

**STATE ETHICS COMMISSION
ADVISORY OPINION
S.E.C. 2010-07**

Whether the exemption from contribution limits and expenditures for political parties found in section 21-5-41(j) of the Ethics in Government Act (the “Act”) applies to legislative caucuses in the Georgia House and Senate.

ADVISORY OPINION

In his September 21, 2010 request for this advisory opinion, Mr. Walls requested advice on whether the exemption from contribution and expenditure limits found in § 21-5-41(j) of the Act applies to a legislative caucus in the Georgia House and Senate. The Commission advises that the answer to this question is no.

§ 21-5-41(j) of the Act states,

The contribution limitations provided for in this Code section shall not include contributions or expenditures made by a political party in support of a party ticket or a group of named candidates.

§ 21-5-40 (6.1) defines a “political party”¹: as “a political organization that nominated a candidate for Governor or President at the last election and whose candidate polled at least 20% of the total vote cast for that office (but permits the local, state, and national committees to be construed as separate political parties).

In § 21-5-40 (6), “political committee” is defined as a partnership, committee, club, association, organization, *party caucus of the House of Representatives or the Senate*, or similar entity (other than a business entity) or any other group of persons or entities which makes a contribution; or any separate segregated fund.

One sees from the plain language in the statute that political parties and political committees are different bodies. The hallmark of a political party is the ability to nominate a candidate. A political committee, on the other hand, is any association other than a business entity which makes contributions to candidates.

If the General Assembly intended the exemption found in § 21-5-41(j) to apply to legislative caucuses, it could have accomplished this by including the defined term “political committees” in the exemption. We must presume that the Legislature’s failure to do so was intentional and that the exemption only applies to political parties as defined under the Act. See Bauerband et al. v. Jackson County et al., 278 Ga. 222 (2004). See also, Inland Paperboard & Packaging, Inc. V. Georgia Dept. of Revenue, 274 Ga. App. 101, 104 (2005).

¹ The statutory definition of political party in O.C.G.A. § 21-5-40 (6.1) incorporates the definitions quoted above from O.C.G.A § 21-2-2 (25),

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February 2, 2011