

Judicial Merit Selection Commission

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MEMORANDUM OF GUIDANCE

TO: Members of the General Assembly and Judicial Candidates

FROM: Members of the Judicial Merit Selection Commission

RE: Guidance Concerning Definition of ‘Person’ in SC Code Section 2-19-70 ©

DATE: July 21, 2025

Section 2-19-70(C) of the South Carolina Code provides, in pertinent part:

“No person may seek, directly or indirectly, the pledge of a member of the General Assembly’s vote or, directly or indirectly, contact a member of the General Assembly regarding screening for the judicial office until the qualifications of all candidates for that office have been determined by the Judicial Merit Selection Commission and the commission has formally released its report as to the qualifications of all candidates for the vacancy to the General Assembly.”

The General Assembly amended the prior version of this statute, which restricted such actions by “candidates”—defined as individuals who had filed letters of intent to seek judicial office—to now apply more broadly to “persons.” This change has raised questions about the scope of the term “persons” and who is subject to the statute’s pledging restrictions and associated penalties.

The Commission interprets the amended language to be temporal rather than substantive: to close a loophole that allowed individuals to solicit or offer legislative pledges before officially becoming candidates (i.e., before filing a letter of intent). The Commission interprets the statute as not expanding the category of individuals subject to Section 2-19-70 beyond those already within the jurisdiction of the Judicial Merit Selection Commission (JMSC).

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Therefore, the Commission interprets the term “person” in Section 2-19-70 to include only those individuals who are subject to its jurisdiction. Pursuant to Section 2-19-70(E), violations by candidates, members of the General Assembly, and non-legislative Commission members must be reported to the appropriate authority or addressed directly by the Commission. Accordingly, the Commission construes the term “person” in this context to refer exclusively to individuals over whom the JMSC has disciplinary authority.

However, the Commission reminds candidates—whether before or after filing a letter of intent—that Section 2-19-70 (C) prohibits a candidate, **or someone acting on behalf of and at the request of the candidate**, from contacting a member of the General Assembly before nominations for that office are formally made by the commission. If a member of the general public engages in prohibited conduct at the direction of a candidate, that conduct will be imputed to the candidate and treated as a violation of the statute.