



MONTANA UNIVERSITY SYSTEM  
OFFICE OF COMMISSIONER OF HIGHER EDUCATION

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## **MONTANA UNIVERSITY SYSTEM | COMMISSIONER'S DIRECTIVE**

### **RE: Political Activity of Public Employees**

**EFFECTIVE DATE: December 12, 2012**

These guidelines explain what political activities by public officers and employees in the workplace are prohibited and what activities are allowable.

#### Prohibitions:

Public officers and employees may not use public time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition to any political committee, the nomination or election of any person to public office, or passage of a ballot issue. Violations may result in an administrative penalty of up to \$1000 and disciplinary action. § 2-2-121(3), MCA.

It is unlawful for employers to exhibit in the work place handbills or placards containing any threat, promise, or notice intended to influence the political opinions or actions of the employer's employees. § 13-35-226, MCA.

A person may not coerce or require a public employee to support or oppose any political committee, candidate, or the passage of a ballot issue. § 13-35-226, MCA.

The state may not refuse employment or discriminate against a person in a term of employment because of that person's political beliefs. § 49-2-308, MCA.

Montana law prohibits the inducement of a person to vote for or against a candidate or ballot issue by promising something of value, including employment or appointment to a public post. § 13-35-214, MCA.

#### Allowable activities:

Montana law does *not* restrict the right of a public employee to express personal political beliefs at work or elsewhere. *As long as public time, facilities, equipment, supplies, or funds are not involved*, employees may engage in personal political speech; in doing so, an employee may use his or her official title. A person on a lunch break on campus, for example, can express a personal preference for a candidate or a ballot issue. Public employees and officials can engage in any kind of political activity outside of work, so long as they don't engage in any of the unlawful activities listed above, like coercing public employees, issuing bribes, etc.

A Montana Attorney General's opinion holds that a public official or employee may engage in political activities outside of work and may give or use their title while doing so. Thus an employee may sign a letter to the editor, for example, giving his public title. The AG reminded us that, "The presumption is that free speech rights are protected and only the very specific restrictions in Mont. Code Ann. § 2-2-121 can be invoked to limit a public

*Directives are official interpretations and guidance issued by the Commissioner of Higher Education; they remain in effect as system directives until withdrawn or revised by the Commissioner or superseded by action of the Board of Regents.*

officer's or public employee's right to political speech." The link to the AG opinion is: <https://dojmt.gov/wp-content/uploads/2005/01/51-001.pdf>.

Furthermore, public officials and employees are not precluded from informing and explaining the effects and impact of a ballot issue on a public program. This aspect is important and it is okay to state the negative or positive aspects of the measure. We try to ensure complete accuracy in such communications.

It is allowable to discuss these guidelines with your employees at work or to circulate these guidelines at work. This is part of our job as responsible public employers.

A handwritten signature in black ink, appearing to read 'Clayton T. Christian', written in a cursive style.

Clayton T. Christian  
Commissioner of Higher Education