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COMMITTEE ISSUES TWO ADVISORY OPINIONS

Advisory Opinion 08-04

Free Lodging

If a legislator or legislative employee provides a few days of free lodging at the legislator's or employee's residence to another legislator or legislative employee, does the arrangement constitute a gift, or a close economic association, that is subject to disclosure to the Legislative Ethics Act?

A legislator or legislative employee who provides a few days of free lodging at the legislator's or employee's residence to another legislator or legislative employee:

- 1.) *does not constitute a "close economic association" and therefore no disclosure is required under AS 24.60.070;*
- 2.) *is considered a gift of hospitality that may be accepted at any time without violating AS 24.60.080 and is not subject to disclosure.*

The committee pointed out two areas of consideration:

- 1.) *The lodging is not provided as a contribution to a campaign.*
- 2.) *A period of free lodging longer than a few days could be of concern to the committee.*

Advisory Opinion 08-03

Constituent Services

AO 08-03 provides guidelines when performing constituent services. **This opinion supercedes and is contrary to AO 07-04.**

Legislative offices are one of the viable and necessary avenues by which Alaskans can access state government to obtain or improve services for themselves. Constituents often do not know about laws, rules or regulations governing a particular agency or it may be they just do not accept the relevant parameters.

The committee defined "performing constituent service" as:

- Assisting constituents in navigating government bureaucracy
- Developing a communication line between a government agency and the constituent

Legislative intent in performing constituent service is threefold:

- 1.) to move the constituent's concerns forward

2.) to make sure everyone involved knows what they need to know

3.) to urge the government agency to take timely action

There is a difference between performing constituent services as defined above and advocating for a constituent's private interest. "Advocate" is defined to mean; a person who pleads another's cause, a person who speaks or writes in support of something, or to be in favor of.

AS 24.60.030(a)(2) prohibits the use of public resources for the private benefit of either the legislator, legislative employee, or another person.

For instance, serving as a personal representative for a constituent, negotiating a settlement with a state or other government agency for the constituent and pursuing an appeal with a government division for a constituent all fall within the realm of constituent advocacy and are prohibited under the Act.

Additionally, government resources should not be used

(Continued on Page 2)

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*Ethics staff is
available to
provide advice
and guidance
to help you
reason through
the real-life
consequences of
your actions.*

(Continued from Page 1, Advisory Opinion 08-03)

for activities such as obtaining records from a facility, creating and typing reports or listings of items requested by a state agency to name a few. This type of preparation is the responsibility of the constituent. State resources for these activities constitute a private benefit for the constituent.

Performing these types of activities with state resources would open the door to equal access to state resources for similar requests for all individuals.

Keep in mind, a legislative aide is certainly not prohib-

ited from providing this type of assistance to a constituent when a roadblock occurs.

The amount of time spent on a constituent issue does not factor into private benefit. (Note: The ten hour limit suggested in Advisory Opinion 07-04 no longer applies.)

The fact a constituent may receive a private benefit, such as a monetary award for a favorable solution to an issue, in and of itself is not considered a private benefit under AS 24.60.030(a)(2).

The Committee also determined legislative letterhead

should not be used, for example, to pursue an informal appeal for a constituent. Advocating a constituent's position with the use of legislative letterhead, a state resource, is not a permitted use of state resources and also has the appearance of a conflict of interest.

AO 08-03 contains examples that will be helpful when working on constituent issues.

Complete text of advisory opinions available on the Ethics Web Site under "Advisory Opinion Search."

STATUTORY CHANGES - EFFECTIVE SEP. 14th

- **Changed Timeframe**: Summaries of complaint decisions and advisory opinions now published on an annual basis. AS 24.60.150
- **New**: If the filing of a late disclosure was willful, the fine of \$100 for each day the disclosure was late up to a maximum of \$2,500 may be imposed. AS 24.60.260
- **Permitted**: Gifts unconnected to legislative status and from a member of the legislator's or legislative employee's immediate family, including a lobbyist who is an immediate family member, are permitted. AS 24.60.080

"Immediate Family Member" is defined as spouse or domestic partner of the person; or a parent, child, including a stepchild and an adoptive child, and sibling of the person if the parent, child, sibling resides with the person, is financially dependent on the person, or shares a substantial financial interest with the person.

CAMPAIGN ACTIVITY REMINDERS

When door knocking or attending state or local fairs, legislative business cards and other items such as magnets, pens, etc. containing legislative contact information may not be distributed. AS 24.60.030(a)(5) and (b), Advisory Opinion 07-07

- A campaigning legislator may give the above mentioned items for a legislative purpose. For example: The constituent has a legislative concern that requires follow up.
- Absent facts clearly demonstrating the item was given for a legislative purpose, and not a political campaign purpose, the Ethics Committee might find a violation.

Legislative contact information may not be placed on campaign material, including the State Voter Pamphlet. Advisory Opinion 07-07

Call the Ethics Committee office at 269-0150 if you need further clarification.

The purpose of ethics laws, first and foremost, lies in promoting both the reality and perceptions of integrity in government.

Mark Davies,
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Printing of Legislative Newsletters

There seems to be some confusion regarding the printing of legislative newsletters during a "campaign period."

AS 24.60.030(c) reads in part: Unless approved by the Ethics Committee, during a "campaign period: for an election in which the legislator is a candidate, a legislator may not use state

funds, other than office allowance funds, to print and distribute a political mass mailing to individuals eligible to vote for the candidate.

Campaign Period is defined in AS 24.60.031: Begins 60 days before the date of a primary election . . . and ends the day after the . . . general election.

There is **no** window between the Primary and General election whereby the Print Shop can print a newsletter.

Keep in mind, office allowance funds or POET account funds may be used at any

Sending Newsletters to Constituents

Many offices have called asking what is the cut off date for mailing or emailing a legislative newsletter prior to an election.

The Legislative Ethics Act does not stipulate a date. However, 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.

We recommend no later than one month prior to an election **BUT that is a personal decision each legislator must make.**

FYI: Many legislators sent newsletters the week of August 11th.

Please add the Ethics Office to your newsletter email list. We currently receive many legislative e-newsletters.

