STATE OF NEVADA
STANDING COMMITTEE ON
JUDICIAL ETHICS AND ELECTION PRACTICES

DATE ISSUED: October 17, 2006

PROPRIETY OF AN ENDORSEMENT
OF A REMAINING CANDIDATE
COMING FROM AN INDIVIDUAL
WHO LOST IN THE PRIMARY FOR
THE SAME RACE.

ISSUE

May a person who lost in the primary election move on to endorse one of the candidates from the same race who made it through the primary?

ANSWER

Yes.

FACTS

This inquiry comes from a judicial candidate who was successful in the primary election. He/she asks: "When is a candidate for judicial office no longer a candidate?" He/she contends that a losing participant in the primary is no longer a candidate upon posting of final official results of the race. The candidate goes on to ask whether others formerly in his/her race may support him/her now that the primary is over.

DISCUSSION

Canon 5A of the Nevada Code of Judicial Conduct provides:

A judge or judicial candidate shall refrain from inappropriate political activities.

A. ....
(1) ...a judge or a candidate for election...shall not:

(b) publicly endorse or publicly oppose another candidate for public office;

After the official primary results are posted, it is clear as to which two (2) judicial candidates will go on to the general election. The other contestants are no longer candidates. They no longer fall under the restrictions of Canon 5A and may now endorse or oppose the two (2) individuals who remain as candidates.

CONCLUSION

The candidate’s inquiry focused on the propriety of those who lost in the primary now endorsing one (1) of the two (2) candidates who survived the primary. For purposes of Canon 5A, those who did not make it through the primary are no longer candidates and are free to endorse or oppose those remaining candidates for the seat. However, these individuals are still governed by the financial reporting requirements and restrictions on accepting campaign contributions.
REFERENCES

Nevada Supreme Court Rules, Code of Judicial Conduct, Canon 5A(1)(b).

This opinion is issued by the Standing Committee on Judicial Ethics and Election Practices. It is advisory only. It is not binding upon the courts, the State Bar of Nevada, the Nevada Commission on Judicial Discipline, any person or tribunal charged with regulatory responsibilities, any member of the Nevada judiciary, or any person or entity which requested the opinion.

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