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Dear Employees, Managers and Human Resource Professionals:

There are a number of issues pending before public bodies about which state employees have a keen concern and about which they would like to express themselves. This is true of both classified employees and unclassified employees. This newsletter seeks to tell you my opinion of what you can and cannot do, and what you should be aware of when you do express yourself.

Classified employees, of course, 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 public bodies.

The Lobbying Act prohibits any state employee "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 against acting in an official capacity or on behalf of an employer 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. Let us now proceed by question and answer.

**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. Common sense is important here. If you publicly attack your supervisor, for example, you are going to be interfering with the relationship between you and the supervisor. This is going to impair the effectiveness and efficiency of your work unit and you could be punished. The attack is not the thing that gets you in trouble; it is the public attack. The public cannot do anything about your supervisor so all you have accomplished is to destroy the relationship. If you go to an office that can do something about your supervisor and make complaints that you reasonably believe to be true, even if your supervisor finds out it was you who complained and

the relationship is impaired, you cannot be punished. You have gone to the office that can do something about it.

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 to express my view on an issue?**

Yes, you can. You can express displeasure with the legislature or any public body or any official about something over which they are involved or over which they have control. It is the working relationship at your workplace that is important to the public interest. But be careful now; the head of your department is certainly a senior public official who has a lot of discretion in setting policy, and you may not agree with the way the head of your department is running things. You may not ever see that person, but an attack on the way he or she is running things is quite likely going to have an adverse affect on your working relationships at work. You could possibly get punished. I can't tell you not to do that, but if I were you, I would not do that publicly. Instead, I would go talk privately with the person or office that could do something about your concerns. Or write to that person or office. Please use your good sense as you express yourself publicly.

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

Yes, you can. The same things we discussed above, however, apply to expressions at a rally through your attendance and voice.

**Can I use my computer at work to express my personal opinion on an issue to a public official or public entity?**

No, you cannot. Your work computer is for your work and nothing else. Let me speak generally about the use of e-mail at work.

The absolute best rule to follow regarding e-mails is not to communicate anything you would not want everyone to read. E-mails can be readily forwarded to anyone, can be printed and disseminated, and there may come a time or conditions that will allow your employer to read your e-mails. Save your stronger personal expressions for your private computer.

E-mails have become like workplace conversations and telephone conversations—an accepted and useful means of communication. Such communications do occur regarding matters that are not related to business, and supervisors can restrict the time spent on personal communication, whether in the hallway, via telephone, or via e-mail. Again, however, do not communicate anything you do not want everyone to read.

If you have any questions about what you can or cannot do, please ask the Human Resource professional in your office or department. Please do not risk your job by doing something foolish.

Sincerely,

s/Robert R. Boland, Jr.  
General Counsel