

**CITY OF MADISON
OFFICE OF THE CITY ATTORNEY
Room 401, CCB
266-4511**

Date: March 8, 2007

MEMORANDUM

TO: Mayor Dave Cieslewicz
All Alders

FROM: Michael P. May, City Attorney

RE: **Campaign Activity Reminder**

At the last meeting of the Common Council Organizational Committee, I was asked to send a gentle reminder about limitations on campaigning. This is not an exhaustive list of all the rules to which campaigns are subject, many of which are found in the State statutes and are governed by the State Elections Board. However, there are three general rules to keep in mind.

1. Campaigns are not to use City facilities. This includes City issued computers, telephones, or other facilities. This is barred both by Administrative Procedure Memoranda (e.g., APM 2-33 and 3-9), and is covered by our reading of the City Ethics Code, Section 3.47(5)(b), MGO, to say nothing of the potential applicability of state criminal statutes.

If someone sends campaign related material to you at your City email address, you should send it to your personal or campaign address, and remind the person to no longer utilize the City email for such purposes.

2. City employees are strictly prohibited from campaign related activities while on duty. Section 3.47(8) of the City's Ethics Code strictly limits employees from engaging in any sort of campaign activity while on duty. This includes wearing or displaying any campaign material, distributing campaign literature, soliciting contributions or actively campaigning. The provision applies to referenda, in addition to candidates for office. I encourage you to read this subsection, a copy of which is attached.

In addition, police officers and firefighters may have departmental rules governing political activity.

3. No soliciting of public employees while on duty. In addition to the prohibition set forth in the City's Ethics Code, Section 11.36 of the State Statutes specifically prohibits soliciting of any public employee while they are on duty.

Please contact our office if you have any questions.

Michael P. May
City Attorney

MPM:skm

cc: All Agency Heads

Sec. 3.47(8), MGO

Political Activity.

- (a) No employee while on duty or on official City business shall, for the apparent purpose of influencing the outcome of any referendum, or improving the chance of election of a person seeking elective office:
 - 1. Wear or display any campaign material.
 - 2. Distribute any campaign literature.
 - 3. Solicit, receive or give subscriptions, contributions or service for any candidate or referendum position.
 - 4. Actively campaign for any candidate or any referendum position.
- (b) No employee while on duty or other official City business or off duty shall in any way coerce or attempt to coerce subscriptions, contributions or service from subordinate employees in support of a political party or a candidate for elective office or for or against a referendum position, or retaliate against or reward an employee for refraining from participating in any political activity. No employee on or off duty shall use her or his title or position or indicia thereof in any elective political activity.
- (c) This subsection does not apply to a response by a legal custodian or subordinate of the custodian to a request to locate, reproduce or inspect a record under Sec. 19.35, Wis. Stats., if the request is processed in the same manner as the custodian or subordinate response to other requests to locate, reproduce or inspect a record under such section or to an employee providing other information within the knowledge of the employee by virtue of her or his City position if such information is made equally available upon request to any other person.
- (d) Police officers and firefighters shall observe the applicable rules of the Police and Fire Departments relating to political activity.
- (e) No elected official or candidate for a City elected office shall promise an appointment to any municipal position as an apparent reward for any political activity.
- (f) Pursuant to 5 U.S.C. Sec. 15.02, employees whose positions are federally funded in whole or in part may not be candidates in partisan elections without first being granted an unpaid leave of absence.