

# THE ADVISOR

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## Welcome to Campaign Season!

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 ★ **C**ampaigning and the use of state resources (state funds, facilities, equipment, services, staff, or another government asset or resource, and office allowance funds), don't mix. The focus of this newsletter is to help you navigate through the myriad of prohibited and permitted activities in a campaign year. Please call if you have any questions or doubt about an activity you are contemplating. ————— Helen Hayden Backer in July 1994, stated, "I've found that ethics is like a **prism**, there are many facets to it." (The Institute for Global Ethics.) How true!  
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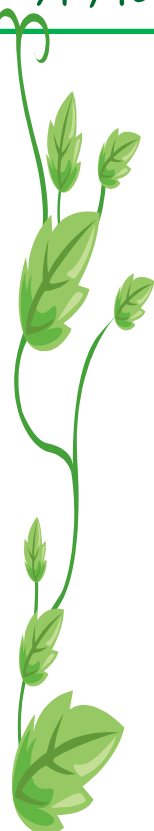
## A Message from Joyce Anderson, Administrator

*I would like to take this opportunity to let you know that I am retiring in July. My thirteen years as administrator to the Ethics Committee has been interesting, of course challenging, demanding, at times stressful, and always a learning experience. No two days were the same. The many individuals I have worked with over the years are too many to count and to thank individually. Thanks everyone! I will miss your enthusiasm and professionalism. And on the other side of the coin, probably not so much, the drama during the legislative session. I want to thank the legislators and public members who have served on the Committee for their invaluable input when addressing ethics issues. A big thank you to committee members staff as well.*

*My husband, Jim, and I plan to spend more time with our six grandchildren, at our cabin near Talkeetna, and of course do some traveling. I won't have to keep checking my Blackberry all the time . . . . .*



*FYI: Workplace Alaska, Anchorage Daily News, Fairbanks News-Miner, and the Juneau Empire will post the job notice from Thursday, May 1, thru Thursday, May 15.*



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Anchorage, AK 99510-1468**We're on the web!**<http://ethics.committee@akleg.gov>

## Legislative-Paid Trip *and* Campaigning

There is an absolute restriction on the use of state resources for activities related to campaigning (which includes fundraising) and partisan political activity.

When a legislator or legislative employee is on a **state paid trip**, (regardless if some expenses or all are reimbursed), campaign activities are prohibited pursuant to AS 24.60.030(a)(2) and (a)(5).

The question you need to ask when on a state paid trip:

*Is this an activity that could be performed only because you are on the state paid trip?*

Examples of activities that are **prohibited** on a state paid trip:



- Campaign door knocking
- Dropping off campaign fliers at businesses and residences
- Attending a campaign fundraiser
- Campaign appearance at a function

*Keep in mind the above activities apply to all campaigns.*

Examples of activities **permitted** on a state paid trip:

- Returning a call, fax, or email from a campaign worker
- Responding to a call from the media
- Working on the details of a future campaign fundraiser to be held in another town

*Keep in mind the above activities can be performed anywhere and are not location dependent and made possible by the use of state resources.*

### *Exception to the analogy:*

Responding to a constituent who comes up to you while on the state paid trip asking campaign questions. The best course of action to take is to provide campaign contact information to the constituent.

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If a complaint were filed alleging the use of state resources for campaign or partisan political reasons, the Ethics Committee would look at the specific facts of the situation and take into consideration whether or not state resources were being used to facilitate the activity or if the activity was something that could still have occurred absent the use of state resources. ♦

## Legislative Employee & Campaigning



### May a legislative employee work on a campaign?

**Yes.** Legislative employees may work on a campaign. Campaign work cannot be performed on government time or with the use of state resources. AS 24.60.030(b) and AS 24.60.030(a)(2) and (a)(5)

**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 work for four hours in the morning, is on personal time in the afternoon, and attends a 3 1/2 hour Community Council Meeting in the evening, representing the legislator. The employee may participate in campaign activities during the designated personal time.

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

**Yes, with qualifications.** Disclosure of a close economic association is required **only if** the legislative employee is a paid campaign worker. The disclosure must be filed within 30 days of association by both the legislator and the employee. AS 24.60.070

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## Timely leave slips:

A legislative employee should note that in the event a complaint is filed alleging participation in campaign or 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.

It is important that leave slips be completed and submitted on a timely basis to prevent the appearance of impropriety and a possible violation of the Legislative Ethics Act.

Leave slips must be submitted within 24 hours after return to duty according to LAA policy.

**If you need to complete late leave slip requests,  
contact the LAA Personnel Office at 465-3884.**

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# Incumbent Legislator Pre-Election Pledges

## AO 12-03

The Legislative Ethics Act does not put limits on a legislator's right to express a point of view on a questionnaire. The committee, however, determined that a **pledge** is more than an expression of a view.

Signing of a pre-election pledge by an incumbent legislator in a **quid pro quo exchange**

- For a campaign contribution or a promise of a campaign contribution, is in violation of AS 24.60.030(e)(1), or
- For a donation to a cause favored by the legislator is in violation of AS 24.60.030(e)(1).

A legislator who pledges to take or withhold legislative, administrative, or political action in exchange for the decision of an organization to contribute to the campaign or make a donation to a cause favored by the legislator is agreeing or stating or implying that the legislator is entering a quid pro quo agreement with the organization—action or inaction—in exchange for money.

If the pledge is signed in exchange only for an **endorsement or a promise of an endorsement** it does not violate the Act. AS 24.60.030(e)(1) expressly prohibits the solicitation of campaign contributions, donations to certain causes, and "thing(s) of value." The definition of "thing of value" under AS 24.60.990(2), excludes political endorsements, support in a political campaign, or a promise of endorsement or support.

The pledge also violates AS 24.60.030(a)(1), which prohibits soliciting or accepting a benefit other than official compensation for the performance of public duties.

In determining whether or not a violation has occurred, the committee would first determine whether the member made the pledge with an understanding that the contribution or a donation would be made in exchange for it. However, it is possible circumstances may create the strong appearance of a quid pro quo agreement. In those circumstances, the legislator whose campaign receives the contribution should consider returning the contribution. (State election law may require that, among other things, the contribution and its return both be recorded by the campaign and reported to the Alaska Public Offices Commission).

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## USE OF CONTACT INFORMATION

May a legislator include the legislative office phone number, fax number, Email and/or mailing address on their campaign fliers, brochures, signs, etc.?

May a legislator include legislative contact information in the State Division of Elections' "Voter Guide" or on campaign reports filed with APOC?

**No.** The committee found in [Advisory Opinion 07-07](#) that listing a legislative office phone number and/or other contact information on campaign materials violates:

AS 24.60.030(a)(2), AS 24.60.030(a)(5), and AS 24.60.030(b).

## Link to a Legislative Web Page

Providing a link on a campaign website to a legislative webpage OR e-newsletter is **PROHIBITED** under AS 24.60.030(a)(5), AS 24.60.030(b) and AS 24.60.030(h).

*If you have referenced any of the above named items, please remove them immediately.*

Nothing prohibits a legislator from "pasting" certain information to a campaign website from a legislative website or e-newsletter as long as certain prohibitions are followed; i.e., no legislative contact information is displayed on the material that is to be "pasted."

***For more information on the above items, links are provided below:***

**Alaska Public Offices Commission:**

<http://www.doa.alaska.gov/apoc/Advisory>

Click on "[here](#)" to view recent opinions then enter Advisory Opinion "10-09-CD"



**Ethics Committee:**

<http://www.legis.state.ak.us/search/ethics/>

Under Search For, type:

**AO 07-07**

## Use of State Seal



The use of the State Seal is under the jurisdiction of the Lt. Governor's office. The use of the State Seal is prohibited on campaign materials. Please contact Barbara Propes, Deputy Chief of Staff, at 465-3520 if you have questions.

## Legislative Involvement in Supporting or Opposing Ballot Measures (Initiatives and Referendums)

In Advisory Opinion 97-02, the committee determined that action to support or oppose an initiative (which also applies to a referendum) is related to duties of the legislature.

- ❖ Legislators are frequently called on to comment on public issues and to take stands on those issues.
- ❖ Legislators need to hear from their constituents and others concerning public issues.

### **Permitted Activities with the Use of State Resources—Examples:**

- ◆ Preparing communications concerning the legislator's position.
  - Letters, mailings, brochures or handouts
  - Any other written or electronic communication
- ◆ Attending public functions or directing staff to attend on their behalf.
  - Personal appearances in the media, at events and gatherings, including state fairs.  
(Note: If renting a booth at a state fair, campaign activities cannot be conducted at the same time.)
- ◆ Gathering and presenting information to the public concerning the proposition.
- ◆ Directing staff to research issues raised by the ballot proposition.
  - The results of the research may be made available to others, including individuals supporting or opposing the proposition.

### **Prohibited Activities with the Use of State Resources:**

A legislator or legislative employee may not allow state resources to be used by groups organized in support of or in opposition to a ballot proposition. The use of state resources in this manner would confer a “private benefit” to the group in addition to allowing allow state resources to be used for “campaigning”, both of which are prohibited under AS 24.60.030(a)(2) and AS 24.60.030(a)(5).

Note: A legislative office may not have an initiative petition available for signature. However, a legislative office may have a copy of the petition for review.



## Use of Legislative Photos



Photographs of a legislator taken using state funds, facilities, equipment, services, or another government asset or resource may be used for a nonlegislative purpose, for involvement in or support of or opposition to partisan political activity, and for the private benefit of the legislator, legislative employee, or another person. AS 24.60.030(a)(2)(H)

**Important:** A legislator or legislative employee is prohibited from using state resources to take a picture of a legislator solely for a nonlegislative purpose; i.e., for a brochure supporting a partisan political activity.

## Incidental Campaign Inquiries

Legislative employees may respond to “incoming incidental campaign inquiries” under AS 24.60.030(h); i.e., unsolicited inquiries. The Ethics office has a [Model Office Policy](#) on how to respond to incidental campaign inquiries.

**Suggestion:** Post the Model Office Policy in your office.

## Campaign Buttons

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

**No.** AS 24.60.030(d). [Advisory Opinion 94-13](#) stated a campaign button, (or any other campaign item, i.e., a hat for instance), that influences the election of a candidate may not be worn in a legislative office or while on legislative business outside of the office. Campaign buttons may be worn to and from the workplace.

### May legislators or legislative employees wear campaign buttons that advocate for or against a ballot initiative?

**Yes.** Campaign buttons that address a ballot issue are not prohibited as they are not addressed in the Legislative Ethics Act.

## Cell Phones, etc.

### PURCHASED WITH STATE FUNDS OR OFFICE ALLOWANCE FUNDS

If state funds or a legislator's Office Allowance funds are used to purchase a cell phone, Smartphone, etc., you may only use it for personal and legislative purposes. The devices cannot be used for activities related to campaigning, political fundraising or partisan political activity. AS 24.60.030(a)(2) and AS 24.60.030(a)(5).

REIMBURSEMENT: Office Allowance funds may be used to pay monthly cell phone bills.

### PERSONALLY OWNED

Using a personal cell phone, Smart-phone, etc., allows you to use it for legislative related purposes, personal purposes and campaign-related purposes. There are no ethical prohibitions.

REIMBURSEMENT: If there is justification for the device to be used for legislative purposes, you may be eligible to receive a fixed monthly allowance allocated for legislative work. Information is located on the Legislature's Intranet page under “Accounting.” The request form is titled “Alaska Legislature Allowance for Employee-owned Electronic Communication Device.”



### OTHER FACTORS TO CONSIDER

Public Records Requests: Questions related to possible public records requests for legislative records on these devices should be directed to LAA Legal at 465-2450.

If you wish to review the Legislature's Record Policy adopted by Legislative Council, click “[HERE](#)”