

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 10, 2012

SUBJECT: "Contributions" under AS 15.13.400 (Work Order No. 27-LS1493)

TO: Representative Max Gruenberg
Attn: Ted Madsen

FROM: Alpheus Bullard *TAB*
Legislative Counsel

In response to an April 2, 2012, letter from the Alaska Public Offices Commission ("commission"), you asked about certain candidate forums and the definition of "contribution" under AS 15.13. "Contribution" is defined at AS 15.13.400(4).¹

¹ AS 15.13.400(4) provides:

"contribution"

(A) means a purchase, payment, promise or obligation to pay, loan or loan guarantee, deposit or gift of money, goods, or services for which charge is ordinarily made, and includes the payment by a person other than a candidate or political party, or compensation for the personal services of another person, that is rendered to the candidate or political party, and that is made for the purpose of

(i) influencing the nomination or election of a candidate;

(ii) influencing a ballot proposition or question; or

(iii) supporting or opposing an initiative proposal application filed with the lieutenant governor under AS 15.45.020;

(B) does not include

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

(ii) ordinary hospitality in a home;

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

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

The letter from the commission states that an organization's provision of a "candidate forum" could be a contribution. You asked whether an organization's provision of a candidate forum for which candidates and candidate campaigns are not ordinarily charged could be interpreted as a contribution. While every situation is different, and each will be evaluated by the commission on its facts, a "candidate forum" such as you describe should not be interpreted as a contribution. The definition of "contribution" provides that "*contribution . . . means a purchase, payment, promise or obligation to pay, loan or loan guarantee, deposit or gift of money, goods, or services **for which charge is ordinarily made, and includes . . .***" (Emphasis added)

Accordingly, while not addressed in the commission's letter, if you as a candidate are invited to a candidate forum, even if not all candidates for the office for which you are running have been invited (i.e. fringe party candidates), if the organization's provision of that forum is a service for which a candidate, or a candidate's campaign, is not ordinarily charged, it may not be a "contribution" under AS 15.13.400(4). Again, please note both that each situation will be evaluated on the basis of its own facts and that a court will likely defer to the commission's interpretation of AS 15.13.400(4).

If you have further questions, or a specific scenario in mind, please do not hesitate to contact me.

TLAB:ljw
12-272.ljw

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

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