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A CANDIDATE WHO FAILS TO FILE A STATEMENT OF EXPENDITURES WITHIN THE PRESCRIBED TIME IS BARRED FROM ANY FUTURE ELECTION FOR A PERIOD OF FIVE YEARS BUT NOT FROM BEING APPOINTED TO PUBLIC OFFICE—§§731.12, 3517.11 R.C.

**SYLLABUS:**

A candidate who fails to file a statement of expenditures within the time prescribed by Section 3517.10, Revised Code, is, under Section 3517.11, Revised Code, barred from becoming a candidate in any future election for a period of five (or seven) years, but is not, by reason of such failure, barred from being appointed to a public office such as a member of the legislative authority of a village, and from serving in such capacity.

Columbus, Ohio, December 21, 1962

Hon. Robert E. Dunlap, Prosecuting Attorney  
Logan County, Bellefontaine, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“An unsuccessful candidate for the office of county central committeeman of his particular political party failed to file his statement of receipts and expenditures within time pursuant to Sections 3517.10 and 3517.11 of the Revised Code, thereby disqualifying himself from becoming a candidate in a future election for a period of five years. Does this disqualify the individual from serving as a village councilman by appointment, this office ordinarily being an elective one but subject to being filled by appointment in case of vacancies therein?”

I assume for the purpose of this opinion that a municipal corporation charter is not involved and that the statutory law as to appointment is applicable. Under Section 731.43, Revised Code, when a vacancy occurs in the office of a member of the legislative authority of a municipal corporation, such unexpired term is to be filled by the legislative authority; except that if the council fails to act within thirty days of the occurrence of the vacancy, the mayor shall then appoint a person to fill the office. The qualifications required to hold such an office in a village are specified by Section 731.12, Revised Code, which reads:

“Each member of the legislative authority of a village shall have resided in the village one year next preceding his election, and shall be an elector of the village. No member of the legislative authority shall hold any other public office, except that of notary public or member of the state militia, or be interested in any contract with the village and no such member may hold employment with said village. Any member who ceases to possess any of such qualifications or who removes from the village shall forfeit his office.”

Section 3517.08, *et seq.*, (former Section 5175-26, *et seq.*, General Code) constitute what is referred to as the corrupt practices act, which was enacted to insure the purity of elections. Your inquiry concerns the situation where under Section 3517.10, Revised Code, a candidate has failed to file a statement of his campaign expenditures with the local board

of elections prior to 4:00 P.M. of the forty-fifth day after such election. As a result of such failure to file, such candidate falls within the purview of Section 3517.11, Revised Code, which reads in pertinent part:

“\* \* \* \* \* \* \* \* \*”

“In the event of a failure to file a statement with the secretary of state or in the event a statement filed with the secretary of state appears to disclose a violation of law, the secretary of state shall promptly report such facts to the attorney general who shall forthwith institute such civil or criminal proceedings as are appropriate. In the event of a failure to file a statement with a board or in the event a statement filed with a board appears to disclose a violation of law, such board shall promptly report such facts to the prosecuting attorney of the county of such board, who shall forthwith institute such civil or criminal proceedings as are appropriate. No certificate of nomination or election shall be issued to a person, nor shall a person elected to an office or position enter upon the performance of the duties of such office or position until he has fully complied with this section and sections 3517.08 and 3517.10 of the Revised Code. *Failure of any candidate to file a statement within the time prescribed by section 3517.10 of the Revised Code shall disqualify said person from becoming a candidate in any future election for a period of five years, except candidates for an elected office having a six-year term who shall be disqualified from becoming a candidate in any future election for a period of seven years.*” (Emphasis added)

Section 3517.11, *supra*, clearly bars the person who has not filed the statement from *becoming a candidate in any future election* for a period of five (or seven) years, but does not bar such person from being *appointed* to a public office such as a member of the legislative authority of a village.

Accordingly, it is my opinion and you are advised that a candidate who fails to file a statement of expenditures within the time prescribed by Section 3517.10, Revised Code, is, under Section 3517.11, Revised Code, barred from becoming a candidate in any future election for a period of five (or seven) years, but is not, by reason of such failure, barred from being appointed to a public office such as a member of the legislative authority of a village, and from serving in such capacity.

Respectfully,

MARK McELROY

Attorney General