



LOUISIANA DEPARTMENT OF STATE
CIVIL SERVICE

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GENERAL CIRCULAR NUMBER 2012-004 UPDATE

DATE: February 9, 2012

TO: Heads of State Agencies and Human Resources Directors

SUBJECT: State Classified Employees' Rights to Address Members of the Legislature

As the 2012 Legislative Session approaches, there are many bills that are being filed that may have an impact on state employees, both classified and unclassified. Questions have arisen such as does a state classified employee have the right to address members of the legislature.

Classified employees are prohibited from engaging in efforts to support or oppose a candidate, party or faction in an election. These constitutional restrictions do not prohibit a classified employee from expressing themselves either privately or publicly on issues that may be pending before the legislature or other public body.

However, the Lobbying Act, R.S. 24:56 does prohibit any state employee classified or unclassified "in his official capacity or on behalf of his employer" from communicating with a legislator in an attempt to influence the passage or defeat of legislation. This prohibition does not apply to an elected official or his designee, nor does it prohibit the giving of factual information to the legislature, whether the employee is acting in his official capacity or not.

The act of expressing matters of personal concern in a personal capacity are not prohibited, but if an employee wishes to express these matters during duty hours, it must be done while on annual leave.

Below are a few questions we have recently received from employees and answers that I believe will be helpful.

Do I have to tell my supervisor (appointing authority) why I am requesting annual leave?

No, you do not. However, a supervisor (appointing authority) is not required to approve a request or requests for annual leave. If you do not have approved annual leave in advance of your absence, your appointing authority may place you in a leave without pay status.

Can I go to the legislature or other public body or public official to express my view on matters?

Yes, you can. You must be on approved annual leave status if you want to go and express your views during normal duty hours.

Can I get in trouble for expressing myself publicly?

Maybe. The United States Supreme Court has held that although government employees have a right to free speech like any other citizen, when the government is the employer it (the government) has an interest in regulating the speech of its employees that differ significantly from the interest it has in regulating the speech of the citizenry in general. The standard that the Supreme Court has set to determine if the government can regulate the speech is "If an employee's speech does not relate to a matter of public concern then the government's interest in efficiency, work place harmony and satisfactory performance will usually trump the employee's interest in free speech." Therefore, when speaking publicly, make sure you are addressing matters that are of public concern and not personal to your particular work environment.

Can I write a letter to the editor of a newspaper to express my views on an issue?

Yes, you can. However, as stated above, make sure your letter concerns a matter of public interest and not your personal work environment.

Can I go to public rallies on issues and carry a sign, cheer and boo?

Yes, you can. But the same standard applies to expressions at rallies as it does before a public body.

Can I contact my legislator, personally, by letter or email?

Yes, you can. As a private citizen you have the right to contact your legislator concerning any issue that is of personal concern to you or concerning any issue before the legislature. Do not use your state issued work equipment to communicate matters of public concern to a member of a public body. Please use your private equipment.

Can I be a member of an organization that lobbies before the legislature?

Yes, you can. You as a state employee cannot lobby before the legislature in your official capacity as a state employee, but that does not prevent you from being a member of an organization that lobbies the legislature on matters of public concern, such as the American Federation of State, County or Municipal Employees (AFSCME), Retired State Employees Association (RSEA), State Employees Association of Louisiana and the Louisiana Association of Public Employees' Retirement Systems.

If the Retired State Employees Association were holding a rally on the steps of the State Capitol, could active state employees who are RSEA members participate?

Yes, you can. However, if the rally is scheduled during normal duty hours, you must be on approved annual leave. Additionally, the standard stated above concerning expressions will apply at rallies.

Would attending a rally be considered lobbying?

No, it would not. A rally is a gathering of people to inspire enthusiasm for a cause.

Can I place a sign in my yard supporting or opposing proposed legislation?

Yes, you can. Proposed legislation that you may support or oppose is an issue and not the support or opposition of a party, candidate, or faction seeking an elected office.

Can I sign a recall petition?

Yes, you can. However, due to the prohibition of supporting or opposing a candidate, party or faction, you cannot start a recall petition, solicit signatures for a recall petition or actively participate in a recall of an elected official.

Can I use my work computer to express my personal opinion on an issue of public concern?

No, you cannot. Your work computer is for work purposes. If you wish to communicate a matter of public concern to a member of a public body via electronic mail, please use your private computer.

If you have any questions about what you can or cannot do, please contact your Human Resource office or feel free to contact me.

Sincerely,

s/Shannon S. Templet
Director