



# Biennial Report of the Alaska Public Offices Commission

Covering Calendar Years 2009 and 2010

Dated: January 1, 2011

## Commissioners:

Elizabeth J. Hickerson, Chair  
Kathleen A. Frederick, Vice Chair  
Shirley R. Dean, Commissioner  
Kathleen Ballenger, Commissioner  
Kathleen J. King, Commissioner

Holly R. Hill, Executive Director

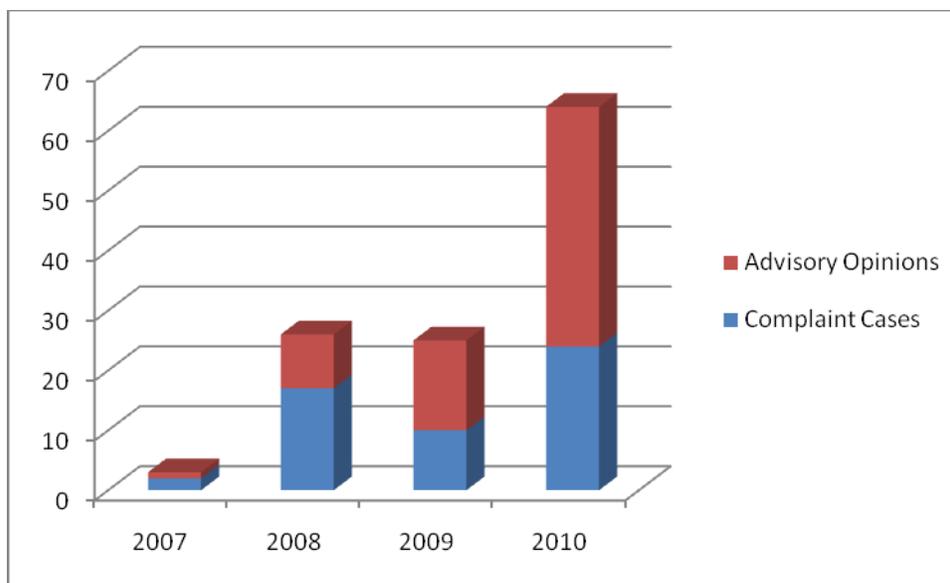
Prepared and published pursuant to AS 15.13.030(8).

**ACTIVITIES OF THE COMMISSION:**

The mission of the Alaska Public Offices Commission (“APOC”) is to encourage public confidence in elected and appointed public officials by administering Alaska’s disclosure statutes and publishing financial information regarding the activities of election campaigns, public officials, lobbyists, and employers of lobbyists.

The Commission bylaws state that the Commission shall meet a minimum of three times per year. Due to increased workload the Commissioners met on 28 days in 2009 and 34 days in 2010. The Commissioners receive only an honorarium in the amount of \$50.00 per meeting day. The Commissioners are not compensated for the necessary review of materials prior to these meeting days. Much of the Commission’s activity during 2009 and 2010 involved complex election issues and complaints that have taken many months to resolve. At the end of 2010, two cases have been pending over 12 months. Both of these cases have required the Office of Administrative Hearings and the administrative law judges to handle aspects of these complaints. At the end of 2010, a total of five complaints remain open (16 original complaints that have been consolidated into five by the Commission).

APOC activities include handling complaints and advisory opinions related to four disclosure laws. The volume of both complaints and advisory opinions has risen dramatically in the last four years as shown in the chart below:



**APOC provides the following core services to the public:**

- Disclose financial information derived from campaign disclosure, public official financial disclosure, legislative financial disclosure, and lobbyist disclosure to encourage and promote voter confidence in public officials.

- Administer laws upholding the public’s right to know the financial affairs of lobbyists and their employers, public officials, political groups, and candidates for state and municipal office.
- Interpret the disclosure laws and assist persons in complying; conduct training seminars; provide reporting forms and instruction manuals for candidates, groups, lobbyists, employers of lobbyists, and public officials. The Commission also issues Advisory Opinions upon request of persons seeking guidance in following the disclosure laws.
- Examine and compare reports for possible disclosure law violations and enforce the laws through compelling the filing of required reports, civil penalty assessments, and complaint investigations.

## **THE LAWS ADMINSTRATED BY APOC**

APOC administers four disclosure laws. These laws require the disclosure of information that enables citizens to trace the influence of private interests on public decision-making. The four laws are:

**Campaign Disclosure Law (AS 15.13)**. Requires state and municipal candidates, and political groups, to file periodic, detailed reports disclosing all campaign contribution and expenditure activities. The campaign disclosure law directly limits the influence of contributors on candidates by limiting the size of campaign contributions.

**Regulation of Lobbying Law (AS 24.45)**. Requires lobbyists to register with APOC, and to file monthly reports of income from lobbying and lobbying expenditures during any month in which the legislature is in session, including special session. If the legislature is not in session, lobbyists file quarterly reports. Employers of lobbyists are required to file quarterly reports of lobbying payments and expenditures.

**Legislative Financial Disclosure Law (AS 24.60.200 - .260)**. Requires legislators, legislative directors, and the members of the Select Committee on Legislative Ethics, to file personal financial disclosure statements, listing business relationships, sources of income (and for legislators the amount of income), and indebtedness.

**Public Official Financial Disclosure Law (AS 39.50)**. Requires all state and many municipal candidates, elected officials, and many appointed state and local officials, to file personal financial disclosure statements, listing business relationships, the source of all income, and indebtedness.

### **2009 Major Accomplishments**

Executive Director developed and implemented a new Strategic Management Plan which reorganized the agency to model a law office. This plan converted existing staff to new positions of Associate Attorney I/II; Paralegal I/II, and Law Office Assistant I/II. This reorganization was designed to capitalize on delegation efficiencies and to allow for

upward mobility within the agency. The agency had 12 full time positions as of December 31, 2009. Over 1,600 financial disclosure statements received in March 2009.

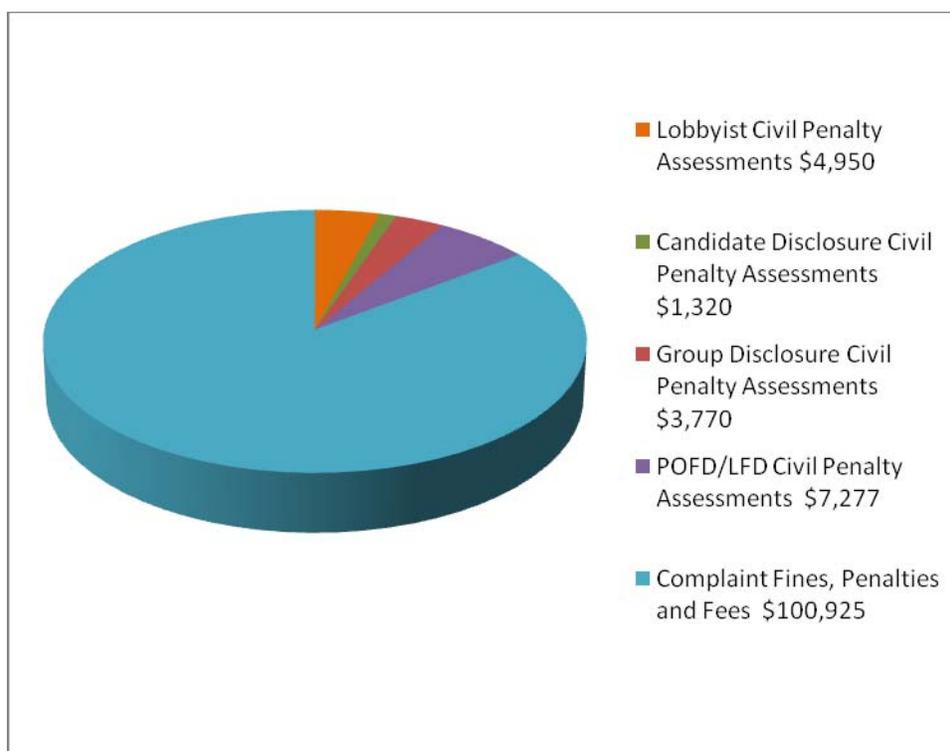
- Over 2,500 filings from lobbyists and employers of lobbyists.
- Over 3,500 campaign disclosure filings from 340 candidates and 140 groups for multiple elections and reporting deadlines.
- Anchorage municipal election in April, runoff election in May, multiple filer and public questions.
- October municipal elections in 31 municipalities, Fairbanks runoff election, multiple filer and public questions.
- Lobbyist Module of the Insight computer filing project was deployed after significant staff time and resources spent developing and testing the module.
- Complaints: 10 total; eight Campaign Disclosure, one Legislative Financial Disclosure, one Lobbyist.
- Advisory Opinions: 15 total; seven Public Official Financial Disclosure, six Campaign Disclosure, two Lobbyist.
- Over 3,000 reports received from lobbyists and employers of lobbyists.
- 28 days of Commission meetings. Meeting topics included development of the mitigation criteria for civil penalty assessment, development of the Request for Proposal for the regulations revision process, and normal Commission business involving policy development, advisory opinions, civil penalty assessments, and complaint related issues. Fourteen of the 28 meeting days involved hearings related to complaint investigations and adjudicatory decision making.

### **2010 Major Accomplishments**

- SB284 and HB36 significantly increased reporting under AS 15.13 and provided funding for additional staff positions consisting of a Paralegal II and a part-time Law Office Assistant. Created new forms, instructions and frequently asked questions and held multiple trainings to explain the new law.
- In July 2010 Interim Reporting System developed to produce reports that are accessible by the public. All campaign reports were posted for public review within 24 hours of receipt for the first time in agency history.
- Over 1,600 financial disclosure statements.
- Over 2,500 filings from lobbyists and employers of lobbyists.
- State primary election in August, general election in November with a significant increase in filer and public questions due to election law changes and ballot measures.
- April to October 2010 staff met with regulations contractor in 11 sessions to review proposed regulations.
- Complaints: 24 total; 22 Campaign Disclosure, two Public Official Financial Disclosure.
- Advisory Opinions: 39 total, 34 Campaign Disclosure, four Lobbyist, one Public Official Financial Disclosure. This is the greatest number of Advisory Opinions in a year in APOC history. The response time was also significantly improved to an average of 4.7 days.

- Completed a comprehensive regulations project and submitted it for public comment on December 1, 2010.
- Commission held 34 days of meetings, eight days of the 34 meeting days involved hearings related to complaint investigations and adjudicatory decision making.

The following chart shows the civil penalties assessed and collected and complaint related fees collected at APOC during 2010. Civil penalty assessments are imposed for late filing of required reports. Complaints are formally filed documents alleging violations of the disclosure laws and may result in fines, penalties, or fees being imposed.



### ENFORCEMENT BY THE ATTORNEY GENERAL'S OFFICE

The Attorney General's Office represents APOC staff in the complaint process. Any person who believes a violation has occurred under the laws APOC administers may file an administrative complaint with the Commission. A summary of the complaint history of APOC is found in the charts accompanying this report. *See Appendix A.* A total of 10 complaints were accepted in 2009, and 24 complaints were accepted in 2010. In 2009, three complaints were rejected as not meeting the requirements of AS 15.13.380 and five were rejected in 2010. At the end of 2010, there were five open complaints (consolidated from 16 original complaints). In 2009, six complaints were referred and assigned to the Office of Administrative Hearings for assignment to an administrative law judge (ALJ). At the end of 2009, three of the referred complaints were in open status. The Attorney

General's Office filed many procedural documents on behalf of the staff in each of these cases, and reviewed the staff reports. Two complaints were still in open status at the end of 2010.

The Attorney General's Office also assisted the Commission in developing a comprehensive set of written procedures to collect debts owed to APOC. The new collections process defines staff procedures and filer notification guidelines.

The Commission adopted a collections policy on March 17, 2009. The Commission may assess civil for late filings under all of the laws it administers.

The Attorney General's Office also assists in the issuance of advisory opinions. Under AS 15.13.374, an individual or group may ask the Commission to issue a formal letter of advice regarding specific activities under the law. In consultation with the Attorney General's Office the staff proposes a written advisory opinion for Commission consideration. During 2009, staff received 15 requests for advisory opinions and 39 requests in 2010. In addition, the Attorney General's Office assists in the review of numerous informal requests for information from APOC staff. A summary of the Advisory Opinions for 2010 accompanies this report. *See Appendix B.*

### **CHALLENGES**

#### **Staffing:**

In FY 2008 and FY 2009, APOC was understaffed, both due to turnover and a shortage of full time staff. HB 109 and HB 281 each provided an additional staff member for APOC. However, the hiring freeze in Fiscal Year 09 and further staff turnover delayed the filling of these positions. In 2010, SB 284 and HB 36 added 1 full time and 1 part time staff member respectively. The agency was fully staffed by the end of the second quarter of FY 2010. However, at the end of the second quarter of FY 2011 it is not fully staffed. Due to the time necessary for staff to be trained and working at full performance, it is anticipated that the lag from the initial turnover to the time new staff are working at the full performance level will impact productivity well into FY 2011. During 2009 and 2010, APOC staff utilized volunteer externs from the Career Academy to perform data entry and other administrative tasks. The organization chart for APOC for Fiscal Year 11 accompanies this report. *See Appendix A, at page 1.*

The recommendation of the commission is for continued full staffing due to the increased workload and productivity at APOC.

#### **Insight Project:**

Effective January 1, 2009, all disclosure reports submitted to APOC must be filed electronically. Although it is currently possible for reports to be electronically submitted to the agency, the primary method is limited to attaching filings to an email for electronic

submission. Both APOC and the public envision a more robust functionality that includes online filing of reports via the internet.

In FY 2010 and prior years, APOC worked with the Division of Enterprise Technology Services (ETS) to create a new online filing project called Insight. The Insight project will enable all filers to electronically file disclosures, to electronically track disclosures, and to provide disclosures in an electronically viewable format to the public.

The Insight project originally envisioned three modules: Lobbyist, Public Official and Legislative Official Financial Disclosure (POFD/LFD), and Campaign Disclosure (CD) modules.

The first module, the Lobbyist Module, is complete and lobbyists and employers of lobbyists file all reports online. After completion of the lobbyist module, IT staff discovered the database platform was not well suited to the CD and POFD modules due to the large numbers of filers and accompanying complexities. Therefore the approach has shifted from a single large project to a series of “sprints” designed to merge current APOC processes into a forward looking online filing project.

Development of the remaining CD and POFD modules will focus first on the immediate need of allowing filers to complete disclosures online; second to developing administrative reports for APOC staff to track data and enforce compliance; and third on ensuring data is available to the public.

Both the CD and POFD modules have been scoped. The degree of complexity and ability to integrate the remaining two modules into the state’s existing system is not yet fully known. APOC will continue to work with the ETS to finalize Insight’s remaining two modules using CIP funds.

### **APOC Website and Information Searchable by the Public**

APOC is working closely with ETS to explore more efficient ways to post information on line via the APOC website. Although Insight is intended to serve this function, the Commission is mindful of the need for information to be available during the interim period until the other modules are completed. Making Commission orders, advisory opinions, reports, and disclosures available to the public remains a very high Commission priority. APOC staff and ETS personnel continue to upgrade the APOC website to provide information for filers and the public under each of the laws administered by the Commission. The focus is to provide information that is searchable by the website users beyond the current limited advisory opinions, campaign disclosures, and select POFD filings.

### **Regulation Development**

The Commission is developing regulations in multiple phases. Regulations have not been modified for many years and alignment is necessary with recent statutory changes enacted in Fiscal Year 2008 and Fiscal Year 2010, to effect necessary changes exemplified by recent Commission decisions, and/or to align regulations with statutory

intent. This multi-phase regulation project is expected to take at least 18 months to complete, extending through the end of Fiscal Year 2011 and into early Fiscal Year 2012. The regulation packet was approved by the Commission to go to the public notice phase. A series of workshops are scheduled for February 2 and 3, 2011 to inform the public on the proposed regulations. Public comment meetings are scheduled for February 23, 2011 and March 23, 2011 on the proposed regulations.

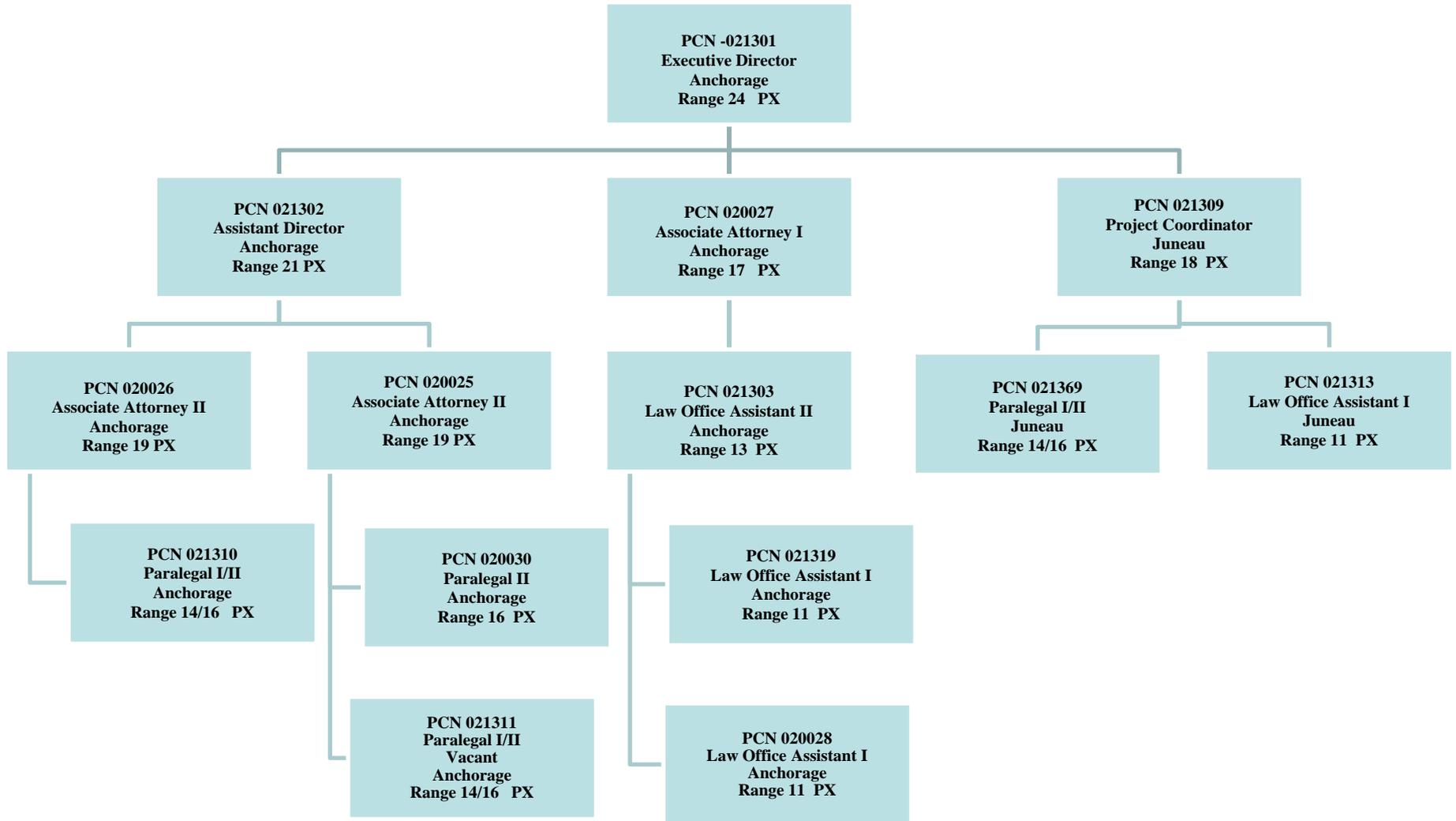
APPENDIX

Appendix A-APOC Organization Chart for Fiscal Year 11 ..... page 1

Appendix B-APOC Advisory Opinions Summaries 2009-2010 ..... pages 2 to 14

# APOC Org Chart

dated 01/01/11



**ALASKA PUBLIC OFFICES COMMISSION**  
**2010 ADVISORY OPINION SUMMARIES**

**AO 10-01-LOB**                      Approved February 24, 2010

Whether Mitchell Gravo was required to register as a lobbyist with APOC prior to meeting with state officials and legislators to discuss a patented business solution related to Alaska's pension system.

*An individual is not required to register a lobbyist to meet with public officials for the purpose of selling a patented business solution under limited circumstances. If the direct communication does not entail influencing legislative or administrative action to achieve the purchase of the business solution, the contact with public officials is not lobbying. However, the content of the direct communication must be limited to selling the business solution.*

**AO 10-02-CD**                      Approved February 24, 2010

The Walker for Governor Campaign asked whether or not it could sell t-shirts as a fundraising mechanism for the campaign, wherein for a \$20 campaign donation the contributor would receive a Walker for Governor t-shirt.

*A campaign can sell t-shirts as part of its campaign effort, so long as all contributions received are reported on campaign disclosure reports.*

**AO 10-03-CD**                      Approved June 10, 2010

Representative Neal Foster asked whether he could use campaign funds to pay for an annual inspection of the personal airplane he would be using for campaign purposes.

*A candidate may use campaign funds to pay for the pro-rated portion of the airplane yearly inspection fee that is attributable to the time of the campaign period. This campaign expense must be reported under AS 15.13.040 and AS 15.13.110.*

**AO 10-04-CD**                      Approved June 10, 2010

The "Stop the Gag Law" ballot group asked whether its deputy treasurer could purchase items on behalf of the ballot group and then be reimbursed by an expenditure from the group's treasurer.

*A ballot group deputy treasurer may purchase items on behalf of the ballot group and be reimbursed for by the group's treasurer. The treasurer maintains the responsibility for tracking use of campaign funds and for filing reports with APOC. Eligible reimbursements made to a deputy treasurer must be repaid prior to the end of each*

*reporting cycle. The reportable expenditure is the expenditure itself and not the reimbursement to the deputy treasurer. For example, if a deputy treasurer purchases \$500 worth of printed flyers from a printer and is reimbursed by the treasurer for that expense, the reportable expenditure to APOC would be to the printer, not to the deputy treasurer.*

**AO 10-05-CD** Disapproved April 8, 2010

The Department of Health and Social Services (DHSS) asked whether it could sell exhibit table space to a gubernatorial candidate for participation in the Alaska Rural Health Conference, an event organized primarily by DHSS that is paid for using state, private, and federal funds.

*On April 8, 2010, the Commission disapproved staff's recommendation by a vote of 4-0. There was no need to render a decision under AS 15.13.145 because DHSS limited the purchase of booths at the event to professionals within the health care field with decision-making authority, and this request to purchase a booth came from a gubernatorial candidate who did not meet the Department's own parameters for participation.*

**AO 10-06-CD** Approved April 26, 2010

The Alaska Association of School Boards asked several questions about the permissibility of its participation in certain activities related to a ballot initiative.

*The short answers to these questions were:*

- 1. AASB is not restricted from providing written information disseminating its views on the ballot initiative to its regular and customary mailing list;*
- 2. AASB is not restricted from debating the issue in a public forum;*
- 3. AASB is not restricted from writing information and opinion pieces that may be printed outside of AASB publication;*
- 4. AASB may distribute resolutions adopted by individual school boards to the AASB membership and regular customary print and electronic mailing lists; and*
- 5. The Commission did not take a position on questions related to use of its normal operating budget for expenditures related to these activities.*

*The AASB is not restricted from influencing the outcome of a ballot proposition under AS 15.13.145(b) because the AASB is not an instrumentality of the state or any other type of entity listed under AS 15.13.145(a)(1)-(3). All expenditures made by AASB must be reported in accordance with AS 15.13.*

**AO 10-07-CD**            Approved April 13, 2010

The Parnell for Governor Campaign asked whether it could (1) participate as a candidate in the Republican Party Convention in Juneau during legislative session, and (2) contribute campaign funds to a delegate welcoming reception held by the Capitol City Republicans at the Governor's mansion.

*On the facts presented, there were no violations of campaign disclosure law for the Parnell for Governor Campaign to participate in these activities. While AS 15.13.072(g) prohibits a candidate for governor from soliciting or accepting funds in Juneau during legislative session, the described activities did not amount to solicitation of campaign contributions. Next, because a candidate may contribute up to \$1,000 annually to co-sponsor an event sponsored by the candidate's political party or a subordinate unit of the party, there was no violation for the Campaign to contribute funds to co-sponsor this event so long as it was within its annual limit. AS 15.13.112(c). APOC Staff additionally found that Governor Parnell's use of the Governor's Mansion to host the event was not in conflict with AS 15.13.145 so long as the event was paid for exclusively through the campaign, the Republican Party, or other non-state sources. Staff made no recommendation with respect to potential executive ethics violations.*

**AO 10-08-CD**            Approved June 10, 2010

The District 2 Democrats asked whether they could accept monies from the Nome Convention and Visitors Bureau for an advertisement in the 2010 Alaska Democratic State Convention Program.

*The District 2 Democrats may accept these funds. Because the intent of the purchase was to advertise Nome as a potential location for an upcoming party convention, the funds were not a contribution to the District 2 Democrats. The opinion advised maintaining separation of these funds from district party contributions and to avoid use of the funds for expenditures related to influencing the outcome of elections.*

**AO 10-09-CD**            Revised Version Approved July 12, 2010

Representative Gara asked several questions about his usage of Facebook and Twitter. He then submitted a Motion for Reconsideration which resulted in a revised advisory opinion.

*The Commission issued the following guidance:*

*"Paid for by" disclaimers are required on Facebook and Twitter when these sites are used to send messages that fit the definition of "communication" found at AS 15.13.400(3). Non-candidate Facebook and Twitter account usage by individuals (private citizens) does not require "paid for by" disclaimers under AS 15.13.090.*

*Incumbent legislators should aim to clearly separate campaign activities from activities performed as part of their official duties in state office.*

*Rep. Gara may continue to use his current Facebook and Twitter pages. Rep. Gara must attach a “paid for by” link to communications as that term is defined in AS 15.13.400. Rep. Gara’s preference to combine personal, legislative, and campaign messages all in one site does not conflict with the Commission’s previous order.*

*The Commission declined to regulate Facebook and Twitter messages wherein one candidate or campaign sends messages promoting the activities of another campaign. The Commission may revisit the issue if presented with facts that demonstrate a risk of corruption should these activities go unregulated.*

Note: A contrary Legislative Ethics advisory opinion prohibits placing a link to a legislative website or e-newsletter on a campaign website. See Legislative Ethics AO 07-07.

**AO 10-10-CD**            Approved June 14, 2010

The Sitka School Board asked whether it could pass and publicize a resolution opposing a ballot measure when funds had not been specifically appropriated for this purpose. The Sitka School Board asked whether this action would involve an expenditure of public funds that required reporting to APOC.

*The resolution may be considered, passed, and distributed through the Sitka School Board’s usual and customary means of considering and announcing a resolution without a specific appropriation. The activity involves a de minimus expenditure which must be disclosed on a report of contributions or independent expenditures to APOC.*

**AO 10-11-CD**            **Partially Approved June 14, 2010**

The Alaska Democratic Party asked whether a professional photographer’s volunteer or reduced rate services to a campaign were “contributions” within the definition at AS 15.13.400(4)(A) or whether under AS 15.13.400(4)(B)(i) they were outside of the definition and hence did not need to be reported to APOC.

*The Commission heard and unanimously approved conclusions 1, 2, and 4 of the advisory opinion which were:*

- 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;*
- 2. The professional photographer’s services provided at a reduced rate are contributions, and may be prohibited by AS 15.13.074(f); and*
- 4. The photographs the photographer provides are non-monetary contributions.*

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

*The Commission disapproved conclusion 3, wherein staff found that the use of the photographer's personal contribution may be a reportable non-monetary contribution. The Commission held that the photographer's personal camera was not a non-monetary contribution. The Commission noted that on different facts personal possessions could rise to the level of reportable non-monetary contributions.*

**AO 10-12-CD**                      Approved July 12, 2010

The Alaska Mental Health Board and the Advisory Board on Alcohol and Drug Abuse sought clarification regarding whether the Boards could take a formal position and advocate for or against a ballot measure without an appropriation of funds for that purpose.

*The Commission held that the Boards could, without a specific appropriation of funds, take a formal position on Ballot Measure 1 according to their customary procedures for doing so. Any expenditures related to this process must be disclosed to APOC.*

**AO 10-13-CD**                      Approved July 16, 2010

The AFL-CIO's Political Action Committee asked whether it could legally contribute raffle or lottery proceeds to candidates.

*Charitable gaming permittees, under the newly adopted AS 15.13.069, are not prohibited by APOC law from using raffle or lottery proceeds to aid candidates for public office. However all reporting requirements must still be met by the permittee making any contribution(s).*

**AO 10-14-POFD**                      Approved September 23, 2010

Mr. Isaacson, a municipal filer and president of a corporation, asked whether he was required to disclose corporate debt on his Public Official Financial Disclosure (POFD) statement.

*AS 39.50 does not require Mr. Isaacson to disclose corporate debts for which he is not personally liable. Specifically, under AS 39.50.030(b)(5), a filer is only required to disclose "any loan or loan guarantee of more than \$1,000 made to the person, the person's spouse or domestic partner, or the person's dependent child...." Unless Mr. Isaacson has entered an agreement wherein he is personally liable for corporate debt, he does not have to report it on his POFD statement.*

**AO 10-15-CD**

Approved July 12, 2010

The Laborers' International Union of North America Local 341 sought clarification regarding its ability to make independent expenditures and accept contributions for purposes of influencing candidate elections after the passage of Senate Bill 284.

*Local 341 may solicit general treasury fund money from other entities' political activities accounts, but it cannot form a group amongst unions and then contribute to that group for the purpose of making independent expenditures in candidate elections. So long as Local 341 is not actively seeking funds from its membership for purposes of independent expenditures, dues paid to the union's general treasury are not considered reportable contributions when those funds are dedicated to the political activities account.*

**AO 10-16-CD**

Approved July 16, 2010

Senator Gary Stevens sought guidance regarding the permissible uses of public office expense term (POET) account funds, office account funds, and campaign funds for incumbent legislators to use to travel to a variety of state and political events. Sen. Stevens also asked for a definition of "partisan political activities."

*The Commission approved the following guidance:*

- 1. POET account funds may be used both to travel to an event associated with the candidate's service as a member of the legislature and to attend a peripheral campaign event. However, APOC staff would need to evaluate use of POET account funds for such travel on a case-by-case basis.*
- 2. An incumbent's campaign contributions may be used for travel purposes that "reasonably relate to election campaign activities." AS 15.13.112(a). However, a campaign account may only be used to travel to a campaign event related to the candidate's own campaign. Some exceptions to this rule are discussed within this opinion. The opinion did not find any restriction barring a legislator from attending a peripheral state event while traveling to attend his or her campaign event.*
- 3. An incumbent candidate may use personal funds to travel to a state or campaign event. However if personal funds are used for campaign travel, the incumbent candidate must report use of these funds as contributions to the candidate's campaign. AS 15.13.040.*

*Partisan political activities are those activities that pertain to a specific political party's activities, imply a bias, or advocate a particular position in an election.*

**AO 10-17-CD**

Approved August 20, 2010

The Defenders of Wildlife Action Fund (DWAF) asked whether a non-profit corporation can make independent expenditures to influence the outcome of Alaska's candidate

elections. DWAF also asked whether it is a “non-group entity,” and if so, whether the restrictions of AS 15.13.072(h) would apply to independent expenditures it makes related to candidate elections.

*DWAF falls within the definition of “person” and may make independent expenditures without being considered a non-group entity. All reporting requirements and paid for by identifier requirements apply to DWAF. DWAF is not a “non-group entity” for APOC purposes. If the Commission were to apply the nongroup entity designation to DWAF, only 10% of DWAF’s contributions for the purpose of influencing a candidate election could come from non-state sources. AS 15.13.072(h). The Commission declined to consider enforcement of AS 15.13.072(h) in the advisory opinion following its conclusion that DWAF was not a nongroup entity.*

**AO 10-18-CD**

Approved August 20, 2010

Stop the Gag Law (STGL), an active ballot measure group, asked whether all ballot measure groups report equally and whether changes to AS 15.13 require ballot measure groups to report expenditures both on regular campaign reports and as independent expenditures.

*Proponents and opponents of ballot measure groups have identical disclaimer and disclosure reporting requirements. Ballot measure groups must report all expenditures within 10 days of making the expenditure (or within 24 hours if the expenditure is made within 10 days of an election) and must also file a more detailed accounting of their expenditures on 30 day, 7 day, and year end reports.*

**AO 10-19-CD**

Approved August 20, 2010

The Alaska Travel Industry Association PAC (ATIA PAC), a registered group, asked whether it may solicit contributions at a convention held in a foreign country.

*The ATIA PAC may raise funds in a foreign country; however, the funds generated may only come from United States citizens. Additionally, 90% of the group’s overall contributions must come from Alaska residents. The opinion encouraged the ATIA PAC to keep a meticulous record of its fundraising activities and to report them accordingly under AS 15.13.*

**AO 10-20-CD**

Approved August 20, 2010

Alaskans for Benson sought guidance regarding how the successful candidates for governor and lieutenant governor from the same party join campaigns and file reports with APOC after the primary election.

*The candidates may keep their separate campaigns and raise money and file reports under the separate campaigns; form a joined campaign and raise money and report under only the joined campaign; or form a joined campaign while keeping their original campaigns and raise money and report under all three campaigns.*

**AO 10-21-CD**                      Approved August 20, 2010

The Interior Alaska Conservative Coalition (IACC) asked whether it could set up a legal defense fund for expenses related to defending an ongoing APOC complaint.

*The IACC may solicit funds for a legal defense fund to pay attorney's fees for the defense of a complaint brought by APOC against IACC so long as IACC: (1) maintains an accounting of these funds separate from its general operating funds; (2) uses the funds only for the legal defense mounted against Complaint 09-10-CD, APOC v IACC; and, (3) maintains a record of persons who donate funds and the amounts donated such that if IACC is later determined to be a group under AS 15.13, the funds can be appropriately reported to APOC.*

**AO 10-22-CD**                      Approved September 23, 2010

The Alaska Gasline Pipeline Authority (AGPA) asked whether the Commission would regulate prospective advertisements (1) wherein the AGPA discusses its gasline proposal and/or compares their gasline proposal with other projects, and (2) wherein the AGPA discusses candidate stances on the gasline projects.

*An advertisement that explains the AGPA's voter mandated gasline project or that compares different gasline projects, absent a ballot initiative on this topic, will not require AGPA to register with APOC or to file a statement of independent expenditures. An advertisement that discusses the views of some, but not all, candidates running for a particular office would require the AGPA to file with APOC, because it would be a "communication" within the definition at AS 15.13.400(3). The AGPA could create an ad that disseminates the "views of all candidates running for a particular office," as permitted by the exception in AS 15.13.150(5) for election educational activities, without having to file reports with APOC.*

**AO 10-23-CD**                      Withdrawn September 10, 2010

**AO 10-24-LOB**                      Approved September 23, 2010

Jeff Cook asked whether as a registered lobbyist he may appear in a television advertisement endorsing Senator Joe Thomas, a candidate for the Alaska State Legislature.

*Mr. Cook may appear in a television campaign commercial on behalf of Senator Joe Thomas as long as the commercial does not solicit funds or reference fund-raising in any manner. Mr. Cook's appearance is not prohibited under AS 24.45.121(a)(8) as he is allowed to "personally advocate on behalf of a candidate."*

**AO 10-25-LOB**                      Approved November 18, 2010

Steven Burk of Quarles & Brady, asked on behalf of Jeff Cook and Flint Hills Resources whether or not a registered lobbyist may serve on the Alaska Department of Commerce, Community, and Economic Development's Economic Advisory Council?

*Mr. Cook may serve on the Economic Advisory Council. However he may not do anything in this position that would result in his employer, Flint Hills Resources, receiving a direct economic benefit from his participation and activity on the Council.*

**AO 10-26-CD**                      Approved November 4, 2010

Anna von Reitz, a member and secretary/treasurer of Gas for Alaskans (GFA) asks whether GFA can fundraise for its general fund by selling sweatshirts while handing out fliers for political candidates. The sweatshirts do not bear any type of political message.

*The sweatshirts are not expenditures, nor are they contributions to any candidate or campaign. GFA members may distribute campaign literature while selling their nonpolitical sweatshirts.*

**AO 10-27-CD**                      Approved October 20, 2010

The Alaska Hotel and Lodging Association (AHLA) asked whether it could use raffle proceeds obtained pursuant to a raffle conducted by its PAC in 2007 to purchase endorsement ads in the 2010 election cycle. AHLA also asked what disclosure and disclaimer laws would apply to any permissible use of the funds.

*The Commission held that AHLA could use the 2007 funds to make independent expenditures pursuant to a 2010 change in the law applicable to charitable gaming permittees. The Commission recognized that this was a unique situation and held that AHLA must comply with all disclosure and disclaimer laws in effect today, including usage of a political activities account and accurate "paid for by" identifiers.*

**AO 10-28-CD**                      Approved October 20, 2010

Ardith Lynch, Associate General Counsel for the University of Alaska (UA), asked questions regarding the UA's participation in activities related to a bond proposition.

*Absent a specific appropriation, the UA may not use its funds to influence the outcome of an election concerning a ballot proposition such as, in the instant case, Proposition B. The exception to this limitation created by 2 AAC 50.356(b) allows the Chancellors to participate in the Telephonic Meeting because the Chancellors' communications will be within the usual or customary performance of the Chancellors' duties. Any expenditure associated with this activity must be reported to APOC. The UA staff's preparation and dissemination of confidential alumni information and the creation of a confidentiality agreement does not come within the exception found in 2 AAC 50.356(b). These activities would be illegal under AS 15.13.145.*

**AO 10-29-CD**

Disapproved October 20, 2010

Kenneth Kirk, attorney for the Alaska Republican Party (ARP), asked whether the ARP could create and maintain a Governor's Fund taking donations from individuals and then using them to make contributions to the Governor pursuant to the limits in AS 15.13.070.

*On October 20, 2010, the Commission disapproved staff's recommendation by a vote of 4-0.*

**AO 10-30-CD**

Approved October 20, 2010

The Aleutians East Borough asked whether campaign disclosure laws permitted them to buy Foosball tables for the two winners of a challenge brought by communities in the Borough to see which communities could get the largest percentage of registered voters to the polls in the November 2010 General Election.

*The Aleutians East Borough (AEB) and communities within AEB may participate in educational efforts to get out the vote. However, the AEB may not sanction the support or opposition of specific candidates or ballot measures. The Commission lacks jurisdiction over the question of whether or not AEB may buy Foosball tables as an incentive or prize.*

**AO 10-31-CD**

Approved October 20, 2010

Kaye Sullivan, CFO, asked on behalf of NEA-Alaska whether proposed member communications via a "teletown hall" forum would be reportable "contributions" to a candidate for state office. She also asked on behalf of NEA-Alaska PACE, a registered group with APOC, how to comply with "paid for by" disclaimer requirements when all members contribute equally for the groups general goals.

*Provided that the customary types of communications described by NEA-Alaska have been routinely used for communications with NEA-Alaska's employees and members related to nonpolitical subjects in the past, and provided that NEA-Alaska does not ordinarily charge a fee for the type of activity described in the proposed "teletown hall"*

*forum, NEA-Alaska may make use of the new technology to communicate with its members. Such a forum would not constitute a reportable contribution.*

*PACE need not list all individual members as contributors in a paid for by disclaimer for an independent expenditure which is paid for by funds which were not solicited for that purpose but which were obtained from general membership fees. Rules on political activities accounts still apply and PACE would need to file the appropriate independent expenditures reports with the Alaska Public Offices Commission.*

**AO 10-32-CD**                      Approved October 20, 2010

Alaska Conservation Voters asked whether campaign finance laws prohibit it from placing links to the websites of endorsed candidates on its website.

*No Alaska campaign finance law prohibits ACV from this activity. Nevertheless, the website activity is not only an expenditure, but also a contribution to the candidate. If ACV elects to place links to endorsed candidate websites on its website, it must report the links as expenditures and contributions to the individual candidates.*

**AO 10-33-CD**                      Approved October 20, 2010

The Mike Kelly campaign asked whether or not Governor Parnell could endorse candidate Kelly in a 30-second radio advertisement. If this activity was permitted, the campaign asked how to arrange for payment of the expenditure.

*The Commission held that Governor Parnell could endorse Mike Kelly in a radio ad. The Commission further held that the Mike Kelly campaign should pay for and report the entire expense for the ad unless the ad was a shared campaign activity. If the advertisement were for a shared campaign activity, each candidate should pay for his or her pro rata share and submitted a shared campaign activity form.*

**AO 10-34-CD**                      Approved October 20, 2010

Rep. Gara asked whether it was legally permissible to send out a campaign fundraising letter that simultaneously informed supporters that excess campaign funds may be transferred after the election to (1) fund a public office expense term (POET) account, (2) an authorized charity, and/or (3) a future campaign account.

*The Commission held that a candidate may send a fundraising letter which quotes permissible uses of surplus campaign funds following an election according to the statute. These permissible uses include transfer of funds to a POET account, to a qualified charity, and to a future campaign account. AS 15.13.116. The opinion cautioned that sending a fundraising newsletter which proposes to solicit campaign funds and then transfer an unlimited amount of funds to a qualified charitable organization*

*could be construed as a personal benefit to the candidate and hence be prohibited by AS 15.13.112(b).*

**AO 10-35-CD**                      Approved October 20, 2010

Candidate Dan Saddler asked (1) whether it was permissible to use a personal photograph of Governor Parnell or any other elected official in an emailed or mailed communication to supporters, and (2) what value to assign to such photograph.

*Candidate Saddler can use a personal photograph or endorsement of Governor Parnell in an email or mailed communication to voters for the purpose of influencing his own election. If there was a cost to obtaining the photograph, that cost should be reported as a contribution from the individual who paid for the expense, unless it was the Saddler campaign which paid for the expense, in which case it would be reported as a campaign expenditure for candidate Saddler. Candidate Saddler was cautioned against using the official photographs of elected officials as this activity may constitute an illegal use of state money under AS 15.13.145. Candidate Saddler was also cautioned to be sure the communication only concerned his own candidacy in order to avoid rules applicable to shared campaign activities.*

**AO 10-36-CD**                      Disapproved November 18, 2010

Scott Hawkins, chairman of Prosperity Alaska, asked whether a mailer to voters that grades the performance of elected officials in their legislative district requires paid for by identifiers, and if so, whether the top three contributors derived from membership contributions must be disclosed.

*On November 18, 2010, the Commission disapproved staff's recommendation by a vote of 0-5. The Commissioners were unable to approve the Advisory Opinion as the Commission determined that they did not have all of the relevant facts under AS 15.13.374(b)(3).*

**AO 10-37-CD**                      Withdrawn October 28, 2010

**AO 10-38-CD**                      Staff Issued December 17, 2010 (Pending)

**AO 10-39-LOB**                      Staff Issued December 14, 2010 (Pending)