

Ethics for All Seasons: Case Problem Answers

Outlined below are answers and references for the ethics case problems discussed in class:

Group 1: Use of Legislative Resources

Laws, opinions, and guidelines to consider:

- North Carolina Constitution – power of taxation is for public purposes only (Article V, Sec. 2)
- P & G 1, 2, 3, 5, 6, 7

May Legislator Lou direct his legislative assistant to do the following?

1. Write thank you letters to campaign contributors

- a. No, not with legislative resources (P & G 5, 7)
- b. Can use a facsimile of the legislative stationery that bears a disclaimer that it was not prepared at State expense (P & G 5, 6)

2. Send out a press release

- a. Contents, contents, contents
 - i. If about your filing of legislation, probably so
 - ii. If about you filing your notice of candidacy for District 1, probably not
- b. No opinions or guidelines directly on-point. Always remember taxation is for public purposes only (cited in P&G 7)
- c. "A legislator's campaign activities should not be conducted in the legislator's State supplied office or using State equipment, facilities, materials, or personnel. For purposes of this discussion "campaign activities" would include, but not be limited to, soliciting or receiving campaign contributions, preparing campaign literature, arranging or inviting individuals to campaign events, and urging people to vote for or against a particular candidate." (P&G 7)

3. Draft his monthly newsletter, and specifically ask recipients to vote for him

- a. Contents, contents, contents!
- b. If the contents specifically request a vote for the legislator, it would be a violation of P&G 7.

4. Post his legislative contact information to his campaign's Facebook page and Twitter account.

- a. Contents, contents, contents!
- b. P&G 7 specifically discourages the use of the legislative office address, e-mail and telephone number in connection with the campaign.

Group 2: Stationery and Postage

Laws, opinions, and guidelines to consider:

- AO-LEC-07-001 and AO-LEC-12-001
- P & G 2, 5, 6, 7

May Legislator Lou use his legislative stationery and postage for the following?

1. Mail a monthly newsletter. Additionally, can he use his legislative email account to send the newsletter electronically?

- a. Contents, contents, contents!
- b. No opinions or guidelines directly on-point. But, remember:
 - i. Taxation is for public purposes only (cited in P&G 7)
 - ii. "It is inappropriate to use excessively the State Telephone Network, the legislative computer system, and other State equipment for personal and business reasons. These services and this equipment shall be used primarily for legislative purposes rather than personal and business purposes." (P&G 1)
 - iii. "A legislator shall not use his mailing privileges to mail personal or nonlegislative business related correspondence." (P&G 2)

2. Send Valentines to constituents. Additionally, can he use his legislative email account to send the Valentines?

- a. Holiday greetings - No. "A legislator may not use legislative postage, stationery or staff to send holiday greetings or cards. The Committee finds that sending holiday greetings or cards is a personal correspondence. Therefore, under **Principle and Guideline 2**, it would be inappropriate to use legislative postage and stationery to send holiday greetings or cards." (AO-LEC-07-001)
- b. E-mail – No opinions or guidelines directly on point.

3. Congratulate a constituent on winning the mayor's race.

- a. "The Committee finds that it is appropriate to use legislative postage, stationery and staff to send constituents and non-constituents communications upon the occurrence of a significant event in their lives and condolences upon an adverse occurrence." (AO-LEC-07-001)
- b. "A legislator's campaign activities should not be conducted in the legislator's State supplied office or using State equipment, facilities, materials, or personnel. For purposes of this discussion "campaign activities" would include, but not be limited to, soliciting or receiving campaign contributions, preparing campaign literature, arranging or inviting individuals to campaign events, and urging people to vote for or against a particular candidate." (P&G 7)

4. Send a letter to a newly registered voter in the county.

- a. "A legislator may use legislative postage, stationery and staff to send letters to newly-registered voters in the legislator's district provided that these letters are not sent within 60 days before any election day the legislator is on the ballot in a contested election and so long as the letters only do the following: (1) thank the individual for registering to vote, (2) inform the individual who the individual's representative is and the legislator's contact information, and (3) encourage the individual to contact the legislator if the legislator can be of assistance. "Election" shall include primary election, second primary election, special election, and general election." (AO-LEC-07-001)
- b. 60th day before the May primary – March 7, 2014
- c. 60th day before the November general election – September 5, 2014
- d. Second primaries

Group 3 – Campaign Finance (Lobbyist)

Laws, opinions, and guidelines to consider:

- G.S. 14-217, G.S. 120-86, G.S. 120C-301, G.S. 120C-304, G.S. 163-278.13B, G.S. 163-278.13C

Legislator Lou and Lobbyist Larry, who represents the Coffee Can PAC, are lifelong friends. Lobbyist Larry has asked Legislator Lou to consider sponsoring legislation favored by the Coffee Can PAC. May Lobbyist Larry do any of the following?

- 1. Deliver a campaign contribution to Legislator Lou during the Coffee Study Committee meeting at the General Assembly.**
 - a. No. (G.S. 120C-278.13C)
- 2. Discuss with Legislator Lou his legislative fundraising efforts to win his district again. Would it matter if the Coffee Can PAC were also engaging in independent expenditures?**
 - a. No prohibition.
 - b. The expenditure of money in coordination with a campaign could be a campaign contribution, which is prohibited by lobbyists.
- 3. Ask Legislator Lou's employer to get Legislator Lou to sponsor that legislation or be disciplined at work.**
 - a. It is a felony for "the partner, client, customer, or employer of a legislator or the agent of that partner, client, customer, or employer, directly or indirectly, to threaten economically that legislator with the intent to influence the legislator in the discharge of the legislator's duties." (G.S. 120-86)
 - b. "No lobbyist, lobbyist principal, or other person required to register under this Chapter shall attempt to influence the action of any designated individual by the promise of financial support of the designated individual's candidacy, or by threat of financial

support in opposition to the designated individual's candidacy in any future election."
(G.S. 120C-301)

Group 4 – Campaign Finance (Legislator)

Laws, opinions, and guidelines to consider:

- G.S. 14-217, G.S. 163-278.13B, G.S. 163-278.13C, G.S. 163-278.19
- P&G 2, 5, 6, 7

Legislator Lou and Lobbyist Larry, who represents the Coffee Can PAC, are lifelong friends. Lobbyist Larry has asked Legislator Lou to consider sponsoring legislation favored by the Coffee Can PAC. May Legislator Lou do any of the following?

- 1. Accept a campaign contribution from an individual member of the Coffee Can PAC. Does it matter that the contribution is accompanied by a note from the PAC member that the PAC expects him to file that legislation when the session begins?**
 - a. Individuals may contribution, up to the maximum limit per election. (G.S. 163-278.13)
 - b. It is a felony to bribe, or accept a bribe, with the expectation that a public official will take an official action, or fail to take an action, in a particular manner while in office. Campaign contributions may be the thing of value exchanged. (G.S. 14-217)
- 2. Ask his legislative assistant to use the legislative stationery and postage to send out a campaign fundraising letter.**
 - a. No, not with legislative resources. (P & G 5, 7)
 - b. Can use a facsimile of the legislative stationery that bears a disclaimer that it was not prepared at State expense. (P & G 5, 6)
- 3. Accept a campaign contribution mailed to his legislative office.**
 - a. Probably not a good practice. (See P&G 7)
 - b. Limitation on who can give to you after May 14th at 12:00 noon until adjournment. No contributions from lobbyist, lobbyist principal or PAC's associated with those individuals during that time. (G.S. 163-278.13C)

When you need advice, call and ask questions! The only dumb question is the one not asked!

- State Board of Elections – (919) 733-7173
- Ethics line, Research Division – (919) 301-1991
- State Ethics Commission – (919) 715-2071