

Ethics and Use of State Resources



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DISCUSSION

State law on Ethics in Public Service (RCW 42.52) provides a set of principles and standards by which the ethical actions of all state employees are judged. The statute's provisions are intended to:

- Promote public trust and confidence in government;
- Serve the best interests of all citizens by exercising fair, independent and impartial judgment;
- Place the public's interest before any private interest or outside obligation;
- Protect state resources and funds against misuse and abuse; and
- Practice open and accountable government.

A fundamental concept of the ethics law is that a public employee, who commands and uses state resources, should serve the public interest only. Employees must understand that they have obligations under the law and that it is their responsibility to understand those obligations and to act accordingly. Ethical behavior is the personal responsibility of each employee.

The ethics law has special significance for employees because the department (DNR) is a regulatory and contracting agency. Employees involved in regulatory and contract work (often referred to as "Section 4 employees" after the applicable section of the law (RCW 42.52.150 (4)) are held to more restrictive standards than other state employees with regard to accepting gifts and outside compensation.

In addition to RCW 42.52, numerous Executive Ethics Board opinions have been written and published at <http://ethics.wa.gov/> which provides guidance and expectations pertaining to implementation of the ethics law.

POLICY

Each and every employee in the department must act in accordance with the provisions set forth in RCW 42.52 Ethics in Public Service, WAC 292-110, guidance set in Executive Ethics Board opinions, and the other ethical standards set forth.

In brief, the Ethics law declares that an employee:

- May not have a financial or other interest connected to or arising out of the employee's official duties;
- May not engage in any activity that is in conflict with the employee's official duties;

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- May not use the employee's official position to secure special privileges for the employee or any other person, except as required to perform duties within the scope of employment;
- May not receive any compensation or gift from any source, except the State of Washington, for performing or deferring the performance of any official duty;
- May not receive a gift or favor if it could be reasonably expected to influence or reward the employee's vote, judgment, action, or inaction.

The Ethics law also declares that the proper stewardship of state resources is a responsibility that all employees share. The use of state resources must be in accordance with the ethics law and rules adopted by the Executive Ethics Board and must conform to the expectations in this policy.

If the use of state resources is reasonably related to an official state purpose, but not to an employee's official duty, it may be allowed only if authorized by an appointing authority. An example would be charitable solicitations, detailed below.

Prohibited Use of State Resources

State resources shall not be used for any purpose that violates state or federal law or agency policy. This includes, but is not limited to:

- Social Media – Use of Facebook, Twitter, Blogs, or other social media for personal reasons is not permitted.
- Information technology – Using the department's computer network or communication tools for the purpose of hacking, malicious activities or transmitting confidential information (unless specifically authorized) is prohibited. Additional prohibited activities include broad distribution emails, chain-emailing, or streaming media that is not related to official business.
- Personal Gain and Special Privileges - No employee may use their title or position, any other person, state resources, money, or property under their control for personal business, private benefit or gain, or to secure special privileges or exemptions for themselves, or their spouse, child, parent, or other persons, even if there is no cost to the state. For example, an employee may not use their official agency job title or state resources to privately endorse commercial products and may not accept gifts or other compensation from vendors in exchange for official endorsements.
- Discrimination, Harassment or Other Inappropriate Conduct - Use of state resources that violate the department's Harassment Prevention policy (PO01-037) and Equal Employment Opportunity/Non-Discrimination policy (PO01-001) are prohibited. This includes, but is not limited to: Visiting websites containing sexual

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content, transmitting obscene materials; spreading malicious gossip or disparaging supervisors, co-workers, the agency, or agency stakeholders.

- Campaigning or Lobbying Activities - Expression of any political belief for the purpose of assisting or promoting a campaign for election of a person to an office, the promotion or opposition to a ballot proposition, or participating in or assisting in an effort to lobby the state legislature or a state agency head is prohibited. No employee may use the employee's job title, working job title, or appointments held as a result of DNR employment for any of these purposes.
- Outside Organizations - Supporting, promoting, or soliciting for an outside organization or group, including a private business, a non-profit organization, or a political party for personal use is prohibited unless provided for in law or this policy or explicitly authorized by the Commissioner of Public Lands. Official state purpose, however, does allow for the use of state resources to conduct official duties, activities reasonably related to the conduct of official state duties, activities related to state employment, and activities otherwise allowed by statute.
- Removal of State Resources - Private use of any state property that has been removed from state facilities, or other official duty stations, even if there is no cost to the state, is prohibited. No employee may possess, sell, or donate materials disposed of by the department or gathered from property managed by the department except when such materials are acquired through an established agency process.

Political Activities

- State law prohibits the use of public facilities for political campaigning, including the use of public money, equipment, materials, and supplies, and the use of one's position as a public employee to coerce political contributions. To that end, no campaigning or fund raising will be allowed at any time in department offices, nor will any funds, equipment, supplies, materials, or facilities of DNR be used directly or indirectly for the purpose of assisting a campaign. Department staff may not use their title or affiliation with the department in conjunction with letters, advertisements, personal appearances, or other campaign or ballot-related activities.

Permitted Use of State Resources

Personal Use of State Electronic Communication Systems

The computer network and communication tools are the property of the department. There is no expectation of privacy for personal use of the department's communication tools.

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Incidental and occasional personal use of the internet, email, and phones (desk and cellular) will be treated as official communication subject to public disclosure.

The department recognizes that occasional and limited (*de minimis*) use of some state resources may occur to promote good will and organizational effectiveness within the agency. Department employees may make occasional and limited personal use of the internet, email, and phones (desk and cellular) for local calls, as long as that use does not undermine public trust and confidence and is not used in a manner that is prohibited by this policy, other department policies (e.g. information technology and security policies) or the ethics law.

If an employee uses a personal communications systems/devices (i.e. personal email, cell phone, tablet, home computer, etc.) for business reasons, those items are subject to public disclosure. Furthermore, under the Ethics in Public Service Act, "[n]o state officer or state employee may intentionally conceal a records if the officer or employee knew the record was required to be released under the Public Records Act" (RCW 42.56.050).

Allowable Use of State Resources for Charitable Solicitations

The department recognizes the importance of large-scale charitable efforts and their contribution to our community. Participation can contribute to the overall morale and organizational effectiveness of the department. The department supports the Combined Fund Drive (CFD) which is designed to channel charitable solicitations for legitimate non-profit organizations into one effort to avoid numerous workplace disruptions and solicitations to state employees.

However, the department realizes that some charitable activities occur at other times during the year. Staff participation and use of state resources for those charitable activities will be on a case-by-case basis. The Commissioner of Public Lands or designee may approve charitable activities or fundraising events. Limited use of state intranet, email, phone use, facilities, and staff time may be authorized.

Staff may only passively seek sales or contributions or sell items in department facilities that benefit local charitable non-profit organizations. Examples include Girl Scout cookie sales, candy bars to support the purchase of school equipment, or pledges such as March of Dimes. Direct solicitation or encouragement of others to participate or use state resources (such as email or staff time) is prohibited.

Nothing in this policy allows for employees to use state resources to sell items for profit, direct sales, or other personal gain.

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Employee Receipt of Gifts, Business Meals, and Honoraria

Department staff may not seek or receive anything of economic value as a gift if it could be reasonably expected that the gift would influence the recipient's action or inaction.

Employees are responsible for ensuring that they understand and follow gift limitations in the ethics law.

Gifts - With the exception of items the ethics law identifies as "presumed not to influence," (RCW 42.52.150(2)) staff may not accept any single gift having a value greater than \$50 or multiple gifts with an aggregate value of more than \$50 from a single source in a calendar year. Section 4 employees are restricted from this allowance and may not accept gifts other than those listed in RCW 42.52.150(4).

Meals - Staff are authorized to accept food or beverage on infrequent occasions in the ordinary course of meals where attendance by the employee is related to the performance of official duties. However, Section 4 employees are prohibited from accepting meals from persons regulated by the department and persons seeking business or who are involved in transactions with the department.

Honoraria - Staff may be asked to speak, write an article, or engage in similar activity relating to the employee's official role with the agency. On occasion, an employee may be offered or given an honorarium. An honorarium may only be accepted if it is a token item of appreciation (non-monetary). Examples include: Coffee mugs; t-shirts; plaques; pens; and certificates.

Summary of Information on Gifts, Meals, and Honoraria

	General Employees	Section 4 Employees
Gifts	May not accept any single gift having a value greater than \$50 or multiple gifts with an aggregate value of more than \$50 from a single source in a calendar year.	May not accept gifts other than those listed in RCW 42.52.150(4).

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Meals	May accept food or beverage on infrequent occasions in the ordinary course of meals where attendance by the employee is related to the performance of official duties.	Are prohibited from accepting meals from persons regulated by the department and persons seeking business or who are involved in transactions with the department.
Honoraria	May only be accepted if it is a token item of appreciation (non-monetary). Examples include: Coffee mugs; t-shirts; plaques; pens; and certificates.	

Conflicts of Interest

The ethics law principles provide that an employee may not have a financial or other interest, or engage in any activity that is in conflict with his or her official duties. An incompatible activity could be outside employment, a volunteer activity, ownership of a private business or any private activity, relationship, business, etc. that would or could impact the employee's ability to make decisions on behalf of the state. No tangible outcome is needed for there to be a conflict of interest. Therefore, employees should avoid situations that may or would invite a conflict of interest or give the appearance of a conflict of interest, or which undermines the public's confidence in the department.

Employees are expected to continually assess the potential for a real or perceived conflict of interest as it applies to their official role with the agency using the following questions as a guide:

- Could my association with an individual/organization (either directly or indirectly) or involvement in an outside activity be perceived as influencing my judgment as a state employee on matters that affect the department?
- Could my relationship with an individual/organization (either directly or indirectly) actually, or appear to, conflict/interfere with my duties, objectives, or the interests of the department in any manner?
- Am I associated with an outside employer or individual/organization that has interests that could be significantly affected by the performance or nonperformance of my official duties?

The appointing authority or designee will determine if an outside activity represents a conflict of interest (with the assistance of HRD if needed).

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Prospective Employment Outside of State Government/Employment After State Service

Employees are expected to bring any potential conflict of interest to the attention of their supervisor who then must inform the appointing authority. Specific statutory information regarding prospective employment outside of state government can be found at [RCW 42.52.020](#) and [42.52.050](#); and employment after state service can be found at [RCW 42.52.080](#).

The agency reserves the right to require an employee to cease or refrain from outside activities or reassign employees if there is a conflict of interest with the performance of an employee's official duties.

IMPLEMENTATION

Agency Ethics Advisor: The ethics advisor is available to answer questions regarding state ethics law, the ethics rules, and the department expectations contained in this policy.

Employee Responsibility: All employees are responsible for abiding by the Washington state ethics law, the ethics rules, and the department expectations contained in this policy. Employees are required to attend ethics training as provided by the Human Resources Division (HRD) or the Executive Ethics Board. All employees are responsible for notifying their chain-of-command or HRD if they have knowledge of a possible ethics violation. Additional resources are available for assistance and to file complaints: [Executive Ethics Board](#) and [Office of the State Auditor, Whistleblower program](#).

Employees who violate these standards will be held accountable and may be subject to disciplinary action, up to and including termination, or other departmental action, as well as possible Executive Ethics Board findings and penalties.

Supervisor Responsibility: Managers and supervisors are expected to set an example by their behavior and create an atmosphere that makes discussion of ethics issues, and notification and complaints about ethics violations, easy and safe to do. Managers and supervisors are responsible for forwarding possible ethics violations and complaints to the HRD.

Appointing Authority: Regarding conflicts of interest, appointing authorities will discuss the situation with the employee and determine and document any potential conflicts and the measures taken to eliminate or reduce actual or perceived conflicts of interest.

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HRD Responsibility: HRD will review notifications and complaints and will consult with the appointing authority on appropriate resolution per the department's Employee Investigations policy (PO01-046).

Ethics complaints are also subject to investigation and findings by the Executive Ethics Board. HRD is responsible for providing consultation on the ethics law and other agency standards contained in this policy.

Approval Date: January 3, 2018 Approved By: 
Megan Duffy
Department Supervisor

REVISION HISTORY

Date	Comments/Summary of changes
August 1, 1996	PO01-008 originally approved providing expectation for RCW 42.52 in 1994
December 8, 2017	Revisions made to more clearly define the Ethics policy, Cancels PO05-006

SEE ALSO

PO01-001 – Equal Employment Opportunity/Non-Discrimination

PO01-046 – Employee Investigations

PO01-037 – Harassment Prevention

PO06-007 – Records Management

RCW 42.40 – State Employee Whistleblower Protection

RCW 42.52 – Ethics in Public Service

RCW 42.56 – Public Records Act

WAC 292-110 – Agency Substantive Rules

Executive Ethics Board Guidance

Washington Federation of State Employees Collective Bargaining Agreement

Washington Public Employees Association Collective Bargaining Agreement

West v. Steve Vermillion City of Puyallup

Nissen v. Pierce County

DEFINITIONS:

De Minimis: Usage that meets the following standards (WAC 292-110-010):

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- There is little or no cost to the state;
- It is infrequent and brief in duration (approximately five minutes or less per occurrence not to exceed fifteen minutes per week);
- There is no interference with the performance of the employee's official duties;
- It does not disrupt or distract from the conduct of official state business due to volume or frequency, and does not obligate other employees to use state resources;
- It does not compromise the security, availability or integrity of state information, systems, hardware, or software;
- The use is not for the purpose of conducting an outside business, in furtherance of private employment, or to realize a private financial gain;
- The use is not for supporting, promoting the interests of, or soliciting for an outside organization or group;
- The use conforms to ethical standards and is not otherwise prohibited by this policy or the ethics law.

Electronic Communication Systems: Include, but are not limited to, any electronic media that is used to generate, transmit, display, reproduce, or store communications for business purposes. Such electronic media include: internet, intranet, desktop computers, laptop computers, tablets, cellular phones, mobile devices, software, e-mail systems, telephones, voicemail systems, fax machines, and SCAN and SCAN Plus.

Employee: Includes all permanent, non-permanent, seasonal, project, and exempt staff and broadly applied to volunteers and others who have access to and use of state resources in their official capacity with the department.

Executive Ethics Board: The Executive Ethics Board enforces the Ethics in Public Service Act, RCW 42.52 and the rules adopted under it with respect to statewide elected officers and all other officers and employees in the executive branch, boards and commissions, and institutions of higher education. Please note that they do not have jurisdiction over non-state employees or against an agency. After reviewing RCW 42.52 and it is believed that a state employee or officer has violated the Ethics in Public Service Act, you may file a complaint with the Executive Ethics Board. More information on the EEB can be found at www.ethics.wa.gov.

Office of the State Auditor, Whistleblower Program: The Whistleblower Act provides an avenue for state employees to report suspected improper governmental action (RCW 42.40). The Legislative intent is to encourage state employees to report improper governmental actions. The law makes retaliation against people whose assertions result in a whistleblower investigation unlawful and authorizes remedies should it occur. The State Auditor's Office is responsible for investigating and reporting on assertions of improper

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governmental action. More information on the Whistleblower Program (or to file a complaint) can be found at

<http://www.sao.wa.gov/investigations/Pages/Whistleblower.aspx>.

Records: Per department Policy PO06-007, records meet three criteria:

- Made, or received, by an agency in the State of Washington;
- In connection with the transaction of public business; and
- Regardless of physical form or characteristics

Examples include but are not limited to: paper documents, drawings, graphs, photographs, draft documents, email, voicemails, texts, and other electronic documents.

Regulatory/Contracting Activities: Per RCW 42.52.010, a contract means an agreement between two or more persons that creates an obligation to do or not do a particular thing. A contract includes, but is not limited to, an employment contract, a lease, a license, a purchase agreement, or a sales agreement. Activities include any involvement in regulation or contracting decisions, providing recommendations, advice, investigation, or similar activities.

State Resources: Include, but are not limited to: funds; buildings and facilities; tools; data and information; office supplies; materials; phones; equipment; credit cards and lines of credit; computers; internet and email; vehicles; property; and employee work time.

Section 4 Employee: Employees participating in regulatory and contracting activities ("Section 4" employees) are subject to stricter limitations under the law. This applies to many staff in the department and includes any involvement in regulation or contracting decisions, providing recommendations, advice, investigation, or similar activities. Section 4 employees must be aware of limitations concerning receiving gifts, business meals, and honoraria and, when in doubt, should not partake.

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