exclusively comprised of legislative special interest caucus counterparts; (2) the members convene for the purpose of interacting and exchanging ideas among caucus members; (3) the conference is sponsored by a national



organization with which the legislative special interest caucus is affiliated; (4) the conference is not sponsored by any lobbying group; and (5) invitations to the conference are extended only to legislators. Attendance is prohibited if the conference is sponsored by any lobbyists' principal or an invitation is extended to persons other than legislators. Other than accepting funds for the limited purpose of covering mailing materials/postage and attending a qualified national or regional conference, a legislative special interest caucus is prohibited from accepting gifts, loans, or anything of value. Under no circumstances may a legislative special interest caucus accept funds from a lobbyist.

If you decide to join and participate in a legislative special interest caucus, please be mindful of these rules to avoid a potential violation of South Carolina's ethics laws. Violations of these rules are subject to the penalty provisions of Senate Rules 44 and 44.1 and S.C. Code Ann. Section 8-13-1520 (Supp. 2014).

A handwritten signature in blue ink, appearing to read "LAW".