

Memorandum

To: All University Employees

From: Office of General Counsel, University of Massachusetts

Date: October 10, 2018

Re: University Employees and Political Campaigns

The Massachusetts Campaign Finance Law, General Laws Chapter 55, and the Massachusetts Conflict of Interest Law, General Laws Chapter 268A, each restrict public employees from engaging in certain activities in connection with political campaigns. The Campaign Finance Law also prohibits political fundraising in public buildings. This memorandum provides a general summary of certain provisions of the laws that are of particular importance to University employees. All University employees intending to participate in political campaigns should familiarize themselves with the laws' requirements.

Prohibited Activities

1. Use of Public Resources

Under both the Campaign Finance Law and the Conflict of Interest Law, public employees and other individuals are prohibited from using public resources to support political campaigns. "Public resources" include any items that are paid for with public money such as: telephones, computers, copiers and other office equipment; paper, envelopes or other office supplies; and government vehicles. In addition, a public employee may not engage in any political campaign activity during his or her paid work time. For example, a public employee may not use an office computer to print out campaign literature or make telephone calls from his or her work site promoting a political candidate. A public employee also may not send campaign related emails using office computers or email accounts.

2. Fundraising Activity By Public Employees

Section 13 of the Campaign Finance Law prohibits Massachusetts public employees from engaging in fundraising "for the political campaign purposes of any candidate for public office, or of any political committee, or for any political purpose." The law's restriction on fundraising applies "to all public elections", whether at the local, state, or federal level.

All full and part time Massachusetts public employees are prohibited from "directly or indirectly" soliciting or receiving monetary contributions or anything of value for a candidate or political purpose. This provision applies at all times; during and after an employee's work hours, on weekends and vacations. The statute's prohibition includes fundraising activities for political candidates, political action committees (PACs) and ballot question committees. Among the activities that public employees may not engage in are: 1) soliciting campaign contributions; 2) selling tickets to or collecting money for a political fundraiser; 3) identifying people who may be targeted for political fundraising; 4) serving as the treasurer of a political committee; 5) sponsoring or hosting a political fundraiser; and 6) allowing their names to be used in letters, advertisements or phone calls that ask for political contributions.

The potential penalties for violating Section 13 of the Campaign Finance Law include imprisonment of up to one year and a fine of up to \$1000.00.

3. Fundraising in Public Buildings

Section 14 of the Campaign Finance Law prohibits anyone (not just public employees) from engaging in political fundraising activity in a building occupied for government purposes. This prohibition applies in publicly owned buildings, as well as privately owned buildings that are occupied by public agency offices. Prohibited fundraising activities within a public building include: 1) asking for or receiving contributions for any political candidate or committee; 2) selling tickets to a political fundraiser; 3) using the building as the site of a political fundraiser; 4) using the building's address or phone number as the contact for a political fundraiser; and 5) posting of any advertisements or notices in the building promoting a political fundraising event. In addition, the prohibition against soliciting political contributions in a public building extends to communications sent from outside the building, including telephone, mail and email communications. For example, emails soliciting political contributions that are sent to a public employee at his or her work email address are prohibited by Section 14. A political campaign may not accept contributions that are made as a result of such a solicitation.

The potential penalties for violating Section 14 of the Campaign Finance Law include imprisonment of up to one year and a fine of up to \$1000.00.

Permitted Activities

1. Political Activity Outside Working Hours

The Conflict of Interest Law and the Campaign Finance Law do not prohibit public employees from participating in all political activities. A public employee may work for a political campaign or committee in a non-fundraising capacity, as long as the work is performed outside of his or her usual working hours. Public employees may perform such tasks as holding campaign signs, making telephone calls on behalf of a candidate, stuffing envelopes, and hosting candidate events that do not involve fundraising. In addition, public employees may engage in non-election related political activity as private citizens, on their own time and without the use of public resources, such as attending and speaking at public meetings or writing letters to the editor concerning political issues.

2. Equal Access to Public Buildings

While political fundraising of any kind is prohibited in public buildings, a public building may be used to host a political event, as long as the space is made available on an equal basis to any other political or outside group wishing to use the space and under the same terms and conditions. The principle of equal access applies to candidates and political committees campaigning or seeking signatures on a petition in a public building: as long as equal access is provided and no fundraising takes place, there is no violation of the Campaign Finance Law. Public entities may establish a policy regarding access to buildings for political purposes, as long as the policy is applied evenly to all groups.

3. Ballot Questions

The Campaign Finance Law generally prohibits the use of public resources to support or oppose a ballot question, however the law does not prohibit public employees who are policy making officials from expressing their views in their official capacity about a ballot question that may affect the public

employee's agency. In connection with their official duties, policy making employees may prepare a summary of the anticipated effects of a ballot question and the public agency's position on the question, as long as the public employee does not expressly advocate for a particular vote on the question.

Campaign Contributions

Although public employees may not engage in fundraising themselves, they may make their own financial contributions to political candidates and committees subject to certain contribution limits.

For state elections, the following contribution limits are applicable to all individual donors under Section 7A of the Campaign Finance Law (current for calendar year 2018):

- \$1,000.00 to a particular candidate;
- \$500.00 to a political action committee;
- \$5,000.00 to a state party committee; and
- \$5,000.00 to a city or town party committee.

There is no limit on the amount of contributions an individual may make to a committee formed to support or oppose a Massachusetts ballot question. All state campaign contributions are reported to the Massachusetts Office of Campaign and Political Finance which maintains a searchable online database listing the name, address and employer of individual contributors.

Campaign contributions for federal elections (e.g. President and U.S. Congress) are governed by federal law and are subject to higher contribution limits. The Federal Election Commission maintains an online searchable database of individuals contributing at least \$200.00 to federal election campaigns.

The current 2017-2018 limits for individual contributors in federal elections are as follows:

- \$2,700.00 to a particular candidate per election;
- \$5,000.00 to a political action committee per calendar year;
- \$33,900.00 to a national party committee per calendar year.

Under federal campaign laws, a primary election and a general election are each considered a separate election with a separate limit of \$2,700.00 to a particular candidate. In addition, the limitation on contributions to political action committees applies to a committee that makes contributions to other federal political committees. Independent-expenditure-only political committees (sometimes called "super PACs") may accept unlimited contributions from individuals, corporations, and labor organizations.

Further Information

The Massachusetts Office of Campaign and Political Finance (OCPF) is the state agency that administers the Massachusetts Campaign Finance Law. OCPF will provide a written advisory opinion to any individual seeking further guidance regarding his or her own campaign activities. OCPF also provides informal advice over the phone. OCPF may be reached at (617) 979-8300 and at ocpf@cpf.state.ma.us. OCPF's webpage is found at www.mass.gov/ocpf.

The State Ethics Commission administers the Massachusetts Conflict of Interest Law. The Commission provides free legal advice to individuals concerning the application of the Conflict of Interest Law. The Commission may be reached at (617) 371-9500. The Commission's website is found at <http://www.mass.gov/ethics/>.

In addition, you may contact the University's Office of the General Counsel at (617) 287-4064 if you have questions regarding the topics discussed in this memorandum.