2016 ETHICS TRAINING

NEW Staff to Legislators
Support Staff and Legislative Agencies

SEGMENT 1

- Who is Covered?
- General Overview of Ethics.
- Ethics Committee.
- Committee Responsibilities.
- Why Ethics Training?
- Three Types of Responses to Ethical Dilemmas.
- Ethics Office File

WHO IS COVERED BY THE LEGISLATIVE ETHICS ACT

- LEGISLATORS
- STAFF TO LEGISLATORS
- OTHER STAFF EMPLOYED BY THE LEGISLATURE (except hourly employees)
- PUBLIC MEMBERS OF THE ETHICS COMMITTEE
- OMBUDSMAN
- VICTIMS' RIGHTS
- LEGISLATIVE FINANCE
- LEGISLATIVE AUDIT
- *IMMEDIATE FAMILY MEMBERS (certain sections)*

- Ethics codes don’t make people ethical.
- They don’t make bad people good.
- They don’t make people with bad judgment wise.
- Ethics codes would not have prevented most of the shocking behavior we’ve seen across the country in recent years.

Michael Josephson, Character Counts!, Summer 2007

Two aspects to being ETHICAL:

- Knowing right from wrong

but also

- Having the moral willpower to do what's right (discipline)

ETHICS CODE

- Defines what is right and acceptable
- Transforms moral obligations into binding rules
- Provides a basis for imposing sanctions on those who don’t follow the code

AN ETHICS CODE MUST:

- REINFORCE AN ESTABLISHED ETHICAL CULTURE
- RECEIVE SUPPORT FROM MANAGEMENT

ETHICAL STANDARDS ARE BOTH

- **RULE BASED**

and

- **VALUE BASED**

A question to ask yourself:

DO YOU TRY TO FIND A LEGAL WAY TO DO THE WRONG THING?

SELECT COMMITTEE ON LEGISLATIVE ETHICS

PUBLIC MEMBERS

Dennis "Skip" Cook ……..Fairbanks

H. Conner Thomas ……Nome

Gary J. Turner ……..……..Soldotna

5 Public members who serve a three-year term. (Currently 2 vacancies)

- **One Alternate Public Member –**

LEGISLATIVE MEMBERS 2015-2016

Senator Stevens	(Alt: Senator Micciche)
Senator Egan	(Alt: Senator Gardner)
Rep. Millett	(Alt: Rep. Vazquez)
Rep. Tuck	(Alt: Rep. Josephson)

- Alternate legislative members serve when a regular member is disqualified or must be recused due to a conflict.
- Legislative members serve a two-year term

The role of the Select Committee on Legislative Ethics is to:

Administer and Interpret the Legislative Ethics Act. AS 24.60

COMMITTEE RESPONSIBILITIES

- Help you understand and comply with the Legislative Ethics Act
- Interpret the Act through informal advice
- Issue advisory opinions
- Resolve ethics complaints
- Maintain public files of disclosures
- Recommend ethics legislation

ETHICS TRAINING

- *To help public servants be involved in their own ethical thinking*
- *To help public servants reason through the real-life consequences of their actions*
- *To promote integrity in government*

THE MOST IMPORTANT STEP IN MAKING ETHICAL DECISIONS

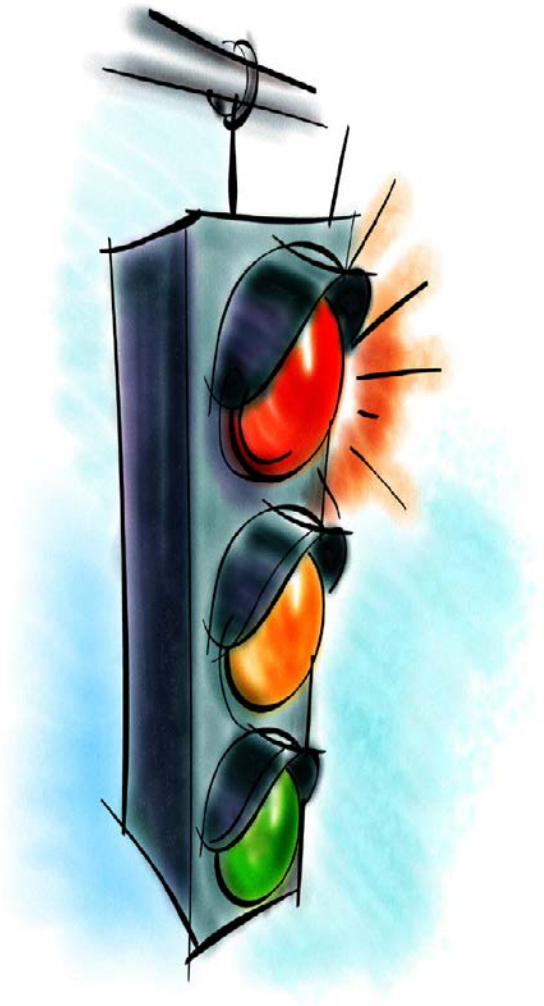
When you question an action you are about to take, a BELL should ring. Follow these steps:

STOP before acting

THINK about ethical considerations

ASK for advice

THREE TYPES OF **Ethical** RESPONSES



Just Say No - Don't Ask

Caution – Stop, Think, and Ask

OK – Go Ahead

Office Ethics File

Set up a file in your office

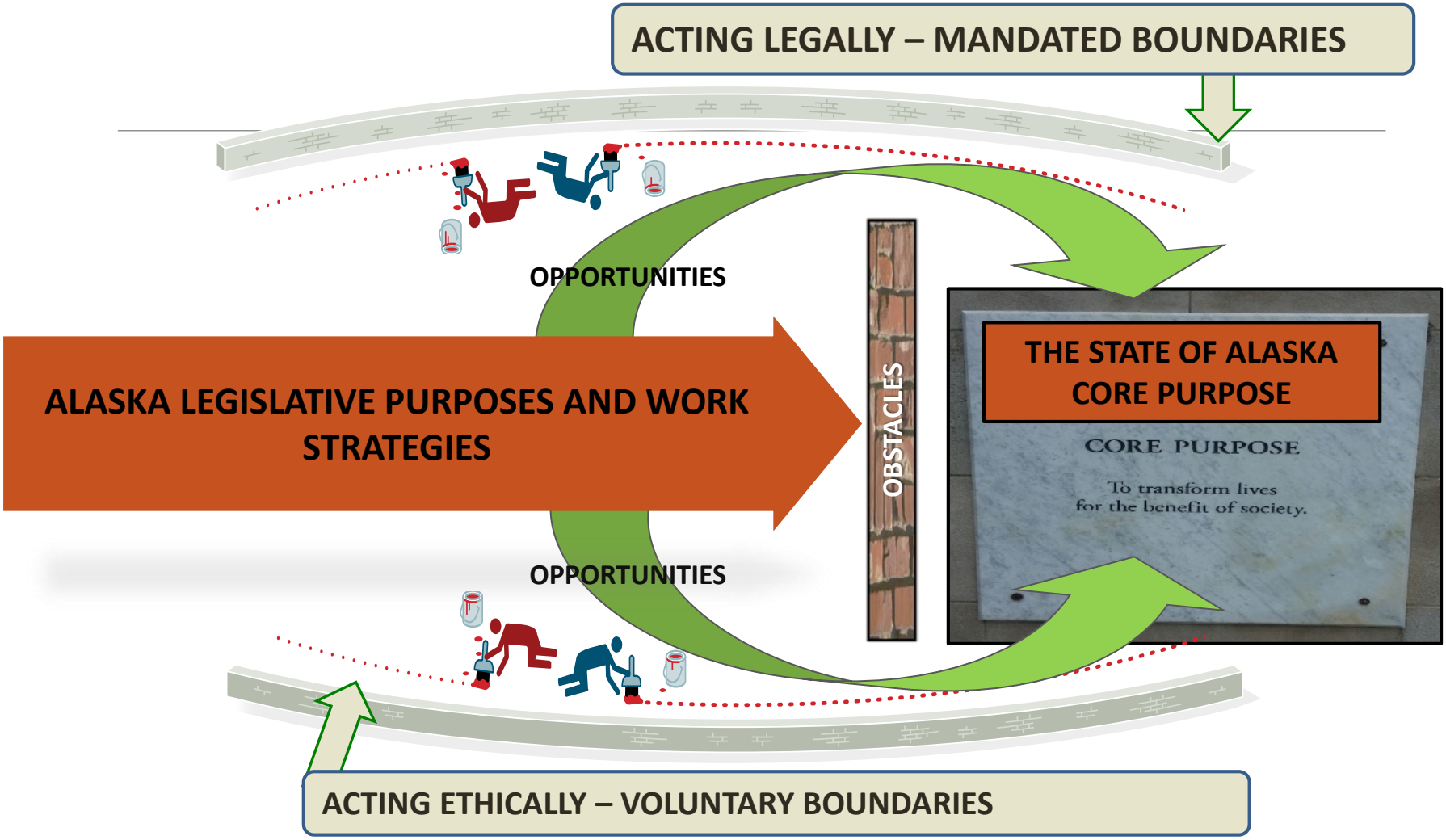
- Ethics advice
- Disclosures filed
- The ADVISOR newsletter
- Ethics email alerts
- Other ethics correspondence
- Yearly "Log of Gifts" received related to legislative status (date received, description of item, from whom, value - actual or estimated)

CONSIDER

- Do more than the law requires
- Do less than the law allows

Think about:

- Using the Following Diagram as your legislative ethics model. It illustrates the "Do More Than The Law Requires" AND "Do Less Than The Law Allows"



NOTE: This illustration adapted from 2014 COGEL presentation by Paul Liebman, U of Texas at Austin

SEGMENT 2

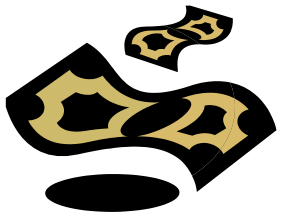
- Gifts.
- Lobbyist Restrictions.
- Membership on a Board.
- State Benefit & Loan Programs.
- State Contracts & Grants.
- Close Economic Association.
- Disclosures – General Information.
- Reporting Deadlines.

GIFTS - AS 24.60.080

What are Gifts?

MONEY

- Cash
- Promissory Note
- Discount



LOAN

- Any Non-commercial loan – even between friends

SERVICES

- Cleaning
- Child Care
- Car Repair
- Office Help
- Legal Advice

TRAVEL

- Ground, Air, Water

ENTERTAINMENT

- Tickets to attend the Perseverance Theatre
- Free pass to Eaglecrest Ski Area
- Round of Golf
- Concerts

HOSPITALITY

- Stay at a person's home
- Use of a car
- Room at a hotel
- Food (certain exceptions)

THINGS

- Flowers
- Clothes
- Computers

PROMISE OR OTHER FORM

- Promise to do something for something in return

NOTE: MUTUAL EXCHANGE is *not* considered a GIFT. No disclosure required. Exchange was equal or fairly close in value. EX: Babysitting for wallpapering a kitchen.

TWO KINDS OF GIFTS

- Those connected to your legislative status

- Those NOT connected to your legislative status

Note: Keep in mind, the gift statute includes not only accepting or receiving a gift but soliciting one as well.

GIFTS TO IMMEDIATE FAMILY MEMBERS

- An immediate family member of a legislator or legislative employee may NOT receive a prohibited gift.
- DEFINITION "immediate family member":
  - Spouse or domestic partner
  - Parent, child (including stepchild and adoptive child) or sibling **IF** financially dependent **OR** share a substantial financial interest **OR** reside with the legislator or legislative employee.

  - THIS IS THE "NARROW DEFINITION"

GIFTS
EXCEPTIONS & PROHIBITIONS

- **GIFTS - from lobbyists**
- **GIFTS – from other than a lobbyist**
  - **over/under $250**
  - **with no $$ limit**

GIFTS FROM LOBBYISTS

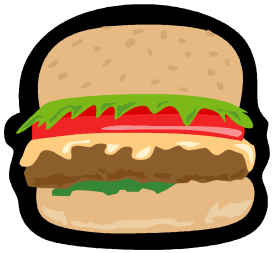
Just say NO!

- **Gifts from:**
  - ***Registered*** **lobbyist**
    OR
  - **Immediate family of registered lobbyist**
    OR
  - **a person acting on behalf of registered lobbyist**

NOTE: Does not include Representational or Volunteer lobbyist

GIFTS FROM LOBBYISTS

EXCEPTIONS:



- **Food and drink (for immediate consumption)**
  - **Lobbyist (only) must report to APOC if $$ value of food and beverage exceeds $15**

Gifts from Lobbyists

EXCEPTIONS

- Gifts from a lobbyist who is your Immediate Family Member (spouse or domestic partner, parent, child or sibling under certain circumstances)
- Contributions on behalf of a charity for a charity event
- Contributions to a charity
- Ticket to a charity event (see explanation)
- Compassionate gift (see explanation)

GIFTS
OK to accept – No Disclosure

EXAMPLES:

- Hospitality at a person's primary residence (except from a lobbyist)
- Hospitality at a social event or meal
- Public discounts
- Discounts that benefit the state
- Culturally shared food

NO RESTRICTIONS:

- No dollar limit
- Connected to legislative status or not connected

GIFTS
OK to accept – No Disclosure

EXAMPLES (con't):

- Welcome to Juneau gifts given to all (except from a lobbyist)
- Gift of transportation from a Legislator or legislative employee to a Legislator or legislative employee
- Contributions on behalf of a charity or charity event from any person
- Gift from **immediate family members** (* Broad definition)

NO RESTRICTIONS:

- No dollar limit
- Connected to legislative status or not connected

Some GIFTS
with a value of $250 or more

- May <u>Not</u> be accepted

<u>OR</u>

- May <u>Be</u> accepted ***and*** require disclosure

GIFTS CONNECTED TO YOUR LEGISLATIVE STATUS

EXAMPLE: You received from the same person, on six separate occasions, a gift of a ticket to a Perseverance Theatre. Each ticket was valued at $45. The total value of the six tickets is $270.

You must return the sixth ticket since the aggregate gift amount exceeds $250. You may NOT pay difference of $20 and keep the sixth ticket.

Note: Record these gifts on your Gift Log.

CERTAIN GIFTS

OK to Accept – Must Disclose

MUST DISCLOSE IF:

- Gift is $250 or more
- Cumulative value of gifts from same person or entity is $250 or more in a calendar year

RESTRICTIONS:

- No dollar limit
- Cannot receive from a lobbyist

GIFT DISCLOSURES ARE:

- Public Information
- Published in Legislative Journal

GIFTS Related to Legislative Matters

GIFT of Travel / Hospitality for Legislative Matters

Example: NCSL paid $250 or more for airfare, hotel or meals to attend a conference

- Disclose within 60 days of start of the trip

Note: Waiver of conference fee is considered a gift

Family Member GIFT due to Legislative Connection

- Example: Spouse/immediate family member accompanied legislator to NCSL conference and NCSL paid some/all expenses totaling $250 or more.
- **Includes** Ticket to Charity Event.
- Disclose within 60 days of receipt of gift

TICKET TO A CHARITY EVENT

AS 24.60.080(b)(2)(B)

- Legislative Council must **pre-approve** charity event – must be a 501(c)(3) event
  - Notification of approval will be sent by LAA Administration
- Accept gifts received at a charity event
  - **(See restrictions and disclosure requirement)**
- Ticket may include: **(See restrictions and disclosure requirement)**
  - Admission to event
  - Food or beverage
  - Other gifts
  - Other services

Tickets – OR – Gifts Received at the Charity Event

FROM A LOBBYIST

RESTRICTIONS:

- Cumulative value of **ticket(s)** cannot exceed $250 from the same lobbyist in a calendar year
- Cumulative value of **gift(s)** received at the charity event cannot exceed $250 in a calendar year (unless the gift is won by way of a drawing)

NEW 2013

Tickets – OR –
Gifts Received at the Charity Event
with a value of $250 or more

- May be accepted (<u>except</u> from a lobbyist).
- Must be disclosed within 60 days of the charity event.

GIFTS related to Pre-Approved Charity Event

Example: Receipt of **ticket**, valued at $250 or more, from American Red Cross to attend their annual charity event

Example: Receipt of **other gifts** acquired at the charity event with a value of $250 or more; i.e., painting, jewelry, round trip airline ticket, hotel accommodations, etc.

- NEW IN 2013 Disclose within 60 days of the event

NOTE: Receipt of tickets from lobbyists and gifts to which the ticket may entitle the bearer may not aggregate to $250 or more in a calendar year. AS 24.60.080(a)(2)(B).

GIFT From Another Government due to Legislative Connection (no form/no disclosure)

- Example: Legislator or legislative employee accepted a beautiful bronze figure, valued at $250 or more, from the Arizona legislature as a thank you for helping with a conference
- Within 60 days, deliver to Legislative Council
- Record information on your Gift Log

GIFT of Legal Services Related to Legislative Matters (occurs very infrequently)

- Example: Receipt of legal services of $250 or more related to a legislative matter
- Disclose within 30 days

GIFT Not Connected to Legislative Status

Example 1: Legislative employee works part time for a non-profit organization. Employee receives a gift of a 'laptop' from the organization.

Example 2: Legislative employee receives a gift of an all expense paid fishing trip to Minnesota's Boundary Waters Canoe Area from college friend.

- Disclose within 30 days of receipt of gift ($$ amount not required)
- Report *confidential* and is not published
- Stored in secure file cabinet

GIFT Not Connected to Legislative Status

- COMPASSIONATE GIFT
  - Health-related emergency, catastrophe, or tragedy
    - Prior written approval from chair of Legislative Council and Ethics Committee
    - Gifts separate from other gifts previously received from same person/entity, including from a lobbyist
    - No limit on the value of the gift
    - Disclose within 30 days of receipt of gift
    - Donated leave does not count toward total
    - Flowers, candy, fruit basket, flag – incidental gifts – do NOT require pre-approval

MISCELLANEOUS GIFTS

- ***Legislator or legislative employee*** may not accept a payment or anything of value worth $250 or more, except for travel expenses, for legislative related **speeches**. AS 24.60.085(a)(2)

- A legislator or legislative employee may **NOT solicit or accept** a *thing of value, benefit* or *anything of value,* other than a **paycheck**, for performing legislative duties. AS 24.60.030(a)(1)

Gifts - Recap

Threshold for gifts is $250 (except from Lobbyist)

- Legislative related – aggregate total **UNDER** $250 from same person/entity in a calendar year – **permissible** – **no disclosure**

- Legislative related – aggregate total **OVER** $250 from same person/entity in a calendar year – **some permitted** – **disclosure required**

- Non-legislative related – **over** $250, **permitted** – **disclosure may be required**

Other DISCLOSURES

(Due within 30 days of association **and** annually within 30 days of the beginning of the legislative session)

Membership on a Board of Directors – AS 24.60.030(f)

- Officer or board member of any organization
  - Appointments to a board because of legislative status -- no disclosure **IF** published in Legislative Journal
  - Reimbursement of expenses or receipt of a stipend for attending board meetings are not considered gifts and do not require disclosure when serving on the board in a personal capacity

Legislator or legislative employee may not serve on a governor appointed board which requires legislative confirmation.

Article II, Section 5, of the State Constitution and AS 24.60.030(f)

Advisory Opinion 13-02

- **ORGANIZATION** – an administrative and functional structure, such as a business, or a group of people united for a common purpose, such as an association or society.
- **BOARD OF AN ORGANIZATION** – a group of persons having managerial, supervisory, investigatory, or advisory powers over an administrative and functional structure, such as a business, or over a group of people united for a common purpose, such as an association or society.
- **BOARD MEMBERSHIP** – having the status of being an individual who is one of the individuals composing a board.

State Benefit and Loan Programs – AS 24.60.050

- May participate in any State benefit and State loan program
- Disclosure depends on award criteria
- List of discretionary award programs in Appendix C of the Handbook

State Contracts, Leases and Grants – AS 24.60.040

- If annual value is $5000 or more, and subject to specific provisions
- Includes immediate family members
- If permitted and $5,000 or more, disclosure required

Close Economic Association – AS 24.60.070

- Financial relationship between legislators, legislative employees, public officials as defined in AS 39.50 and registered lobbyists
- Examples: legislative employee rents from a lobbyist during session; or employee is paid to work on a legislator's campaign (both the employee and legislator must disclose)

Representation Before a State Agency - AS 24.60.100

- Financial agreement to represent a client before a State agency, board or commission (Ex: Legislative employee who is an attorney representing a client before one of the above entities.)

REQUEST TO REFRAIN FROM MAKING A DISCLOSURE

AS 24.60.105(d)

If making a disclosure would violate:

- State law NEW IN 2013
- Federal law
- United States Constitution
- State of Alaska Constitution
- Rule adopted formally by a trade or profession that state or federal law requires the person to follow

Person shall provide to the Ethics Committee:

- Justification in writing (disclosure form to be provided)

Committee may review the written justification to determine whether it is sufficient

DISCLOSURE FORMS

- Now on-line at
  http://ethics.legis.state.ak.us

- Sign in using your legislative “user name” and “password” (If completing forms for your legislator you must use his/her sign-in information.)
- Contact information will auto fill
- Drop down menus to assist with completing the form
- Confirmation receipt sent to person
- Ethics Office receives a copy

NEW IN 2013 – searchable database of previous electronically-filed disclosures

WHY DISCLOSE

- AO-09-05

  "Ethics disclosure requirements are based in part on the principle that certain potential conflicts of interest, once out in the open, pose less of a threat to the public's confidence in government than they might if they were not revealed."

RECAP OF REPORTING DEADLINES

AS 24.60.105, AS 24.60.080(d), AS 24.60.210

Disclosures due within 30 days

- **Of the commencement of the "matter" or "interest" (or)**

YEARLY DISCLOSURES ARE REQUIRED within the first 30 days of the legislative session

- **For any 'matter' or 'interest' in place at the beginning of the calendar year**

NOTE: 48 hour reporting of changes to lobbying contract for Lobbyist Spouse or Domestic Partner

****Fines are levied for late disclosures****

GIFT DISCLOSURE DEADLINES

- Gift of Travel/Hospitality for Legislative Matters (includes Immediate Family Members)
- Gift Related to Sanctioned Charity Event (includes Immediate Family Members)

Disclosure due within 60 days

- Gift of Legal Services, Gift for Compassionate Reasons, and Gift Not Related to Legislative Status

Disclosure due within 30 days

FINAL DISCLOSURES

WITHIN 90 DAYS

Legislators leaving office and employees terminating employment or going on lay-off status must report any disclosable ‘matter’ or ‘interest’ between their last report and their last day.

- LAA Personnel will include with the employee’s last paycheck an information sheet explaining these requirements.

SEGMENT 3

- Legislative Purpose Test
- Campaign Restrictions
- Use of State Resources
- Official Compensation
- Become a Candidate
- Nepotism
- Confidential Information
- Volunteers/Interns
- Informal Advice
- Formal Advisory Opinions
- Heads Up Call
- Complaint Process

LEGISLATIVE PURPOSE Test

What is the **LEGISLATIVE PURPOSE** of my action?

- There is no definition of ‘legislative purpose” in the Legislative Ethics Act.
- Each situation must be determined on a case-by case basis.
- Several statutes and formal advisory opinions provide guidance.

ASK YOURSELF: Is the activity or service necessary for you to perform **official** duties? If not, do not perform.

Just say NO!

USE OF STATE RESOURCES FOR CAMPAIGN PURPOSES AS 24.60.030(a)(5) and (b)

Ask yourself: Is this a candidate, campaign, or political party activity? If YES, do NOT perform.

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Additional CAMPAIGN restrictions may apply to certain divisions of the Legislature

- Legislative Affairs Agency
- Legislative Finance
- Legislative Audit
- Office of the Ombudsman
- Office of Victims' Rights

Please check with your supervisor prior to taking any action in these areas.

DURING LEGISLATIVE SESSION
(Regular or Special)

- **Staff may NOT solicit or accept campaign contributions for state or municipal office**

EXCEPTION: 90 days immediately preceding election but not in city where session is being held

REGULAR OR SPECIAL SESSION

- Legislative employee may attend a Campaign or Political Party fundraiser.
- Legislative employee may contribute to a Campaign or Political Party fundraiser.

NOTE: Legislative employees may also donate items to a political party auction fundraiser.

EXCEPTIONS

TO THE USE OF GOVERNMENT RESOURCES

AS 24.60.030(a)(2)(A) and AS 24.60.030(a)(5)(A)

****

***

Limited use of government resources **for** personal **purposes is allowed:**

IF **use doesn't interfere with performance of public duties**

AND **cost is nominal or promptly reimbursed**

Use of phone/fax **OK if no cost or promptly reimbursed. Supervisor should regulate use (except if use is for election campaign purposes).**

Reasonable *use of the Internet* is allowed (except if use is for election campaign purposes).

Receipt of no more than two to three pieces of personal mail per week at the Capitol while temporarily residing in Juneau (do not submit a "Forwarding Order" to the P.O).

SOLICITING CHARITABLE CONTRIBUTIONS
with the use of State Resources
FOR A NON-PROFIT ORGANIZATION

- AS 24.60.030(a)(2)(l) permits the solicitation, acceptance and receipt of gifts for a non-political charitable organization in a state facility.
- AO 12-02 states:
  - "solicit" is defined literally and narrowly
  - activities such as organizing or facilitating a non-profit fundraiser are **not** permitted

NOTE: Non-profit organizations that have a clear "legislative purpose" **and** which legislature belongs are exempt from this prohibition.

Just say NO!

Legislative employees

ARE

"Government Resources"

Per AS 24.60.030

****

Legislative employees – MAY NOT – and CANNOT BE REQUIRED – to perform activities for ***non-legislative*** purposes or ***private*** purposes on government time and/or with the use of government resources.

Government time: "Time for which the employee is being compensated by the state for work performed based on a schedule set by a supervisor." (Note: Does not include "leave time.") (Ethics Committee definition.)

DON'T ASK!

LEGISLATIVE EMPLOYEES TO DO ANY OF THE FOLLOWING ACTIVITIES

- Baby sit
- Make vacation travel arrangements
- Respond to non-legislative correspondence
- Buy gifts for family members
- Promote private business
- Pick up kids from school
- Pick up dry cleaning
- Address personal (or campaign) related seasonal greeting cards

(NOTE: The person asking could be a Legislator, chief of staff, or another legislative employee)

Miscellaneous Items

Legislator or legislative employee may not **request or accept compensation** greater than the value of the services performed. AS 24.60.085(a)(1).

Legislative Employee may not file a "Letter of Intent" or "Declaration of C*andidacy*" to **become a state or national candidate**. AS 24.60.033 and AS 39.25.160

(Note: APOC oversees the requirements for determining when a "Letter of Intent" must be filed.)

Legislator or legislative employee may not **supervise** other immediate family members. Other nepotism restrictions apply as well.

AS 24.60.090

Legislator or legislative employee may not **disclose** confidential information deemed confidential by law. AS 24.60.060

Note: Legislators, LAA, and other divisions may have an internal policy concerning confidentiality of information within the office. The employee handbook also has provisions on confidential info.

VOLUNTEERS/INTERNS

- Authority – AS 24.60.080(h), 24.60.112 and 24.60.155
- **New 2013 – Ethics training required if serving 30 days or more**

Legislative VOLUNTEERS

- "**gift of services**"
- May receive a gift not to exceed $250 to help defray costs working as a volunteer.
- Must be approved by the Senate President, Speaker of the House, Rules Committee Chair, or other appointing authority

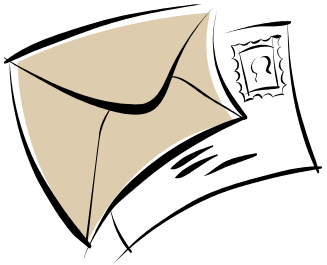
Legislative INTERNS

- "**exchange of services**"
- Monitoring requirements for legislative office & program sponsor
- Programs pre-approved by the Ethics Committee (except University of Alaska interns working during a Legislative Session)

INFORMAL ADVICE AS 24.60.158

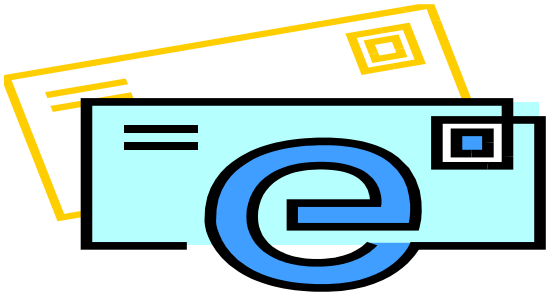
WHO MAY REQUEST:

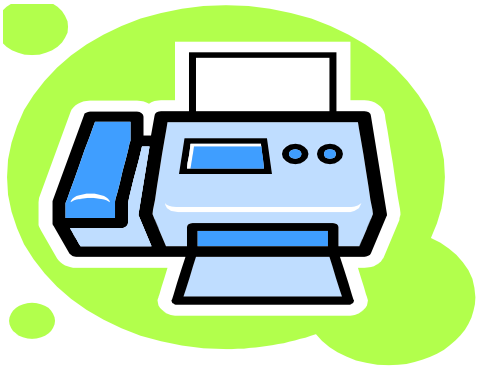
- Legislators
- Legislative employee
- Members of the public



HOW TO REQUEST:

- Email
- Phone
- Letter
- Fax





FORMAT OF RESPONSE:

- Verbal
- Written

Informal advice:

- Identity of the person seeking informal advice is confidential unless waived by the person requesting the advice or compelled by statute or subpoena
- Given in good faith but does not necessarily reflect the opinions of the committee
- Cleansed of all identifying information and reviewed by the Committee at their next meeting
- Committee may not bring a complaint against a person based on information voluntarily given in connection with a good faith request for informal advice. AS 24.60.165

Binding interpretation of the Legislative Ethics Act

- Ethics staff may recommend obtaining a Formal Advisory Opinion from the committee under AS 24.60.160
  - Issue is very complicated
  - Ethics statutes are unclear regarding the issue
  - No previous informal advice or Advisory Opinions have been issued on the subject

- Person seeking advice may submit, at any time, a request for an Advisory Opinion.

NOTE: Request for advice should be prior to taking the action.

FORMAL ADVISORY OPINION
AS 24.60.160 to 165

WHO MAY REQUEST:

- Legislator
- Legislative employee
- Legislative employee on lay-off status
- Person elected to the Legislature
  but not sworn in

Searchable Advisory Opinion database can be found at
http://www.legis.state.ak.us/ethics/

HOW TO REQUEST: **- Email**
- Letter
- Fax

- Request detailed enough for the committee to determine whether the facts and circumstances constitute a violation of the ethics code.
- Opinion issued within 60 days.
- Request and deliberations confidential unless waived.
- Factual information submitted with the request may not be used against the person in an ethics complaint unless the person ignored the opinion's advice.
- Advisory Opinion is a public document.
  - Identifying information removed prior to publication.
- Opinion is a binding interpretation of the Ethics Code.

HEADS UP CALL

The Ethics office intermittently receives calls or information describing alleged violations of the Legislative Ethics Act.

Many callers indicate they are not inclined to file a complaint but “just want something done.”

The Ethics Committee, in an effort to be proactive, has developed a “Heads Up Call” procedure.

Most often the action ends with closure and no complaint is filed.

Staff neither advocates for or against filing a complaint.

If no complaint has been filed within 30 days, the Ethics Committee determines if a complaint should be filed based on the allegations.

ETHICS COMPLAINT AS 24.60.170

Confidential

If the complainant reveals a complaint has been filed or any of the contents of the complaint, the complaint shall be immediately dismissed

WHO MAY REQUEST:

- Anyone who believes the ethics law has been violated
- First hand knowledge not necessary/required
- Ethics Committee may initiate a complaint

HOW TO REQUEST:

- In writing (complaint form provided upon request)
- Signed and notarized

WHEN TO FILE

- Legislator – within 5 years from date of alleged violation
- Legislative employee – must be filed prior to leaving employment – complaint can be reinstated if re-employed either as an employee or Legislator within 5 years of the alleged violation
- Not during campaign period if a candidate - unless waived by subject

COMPLAINT PROCESS

Complaint is heard before:

House or Senate Ethics Subcommittee if filed against a legislator or legislative employee working for the House or Senate

Full Committee for other employees

Non-Political Staff

You have completed the non-political staff segments of ethics training.

Ethics is a complicated subject and most often the answer is based on a very fact specific activity or set of circumstances. Call anytime you have a question.

You are welcome to complete the 'political staff' portion of the on-line training as well.

Political Staff

There is one more segment to complete which focuses on activities related to working for a legislator.

SEGMENT 4

- NCSL Model Code of Conduct
- Legislative Purpose Test
- Newsletters
- Redistricting
- POET Account
- Office Allowance Account
- Legislator Financial Disclosure
- Campaign Activities
- Use of State Resources
- Legislative Appointment Calendar
- Constituent Services

NCSL MODEL CODE OF CONDUCT
Staff Working Directly for a Legislator

- The broad purpose of your work as staff to a legislator is to assist the state legislature in promoting the common good of the citizens of the state.
- As staff to a legislator you are entrusted with various tasks that give you an **important role** in the process by which decisions for the common good are made by the legislature.

LEGISLATIVE PURPOSE Test – Political Staff

What is the **LEGISLATIVE PURPOSE** of my action?

- There is no definition of ‘legislative purpose” in the Legislative Ethics Act.
- Each situation must be determined on a case-by case basis.
- Several statutes provide guidance.

ASK YOURSELF: Is the activity or service necessary for the Rep/Sen and/or staff to perform **official** duties?

Legislative Newsletter

What is the Legislative Purpose?

Must consider all three factors to determine if the newsletter has a Legislative Purpose.

Timing:
- During legislative session?
- During interim?
- 1 week before an election?

Content:
- Legislative information?
- Legislative and Candidate information?
- Election information?
- Construction/Emergency Information?

To Whom:
- All constituents in current legislative district?
- All seniors in current district?
- All voters of one political party in current district?
- Voters in current district and voters in neighboring district?
- Voters in new district boundaries realigned by the State Redistricting Board?

NEWSLETTERS– Redistricting

(Note: Some legislative boundaries were redrawn for the 2014 elections)

- Newsletters may be sent to constituents in a legislator's **current** legislative district boundaries

- Newsletters may NOT be sent to individuals in the **new district boundaries** unless they request to be on the legislator's mailing list – to do so would be considered campaigning

- Newsletters may be sent to constituents in the **new district boundaries** once the November election results have been certified by the State Division of Elections.

Newsletters – Gen Info

- Do not include “re-elect me” statements
  - “I have filed for another term.”
  - “I plan to pursue a solution to this problem in the next legislative session.” (Note: In this scenario the time period is an election year and the legislator is running for another term.)
- Do not list only select businesses on a reference card or in a newsletter
  - Including only select businesses provides a private benefit to those businesses
  - Note: See Complaint Decision H 10-01 for further information.

LEGISLATIVE NEWSLETTER TIMEFRAME During Campaign Season

Legislator, who is a candidate, may not use **public funds** to mail or email a political mass mailing to voters eligible to vote for the candidate within 60 days of an election. AS 24.60.030(c) **(Friday, June 17)**

- **Finance Committee or Leadership Funds**
- **LAA Print Shop printing of newsletter**

- "Mass Mailing" is political if it is from *or* about a legislator who is a candidate for election.
- Legislators may send email newsletters to their constituents during a campaign period "so long as there is no increased cost to the state for the use." AO 99-04

POET Account
(Oversight by APOC)

- Use for activities or purchases related to the duties of a legislator.
  - AS 15.13.116(8)(B) POET account may be used only for expenses associated with the candidate's serving as a member of the legislature.
- Examples
  - Newsletter costs at any time
  - Items for a legislator's legislative office
  - Travel to a legislative meeting
  - Booth at a community event

Note: Staff may prepare in-house POET account reports and file required paperwork with APOC.

OFFICE ALLOWANCE ACCOUNT (Oversight by LAA Accounting)

- November 14, 2013, Legislative Council policy provides that all Legislators' allowance will be administered as an accountable allowance.
- Guidelines are available on LAA Accounting intranet site.
- Legislative business expenses are permitted.
- Personal, political, or campaign related expenses are not reimbursable.

Legislators Financial Disclosure

- Statutorily required – all legislators file a financial disclosure annually by March 15
- Disclosure related to legislative status
- Staff may use state resources to help legislator prepare and file the disclosure with APOC

Just say NO!

USE OF STATE RESOURCES FOR CAMPAIGN PURPOSES AS 24.60.030(a)(5) and (b)

Ask yourself: Is this a candidate, campaign, or political party activity? If YES, do NOT perform.

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- **Designing, writing, handing out campaign material (*Not on government time, no use of government resources – i.e., computer, not in state building*)**
- **Placing of legislative office address and phone number on campaign materials and/or State Election Booklet (*No, see AO 07-07*)**
- **Staff attending campaign events (*OK outside of government time and without use of state resources, keep records, complete leave slip if required, voluntary only*)**

- **Staff on campaign time and state time for the same hours (*No – must separate the two activities*)**
- **Distributing campaign invitations in a state facility (*Not allowed*)**
- **Conducting a straw poll for the primary purpose of campaigning (*Not allowed using state resources*)**
- **Campaign buttons or other campaign items either worn or in view in state offices (*Not allowed, OK to/from work site*)**

Written Office Policy Required
Incidental Campaign Activities

- Permissible if the activities are part of the normal legislative duties of the employee
  - **Answering incoming telephone calls of a campaign nature**
    - **(refer the caller to campaign headquarters or the legislator's home)**
  - **Handling incoming campaign correspondence**
    - **(give the correspondence to the legislator for processing/action or send an email back to the person along with campaign contact information)**

REGULAR OR SPECIAL SESSION

- Legislator or legislative employee may attend a campaign or political party fundraiser.
- Legislator or legislative employee may contribute to a campaign or political party fundraiser.

NOTE: Legislators may **NOT** donate items to a political party auction fundraiser. Legislator's name must be listed as donating the item; therefore, making an implied solicitation for a political party contribution.

NOTE: There are certain exemptions for a federal office candidacy.

DURING LEGISLATIVE SESSION

(Regular or Special)

- **Staff** may **NOT** solicit or accept campaign contributions for **state or municipal office**
- **Legislator** may **NOT** solicit or accept campaign contributions for **own campaign for state or municipal office; for another candidate for municipal, state, or federal office; to influence a State ballot question; or for a political party**

EXCEPTION: 90 days immediately preceding election but not in city where session is being held)

Legislator's Campaign Website

During a Legislative Session

- No solicitation language.
- No 'Contribute" button.
  - Remove PayPal.
- No language such as, "Contributions cannot be accepted during a legislative session but please come back after session." This statement could be construed as a "solicitation" for after the session.
  - AS 24.60.031 used the terms '*solicit* **or** *accept*'. The act of soliciting is separate from the act of accepting a contribution.

Electronic Data Input of Required Candidate Campaign Reports

Permissible with the use of State Computers

- ***LEGISLATORS*: Serve 24/7 and therefore can perform this activity at any time.**
- ***LEGISLATIVE EMPLOYEE*: May not perform this activity on government time. May perform this activity when in "off work" status on a state computer. Legislator may NOT require an employee to perform this activity.**
- ***LEGISLATOR DESIGNEE*: May use a state computer to file electronic candidate campaign reports.**

State Computer includes a computer in a legislator's office as well an LIO computer. NOTE: Care should be taken to perform this activity out of the public's eye since it has the appearance of a campaign activity.

Use of Legislative Information for Campaign Purposes

- Legislative newsletters may be placed on a campaign website if legislative contact information is removed.
- Other types of printed material must be evaluated on a case-by-case basis.
- Conducting legislative research or preparing reports for the purpose of using the information for campaigning or for a candidate forum is prohibited.

Legislative Travel –and- Collateral Campaign Activity

- Use of state resources is prohibited for political fundraising, campaigning, or involvement in or support of or opposition to partisan political activity.

  AS 24.60.030(a)(2) and AS 24.60.030(a)(5)

If you are on a state paid trip you must ask yourself this question:

"Is the campaign activity one that can be performed only because you are on a state paid trip?" Note: The activity is "location dependent."

STATE PAID TRAVEL

Legislators and Legislative Employees

- **Prohibited:** Campaign door knocking; dropping off campaign fliers at businesses and residences; attending a campaign fundraiser, or making a campaign appearance at a function – to name a few.
- **Permitted:** Returning a call, fax, or email from a campaign worker; responding to a call from the media; working on the detail of a future campaign fundraiser to be held in another town – to name a few.

TRAVEL and CAMPAIGNING

- EXAMPLE: Fly to/from Anchorage on the state dime for legislative business and while there attend a campaign fundraiser for another candidate. **State resources cannot be used for expenses related to this trip.**
- EXAMPLE: Personally pay for travel to/from Anchorage to attend a campaign fundraiser on the first night and conduct legislative business on day two and three. **State resources may be used for expenses related to day two and three.**

Legislative Constituent Database
Campaign Database
AO 04-01

- Constituent information maintained in a database for legislative purposes may be copied for personal or campaign use.
  - Database must have been created or maintained in the legislator's own office.
    - Publicly available databases are OK
    - Purchased databases may have copyright issues if copied.
- Campaign database may be combined with a legislative constituent database

LEGISLATOR ONLY

PRIVATE OFFICE EXCEPTION

Legislator, NOT staff, may *use his/her private office, in Juneau ONLY, session ONLY, and during the ten days before and after session*, for non-legislative purposes.

Use must NOT interfere with legislative duties AND there is no cost or cost is promptly reimbursed.

NOTE: The same exception does not apply to a legislator's interim office.

Legislator's Appointment Calendar

- Staff **may** record non-legislative appointments for the Legislator
  - Personal
  - Campaign related

- Staff may **NOT** make the arrangements for a non-legislative appointment for the legislator

CONSTITUENT SERVICES

- It is an established legislative practice for legislative aides to perform constituent services, such as:
  - PFD appeals
  - Child support/custody issues
  - DMV issues
  - Student Loan issues

Advisory Opinion 08-03
Performing Constituent Service

- Assisting constituents in navigating state bureaucracy and fully accessing their options
- Developing a communication line between the state agency and the constituent

Legislative intent:

- Move the constituent's concerns forward
- Make sure everyone involved knows what they need to know
- Urge the government agency to take timely action

Difference between:

performing constituent services **versus**

advocating for a constituent's private interest

EXAMPLES OF PROHIBITED ACTIVITES:

- serve as a personal representative
- negotiate a settlement with a state agency
- pursue an appeal for a constituent
- convince a state department to repeal a denial or drop a case
- perform activities related to picking up legal/medical records, preparing or transcribing documents for the constituent

LEGISLATIVE CONTACT WITH ADMINISTRATIVE DECISION MAKER

AS 24.60.030(i)

The intent of this statute is to:

- **Avoid legislative influence during the Administrative Hearing process**

New in 2013
‘Administrative Hearing’ defined

A quasi-judicial hearing before an agency.

Does **not** include:

- an informal conference or review held by an agency before a final decision is issued
- a rate-making proceeding; or
- other nonadjudicative public hearing.

Contact with an Administrative Decision Maker is allowed only **IF**:

- Acting as a party in the matter, or
- Acting as a witness in the matter, or
- Responding to a question asked by the hearing officer;

AND Contact is made a part of the record

Representing a person for compensation before a State Agency, Board, or Commission in an Administrative Hearing

- Restrictions in AS 24.60.030(i) do not prevent a legislator or legislative employee from representing a person in an administrative hearing.
- Representation is subject to the requirements, restrictions and disclosure outlined in AS 24.60.100.

- HELP A CONSTITUENT WHO WAS DENIED A PFD
  - Determine if matter has progressed to a hearing
  - If so, only request case status info and procedural matter info – do NOT contact decision maker

- CONTACT A SOCIAL WORKER AT OCS TO OBTAIN INFORMATION ON A CASE RELATED TO CHILD CUSTODY
  - Determine if matter has progressed to a hearing
  - If so, social worker may be a witness and is covered by restrictions

Thank you for your participation today.

Hopefully you have come away from this training with a better understanding of Legislative Ethics.

Please call anytime you have a question.

Ethics is a complicated subject and most often the answer is based on a very fact specific activity **or** set of circumstances.