

**ADVISORY OPINION AO-1990-002
RECONSTITUTED AS ETHICS INTERPRETATION EI-1990-002
ISSUED MAY 9, 1990**

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

Can a classified employee, who plays in a band as a hobby, be hired by a partisan campaign to play at a fundraising activity without violating Title 74 O.S. Supp. 1989, § 4242?

Title 74 O.S. Supp. 1990, §4242 reads, in pertinent part:

A. No classified employee shall:

* * *

5. Directly or indirectly solicit contributions or other funds for a partisan political candidate or party;

6. Directly or indirectly solicit, receive, collect, handle, disburse or account for assessments, contributions or other funds for a partisan political purpose; or

7. Organize, sell tickets to promote or actively participate in a fundraising activity of a candidate in a partisan election or of a political party.

* * *

C. A classified employee shall retain the right to:

* * *

6. Attend a political convention, rally, fundraising function or other political gathering;

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8. Make a voluntary financial contribution to a candidate, political party or organization;

Petitioner states that his or her band will be paid for performing at a fundraising function for a candidate and other similar functions in the area. Attached to the request was an advertisement for the candidate's fundraiser which also contains in bold letters: **Music by the: ___ band.**

In reviewing the paragraphs of § 4242, paragraph A, it appears that the intent is for a classified employee not to be involved in any way in fundraising; however, a classified employee may attend a fundraising function and contribute to it. The distinction would then seem to be that a classified employee is prohibited from "actively participating in fund raising".

It is, therefore, the advisory opinion of the Council, as voted on at its regular meeting on May 9, 1990, that a classified employee does not violate Title 74 O.S. Supp. 1989, § 4242, who plays in a band as a hobby and is hired by a partisan candidate to play at a fundraising activity so long as:

- 1. The band is paid at its normal market rate;**
- 2. There is no appearance through the wearing of campaign colors, hats, banners or badges that the band endorses the candidate or that the band is there for any purpose other than in a hired capacity;**
- 3. The contract is legitimate--it is not a ruse, the employee is not trying to publicly endorse the candidate by playing at the function, and there is no subterfuge; and**
- 4. The band does not address or assist the fundraising effort in any way.**

In determining whether to play at any fundraising function, there may be other potential problems that the Council has not addressed in this opinion that may give rise to the appearance of "participating in fundraising" which are not covered in this opinion.