

THE ADVISOR

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Advisory Opinion 14-01

Issued on May 29, 2014

AO 14-01 Close Economic Association-Cell Phone Plan: Does the Legislative Ethics Act require an employee who shares a cellphone service plan with a legislator to report a close economic association?

Staff to a member of the legislature is responsible to a cellphone carrier for the cost of a personal cellphone service plan shared by five users: A spouse, a parent, a sibling, and a member of the legislature.

The committee found the agreement results in a combined savings of at least \$288.00 a year for the employee and two members of the immediate family, and a savings of at least \$300.00 per year to the legislator. Each of these amounts constitute a substantial financial interest under AS 24.60.070 because they exceed \$250 in one year. The agreement described constitutes the formation and maintenance of a close economic association under AS 24.60.070(s) and is subject to the disclosure requirements of that subsection. The legislator is also required to file a close economic association.

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**Use of State Resources for Legislative Outreach in the
NEW DISTRICT Boundaries**

The committee determined that legislators may use state resources for constituent outreach in the new district boundaries after the November election results are certified.

The use of state resources for constituent outreach in the new district boundaries prior to the certification of the November election results would constitute campaigning and be a violation of AS 24.60.030(a)(2) and (a)(5).

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*****REMINDER*****

The deadline for the Legislative Print Shop to print newsletters for legislators who are “candidates” is **Thursday, June 19, 2014**

The Print Shop needs at least 3 working days to process your request to print your newsletters.

Mark your calendar: Please submit your request *by Monday, June 16, 2014.*

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

Beginning June 20, 2014, legislative newsletters may be printed using the following funds:

- ◆ Personal funds
- ◆ Office allowance account funds allocated under AS 24.10.110, (an excluded category under the prohibition of using state funds for a legislative communication during a campaign period.)
OR
- ◆ POET account funds

Legislators who are not candidates may use the Print Shop to print legislative newsletters after the June 19th deadline.



The Ethics Office is available to review newsletters for content appropriate language.



Legislative Communications

Printed Newsletters E-newsletters
Letters Fliers

A “legislator’s district” and “constituents” for purposes of the Legislative Ethics Act and use of state resources, means the **CURRENT** legislative district to which the legislator was elected to represent.

It does not include areas in the new legislative districts or other areas outside of a legislator’s current district.

REMINDER: Legislative Communications may NOT

contain campaign related statements. The closer to Election Day that a legislative communication is mailed or emailed, the greater the appearance it has of a political “campaign mailing”. We recommend no later than 30 days prior to an election, but it is a personal decision each legislator must make.

There are always exceptions to the 30 day recommendation; the bottom line rests on the content of the communication, the timeliness of the information, timing of distributing the communication, and to whom it is being sent.

Please review [THE ADVISOR April 2014](#) edition for additional information.

Use of State Resources for Electronic Filing of Required Candidate Campaign Reports Due July 21, 2014

The Ethics Committee determined that the use of state resources, i.e., a state computer, by a legislator or legislative employee or a legislator designee to **FILE** the statutorily required electronic candidate campaign report is a permitted use of state resources, with certain restrictions.

The committee reasoned the electronic filing of a campaign report does not constitute "campaigning" or "political fund raising" or "involvement in or support of or opposition to partisan political activity" – all activities prohibited under AS 24.60.030(a)(2) and (a)(5).

NOTE: The use of state resources to **FILE** a required report simply means the data input necessary to file the candidate campaign report electronically and does not include the initial legwork necessary to prepare the information for the report.

The activity of filing an electronic campaign report can be performed using a state computer during a legislative session as well during the interim. The use of a Legislative Information Office computer is permitted as well as a computer in a legislator's office for this activity. When using a computer in a legislator's office care should be taken that the activity is performed independently of any other legislative activity.

LEGISLATOR: A legislator serves 24/7 and therefore can perform this activity at any time.

LEGISLATIVE EMPLOYEE: A legislative employee may not perform this activity on government time. AS 24.60.030(b) states, "A legislative employee may not on government time assist in political party or candidate activities, campaigning, or fund raising. A legislator may not require an employee to perform an act in violation of this subsection." However, a legislative employee may perform this activity when in "off work" status on a state computer.

LEGISLATOR DESIGNEE: Additionally, a non-legislative employee, designated by the legislator, may use a state computer to file electronic candidate campaign reports.

Questions & Answers

May a political party database be included in a constituent database for newsletters?

Yes, with qualifications. AO 04-01 stated the use of outside data is permissible. Keep in mind, only those individuals who reside in the legislator's current district may be added. There may be copyright issues if a person copies a database rather than purchasing another license for separate use. If a legislator wants another copy of a commercial database, a separate license, if required, should be purchased with personal funds.

May a legislator post a constituent newsletter on a website?

- 1) **Legislator's website - Yes.** A constituent newsletter may be posted on the legislator's web-site.
- 2) **Campaign website - Yes, with qualifications.** A constituent newsletter may be posted on a campaign website if the newsletter does not contain legislative contact information, which is considered a state resource. AO 07-07. If contact information is removed, newsletter articles may be placed on a campaign website. Removing legislative contact information from a legislative newsletter, must not be performed on state time or with the use of state resources. AS 24.60.030(b) prohibits a legislator from requiring a legislative employee to perform campaign activity on government time. The legislative newsletter may be sent via a Word document to a campaign or personal e-mail address. AO 04-01. The act of forwarding a document, in this instance, is considered a de minimis use of public resources under AS 24.60.030(a)(2)(A).

May a legislative newsletter be sent to select constituents on a mailing list?

Yes, with qualifications. Example: The newsletter would be sent to only those constituents who had voted in the last three elections. This is permissible as long as the voters are not of one political party as this type of mailing would be considered a political mailing and would be in violation of the Act.

Continued

Questions & Answers

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May a legislator place a notice on a constituent's door during the interim saying, "What's on your mind?" and include legislative contact information?

Yes, with qualifications. A door-to-door drop has the appearance of campaigning. Door knocking is a major component of a campaign. In other words, the distribution and discussion at the door shall not be "re-elect me" in nature. If this were to occur, the legislator would be in violation of the use of state resources for campaign purposes. AO 07-07. There is no stipulation in the Act on the manner in which a legislator asks for input from constituents. However, performing this activity in July or October of an election year, has the appearance of campaigning.

May a legislator verbally give the legislative phone number to a constituent while campaigning if the constituent does not ask for it?

No. Absent facts clearly demonstrating that the phone number was actually given for a legislative purpose, and not a political campaign purpose, the committee might find a violation of AS 24.60.030(a)(5). **NOTE:** Listing a legislative office phone number on campaign advertising fliers, whether preprinted or handwritten, violates AS 24.60.030(a)(5), which prohibits the authorization of legislative resources, including office staff, for a political fundraising or campaign purpose; and AS 24.60.030(b), which prohibits a legislator from requiring a legislative employee to perform campaign activity on government time.

May POET account money be used to pay for costs associated with a legislative newsletter?

Yes. POET accounts may be used for this purpose as the account is set up to be used for legislative expenses and a newsletter is considered a legislative expense. AS 15.13.116(d).

May costs associated with a legislative newsletter be paid for with personal funds?

Yes. The costs associated with a constituent mailing (newsletter) may be paid for with personal funds. The Act does not prohibit the use of a private resource for legislative use.

May a legislator send a letter to newly registered voters in their current district and include a booklet on the legislative process?

Yes, with qualifications. A legislator may send a letter and legislative booklet to newly registered voters in the legislator's current district. The activity is informing newly registered voters about the legislative process and who represents the district they live in. The letter would have contact information for the legislator listed. During an election year, the legislator should be mindful of the timing of sending the letter.

MORATORIUM ON ETHICS COMPLAINTS

DURING A CAMPAIGN PERIOD

Complaints received concerning the conduct of a "**candidate for state**" office during a campaign period shall be returned to the complainant unless the subject of the complaint permits the committee to proceed. **AS 24.60.170(o) & (p)**

The campaign period begins 45 days before a Primary Election and ends at the close of General Election Day or the day the candidate withdraws or the day the results of the primary election are certified, whichever is earlier. **AS 24.60.170(q)**

Campaign period runs from Saturday, July 5, 2014, through Tuesday, November 4, 2014