

CAUTION: The following advice may be based on a rule that has been revised since the opinion was first issued. Consequently, the analysis reflected in the opinion may be outdated.

40 IAC 2-1-9

To avoid regulating public debate, the Ethics Commission decided it would not pass judgment on the content of a mailing by a state officer who was a candidate for elected office, absent blatant circumstances, including the materials submitted by the Superintendent of Public Instruction.

April 16, 1992
No. 92-I-9

FACT SITUATION

The State Superintendent of Public Instruction who was a candidate for Governor wanted the State Ethics Commission to determine whether a media packet of information regarding Indiana A+ Program for Excellence in Education (on its fifth anniversary of passage) was appropriate to be sent as official state business.

The Office of External Affairs for the Indiana Department of Education had prepared a media packet containing information regarding Indiana's A+ Program for Excellence in Education which was intended to highlight the upcoming fifth-year anniversary of the program. The packet contained a press release, historic prospective on the A+ Program, a breakdown of the program into its component parts, and two graphs illustrating a breakdown of the funding for the program. The program was to be mailed to the state's 535 media outlets and distributed to the Statehouse media.

QUESTION

Is it appropriate for the Superintendent of Public Instruction to send a media packet of information regarding Indiana A+ Program for Excellence in Education (on its fifth anniversary of passage) as official state business in the circumstance that the Superintendent of Public Instruction is a candidate for Governor?

OPINION

Due to concern that review of such material could enmesh the State Ethics Commission in regulation of political debate, the State Ethics Commission determined that absent extraordinary and blatant circumstances it would not approve or disapprove of the content of a mailing by a state officer who was a candidate for elected office, including the materials submitted by the Superintendent of Public Instruction. In general, in such situations the Commission would defer to the judgment of the elected officer as to what was appropriate use of state resources.

RELEVANT RULES

40 IAC 2-1-9(f)
40 IAC 2-1-9(g)