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TO: University Employees Interested in Running for Political Office
FROM: Michael Hostina, Designated Ethics Supervisor & Associate General Counsel
RE: Running For Office While Employed by the University

University employees are not prohibited from seeking public office by virtue of their University employment. However, employee-candidates must ensure that they comply with state law, Regents' Policy, and University Regulation.¹ Successful candidates for the state legislature will be required by state law to resign university employment upon taking office.² In addition, other full-time elected offices may be incompatible with regular University employment by virtue of AS 39.52.170, which restricts outside employment of state employees.

While there is no absolute prohibition on seeking office, outside activity of any kind may not be incompatible with or interfere with the performance of University duties, and may not involve the use of any University resources, including time. Outside activities must be reported using the attached form for "Disclosure of Employment or Services Outside of the University of Alaska," and reviewed by your supervisor, MAU Ethics Designees, and the University designated ethics supervisor. Please provide the details required by the form regarding when the activity will be conducted and how you plan to separate political activity from University duties. Please reference this memo when submitting your disclosure form. A new form must be submitted every July 1, and whenever there is a significant change in your activities.

Some relevant provisions of law include:

AS 39.25.178: "A state employee may

- (1) be a member of a national, state, or local political party;
- (2) take part in a political campaign;
- (3) express political opinions; **however, while engaged on official business, a state employee may not display or distribute partisan political material;**
- (4) register party preference;
- (5) serve as a voting or nonvoting delegate to a party convention;
- (6) be appointed, nominated, or elected to nonpartisan public office in a local government unit;³ and
- (7) make contributions to a political party or a candidate for public office."

¹ The full text of the Ethics Act and applicable regulations are available at <http://www.law.state.ak.us/doclibrary/ethics.html>. The full text of Regents' Policy and University Regulation are available at <http://www.alaska.edu/bor/policy/policy.xml>.

² Article 2, Section 5 of the Alaska Constitution and AS 24.05.040 provide in part that a member of the legislature may not hold any other office or position of profit under the United States or the state.

³ A University employee may also be a candidate for partisan state or national office by virtue of the University's exclusion from AS 39.25.160(e) by sub-section (5).

(Emphasis added.)”

AS 39.25.160 (j): “A state employee, whether in the classified, partially exempt, or exempt service, may not campaign on behalf of a political candidate on government time. . . .

AS 39.52.170. Outside employment restricted.

(a) A public employee may not render services to benefit a personal or financial interest or engage in or accept employment outside the agency which the employee serves, if the outside employment or service is incompatible or in conflict with the proper discharge of official duties.

(b) A public employee rendering services for compensation, or engaging in employment outside the employee's agency, shall report by July 1 of each year the outside services or employment to the employee's designated supervisor. During the year, any change in an employee's outside service or employment activity must be reported to the designated supervisor as it occurs.

. . .

AS 39.52.120. Misuse of official position.

(a) A public officer may not use, or attempt to use, an official position for personal gain, and may not intentionally secure or grant unwarranted benefits or treatment for any person.

(b) A public officer may not

. . .

(3) use state time, property, equipment, or other facilities to benefit personal or financial interests;

(4) take or withhold official action in order to affect a matter in which the public officer has a personal or financial interest;

(5) attempt to benefit a personal or financial interest through coercion of a subordinate or require another public officer to perform services for the private benefit of the public officer at any time; or

(6) use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for partisan political purposes; this paragraph does not prohibit use of the governor's residence for meetings to discuss political strategy and does not prohibit use of state aircraft or the communications equipment in the governor's residence so long as there is no charge to the state for the use; in this paragraph, "for partisan political purposes"

(A) 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.

. . .

(d) In this section, when determining whether a public officer is considered to be performing a task on government time, the attorney general and personnel board shall consider the public officer's work schedule as set by the public officer's immediate supervisor, if any. A public officer other than the governor and lieutenant governor who, during the work days, engages in political campaign activities other than minor,

inconsequential, and unavoidable campaign activities shall take approved leave for the period of campaigning.

Regents' Policy 04.10.020. Abuse of Office for Political Purposes.

- A. No university employee may assert or imply that the employee is officially representing the university or its policies, unless expressly authorized to do so by the president.
- B. An employee who acquires a state, federal, or local public office that may not legally be simultaneously held by a university employee will resign from university employment. Where there is no legal prohibition on simultaneous office holding, the employee need not resign, but will remain subject to the university regulation that apply to outside activities.
- C. Any employee who wishes to campaign for or hold any political office or to serve as a registered state or federal lobbyist will come under the university regulation that applies to outside activities.
- D. University funds or resources may not be used to support partisan political activity.

University Regulation 04.10.020. Abuse of Office for Political Purposes

Any employee seeking an elected public office will campaign completely on his/her own time, without adversely affecting his/her duties at the university; and be subject to any general university procedures governing appearances and activities of political candidates on the campus.

Any employee who acquires a state or federal public office or a full-time local government office which is legally not permitted to be held by a university employee, will resign from university employment. Such resignation will be without prejudice if adequate notice has been given by the employee and mutually satisfactory arrangements have been made concerning possible replacement of the employee.

Conclusion

This document does not provide a formal ethics determination or legal advice regarding specific actions. You may seek a determination or advice regarding actions as a university employee by completing and submitting a written Request For Determination form which may be found at http://www.law.state.ak.us/pdf/ethics/Form_request_for_ethics_determination.pdf

Neither the designated ethics supervisor nor General Counsel's office can provide legal advice to individual employees regarding laws generally applicable to candidates for office or campaigns.