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COMMITTEE ISSUES ADVISORY OPINIONS 09-04 AND 09-05

Receipt of Continuing Education Credits (CEU)-Advisory Opinion 09-04

The Ethics Committee overturns the rulings set forth in AO 94-09 as it pertains to CEU credits. Provided are key points to AO 09-04 issued on September 24, 2009.

Persons covered by the legislative ethics code commonly attend conferences or seminars for purposes primarily related to legislative interests. Legislative funds pay for the cost of attending the conference or seminar, including registration fees, travel, and room and board. At times, the topic of the conference or seminar also relates to the person's private business or profession and the attendee receives an incidental personal benefit from the information gained by his or her attendance. Some conferences or seminars offer attendees the option of receiving CEUs which are required by some professions, by paying an additional, nominal amount.

The important, essential and pertinent reason for attending a conference or seminar is to obtain education and information to enhance the person's ability to perform their legislative duties. Whether a person receives CEU credit for attendance is generally of secondary or minimal value. Additionally, the committee believes that to the extent any additional costs are required for CEU credit, these can and should be borne by the recipient.

By adopting a policy allowing people to receive CEU credits without making further payments necessary, it encourages the attendance at such seminars. This primarily

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IMPORTANT INFORMATION!

use of state resources and campaigning



Campaigning and fund raising activities have already begun for the 2010 elections. The following is a reminder on the prohibition of the use of state resources for these activities.

LEGISLATIVE TRAVEL & CAMPAIGNING

AS 24.60.030(a)(2) and AS 24.60.030(a)(5)

A legislator or legislative employee **may not** use state resources (i.e., public funds, facilities, equipment, services, or another government asset or resource) for activities related to the following:

- Campaigning
- Political fund raising
- Involvement in or support of or opposition to partisan political activity

A legislator or legislative employee **may not** perform the above activities while on a legislative trip if state resources were used to pay for the trip.

- **Example:** A legislator from outside Anchorage attends a legislative committee meeting in Anchorage during the interim. The legislator is prohibited from participating in campaign or political fundraising activities while on that trip if state funds were used to pay for the trip.

There is a strict ban on the use of state resources for activities related to campaigning, political fund raising or involvement in or support of or opposition to partisan political activity.

INQUIRIES RELATED TO CAMPAIGNS AND FUND RAISING

From time to time, legislative offices will receive calls and correspondence (via mail, email, dropped off, etc) related to political campaign activities. Incidental campaign activities while on government time are permissible **only if** the activities are part of the normal legislative duties of the employee. AS 24.60.030(h)

Whether the political campaign activity is related to the legislator's campaign or another campaign, a limited response is appropriate. For example:

1. If a campaign related **call** is received, inform the caller that campaign related discussions are not appropriate in a legislative office. Also, politely let the caller know that in the future they should call *Sen/Rep* at home or on his/her personal cell phone or campaign phone number and give that information to the caller. For this call, take the caller's name and phone number and leave the message for the legislator.

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Disclosures

For disclosure questions, contact Linda Leigh at 269-8179

Deadline for filing “Gift of Travel” disclosures

Clarification of when a gift of travel/hospitality is received:

At the September 24 Ethics Committee Meeting, the committee reaffirmed the “date of receipt” of a gift of travel is the **beginning date of the trip.**

Example: A legislator traveled to Washington DC to attend an energy meeting. Beginning date of the trip – September 20 – ending date of the trip – September 25. The trip was paid for by the National Council of State of Legislatures (NCSL). Air travel, conference fee, food and lodging provided for a cost of \$2,500. A disclosure is required.

Disclosure is due by October 19th. 30 days are calculated as follows:

- ◆ September 20 - the first day of receipt of the gift
- ◆ October 19 - the 30th day.

If there are extenuating circumstances, such as when the length

of the trip is close to or over 30 days, the reporting deadline may be extended. Contact the Ethics Office to discuss.

How to avoid late filing

If you do not have an accounting of the costs of the trip within the 30 day filing period, file a disclosure with an estimated cost for the trip on or before the 30th day. By doing so, your disclosure is filed on time.

An amended disclosure may be needed if the estimated costs are not within a range commensurate with the actual costs. Call the Ethics Office to discuss.

FYI: Conference fees that are *waived* are considered a “gift” and must be included in the costs associated with the legislative trip.

AS 24.60.080(d) A legislator or legislative employee who accepts a gift of travel/hospitality primarily for the purpose of obtaining information on matters of legisla-

*tive concern that has a value of \$250 or more shall disclose to the committee, **within 30 days of receipt of the gift**, the name and occupation of the donor and the approximate value of the gift.*

Filing disclosures online

Are you still making copies of various disclosure forms and hand writing the information? If you want an easier, faster way, why not fill out the forms online? Simply go to the Ethics Link on the Intranet and select “disclosures”. Click on “[HERE](#) to access the online process”. Enter your user name and password and voila! Select the form you want and fill in the fields by choosing from the drop down box. Once you hit the submit button, you will receive confirmation that it was successfully submitted. It’s a piece of cake!



QUOTE OF THE MONTH

“Government is a trust, and the officers of government are the trustees; and both the trust and the trustees are created for the benefit of the people.”

Henry Clay 1829

IMPORTANT INFORMATION!

Use of state resources and campaigning



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2. If a campaign related **correspondence** is received in the mail, give directly to Sen/Rep. (Note: Check with your Sen/Rep and most likely, you can throw away the junk mail; i.e., fliers, advertising campaign buttons and materials, and similar items.) Do not respond to the correspondence as it is not legislative related.
3. If campaign related **email** is received, forward to Sen/Rep's home email or campaign email. Do not respond to the campaign related correspondence as it is not legislative related. However, to prevent future emails of a campaign nature from the same person/entity, notify the sender that the campaign email was forwarded to the legislator's home or campaign email address, and state that future campaign email should be sent there as well. Delete the email from the legislator's legislative email account.
4. If **someone drops off** campaign material or a campaign check, politely let them know that in the future, they should send it directly to Sen/Rep's home at (address). Leave the material or check for the legislator. Do not take any other action. It is the responsibility of the Sen/Rep to take appropriate action as necessary or needed.

In Advisory Opinion 07-07, the Ethics Committee noted it is the responsibility of a legislator to have a written office policy outlining procedures for handling incidental campaign related activities. Please call the Ethics office if you have specific questions.



ETHICS ACROSS THE NATION

Five in Bonusgate scandal to cooperate Will plead guilty to lesser charges, forfeit pensions

Harrisburg, PA—Five of the 12 defendants in the government corruption scandal known as Bonusgate have agreed to plead guilty to lesser charges in exchange for cooperating with prosecutors. The plea agreements also require the defendants to forfeit their state pensions as a way to make partial restitution. They are accused of conspiring to divert tax dollars from legitimate government purposes to the re-election campaigns of incumbent legislators. The funds in question included millions that were dispersed as bonuses to Democratic caucus staffers, allegedly in exchange for their work on campaigns. One defendant is the former chief of staff to a former Democratic leader and current Democratic whip. Another defendant plead guilty to two counts of failure to make required disposition of funds received, one count of conflict of interest, and one count of criminal conspiracy. The former director of staffing and administration agreed to plead guilty to four felonies including theft, criminal conspiracy and conflict of interest. The fourth defendant was the director of the House Democrats' research office, which staffers have said was a center of political work inside the Capitol. Lastly, the fifth defendant is a former legislative aide who is accused of spending virtually all of his state-paid time coordinating fundraising efforts for political campaigns. He agreed to plead guilty to criminal conspiracy and conflict of interest.

OUTREACH

In an effort to be more accessible to legislators and staff, the Ethics Office is offering to meet informally with individual legislators and staff on a one-on-one basis or in a group setting to talk about ethics issues and answer questions.



So far, the office has met individually with five legislative offices and in a group setting of

legislators and staff in Juneau, Eagle River, and Mat-Su. The meetings were very beneficial on both the legislative side and for ethics staff. The subjects discussed were varied but included constituent issues, legislative newsletters, travel and campaigning. Many questions were answered.

Some of the reoccurring questions are addressed in this newsletter.

We plan to personally visit the Kenai and Fairbanks LIO offices before the end of the year and are in the process of setting up a date and time.



Please call the Ethics Office at 269-0150 if you are interested in setting up a meeting. For some areas, the meeting would be via teleconference.

ASK THE ETHICS OFFICE

Question: *May a legislator send out seasonal greeting cards to constituents and others who have contacted the office regarding legislative issues?*

Answer: Yes. A legislator is permitted to send out seasonal greeting cards with the use of state resources. Legislative staff may address the cards and sign the cards.

Legislative funds may be used to purchase the cards and mail the cards. Seasonal greeting cards mailed to constituents in your district have a legislative purpose. It is also permissible to send seasonal greeting cards to individuals who are not your constituents and/or to organizations that may have contacted

you or your legislative office concerning an issue or worked with you regarding a matter of legislative concern. Seasonal greeting card mailings outside of these parameters, for example, to constituents of one political party only, or to family members and personal friends, would be prohibited. AS 24.60.030(a)(2)(E)

ETHICS TRAINING

Ethics training is mandatory for 2009 pursuant to AS 24.60.150(a)(4) and AS 24.60.155. On **September 1, 2009**, the Ethics course became available online. If you are a new Legislative employee, you are required to complete Ethics training within 30 days after notification by the Ethics Office. If you are new and have not yet been contacted, please call Linda Leigh at the Ethics Office at 269-8179.

If you completed Ethics training in 2009, you do not need Ethics training in 2010.

The Ethics training course can be found on the Ethic website at <http://ethics.legis.state.ak.us/>

COMMITTEE ISSUES ADVISORY OPINIONS 09-04 and 09-05

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benefits the state of Alaska in the form of more knowledgeable and qualified employees. This is a policy that should be encouraged as much as possible within the constraints of the legislative ethics code.

The committee finds that persons attending conferences or seminars primarily related to their legislative duties may receive CEU credit for the sessions attended without having to pay a proportionate share of the registration fee. The attendee may also receive legislative per diem and treat the time at the conference as “legislative business”. The person is only required to pay for any additional cost required to receive CEU credits.

Complete text of advisory opinions available on the Ethics Website under Advisory Opinion

Filing Deadline for Reporting Close Economic Associations—Advisory Opinion 09-05

A close economic association, (a financial relationship between a legislator, legislative employee, lobbyist and other officials required to file a financial disclosure with APOC), can exist based on a “hand-shake” agreement, just as it can exist based on a written agreement; either form of agreement can create a legal obligation. Example: *A legislative employee occasionally works as an independent contractor and consultant to legislators, legislative employees and others, according to agreements—often “hand-shake” deals—negotiated with each paying client. Sometimes, a portion of the agreed-upon work is completed before receiving any payment. The nature of the profession and the type of work dictates that even though a substantial amount of work on a matter is performed, its conclusion can be delayed by circumstances beyond the contractor’s control. There are also instances in which negotiating an agreement or lingering in an early planning stage delays the start of principal work in a matter.*

The formation of a close economic association in this example occurs when **any** one of the following occurs: 1) Performance of work for another based on a reasonable expectation of being paid for it; 2) payment for work not yet performed or completed; or 3) legally obligated to another person, or that person becomes legally obligated to the other. If this seems a liberal interpretation of “formation,” that is because the apparent benefit to the public of prompt disclosure significantly outweighs the burden by the discloser. We also interpret the 30-day maximum filing period under AS 24.60.105 as an expression of legislative intent that disclosure be made as quickly as it can be made, and therefore, the committee tends to resolve the ambiguity in the term “formation” in favor of quick disclosure.

Ethics disclosure requirements are based in part on the principle that certain potential conflicts of interest, once out in the open, pose less of a threat to the public’s confidence in government than they might if they were not revealed. However, prompt disclosure is critical to the application of this principle. This view is supported by AS 24.60.105, which prescribes a 30-day reporting deadline. A relatively short time period of 30 days—from the first day of a regular session, from the time the association is formed, or from the first day a person is hired or takes office—is meant to ensure that 30 days is the maximum time it can exist without the public’s knowledge.