

March 6, 1996

Dr. Richard L. Bowen, President
Idaho State University
Campus Box 8310
Pocatello, ID 83209-8310

**THIS CORRESPONDENCE IS A LEGAL GUIDELINE OF THE
ATTORNEY GENERAL SUBMITTED FOR YOUR GUIDANCE**

Re: Use of State Property for Personal Gain or Political Use

Dear Dr. Bowen:

This letter is in response to your request of February 14, 1996, in which you ask for guidance regarding University faculty members' use of computer Internet facilities for political purposes or personal gain.

Section A. May State Property Be Used for Personal Gain?

Article 7, section 10 of the Idaho Constitution reads as follows:

The making of profit, directly or indirectly, out of state, county, city, town, township or school district money, or using the same for any purpose not authorized by law, by any public officer, shall be deemed a felony, and shall be punished as provided by law.

This section prohibits a public officer from profiting from public resources.

Although the term "public officer" is not defined in the Idaho Constitution, it is generally considered to include not only appointed or elected officials, but all state employees.¹ Thus, state employees are public officers for purposes of article 7, section 10 of the Idaho Constitution.

As public officers, no state employee shall, directly or indirectly, make a profit out of state funds. Over time, this provision has been interpreted to mean that state time, resources and funds (including but not limited to the use of telephones, fax machines, photocopiers, state mail system, etc.) may not be used by state employees for pecuniary gain.

Thus, we conclude that state employees may not use the Internet or any other state property or resources for economic gain.

Section B. May State Employees Use the Internet for Political Purposes?

Once again, article 7, section 10 of the Idaho Constitution is the operative provision to answer this question. State employees may not use state time or resources for any purpose not authorized by law and certainly not for use in political or campaign-related activity. Thus, as with the prohibitions above, it is illegal to for a state employee use state resources, such as the computer and the state's Internet services, for political or campaign-related purposes.

CONCLUSION

Article 7, section 10 of the Idaho Constitution prohibits public officers and state employees from using state time, money or resources for making a profit or for other purposes not authorized by law. The use of state resources for economic gain and for political activity is a prohibited use of state property. Thus, state employees with access to state-owned Internet services cannot use those services for personal pecuniary benefit or political or campaign-related activities.

I trust this letter answers your inquiry. If you have any further questions regarding this please do not hesitate to contact me.

Very truly yours,

KEVIN D. SATTERLEE
Deputy Attorney General
Contracts & Administrative Law Division

¹ See Idaho Code § 59-703(10) regarding definition of public official, Idaho Code § 59-802(6) regarding definition of public official or employee, and Idaho Code § 67-301 regarding classification of public officers, to include ministerial officers.