

# Can the Work E-mail System be Used for Union Business?

Since the inception of electronic messaging systems the debate between unions and employers has centered around the use of employer e-mail by union members and their unions.

In the early stages of e-mail, various ethics boards and commissions weighed in on the question of e-mail usage and ruled formally and informally that union members could not use the employer e-mail system unless it was job related. Based on these rulings, unions argued successfully that a “de minimus” or reasonable use of the employer’s e-mail system should apply to union members for representational and communication purposes with their union.

In the bargaining units that Local 17 represents, the standard of “de minimus use” is the consistent standard in determining the employee’s use of the employer’s office and communication equipment for the purposes of communicating with union staff and management.

In most of Local 17’s bargaining units, employers have taken a reasonable stance that allows the reasonable use of e-mail and have responded to an amount of usage that goes beyond reasonable as a non-performance issue rather than a union activity issue.

For example, bargaining unit members represented by the union in state government have and continue to endure a more restrictive standard regarding the use of employer resources and equipment.

Current state contract language states: “*the union and its members will not use state-owned or operated e-mail, fax machines, the internet, or intranets to communicate with one another. However, such resources may be used to request union representation and for the administration of this agreement when such use will:*

- 1) *Result in little or no cost to the employer*
- 2) *Be brief in duration and frequency*
- 3) *Not interfere with the performance of their official duties*
- 4) *Not distract from the conduct of state business*
- 5) *Not disrupt other state employees and will not obligate other employees to make personal use of state resources*
- 6) *Not compromise the security or integrity of state information or software.*



*You can read about the Executive Ethics Board's ruling in the October issue of Right to Work magazine.*

*The union and its stewards will not use the above-referenced state equipment for union organizing, internal union business, advocating for or against the union in an election or any other purpose prohibited by the executive ethics board.*

*Communications that occurs over state owned and operated equipment is the property of the employer and may be subject to public disclosure.”*

The State of Washington has maintained its rigid position regarding union use of communication equipment even in light of legislation passed in the 2006 Regular Legislative Session that provided: “. . . *nothing in this chapter prohibits a state employee from distributing communications from an employee organization or charitable organization to other state employees if the communications do not support or oppose a ballot proposition or candidate for federal, state, or local public office.*”

Local 17 will continue to articulate its position that e-mail is an electronic bulletin board, and the same standards and contract language should apply to both e-mail communications and communications posted on bulletin boards.

When considering the use of e-mail, stewards and members should keep in mind the reasonable use standard and the fact that the document produced is a public record that may be reviewed by the employer and is subject to public disclosure. — *By Bill Kalibak, Local Union Representative*