

# **PRINTED NEWSLETTERS, E-NEWSLETTERS AND FLIERS**

## **Actual Questions from Legislators and Legislative Staff AS 24.60.030(a)(2), (a)(2)(B), (a)(2)(E), (a)(2)(J), (a)(5), and (c); and AS 24.60.990(a)(2)**

**NOTE:** Throughout this document, a “legislator’s district” means the current legislative district to which the legislator was elected to represent. It does not include areas in the new legislative districts approved in mid-November 2013 by Alaska Superior Court Judge Michael McConahy.

### **INFORMATION/CONTENT - GENERAL**

**May a legislator include in a legislative mailing a list of select for-profit businesses and their contact information?**

No. Such a listing implies endorsement of the select businesses which in turn provides a private benefit to the entity. Complaint Decision H 10-01. The committee relied on the definition of benefit in AS 24.60.990(a)(2).

**May a legislative office forward a notice about a widely known non-profit Christmas fund raiser to the “all-users” email address?**

Informed the caller this practice is frowned upon by the legislature. As a matter of fact, the “all-users” email address is restricted unless approval is received from LAA Administration. There are many worthwhile charitable causes and notices about all of them would not be a wise use of state resources. Suggested if there is a core group of individuals who routinely receive email notices from this legislative committee, the notice could be sent as an FYI along with other newsletter information.

**May a notice be sent out to current recipients of legislative newsletters encouraging them to sign up for other legislators newsletters?**

There appears to be no problem with a notice of this nature. The responsibility rests with the individual to decide if they want to receive another legislator’s newsletter. The individual is not automatically added to the mailing list.

**May a legislator use a caricature sketch used in a campaign mailer six years ago in a legislative newsletter?**

The caricature sketch may be used as long as there are no “elect me” words or other notations referencing a political campaign connected with the sketch.

**May a legislator include in a constituent newsletter information about a legislative bill which is in direct conflict to a ballot initiative?**

Yes. The intent of a constituent newsletter is informational as well as providing information on the legislator’s position on issues. Referenced AO 97-02.

**A legislator asked for guidance in sending out a survey on oil and gas that was to be included in a legislative newsletter. The legislator also wanted to include a short BIO.**

Informed the legislator that surveys on a legislative issue or a priority ranking of issues have a legislative purpose. Many legislative offices send surveys to constituents. Advised the legislator the BIO could not contain any information promoting the legislator's business, campaigning, or political party platform or contact information for a political party. Including a BIO can have the appearance of campaigning depending upon the timeframe the newsletter is distributed..

**May a legislator send out a seasonal greeting in the form of an email to individuals on his/her constituent database?**

AS 24.60.030(a)(2)(E) states seasonal greeting cards may be sent with the use of state resources. The same analogy would apply for a seasonal email greeting.

**What information is appropriate for a legislator to include in a legislative newsletter concerning a ballot initiative which may be on the ballot?**

Information may include the legislator's position, such as supporting or opposing the initiative. Verbiage on the campaigning aspects of the initiative is prohibited. Advisory Opinion 97-02. Campaigning aspects include, but are not limited to, information on soliciting signatures, distributing the petition, fund raising for the initiative, soliciting contributions in support of or opposition to the initiative and answering questions concerning these activities.

**May a legislator provide information to constituents on gas line issues in a legislative newsletter? Also, what about the voting record of other legislators on these issues and the legislator's position as well.**

Advised the legislator providing information to constituents on any issue before the legislature as well as stating the legislator's position on issues and the reasoning why is legislative related. Asked the legislator if providing a list of who voted for or against a particular measure was information pertinent to the legislator's constituents or was the information for campaign purposes. Left the decision about the content of the constituent mailing up to the legislator. Suggested the legislator review all the factors concerning the mailing before making a decision.

**May a legislator include an article about a legislative issue in a local grocery store flier in the legislative district?**

Yes. The legislator is communicating with constituents and providing contact information.

## **INFORMATION/CONTENT - CAMPAIGN RELATED**

**May a legislator include in a legislative newsletter a statement the legislator will be pursuing particular legislation in the next legislative session in an election year?**

Informed the caller a statement such as "I hope to continue working for you on these issues" is campaign related and a prohibited use of state resources. In other words, if you vote for me I will do "this" during my next term of office. Referenced Complaint Decision H 10-01. The committee noted in the decision that legislators routinely mention legislation they are working on or plan to pursue. However, during an election year these statements leave the reader with the impression the legislator is advocating for votes based on future action s/he will pursue in the next legislative session.

**May a legislator include in a legislative newsletter a statement the legislator is running for another term or for another office?**

No. Including a statement such as “I have filed for a new term as your State Representative/Senator” would be campaigning and in violation of the use of state resources for a campaign purpose in that the legislator would be expressly advocating for the legislator’s re-election in addition to providing a private benefit to the legislator. Complaint Decision H 10-01.

**May a legislator send out a legislative newsletter in September regarding a federal stimulus package (general election in November) along with a paragraph “thanks to all of you who support me” and a list of awards received by the legislator?**

The information about the federal stimulus package was appropriate and timely. Suggested the legislator remove information about awards received this year in his/her capacity as a legislator as the information was not timely and had the appearance of campaigning since this was an election year and the legislator was a candidate for election. If this information was included in a non-election year, the answer would be different. It is possible the language “thank you for your support” could also be looked at as a campaign statement. Suggested something to the effect: “Thank you for your input and response to newsletter questions, etc. during the last two years.”

## **FUNDS – STATE RESOURCES**

**Many calls were received during the election year/campaign period asking for clarification concerning the use of state funds to print a legislative mailing under the requirements and prohibitions of AS 24.60.030(c):**

- *Note: State funds referenced in this statute do not include a legislator’s internal office allowance account or the legislator’s POET account.*
- Cutoff date for the use of state funds for printing legislative newsletters – specifically the Legislative Print Shop – beginning 60 days prior to the Primary election and ends the day after the General election – AS 24.60.030(c)
- See advice under “Distribution – Timing” regarding sending a printed newsletter during a campaign period.

**A legislator who is not running for re-election called and asked if the Print Shop was allowed to print their legislative newsletters during a campaign period?**

Yes, only legislators who have filed for office are under the prohibitions in AS 24.60.030(c).

**May a legislator use state resources, i.e., staff time and state equipment, to prepare a legislative e-newsletter at any time without violating the 60 day prohibition on the use of state resources prior to an election?**

Yes. In Advisory Opinion 99-04 the committee stated a legislator who is a candidate may use state equipment and resources, including staff time, for sending out an “email” to constituents so long as there is no increased cost to the state for the use. Printed newsletters have a cost (i.e., printing, bulk mail sorting, postage, etc) while email newsletters have no additional costs (i.e., use of legislative staff, use of the computer) because these are daily functions of a legislative office. See advice under “Distribution – Timing” regarding sending an e-newsletter during a campaign period.

**May the use of Finance Committee funds be used for a legislative newsletter?**

Finance Committee funds are under the control of the chairs of the finance committee. The use of committee funds may not be used if during a campaign period as defined in AS 24.60.030(c). Referred the caller to LAA Accounting as well for additional advice.

**May a legislator use the Juneau Print Shop to print a constituent newsletter during a campaign period if the Print Shop charged the legislator for the cost of the printing?**

No. State resources cannot be used during a campaign period for constituent newsletters. Pointed out state resources include not only the cost of the paper for printing the newsletter but also staff time and equipment.

**FUNDS - OTHER**

**May POET account money and/or campaign money be used to pay for costs associated with a legislative newsletter?**

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). Referred the caller to APOC about the use of campaign money for a legislative newsletter since previous information from APOC indicated campaign money could not be used for this purpose.

**May a legislator use a campaign bulk mail permit to send out legislative newsletters?**

In this instance, the Act does not prohibit the use of a private resource for legislative use. The use of the campaign bulk mail permit would be permitted for this use. Referred the caller to APOC for advice in this area as well.

**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.

**DISTRIBUTION - GENERAL**

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

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 current 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.

**May a legislator combine their newsletter with the Senator/Representative in the district?**

No, legislative newsletters may not combined in this manner. A legislator may only send to constituents in the legislator's current district or to those who have requested to be on the mailing list. Mentioned Complaint H 08-03 in which a legislator in the House was found to have violated the Act by sending his/her legislative newsletter to constituents in both house districts. The mailing was determined to be a political/campaign mailing.

**May three legislative offices send out one notice about a joint town hall constituent meeting which states the meeting is hosted by the two representatives and the senator in the district?**

The legislative offices were concerned about sending a mailing that included individuals who were not represented by one of the Representatives. Sending out a postcard mailing including all three legislators names and contact information, announcing a joint town hall meeting in which all three legislators will attend, is permitted. The mailing is strictly informational in that the postcard is noticing the town hall meeting and who will be giving the presentations.

**When it is permissible to use state resources in the new legislative district areas? The legislative office was interested in sending out a legislative newsletter to constituents not currently in the legislator's district; however, these residents, under the new redistricted legislative boundaries for the 2014 elections, would be represented by the legislator if re-elected.**

Informed the caller the committee discussed this subject at the June 14, 2012, committee meeting. The committee determined legislators may use state resources for constituent outreach in the new district boundaries after the November 2014 election results are certified by the State Division of Elections.

**Is it OK to mail a legislative newsletter to individuals who have requested to be on the mailing list if they are not current constituents but reside in the area the legislator may represent if elected under the new redistricting plan?**

Informed the office if the individual had requested to be on the mailing list it is OK to send a legislative newsletter even though the person lives outside the current legislative district and may live within the new district boundaries.

**May a legislator add the names of board members of an organization, some of which do not reside in the legislator's current district, to a newsletter mailing list?**

Determined the board members had asked to be on the legislator's mailing list. It is permissible to add names to a legislator's mailing list if they do not live in the legislator's current legislative district if they have asked to be on the list.

**A legislative office called to say they have 75 individuals on their mailing list who reside outside of the legislator's district. Is this a problem?**

Determined the 75 individuals had asked to be on the mailing list which is permitted. See above advice for additional information.

**Worked with a legislative office to determine what parameters would work for a legislative newsletter mailing using zip codes.**

The legislative office was going to take advantage of bulk mailing rates. Some postal routes crossed into the neighboring legislative district. Determined from a postal list of addresses there was a significant number of residents not in the legislator's district. The legislative office would remove these addresses from the list as they were not in the legislator's district and the individuals had not requested to be on the mailing list. The legislative office indicated this process would not be too labor intensive and they would work with post office personnel.

**May a legislative office use the U.S. Post Office’s delivery service called Every Door Direct Mail (EDDM) for distribution of legislative newsletters?**

EDDM is a service offered by the U.S. Post Office in which select zip codes are chosen and the zip code is blanketed with a mailing. AO 13-03 stated a legislator is not prohibited from using EDDM to distribute legislative newsletters unless the distribution is aided by the use of legislative assets or resources **and** it’s likely to result in more than a limited number of newsletters being distributed to addresses of person who are not among the legislator’s current constituents.

**Must a legislative newsletter be sent to all constituents on a mailing list?**

Determined the caller wanted to 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 be in violation of the Act.

**May a legislative newsletter be sent only to “super voters” in the legislator’s district?**

A newsletter mailing may target a certain group of voters as long as the targeted group does not consist of voters of only one political party. The mailing would then be considered a political party mailing which is a prohibited use of state funds.

**May a legislator send a legislative mailing to a particular group, such as seniors?**

Yes. A mailing may target a particular group of individuals in the legislator’s district (as long as the mailing is not only to constituents of one political party).

**May two legislators mail a courtesy notice to 25 organizations representing the state about an upcoming trade mission to the country represented by this group?**

The legislators were concerned the mailing would be sent within the two weeks prior to the General election. The trade mission begins 4-5 days after the election. There were no ethical concerns with sending the notice at this time. The notice was timely and an important piece to the trade mission. Sending the notice after the General election would not allow adequate time for the organizations to respond to the request. Additionally, the list of organizations is specific to the topic of the notice. And, the notice is fact specific and not a ‘feel good’ communication which could be interpreted as a ‘vote for me’ communication because . . .

**May a legislator place an advertisement in the local newspaper announcing a legislative town hall meeting?**

The legislative office was concerned since the advertisement would be in the local newspaper which covers the entire municipality; i.e., some areas are not in the legislator's district. The concern was based on the recent finding of probable cause in Complaint H 12-04 in which legislative newsletters were inserted in the local paper which included some of the areas not in the legislator's district. Noticing a meeting could be viewed differently in that the reader makes the decision to follow through with the information contained in the advertisement – attending the meeting or not - versus a legislative newsletter which contains 'information about the legislator and places not only the legislator's name but positions and accomplishments before individuals who are currently not represented by the legislator. Pointed out the Ethics Committee would agree that all ethical possible means of 'noticing' a constituent meeting is important. Legislative office placed the notice in the local paper.

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

Yes with conditions. AO 04-01 stated this type of use of outside data is permissible, “. . . 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.” The list of the legislator’s current district email addresses may be added to a current list of constituents. The mailing would be considered a political mailing. It is assumed for purposes of this discussion that the political party database contact information can be sorted by address to include only those addresses on the list residing in the legislator’s current district boundaries.

**May legislative newsletters be faxed to constituents instead of mailing or using email?**

Yes. Legislators may use state resources as a means to communicate with constituents; i.e., phone, mail, email, fax, etc.

**May a legislator post a constituent newsletter on a web site?**

Yes. A constituent newsletter may be posted on the legislator’s web site. 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.

**DISTRIBUTION – TIMING**

**May a legislator send a printed or e-newsletter during the one month prior to an election?**

There is no cutoff date stipulated in the Act for mailing a printed or e-newsletter during a campaign period. The ethics committee has recommended a cutoff date of one month prior to an election due to the appearance of campaigning. The closer to Election Day a legislative newsletter is sent the greater the appearance the distribution could be considered a political campaign mailing. However, this is a decision the legislator must make based on all factors. See factual examples under “Distribution – Door Knocking.”

**May a legislator send out a notice updating constituents about a local road project four years in the making the month prior to a general election?**

See previous answer. Determined the notice was not time sensitive and could wait until after the general election.

**May a legislator send out a newsletter in the two weeks prior to a general election with information about a federal program being administered in Alaska?**

First of all, providing information on federal, state and local programs has a legislative purpose. Secondly, the legislator must weigh the timing of sending this newsletter since it is so close to the general election in which the legislator is a candidate. The mailing may have the appearance of a campaign piece. Determined the notice about the federal program was not time sensitive could wait until after the general election.

## **DISTRIBUTION – DOOR KNOCKING**

### **May a legislator hand out legislative newsletters door-to-door in April during the interim?**

The time period in question was an election year. The newsletter may be handed out door-to-door as long as the legislator does not perform campaign related activities at the same time. Distributing newsletters door-to-door gives 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, a legislative newsletter, for campaign purposes. AO 07-07.

### **May a legislator door knock in July during an election year when there is a special session and hand out a card saying “Sorry I missed you” containing legislative contact information?**

Informed the caller this activity is permissible as long as there is no “re-elect me” in nature conversation at the same time. Also informed the caller there is an appearance of campaigning and would caution the legislator about continuing this activity closer to an election. AO 07-07.

### **May a legislator place a notice on each constituent’s door during the interim saying, “What’s on your mind?” and include contact information?**

The caller was concerned a door-to-door drop had the appearance of campaigning. That is correct; however, this was not an election year. There is no stipulation in the Act on the manner in which a legislator asks for input from constituents. If the same advice had been asked in September of an election year, the answer would have been to caution the legislator against this activity because of the appearance of campaigning.

### **May a legislator distribute a constituent newsletter door-to-door in June-July-August during an election year? The legislator does not have an opponent in either the primary or general election.**

The legislator reasoned because s/he had no opponent the parameters of the question had changed and the answer would be different. Even though the legislator does not have an opponent, the legislator is still a candidate for election and the same parameters apply. AS 24.60.030(c). The method of distributing a constituent newsletter is not limited to a mailing. A legislator may hand out a constituent newsletter door-to-door as long as no campaigning is conducted at the same time. Cautioned the legislator that distributing a constituent newsletter door-to-door during an election year has the appearance of campaigning. Suggested no activity within the 30 days prior to the election.

### **May a legislator have staff place a flier on constituent’s doors and/or talk to constituents about a community meeting in September (in an election year) on an environmental matter affecting these particular constituents?**

The information was timely. Only those constituents affected by the issue would receive the notice. There appeared to be no appearance of campaigning even though it was an election year and close to an election



## **VOTER REGISTRATION ACTIVITIES**

### **May a legislator be a co-sponsor of a GOTV (Get Out the Vote) campaign for a particular ethnic group?**

The Act does not prohibit this activity. However, state resources cannot be used for a GOTV campaign.

### **May a legislator send a voter registration card along with a congratulatory letter to graduating seniors?**

Sending a voter registration form along with a congratulatory letter to graduating seniors in the legislator's 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. Referenced Complaint H 96-02. VR form should be returned to the Elections Office.

### **May a legislator send a letter to newly registered voters and include a booklet on the legislative process?**

Yes. A legislator may send a letter and legislative booklet to newly registered voters in the legislator's 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. Since this request was made during an election year, cautioned the legislator to be mindful of the timing of sending the letter.

### **May a legislator include information in a constituent newsletter about a local election and provide a link to the municipal web site and other contact information?**

Yes, the committee has determined information about elections – in general - is part of keeping constituents informed. Cautioned the legislator to keep the content 'informational only' and not advocate for a particular candidate. A standalone mailing on this issue could be construed as campaign related. The same advice would apply to providing general contact information for a statewide election and a link to the State Division of Elections web site.

Advisory Opinions and Complaint Decisions referenced in this document can be viewed at:  
<http://ethics.legis.state.ak.us/>

This document is available on the Ethics Website under "Useful Informational Materials":  
<http://ethics.legis.state.ak.us/useful.php>