

**SELECT COMMITTEE ON LEGISLATIVE ETHICS
Alaska State Legislature**

THE ADVISOR

April 2008

Committee Members: Chair Herman G. Walker, Jr, Senator Gary Stevens, Senator Con Bunde, Representative Bob Roses, Representative Berta Gardner, Dennis “Skip” Cook, H. Conner Thomas, Ann Rabinowitz and Gary J. Turner.

Alternate Legislative Members: Senator Hollis French, Senator Gary Wilken, Representative Carl Gatto and Representative Lindsey Holmes.

Staff: Joyce Anderson, Administrator; and Donna Grenier, committee staff.

SPECIAL ISSUE

**The following applies:
DURING AN ELECTION YEAR
And/Or
DURING A SPECIAL SESSION**

CAMPAIGN FUNDRAISING ISSUES TO CONSIDER

IMPORTANT: HB 305, *An act relating to campaign fund raising during a regular or special legislative session; and providing for an effective date*, is awaiting transmittal to the Governor for signature. There is an immediate effective date for the provisions in HB 305. An email will be sent explaining the changes when this occurs. There are significant changes to fund raising restrictions. Until that time the following applies:

A legislator or legislative employee may not, in the Capital City: solicit, receive or accept a contribution, or a promise to make a contribution, for any state legislative campaign while the legislature is in special session. Special session is scheduled to begin on Tuesday, June 3rd.

EXEMPTION: If the special session falls within the period 90 days immediately preceding an election, legislators and legislative employees may solicit, receive and accept contributions in a place other than the Capital City.

Special Session 90-Day Window begins May 28th

The prohibition does not apply to a political party holding a fund raising event in the Capital City during a special session if the substantial purpose of the event is to raise money for the political party and not on behalf of a legislative member for state legislative political purposes.

These prohibitions do not apply to legislators who have filed for offices other than a legislative office.

Open time period to hold or co-host a legislative candidate fund raiser: April 14th through June 2nd

May a legislator *expend* campaign funds during a special session?

Yes. The legislator would also need to comply with all APOC requirements on the expenditure of campaign funds.

May a legislator hold a fundraiser during special session if the event is held in a place other than the Capital City?

No, unless the date of the event falls within the '90 day window.'

May a legislator *mail*, during a special session, an invitation to a campaign fundraiser for his/her campaign?

No, unless the mailing is within the 90 day window.

May a legislator or legislative employee *host* a fundraiser during special session for a non-incumbent candidate for a legislative seat?

No, unless the fundraiser is held within the 90 day window allowed by statute and outside of the Capital City. Advisory Opinion 07-06 (attached)

Example: A legislator allows the legislative candidate to include his/her name on a fund raising event's invitation or advertisement. This restriction applies even if the legislator's name merely appears on a long list of other candidate supporters or campaign officers.

May a legislator or legislative employee endorse a non-incumbent candidate for legislative office during special session?

Yes. This action would not be a violation of the ethics code as long as there is no “quid pro quo” agreement. Advisory Opinion 07-06 (attached)

Example: A legislator endorses a candidate in a signature ad that solicits votes but does not solicit contributions to a campaign.

May a legislator accept funds from an event that had been scheduled well in advance but fell on a date during special session?

Generally no, unless the event falls within the 90 day window and as long as the event is not held in the Capital City. If the event does not fall within the “90 day window”, the event must either be canceled or campaign contributions must be turned down at the event and the legislator may not solicit or accept a promise or pledge for a future campaign contribution at the event.

OTHER CAMPAIGN ISSUES

May a legislator use pictures from the legislative web site for campaign purposes?

Yes. AS 24.60.030(a)(2)(H) allows a legislator to use photographs taken using state resources for personal or campaign related purposes.

May a legislator or legislative employee wear a campaign button while conducting legislative business?

Advisory Opinion 94-13 states a campaign button (or any other campaign item, i.e., a hat for instance) may be worn to and from the work place but may not be worn in a legislative office or while on legislative business outside of the office.

May a legislative employee work on a campaign?

Yes. Legislative employees are not prohibited from working on a campaign. Campaign work cannot be performed on government time or with the use of state resources.

Government time is not defined in statute. The Ethics Committee defines “government time” to mean time for which the employee is being compensated by the state for work performed based on a schedule set by a supervisor. Legislative employees have a wide variety of work schedules. The specific hours in “government time” may vary according to the work schedules set by supervisors for each employee.

Example: A legislative employee performs legislative works for five hours in the morning, is on personal time in the afternoon and attends a 2 ½ hour Community Council meeting in the evening representing the legislator. The employee may participate in campaign activities during the designated personal time.

A legislative employee should note that in the event a complaint is filed alleging participation in non-legislative activities on government time, the burden of proof would be on the employee to show a pre-approved work schedule or show leave time had been requested for the time in question.

Must a legislative employee file a “close economic association” disclosure if working on a legislator’s campaign?

A close economic association is required only if the legislative employee is a paid campaign worker for a sitting legislator’s campaign. The disclosure must be filed within 30 days of association.

May a legislator put the legislative office number, fax number, email and/or mailing on candidate materials?

No, as that would require or allow staff to handle campaign related contacts.

Further, the State Division of Elections Voter Guide should not contain legislative contact information. See Advisory Opinion 07-07 for additional information. (attached)

May a legislator hand out legislative business cards while campaigning (i.e., door knocking)?

Advisory Opinion 07-07 states a legislator may not distribute legislative business cards to constituents while campaigning for re-election, even if the cards are owned by the legislator, unless the legislative business card is given because of a legislative purpose such as a constituent concern.

Example: The constituent asks the legislator to follow up on a license request through a state agency that the constituent feels is taking too long.

Absent facts clearly demonstrating that a legislative business card distributed during a campaign activity was actually distributed for a legislative purpose and not for a political campaign purpose, the committee might find a violation of AS 24.60.030(a)(5). The use of a legislative business card during campaigning creates a substantial appearance of impropriety.

May legislative staff assist a legislator in preparing APOC campaign finance disclosure reports while on government time or in a state building?

No. This activity is campaign related.

WRITTEN OFFICE POLICY
Incidental Campaign Activities

All legislative offices should have a written policy on how to handle “incidental campaign activities” such as a campaign-related phone call, campaign correspondence or a campaign check received at the legislative office, email

correspondence, etc. These types of incidental campaign activities while on government time are permissible if the activities are part of normal legislative duties.

The Ethics Office is available to answer any questions you may have when the line between campaigning and performing legislative duties becomes less than clear.

LEGISLATIVE NEWSLETTERS DURING AN ELECTION YEAR

AS 24.60.030(c) prohibits a legislator who is candidate for election the use of state funds to print or distribute a legislative newsletter to individuals eligible to vote for the candidate during the 60 days before an election.

The last day for the Legislative Print Shop to print newsletters for legislators who are candidates is June 26th.

- Please be sure to have your newsletter to the Print Shop well ahead of the June 26th deadline to allow adequate time for Print Shop staff to print and collate the newsletter.
- After June 26th, legislative newsletters may be printed and distributed using personal funds, office allowance account funds (which are not considered state funds) or POET account funds.

Legislators who are not candidates may use the Print Shop to print legislative newsletters after the June 26th deadline.

The use of email to send out newsletters is not prohibited at any time.

IMPORTANT: The closer to Election Day a legislative newsletter mailing or email is sent, the greater the appearance the newsletter could be considered a political campaign mailing. Legislative newsletters may not contain any campaign related material.

General Information on the POET ACCOUNT:

- POET account funds may only be used for expenditures related to legislative duties pursuant to AS 15.13.116(a)(8)(B).
- Alaska Public Offices Commission (APOC) is responsible for the management of these funds.
- APOC refers to the guidelines published by the Legislative Affairs Agency, Accountable Allowance Account Guidelines, as a guide for the use of POET account funds. (Attached is a copy of the guidelines)
- You may contact APOC at 276-4176 or the Ethics Office for further clarification.

KEEP IN MIND:

APOC has oversight of campaign activities. Additional rules and restrictions may apply. APOC can be reached at 276-4176 in Anchorage.

APOC has a new Executive Director:

Holly Roberson Hill starts on Monday, May 12. Ms. Hill currently manages land sales and sets policy on land management issues for the Alaska Department of Natural Resources. Before starting work with the state in 2000, Ms. Hill was an attorney in private practice. She also spent 20 years in military service, in the U.S. Army and the National Guard.

(For those of you who don't know, Brooke Miles retired in March after 23 years with APOC, seven as its executive director.)

Call the ethics office if you have topics that you feel should be addressed in the next newsletter.

Remember, you are probably not the only one with questions.

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