

Q&A on legislative communications by University of Alaska (UA) employees

- Q1. What limits are there on what communications I have with legislators on my own?
- A4. Virtually none. If we are communicating with legislators without using any University resources (i.e., without using University paid work time, University emails, etc.), we have the right to express any position on any issue. We should refrain from implying that we are speaking on behalf of the University. But we have the right to communicate with legislators in our private capacity, as much or as little as we may choose.
- Q2. For that purpose, does “University paid work time” include paid leave?
- A2. No. Communications during paid leave time are treated the same as communications during non-work time.
- Q3. Communicating with legislators on my own, can I take positions contrary to the official University position on an issue?
- A3. Yes.
- Q4. What if I do want to speak to government officials on behalf of the University?
- A4. Employees can speak on behalf of the University under a limited number of situations: to provide testimony at the request of the Alaska Legislature; to engage in routine development and administration of grants or contracts; to supply other government officials with routine facts and information supplied to the general public; and to engage in other communications at the direction of a Chancellor or the President. Otherwise, as employees we are not to assert or imply that we are officially representing the university or its policies, and official communications on behalf of the University sent to officials of the executive, legislative, and judicial branches of state and federal governments in their official capacities are to be sent through, or with authorization, from the University President. See Regents’ Policy P02.01.040.
- Q5. What if I want to offer public testimony at a legislative committee hearing or talk to a legislator during my working hours in situations where I’m not speaking on behalf of the University?
- A5. It is recommended that we arrange for leave for those purposes, unless we are responding to a request from the Alaska Legislature. (It is not required that we refuse calls from an individual legislator’s office during our working hours, or that we postpone returning such calls until after work hours, but it is not recommended that we initiate such calls during our regular working hours.)
- Q6. What about emails sent to legislative offices in situations where I’m not speaking on behalf of the University?
- A6. It is recommended that we use private rather than alaska.edu email addresses for these. (See separate memo on use of UNIVERSITY emails.)
- Q7. Does EBEA section AS 39.52.120(b)(6) prohibit University employees from communicating with legislators?

- A7. Generally no. That law prohibit use of University funds, facilities, equipment, services, or other assets/resources for “partisan political purposes.” That phrase means “having the intent to differentially benefit or harm a (i) candidate or potential candidate for elective office; or (ii) political party or group; (B) but does not include having the intent to benefit the public interest at large through the normal performance of official duties.” It is directed more at electioneering than at communicating with legislative offices. As long as those limits are adhered to, it does not prohibit communications with legislative offices, either communications on behalf of University or communications in a private capacity.
- Q8. Does EBEA section AS 39.52.120(b)(3) restrict University employees from communicating with legislative offices?
- A8. Only if the communication uses University resources to further a personal or financial interest. The statute provides we cannot use University time, property, equipment, or other facilities to benefit a personal or financial interest.¹ A communication that does not entail the use of any University resources is thus not subject to this at all. A communication that does entail the use of University resources, but does not benefit a personal or financial interest, does not violate this provision. That would encompass all communications which we send in our official capacities. Whether it encompasses communications we send in our individual/personal capacities will depend on the subject matter of the communication. However, whatever the reason is that motivates us to send the email in the first place might constitute a personal or financial interest within the fairly broad definitions (see footnote). As above, the “safe harbor” here is to avoid the issue altogether by using University resources only for official communications and not using University resources for communications we send in our private capacities.
- Q9. Is there a de minimis level below which violations of AS 39.52.120(b)(3) are disregarded?
- A9. Yes, although that level is not always readily ascertainable. AS 39.52.110 says “Unethical conduct is prohibited, but there is no substantial impropriety if, as to a specific matter, a public officer's ... personal or financial interest in the matter is insignificant, or of a type that

¹ These terms have specific definitions. " 'Financial interest' means (A) an interest held by a public officer or an immediate family member, which includes an involvement or ownership of an interest in a business, including a property ownership, or a professional or private relationship, that is a source of income, or from which, or as a result of which, a person has received or expects to receive a financial benefit; (B) holding a position in a business, such as an officer, director, trustee, partner, employee, or the like, or holding a position of management."

" 'Personal interest' means an interest held or involvement by a public officer, or the officer's immediate family member or parent, including membership, in any organization, whether fraternal, nonprofit, for profit, charitable, or political, from which, or as a result of which, a person or organization receives a benefit."

Finally, " 'benefit' means anything that is to a person's advantage or self-interest, or from which a person profits, regardless of the financial gain, including any dividend, pension, salary, acquisition, agreement to purchase, transfer of money, deposit, loan or loan guarantee, promise to pay, grant, contract, lease, money, goods, service, privilege, exemption, patronage, advantage, advancement, or anything of value."

is possessed generally by the public or a large class of persons to which the public officer belongs.” So, if I don’t have any personal or financial interest at all, or if the only personal or financial interest I have is the same as everyone in a large group (e.g., all Alaskans, or all members of the University community), then there is no substantial impropriety. The state’s regulations explicate one specific situation: The “use of a portable [University] computer to benefit the officer, an immediate family member of the officer, the officer’s personal or financial interest, or another person is presumed insignificant if the use (1) is for electronic mail communications, Internet access, or entertainment; (2) does not occur during scheduled work hours; and (3) occurs at no cost to the state.”

Q10. Should we take leave time anytime we are meeting with a legislator or aide?

A10. Not if you are speaking on behalf of the University under one of the circumstances laid out in A4 above. But if you are meeting with them in your individual capacity during your regular working hours, yes.

Q11. What if I am communicating with legislators or other officials for or against a proposal that pertains to the University but on which the University has not taken a position?

A11. If the University has not taken a position supporting or opposing the proposal, then advocating for or against it will not be part of my University duties, so unless one of the other A4 circumstances is present, that advocacy will be undertaken in my individual capacity.

Q12. Are we precluded from legislative communications while on official University travel?

A12. Not if you are speaking on behalf of the University under one of the circumstances laid out in A4 above. If traveling in your official capacity but engaging in legislative communications in your individual capacity, you should make it clear that you are undertaking those communications in your individual capacity and not on behalf of the University; you should take leave time if those communications occur during your regular working hours; and you should review the provisions of Regents’ Policy R05.02.060.A.8 to make sure that you are not having the University bear any additional expenses for your University travel that may result from your engaging in those communications.