





Roger Millar, PE, AICP
Secretary of Transportation

9/19/16

Date

Ethics in Public Service

I. Introduction

A. Purpose

This Secretary's Executive Order states that ethics in public service is the personal responsibility of each Washington State Department of Transportation (WSDOT) employee, and is governed by Revised Code of Washington (RCW) 42.52 *Ethics in public service*, hereafter called the Ethics Law. Employees will collectively maintain the highest standards of honesty, integrity, impartiality, and conduct in the performance of official duties. By doing so, the department continues to uphold the highest level of public confidence.

B. Supersession

This Secretary's Executive Order supersedes and replaces the prior version with the same title dated December 5, 2014. All references to the superseded E 1004.02 now reference E 1004.03.

C. What Has Changed

- In section I., changed the definition of *de minimis* to match the current definition in WAC 292-110-010.
- In section III., added activities that are defined as promoting organizational effectiveness.
- In section III., added the requirement (found in WAC 292-110-010) of *de minimis* use for Combined Fund Drive activities.
- In section III., added additional permitted and prohibited uses for the Memorial Foundation.
- In section III., removed text related to Connecting State/Private Electronic Devices; kept reference to E 1021.
- In section III., added the requirement (found in WAC 292-110-010) of *de minimis* use for Wellness activities.
- In section III., added a Prohibited Activities section.
- In section IV., added a Safe Harbor section.

APPROVED
Executive Ethics Board

Date: 9-9-16

D. Background

The 1994 Legislature passed into law Engrossed Substitute Senate Bill (ESSB) 6111. This bill established ethical standards for all state officers and employees within the executive, legislative, and judicial branches of government. The standards were codified in a single chapter of the Ethics Law which took effect January 1, 1995.

RCW 42.52.160 *Use of persons, money, or property for private gain* prohibits use of state resources for the private benefit or gain of a state officer, state employee, or another. Washington Administrative Code (WAC) 292-110-010 *Use of state resources* provides for *de minimis* use of state resources only if each of the following conditions are met:

1. There is little or no cost to the state;
2. Any use is brief;
3. Any use occurs infrequently;
4. The use does not interfere with the performance of any state officer's or employee's official duties;
5. The use does not compromise the security or integrity of state property, information systems, or software;
6. The use is not for the purpose of conducting an outside business, in furtherance of private employment, or to realize a private financial gain; and
7. The use is not for supporting, promoting the interests of, or soliciting for an outside organization or group.

The Ethics Law provides for agency development of policies and procedures that address agency-unique circumstances.

II. Secretary's Executive Order

Employees are directed to follow the provisions of the Ethics Law, the rulings of the Executive Ethics Board, and department policies. Failure to do so may result in corrective and/or disciplinary action.

As detailed in the *Human Resources Desk Manual M 3009*, the following resources are available to inform all employees of their responsibilities to comply with the Ethics Law.

A. Training

As a condition of employment, new employees (permanent and non-permanent) are required to pass the ethical standards self-study course within 30 days of receiving access to WSDOT's Learning Management System (LMS). The supervisor will provide the employee with help using LMS, as necessary, and will monitor the employee's completion of the course.

B. Manager and Supervisor Responsibilities

Managers and supervisors are responsible for discussing the requirements of the Ethics Law with employees at least annually. Managers and supervisors will let employees know how to get more information and answer specific questions about the Ethics Law.

III. Information to Carry Out This Secretary's Executive Order

This section is written to provide additional authority to carry out the following types of activities.

The Executive Ethics Board issues formal Advisory Opinions to answer questions about the Ethics Law. The Executive Ethics Board has given individual agencies the flexibility to make rules in specific areas. In addition, certain RCWs and WACs give individual agencies this flexibility.

The department has established the following rules so that employees can ethically participate in these activities.

Several of the rules described below address solicitations for charitable activities. In all instances, managers and supervisors should avoid direct personal solicitations of employees who work under their supervision. Employees should also avoid direct personal solicitations of co-workers and opt for voluntary participation in charitable activities.

A. Organizational Effectiveness

Organizational effectiveness relates to an agency's mission and encompasses activities that enhance or augment the agency's ability to perform its mission. Therefore, while activities that promote organizational effectiveness are not official state duties, they help support a collegial work environment.

1. With *prior management* approval, employees may make limited use of state resources for activities that increase organizational effectiveness.
2. These activities may include, but are *not limited to*:
 - a. Honoring all employees (e.g., staff appreciation days).
 - b. Honoring individual employees for work-related accomplishments within applicable laws and rules.
 - c. Benefiting an employee suffering from a serious illness or tragedy.
 - d. Promoting teamwork.
 - e. Recognizing significant events in the lives of individual employees (e.g., baby showers, retirement activities, birthdays, and other celebrations). Employees may use *de minimis* paper or other office supplies/consumable state resources to plan or conduct the activity.
 - f. Allowing participation in state-sponsored or intermittent department-sponsored health activities (e.g., vaccinations, diabetes/cholesterol or other biometric screenings, or recording participation in an agency-sponsored or Public Employees Benefits Board-sponsored wellness program).
 - g. Organizing, conducting, and participating in blood and/or bone marrow drives.

Employees may not solicit outside vendors to donate goods or services for activities promoting organizational effectiveness.

APPROVED

B. Combined Fund Drive Activities

Basis of Authority: Executive Ethics Board Advisory Opinion 00-09 *Use of State Resources/Combined Fund Drive*.

Assigned employees may participate in activities to carry out Washington State's Combined Fund Drive within the following limits:

1. Supervisor review and approval is required in advance.
2. Resources used may not exceed basic supplies and equipment, such as computers and copy machines.
3. Per WAC 292-110-010, state resources can be used for Combined Fund Drive activities as long as use conforms with *de minimis* standards or as authorized in other state laws or rules.

C. Other Organization-Wide Charitable Activities

Basis of Authority: WAC 292-110-010 *Use of state resources* and Executive Ethics Board Advisory Opinion 96-11 *De Minimis Use of State Resources – Charity*.

Organization-wide charitable activities need to be approved by an executive, with the same limits as in III.B.1. and III.B.2. above.

D. Individual Employee Fund Raising

Basis of Authority: WAC 292-110-010 *Use of state resources*.

1. Charitable Organizations

An employee may solicit funds for a charitable organization while at work within the following limits:

- a. The employee shall use regular breaks, lunch hour, or annual leave for the activity.
- b. The activity cannot interfere with the performance of official state business.
- c. This section does not include approval for transactions by private businesses.
- d. Examples of approved activities include, but are not limited to, the intermittent or seasonal sale of candy bars, cookies, flowers, fruit, wrapping paper, or entertainment discount books by schools and sports groups, community services groups, and youth organizations.
- e. Use of basic supplies and equipment, such as computers and copy machines, *is not allowed*.
- f. The only office facilities that may be used are employee-use bulletin boards and table surfaces in break rooms, coffee rooms, or other common areas.

2. Solicitations to Assist Staff in Need

Occasionally, WSDOT employees suffer a serious illness or tragedy. With the approval of an executive, an employee may solicit WSDOT employees within a

APPROVED

region or headquarters to donate money, food, clothing, or personal time to assist a co-worker within the following limits:

- a. Sending an email to region or headquarters employees, or including an announcement on the region or headquarters intranet site to solicit donations.
- b. The employee shall use regular breaks, lunch hour, or annual leave for the activity.
- c. The activity cannot interfere with the performance of official state business.
- d. Use of a WSDOT conference room or facility does not occur on state time.

E. WSDOT Memorial Foundation

Basis of Authority: WAC 292-110-010 *Use of state resources*

The WSDOT Memorial Foundation is a non-profit charitable organization that provides financial assistance to WSDOT employees who become disabled in the line of duty, to surviving spouses and children of fallen workers and employees who die in the line of duty, and for the families of employees impacted by serious illness or tragedy.

The department believes the promotion of the WSDOT Memorial Foundation can enhance the organization's effectiveness. It is an employee's personal choice whether or not to participate in donating or fundraising activities.

1. With the approval of an executive, employees may participate in charitable activities for the WSDOT Memorial Foundation under the authority of and within the same limits in III.B. or III.C. above. This includes employees holding fundraisers to support the Memorial Foundation in conjunction with the Combined Fund Drive. An employee with approval may solicit funds for the WSDOT Memorial Foundation while at work within the following limits:
 - a. Occasional email or intranet article to employees providing information about the WSDOT Memorial Foundation and how to donate.
 - b. Occasional email or intranet article to notify WSDOT employees of vacancies on the WSDOT Memorial Foundation Board and how to become a board member.
 - c. Web page on the WSDOT intranet to provide information and a description of the WSDOT Memorial Foundation.
 - d. Inclusion of WSDOT Memorial Foundation information in the new employee orientation packet and in the retiree packet provided to a retiring employee. This includes copies of WSDOT Memorial Foundation information and the payroll deduction form.
 - e. Use of a computer and printer to print out a payroll deduction form, and use of inter-office mail to send the form to the timekeeper or the payroll office, to enroll in or withdraw from the WSDOT Memorial Foundation.
 - f. Use of email or phone to contact the timekeeper or the payroll office with questions regarding the administration of the deduction.
2. *De minimis* use of state resources (time, phone, email, computer, and printer) may be used for WSDOT Memorial Foundation Board activities to coordinate Board

APPROVED

member actions relating to an employee incident, setting up bank accounts for employees or families of employees who have suffered a serious illness or tragedy, to present awards of financial assistance to recipients, and to assist in meeting scheduling and preparation for Board members.

3. An employee *may not* use state resources (time, laptop/computer equipment, email, telephone, facilities/conference rooms, intranet, office supplies, email listing) for the following:
 - a. WSDOT Memorial Foundation Board business; this includes, but is not limited to, the meeting location, preparation of the agenda, creation of posters or signs, meeting minutes, maintaining the member list or donations given, accounting for board finances, or holding their own fundraisers on state property or using state resources.
 - b. Travel to or from, or attendance at, a WSDOT Memorial Foundation Board Meeting.
 - c. Soliciting donations from private organizations and businesses.
 - d. Use of Amazon Smile or other such third party fundraisers using state funds or resources. Although such fundraising activities do not cost the state any additional fees, they are not run through the Combined Fund Drive and also support outside businesses by providing them with tax incentives.

F. Connecting State/Private Electronic Devices

Please refer to Secretary's Executive Order E 1021 *Employee Use of Electronic Communication Systems*.

G. Toastmasters International Meetings

Basis of Authority: WAC 292-110-010 *Use of state resources* and Executive Ethics Board Advisory Opinion 96-04 *De Minimis Use of State Resources*.

The department believes that participation in Toastmasters International can enhance both an employee's and the organization's effectiveness. However, it is an employee's personal choice whether or not to participate in Toastmasters International meetings. Therefore, *de minimis* use of state resources for participation in Toastmasters International is allowed within the following limits:

1. No travel time or per diem is allowed for attending Toastmasters International meetings.
2. Use of a state-owned conference room for Toastmasters International meetings is permitted during the standard lunch hour of noon until 1:00 p.m., as long as the conference room is not needed for state business.
3. For those employees with a 30-minute lunch break, an agreement with their management needs to be set up in advance to use approved leave or schedule adjustments for the additional 30 minutes needed to attend the Toastmasters International meeting.
4. *De minimis* use of state-owned resources is limited to exchanging information related to Toastmasters International meetings, such as meeting announcements and agendas.

APPROVED

H. Wellness Program

Under Secretary's Executive Order E 1036 *Wellness Program Activities at Work*, employees are encouraged to participate in activities that improve their health and well-being both on and off the job. It authorizes limited personal use of state resources for approved Wellness Program activities.

Per WAC 292-110-010, state resources can be used for wellness activities as long as use conforms with *de minimis* standards or as authorized in other state laws or rules.

I. Prohibited Activities

State resources *will not* be used for:

1. Any use 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 proposition. Such a use of state resources is specifically prohibited by RCW 42.52.180, subject to the exceptions in RCW 42.52.180(2).
2. Lobbying that is unrelated to official duties.
3. Any private use of state property that has been removed from state facilities or other official duty stations, even if there is no cost to the state.
4. Activities prohibited by law or policy.

IV. Safe Harbor

WSDOT policies that are approved by the Executive Ethics Board qualify for "safe harbor" under WAC 292-120-035. Nothing in this section is intended to limit the ability of WSDOT to adopt policies that are more restrictive. However, violation of a more restrictive WSDOT policy by itself will not constitute a violation of RCW 42.52.160, even if it would constitute a violation of WSDOT policy.

V. Penalties

Employees violating this policy and/or the state Ethics Law may be subject to corrective and/or disciplinary action under RCW 41.06 *State civil service law*, as well as penalties that can be imposed by the Executive Ethics Board under WAC 292-120 *Executive ethics board – penalty rules*.

VI. References

- RCW 41.06 *State civil service law*
- RCW 42.52 *Ethics in public service*
- RCW 42.52.160 *Use of persons, money, or property for private gain*
- RCW 42.52.180 *Use of public resources for political campaigns*
- WAC 292-110-010 *Use of state resources*
- WAC 292-120 *Executive ethics board – penalty rules*
- WAC 292-120-035 *Safe harbor provision*
- Washington State Executive Ethics Board website
- Washington State Executive Ethics Board Advisory Opinions web page

APPROVED

- Secretary's Executive Order E 1021 *Employee Use of Electronic Communication Systems*
- Secretary's Executive Order E 1036 *Wellness Program Activities at Work*
- *Human Resources Desk Manual M 3009*
- Ethics and WSDOT Employees intranet page

VII. Contact for More Information

For questions or concerns about this Secretary's Executive Order, please contact the Internal Audit Office at 360-705-7003, email auditoffice@wsdot.wa.gov, or visit the Ethics and WSDOT Employees intranet page.

VIII. Review and Update Requirements

When changes are necessary to update this document, inform the Assistant Secretary of Strategic, Enterprise, and Employee Services. The Assistant Secretary of Strategic, Enterprise, and Employee Services reviews this document periodically and proposes updates to the Secretary of Transportation for approval.

Americans with Disabilities Act (ADA) Information

This material can be made available in an alternate format by emailing the Office of Equal Opportunity at wsdotada@wsdot.wa.gov or by calling toll free, 855-362-4ADA(4232). Persons who are deaf or hard of hearing may make a request by calling the Washington State Relay at 711.

APPROVED

Executive Ethics Board

Date: 9-9-16