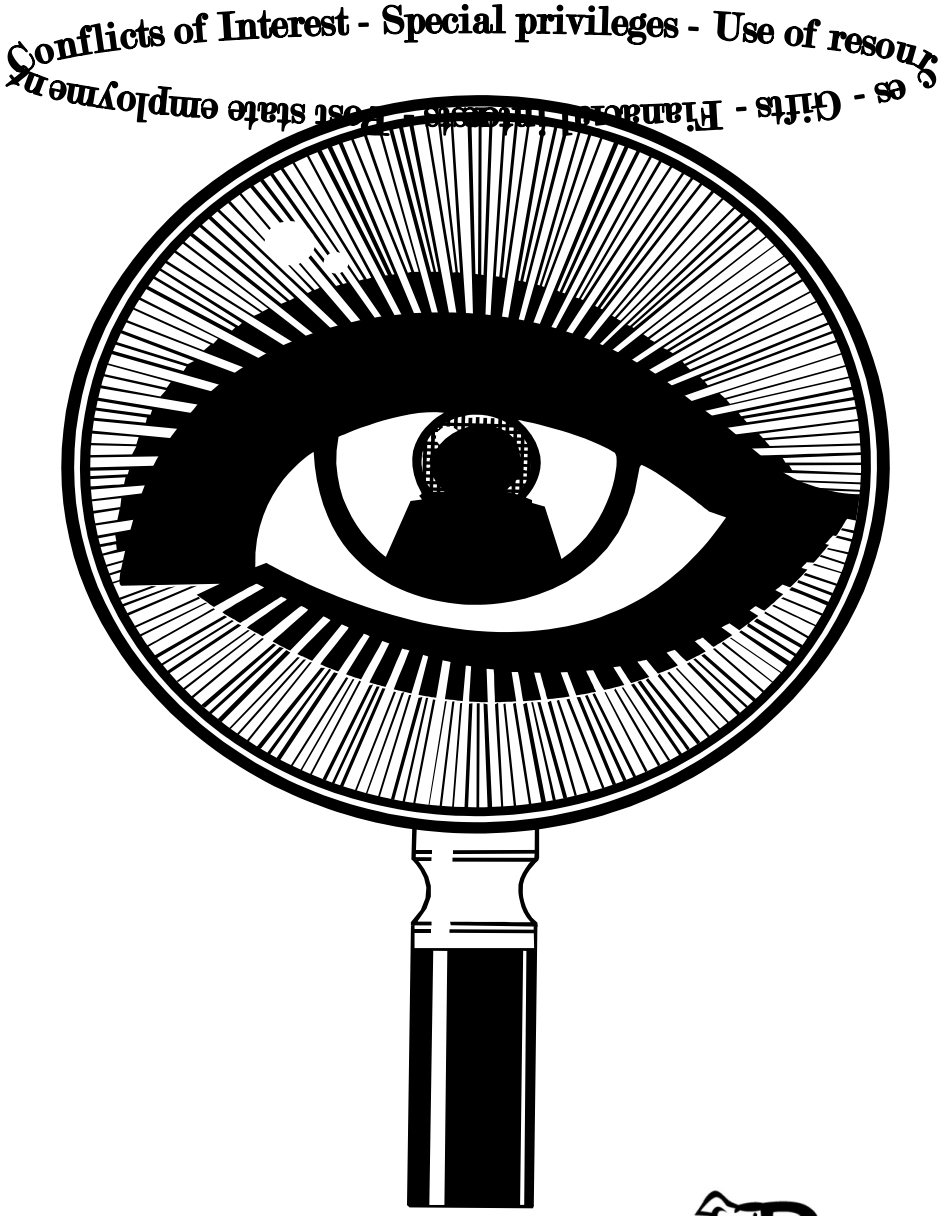
Ethics in Public Service

An in-depth review of

RCW 42.52



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Objectives

Performing Public Duties to Advance the Public's Interest

Upon completion of this course, participants will:

1. Have a general understanding of the basic ethical standards for state employees.
2. Know how to find information to clarify ethical rules and standards and agency policies regarding ethical standards and the use of state resources.
3. Identify potential violations of the Ethics Act, RCW 42.52.

"Ethics is knowing the difference between what you have a right to do and what is right to do."

Potter Stewart
Associate Justice,
Supreme Court

Ethics in Public Service

Introduction

The Washington State Executive Ethics Board is statutorily tasked with enforcing the Ethics in Public Service Act, RCW 42.52. The Board's mission is to promote integrity, confidence and public trust in state government through education, interpretation and enforcement of the Ethics in Public Service Act.

This guide provides general information. Please review the Advisory Opinions and enforcement actions on our website or contact us with any questions regarding the interpretation of the law.

For more information please contact us at:

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The law establishes a single code of ethics that applies to all state officers and state employees in the executive, legislative, and judicial branches of government. All state officers and employees are subject to the Ethics Act. Certain provisions of the Ethics Act apply to state employees or officials after they leave state service

Why an Ethics Act?

The Ethics Act was enacted to prevent state employees or officials from using their public position or authority for personal gain, financial benefit or for the benefit of other person. The Act establishes ***minimum*** standards of conduct while performing public duties and seeks to remove doubts concerning violations of public trust and confidence, the impairment of independent judgment, and favoritism in the performance of public duties that can be created by outside or personal interests

Many agencies have their own ethics policies that are more restrictive than the Ethics Act. Please be sure to know your agency's polices as well as the Ethics Act.

Executive Ethics Board

Who are they?

Established in 1995, the Washington State Executive Ethics Board (the Board) is comprised of five members appointed by the Governor for five-year terms. Two of the five members must be current state employees, one an exempt employee and one a classified employee. One of the remaining three members of the Board is selected from names provided by the State Auditor's Office; one from names provided by the Attorney General's Office; and one is a citizen-at-large. A schedule of the Board's meeting dates, times and location is available on the Board's website, www.ethics.wa.gov.

The Board is an independent agency for the state of Washington that administers RCW 42.52 with jurisdiction over all state employees and statewide elected officials of the executive branch of state government.

What they don't do:

While the Ethics Act applies to all branches of state government, the Executive Ethics Board has no role in the ethics programs of the legislative or judicial branches of the state government. Similarly, the Board has no jurisdiction over county, municipal or other local government employees or K-12 teachers.

What they can do:

If the Board finds that a state employee or official has violated the Ethics Act, they have the statutory authority to order payment of a civil penalty of up to five thousand dollars per violation or three times the amount of economic value of anything received or sought in violation of the Ethics Act or its rules. The Board has no authority to take any type of personnel action against anyone.

Potential penalties include:

1. A civil penalty not to exceed $5000 per violation or three times the economic value of anything sought or received in violation of the ethics law;
2. Restitution; and,
3. Recovery of investigative costs.

Agencies have independent authority to implement disciplinary action for violations of the state's ethics law. (RCW 42.52.520) The Executive Ethics Board does not consult with agencies or offer advice on disciplinary action.

Executive Ethics Board

Safe harbor

Under WAC 292-120-035, the Board may review and approve agency policies and as long as agency employees adhered to the approved policy, the Board would not impose sanctions for conduct that was permitted by the approved policy.

- The Board will not impose sanctions for conduct that would violate the Ethics in Public Service Act, if the conduct at issue was permitted under a board-approved agency policy, as provided for in RCW 42.52.360(4), prior to the conduct occurring.

- The effect of the **safe harbor** from sanction, as provided in WAC 292-120-035(1), is limited to conduct that conforms to a board-approved agency policy.

Complaints and investigations

The Board receives many ethics complaints. Any person, including any citizen, a state officer or a state employee, may file complaints. The Board may also initiate its own complaint and receives referrals from other state agencies, including whistleblower reports from the State Auditor. The Legislative Ethics Board, the Commission on Judicial Conduct, and the State Auditor's Office may also investigate ethics violations.

Complaints must name a specific state officer or state employee and allege conduct that, if true, could violate the state's ethics law or rules adopted under it. The ethics law applies to individual state officers and state employees. *State agencies cannot violate the ethics law.* (RCW 42.52.410 and RCW 42.52.420)

Dismissing a complaint

During the course of an investigation, the respondent is notified of the alleged violation(s) and provided with an opportunity to respond. Under RCW 42.52.425, the Board or the Executive Director may dismiss a complaint if any violation that may have occurred was:

- Not within the jurisdiction of the Board;
- Obviously unfounded or frivolous;
- Inadvertent and minor, or has been cured.

Test your knowledge

1. Who is subject to the state Ethics in Public Service Act?

    A. All state and municipal employees in Washington State.
    B. All state employees except judges in the court system.
    C. All state employees except legislators.
    D. All state officers and employees including, justices, legislators, state elected officials, chief executive officers, and members of boards, commissions, or committees.

2. Does the Ethics Act only apply to state officers and state employees during normal working hours or when they are performing their state duties at times not considered normal working hours?

3. What organization within state government can investigate a violation of the Ethics in Public Service Act?

    A. The Executive Ethics Board
    B. The Legislative Ethics Board
    C. The State Auditor's Office
    D. All of the above

4. Can the Executive Ethics Board take any personnel action against a state employee?

Notes

Ethics in Public Service

Conflicts of Interest (RCW 42.52.020)

Activities Incompatible with Public Duties

You should not have financial or other interests, or engage in business or professional activities, that conflict with the performance of your official duties.

No state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature that is in conflict with the proper discharge of the state officer's or state employee's official duties.

When is there a conflict of interest?

You cannot:

- Have direct or indirect financial interest
- Engage in a business or transaction or professional activity
- Incur any obligation

with anyone you regulate, contract with, or supervise that could interfere with your official duties.

What is an "incompatible activity"?

An "incompatible activity" is any activity that may conflict with the proper discharge of your official duties. It could be outside employment, a volunteer activity, ownership of a private business or any private activity, relationship, business, etc. that would impair/conflict with your ability to make decisions on behalf of the state.

Conflicts of interest involve the concepts of *benefit* and *bias*. Questions to ask yourself when evaluating a potential conflict of interest include:

- Will *your* interests benefit as a result of your official action?
- Would a reasonable person conclude that a private or personal interest impairs your independent and impartial judgment in the exercise of your official duties?

An interest need not be financial to create a conflict of interest. Even an intangible personal interest may create a conflict of interest.

NOTE TO SELF: If there could be a perceived violation, you need to step out of the situation totally. Talk to your supervisor and have yourself removed from any decision making authority or influence in that case.

Types of conflicts

Some conflicts of interest are clearly defined in the state's ethics law. These are:

- Having or acquiring a financial or other interest in a contract, sale, lease, purchase or grant that is under your authority or supervision.
- Accepting a payment, a gratuity, or a reward from someone else who has an interest in a contract, sale, lease, purchase or grant under your authority or supervision.
- Acting in a state matter or transaction involving a business or organization in which you own an interest, or an entity in which you serve as an officer, agent, employee, or member.
- Assisting other persons, or sharing in compensation, in transactions involving the state when you had responsibility for these transactions as a state officer.

How do you deal with a conflict?

Most conflict of interest issues can be resolved easily and without resorting to more drastic measures such as removal from position or resignation. The resolution of conflicts depends on *disclosure* and *removing yourself from the conflict*.

You can:

- Abstain. Don't participate in the activity.
- Disclose. Tell your supervisor about the potential conflict and let them decide whether to remove you from the activity.
- Review written procedures. Determine if your agency has a policy regarding how to handle conflicts of interest and follow that policy.
- Obtain screening memo. Have your agency write a memorandum that outlined the conflicts and screens you from specific information or decision-making regarding that particular transaction or group of transactions.

To avoid a conflict, you cannot merely delegate the activity to a subordinate.

Test your knowledge

1. You are a university instructor. You also own a painting company that you run privately out of your house. During the summer, your paint business gets very busy and you need to hire more painters to get the work done. Several students from your current summer class want to work part-time for you. Can you hire some of your summer class students to paint houses for you?

2. Francis Fussbudget is a supervisor in a large state agency. She also loves to travel and owns several condominiums located in lovely faraway places. This summer, Francis had planned on staying in her condo in Bora Bora for two weeks. Just as she was gathering her clothes to pack into her travel suitcase, she slipped on a shoe and broke her ankle requiring her to stay at home instead of vacationing. Because she did not want the lovely condo to sit vacant, Francis wants to offer her condo to her subordinates for rent during that time. Can Francis rent her condo to her subordinates?

3. You are a health inspector with a partnership interest in a local restaurant. This interest has not been disclosed to your agency. You are assigned to perform an inspection of your restaurant. Do you perform the inspection?

Notes

Financial Interest in a Transaction (RCW 42.52.030)

No state officer or state employee, may have a beneficial interest in a contract, sale, lease, purchase, or grant that may be made by, through, or is under the supervision of the officer or employee, in whole or in part, or accept, any compensation, gratuity, or reward from any other person who has a beneficial interest in the contract, sale, lease, purchase, or grant.

No state officer or state employee may participate in a transaction involving the state in his or her official capacity with a person of which the officer or employee is an officer, agent, employee, or member, or in which the officer or employee owns a beneficial interest…

What is a financial interest in a transaction?

* When you have an interest in a contract that is made by you, through you, or by an employee you supervise; OR

* When you receive compensation from any other person beneficially interested in a contract made by you, through you, or by an employee you supervise.

If a decision you are about to make puts money into your pocket or those of friends, family or other persons including a business entity of which you are a partner, board member, managing officer, or employee, that constitutes private benefit and you cannot do it.

You are also prohibited from accepting—directly or indirectly—any compensation, gift, or reward from any person who gets a benefit in terms of a contract, sale, lease, purchase or grant.

What does "participate" mean?

"Participate" means to participate in state action or a proceeding **personally and substantially** as a state officer or state employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation, or otherwise but does not include preparation, consideration, or enactment of legislation or the performance of legislative duties.

What is a "transaction"?

A "transaction involving the state" means a proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other similar matter that the state officer, state employee, or former state officer or state employee in question believes, or has reason to believe:

(i) Is, or will be, the subject of state action; or

(ii) Is one to which the state is or will be a party; or

(iii) Is one in which the state has a direct and substantial proprietary interest.

(b) "Transaction involving the state" does not include the following: Preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by an officer or employee; or a claim, case, lawsuit, or similar matter if the officer or employee did not participate in the underlying transaction involving the state that is the basis for the claim, case, or lawsuit.

Test your knowledge

1. You manage a state mental health facility. Your spouse is the executive director of a non-profit corporation that wants to bid on a contract to provide services to your facility. How do you handle the situation?

2. Polly Wogg is a preeminent marine biologist who also teaches marine biology classes at the University. Ms. Wogg requires her students to purchase her book, *Tide pools and Tadpoles of the Pacific Northwest*, when they take her class at the University. What are the ethical issues?

3. You are an Administrative Law Judge who handles cases for the Department of Revenue. A case that you are assigned to regards a business who has not paid all of their business and operating taxes to the state. As you read through the case documents you realize that you have an ownership interest in this business. What do you do?

Notes

Assisting in a Transaction (RCW 42.52.040)

(1) Except in the course of official duties or incident to official duties, no state officer or state employee may assist another person, directly or indirectly, whether or not for compensation, in a transaction involving the state:

(a) In which the state officer or state employee has at any time participated; or

(b) If the transaction involving the state is or has been under the official responsibility of the state officer or state employee within a period of two years preceding such assistance.

(2) No state officer or state employee may share in compensation received by another for assistance that the officer or employee is prohibited from providing under subsection (1) or (3) of this section.

(3) A business entity of which a state officer or state employee is a partner, managing officer, or employee shall not assist another person in a transaction involving the state if the state officer or state employee is prohibited from doing so by subsection (1) of this section.

(4) This chapter does not prevent a state officer or state employee from assisting, in a transaction involving the state:

(a) The state officer's or state employee's parent, spouse, or child, or a child thereof for whom the officer or employee is serving as guardian, executor, administrator, trustee, or other personal fiduciary, if the state officer or state employee did not participate in the transaction; or

(b) Another state employee involved in disciplinary or other personnel administration proceedings.

NOTE TO SELF: These provisions limit your ability to assist others-- directly or indirectly, whether for compensation or not-- in a transaction involving the state, if you at any time participated in that transaction or the transaction has been under your official responsibility within a period of two years preceding the assistance.

To better understand this law, look at conflict of interest as a continuum that starts with your daily job responsibilities.

* This law requires that you have no outside interests in the outcome of decisions you make regarding your job responsibilities.

* Once you have made a decision or supervised the team that made the decision, you cannot give advice or switch sides and assist the outside interest.

Test your knowledge

1. Prior to accepting your current position, you investigated complaints for another state agency. One day a complainant contacts you to ask for help in appealing an unfavorable decision on a complaint filed with your former agency. Can you assist in the appeal?

2. Emma works in your agency's human resources office. Her official duties include assisting people who want to file harassment complaints against the agency. Emma helps Egbert file a sexual harassment complaint. Emma subsequently goes to work for a different agency. After Emma's departure, Egbert contacts her and asks for assistance in preparing an appeal to an adverse decision. What should she do?

Notes

Confidential Information (RCW 42.52.050)

(1) No state officer or state employee may accept employment or engage in any business or professional activity that the officer or employee might reasonably expect would require or induce him or her to make an unauthorized disclosure of confidential information acquired by the official or employee by reason of the official's or employee's official position.

(2) No state officer or state employee may make a disclosure of confidential information gained by reason of the officer's or employee's official position or otherwise use the information for his or her personal gain or benefit or the gain or benefit of another, unless the disclosure has been authorized by statute or by the terms of a contract involving (a) the state officer's or state employee's agency and (b) the person or persons who have authority to waive the confidentiality of the information.

(3) No state officer or state employee may disclose confidential information to any person not entitled or authorized to receive the information.

(4) No state officer or state employee may intentionally conceal a record if the officer or employee knew the record was required to be released under chapter 42.56 RCW, was under a personal obligation to release the record, and failed to do so

What is "confidential information?"

Information that is confidential is legally protected from public disclosure. For example:

* Personal information in employee, appointees or elected officials files that, if disclosed, would violate that person's right to privacy.

* Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

* All applications for public employment or contracting, including the names of the applicants, resumes, and other related materials.

* The residential addresses and residential telephone numbers of employees or volunteers of a state agency which are held in personnel records, employment or volunteer rosters, or mailing lists.

Refer to RCW 42.56, Public Records Act for a list of all of the records that are exempt from disclosure.

It is not an ethical violation if the decision to withhold the public record was made in good faith. If the mistake is found, you then need to send the missing information as soon as possible.

Test your knowledge

1. Your agency receives a subpoena for a group of personnel records. One of the public documents has a handwritten sticky note containing some potentially damaging information. James provides copies of all typed documents and omits the sticky note on the theory that it might have been added later and its author is undetermined. Is this is a violation?

2. Sammy works in your agency's purchasing department and takes care of billing for office supplies. He thinks that his agency is paying an unreasonable amount for paper, so he makes copies of the billing for his wife who works for a paper company and offers to provide superior products at a lesser cost. Is this is a violation?

3. You are a public records officer and receive a request for the director's payroll records. You determine they are disclosable. You decide, though, not to release the records because the director is sensitive about her level of compensation. Have you made the right decision?

Notes

Special Privileges (RCW 42.52.070)

Except as required to perform duties within the scope of employment, no state officer or state employee may use his or her position to secure special privileges or exemptions for himself or herself, or his or her spouse, child, parents, or other persons.

NOTE TO SELF: If you are a supervisor, you cannot use your supervisory authority to exempt a subordinate from the Ethics Law if what they are doing is against the law as it is written. For example, if a subordinate asks you if they can use state e-mail to give and receive client orders for their private business and you say yes, you just gave that person a special privilege or exemption from the Ethics Law. What you did was not fair and not legal.

This section of the law applies in two different ways:

* **On the one hand, you cannot use your position to *give* a privilege to yourself or others**
* **On the other hand, you cannot use your position to *receive* a privilege.**

How would I receive a special privilege?

State employees are often offered items at a discounted price due to their employment with the state. The Ethics Act exempts the following discounts from the definition of a gift and are therefore not considered a special privilege:

* Discounts that are broad-based – they apply to all state employees in Washington
* Discounts available to an individual as a member of an occupational group
* Discounts available to an individual as a member of an employee group

NOTE TO SELF: In Advisory Opinion 2003-03, the Board opined that state employees may keep and use frequent traveler benefits earned on official state travel for personal use.

State employees may use state government rates at hotels for personal travel, unless the hotel requires the person to be on official travel status.

Test your knowledge

1. You know that your agency will be surplusing some computer equipment next month. You and a friend run a small business on the side and your friend has asked that you let him know when equipment is to be surplused and available for bid. The announcements informing the public of this surplused property will be sent out next week, giving the public only two days to ascertain if they want to bid on any of the listed equipment. You are having lunch with your friend and business partner today and give him a list of the equipment that is being surplused. What are the ethical issues?

2. You are the Division Chief for a state agency and your division is trying to fill a position that requires a specific educational degree and experience. Your Assistant Division Chief is working with the Human Resources folks to gather a list of possible candidates to interview. During the past two summers, your daughter worked in your agency as an intern and was a quick learner. Your daughter just graduated from college and applied for the vacant position. Even though your daughter does not meet the educational requirements, your Assistant Division Chief puts her on the list to interview. Your daughter is interviewed for the position and you participate in the interview session. After all candidates have been interviewed, you offer your daughter the position. What are the ethical issues?

3. You work for the Department of Social and Health Services and grow orchids in your spare time. You even belong to an orchid club that meets on a monthly basis. Your agency has many large meeting rooms, some of which are available for groups to use for a nominal fee for their use. Your orchid club needs a place to meet this month, so you reserve a room through your agency, but because you are friends with the facilities person, you do not pay for the room. You invite your orchid club to attend the monthly meeting. Is this a violation?

Notes

Post-State Employment (RCW 42.52.080)

Individuals cannot benefit from decisions made while in state service when later employed in the private sector. Simply put, you cannot be on both sides of an employment situation...work for the state on a contract or regulatory matter and later work for a private employer on the same contract or regulatory matter.

The contract restriction

No former state officer or state employee may, within a period of one year from the date of leaving state employment, accept employment or receive compensation from an employer if:

* During the two years immediately preceding termination of state employment, the employee helped negotiate or administer, on behalf of the state or agency, one or more contracts with the post-state employer and was in a position to make discretionary decisions affecting the outcome of such negotiation or the nature of such administration; *and*

* The a contract or contracts have a total value of more than ten thousand dollars; *and*

* The duties of the employment with the (post-state) employer or the activities for which the compensation would be received include fulfilling or implementing, the provisions of the contract or contracts *or* include the supervision or control of actions taken to fulfill or implement, the provisions of the contract or contracts.

NOTE TO SELF: The Board has interpreted this section to also include employees who have not negotiated formal contracts with a post-state employer, but have regulated them in some fashion. If this is the case, there could be a one-year waiting period before a former state employee could work for the post-state employer.

Continuing restrictions

Several of the post-state employment restrictions are continuing in nature and do not have a statutorily defined time limit that determines when these restrictions end. There are continuing restrictions on the following activities by former state officers and state employees:

* Accepting an offer of (post-state) employment or receiving compensation from a (post-state) employer if the officer or employee knows or has reason to believe that the offer of employment or compensation was intended, in whole or in part, directly or indirectly, to influence the officer

or employee or as compensation or reward for the performance or nonperformance of a duty by the officer or employee during state employment.

* Accepting an offer of (post-state) employment or receiving compensation from a (post-state) employer if circumstances would lead a reasonable person to believe the offer has been made, or compensation given, for the purpose of influencing the performance or nonperformance of duties by the officer or employee during the course of state employment.
* Participating, at any time after state employment, whether or not for compensation, in any transaction involving the state in which the former state officer or state employee at any time participated during their state employment.

Test your knowledge

1. As an agency administrator you supervise a $40,000 contract with the Jones Company. The Jones Company offers you $20,000 more a year if you leave your agency, take a position with the Jones Company, and then oversee the contract with your former agency. Can you accept this offer?

2. You are an associate athletic director for a state university. A contract you helped develop is awarded to a vendor. Two weeks later, you terminate from state employment and go to work for that vendor. Your new job duties include working on the contract you helped develop and awarded to your new employer. What are the ethical issues?

3. You were the design engineer for a project to refurbish a bridge on I-5 and worked closely with the contractor (Bridge Builders, Inc.) assigned to actually complete the work. During the project, you retired from state employment. After a brief vacation in the Bahamas, you go to work for Bridge Builders on the same project. Are there any ethical issues?

Notes

Compensation for Official Duties (RCW 42.52.110)

No state officer or state employee may, directly or indirectly, ask for or give or receive or agree to receive any compensation, gift, reward, or gratuity from a source for performing or omitting or deferring the performance of any official duty, unless otherwise authorized by law except:

(1) The state of Washington; or

(2) in the case of officers or employees of institutions of higher education a governmental entity, an agency or instrumentality of a governmental entity, or a nonprofit corporation organized for the benefit and support of the state employee's agency or other state agencies pursuant to an agreement with the state employee's agency.

NOTE TO SELF: This rule underlines that you cannot get "extra" or outside compensation for your official duties or for not doing your duties. This includes gift cards, coffee cards and other types of "thank yous" for doing your job, even if the amount of the gift card is less than $50.

Test your knowledge

1. As a Department of Licensing vehicle registration clerk, you process credit card payments for vehicle registrations. A major bank sends you a $50 reward for returning a card that has been revoked. Can you keep the reward?

2. You are a case manager for the Department of Social and Health Services and help the public sign up for benefits. You have been working with Susan for several weeks trying to get her benefits started and after many hours on the phone you finally succeed. When Susan comes in to thank you for your help, she gives you a $5 gift card for coffee in appreciation. Can you keep the card?

Notes

Ethics in Public Service

Gifts (RCW 42.52.150)

The basic gift rule states:

No state officer or state employee may receive, accept, take, seek, or solicit, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from a person if it could be reasonably expected that the gift, gratuity, or favor would influence the vote, action, or judgment of the officer or employee, or be considered as part of a reward for action or inaction.

What is considered a gift?

A gift is something for which no consideration is given, i.e., free to the recipient.

There are many items that are NOT considered gifts under the Ethics Act

What is not considered a gift?

* Items from family members where it is clear that the gift was not made as part of any effort to gain or maintain influence in the agency of which the recipient is an employee.
* Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties.
* Items exchanged among employees, or a social event hosted by a state employee for co-workers.
* Items a state employee is authorized by law to accept.
* Items returned by the recipient to the donor within 30 days of receipt or donated to a charitable organization within 30 days of receipt.
* Campaign contributions reported under 42.17 RCW.
* Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group.
* Awards, prizes, scholarships, or other items provided in recognition or academic/ scientific achievement.
* Payments by an entity of reasonable expenses incurred in connection with a speech, presentation, appearance or trade mission made in an official capacity.
* Payments of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide nonprofit professional, educational, or trade association or charitable institution.

NOTE TO SELF: There are **two questions** you must ask yourself before you accept a gift from anyone and the answers will determine whether you can accept the gift under the Ethics Act:

* What is the value of the gift?
* Who is giving me the gift?

Question 1

What is the allowed value of the gift?

A state officer or state employee may accept up to $100 in gifts from a single source per calendar year. The value of gifts given to an officer's or employee's family member or guest shall be attributed to the official or employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.

What kind of items are not subject to the $100 rule and may be accepted in most cases?

* Unsolicited flowers, plants and floral arrangements.
* Unsolicited advertising or promotional items of nominal value.
* Unsolicited tokens or awards of appreciation—plaques, trophies, desk items.
* Unsolicited items for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the use or acquisition of the item by the agency.
* Informational material, publications, or subscriptions related to official duties.
* Food and beverages at hosted receptions where attendance is related to official duties.
* Admission to and the cost of food and beverages consumed at events sponsored by or in conjunction with a civic charitable, governmental or community organization.
* Unsolicited gifts from dignitaries in another state or a foreign country intended to be personal in nature.
* Food and beverages on infrequent occasions in the ordinary course of state business.

Question 2

Who is giving the gift?

If the entity or person giving the gift is someone that the gift receiver regulates or contracts with, then the $100 rule does not apply and stricter restrictions dictate what types of gifts, if any, the state employee may accept. To determine if you fall under these stricter gift rules, you need to determine if you would fall under the restrictions listed in RCW 42.52.150(6). These restrictions are called “Section 6” restrictions because they are listed in paragraph or “section” 6 of the statute.

Am I a Section 6 Employee?

To be considered a "Section 6" employee, you must meet three criteria:

1. You work for a regulatory agency or agency that seeks to acquire goods or services.
2. The person giving the GIFT is regulated by your agency or seeks to provide goods or services to the agency.
3. You participated in those regulatory or contractual matters with that person.

How did I participate?

In my relationship with the gift giver, I:

- ☐ Approved or disapproved an action
- ☐ Made decisions or recommendations regarding an action.
- ☐ Rendered advice
- ☐ Investigated
- ☐ Conducted adjudicative proceedings
- ☐ Issued permits or licenses
- ☐ Controlled or affected interests of identified persons
- ☐ Administered a contract with them
- ☐ Monitored a contract with them

"Section 6" Employee gift limitations (the only gifts you can accept):

* Unsolicited advertising or promotional items of nominal value, such as pens and note pads;
* Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
* Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;
* Informational material, publications, or subscriptions related to the recipient's performance of official duties;
* Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;
* Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and
* Those items excluded from the definition of gift in except:

(i) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity;

(ii) Payments for seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution; and

(iii) Flowers, plants, and floral arrangements.

NOTE TO SELF: "Section 6" employees cannot accept any food or drink—not even a doughnut—by a person whom they regulate or who wishes to do business with them, i.e. any current or potential future contractor or vendor UNLESS it is at a hosted reception.

Test your knowledge

1. Martha is an instructor at a state community college. One of her students gives her a beautifully wrapped Christmas gift at the beginning of finals week. He may or may not enroll in her class next quarter. Is accepting the gift a violation?

2. Your agency sent you to attend a conference in Orlando, Florida. Your agency paid your travel costs and you are receiving travel per diem while you are away. When you checked into your hotel, you received a packet with information regarding the conference. Included in the packet was a ticket stub that entered you into a door prize drawing to be made on the last day of the conference. On the last day of the conference, they draw for the door prize and lo and behold, you win! Can you keep the prize?

3. You work for the health department and are often in the field conducting inspections. From time to time, business owners offer you refreshments and sometimes lunch. What should you do?

Notes

Use of Resources (RCW 42.52.160)

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.

NOTE TO SELF: Agencies may adopt policies that are stricter than the law. Please review and understand your agency's use of resource policy to make sure you do not violate your internal policies.

General Rules Under WAC 292-110-010

The Executive Ethics Board has adopted guidelines for exceptions to the no personal use standard under RCW 42.52.160(1). A state officer or employee may make an occasional but limited personal use of state resources only if each of the following conditions are met:

* There is little or no cost to the state;
* Any use is brief;
* Any use occurs infrequently;
* The use does not interfere with the performance of any officer's or employee's official duties; and
* The use does not compromise the security or integrity of state property, information, or software.

What does "brief" and "infrequent" mean?

This means that *occasional* use of state equipment for local telephone calls, e-mail messages and access to the internet for personal purposes are acceptable, subject to your agency's internal policy and WAC 292-110-010. These rules apply to break times as well as work time.

Use of Public Resources in Political Campaigns (RCW 42.52.180)

The state's ethics law prohibits the use of the facilities of a state agency for political campaigns. Facilities of an agency are broadly construed to include, but are not limited to, stationery, postage, machines, equipment, use of state employees during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency. You violate the ethics law if you allow the use of public resources for political campaigns and do not act to stop the use.

Exceptions to this prohibition can apply to elected officials and to activities that are the normal and regular conduct of a state agency.

Test your knowledge

1. One of your employees sells Pampered Pup products on the side to coworkers. The employee hands out catalogues in the workplace, takes and distributes orders during the day, and emails co-workers about specials. Is this an ethical violation?

2. State employee Suzie Queue accessed the Internet site for the Department of Retirement Systems (DRS) to change her Deferred Compensation Plan (DCP) distribution after she reads an article in the DRS newsletter that warns employees about high risk investments in today's volatile market. Was Suzie's access to DRS's Internet site a violation of the Ethics code?

3. Sally was told that she would be working overtime today and needs to contact her day care provider to make arrangements for her daughter. Can she use the state phone to call her day care provider?

4. One of your employees brings a petition to work opposing a controversial ballot proposition. After spending the morning gathering signatures around the office, she reaches your desk. She asks you to sign the petition, arguing that state workers will lose their jobs if the measure passes. What do you do?

Notes

Assessment of Knowledge

How much did you learn about the Ethics Act?

"Wise men learn by other men's mistakes, fools by their own."
~Unknown

Multiple Choice Questions — Circle the letter of the statement for each item that most correctly responds to the question or completes the statement truthfully.

1. Who does the 1995 State Ethics Law Apply to?

   A. All state employees.

   B. Elected state public officials.

   C. Appointed state public officials.

   D. All of the above.

2. The Executive Ethics Board may take the following actions against a state employee who violates the Ethics Act?

   A. A civil penalty not to exceed $5000 per violation or three times the economic value of anything sought or received in violation of the ethics law
   B. Restitution
   C. Investigative costs
   D. Terminate the employee's employment with the state

3. WAC 292-110-010, Use of State Resources, allows limited use of state resources for _____ reasons when there is little or no cost to the state, there is no interference with the performance of official duties, the use is brief in duration and infrequent, and the use does not compromise the security or integrity of state information or software.

   A. Official

   B. Personal

   C. Private business

   D. Political campaign

4. You may not receive, accept, take, seek, or solicit, directly or indirectly, anything of _____ if it could reasonably be expected that it would influence the vote, judgment or action, or be considered as part of a reward for an action or inaction.

   A. Significant value

B. Sentimental value

C. Economic value

D. All of the above

5. _____ laws define the line between public duties and personal interest, including financial and nonfinancial interest and obligations.

A. Outside employment.

B. Conflict of interest.

C. Assisting in transaction.

D. Employment of former state employee.

6. Except as required to perform duties within the scope of employment, no state officer or employee may use his or her position to secure a_____ for himself or herself, or his or her spouse, child, parents, or other persons.

7. When you leave state employment, there is a one-year restriction for which of the following conditions?

A. ___ Duties with the new employer would include fulfilling or implementing a contract you initiated during the past two years.

B. ___You may not have beneficial interest in a contract or grant in which you participated.

C. ___ The contract(s) had a total value in excess of $10,000.

8. Under the Public Disclosure Act, you may release confidential information to the public when requested.

True False

9. If records should be disclosed to someone, and you have a personal obligation to release the records, and you do not release the records when requested, and your decision was made in good faith, you violated the law under the Public Disclosure Act.

True False

10. The ***Statement*** column contains actions which are either **appropriate** (A) or **inappropriate** (I) *use of state resources*. Indicate whether the action is appropriate or inappropriate by writing "**A**" (Appropriate) or "**I**" (Inappropriate) in the ***Answer*** column for each statement below.

Answer Statement

10a._____Occasionally make local telephone calls for medical or dental appointments.

10b._____Advertising or selling personal items at work during work hours.

10c._____Send occasional and brief personal e-mail messages.

10d._____Assist in the campaign of any candidate for election to any office, or to oppose or promote a ballot proposition.

10e._____Use the Internet to search for information for your official state duties.

11. Which employee has made an inappropriate use of a state resource?

A) Sally used her state owned Blackberry to e-mail her son in order to tell him that she had arrived safely at her destination while traveling for state business.

B) Marty regularly uses the state owned copier/scanner to upload family photos for his wall paper from his personal camera and stores them on his hard drive.

C) Stewart made a purchase on a website for a professional reference book used in his job.

D) Barb accessed a computer dating site for singles.

E) B and D

12. ***Identify items in the Situation column that:***

(**A**) You may accept because the $100 limit does not apply or it is not defined as a gift.

(**B**) You may accept because the $100 limit does not apply and it is presumed not to influence.

(**C**) You may accept in a "Section 6 Relationship."

(**D**) You may not accept in a "Section 6 Relationship."

Two answers apply to each situation. Key words are underlined.

Answer Situation

12a._____Admission to a <u>charitable</u> event.

12b._____Unsolicited <u>flowers</u>, plants, and floral arrangements.

12c._____Gifts from dignitaries.

12d._____Items returned by the recipient to the donor within thirty days of receipt or donated to a charitable organization within thirty days of receipt.

12e._____Plaques and awards of appreciation.

12f._____Reasonable expenses (travel, room, and meals) for participating in a seminar or giving a speech.

12g._____ Food and beverages at hosted receptions where attendance is related to official duties.

12h._____Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties.

12i._____Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group.

12j._____Unsolicited advertising or promotional items of nominal value.

12k._____Items from family members where it is clear beyond a reasonable doubt that the gift was not made as part of any design to gain or maintain influence in the agency of which the recipient is an officer or employee.

13. Select the three criteria that place a state employee in a "Section 6 Relationship"?

A. You must work for a regulatory agency for over one year.

B. You must participate in regulatory or contractual matters with the person who offers a gift.

C. You must work for a regulatory agency or agency that seeks to acquire goods or services.

D. You must be a permanent full-time state employee.

E. The person giving the gift must be regulated by our agency or seek to provide goods or services to our agency.

14. Why do we have an Ethics Law? (Select all that apply.)

A. To establish laws on morals for state employees.

B. To establish minimum standards of conduct while performing public duties.

C. To seek to remove doubts concerning violations of public trust and confidence and the impairment of independent judgment.

D. To ensure state employees hold a public trust that obligates them, in a special way, to honesty and integrity in fulfilling responsibilities to which they are elected or appointed.

Notes