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TO: Heads of State Agencies and Human Resources Directors

SUBJECT: Speaking Publicly on Issues

As the 2020 Legislative Session approaches and matters of public interest arise in communities, questions have arisen regarding state classified employee rights to address members of the legislature, and support or oppose local community concerns.

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

However, the Lobbying Act, [La. 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.

Most of the interest, however, is not about acting in an official capacity, but acting in a personal capacity on matters about which one has a personal view that is desired to be expressed. This is not prohibited, but if the expression is done during duty hours, it must be done while on leave.

Can I go to the legislature or another public body or public officer to tell them my view on matters?

Yes, you can. You must get leave from your supervisor, however, if you want to do that during duty time. While this leave should not be unreasonably withheld, it is up to your supervisor whether you get the leave or not.

Can I get into 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 differs 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.**

The same is true of other issues such as your pay, or a Civil Service rule, or an appropriation by the legislature. If you have concerns about any issue, you may express yourself to the entity that can do something about it, whether in public or by private communication.

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), RSEA, and the State Employees Association of Louisiana.

If RSEA 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 email, you must use your private computer.

If you still have questions about speaking publicly on issues as a classified state employee, contact your Human Resources Office, or the Department of State Civil Service, P.O. Box 94111, Baton Rouge, LA 70804-9111 or by phone at (225) 342-8274.

Sincerely,

s/Byron P. Decoteau, Jr.
State Civil Service Director