ALASKA STATE LEGISLATURE
2006 STANDARDS OF CONDUCT HANDBOOK

Prepared by the
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INTRODUCTION

PURPOSE OF THIS HANDBOOK

This handbook is intended to be a **practical guide** to Alaska's legislative ethics law, Alaska Statute 24.60.

The handbook parallels the ethics code. Each section addresses a particular section of the code.

The descriptions, questions/answers and examples are provided as guidelines only and do not have the force of law.

APPLICABILITY

TO WHOM DO THE RULES IN THE ETHICS CODE APPLY?

AS 24.60.020, 24.60.080, 24.60.090 and 24.60.990

The requirements and prohibitions in the ethics code apply in varying degrees to legislators, most employees of the legislative branch, and to public members of the Ethics Committee. The code applies to a limited extent to family members of legislators and employees and to volunteers in legislative offices. The law does not apply to candidates or people who have been elected to the legislature but have not yet been sworn into office. The ethics code uses the following terms to distinguish which persons are covered by a particular requirement or restriction:

"Legislator" means a person currently serving in the Alaska Legislature.

“Former member of the legislature” means a person who previously served but is not currently a member of the legislature. The activities of a former member are *not* governed by the ethics code. However, a complaint may be filed against a former member for violations committed while in office, for a period of one year after the former member’s departure from the legislature. Alaska’s lobbying law and the Alaska Constitution limit the employment options of former members of the legislature.

“Legislative employee” means a person who is paid by the legislative branch for regular or substantial personal services, including part-time and full-time employees, legislative directors, independent contractors and consultants. Public members and staff of the Ethics Committee are specifically included.

The term does <u>not</u> include people whose jobs are considered incidental to legislative functions. The following positions are exempt from the ethics code requirements: Print Shop, GS Maintenance, GS Supply, Capitol Tour Guides, Legal and Research employees who are at Range 15 and below, security guards, and messengers. Contact the Ethics Committee if you are unsure if a position is covered by the ethics code.

“Legislative Director” means a legislative employee who is the head of one of the divisions within the legislative branch, specifically, the director of Legislative Finance, the Legislative Auditor, the Ombudsman, the Legislative Affairs Agency (LAA) Executive Director and the directors of the divisions within LAA. Legislative directors are subject to the rules for legislative employees as well as additional reporting requirements set out in AS 24.60.200-260.

“Committee employees and contractors” mean legislative employees who are hired or paid under contract by the Ethics Committee. Committee employees and contractors are considered legislative employees and are subject to the rules for legislative employees as well as the additional restrictions set out in AS 24.60.130(f) and (k) and AS 24.60.134.

“Public member of the committee” means each of the five non-legislators who serve on the Ethics Committee. Public members are considered legislative employees and are subject to the rules for legislative employees in addition to rules set specifically for public members.

“Member of the immediate family of a legislator or legislative employee” means the spouse, domestic partner, parent, child (including stepchildren and adoptive children) and sibling of the person, if the member of the family resides with the person, is financially dependent on the person <u>or</u> shares a substantial financial interest with the person. The restrictions on the activities of immediate family members appear in AS 24.60.040, concerning state contracts, leases and grants and in AS 24.60.090, concerning nepotism. Gifts to legislators and legislative employees from immediate family members are addressed in AS 24.60.080. A different definition for family exists for the gift section.

“Individual who is related to a member of the legislature or a legislative employee” means a member of the person’s immediate family or the person’s domestic partner with whom the legislator or employee is cohabiting with in a relationship that is like a marriage but which is not a legal marriage. This term appears only in AS 24.60.090, the nepotism section.

"Campaign committee of a legislator" means a group formed or controlled by a legislator whose purpose is to help elect the legislator to public office. This term appears only in AS 24.60.030(d), the prohibition on distributing or posting campaign materials in state facilities.

"Domestic partner" means a person who is cohabiting with another person in a relationship that is like a marriage but that is not a legal marriage.

"State Office" includes the office of governor, lieutenant governor, member of the legislature, or similar state office.

"Volunteer" means a person who provides services for legislative purposes who is not receiving compensation from another source for the services or who provides services through participation in an educational program approved by the committee. See AS 24.60.080(h).

STANDARDS OF CONDUCT

The legislature has found that high moral and ethical standards among public servants in the legislative branch of government are essential to assure the trust, respect and confidence of the people of this state and further finds that compliance with a code of ethics is an individual responsibility; thus all who serve the legislature have a solemn responsibility to avoid improper behavior.

AS 24.60.010 Legislative Findings

"BENEFIT", "ANYTHING OF VALUE", and "THING OF VALUE"

AS 24.60.990(a)(2)

If conduct results in, or there is an attempt to gain, a "benefit", "thing of value" or "anything of value" to the legislator or employee, the ethics code prohibits legislators and legislative employees from doing certain things, including accepting outside payments for doing a legislative job, misusing government assets or resources, or indicating that a legislator will take certain official action.

These terms are defined very broadly in AS 24.60.990(a)(2) to include anything that could reasonably be considered to be a material advantage or of material worth to the person who receives it. The terms include anything that is valuable enough to the person who receives it, for that person to be willing to do something to get it and anything that furthers a person's financial interest or from which a person hopes to gain in any way.

The terms are not limited to economic or financial value. The terms specifically do *not* include permitted gifts under AS 24.60.080 or lawful campaign contributions.

PAYMENT FOR PERFORMING LEGISLATIVE DUTIES

AS 24.60.030(a)(1)

A legislator or legislative employee may *not* request or accept payment or another benefit, except for official state compensation, for doing his or her legislative job. Further, the Alaska criminal code, AS 11.56.120, prohibits a public servant from soliciting or accepting an unlawful gratuity for performing an official action.

Does this prohibition on accepting benefits apply to campaign contributions?

No. Lawful campaign contributions may be accepted, except when specifically prohibited under AS 24.60.031. (Contact the Alaska Public Office Commission, (907)276-4176, for additional restrictions on campaign contributions.)

Does the prohibition on accepting benefits apply to gifts?

No, so long as the gifts are within the legal restrictions set out in the ethics code, AS 24.60.080.

May a legislator or a legislative employee hold a job outside the legislature?

Yes, as long as the second employer is paying the legislator or employee for the duties related to the second job, not for legislative duties related to the legislative job.

May a legislative employee, who would have to work overtime to make copies of legislative files for a constituent, accept payment from the constituent for the extra time required?

Absolutely not.

May a legislative employee serve as an election official while working for the legislature?

No. This is not a legislative duty. However, you may take leave to serve as an election official.

PRIVATE BENEFIT or NONLEGISLATIVE USE: USE OF GOVERNMENT ASSETS

AS 24.60.030(a)(2)

A legislator or legislative employee may not use government assets for his/her own, or another person's, private benefit, for a non-legislative purpose or for partisan political purposes. Government funds, buildings, equipment, and services should not be treated as the personal possessions of legislators or legislative employees.

There are a few narrow exceptions to this general rule. Limited use of state resources for personal purposes is allowed, if the use does not interfere with the performance of state work <u>and</u> either the cost or value related to the use is nominal or the state is reimbursed for the cost. The committee notes that "use" should be infrequent under these exceptions. Mailing lists, computer data and other forms of government information, which are available to the general public, may also be used. The use of government telephones and fax machines for private calls, as long as the calls do not result in a charge to the state, is specifically permitted. Also, the Alaska Legislative Council is authorized to designate space for use by legislators and legislative employees for health and fitness purposes.

Legislators are allowed to use their private offices in the Capitol during session for personal and political purposes if there is no cost (or the cost is promptly reimbursed) <u>and</u> the use does not interfere with the performance of public duties. Legislators are also allowed to store and maintain (but not use staff to do so) election campaign records and reports (not campaign signs, other materials, etc.) in their private offices.

May a legislator or legislative employee make personal long distance calls on the office phone?

Yes, if each call is charged to a personal account, is placed "collect" or is *promptly* reimbursed. Your employer or supervisor is expected to limit the amount of time spent on personal calls.

May a legislative employee run a small consulting business out of a legislative office, after hours, when it would not interfere with the performance of public duties?

No. This goes beyond limited use.

May a legislator run a small consulting business out of a legislative office, after hours, when it would not interfere with performance of public duties?

The legislature amended the ethics code in 1998 to allow a legislator (not an employee) to use his/her private office in Juneau during a legislative session (and the ten days before and after) for nonlegislative purposes **if** the use does not interfere with the performance of public duties **and** there is no cost to the state for the use of the space and equipment or the legislator promptly reimburses the state for the costs. The committee notes that the legislative intent was not to encourage legislators to set up business or campaign offices in the capitol, the intent was to ensure that citizen legislators were not penalized for incidental use for non-legislative purposes.

May legislators or legislative employees print the legislative office number and fax number, along with the separate business information, on their private business cards?

No. While the actual number of contacts made to the legislative office may prove to be minimal, this would imply that government resources, including legislative staff, are there for the private benefit of the legislator or legislative employee.

May a legislator or legislative employee solicit signatures for a ballot initiative in a legislative office?

No, however copies (not the official petition to be signed) of the initiative petition may be made available in a legislative office. Reference Advisory Opinion 97-02 (see section titled "Advisory Opinions" on this web site.).

May a legislative office provide pre-printed labels to a constituent for a private purpose?

No, while computer data or lists that are generally available to the public may be provided to the constituent, pre-printed labels would fall under the prohibition on use of government assets for non-legislative purposes.

May a legislator or legislative employee create a personal resume on his or her own time, using a state computer?

Yes, under the following conditions: creating the resume does not interfere with performing legislative duties, only one copy is printed and the resume is stored on a disk purchased by the person creating the resume. Copies of the resume should be purchased through a private print shop.

Are voting-related activities, such as driving people to the polls on election day, considered "legislative"?

No. State resources, including legislative employees on state-paid time, should not be used for activities related to elections. However, answering incidental inquiries as to where a person votes would be allowable.

The ethics code does not define the terms "limited" or "nominal". The Ethics Committee finds that the following general rule should be applied, except in unusual circumstances: DO NOT USE, OR ALLOW OTHERS TO USE, GOVERNMENT ASSETS FOR PERSONAL BENEFIT OR FOR NON-LEGISLATIVE PURPOSES.

PUBLIC FUNDS

AS 24.60.030(a)(3)

A legislator or legislative employee may not knowingly use government money in ways that are not permitted by law. Legislators and legislative employees may not make false claims for state payment. Legislators and legislative employees may not submit per diem claims for days they did not do the required amount of legislative work.

May a legislator claim travel per diem from the state and reimbursement for food and lodging from a campaign fund for the same day?

No. Either the legislative per diem or the campaign reimbursement may be justified but claiming both would be a violation of either the ethics code or the campaign laws.

May a legislator or legislative employee request that the state pay for a hotel room at a conference if another person (i.e., person's spouse, children, family, friend, etc.) is also occupying the room?

If the legislator or legislative employee personally pays the difference between a single occupancy room and a double occupancy room, he or she may request state payment for the remaining amount, so long as using state funds to pay for attending the conference has been approved.

EMPLOYEES: USE OF EMPLOYEES FOR PERSONAL TASKS
AS 24.60.030(a)(4)

A legislator or legislative employee may not require another legislative employee to do personal tasks for him or her at *any* time. A legislator or legislative employee may not even allow another legislative employee to voluntarily perform personal tasks for him or her on “government time”. An exception to this general rule is allowed in infrequent and unusual situations where the legislative employee’s personal services are necessary to permit a legislator or another legislative employee to perform legislative duties.

The ethics code does not define “government time”. The committee interprets “government time” to mean time for which the employee is being compensated by the state for work performed based on a schedule set by a supervisor. Legislative employees have a wide variety of work schedules. The specific hours in “government time” may vary according to the work schedules set by supervisors for each employee. The term “government time” is also in AS 24.60.030(b).

A person covered by the ethics code should note that, in the event a complaint is filed against him or her alleging participation in non-legislative activities on government time, the burden of proof would be on the employee to show a pre-approved work schedule or show leave time had been requested for the time in question.

May a legislator or legislative employee *allow* staff to arrange for personal vacation travel *while on government time*?

No.

May a legislator or legislative employee *require* staff, *at any time*, to seek clients for the legislator’s private business?

No.

May a legislator or legislative employee ask or allow staff to pick up personal dry cleaning each week during the employee’s workday?

No.

May a legislator or legislative employee ask or allow staff to pick up a clean shirt at the dry cleaners if the legislator or employee just spilled ink on the shirt being worn and must soon attend a meeting?

Yes, this falls within the infrequent and unusual situation rule.

May a legislator or legislative employee require staff to baby-sit while the legislator attends a reception?

No.

CAMPAIGNING: USE OF GOVERNMENT ASSETS
AS 24.60.030(a)(5)

A legislator or legislative employee may not use government assets for political fundraising or campaigning. The code does allow *minimal* use of government assets if the use does not interfere with the performance of state work, is applied infrequently and the use is considered nominal or limited, or the legislator or employee reimburses the state for cost of the use.

In the past, the committee has strictly interpreted this section of the code. Those covered by the ethics code should use caution when the line between campaigning and performing legislative duties becomes less than clear.

What if a campaign-related call comes into the legislative office?

The caller should be politely referred to the telephone number of the campaign headquarters or the home of the legislator.

May a legislator put the legislative office number, fax number, email and/or mailing address on candidate materials?

No, as that would require or allow staff to handle campaign related contacts. Note, this includes the State Division of Elections Voter Guide.

May campaign materials be stored in a legislative office, so long as they are not in public view?

Legislators are allowed to store Alaska Public Offices Commission campaign records in their offices but not campaign materials which are intended to influence the outcome of an election.

What if an unsolicited campaign contribution arrives in the office mail during the legislative interim?

The legislator, not the staff, should take the contribution to the campaign headquarters or home for processing. It is inappropriate for staff to be doing campaign related activities while receiving a legislative salary. Campaign contributors should be provided the legislator's campaign or home address.

May a legislator or legislative employee make copies of campaign materials on a state copier?

Generally, no. Limited exceptions are listed in AS 24.60.030(5)

May a legislator request staff to research an issue in response to a constituent concern and then later use that information in a campaign speech?

A qualified yes, so long as the information is public information and available to any one who requests it. The legislator may not use staff to assist in researching or writing campaign speeches.

May a legislator hold a press conference in the legislative office to announce his or her candidacy?

No. That activity could easily interfere with performance of state work and would imply on-going use of the office for campaign purposes.

GOVERNMENT TIME: POLITICAL AND CAMPAIGN WORK

AS 24.60.030(b)

A legislative employee may not participate in political party or candidate activities, campaigning or fundraising on government time. Legislators may not require an employee to violate this prohibition. In this section, "government time" is interpreted to mean time for which the employee is being compensated by the state for work performed based upon a schedule set by the supervisor. Legislative employees have a wide variety of work schedules. The specific hours included in “government time” vary according to the work schedules set by the supervisor for each employee. The term “government time” is also used in AS 24.60.030(a)(4).

A person covered by the ethics code should note that, in the event a complaint is filed against him or her alleging campaign work on government time, the burden of proof would be on the employee to show a pre-approved work schedule.

Think about how it looks to the public when legislative employees participate in campaigns, especially the campaign of the person for whom they work.

May a legislative employee design a campaign flyer either at work or in a private location while on government time?

No.

May a legislative employee participate in fundraising efforts or signature gathering for a ballot initiative while on government time?

No. You should contact the Alaska Public Offices Commission, (907) 276-4176, for additional restrictions on use of state resources for candidate and ballot propositions/advisory votes.

If a legislator sets a schedule that, for example, allows an employee to work for five hours, be on personal time in the afternoon and return to work for three hours in the evening, may a legislative employee participate in campaign activities on the designated personal time?

Yes, so long as the employee is not in a state building or using state resources while doing campaign work.

May a legislative employee assist a legislator in completing Alaska Public Offices Commission campaign disclosure statements while on government time or in a state building?

No.

MASS MAILING: USE OF STATE FUNDS

AS 24.60.030(c)

State money (including but not limited to: Finance Committee funds, leadership funds) may not be used to print or distribute a mass mailing from or about a legislator who is a candidate for state, federal, municipal offices or for telephone/electric cooperative boards, during the period beginning 90 days before the primary and ending the day after the general or special election. However, a legislator’s personal office allowance may be used for legislative business mailings (per Legislative Affairs Agency guidelines) at any time. The Ethics Committee may grant exceptions to this prohibition in specific cases. Advisory Opinion 99-04 applies to mass e-mailing. (See web site section titled “Advisory Opinions”.)

What if a legislator, who is running for reelection and who serves as chair of a committee, uses committee funds to send out a mass mailing describing personal achievements as chair of the committee, 60 days prior to the general election?

That legislator would be in violation of the ethics code. A) The legislator is a candidate for state office. B) Costs related to the mailing are from state funds. C) The mailing occurs within the 90-day restriction period.

Is there a legal way for a committee chair to disseminate information, using committee funds, during the "90 days before election" restriction period?

Perhaps, if the legislator requests the Ethics Committee to authorize the mailing.

CAMPAIGN LITERATURE: DISTRIBUTION IN STATE BUILDINGS
AS 24.60.030(d)

A legislator, legislative employee, another person acting on behalf of the legislator or the campaign committee of the legislator may not distribute or post campaign literature in public areas of a building ordinarily used to conduct state business.

This prohibition applies to any literature intended to influence the election of any candidate in any election, not just to the legislator's own materials and includes notices of fundraising events for political campaigns. The law does allow a legislator to post materials related to a past election in a private legislative office.

May a legislator, legislative employee, or someone on behalf of the legislator, place invitations to a candidate fundraiser in the legislative mailboxes?

No.

May a legislator or someone on behalf of the legislator, *mail* campaign fundraiser invitations or send campaign fundraiser *emails to* state addresses?

Yes, the committee has determined this activity does not violate the code. However, the committee does not encourage this practice as some public employees and officials have expressed dismay about receiving political literature at their offices. Keep in mind state resources may not be used for any campaign related activity.

Does the prohibition on legislators distributing campaign materials in state facilities apply to literature about municipal candidates as well?

Yes. The prohibition refers to campaign literature "intended to influence the election of a candidate in an election"; therefore it extends to any candidate in any election.

CONTRIBUTIONS: COERCION
AS 24.60.030(e)(1)&(2)

A legislator may not threaten, state or imply that the legislator's decision to take an official action or perform a constituent service will be influenced by a person's contribution to a political campaign or a cause favored by the legislator or by a person's offer or withholding of a thing of value. A legislator may not authorize another person to make coercive statements or implications on his or her behalf. An official action means administrative, political or legislative action and includes such things as supporting or opposing a bill, nomination or appointment, influencing writing of regulations, and scheduling bills for hearings.

For example, a legislator may not say or imply to a lobbyist that the legislator would be more interested in the lobbyist's concern if the lobbyist would support the legislator's campaign or a cause favored by the legislator.

May a legislator threaten or imply that his or her support for public broadcasting may be withdrawn if a radio station airs a controversial story about the legislator?

No, this action would be in violation of the ethics code.

May a legislator imply that he or she will draft a bill on behalf of an interest group, if that group will support his or her favorite charity organization?

No, regardless of the community value of the organization, this *quid pro quo* behavior is prohibited.

May a legislator direct a staff person to gently remind a business owner that, if the owner starts doing business with the legislator's sister, the legislator will look favorably on helping with the business owner's workers' compensation problem?

No. This implies administrative action would be taken in response to receiving a benefit, even if indirectly.

FUTURE EMPLOYMENT: RESTRICTIONS ON ACTIONS

AS 24.60.030(e)(3)

A legislator may not take, or authorize another person to take, official action or exert official influence that could substantially benefit or harm the financial interest of a person or business with whom the legislator is negotiating for employment. For the purposes of compliance with the ethics code, contractual employment is the same as employment.

There is an exception when the Alaska Legislature Uniform Rules require the legislator to take action. For example, the Uniform Rules state that every legislator present in a House or Senate floor session must vote. According to Rule 34(b), a legislator may ask to be excused from voting; however, the body must give unanimous consent in order for the legislator to abstain. If any member objects, the legislator must vote.

May a legislator introduce a personal bill concerning a trucking issue during a time in which that legislator is seeking employment with a trucking company?

No, regardless of whether the bill benefits or harms the business.

If a legislator is negotiating a contract for consulting services with an aviation fuel company and a bill waiving certain taxes for aviation fuel producers is brought to the floor for a vote, may the legislator vote on the bill?

The legislator should ask to be excused from voting. If any member of the body objects, the legislator must vote, under the Alaska Legislature Uniform Rules.

BOARDS: SERVICE ON STATE AND PRIVATE BOARDS

AS 24.60.030(f)

Both legislators and legislative employees must disclose to the Ethics Committee their membership on the board of directors of any organization that regularly has a substantial interest in the legislative activities of that legislator or legislative employee. A legislator who is appointed by the Senate President or Speaker of the House to serve on a board need not disclose the membership if the appointment is reported in the legislative journal.

A legislative employee may not serve in a position that requires confirmation by the legislature. A list of those state boards requiring confirmation is available from your local Legislative Information Office or the Office of the Governor.

The Ethics Committee requires timely disclosure. Interests begun or acquired during the interim or in the last 30 days of a regular session must be disclosed by March 15. Interests begun or acquired during a regular session, except for the last 30 days, must be disclosed within 30 days. (Reporting forms for disclosures are provided under the web site section titled "Disclosures").

One definite rule of thumb to follow: if a legislator or legislative employee serves on a board of an organization that has someone lobbying the legislature on its behalf, the membership on the board must be disclosed.

May a legislative employee serve on the State Board of Education?

No, because the State Board of Education members must be confirmed by the legislature.

Does a legislator or legislative employee have to disclose membership on a board of a native regional corporation?

Probably. Traditionally, regional corporations have taken an interest in legislative matters.

What if a legislator or legislative employee is elected to serve on a non-profit board and is not sure if the board has, or might develop, an interest in legislative matters?

If there is any doubt, the committee encourages full disclosure. Feel free to call the Ethics Office with questions.

FINANCIAL INTEREST: RESTRICTION ON VOTING

AS 24.60.030(g)

Legislators who have financial interests that meet the three following tests are prohibited from voting, unless required to vote under Alaska Legislature Uniform Rules:

1. The legislator must have a substantial equity or ownership interest.
2. The equity or ownership interest will be affected by the action to be voted on.

and

3. The effect of the action on the legislator's interest will be greater than the effect on others in the legislator's or employee's profession, occupation, industry or region.

The term "substantial" is not defined in the code. The committee finds that, in this instance, the term substantial is relative. For example, owning $2000 stock in a major oil company would not be considered substantial whereas owning $2000 stock in a fledgling business that only issued $10,000 total, in stock, would be considered substantial.

In addition to establishing whether the equity or ownership interest is substantial, the legislator must assess if the affect of the action will be greater on the legislator than others in the affected group. For example, if an amendment to the capital budget provided for a road that went only to a legislator's piece of property in an inaccessible area, the effect on the legislator's interest would be greater than on the interests of the other property owners in the area.

There is an exception when the Uniform Rules require the legislator to take action. For example, the Uniform Rules state that every legislator present in a House or Senate floor session must vote. According to Rule 34(b), a legislator may ask to be excused from voting, however, the body must give unanimous consent for the legislator to abstain. If any member objects, the legislator must vote.

May a legislator who owns a helicopter business vote on a measure which would open a new area to helicopter access? The practical effect of opening that particular area would be to greatly benefit the legislator's business.

No. This situation meets all three tests; the ownership interest is substantial, the interest would be affected by the improved access and it would appear that, in this scenario, the effect would be greater on the legislator's interest than on other helicopter business owners' interest. Therefore, the legislator should ask to be excused from voting on the measure.

FUNDRAISING FOR POLITICAL CAMPAIGNS DURING SESSION

AS 24.60.031

Please contact Alaska Public Offices Commission, (907) 276-4167, to discuss additional restrictions within the Campaign Disclosure Law.

A legislator or legislative employee may not request or accept a contribution, or a promise to make a contribution, for any state legislative campaign while the legislature is in *regular or special* session.

This rule prohibits legislators and legislative employees from raising funds for other legislative candidates, as well as for themselves. There is one exception for special sessions, which is called the "90 day window". If the special session falls within the period 90 days immediately preceding an election, legislators and legislative employees may solicit and accept contributions in a place other than the capital city.

A legislator or legislative employee may not accept money from a fundraising event held during session if a substantial purpose of the event was to raise money for the legislator's or legislative employee's campaign or for state legislative political purposes, with the exception of the "90 day window" for special sessions.

A legislator or legislative employee may not circumvent these prohibitions by failing to declare that a seat in the Legislature is his or her campaign goal. Specifically, a legislator or legislative employee may not *spend* money for a legislative campaign that was raised in the following manner: 1) filing a letter of intent or declaration of candidacy which does not specify which public office will be sought, 2) raising money under that letter of intent, then 3) declaring as a candidate for the Legislature after the legislative session ends. (Also, see section titled Candidacies of Legislative Employees.)

The prohibitions in AS 24.60.031 do not apply to legislators who have filed for the office of *governor, lt. governor or a federal office*.

May a legislator keep a campaign contribution that was received prior to a regular session but not opened and acknowledged until after session began?

No, the committee has determined that a contribution in the form of a check or cash is 'accepted' when the legislator, or someone the legislator has given authority to deal with contributions, has physically received the contribution, knows that it is a contribution and has decided to keep it rather than return it.

May a legislator *expend* campaign funds, during a session, that were legitimately raised during the interim?

Yes. This would not be a violation of the ethics code, however, the legislator would need to comply with all Alaska Public Offices Commission requirements.

May a legislator or legislative employee *mail, during a regular session,* an invitation to a fundraiser for his/her campaign, that would be held after session?

No, this would be considered a solicitation during session and be prohibited.

May a legislator or legislative employee host a fundraiser during session for a non-incumbent candidate for a legislative seat?

No. The prohibition extends to *any* state legislative campaign.

May a legislator accept funds raised from an event that had been scheduled well in advance but fell on a date during a special session?

Generally no, unless the event falls within the "90 day window", which is the 90 days immediately preceding an election and so long as the event is not held in the capital city of Juneau. If the event does not fall within the "90 day window", the event must either be canceled or campaign contributions must be turned down at the event and the legislator may not say anything about "accepting contributions after the special session is over."

CANDIDACIES OF LEGISLATIVE EMPLOYEES

AS 24.60.033 and AS 39.25.160

A legislative employee may not seek nomination or become a candidate for the legislature or any state or national political office. A legislative employee may not file a letter of intent to become a candidate for the legislature. The ethics code does not prohibit a legislative employee from running for a local political office, however, the employment policies of the individual supervisor may restrict certain employee activities.

2AAC 50.724 states, "A letter of intent need not include the specific seat for which the individual may file but must state whether the individual will seek state or municipal office." (Alaska Administrative Code)

Also, see section titled "Fundraising for Political Campaigns During Session.

Must a legislative employee (even if on lay-off status) resign from his or her job prior to initiating a campaign for a legislative seat or for a state or national office? (i.e., initiating a campaign means filing a "letter of intent" with the Alaska Public Offices Commission or filing a declaration of candidacy with the State Elections Office)

Yes, the employee must terminate employment.

WHISTLE BLOWERS: PROTECTION

AS 24.60.035

A legislator or legislative employee may not punish or harass a *person* who reports a violation of any state law to the proper authorities. Please note that this includes reporting a violation of the ethics code to the Ethics Committee.

If a legislative employee who reports a violation has suffered retaliation from a legislator or another legislative employee, the employee may bring a civil action in the courts seeking damages, payments of back wages, reinstatement or other relief, and may file an ethics complaint.

What if a legislator or legislative employee refuses to provide a constituent service because that person filed an ethics complaint against the legislator or the employee?

The legislator or employee could be in violation of the ethics code.

Does the whistle blower protection extend to a person who reports that a legislator or legislative employee violated, for example, state OHSA standards?

Yes.

OPEN MEETINGS LAW

AS 24.60.037

In 1993, the legislature enacted AS 24.60.037, requiring legislators to abide by Open Meeting Principles.

> Sec. 1. AS 24.60.037 OPEN MEETINGS LAW. Legislators shall abide by open meetings principles. The committee shall develop guidelines for the application of

> principles of open meetings of governmental bodies to the legislature. The guidelines must permit closed caucuses and private, informal meetings or conversations between legislators in which political strategy is discussed. In a proceeding under AS 24.60.170 in which a violation of this section is alleged, if the committee finds that a person acted within the adopted guidelines, the committee shall dismiss the complaint as to that violation.

The committee submitted proposed guidelines to the 19th, 20th, 21st, 22nd and 23rd legislatures for review. The guidelines did not receive legislative approval.

On May 4, 2004, Representative Norman Rokeberg introduced HB 563 in the House. The bill outlined Open Meetings Guidelines for the legislature. The bill passed out the House on May 8, 2004 with a vote of 30 yes, 8 no and 2 excused. The Senate approved the bill on May 11, 2004 with a vote of 13 yes and 7 no. The open meetings statute became law on June 30, 2004 without the Governor's signature. Open Meetings Guidelines became effective July 1, 2004.

DISCRIMINATION IN EMPLOYMENT DECISIONS

AS 24.60.039

A legislator or legislative employee may not engage in acts of job discrimination in violation of the state and federal human rights laws (see web site section titled "Related Laws"). Employment decisions may not be based on a person's race, religion, or national origin, or on age, physical or mental disability, sex, marital status, pregnancy or parenthood unless the reasonable demands of the position require a distinction on that basis.

The courts have interpreted the law to prohibit harassment based on the characteristics listed above.

A person who finds a violation of employment discrimination laws may file a complaint with the Alaska Human Rights Commission and the Ethics Committee as well as bringing a lawsuit under applicable state or federal law. The Ethics Committee retains the authority to hold consideration of a complaint of discrimination until after the Human Rights Commission completes its review process.

The Legislative Affairs Agency Personnel Officer, (907) 465-3854, serves as the legislative branch's equal opportunity officer and can answer questions about state and federal employment practices law.

Is making comments or jokes about another legislative employee's race or gender considered a violation of the ethics code?

> Making comments or jokes that a reasonable person would find offensive could be a violation of the employment discrimination laws as well as a violation of the ethics code.

May a legislator choose not to hire single parents for fear that they wouldn't be able to handle the long work hours during session?

This could be a violation of the employment discrimination laws.

CONTRACTS, LEASES OR GRANTS

AS 24.60.040

Legislators, legislative employees and their *immediate family members* may not have a financial interest in a state contract, lease or grant unless it meets one or more of the following standards:

1. Let under the State Procurement Code, AS 36.30.
2. Let under procedures similar to those set out in the State Procurement Code by such agencies as the University and ARR.
3. Worth $5000 or less annually **or**
4. Standardized, developed under publicly established guidelines and generally available to the public at large or members of a profession, occupation or group.

For purposes of the ethics code, a grant that requires a person to do something in return for the grant is considered the same as a contract.

A legislator or legislative employee who participates in a state contract, lease or grant that has an annual value of $5000 or more shall disclose participation to the Ethics Committee. A legislator or employee who knows or reasonably ought to know of a family member's participation in a state contract, grant or lease must disclose that family member's participation. The Ethics Committee requires timely disclosure. Interests begun, acquired or renegotiated during the interim or in the last 30 days of a regular session must be disclosed by March 15. Interests begun, acquired or renegotiated during a regular session, except for the last 30 days, must be disclosed within 30 days. (Reporting forms for disclosures are provided in the web site section titled "Disclosures").

May a legislator, legislative employee or family member of the legislator or employee accept a sole source contract with the state?

If the contract is less than $5000 or is let under the State Procurement Code procedures, the contract may be accepted. It is the responsibility of the legislator or legislative employee to determine that the contract and/or the contract for family members meet the criteria in the code.

May a legislator, legislative employee or family member of the legislator or employee participate in a grant received by a political subdivision in which the award process is unknown?

An individual covered by the ethics code must make a reasonable effort to determine whether state funds were secured under one or more of the exclusions listed above.

Does this mean that the restrictions and disclosure requirements on contracts, leases and grants apply to a sibling of a legislator or a legislative employee, even if the sibling doesn't reside with the legislator or legislative employee and there is no shared financial interest?

The restrictions in this section of the ethics code apply to "immediate family": spouse and domestic partner and to parents, children and siblings, if the parent, child or sibling resides with person, is financially dependent on the person **or** shares a substantial financial interest with the legislator or employee. A legislator or legislative employee is required to disclose that family member's participation in a contract if the legislator or employee knows or reasonably ought to know that a family member is participating in state contracts, grants or leases.

What if the funds for a contract originated with the federal government?

If the state *appropriates* the money, the funds are considered state funds and the restrictions apply.

BENEFIT OR LOAN PROGRAMS

AS 24.60.050

A legislator or legislative employee may participate in any state benefit or loan program. However, participation in certain programs must be disclosed to the Ethics Committee. The programs that require disclosure are listed under the web site section titled "Disclosures" and subsection "State Benefit and Loan Programs".

State Benefit and Loan programs which do *not* require disclosure meet the following three standards:

1. The program is generally available to members of the public.

2. The program is subject to fixed, objective eligibility standards.

and

3. The program requires minimal discretion in determining qualification.

If a program does not meet any one of these standards, it is included on the list requiring disclosure of participation. The Ethics Committee requires timely disclosure. Interests begun or acquired during the interim or in the last 30 days of a regular session must be disclosed by March 15. Interests begun or acquired during a regular session, except for the last 30 days, must be disclosed within 30 days.

Note; in addition to disclosing certain loans to the Ethics Committee, legislators must disclose all loans over $5000 on the annual Alaska Public Offices Commission, (907) 276-4176, Financial Disclosure Statement.

If the Ethics Committee determines that a legislator or employee received a state loan or benefit as a result of improper influence, an ethics complaint could be filed and the committee must refer the matter to the State Attorney General.

What if a legislator or a legislative employee attempts to persuade a state agency to give him or her a loan by reminding them that he or she works for the chair of the subcommittee for that agency's budget?

The employee would be in violation of the ethics code and the committee must refer the matter to the State Attorney General.

Does participation in a Commercial Fishing Revolving Loan Fund program require disclosure to the Ethics Committee?

Yes, this program does not meet the requirements of AS 24.60.050.

CONFIDENTIAL INFORMATION

AS 24.60.060 (a)

A legislator or legislative employee may not knowingly disclose information made confidential by law which the legislator or employee acquired through legislative work. In addition to being subject to an ethics complaint, a person who misuses confidential information may be subject to criminal prosecution under AS 11.56.860 (See web site section titled “Related Laws”.)

May a legislator or a legislative employee discuss the information gathered in an executive session on pending state lawsuits with a person not present in the session?

Generally no. In this specific case, the question should be presented to the Attorney General for permission to discuss the matter with the person.

May a legislator or legislative employee disclose confidential information obtained in a confidential Ethics Committee meeting?

No, unless granted permission to do so by the committee.

PROTECTIVE ORDERS

AS 24.60.060 (b)

The subject of an ethics complaint may not release information deemed confidential under a protective order issued under 24.60.170(i), which is the DISCOVERY section of the complaint proceedings.

CLOSE ECONOMIC ASSOCIATIONS

AS 24.60.070

Legislators and legislative employees must disclose close economic associations involving substantial financial matters with certain people. A close economic association means a financial relationship, such as sharing an interest in a business or owning real estate together.

Disclosure is required for a close economic association with:

- a supervisor;
- a legislator;
- a public official who must file a Conflict of Interest Statement with the Alaska Public Offices Commission (excluding an appointed municipal officer);
- a registered lobbyist or;
- a legislative employee when the person disclosing is a legislator.

Note that the ethics code does not require that two legislative employees disclose the existence of a close economic association between them unless one of them supervises the other. For example, two employees, neither supervising the other, need not disclose an economic association while sharing a house in Juneau.

A legislator or legislative employee who is married to or who is the domestic partner of a lobbyist is required to disclose the name, address and compensation agreement of each of the lobbyists' clients annually. Changes to the list must be reported within 48 hours.

The Ethics Committee requires timely disclosure. For interests (other than disclosures of the lobbyist's clients which require 48 hour updates) which began or were acquired during the interim or in the last 30 days of a regular session, disclosure is required by March 15. Interests begun or acquired during a regular session, except for the last 30 days, must be disclosed within 30 days. (Reporting forms for disclosures are available on this web site.)

If a legislator or legislative employee shares housing expenses with a person in one of the categories listed above, is disclosure required?

Yes.

If a legislator or legislative employee is one in a group of investors, of which one member is a lobbyist, is disclosure required?

Yes.

If the spouse of a legislator or legislative employee works for a lobbyist, is disclosure of a close economic association required?

Yes, based on the assumption the employee and spouse have a financial relationship.

Does payment by a legislator or legislative employee for a two hour consultation with an attorney, who is a legislator, establish a close economic association?

No. However, if the legislator represented the employee on an on-going basis, disclosure would be required.

May a legislator's, or legislative employee's, spouse (or domestic partner) be a registered lobbyist?

Yes but the legislator or employee must disclose the relationship and must keep the disclosure updated (within 48 hours) with any changes to the lobbyist's client list.

GIFTS

AS 24.60.080

A legislator or legislative employee may not solicit or accept **(whether directly or indirectly)** any gift worth $250 or more, or a series of gifts from the same person or entity which total $250 or more in a calendar year. Gifts may be money, services, loans, travel, entertainment, hospitality, promise or other form.

A legislator or legislative employee may not solicit, accept or receive, during a legislative session, a gift with any monetary value from a lobbyist or a person acting on behalf of a lobbyist, with the exception of food or beverage for immediate consumption or tickets to a 501(c)(3) charity event pre-approved by Legislative Council.

Gifts to family members of legislators and legislative employees must be reported to the committee, if the gift was given because of the family member's connection to the legislator or legislative employee.

Political contributions reported to Alaska Public Offices Commission are not gifts under this section.

There are limited exceptions to the prohibitions. The **exceptions** are:

- **gift of hospitality in another person's home** and travel to reach the home. Note: a vacation home located outside the state is not considered a residence under this subparagraph. **AS 24.60.080(c)(1)**

- **gift of hospitality at a social event or meal.** **AS 24.60.080(c)(1)**

- **discounts available to the public** or to a large class of people to which the legislator or employee belongs or **discounts accepted while on official business if the discount benefits the state.** **AS 24.60.080(c)(2)**

- **gift of food that is native to the state** and is shared as part of a normal cultural or social pattern. **AS 24.60.080(c)(3)**

- **gift of travel and hospitality to obtain information on matters of legislative concern**. A person who accepts a gift worth $250 or more under this exception must disclose the gift to the Ethics Committee within 30 days.
  AS 24.60.080(c)(4)

- **gift(s) from the recipient's immediate family**.
  In this section, immediate family includes the spouse, parents, children, siblings, grandparents, aunts and uncles as well as in-laws and step-relations. No disclosure is required. **AS 24.60.080(c)(5) and AS 24.60.080(k)**

- **gifts not connected with the recipient's legislative status**.
  A person who accepts a gift worth $250 or more under this exception must disclose the gift to the committee on or before March 15 of the following year. The disclosure is kept **confidential**. The disclosure must include the name and occupation of the donor and, if the value exceeds $250, a description of the gift.
  AS 24.60.080(c)(6)

- **gifts other than money from another government or government official**.
  Gifts of this nature are allowable if the recipient accepts the gift on behalf of the legislature and delivers it to the Alaska Legislative Council within 60 days.
  AS 24.60.080(f)

- **discounts and welcoming gifts offered during session in the capital city to legislators and their personal staff (but not other legislative employees).**
  These are gifts offered to all legislators and their staff, such as parking passes.
  AS 24.60.080(c)(7)

- **gift of legal services related to a matter of legislative concern.**
  This exception does not relate to private matters. **AS 24.60.080(c)(8)**

- **gift of transportation from a legislator to a legislator.**
  This exception relates to travel within the state and only to a mode of transportation owned or under the control of the donor (i.e., aircraft, boat, motor vehicle, etc.). **AS 24.60.080(c)(9)**

- **gift of ticket(s) from a lobbyist for a charity event at any time.**
  This exception requires that the "charity event" proceeds go to a tax-free charitable organization under 26 U.S.C. 501(c)(3). The Alaska Legislative Council must approve the charity event in advance. The value of the ticket(s) may not be worth more than $250 aggregate from the same person/entity in a calendar year. **AS 24.60.080(c)(10)**

REMEMBER: If a gift exceeds $250 in value or if the cumulative value in a year exceeds $250, you will have to say "No thank you" to the donor and return the gift unless the gift falls within one of the exceptions listed in (c)(1) through (c)(9).

If a person covered by the ethics code receives a gift of unknown value that may exceed the $250 limit, that person should use caution and explain the $250 limit to the donor. If the donor states the value to be greater than $250, the gift would need to be returned unless it falls into one of the exceptions listed in AS 24.60.080(c)(1) through (c)(9).

May a legislator or legislative employee accept a waiver of conference fees, when the purpose of attending the conference is to obtain information on matters of legislative concern?

Yes. The gift of "waived fees" may be accepted but, if over $250, it must be reported to the Ethics Committee within 30 days.

May a legislator or legislative employee accept airfare to a meeting paid for by another branch of state government?

Yes but, if over $250, the gift must be reported to the committee within 30 days.

May a person covered by the ethics code accept a loan exceeding $250 from a personal friend who is not connected with the loan recipient's legislative status?

Loans are gifts. The loan may be accepted because the friendship is not related to legislative status but the gift must be reported under a confidential disclosure to the committee. See Advisory Opinion 03-02. (see web site section titled "Advisory Opinions")

May a legislator accept the services of a Job Training Partnership Act (JTPA) volunteer in his or her legislative office?

Yes. Volunteers in a legislative office are allowed so long as the volunteer is not paid by another source. Only the JTPA program and the University Legislative Intern program are exempted from this "outside payment" restriction. The legislator is expected to take responsibility for the ethical conduct of volunteers.

Are volunteers in a legislative office subject to the ethics code?

Volunteers are generally required to comply with the ethics code, with the exception of the sections addressing: contracts and leases, state programs and loans, close economic associations, nepotism, and representation before state agencies.

May a legislator's spouse (or other family member) accept travel and hospitality to a conference the legislator is also attending?

Yes but the acceptance of the gift must be disclosed to the ethics committee.

May a legislator or legislative employee solicit contributions in excess of $250 for a nonpolitical charitable organization?

Yes, the organization must be recognized and must have either a 501(c)(3) tax exemption and/or have an extended history in the community. The committee notes that lobbyists could be approached for contributions to charitable nonpolitical organizations but urges extreme caution in doing so, especially during session, as this may lead to the appearance of impropriety.

May a person subject to the ethics code accept payment of golfing greens fees or tournament fees that exceed $250?

No, unless the gift is unconnected to legislative status or if from immediate family. If unconnected to legislative status it would need to be reported.

Does receipt of a prize in a raffle require disclosure of a gift to the Ethics Committee?

No, assuming the raffle was open to the public and the chance to win the prize was purchased.

May a legislator or legislative employee accept a gift of lodging in excess of $250 at a hotel grand opening?

Generally no, unless the purpose of attending relates to matters of legislative concern. If so, the gift must be reported.

What if a legislator or legislative employee is in a dating relationship? May they accept gifts in excess of $250 from the person they are dating?

Yes, assuming the dating relationship is not connected to one's legislative status and an annual confidential disclosure is filed.

COMPENSATION FOR SERVICES: EARNED INCOME

AS 24.60.085

A legislator or legislative employee may not request or accept compensation for personal services which is significantly greater than the value of the services performed. The law acknowledges specialists in a profession generally charge higher rates. The purpose of this rule is to prohibit unjustifiably large payments, not to prohibit acceptance of compensation at regular or less than regular rates. Legislators should also be aware that the Alaska Constitution limits legislators' employment outside the legislature. Questions concerning constitutional provisions should be directed to Legislative Affairs Agency attorneys, 907-465-2450.

May a legislator or a legislative employee accept a secretarial job paying $50,000 for 5 months of work?

No, this would not correspond to the value of the service performed.

If a legislator or legislative employee is offered a $50,000 contract for consulting services, without any requirement or expectation of a work product, may he or she accept it?

No.

HONORARIA: FOR APPEARANCES AND SPEECHES

AS 24.60.085

A legislator or legislative employee may not accept payment, except necessary travel expenses, for an appearance or speech connected with the person's legislative status. This rule does not apply to the salary paid to a legislator or legislative employee for a job which includes occasional appearances or speeches.

The committee has determined that gifts such as a plaque with the legislator's or employee's name etched on it may be accepted for various speaking appearances so long as the plaque is worth less than $250 and it does not have resale value.

May a legislator or legislative employee who is also a geologist accept payment for a speech on minerals found in the Copper River Basin?

Yes, as long as the speech is not connected to legislative status.

May a legislator or a legislative employee accept payment for a speech about the legislature's handling of health care issues?

No. However, if actual and necessary expenses are incurred as part of the speaking engagement, a gift of lodging, travel and/or meals is allowable and must be disclosed within 30 days.

May a legislator or legislative employee make a speech to a community organization and then accept a plaque or similar memento as a thank you gift from the organization?

Yes so long as the gift has a value of less than $250 and does not have resale value.

NEPOTISM: EMPLOYING RELATIVES

AS 24.60.090

An individual who is related to a legislator or legislative employee may not hold certain paid jobs in the legislative branch. "An individual who is related to or relative" means (for this nepotism section) the spouse or domestic partner* of the person; a parent, child, including a stepchild and an adoptive child, and sibling of a person <u>if</u> the parent, child, or sibling resides with the person, is financially dependent on the person, or shares a substantial financial interest with the person.

*domestic partner means a person with whom the legislator or employee is living in a conjugal relationship which is not a legal marriage, (which is interpreted to mean a person with whom a legislator or legislative employee shares a relationship which has the same characteristics as a marriage). Some of the characteristics of this type of relationship are co-habitation and financial interdependence.

A relative of a legislative *employee* may not work for pay in a position supervised by that legislative employee. A relative of a *legislator*, during a legislative session, may not be employed in the same house in which the legislator is a member or by an agency of the legislature. A relative of a *legislator*, during the interim, may not work in any job in the legislative branch. For the purposes of this section, interim begins on the eighth day after a <u>regular</u> legislative session and ends eight days before the next <u>regular</u> session. The prohibition, therefore, applies during a special session that occurs during the interim except for the eight days immediately before or after the regular session. Legislator's relatives may not work for the Ethics Committee, even in a voluntary capacity.

May a senator's son or daughter work for the House of Representatives?

Yes but only during session. A relative of a legislator may not work for the legislature in any capacity during the interim. (See definition of "individual who is related" above)

May a representative's spouse work for the Legislative Finance Division?

No, a relative of a legislator may not work for an agency of the legislature. (See definition of "individual who is related" above)

<u>REPRESENTATION: PAID REPRESENTATION BEFORE A STATE AGENCY</u>
AS 24.60.100

A legislator or legislative employee may not represent another person for pay before the legislative branch of state government. A legislator or legislative employee may represent another person for pay before the executive or judicial branch. Representation before executive branch agencies, boards or commissions must be disclosed to the Ethics Committee and must include the name of the client, the subject matter of the representation, and the name of the agency, board or commission before which the representation is to take place. The name of the client may be omitted if state or federal law requires confidentiality.

The Ethics Committee requires timely disclosure. Interests begun or acquired during the interim or in the last 30 days of a regular session must be disclosed by <u>March 15</u>. Interests begun or acquired during a regular session, except for the last 30 days, must be disclosed within 30 days. (Reporting forms for disclosures are available on this web site under "Disclosures").

May a legislator or legislative employee represent a client before the Child Support Enforcement Division?

Yes but the representational relationship must be disclosed to the Ethics Committee.

May a legislator or legislative employee receive pay for advocating another person's cause to other legislators or legislative employees?

No. Representation for pay before the legislative branch is prohibited. This essentially prohibits those in the legislative branch from being paid lobbyists while serving the legislature.

DISCLOSURES: DEADLINES FOR FILING DISCLOSURES
AS 24.60.105

Membership on a board of directors, interests in state contracts and leases, participation in certain state benefit and loan programs, close economic associations*, and representation of clients before state agencies must be disclosed. (*Close economic associations including a spousal or domestic partner lobbyist must be kept current. The law sets a 48 hour reporting deadline for any changes to the lobbyist's client list.) Also, see AS 24.60.080 for "Gift" reporting deadlines.

Interests begun or acquired during the interim or in the last 30 days of a regular session must be disclosed by March 15. Interests begun or acquired during a regular session, except for the last 30 days, must be disclosed within 30 days. Disclosure forms can be found on this web site under the title "Disclosures".

A person who files a late disclosure may be fined $2.00/day up to a maximum of $100 per AS 24.60.260(c).

ETHICS COMMITTEE: POLITICAL ACTIVITY BY PUBLIC MEMBERS, EMPLOYEES AND CONTRACTORS AS 24.60.134

This section applies only to people connected with the Ethics Committee. Political activities of the public members, employees and contractors of the Ethics Committee are restricted during their service to the committee. In addition to the prohibition against being a candidate for the legislature imposed on all legislative employees, these individuals may not:

- participate in political management or in a political campaign for federal, state or local offices or ballot measures;
- attend a campaign fundraising event or make a financial contribution to a political party, a legislator, a legislative employee running for any office, to any candidate for the Legislature, or to a candidate for any office who is running against an incumbent legislator or legislative employee;
- serve as a registered lobbyist;
- be a candidate for political office; or
- be an officer of a political party.

May a public member of the Ethics Committee volunteer for a political campaign during his or her term on the committee?

No.

May a public member, employee or contractor with the Ethics Committee run for a seat on the school board?

No.

WHAT DOES THE ETHICS COMMITTEE DO?

AS 24.60.140 - 150

The main responsibilities of the Select Committee on Legislative Ethics (Ethics Committee) are to:

- help people understand and comply with the legislative ethics code;
- issue formal, binding advisory opinions;
- consider complaints alleging violations of the law and make recommendations for corrective actions or sanctions for violators;
- maintain public files of disclosure statements;
- recommend needed ethics legislation.

HOW DOES THE ETHICS COMMITTEE OPERATE?

AS 24.60. 130 - 150

The Ethics Committee has nine members: two senators, two representatives, and five public members. The House Subcommittee consists of the two representatives and five public members. The Senate Subcommittee consists of the two senators and the five public members.

Complaints are considered by the appropriate subcommittee e.g. a complaint filed against a representative or an employee of a representative, is considered by the House Subcommittee.

INFORMAL ADVICE ON INTERPRETING THE ETHICS CODE

AS 24.60158

People subject to the ethics code and members of the public may request informal advice about the law from the Ethics Committee staff. Although staff advice is given in good faith, it does not necessarily reflect the opinions of the members of the Ethics Committee and it is not binding on the committee. To seek binding advice, people subject to the ethics code may request a formal advisory opinion.

May a person covered by the ethics code request *written* informal advice?

> Yes. You may send a request for written informal advice, showing the facts of your case, to the ethics committee or send your request electronically. Even if it is in writing, you should remember informal advice is not binding on the committee.

ADVISORY OPINIONS

AS 24.60.160 - 165

An advisory opinion is a written, binding interpretation of the ethics code, based on the facts presented in the request for an opinion. A person subject to the ethics code or a person who has been elected to the legislature but not yet sworn into office, may request formal advisory opinions from the Ethics Committee. The committee does not issue advisory opinions about the conduct of people other than the requester or about matters not within its jurisdiction. If the facts provided are insufficient to reach a conclusion, the committee will not be able to give advice unless the requester provides additional information. In a case of the omission of material facts that would have affected the outcome of the opinion, the opinion will not be considered “binding”.

The request for an advisory opinion and the committee’s discussion of the opinion are considered confidential. The requester may waive confidentiality to allow the discussion to be held in a public meeting. The committee may not use information a person voluntarily gave the committee in a good faith request for advice against the person in an ethics complaint proceeding, unless the person chooses to ignore the advice provided in the opinion. The committee will issue a public advisory opinion which has been edited to prevent disclosure of the identity of the requester.

The full Ethics Committee acts on advisory opinions. The committee must issue an opinion within 60 days, unless the requester consents to an extension. The committee publishes annual summaries of advisory opinions and provides them to each legislative office and to anyone else, upon request.

May a legislative employee, who is on lay-off status, request a formal advisory opinion?

> The code allows the committee to issue opinions to a person who anticipates becoming a legislative employee within 45 days. The committee has traditionally chosen to respond to requests for advice from those in lay-off status who intend to return to legislative work during the following session.

What penalty exists for not following the advice set out in a formal advisory opinion?

> Requests for advisory opinions must ask whether the facts of a particular case constitute, or could constitute, a violation of the code. If the requester receives advice which says that certain actions would be a violation and then proceeds to take those actions, that person may be subject to an ethics complaint being filed against him or her.

COMPLAINTS ALLEGING VIOLATION OF THE ETHICS CODE

AS 24.60.170

Anyone who believes the legislative ethics law has been violated may file a complaint with the Ethics Committee. A complaint must be in writing and notarized. Complaints should be sent to the committee chair at the Ethics Committee office. It is a Class A misdemeanor under AS 11.56.805 to knowingly or intentionally file a false complaint with the Ethics Committee. Complainants may be asked to testify in support of their complaint. A complaint form is provided under the section titled 'Filing a Complaint' on this web site.

Complaints received during a *campaign period against a candidate who is subject to the ethics code, will be returned without action, unless the subject of the complaint waives the right to suspend consideration within 11 days. *A campaign period begins 45 days before the primary election in which one is a candidate or the day one files for office, whichever is later and ends the day of the general or special election, the day after primary results are certified for a candidate who loses in the primary or the day a candidate withdraws. Complaints may be refiled at the end of the campaign period.

During the campaign period (described in the paragraph above), the committee is restricted from proceeding beyond the point of confidentiality on a pending complaint concerning a candidate, unless the subject waives the right to suspended proceedings.

The Ethics Committee and its House and Senate subcommittees have authority to consider complaints against legislative employees, including the public members of the Ethics Committee, and current or former legislators. The Ethics Committee does not have the authority to consider a complaint against a legislative employee after the employee has stopped working for the Legislature. If the employee leaves legislative work, the Ethics Committee must dismiss a complaint against the employee. However, the committee may reinstate a complaint if that person is rehired as a legislative employee. The Ethics Committee may not consider complaints against the family members of legislators or legislative employees.

A complaint must be filed within two years after the date of the alleged ethics violation. A complaint against a former legislator for alleged violations he or she committed while in office must be filed within one year after the legislator's departure from office. The time limitations on complaints do not apply if the subject of the complaint intentionally prevented discovery of the violation of the law.

The House Subcommittee handles complaints against representatives, former representatives, and employees of representatives and committees of the House, chaired by representatives. The Senate Subcommittee handles complaints against senators, former senators and employees of senators and committees of the Senate, chaired by senators. The full Ethics Committee considers complaints against employees of legislative agencies, joint committees and the public members and employees of the Ethics Committee. When the Ethics Committee Chair receives a complaint, the Chair refers it to the appropriate subcommittee or to the full Committee.

In considering a complaint, the Ethics Committee, or the appropriate House or Senate subcommittee (referred to collectively as "the committee"), must take the following steps:

1. Verify the complaint is sworn to, validly filed against a person subject to the ethics code and not filed against a person who is a candidate during a campaign period. If filed against a candidate during the campaign period, complaint must be returned, unless the subject waives suspension. Send a copy of the complaint to the subject of the complaint immediately. Determine if the alleged misconduct occurred over two years ago and if it did, was there an attempt to intentionally prevent discovery. If it did occur over two years ago and there was no cover-up, the complaint must be dismissed.

2. Decide whether the allegations in the complaint would constitute a violation of the legislative ethics law over which the committee has jurisdiction <u>if</u> they were proven to be true. If not, the complaint must be dismissed.

3. Pass a resolution defining the scope of the investigation to be conducted, then investigate the facts of the case. A copy of the resolution is given to the complainant and the subject of the complaint.

4. Decide whether there is probable cause to believe the accused person has violated the legislative ethics law. If not, the complaint must be dismissed. If probable cause is found, the committee must determine whether they may proceed if the complaint concerns a candidate during the campaign period.

5. Decide whether the probable violation can be corrected by the accused person and whether or not additional penalty is warranted. If a probable violation can be corrected, the committee may issue an opinion recommending corrective action. The accused person may request a meeting with the committee for the purpose of explaining the decision and then he or she may accept the recommended corrective action or request a formal hearing. After the meeting, the committee may change or reissue its opinion on corrective action. If the accused person does not take the recommended corrective action or the committee decides the probable violation cannot be corrected without additional penalty, the complaint continues to the next step.

6. Formally charge the accused person. If the person admits he or she violated the law, the committee shall state the facts of the case and recommend a penalty. If the accused person does not admit to the allegations, the committee must schedule a formal, public hearing.

7. Hold a formal hearing to take testimony and other evidence, and decide whether there is clear and convincing evidence that the accused person violated the legislative ethics law. The committee may also indicate whether the accused person cooperated with the committee in the complaint process.

8. Recommend to the appropriate legislative body (for legislators) or the appointing authority (for legislative employees) the penalty the committee believes is warranted.

Meetings of the Ethics Committee to consider a complaint are confidential until the committee determines there is probable cause to believe the accused person violated the law. Committee documents are confidential until that point as well.

After a finding of probable cause, hearings are open to the public and documents issued by the committee or documents presented at the formal hearing are open to public inspection.

All committee deliberations, however, are confidential. Please see AS 24.60.170 for information on a subject's ability to waive confidentiality for portions of complaint proceeding.

FAILURE TO COMPLY WITH CORRECTIVE ACTIONS

AS 24.60.170(g)

If a subject of a complaint agrees to comply with the committee's recommended corrective actions but fails to do so in a timely manner, the committee may formally charge the person or refer the matter to a supervisory authority.

VIOLATIONS OF ETHICS CODE: PENALTIES

AS 24.60.174 - 176 and 24.60.970

If the Ethics Committee decides a person has violated the legislative ethics law, the committee, or the appropriate House or Senate subcommittee, must recommend what penalty should be imposed.

If the violator is or was a legislator, the body in which the legislator served (i.e. the House or Senate) must vote on the penalty. The body has the power to review the committee's recommendation and to alter the penalty. Expulsion from the legislature requires a two-thirds vote of the full body. All other penalties require a majority vote of the full body in which the legislator served. If the violator is or was a legislative employee, the appointing authority [defined in AS 24.60176(b)] must determine the penalty. The appointing authority must assume the Ethics Committee's finding that the law was broken is correct and must impose an appropriate penalty.

In addition to any Ethics Committee action, the State Attorney General may bring civil lawsuits against anyone covered by the legislative ethics law.

ANNUAL LEGISLATIVE FINANCIAL DISCLOSURE (LFD) STATEMENTS

Legislators, legislative directors and ethics committee members

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DISCLOSURE TO ALASKA PUBLIC OFFICES COMMISSION AS 24.60.200

The last part of the legislative ethics law requires legislators, legislative directors and ethics committee members (EC Member) to file an LFD statement with the Alaska Public Offices Commission (APOC). In general, the law requires disclosure of the sources, and in some cases the amount, of income, loans, business and real property interests received or held by the legislator, legislative director or EC member and family members residing with those required to file.

APOC has the authority to adopt regulations to implement and interpret the financial disclosure requirements. APOC also prepares annual report forms and instruction manuals that explain specifically what information must be disclosed. For additional information on filing requirements, contact APOC at (907) 276-4176.

FILING DEADLINES AND PENALTIES AS 24.60.210 - 260

Legislators and legislative directors must file a Legislative Financial Disclosure (LFD) with APOC on or before March 15 of each year. Public members of the ethics committee (EC) must file a LFD on or before the second Monday in January of each year.

The LFD covers the previous calendar year. APOC may fine legislators, legislative directors and EC members who fail to file properly a completed LFD statement by the deadline. A person required to file who does not file a LFD statement within a 30-day grace period, may not be a candidate for the Legislature. A person who knowingly makes a false or misleading claim on a LFD statement may be subject to an Ethics Committee complaint as well as an APOC complaint.

REPORTS ARE PUBLIC AS 24.60.230

The Legislative Financial Disclosure (LFD) statements are public information. A legislator, legislative director or ethics committee member may request an exemption from disclosing the name of a person who is a source of income if:

- the person's constitutionally protected expectation of privacy would be violated by disclosure;
- disclosure of the person's name is prohibited by law; or
- the person's name is legally privileged (a legally privileged relationship extends to exempting the disclosure of a person’s name under narrowly defined circumstances).

Legislators, legislative directors and ethics committee members may contact the APOC for more information regarding requests for an exemption from disclosing a person’s name as a source of income.