



THE ADVISOR

Email: ethics_committee@legis.state.ak.us

Select Committee on Legislative Ethics

Committee Members

Herman G. Walker, Jr., Chair

Dennis "Skip" Cook, Vice-Chair

Sen John Coghill

Rep Craig Johnson

Antoinette "Toni" Mallott

Sen Gary Stevens

H. Conner Thomas

Rep Chris Tuck

Gary J. Turner

Staff:

Joyce Anderson, Administrator
269-0150

Linda Leigh, Support Staff
269-8179

Mailing address:

P. O. Box 101468
Anchorage, AK
99510-1468

716 West 4th Ave. #230
Anchorage, AK
99501-2133

April 2012, 2nd Edition

Ph (907) 269-0150
Fax (907) 269-0152

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

CAMPAIGN YEAR ACTIVITIES



Legislative Newsletters During an Election Year



AS 24.60.030(c) prohibits a legislator who is a candidate for election from using 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 Thursday, June 28th.

 Please be sure to have your newsletter to the Print Shop well ahead of the June 28th deadline to allow adequate time for the Print Shop staff to print and collate the newsletter. **Note:** The Print Shop needs a *minimum* of **3 working days** to process your request but prefers to receive it earlier.

- ❖ After June 28th, legislative newsletters may be printed and distributed using personal funds, office allowance account funds, (which, in this instance, 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 28th deadline.



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

IMPORTANT!

Many offices have called asking what the cut off date is for mailing a legislative newsletter prior to an election. The Legislative Ethics Act does not stipulate a date. However, **the closer to Election Day that a legislative newsletter 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.

Keep in mind legislative mailings may not contain any campaign related material.

Continued

Inside this issue:

Legislative Newsletters During an Election Year	Cover & 2
Legislative Communications Q&As	2-4
Legislative Paid Trip & Campaigning	4
Campaigning Q&As	5
Complaint Decision S1 2-01 David Scott; Legislative Ethics Annual Calendar	6



Legislative Newsletters During an Election Year

Continuation

There are always exceptions to this general recommendation. The bottom line rests on the content of the newsletter, the timeliness of the information, timing of distributing the newsletter, and to whom it is being sent.

Primary Election – one month prior is July 29

General Election – one month prior is October 7

Here are some examples:

- **May Be Appropriate:** Major sewer issue in a legislator's district. It may be timely to send information to the residents affected by the issue during the 30 day period.
- **Probably Not Appropriate:** Sending a general information legislative newsletter during the 30 day period that could be sent after the election.



Content of Legislative Newsletter

The nine member Ethics Committee would make the determination if a complaint was filed alleging the use of state resources were used for campaign or partisan political purposes.

Campaign related information is prohibited in legislative newsletters. An entire newsletter is considered campaign related even if there is only one campaign statement and the other sections contain legislative information.

Examples of campaign related statements:

"I have filed for a new term as your state Senator/Representative."

(Announcing that you are running for a legislative office is considered campaigning.)

"I hope to be in the legislature next year and will propose the following xxxx"; or

"I will likely file legislation next session on that subject and work with the administration on the issue."

(These statements inform constituents that if they vote for you in the 2012 election this is the action you will take. The statements are ones that would appear on campaign material as part of your campaign platform.)

Including other legislator's names in your newsletter indicating they are candidates for a particular office and their position on issues.

(Even though there is not a direct endorsement of these candidates, the mere mention that they are candidates and their position on a particular issue is typical of language on campaign literature and has the appearance of campaigning.)

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.

Questions & Answers

May a legislator send legislative newsletters to individuals outside the legislator's district?

Yes, with qualifications. The committee discussed this issue at the February 24, 2009 committee meeting and indicated a legislator's newsletter should be sent to constituents in the legislator's district. Newsletters may

be sent to individuals residing outside of the legislator's district if the person has requested to be on the mailing list. Other individuals on a mailing list, for example, may be individuals/organizations interested in a bill sponsored by the legislator. The Ethics Committee was concerned about a "cold" mailing to individuals whom the legislator does not represent or have not asked to receive the mailing. The mailing

Continued

Questions & Answers

Continuation

would be considered a political mailing. Reference Complaint Decision 08-03.

May a legislator walk the **NEW** legislative district and distribute his/her legislative newsletter and hand out legislative business cards?

No. A legislative newsletter and business card may be distributed only to residents of the current legislative district. AO 07-07. The use of state resources cannot be used for campaign purposes.

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 web site?

- 1) **Legislator's web site - Yes.** A constituent newsletter may be posted on the legislator's web site.
 - 2) **Campaign web site - Yes, with qualifications.** A constituent newsletter may not be posted on a campaign web site if the newsletter contains legislative contact information, which is considered a state resource. AO 07-07. If contact information is removed, the newsletter may be placed on a campaign web site. Campaign activities, such as 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 legislator place a notice on a constituent's door during the interim saying, "What's on your mind?" and include contact information?

Yes, with qualifications. The caller was concerned a door-to-door drop had 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 a legislative newsletter be sent to select constituents on a mailing list?

Yes, with qualifications. Example: Send the newsletter 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.

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).

Continued

Questions & Answers

Continuation

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.

May a legislator send a voter registration card along with a congratulatory letter to graduating seniors who live in their current district?

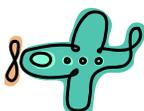
Yes, with qualifications. Sending a voter registration form along with a congratulatory letter to graduating seniors in the legislator's current district is an encouragement to participate in the public process of voting. The act of sending a VR card is permitted as long as it is included with other information and not a standalone activity. State resources should not directly be involved in election related activities. Reference Complaint H 96-02. Completed VR forms should be returned directly to the Elections office.



###

Legislative Paid Trip and Campaigning

There is an absolute restriction on the use of state resources for purposes 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 activities above can be performed anywhere and are not only 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.

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. ♦





CAMPAIGNING Questions & Answers



May a legislator use pictures taken with the use of state resources 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?

No. 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 workplace but may not be worn in a legislative office or while on legislative business outside of the office.



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

Yes. Advisory Opinion 94-13 states that wearing campaign buttons that influence the election of a candidate are prohibited. Campaign buttons that address a ballot issue are not prohibited as they are not addressed in the Legislative Ethics Act.

May a legislator include the legislative office number, fax number, Email and/or mailing address on candidate materials?

No. The committee found in Advisory Opinion 07-07 that listing a legislative office phone number and/or other contact information on campaign-advertising fliers, 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 a legislator include legislative contact information in the State Division of Elections' "Voter Guide"?

No. The State Division of Elections' **Voter Guide**, a campaign related item, should not contain legislative contact information. See Advisory Opinion 07-07 for additional information. AS 24.60.030(a)(2) and (a)(5)

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. 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.

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?

Yes, with qualifications. Disclosure of 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 by both the legislator and the employee. AS 24.60.070

◆◆◆

COMPLAINT DECISION S 12-01 – David Scott Committee Issues a Finding of Probable Cause

March 22, 2012

A complaint was filed against David Scott, staff to Senator Donny Olson, on March 13, 2012, alleging he violated **AS 24.60.033, Restrictions on Employee Candidacies**. “A legislative employee may not file a letter of intent to become a candidate or file a declaration of candidacy for the legislature.”

Allegation: Mr. Scott announced his candidacy for the Ketchikan House seat on October 18, 2011 via a press release to local media outlets in Southeast Alaska and sent the press release to a local Republican Party official who in turn forwarded it to Statewide Republican leaders. He further gave a radio interview on KRBD and KFMI. Mr. Scott’s action required him to either file a Letter of Intent with the Alaska Public Offices Commission (APOC) or a Declaration of Candidacy with the State Division of Elections indicating he was running for a state office and was beginning his campaign.

Finding of Probable Cause: The committee found Mr. Scott to be in violation of AS 24.60.033. The committee relied on the fact that APOC’s Final Order for Case No. 11-16-CD issued on February 28, 2012 determined Mr. Scott “violated AS 15.13.100 because he made campaign expenditures before filing a letter of intent or candidate registration.” Further, the Commission assessed a penalty of \$350 and required Mr. Scott to “attend an APOC candidate training program within six months of the date of this order.”

Corrective Action: The committee issued a public reprimand, notified Senator Donny Olson, and forwarded a recommendation to the Senate Rules Committee that Mr. Scott be placed on probationary status. The public reprimand was notice to Mr. Scott, other legislative employees and the public that the committee takes seriously the

provision in statute requiring a legislative employee to resign prior to becoming a candidate. Mr. Scott’s probation stipulated that he refrain from conducting activities or taking any action related to his campaign for the legislature while employed by the legislature or on lay-off status. If Mr. Scott violates the conditions of his probation he will be immediately terminated. Senator Johnny Ellis, Senate Rules Chair, concurred and implemented the recommendation.

A copy of the entire Decision is available on the Ethics Committee web site at: <http://ethics.legis.state.ak.us/decisions.php>

###

LEGISLATIVE EMPLOYEES: If you are considering running for a legislative seat, please take a moment to read an informational handout listing items to consider before you begin a campaign. It is always wise to learn the facts before proceeding forward with any venture in the event there are steps required by statute or rules that preclude certain activities.

Legislative Ethics (269-0150) and APOC (276-4176) are available to answer any questions you may have.

Click “[HERE](#)” to review the Informational Handout



The Legislative Ethics Annual Calendar has been revised to include legislative deadlines related to a campaign year.

Click “[HERE](#)” for a new copy!