

ADVISORY OPINION

APPROVAL DATE: November 8, 2002

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REVIEWED ON: February 22, 2021

NEXT REVIEW: February 2026

REFERENCES: RCW 42.52.160, WAC 292-110-010

SUMMARY OF CHANGES: Non-substantive scrivener's errors.

Use of State Facilities to Gamble

QUESTIONS

1. May a state officer or employee use state facilities or resources to gamble?
2. If a specific gambling activity, such as a sports pool, was legal, could a state officer or employee use state facilities on a de minimis basis to conduct that activity?

ANSWERS

1. Generally, no – professional gambling activity is prohibited in the State of Washington unless specifically authorized by law. Therefore, unless an agency is authorized to conduct gambling activity, any use of state resources to conduct gambling would violate the Ethics in Public Service Act.
2. Generally, no – gambling activity, including conducting a sports pool, is a private activity that is incompatible with official state duties. Allowing even an occasional or limited use of state facilities to facilitate such activities undermines public confidence in state government.

ANALYSIS

The Executive Director to the Washington State Gambling Commission has asked the Board to provide a formal statement regarding the use of state facilities for gambling activities, including informal office sports pools. The Board notes that under chapter 9.46 RCW, gambling is illegal in the State of Washington unless specifically authorized by law. Chapter 9.46 RCW provides several exemptions to the general prohibition, which are specifically limited to those persons who are authorized to conduct gambling activity by the statute. The majority of these permitted activities are limited to bona fide charitable or nonprofit organizations that must meet specific and extensive qualifications. An exception to the gambling prohibition that may apply to state officers and employees is sports pools.

One of the questions before the Board concerns the use of state resources to support gambling activity that is not prohibited by state law.

The Ethics in Public Service Act prohibits the use of state resources for private benefit or gain, except in the course of official duties. RCW 42.52.160 provides, in relevant part:

(1) No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another. ...

(2) This section does not prohibit the use of public resources to benefit others as part of a state officer's or state employee's official duties.

(3) The appropriate ethics boards may adopt rules providing exceptions to this section for occasional use of the state officer or state employee, of de minimis cost and value, if the activity does not result in interference with the proper performance of public duties.

Under RCW 42.52.160 (3), the Board has adopted de minimis use rules. WAC 292-110-010(3) permits personal use of state resources so long as all of the following conditions are met:

- (i) There is little or no cost to the state;
- (ii) Any use is brief;
- (iii) Any use occurs infrequently;
- (iv) The use does not interfere with the performance of any state officer's or employee's official duties;
- (v) The use does not compromise the security or integrity of state property, information systems, or software;
- (vi) 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
- (vii) The use is not for supporting, promoting the interests of, or soliciting for an outside organization or group.

As gambling activity results in private financial gain, any use for gambling would not be de minimis use under the rule. Therefore, unless an agency is specifically authorized to conduct gambling activity by law, any use of state resources to conduct gambling would violate the Ethics in Public Service Act.

Additionally, while some gambling activity may not violate state law, the Board notes that the Ethics in Public Service Act prohibits private activities that are incompatible with public duties. RCW 42.52.020. The Board believes that gambling activity is a private activity that is incompatible with official state duties; therefore, allowing even an occasional or limited use of state facilities to facilitate such activities undermines public confidence in state government.

The Board's advisory opinion is based on the general facts as stated above. The Board does not investigate the facts. Please be aware that modification of the facts, or knowledge of more specific facts or circumstances, might cause the Board to reach a different conclusion. In addition, Board advisory opinions are narrowly drawn to interpret the Ethics in Public Service Act. They do not address whether the proposed action is prudent, good public policy or effective management practice.