



University of Idaho

Office of General Counsel
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May 3, 2007

Dave Glasebrook

[REDACTED]
Moscow, ID 83843

RE: Public Records Request received April 18, 2007

Dear Mr. Glasebrook:

This letter is in response to your public records request received April 18, 2007. The University is granting your request in part and denying it in part. The records to which the University is granting access are enclosed. Please note that archived communications from the President's Office, including the Friday Letter and Today @ Idaho are publicly available on the President's Office web site, at the following link:

<http://www.president.uidaho.edu>

Therefore, copies of these communications have not been provided. In addition, although not technically from the President, I have enclosed a communication that was sent out by the General Counsel's Office regarding elections and use of University resources.

As stated above, the University is denying your request in part. You requested the e-mail of Susan Mahoney, a UI student who is not an employee. It is the position of the University that those e-mails, to the extent they exist, would not be subject to disclosure because they are not "public records" as that term is defined in I.C. § 9-337. To the extent that they could be deemed public records, the University denies the request pursuant to I.C. § 9-340A and the Family Educational Rights and Privacy Act and its implementing regulations, 34 CFR Part 99.

The attorney for the University has reviewed your request. The sole remedy for a person aggrieved by the denial of a request is to institute proceedings in the district court of the county where the records or some part thereof are located, to compel disclosure. The petition contesting the decision must be filed within one hundred eighty (180) calendar days from the date of mailing of the notice of denial or partial denial by the public agency.

Should you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "D. A. Hess".

Danielle A. Hess
Senior Associate General Counsel

Enc.

From Ludmilla Saskova <ludmilla@moscow.com>

Sent Friday, December 23, 2005 10:57 pm

To: Ludmilla Saskova <ludmilla@uidaho.edu>

Cc

Bcc

Subject Fwd: [Citizens] FrontLine on Walmart

RECEIVED

4-30-07

Office Of
General Counsel

Begin forwarded message:

> From: citizens@list.nosuperwalmart.com
> Date: December 23, 2005 10:55:42 PM PST
> To: citizens@list.nosuperwalmart.com
> Subject: [Citizens] FrontLine on Walmart
> Reply-To: citizens@list.nosuperwalmart.com
>
> You can watch the PBS Frontline "Is Walmart Good For America" online
> with RealPlayer, or WindowsMedia:
> Go To:
> <http://www.pbs.org/wgbh/pages/frontline/shows/walmart/view/>
>
> -David
>
>
> _____
> citizens mailing list
> citizens@list.nosuperwalmart.com
> <http://list.nosuperwalmart.com/listinfo.cgi/citizens-nosuperwalmart.com>
>

MEMORANDUM

September 1, 2004

TO: Deans, Directors, Department Chairs and Unit Heads
Please distribute this information

FROM: Sharyl Kammerzell, Associate University Counsel

RE: Political and Campaign Activities

As we approach the 2004 general election, it seems timely to remind you about the restrictions placed on University of Idaho employees relative to political and campaign activities.

Generally, university employees may engage in political and campaign activities so long as they do not do so during work hours or using state or university resources. Taking annual leave to engage in political or campaign activities is allowed. As with all annual leave, supervisors may place reasonable restrictions on when annual leave may be taken to ensure the continued and efficient operation of the university. Any use of state or university funds, time, or resources for political or campaign activity is prohibited by the policies of the Regents of the University of Idaho and federal law.

The Regents prohibit the use of university resources for political activities:

Employees retain unimpaired all of their individual and political rights of citizenship. However, employees may not exercise those political rights in the name of any institution, agency or school, or through the use of Board facilities, or through the use of forms or official stationery or in any way that might involve an institution, agency or school in partisan political activity or controversy.

- (1) The Board or any of its members, agents, representatives, or employees must not prevent, threaten, harass, or discriminate against any employee who chooses to run for public office.
- (2) Employees are permitted to campaign freely in a manner that does not violate Board Governing Policies and Procedures or applicable provisions of the Idaho Code.
- (3) Employees may choose to request a leave without compensation in order to campaign for elective office or to serve in an elective office by using the procedures established at an institution, agency or school in addition to these policies and procedures.

In addition, the University of Idaho is a tax-exempt organization under federal law. This status provides another set of restrictions on political and campaign activity. To better understand the

applicability of federal law, it is important to know that tax-exempt status is dependent upon the university qualifying as an institution organized and operated *exclusively* for educational purposes. It is this exclusivity of purpose that makes certain activities suspect and may cause the federal government to conclude that the university is lending its resources for non-educational purposes. With this in mind, the list of permitted activities and impermissible activities below illustrates where federal law draws the line on political activities located at or involving tax exempt organizations.

Illustrative *permitted* activities¹

- Curricular activities aimed at educating students and others
- Sponsoring public forums to which all legally qualified candidates are invited and given equal access and opportunity to speak
- Use of university facilities by established student groups for partisan political purposes provided that such groups pay any fees for facilities that student groups might be required to pay generally.
- Conducting public opinion polls with respect to issues provided the questions are fair and neutral and do not directly or indirectly concern the record or position of particular candidates of political parties.

Illustrative *prohibited* activities as a university employee

- Participating or intervening as a university employee or as the university in any campaign of any candidate for public office
- Endorsing, expressly or impliedly, a candidate for public office.
- Providing or selling mailing lists, offering office space, telephones, photocopying, or electronic mail access, to a candidate, campaign, political party, or political action committee
- Coordinating institutional fund-raising with candidate, political party, or political action committee fund-raising
- Sponsoring events to advance the candidacy of particular candidates
- Promoting action, such as voting, on issues that have become highly identified as a dividing line between candidates.
- Coordinating voter education activities with campaign events
- Public statements, oral or written, by institutional officials in support of a candidate, political party, or political action committee

Please contact the office of university counsel, 885-6125, counsel@uidaho.edu, with any questions.

¹ Adapted from a memo by Hogan and Hartson, LLP to the National Association of Independent Colleges and University, May 28, 1996