

MEMORANDUM

State of Alaska Department of Law

TO: Linda Perez
Director
Division of Administrative Services
Office of the Governor

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FILE NO.: 661-06-0042

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THROUGH: David W. Márquez
Attorney General

SUBJECT: Use of State Aircraft

FROM: David T. Jones
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You asked whether the Alaska Executive Branch Ethics Act prohibits the use of state aircraft to travel for campaign or partisan political activities. In short, it does.

The Ethics Act provides that a public officer may not “use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for partisan political purposes.”¹ The only two exceptions to this prohibition are that (1) meetings to discuss political strategy may be held at the governor’s residence, and (2) communications equipment in the governor’s residence may be used so long as there is no special charge to the state for the use.²

The fact that the legislature provided only these two narrow exceptions demonstrates an intention to establish a broad ban against the use of state assets for partisan political purposes. That ban includes prohibiting the use of state aircraft for campaign and other partisan political activities.

Because the Ethics Act prohibits the **use** of state equipment for these purposes, a public officer could not avoid a violation simply by reimbursing the state for the cost of using state aircraft. We approved reimbursement to avoid ethics violations in other contexts, but

¹ AS 39.52.120(b)(6). The Act defines “partisan political purposes” as “having the intent to differentially benefit or harm a (i) candidate or potential candidate for elective office; or (ii) political party or group,” but it “does not include having the intent to benefit the public interest at large through the normal performance of official duties.” AS 39.52.120(b)(6)(A) and (B).

² AS 39.52.120(b)(6).

that option is unavailable for partisan political activities. We previously advised that spouses of administration officials may accompany the officials when they travel on state aircraft for state business so long as the spouses reimburse the state for the benefit provided.³ However, that conclusion was based on an analysis of the Ethics Act's provision prohibiting grants of unwarranted benefits.⁴ By contrast, the provision relevant here bars the **use** of state equipment for partisan political activities, subject only to the two exceptions noted previously. Consequently, reimbursement would not avoid a violation.

Travel undertaken for mixed purposes may present some close questions, and exercising good judgment in those situations is especially important. If performance of official duties is truly the primary purpose of a trip, a public officer will not violate the Ethics Act by using state aircraft for the trip. That is true even if the officer also participates in collateral partisan political activities while at the destination.⁵ However, it is important to apply careful judgment in determining the primary purpose of a trip. Indiscriminate use of state aircraft for trips combining official duties and partisan political activities will risk both violating the Ethics Act and inviting public criticism.

Accordingly, individuals traveling for the primary purpose of participating in partisan political activities should not use state aircraft for that travel. Likewise, it would be inappropriate to use state aircraft to transport more than incidental amounts of partisan political materials, such as campaign bumper stickers, buttons, or brochures.

If we can assist further in addressing these issues, please contact us.

³ Memorandum from B. Ritchie to J. Clark (Sept. 30, 2004).

⁴ *Id.* at 1 (citing AS 39.52.120(a)).

⁵ Public officers other than the governor and lieutenant governor may participate in partisan political activities only while on approved leave or otherwise off government time. AS 39.52.120(d); *see also* AS 39.25.160(j) (prohibiting campaigning on government time by state employees other than governor, lieutenant governor, and members of legislature).