



Commonwealth  
of Massachusetts

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*Office of Campaign and Political Finance*

*One Ashburton Place, Room 411*

*Boston, MA 02108*

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### Advisory Opinion

April 22, 2002

AO-02-17

Albert W. Bleau, Jr.  
127 Redington Street  
Swampscott, MA 01907

Re: Clean Elections Law – Election cycle for candidate in November 5, 2002 General Election  
who also sought election in April 23, 2002 Special Election

Dear Mr. Bleau:

This letter is in response to your request for an opinion regarding the Clean Elections Law, M.G.L. c. 55A.

You have stated that you were a candidate in the special election primary held for the vacant First Essex District state senate seat. You were not successful in the primary held on March 26, 2002. The special election will be held on April 23, 2002.

Notwithstanding the result in the special election primary, you anticipate being a candidate for the seat in the November 5, 2002 general election. You are interested in participating in the Clean Elections program in that election, and your questions relate to the determination of your election cycle in connection with your candidacy in the November 5, 2002 election.

QUESTION: When would the election cycle for the regular state election in 2002 start?

ANSWER: The election cycle would begin on April 28, 2002.

#### DISCUSSION

A candidate who wishes to participate in the Clean Elections program must file a Declaration of Intent reflecting the candidate's agreement to accept only "allowable contributions" and clean election funds during an election cycle. See M.G.L. c. 55A, § 1, which also defines "allowable contributions" as contributions from individuals and political committees that do not exceed \$100 in the aggregate during an election cycle. For purposes of complying with this provision, it is obviously necessary to define the "election cycle" for any particular candidate.

The term “election cycle” is defined in Section 1 of the Clean Elections Law as “the period beginning on the thirty-first day following a regular state election for that office and ending on the thirtieth day following the next state election<sup>1</sup> for that office, inclusive.” For the election cycle that ends on the thirtieth day following the state election in 2002 the election cycle began on March 31, 2001. See Section 325, Chapter 159 of the Acts of 2000. Therefore, candidates seeking legislative seats through the regular state election in November 2002 have an election cycle, defined in the statute, which begins on March 31, 2001 and ends on December 5, 2002. Candidates who sought election to the legislature in a special election before November 2002 could not, in connection with the special election, participate in the Clean Elections program. See AO-02-08.<sup>2</sup>

There are no provisions in the Clean Elections Law defining a shorter election cycle in the regular biennial state election in November 2002 for candidates previously on the ballot in special elections held during the 2001-2002 election cycle who will also be on the ballot in the state election in November 2002. The office has, however, issued regulations to further define the election cycle in such a situation.

Specifically, 970 CMR 5.04(2)(d) states:

The election cycle for a candidate for a state office who was most recently a candidate on the ballot in a legislative special election during the election cycle provided for in 970 CMR 5.04(1) shall begin on the 31<sup>st</sup> day following said special election.<sup>3</sup> Such candidate’s election cycle shall end on the 30<sup>th</sup> day following the next election. For example, the election cycle for a candidate for state senator in November 2002 who was a candidate for state representative in a special election held on April 3, 2001 begins on May 4, 2001 and end on December 5, 2002.

Application of this regulation would result in your election cycle beginning 31 days after the April 23, 2002 special election (May 24, 2002).

As suggested, however, by the example provided in the regulation, the office did not originally contemplate that special elections would be called during the last nine months of the biennial election cycle. Adherence to the regulation, as drafted, would result in a very short election cycle for candidates having an election cycle beginning after a special election held in April 2002. To qualify for participation in the Clean Elections program a candidate for state senate would need to receive at least 450 qualifying contributions<sup>4</sup> and apply for certification between the beginning of the abbreviated

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<sup>1</sup> “State election” is defined as “any election at which a national, state, or county officer or a regional district school committee member elected district-wide is to be chosen by the voters, whether for a full term or for the filling of a vacancy.” See M.G.L. c. 50, § 1.

<sup>2</sup> As noted in that opinion, “the absence of any provision [in the Clean Elections law] addressing special elections before the end of the first election cycle expressly addressed by the statute indicates that persons running in special elections held before December 5, 2002 should not be the first candidates to participate in the system.”

<sup>3</sup> Where a candidate is unsuccessful in a special election primary, the subsequent election cycle begins after the special election, not after the primary.

<sup>4</sup> Qualifying contributions are “allowable” contributions of at least five dollars solicited and received during the qualifying

election cycle and the end of the qualifying period. See M.G.L. c. 55A, §§ 4 and 5. The qualifying period for candidates for state senate ends on May 28, 2002. To become a certified candidate, qualifying contribution forms and lists must first be submitted to the local Boards of Registrars at least one week before the end of the qualifying period, i.e., no later than May 21. See 970 CMR 5.12(1).

A strict reading of 970 CMR 5.04(2)(d) would not provide time for candidates on the ballot in the April 23, 2002 special election who also wish to participate in the Clean Elections program in the November 2002 election to collect the requisite number of qualifying contributions.

We believe it is more reasonable to provide an exemption to the regulation for all candidates in special elections in April 2002, specifying that the election cycle and qualifying period for such candidates begins 31 days before May 28, 2002, the last day such candidates may file nomination papers with the state secretary. See AO-02-16 (answering same question posed by candidate for state representative who was on the ballot in a special election held on April 9, 2002). This results in an election cycle and qualifying period that lasts from April 28 to May 28, providing sufficient time for a candidate to comply with the Clean Elections law and become a certified candidate. As noted above, the qualifying contribution forms and lists must be submitted to the Registrars no later than May 21.

This opinion is issued within the context of the campaign finance law and the Clean Elections Law and is provided solely on the basis of representations in your letter. Please contact us if you have further questions.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan". The signature is written in dark ink and is positioned to the left of a vertical line.

Michael J. Sullivan  
Director

MJS:gb