



# ALASKA PUBLIC OFFICES COMMISSION

JULY 2012

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**D**uring fishing season there are a few “givens”; carry your fishing license, know the bag limit for what you are fishing for, be able to tell the difference between a king and a pink, and otherwise carry the regulations so you can fish legally. The “givens” are not so simple for the election season. You need not carry a license, there is no bag limit for votes, and you cannot easily carry the regulations with you. The only real “given” for APOC is that there will be questions from someone.

There are a significant number of things that campaigns and the general public need to be aware of during the election season. Can you remember every single rule? Probably not. APOC staff encourages candidates and others to ask questions. Call and ask the staff to see if what you intend to do is within the rules. Honestly, staff wants you to do that. It is much more efficient for staff to respond to questions before things become inappropriate than to respond to questions about complaints because a campaign did not ask a question. APOC staff wants to spend more time educating people rather than penalizing them.

Sometimes staff may ask for a campaign or candidate to request a formal advisory opinion. This isn't an effort to make things difficult, but rather the correct response to a question that does not necessarily lend itself to a quick, clear, and easy answer. The advisory opinion will provide clear

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and formal guidance to the requestor and insulate the requestor from a complaint. APOC staff is trying to serve the public's best interest when prompting for the advisory opinion request.

APOC's task is to ensure transparency of campaign finances. The best way to ensure transparency is to provide education and information. APOC has provided numerous training opportunities during the year and responding to questions from campaigns and the public is part of an on-going educational process.

Ask first, we want to give you good advice that can help you. If you're found with two kings north of Bluff Point in July, Fish and Game will give you a citation and a fine, it doesn't matter that you didn't know that you were north of Bluff Point. We want to make sure that you don't go over the line before you get there.



## RECENT ADVISORY OPINIONS

### **AO 12-06-CD Mackie**

In this case, the residual funds from a future campaign account may be disbursed to charitable organizations under 26 U.S.C. 501(c)(3), because the organization is not controlled by Mr. Mackie or a member of his immediate family. The funds may be dispersed without condition to Alaska Jr. Aces Hockey Association if Mr. Mackie desires.

### **AO 12-08-CD Gazaway**

Mr. Gazaway may contribute his legal services to pay for the campaign expenditure for campaign clerical services. The valuation for in-kind payment must be the normal market charge at a non-reduced rate and is considered a non-monetary contribution from the candidate to the campaign. The description of the non-monetary contribution by Mr. Gazaway should specify that the contribution/expense is for in-kind legal services in lieu of cash compensation for campaign clerical support.

### **AO 12-10-CD Edgmon**

For campaign related travel, flights on personal aircraft should be valued based on the candidate's itinerary, commercial flight availability, and commercial reasonability. Generally, commercial reasonability of flight valuation is the commercial ticket fare or a charter rate for an equivalent aircraft, depending on the candidate's itinerary. Travel expenditures must be reported on campaign finance reports. Records showing flight value determination should be kept by the campaign.

### **AO 12-11-CD Giessel**

As an alternative commercially reasonable valuation rate, the Commission approves the \$30/day non-commercial rate for stays at campaign supporters' homes.

### **AO 12-07-CD Scott M. Kendall, on behalf of RBG Bush Planes, LLC, Robert B. Gillam and Renewable Resources Coalition**

The requestors in this advisory opinion wanted to sponsor open candidate debate forums under AS 15.13.150 and provide flight services to all candidates in the Lake and Peninsula Borough in order to attend these open debate forums. The Commission disapproved the draft advisory opinion of staff by a vote of 4-0.

### **AO 12-05-CD (Withdrawn) and AO 12-09-CD Timothy A. McKeever, on behalf of Alaska Deserves Better**

Advisory Opinion 12-05-CD was withdrawn by the requestors because advisory opinion 12-09-CD was substantially similar. The advice in this opinion dealt with the formation of an Independent Expenditures Group with APOC. Advice in the advisory opinion covered questions on registration requirements, group naming requirements, contribution limits, the true sources of contributions, political activities accounts, group expenditures towards candidates and assumed candidates, coordinated activity, identification of political communications ("paid for by") and the listing of the top three contributors. The Commission approved the advisory opinion June 6, 2012 by a vote of 4 - 0.

### **Legislative Ethics Committee Advisory Opinion 12-03 Signing of Pre-Election Pledges by Incumbent Legislators.**

The committee determined the signing of pre-election pledges, by incumbent legislators, in a quid pro quo exchange for a campaign contribution or a promise of a campaign contribution, violates the Legislative Ethics Act, specifically AS 24.60.030(e)(1) and AS 24.60.030(a)(1). However, if the pledge is in exchange only for an endorsement or a promise of an endorsement it does not violate the Act.



## LOBBYING UPDATE

### Employer of Lobbyist Schedule B Expenses

New Regulation 2 AAC 50.575 became effective on 12/22/2011 and covers reporting by an employer of a lobbyist. The lobbying statute, AS 24.45.061(b)(3), requires an employer of a lobbyist to report, “the total amount of payments made to influence legislative and administrative action during a reporting period.” Lobbying Regulation 2 AAC 50.575 (b) details what payments are included.

An employer of a lobbyist must report, according to 2 AAC 50.575(b)(1), “the gross wages paid or payable for lobbying ...”. The definition of lobbying or lobbying activity is found in 2 AAC 50.590. Employers of lobbyists must still report compensation to an employee for time spent in direct communication for the purpose of influencing legislative or administrative action. This time in direct communication counts toward the 10 hours in a 30-day period that triggers the **registration of an employee as a lobbyist** in AS 24.45.171(11)(A).

The change for reporting “the direct costs and expenses incurred ... for the purpose of influencing legislative or administrative action” is in 2 AAC 50.575(b)(2)(A). Prior to the adoption of the new regulation, employers of lobbyists had to report all compensation and expenses related to an employee’s time spent **in support of** lobbying activity. The new regulation changes the reporting requirement so that employers of lobbyists only have to report the compensation for employees that spend “*more than 10 hours per month directly supporting the employer’s lobbying goals*”.

NOTE the difference in what is to be reported. Section (b)(1) reports compensation for time spent in **lobbying or lobbying activity**. Section (b)(2) reports compensation for time spent **in support of** lobbying or lobbying activities.

*Please review AO 08-06-LOB. The change in this Lobbying Regulation is partly a result of the research and analysis performed during the writing of this advisory opinion.*

**REMINDER:** 2012 2nd Quarter Lobbyist and Employer of Lobbyist Reports are due by July 31, 2012. The Lobbyist Report covers the months of May and June. The Employer Report covers the months of April, May, and June. You may submit the report at any time from July 1 to July 31. You do not have to wait until July 31st to submit your report.



## UPCOMING TRAINING OPPORTUNITIES

Candidate General Training: Jun 22, Jul 06, Jul 20, Aug 10, Aug 24.

Group General Training: Jun 29, Jul 13, Jul 27, Aug 17, Aug 31.

Follow the Money: Jul 18, Jul 31, Aug 22, Sep 04, Sep 25, Oct 09, Oct 31.

### MARK YOUR CALENDAR:

Tuesday, July 10: Initiative Proposal Application Group 2nd Quarter Report Deadline

Tuesday, July 17: Anchorage Municipal Election Candidates and Groups 105-Day Report

Monday, July 30: State Candidates and Groups 30-Day Report

Tuesday, July 31: 2nd Quarter 2012 Employer of Lobbyist and Lobbyist Reports Due

Sunday, August 19: State Candidates and Groups 24-hour Report Period Begins (ends August 27)

Tuesday, August 28: State Primary Election

Tuesday, August 21: State Candidates and Groups 7-day Report

Friday, August 31: Last day of 30-day reporting period for the October 2, municipal election

Monday, September 3: State Municipal Candidates and Groups 30-day Report

Sunday, September 23: State Municipal Candidates and Groups 24-hour Report Period Begins (ends Oct. 1)

Tuesday, September 25: State Municipal Candidates and Groups 7-day Report

Tuesday, October 2: State-wide Municipal Election