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# LEGISLATIVE ETHICS BOARD

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## ETHICS ALERT Election Year “Freezes” April 2020

### Introduction

During its March meeting, the Board was asked whether the term “official legislative website” as used in RCW 42.52.180 included official social media accounts like Facebook and Twitter. In determining that it does, the Board thought it timely to send out an *Ethics Alert* reminding legislators and staff what “freezes” apply during an election year.<sup>1</sup> The “freezes” are contained in two provisions of the Ethics in Public Service Act (Act): RCW 42.52.180 (use of public resources in campaigns) and RCW 42.52.185 (restrictions on mailings). This *Alert* will explain each of them separately.

### Website Freeze – RCW 42.52.180

The general rule is that no legislator may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot measure. Official legislative websites can be maintained throughout the year regardless of pending elections. **The term “official legislative website” also includes any official social media account like Facebook and Twitter.** These websites can contain discretionary material prepared for a legislator during the course of his or her legislative duties, including newsletters and press releases. However, official legislative websites cannot be altered from the first day of the declaration of candidacy filing period (May 11, 2020) through the date the general election is certified.

### Mailing Freeze – RCW 42.52.185

The general rule is as follows: from December 1<sup>st</sup> of the year before a general election through the date the election is certified (sometime in November), a state legislator may not mail to a constituent<sup>2</sup> at public expense a letter, newsletter, brochure or other piece of literature. The term “mail” includes both regular mail (USPS) and email. This rule applies to any legislator who is a candidate for any public office. These restrictions do not apply to a legislator whose term of office is ending and, after the candidacy filing date has passed, has not filed to run for public office. These restrictions also do not apply to members of the Senate who are not up for reelection.

There are exceptions to this general rule and the following is permitted:

1. Routine legislative correspondence, such as scheduling;
2. Two mailings of newsletters to constituents. The content of the newsletters sent within each mailing must be identical. Both mailings must occur before the first day of the declaration of candidacy filing period specified in RCW 29A.24.050 – May 11, 2020.

<sup>1</sup> If it is not a year in which a general election will be held, but a member is nonetheless up for reelection, these restrictions will apply to that member.

<sup>2</sup> Persons residing outside the legislator’s district are not considered to be constituents. Students, military personnel and others temporarily employed outside the district but who normally reside in the district are considered to be constituents. RCW 42.52.185(4)(b).

3. An individual letter under the following circumstances:
  - a) To a constituent who has contacted the legislator regarding the subject matter of the letter during the legislator's current term of office;
  - b) To a constituent who holds a governmental office with jurisdiction over the subject matter of the letter;
  - c) To a constituent who has received an award of extraordinary distinction that is infrequently awarded;<sup>3</sup>
4. Regular or periodic electronic or email updates on legislative matters to constituents who have requested them or who have been added to a distribution list and provided regular opportunities to unsubscribe from the list. Legislators may provide updates to these constituents by email throughout the legislative session until the first day of the declaration of candidacy filing period (May 11, 2020). If the legislature is in special session on the first day of the candidacy filing period, legislators can continue providing these updates until the end of the special session.

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<sup>3</sup> The standards for sending congratulatory letters are the same whether or not it is an election year.