

August 16, 1991

State Personnel Board
Attn: R.H. King
Division of Personnel
Department of Administration
P. O. Box C
Juneau, AK 99811-0201

Re: Use of state equipment for
personal matters -- Executive
Branch Ethics Act (AS 39.52)
Our file: 663-92-0028

Dear Board Members:

On July 8, 1991, the Attorney General's office received an ethics complaint through the state Ombudsman's Office against an employee in department X. The complaint alleged that the employee kept and routinely updated household accounts and child support records on a state computer, used state time for personal business such as preparing 1991 income tax returns and paying personal bills, apartment-hunted on state time, and received excessive visits and calls from personal friends and the employee's child, who would visit the employee at the office for one to three hours at a time.

The Ombudsman's office copied the hard drive on the employee's computer prior to the employee being notified of the ethics complaint. I reviewed the files from the hard drive. I also spoke with the employee's supervisor, who is the director for that section. Based on the information I received, I conclude that the employee's conduct does not warrant a hearing under AS 39.52.360.

Although the employee's computer hard drive contained six files relating to personal affairs, the employee did not access those files after the beginning of April 1991. In a letter to me dated August 9, 1991, the employee admits having, in the past, used the office computer to update household accounts and child support payments. Earlier this summer, however, in response to an inquiry, the supervisor told the employee that no personal business should be conducted on state equipment. The employee claims that the employee took the files off the computer and has not used the computer for personal matters since then. The evidence from the employee's hard drive tends to support the letter.

The employee denies doing a personal 1991 tax return or paying personal bills on State time. The employee also denies using state time to access personal files on the computer. The hard drive

contained only the last date and time that the employee accessed each personal file; all except one of the times were during normal state working hours.

With respect to the employee's excessive personal calls, the supervisor told me that in May or June of this year, the supervisor became aware of and discussed that issue with the employee and believes it is no longer a problem. With respect to the employee's child's visits, the employee states that they occurred about six times during the last year, that they were caused by unexpected incidents, that the child did not disrupt the employee's work, and that the supervisor knew and approved of each visit. The supervisor confirms the employee's statement. With respect to apartment-hunting, the employee states that in the spring of this year, the employee was suddenly told the family would have to vacate the house they had lived in for a number of years. The employee admits to panicking and making calls from work to potential landlords for about two days.

Although the employee's use of state time and equipment for personal matters was inappropriate, I believe this case should be handled within the department, rather than go to a full-blown hearing. First, corrective actions had already been taken prior to the initiation of this investigation. Second, the employee's violations can be adequately, if not better, addressed internally by the department, either through the employee's personnel evaluation or by a letter in the personnel file. Third, a hearing with the employee's fellow workers testifying as to their knowledge of the employee's work habits is apt to be very disruptive within the section.

Therefore, I recommend that the information from this investigation be forwarded to the supervisor so that the supervisor may undertake whatever disciplinary action is appropriate to insure that no further violations occur.

I discussed my recommendation with the supervisor and Duncan C. Fowler, Ombudsman. They both agree with my advice.

Sincerely yours,

CHARLES E. COLE
ATTORNEY GENERAL

By:
Tina Kobayashi
Assistant Attorney General