

OPINION NO. 84-041**Syllabus:**

R.C. 124.57 prohibits a classified employee from serving on the state central committee or a county central committee of a political party or on the executive committee of the state central committee or a county central committee.

To: William F. Schenck, Greene County Prosecuting Attorney, Xenia, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, July 31, 1984

I have before me your request for my opinion concerning whether a "County classified employee may serve as an elected and/or appointed member of a political party central and/or executive committee."

R.C. 124.57 provides:

No officer or employee in the classified service of the state, the several counties, cities, and city school districts thereof, and civil service townships, shall directly or indirectly, orally or by letter, solicit or receive, or be in any manner concerned in soliciting or receiving any assessment, subscription, or contribution for any political party or for any candidate for public office; nor shall any person solicit directly or indirectly, orally or by letter, or be in any manner concerned in soliciting any such assessment, contribution, or payment from any officer or employee in the classified service of the

state and the several counties, cities, or city school districts thereof, or civil service townships; nor shall any officer or employee in the classified service of the state, the several counties, cities, and city school districts thereof, and civil service townships, be an officer in any political organization or take part in politics other than to vote as he pleases and to express freely his political opinions. (Emphasis added.)

See 1 Ohio Admin. Code 123:1-46-02. See also 1983 Op. Att'y Gen. No. 83-095 (syllabus, paragraph 2) ("[a]n appointing authority has the authority to take action pursuant to R.C. 124.34 to remove or otherwise discipline a classified employee who is engaged in partisan political activity in violation of R.C. 124.57, but such authority is discretionary not mandatory in nature").

In Heidtman v. City of Shaker Heights, 163 Ohio St. 109, 126 N.E.2d 138 (1955), the court, in discussing the scope of what is now R.C. 124.57, stated:

The word, "politics," has two different definitions. In Funk & Wagnalls New Standard Dictionary (1952), the word, "politics," is defined as "1--the branch of civics that treats of the principles of civil government and the conduct of state affairs; the administration of public affairs in the interest of peace, prosperity and safety of the state; statecraft; political science; in a wide sense embracing the science of government and civil polity; (2) political affairs in a party sense; the administration of public affairs or the conduct of political matters so as to carry elections and secure public office; party intrigues; political wirepulling; trickery."

. . . .

The statute does not define what it means by "politics" except that, since it refers to solicitations for political parties or for candidates for public office, and also to political organizations, it seems that the expression, "take part in politics," was intended to cover only the activities embraced in the second definition. Then, too, when we consider the purpose of the legislation, it seems to be concerned only with partisan politics.

163 Ohio St. at 118-119, 126 N.E.2d at 143. The court concluded that R.C. 124.57 prohibits only partisan political activity. See Gray v. City of Toledo, 323 F. Supp 1281 (N.D. Ohio 1971) (upholding the constitutionality of R.C. 124.57, as interpreted in Heidtman).

R.C. Chapter 3517 deals with the internal organization of political parties in Ohio. See R.C. 3517.01(A) (defining political party); State ex rel. Cain v. Kay, 38 Ohio St. 2d 15, 18, 309 N.E.2d 860, 863 (1974) ("[p]olitical parties are basically voluntary associations of persons who act together principally for party and community purposes"); State ex rel. McCurdy v. DeMajoribus, 9 Ohio App. 2d 280, 281, 224 N.E.2d 353, 354 (Cuyahoga County 1967) ("[a]lthough political parties have certain public responsibilities, they are basically voluntary associations made up of persons who act together for various community and party purposes and who are governed in most respects by their own rules and usages"). Pursuant to R.C. 3517.02, "[a]ll members of controlling committees of a major or intermediate political party shall be elected by direct vote of the members of the party. . . . [a]ll members of controlling committees of a minor political party shall be determined in accordance with party rules." R.C. 3517.03 provides in pertinent part:

The controlling committees of each major political party or organization shall be a state central committee consisting of two members, one a man and one a woman, representing each congressional district in the state; a county central committee consisting of one member from each election precinct in the county, or of one member from each ward in each city and from each township in the county, as the outgoing committee determines; and

such district, city, township, or other committees as the rules of the party provide.

All the members of such committees shall be members of the party and shall be elected by direct vote at the primary held in the even-numbered years. Candidates for election as state central committee members shall be elected at primaries in the same manner as provided in sections 3513.01 to 3513.32, of the Revised Code, for the nomination of candidates for office in a county. Candidates for election as members of the county central committee shall be elected at primaries in the same manner as provided in such sections for the nomination of candidates for county offices.

Each major party controlling committee shall elect an executive committee which shall have such powers as are granted to it by the party controlling committee, and as are provided by law. When a judicial, senatorial, or congressional district is comprised of more than one county, the chairman and secretary of the county central committee from each county in such district shall constitute the judicial, senatorial, or congressional committee of such district. When a judicial, senatorial, or congressional district is included within a county, the county central committee shall constitute the judicial, senatorial, or congressional committee of such district.

The controlling committee of each intermediate political party or organization shall be a state central committee consisting of two members, one a man and one a woman, representing each congressional district in the state. All members of such committee shall be members of the party and shall be elected by direct vote at the primary held in the even-numbered years. Candidates for election shall be elected at the primary in the same manner as provided in sections 3513.01 to 3513.32, of the Revised Code. An intermediate political party may have such other party organization as its rules provide. Each intermediate party shall file the names and addresses of its officers with the secretary of state.

A minor political party may elect controlling committees at a primary election in the even-numbered year by filing a plan for party organization with the secretary of state on or before the ninetieth day before the day of the primary election. Such plan shall specify which offices are to be elected and provide the procedure for qualification of candidates for such offices. Candidates to be elected pursuant to such plan shall be required to be designated and qualified on or before the ninetieth day before the day of the election. Such parties may, in lieu of electing a controlling committee or other officials, choose such committee or other officials in accordance with party rules. Each such party shall file the names and addresses of members of its controlling committee and party officers with the secretary of state.

See R.C. 3517.04 (providing for the meetings of the central committees and the election of the committees' officers); R.C. 3517.05 (setting forth the terms of committee members and providing for the filling of vacancies).

I believe it is apparent that membership on the governing body of a political party constitutes partisan political activity for purposes of R.C. 124.57. Specifically, R.C. 124.57 prohibits a classified employee from being an officer in any political organization. Clearly, service on a county or state central committee, or executive committee thereof, whether such service is by election or appointment, constitutes being an officer in a political organization.

This conclusion is directly supported by Jackson v. Coffey, 52 Ohio St. 2d 43, 44, 368 N.E.2d 1259, 1260 (1977), wherein the court concluded that service as a member of a county party central committee "per se, falls within the political activities proscribed for classified employees in R.C. 124.57," and thus was grounds for removal pursuant to R.C. 124.34. See State ex rel. Hein v. Cull, 135 Ohio St. 602, 21 N.E.2d 991 (1939) (a charter provision prohibiting classified employees from "act[ing] as an officer of a political organization" or otherwise engaging in political

activities precluded a classified employee from serving on a county central committee of a political party). See also Jackson v. Chapman, 54 Ohio St. 2d 282, 376 N.E.2d 580 (1978). The conclusion of Jackson would undoubtedly apply to membership on a state central committee or on the executive committees of either the state or a county central committee.

In conclusion, it is my opinion, and you are advised, that R.C. 124.57 prohibits a classified employee from serving on the state central committee or a county central committee of a political party or on the executive committee of the state central committee or a county central committee.