

**ADVISORY OPINION AO-1989-007
RECONSTITUTED AS ETHICS INTERPRETATION EI-1989-007
ISSUED OCTOBER 11, 1989**

The Oklahoma Council on Campaign Compliance and Ethical Standards ["the Council"] has received your request for an advisory opinion asking, in effect:

Does Title 74 O.S. Supp. 1989, § 4242 (A), Item 2, prohibit a classified state employee who receives hourly compensation to "stand-by" or to be on call to return to work between the hours of 5:00 p.m. to 8:00 a.m. the following day from engaging in the prohibited political activities during these hours whether or not he is called back to work?

Title 74 O.S. Supp. 1989, § 4242 (A) (2) reads:

A. No classified employee shall:

* * *

2. Wear a campaign button, hat or badge during the hours that the employee is officially in work status for an agency;

Title 74 O.S. Supp. 1989, § 4242 (D) reads:

D. Subsection C of this section shall not authorize a classified employee to engage in political activity, while on duty, or while in a uniform that identifies him as a state employee. Nor shall a classified state employee be permitted to engage in political activities in the assigned work areas of a state agency in a manner that would conflict with the efficient performance of agency operations.

It seems clear from a reading of these two sections that the intent of the prohibition is to prohibit political activity when a classified state employee is "in work status" or "on duty" or "in a uniform that identifies him as a state employee" or "in the assigned work areas of a state agency".

Even though an employee is paid for being "on call" or "stand-by", to prohibit political activity even though the employee is not at work, is not supposed to be working and has not been summoned to work would unnecessarily restrict first amendment rights to "freedom of speech".

It is, therefore, the advisory opinion of the Council, as voted on at its regular meeting on October 11, 1989, that a classified state employee who is paid to be "on call" to return to work is not prohibited from engaging in political activity allowed under Title 74 O.S. Supp. 1989, § 4242 (A) (2) so long as he is not "in a uniform that identifies him as a state employee" and he has not received a call to return to work; therefore, upon receiving such a call he should cease the activity immediately and return to work.