

## ADVISORY OPINION REQUEST

**Number:** AO 10-11-CD

**Requested By:** Deborah Williams, Executive Director, Alaska Democratic Party

**Prepared By:** Amy H. Robinson, Associate Attorney II

**Date Issued:** June 11, 2010

**Subject:** Whether provision of volunteer professional services to a candidate constitutes a reportable contribution

### Commission Decision:

On June 14, 2010, the Alaska Public Offices Commission heard and unanimously approved conclusions 1, 2, and 4 of this advisory opinion.

The Commission disapproved conclusion 3. The photographer's personal camera is not a non-monetary contribution and does not need to be reported. Here, the photographer is not giving his camera to the campaign. He is only using it to take the pictures. On different facts, the Commission may find that personal possessions are a reportable non-monetary contribution.

While the Commission approved conclusion 4, the Commission notes that under the facts provided, the fair market value of the images may be limited to the cost of the disc transferring the photos.

### QUESTION PRESENTED

Whether a professional photographer's volunteer or reduced rate services to a campaign are "contributions" within the definition at AS 15.13.400(4)(A) or whether under AS 15.13.400(4)(B)(i) they are not contributions and hence do not need to be reported to APOC.

### SHORT ANSWER

Staff's conclusion is that if the services or resources used by the photographer are traceable to the photographer's business, they are contributions, and are prohibited by AS 15.13.074(f). If however the services provided and resources used are entirely personal and unrelated to his business, they are not contributions. If the photographer provides the services entirely for free, they fall within the volunteer services exception of AS 15.13.400(4)(B), and are consistent with APOC regulation 2 AAC 50.250(e). However, any images provided to the campaign are reportable non-monetary contributions.

If the photographer uses his business and charges a "reduced rate," the services are prohibited contributions, *unless* either the same services are provided to all candidates or he

charges the campaign a commercially reasonable rate and is paid within a commercially reasonable time. 2 AAC 50.250(a)(3)(G), 2 AAC 50.250(c). Similarly, the photographer should not use any business assets to manipulate the photos into a more polished product, because such service and use of assets would be a prohibited contribution under AS 15.13.074(f).

While the facts presented did not include a candidate's solicitation of contributions from a photography business, Staff notes that a candidate may not solicit or accept a contribution from a "person" not authorized by law to make a contribution. AS 15.13.072(a)(1). The definition of "person" includes the types of business entities prohibited from making contributions to candidates found in AS 15.13.074(f). See AS 15.13.400(14), AS 01.10.060(8).

## **FACTS**

The Alaska Democratic Party (ADP) has been asked to advise a candidate about the following:

A professional photographer is considering offering his services as a volunteer for free or at a reduced rate from what he normally charges to take photographs of a candidate for the candidate's campaign. The photographer will use a personal camera and not a camera owned by his business to take the candidate's photographs.

## **LAW**

### 1. Definitions

According to the statutory definition, "contribution":

(A) means a purchase, payment ... goods, or services for which charge is ordinarily made and that is made for the purpose of influencing the nomination or election of a candidate, ...

(B) does not include

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political party, candidate, or ballot proposition or question ....

AS 15.13.400(4)(emphasis added).

According to APOC regulations, "contribution":

(a) In AS 15.13 and this chapter, except as otherwise provided in this section, "contribution"

(1) has the meaning given in AS 15.13.400;

(2) includes a

(A) subscription, advance, ... or anything of value made or

provided by a person, group, or nongroup entity for the purpose of influencing an election for state or municipal office ...; and ...

(3) does not include ...

(B) a non-monetary contribution or in-kind donation of a single item with a normal cost of \$50 or less; ...

(G) provision of a service or facility to a candidate, group, or nongroup entity if the entity providing the service or facility is paid at a commercially reasonable rate within a commercially reasonable time or makes the service or facility available to all candidates for a particular office; ...

(c) The provision of goods or services without charge, or at a charge that is less than the normal charge for the goods and services in the market, is a contribution unless a lower rate is extended to all campaigns. If goods or services are provided at less than the normal charge in the market, the amount of the non-monetary contribution is the difference between the normal charge for the goods or services at the time of the contribution and the amount charged. ...

(e) The payment by a person of compensation for the personal services of an individual to a group, nongroup entity, or candidate for any purpose, except for legal and accounting services necessary to complete reports, is a contribution unless the individual works voluntarily and on personal time. ....

2 AAC 50.250.

APOC regulations define “anything of value” as “any item of real or personal property and personal services of any kind, the cost or consideration for which is paid by a person other than the candidate or group for whom the services are rendered; “anything of value” includes facilities, equipment, polling information, supplies, advertising services, membership lists, and mailing lists.” 2 AAC 50.405(5).

## 2. Legislative and Judicial revisions to former definition of “contribution”

In 2002, the definition of “contribution” was amended to no longer include “professional services volunteered by individuals for which they ordinarily would be paid a fee or wage.” 2002 Alaska Laws Ch. 3 (S.B. 103). This change followed a U.S. District Court decision that struck down the limitation on volunteer professional services as unconstitutional. *Jacobus v. Alaska*, 182 F.Supp.2d 893 (2001). On appeal, the Ninth Circuit upheld this aspect of the District Court’s ruling, finding specifically that the \$5,000 “limit on the value of volunteer professional services that an individual may donate to a political party” was unconstitutional because it impermissibly restricted the volunteer’s First Amendment rights to expression and association. *Jacobus v. Alaska*, 338 F.3d 1095, 1098 (Ninth Cir. 2003). In the same case, the Ninth Circuit reversed the District Court’s finding that AS 15.13.074(f) was unconstitutional. 338 F.3d 1095, 1125.

### 3. Limitations on Contributions and Prohibited Contributions

AS 15.13.074(f) prohibits contributions to candidates, groups, or nongroup entities by most forms of businesses. This restriction applies to corporations, companies, partnerships, firms, associations, entities recognized as tax-exempt under 26 U.S.C. 501(c)(3), organizations, business trusts or sureties, labor unions, and publicly funded entities that do “not satisfy the definition of group or nongroup entity in AS 15.13.400.” AS 15.13.074(f).

An individual may not contribute more than (1) \$500 per year to candidate and (2) \$5,000 per year to a political party. AS 15.13.070(b).

### 4. Reporting Non-Monetary Contributions

For each non-monetary contribution, candidates must report: (1) the date received; (2) the name and address of the contributor; (3) a description of each contribution; and (4) the estimated fair market value of each contribution. 2 AAC 50.321(a)(2).

On April 17, 2002, the Commission issued an advisory opinion providing guidance on how to value the use of a bulk mailing permit as a non-monetary contribution. AO 02-01-CD. The Commission held that allowing candidates to use a bulk mailing permit was a loan reportable as a non-monetary contribution. *Id.* In reaching this conclusion, the Commission relied on 2 AAC 50.250(c) which describes that “[t]he provision of goods or services without charge, or at a charge that is less than the normal charge for the goods and services in the market, is a contribution unless a lower rate is extended to all campaigns....” For reporting purposes, the amount of the non-monetary contribution is the difference between the “normal charge in the market” and the amount actually charged. 2 AAC 50.250(c). Alternatively, if the amount of the non-monetary contribution (as calculated by the reduced per piece rate) would exceed the cost of the annual bulk mailing permit (\$125), the campaign could report the amount of the non-monetary contribution as \$125.

## ANALYSIS

The question asked by ADP is whether a professional photographer’s services to a candidate’s campaign are “contributions” or whether they fit within the statutory exception for volunteers found at AS 15.13.400(4)(B)(i). Additional factors that affect APOC Staff’s analysis are that (1) the photographer may either provide the services “as a volunteer for free” or “at a reduced rate from what he normally charges;” and (2) that the photographer will use his personal camera rather than a camera owned by his business.

- 1. The professional photographer’s voluntary services using only his personal camera are not a contribution and do not need to be reported to APOC.**

The definition of contribution includes a gift of “services for which charge is ordinarily made [provided] for the purpose of influencing the election of a candidate.” AS 15.13.400(4)(A). Here, the professional photographer is contemplating offering his services, for which he is ordinarily paid a wage through his business, free of charge to a candidate’s campaign. Offering the services for free supports the conclusion that the services would be provided “for the purpose of influencing the election of a candidate.” This very nearly fits the plain statutory language defining “contribution” as “services for which charge is ordinarily made.”

However, the definition of contribution contains the exception that “services provided without compensation by individuals volunteering a portion or all of their time on behalf of a ... candidate” are not contributions. AS 15.13.400(4)(B)(i). Staff considers that by offering his services for free and using only personal assets, the photographer is able to offer his professional services without having to report them, and without the need to value his services as non-monetary contributions subject to the individual contribution limit of \$500. AS 15.13.070(b).

Staff’s conclusion is informed by the Court’s reasoning in *Jacobus v. Alaska*, 338 F.3d 1095. Staff could have found that the photographer’s services were contributions, since the professional photographer ordinarily charges a fee for his services, which comports with the definition at AS 15.13.400(A). Staff also notes that they could fall within the regulatory definition of “anything of value” as “personal services of any kind, the cost or consideration for which is paid by a person other than the candidate ... for whom the services are rendered,” wherein in this case, the photographer would subsume the ordinary cost. 2 AAC 50.405(5). If the alternative reasoning applied, the photographer’s services would be non-monetary contributions, valued according to the fair market value, and capped at the individual contribution limit of \$500. AS 15.13.070(b). However, this advisory opinion values the photographer’s freedom of expression over the risk of corruption<sup>1</sup> and is limited to these facts alone. The photographer’s freedom of expression through volunteerism further limits the Commission’s ability to find that the photographer is acting in a capacity for which charge is ordinarily made under the definition of “contribution” because this activity is more akin to the photographer taking pictures on his own free time, for which there is likely no charge ordinarily made.

**2. The professional photographer’s services provided at a reduced rate are contributions, and may be prohibited by AS 15.13.074(f).**

AS 15.13.074(f) prohibits most forms of business from making contributions to

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<sup>1</sup> In *Jacobus*, the test applied by the Court was “whether the burden on First Amendment rights imposed by preventing individuals from donating more than \$5,000 worth of professional services [to a political party] can be sustained under the standard of scrutiny applied to contribution limits: whether the regulation was closely drawn to match a sufficiently important interest.” 338 F.3d 1095, 1124 (internal citations omitted). The Court found that Alaska had not provided a reason to believe that “there is an actual danger of corruption or its appearance if contributions of professional volunteer services go unrestricted.” *Id.*

candidates. If the photographer provides his services at a reduced rate through his business, the services become contributions under AS 15.13.400(A) because they are a gift of “services for which charge is ordinarily made [given] for the purpose of influencing the ... election of a candidate.” On the facts provided, the photographer cannot use his business to offer a reduced rate to the candidate without the activity being a prohibited contribution.

However, two exceptions apply. First, according to APOC regulations, the reduced rate services would not be a contribution if the lower rate is “extended to all campaigns” or made “available to all candidates for a particular office.” 2 AAC 50.250(c) and 2 AAC 50.250(a)(3)(G), respectively. If the photographer provides this same service to any candidate that requests it, the service is not a contribution. Alternatively, the services are not contributions if the photographer is “paid at a commercially reasonable rate within a commercially reasonable time” for the services provided. 2 AAC 50.250(a)(3)(G). In summary, to avoid characterization as prohibited contributions, the photographer, through his business, may offer the “reduced rate” to all candidates or may charge a commercially reasonable rate for the services.

### **3. The use of the photographer’s personal camera may be a non-monetary contribution.**

The use of the photographer’s personal camera is an item that may or may not require reporting with APOC, depending upon its value.

Contributions that fit the definition of “anything of value,” are reportable as non-monetary contributions to a campaign. 2 AAC 50.405(5). The definition of “anything of value” is:

any item of real or personal property and personal services of any kind, the cost or consideration for which is paid by a person other than the candidate or group for whom the services are rendered; “anything of value” includes facilities, equipment, polling information, supplies, advertising services, membership lists, and mailing lists.

*Id.* The photographer’s personal camera is an item of personal property that he paid for personally. Its use is reportable as a non-monetary contribution. However, according to APOC regulation 2 AAC 50.250(a)(3)(B), “a non-monetary contribution or “in-kind donation of a single item with a normal cost of \$50 or less” is not a contribution, and does not require reporting with APOC. Staff was not provided with information about what type of personal camera the photographer will be using. Prices for cameras can vary extremely, depending upon the type of camera used. Staff advises that if the camera is an expensive, semi-professional model, it may require reporting with APOC as a non-monetary contribution, perhaps based upon the amount it would cost to rent such a camera for campaign use. If the value for use of the camera would be a single item with a normal cost of \$50 or less, it would not need to be reported to APOC. To determine the value of a non-monetary contribution, Staff follows the procedures described in AO 02-01-CD, and expects that the fair market value of any item will be reported to APOC. 2 AAC 50.321(a)(2).

#### **4. The photographs are non-monetary contributions.**

Any photographs ultimately provided to the candidate free of charge are non-monetary contributions to the campaign. They should be reported to APOC according to their fair market value. 2 AAC 50.321(a)(2). The use of the photographer's business assets to manipulate and improve the photographs would be a prohibited contribution unless the photographer charges a "commercially reasonable" fee for the manipulation or offers the same services to all candidates at the same rate charged to this particular candidate.

#### **CONCLUSION**

The photographer may volunteer his professional services and use of his personal camera to the campaign without the services being considered "contributions" and without needing to report them to APOC. However, if the photographer involves his business by offering the same services at a "reduced rate," his business must either offer the same services at the same rate to all candidates or be paid a commercially reasonable rate for his services. The images provided by the photographer to the campaign are reportable non-monetary contributions and should be valued according to their fair market value. For the same reasons, the photographer should not use any business assets to manipulate the photos into a more polished product or he risks violating AS 15.13.074(f). Lastly, the campaign should be on notice that candidates may not solicit or accept contributions from persons, including business persons, that are not authorized by law to make a contribution. AS 15.13.072(a)(1).

#### **COMMISSION DECISION**

**On June 14, 2010, the Alaska Public Offices Commission heard and unanimously approved conclusions 1, 2, and 4 of this advisory opinion.**

**The Commission disapproved conclusion 3. The photographer's personal camera is not a non-monetary contribution and does not need to be reported. Here, the photographer is not giving his camera to the campaign. He is only using it to take the pictures. On different facts, the Commission may find that personal possessions are a reportable non-monetary contribution.**

**While the Commission approved conclusion 4, the Commission notes that under the facts provided, the fair market value of the images may be limited to the cost of the disc transferring the photos.**

## **APPLICABLE LAW**

### **Alaska Statutes**

#### **Sec. 15.13.070. Limitations on amount of political contributions.**

(a) An individual or group may make contributions, subject only to the limitations of this chapter and AS 24.45, including the limitations on the maximum amounts set out in this section.

(b) An individual may contribute not more than (1) \$500 per year to a nongroup entity for the purpose of influencing the nomination or election of a candidate, to a candidate, to an individual who conducts a write-in campaign as a candidate, or to a group that is not a political party; (2) \$5,000 per year to a political party.

(c) A group that is not a political party may contribute not more than \$1,000 per year (1) to a candidate, or to an individual who conducts a write-in campaign as a candidate; (2) to another group, to a nongroup entity, or to a political party.

(d) A political party may contribute to a candidate, or to an individual who conducts a write-in campaign, for the following offices an amount not to exceed (1) \$100,000 per year, if the election is for governor or lieutenant governor; (2) \$15,000 per year, if the election is for the state senate; (3) \$10,000 per year, if the election is for the state house of representatives; and (4) \$5,000 per year, if the election is for (A) delegate to a constitutional convention; (B) judge seeking retention; or

(C) municipal office.

(e) This section does not prohibit a candidate from using up to a total of \$1,000 from campaign contributions in a year to pay the cost of

- (1) attendance by a candidate or guests of the candidate at an event or other function sponsored by a political party or by a subordinate unit of a political party;
- (2) membership in a political party, subordinate unit of a political party, or other entity within a political party, or subscription to a publication from a political party; or
- (3) co-sponsorship of an event or other function sponsored by a political party or by a subordinate unit of a political party.

(f) A nongroup entity may contribute not more than \$1,000 a year to another nongroup entity for the purpose of influencing the nomination or election of a candidate, to a candidate, to an individual who conducts a write-in campaign as a candidate, to a group, or to a political party.

(§ 1 ch 76 SLA 1974; am §§ 20, 21 ch 189 SLA 1975; am § 45 ch 85 SLA 1986; am § 10 ch 48 SLA 1996; am § 2 ch 74 SLA 1998; am §§ 9-11 ch 1 SLA 2002; am § 2 ch 3 SLA 2002; am §§ 8-10 ch 108 SLA 2003; am §§ 1, 2, 2006 Primary Election Ballot Measure No. 1)

#### **Sec. 15.13.072. Restrictions on solicitation and acceptance of contributions.**

(a) A candidate or an individual who has filed with the commission the document necessary to permit that individual to incur election-related expenses under AS 15.13.100 may not solicit or accept a contribution from

- (1) a person not authorized by law to make a contribution;
- (2) an individual who is not a resident of the state at the time the contribution is made, except as provided in (e) of this section;
- (3) a group organized under the laws of another state, resident in another state, or whose participants are not residents of this state at the time the contribution is made; or

- (4) a person registered as a lobbyist if the contribution violates AS 15.13.074(g) or AS 24.45.121 (a)(8).
- (b) A candidate or an individual who has filed with the commission the document necessary to permit the individual to incur election-related expenses under AS 15.13.100 , or a group, may not solicit or accept a cash contribution that exceeds \$100.
- (c) An individual, or one acting directly or indirectly on behalf of that individual, may not solicit or accept a contribution
- (1) before the date for which contributions may be made as determined under AS 15.13.074 (c); or
  - (2) later than the day after which contributions may not be made as determined under AS 15.13.074 (c).
- (d) While the legislature is convened in a regular or special legislative session, a legislator or legislative employee may not solicit or accept a contribution to be used for the purpose of influencing the outcome of an election under this chapter unless
- (1) it is an election in which the legislator or legislative employee is a candidate and the contribution is for that legislator's or legislative employee's campaign;
  - (2) the solicitation or acceptance occurs during the 90 days immediately preceding that election; and
  - (3) the solicitation or acceptance occurs in a place other than the capital city or a municipality in which the legislature is convened in special session if the legislature is convened in a municipality other than the capital city.
- (e) A candidate or an individual who has filed with the commission the document necessary to permit that individual to incur election-related expenses under AS 15.13.100 may solicit or accept contributions from an individual who is not a resident of the state at the time the contribution is made if the amounts contributed by individuals who are not residents do not exceed
- (1) \$20,000 a calendar year, if the candidate or individual is seeking the office of governor or lieutenant governor;
  - (2) \$5,000 a calendar year, if the candidate or individual is seeking the office of state senator;
  - (3) \$3,000 a calendar year, if the candidate or individual is seeking the office of state representative or municipal or other office.
- (f) A group or political party may solicit or accept contributions from an individual who is not a resident of the state at the time the contribution is made, but the amounts accepted from individuals who are not residents may not exceed 10 percent of total contributions made to the group or political party during the calendar or group year in which the contributions are received.
- (g) A candidate or an individual who has filed with the commission the document necessary to permit that individual to incur election-related expenses under AS 15.13.100 for election or reelection to the office of governor or lieutenant governor may not solicit or accept a contribution in the capital city while the legislature is convened in a regular or special legislative session.
- (h) A nongroup entity may solicit or accept contributions for the purpose of influencing the nomination or election of a candidate from an individual who is not a resident of the state at the time the contribution is made or from an entity organized under the laws of another state, resident in another state, or whose participants are not residents of this state at the time the contribution is made. The amounts accepted by the nongroup entity from these individuals and entities for the purpose of influencing the nomination or election of a candidate may not exceed 10 percent of total contributions made to the nongroup entity for the purpose of influencing the nomination or election of a candidate during the calendar year in which the contributions are received.

(§ 11 ch 48 SLA 1996; am § 1 ch 14 SLA 1998; am §§ 3, 4 ch 74 SLA 1998; am § 12 ch 1 SLA 2002; am § 11 ch 108 SLA 2003; am § 1 ch 106 SLA 2008))

**Sec. 15.13.074. Prohibited contributions.**

(a) A person, group, or nongroup entity may not make a contribution if the making of the contribution would violate this chapter.

(b) A person or group may not make a contribution anonymously, using a fictitious name, or using the name of another.

(c) A person or group may not make a contribution

(1) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 when the office is to be filled at a general election before the date that is 18 months before the general election;

(2) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 for an office that is to be filled at a special election or municipal election before the date that is 18 months before the date of the regular municipal election or that is before the date of the proclamation of the special election at which the candidate or individual seeks election to public office; or

(3) to any candidate later than the 45th day

(A) after the date of the primary election if the candidate was not nominated at the primary election; or

(B) after the date of the general election, or after the date of a municipal or municipal runoff election.

(d) A person or group may not make a contribution to a candidate or a person or group who is prohibited by AS 15.13.072 (c) from accepting it.

(e) A person or group may not make a cash contribution that exceeds \$100.

(f) A corporation, company, partnership, firm, association, entity recognized as tax-exempt under 26 U.S.C. 501(c)(3) (Internal Revenue Code), organization, business trust or surety, labor union, or publicly funded entity that does not satisfy the definition of group or nongroup entity in AS 15.13.400 may not make a contribution to a candidate, group, or nongroup entity.

(g) An individual required to register as a lobbyist under AS 24.45 may not make a contribution to a candidate for the legislature at any time the individual is subject to the registration requirement under AS 24.45 and for one year after the date of the individual's initial registration or its renewal. However, the individual may make a contribution under this section to a candidate for the legislature in a district in which the individual is eligible to vote or will be eligible to vote on the date of the election. An individual who is subject to the restrictions of this subsection shall report to the commission, on a form provided by the commission, each contribution made while required to register as a lobbyist under AS 24.45. Upon request of the commission, the information required under this subsection shall be submitted electronically. This subsection does not apply to a representational lobbyist as defined in regulations of the commission.

(h) Notwithstanding AS 15.13.070, a candidate for governor or lieutenant governor and a group that is not a political party and that, under the definition of the term "group," is presumed to be controlled by a candidate for governor or lieutenant governor, may not make a contribution to a candidate for another office, to a person who conducts a write-in campaign as a candidate for other office, or to another group of amounts received by that candidate or controlled group as contributions between January 1 and the

date of the general election of the year of a general election for an election for governor and lieutenant governor. This subsection does not prohibit

(1) the group described in this subsection from making contributions to the candidates for governor and lieutenant governor whom the group supports; or

(2) the governor or lieutenant governor, or the group described in this subsection, from making contributions under AS 15.13.116 (a)(2)(A).

(i) A nongroup entity may not solicit or accept a contribution to be used for the purpose of influencing the outcome of an election unless the potential contributor is notified that the contribution may be used for that purpose.

(§ 11 ch 48 SLA 1996; am § 12 ch 48 SLA 1996; am § 2 ch 14 SLA 1998; am §5 ch 74 SLA 1998; am § 8 ch 33 SLA 1999; am §§ 13-15 ch 1 SLA 2002; am §§12, 13 ch 108 SLA 2003)

**Sec. 15.13.400. Definitions.** In this chapter,

(1) "candidate"

(A) means an individual who files for election to the state legislature, for governor, for lieutenant governor, for municipal office, for retention in judicial office, or for constitutional convention delegate, or who campaigns as a write-in candidate for any of these offices; and

(B) when used in a provision of this chapter that limits or prohibits the donation, solicitation, or acceptance of campaign contributions, or limits or prohibits an expenditure, includes

(i) a candidate's campaign treasurer and a deputy campaign treasurer;

(ii) a member of the candidate's immediate family;

(iii) a person acting as agent for the candidate;

(iv) the candidate's campaign committee; and

(v) a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of the candidate;

(2) "commission" means the Alaska Public Offices Commission;

(3) "communication" means an announcement or advertisement disseminated through print or broadcast media, including radio, television, cable, and satellite, the Internet, or through a mass mailing, excluding those placed by an individual or nongroup entity and costing \$500 or less and those that do not directly or indirectly identify a candidate or proposition, as that term is defined in AS 15.13.065(c);

(4) "contribution"

(A) means a purchase, payment, promise or obligation to pay, loan or loan guarantee, deposit or gift of money, goods, or services for which charge is ordinarily made and that is made for the purpose of influencing the nomination or election of a candidate, and in AS 15.13.010(b) for the purpose of influencing a ballot proposition or question, including the payment by a person other than a candidate or political party, or compensation for the personal services of another person, that are rendered to the candidate or political party;

(B) does not include

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political party, candidate, or ballot proposition or question;

(ii) ordinary hospitality in a home;

(iii) two or fewer mass mailings before each election by each political party describing the party's slate of candidates for election, which may include photographs, biographies, and information about the party's candidates;

(iv) the results of a poll limited to issues and not mentioning any candidate, unless the poll was requested by or designed primarily to benefit the candidate;

(v) any communication in the form of a newsletter from a legislator to the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate or a newsletter or material in a newsletter that is clearly only for the private benefit of a legislator or a legislative employee; or

(vi) a fundraising list provided without compensation by one candidate or political party to a candidate or political party;

(5) "electioneering communication" means a communication that

(A) directly or indirectly identifies a candidate;

(B) addresses an issue of national, state, or local political importance and attributes a position on that issue to the candidate identified; and

(C) occurs within the 30 days preceding a general or municipal election;

(6) "expenditure"

(A) means a purchase or a transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, incurred or made for the purpose of

(i) influencing the nomination or election of a candidate or of any individual who files for nomination at a later date and becomes a candidate;

(ii) use by a political party;

(iii) the payment by a person other than a candidate or political party of compensation for the personal services of another person that are rendered to a candidate or political party; or

(iv) influencing the outcome of a ballot proposition or question;

(B) does not include a candidate's filing fee or the cost of preparing reports and statements required by this chapter;

(C) includes an express communication and an electioneering communication, but does not include an issues communication;

(7) "express communication" means a communication that, when read as a whole and with limited reference to outside events, is susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate;

(8) "group" means

(A) every state and regional executive committee of a political party; and

(B) any combination of two or more individuals acting jointly who organize for the principal purpose of influencing the outcome of one or more elections and who take action the major purpose of which is to influence the outcome of an election; a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of a candidate shall be considered to be controlled by that candidate; a group whose major purpose is to further the nomination, election, or candidacy of only one individual, or intends to expend more than 50 percent of its money on a single candidate, shall be considered to be controlled by that candidate and its actions done with the candidate's knowledge and consent unless, within 10 days from the date the candidate learns of the existence of the group the candidate files with the commission, on a form provided by the commission, an affidavit that the group is operating without the candidate's control; a group organized for more than one year preceding an election and endorsing candidates for more than one office or more than one political party is presumed not to be controlled by a candidate; however, a group that contributes more than 50 percent of its money to or on behalf of one candidate shall be considered to support only one candidate for purposes of AS 15.13.070, whether or not control of the group has been disclaimed by the candidate;

(9) "immediate family" means the spouse, parents, children, including a stepchild and an adoptive child, and siblings of an individual;

(10) "independent expenditure" means an expenditure that is made without the direct or indirect consultation or cooperation with, or at the suggestion or the request of, or with the prior consent of, a

candidate, a candidate's campaign treasurer or deputy campaign treasurer, or another person acting as a principal or agent of the candidate;

(11) "individual" means a natural person;

(12) "issues communication" means a communication that

(A) directly or indirectly identifies a candidate; and

(B) addresses an issue of national, state, or local political importance and does not support or oppose a candidate for election to public office.

(13) "nongroup entity" means a person, other than an individual, that takes action the major purpose of which is to influence the outcome of an election, and that

(A) cannot participate in business activities;

(B) does not have shareholders who have a claim on corporate earnings; and

(C) is independent from the influence of business corporations.

(14) "person" has the meaning given in AS 01.10.060, and includes a labor union, nongroup entity, and a group;

(15) "political party" means any group that is a political party under AS 15.60.010 and any subordinate unit of that group if, consistent with the rules or bylaws of the political party, the unit conducts or supports campaign operations in a municipality, neighborhood, house district, or precinct;

(16) "publicly funded entity" means a person, other than an individual, that receives half or more of the money on which it operates during a calendar year from government, including a public corporation (§ 24 ch 48 SLA 1996; am § 39 ch 21 SLA 2000; am §§25, 26 ch 1 SLA 2002; am § 7 ch 3 SLA 2002; am §§ 8, 9 ch 1 TSSLA 2002; am §§ 18, 19 ch 108 SLA 2003; am § 2 ch 90 SLA 2006)

## Alaska Regulations

### 2 AAC 50.250. CONTRIBUTIONS.

(a) In AS 15.13 and this chapter, except as otherwise provided in this section, "contribution"

(1) has the meaning given in AS 15.13.400;

(2) includes a

(A) subscription, advance, transfer, forgiveness of all or part of a debt, relaxation of credit, or anything of value made or provided by a person, group, or nongroup entity for the purpose of influencing an election for state or municipal office or influencing the passage or defeat of a ballot proposition or question; and

(B) personal contribution as described in 2 AAC 50.254; and

(3) does not include

(A) costs incurred in covering or carrying a news story, editorial, or commentary by a broadcasting station, newspaper, or periodical of regular publication, unless the media organization is owned or controlled by a political party, group, or candidate; if the media organization is owned or controlled by a political party, group, or candidate, the cost of the news story is a contribution, unless the news story is a bona fide news account and is part of a general pattern of campaign-related news accounts that gives reasonably equal coverage to all opposing candidates in the circulation or listening area;

(B) a non-monetary contribution or in-kind donation of a single item with a normal cost of \$50 or less;

(C) a payment made by an individual for the individual's own travel expenses, if the payment is voluntary and is made without an understanding that the payment will be directly or indirectly repaid;

(D) a payment made by a business, corporation, trade association, labor union, or other organization not organized primarily to influence elections to communicate directly with the organization's members or employees, or their families, on any subject, if the communication is of the same format used by the organization when it has communicated in the past on nonpolitical subjects, and does not solicit contributions or any action other than voting for or against a candidate or ballot proposition or question;

(E) a gift, loan, advance, or deposit of money or anything of value made with respect to a recount of a state or municipal election;

(F) costs incurred to provide necessary administrative services associated with a payroll withholding plan; these costs may not include expenses associated with soliciting contributions;

(G) provision of a service or facility to a candidate, group, or nongroup entity, if the entity providing the service or facility is paid at a commercially reasonable rate within a commercially reasonable time or makes the service or facility available to all candidates for a particular office;

(H) provision of an organization's membership or mailing list to the group or nongroup entity affiliated with the organization;

(I) the use of personal money or credit by a campaign treasurer or deputy treasurer for an expenditure allowable under AS 15.13.112, if the amount

(i) does not exceed \$500; and

(ii) is repaid before the end of the report cycle in which the expenditure was made; or

(J) the use of personal money or credit by a candidate for an authorized campaign expenditure, if the amount is repaid within three days after the date of the expenditure.

(b) As used in the definition of "contribution" in AS 15.13.400, a loan or loan guarantee includes an endorsement and any other form of security. A loan may not exceed the contribution limitations of AS 15.13.070, whether or not it is repaid. A loan is a contribution at the time it is made. A loan is a contribution by each endorser or guarantor. Each endorser or guarantor is considered to have contributed that portion of the total amount for which the endorser or guarantor agreed to be liable in an oral or written agreement. If the agreement does not indicate the portion of the loan for which each endorser or guarantor is liable, the loan is considered a loan by each endorser or guarantor in the same proportion that each endorser or guarantor bears to the total number of endorsers or guarantors.

(c) The provision of goods or services without charge, or at a charge that is less than the normal charge for the goods and services in the market, is a contribution unless a lower rate is extended to all campaigns. If goods or services are provided at less than the normal charge in the market, the amount of the non-monetary contribution is the difference between the normal charge for the goods or services at the time of the contribution and the amount charged.

(d) The entire amount paid to attend or participate in a fund-raising activity or other political event and the entire amount paid as the purchase price for a fund-raising item sold by a group, nongroup entity, or candidate is a contribution.

(e) The payment by a person of compensation for the personal services of an individual to a group, nongroup entity, or candidate for any purpose, except for legal and accounting services necessary to complete reports, is a contribution unless the individual works voluntarily and on personal time.

(f) The extension of credit by a person to a candidate, group, or nongroup entity, for a length of time beyond normal business practice is a contribution, unless the creditor has made a commercially reasonable attempt to collect the debt using the methods that the creditor ordinarily uses in a manner similar in intensity to that employed by the creditor in pursuit of a debt unrelated to a campaign.

(g) A contribution to a subordinate unit of a political party is a contribution to the political party. (Eff. 1/1/2001, Register 156; am 2/20/2005, Register 173; am 2/20/2005, Register 173)

Authority: AS 15.13.030 AS 15.13.070 AS 15.13.400  
AS 15.13.040 AS 15.13.078

## **2 AAC 50.321. REGULAR REPORTING BY CANDIDATES, GROUPS, AND NONGROUP ENTITIES.**

(a) Each candidate or group or nongroup entity filing reports under AS 15.13 shall report

(1) for each monetary contribution, the

- (A) date received;
- (B) check number;
- (C) name and address of contributor; and
- (D) amount;

(2) for each nonmonetary contribution,

- (A) the date received;
- (B) the name and address of the contributor;
- (C) a description of each contribution; and
- (D) the estimated fair market value of each contribution;

(3) for each loan or loan guarantee, the

- (A) date received;
- (B) name and address of the lender, loan guarantor, or cosigner;
- (C) principal occupation and employer of the lender, loan guarantor, or cosigner;
- (D) interest rate; and
- (E) amount;

(b) When reporting contributions, a candidate, group, or nongroup entity shall keep a cumulative total of the contributions, including loans, made by each contributor, regardless of the amount of each contribution. For each contribution or aggregate of contributions from the same contributor that exceeds \$250, a candidate, group, or nongroup entity shall report the principal occupation and employer of the contributor in addition to the information reported under (a) of this section

(c) For each contribution from the candidate to the campaign and for income earned from contributions,

including bank interest and income from unused contributions invested in compliance with 2 AAC 50.348, a candidate, group, or nongroup entity filing reports under AS 15.13 shall report the

- (1) date received;
- (2) description of the income;
- (3) name and address of the source of the income; and
- (4) amount or estimated value.

(d) Each candidate, group, or nongroup entity filing reports under AS 15.13 shall report each paid expenditure by reporting the

- (1) date of payment;
- (2) check number;
- (3) name and address of the payee;
- (4) purpose of the expenditure; and
- (5) amount.

(e) Each candidate, group, or nongroup entity filing reports under AS 15.13 shall report each accrued expenditure by reporting the

- (1) date the expenditure was incurred;
- (2) name and address of the person with whom the debt was incurred;
- (3) purpose of the expenditure; and
- (4) amount.

(Eff. 7/22/78, Register 67; am 1/1/2001, Register 156; am 2/20/2005, Register 173)

Authority: AS 15.13.030 AS 15.13.112  
AS 15.13.040 AS 15.13.400

## **2 AAC 50.405. DEFINITIONS FOR 2 AAC 50.250 - 2 AAC 50.405 AND AS 15.13.**

In 2 AAC 50.250 - 2 AAC 50.405 and in AS 15.13

- (1) repealed 1/1/2001;
- (2) “draft group” means a group of two or more individuals organized for the purpose of drafting one or more individuals to run for elective office by becoming a candidate as defined in AS 15.13.400;
- (3) “labor union” means a local, national, or international union, a labor council, or any other labor organization recognized under state or federal law;
- (4) repealed 1/4/86;
- (5) “anything of value” means any item of real or personal property and personal services of any kind, the cost or consideration for which is paid by a person other than the candidate or group for whom the services are rendered; “anything of value” includes facilities, equipment, polling information, supplies, advertising services, membership lists, and mailing lists;
- (6) “candidate” has the meaning given in AS 15.13.400; “candidate” includes an individual who submits a letter of intent to the commission under 2 AAC 50.274;

(7) “money” means currency of the United States or of a foreign nation, checks, money orders, or negotiable instruments payable on demand;

(8) “ongoing group” means a group that holds surplus campaign contributions from a past election campaign or for a future election campaign and that has not filed a final report as required by 2 AAC 50.394(a);

(9) “political party” has the meaning given in AS 15.13.400; “political party” includes a subdivision of the party that is

(A) formed and maintained as specified in the rules and bylaws of the party;

(B) expressly recognized by the party as a unit of the political party; and

(C) registered as a group with the commission;

(10) “resident of the state” or “resident of this state”

(A) means an individual who meets the requirements of AS 01.10.055; and

(B) includes individuals who are registered to vote in the state;

(11) “subcommittee” means an internal subgrouping of a candidate campaign, group, or political party;

(12) “working day” means a day other than Saturday, Sunday, or a state holiday. (Eff. 7/22/78, Register 67; am 6/29/84, Register 90; am 1/4/86, Register 97; am 8/22/97, Register 143; am 1/1/2001, Register 156)

Authority:	AS 15.13.030	AS 15.13.072	AS 15.13.074
	AS 15.13.100	AS 15.13.400	