

## Policy 9. Compliance with Executive Ethics Act

### WASHINGTON STATE TRANSPORTATION COMMISSION

#### POLICY & PROCEDURE

Policy & Procedure No. 9

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Updated: XXXXXX

#### Compliance With the Ethics in Public Service Act

#### Policy Statement

Ethics in public service is the personal responsibility of each Washington State Transportation Commission (WSTC) employee and state officer and is governed by Revised Code of Washington (RCW) 42.52 Ethics in Public Service Act, hereafter called the Ethics Act. Employees and state officers will collectively maintain the highest standards of honesty, integrity, impartiality, and conduct in the performance of official duties.

##### I. Statement of Purpose

The Transportation Commission strives to meet its responsibilities in a manner that assures the highest level of ethical conduct and minimizes any possibility of even an appearance of impropriety in the conduct of the affairs of the Commission. As volunteers, Commissioners bring with them a broad and varied perspective based on their professional and life experiences and the geographic region from which they are selected.

#### Ethical Conduct and Public Duty

The Ethics in Public Service Act, RCW 42.52, applies to all Washington State Transportation Commission state officers and employees, and each officer and employee is expected to read and understand this Act and know and understand the WSTC policies regarding certain sections of the Act.

Consistent with RCW 42.52.020, 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.

Employees and State Officers shall not (per RCW 42.52):

- Have a financial or other interest or engage in any business, including personal business, or professional activity that conflicts with their official duties;
- Use state resources for personal benefit or to benefit another except as allowed under Washington State Transportation Commission policies or WAC 292-110-010.
- Use their position to secure special privilege for themselves, their families, friends or any other person or outside business or organization.
- Receive any compensation (including gift cards) from any source, except the state for performing or not performing their official duties.
- Accept any gifts, except as allowed under RCW 42.52.140 and 150. Gifts include food and beverages in most situations.
- Disclose confidential information to unauthorized persons, use confidential information for personal benefit or to benefit another. No state officer or employee may intentionally conceal a record if the officer or employee knew the record was required to be released under RCW 42.56.

## **II. Gifts**

No state officer or state employee may receive, accept, take, seek, or solicit, directly or indirectly, anything 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.

## **III. Use of State Resources**

*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.

RCW 42.52.160 and Washington Administrative Code (WAC) 292-110-010 provide 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.

WSTC adopts the rules enacted by WSDOT so that employees can ethically participate in activities including but not limited to: Combined Fund Drive, limited charitable fund raising, WSDOT Memorial Foundation, employee award and recognition activities, and other similar activities (WSDOT Executive Order# E 1004.03). 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.

#### **IV. Outside Employment**

A conflict of interest occurs when an employee's or state officer's actions, decisions, recommendations, or activities outside the agency influence, potentially influence or have the appearance to a reasonable person of influencing, the employee's or state officer's official duties or decisions.

Outside employment shall not conflict with official duties for the WSTC. Outside employment shall be consistent with the state ethics laws. The use of state resources including, but not limited to, time, information, material, vehicles, equipment, office supplies, computers or telephones in connection with outside employment is prohibited. An employee or state officer shall not use his or her position at the WSTC to create the opportunity for private gain.

#### **V. Sanctions**

A violation of the Ethics in Public Service Act or rules adopted under it is grounds for disciplinary action.

The procedures for any such action shall correspond to those applicable for disciplinary action for employee misconduct generally; for those state officers and state employees not specifically exempted in chapter [41.06](#) RCW, the rules set forth in chapter [41.06](#) RCW shall apply. Any action against the state officer or state employee shall be subject to judicial review to the extent provided by law for disciplinary action for misconduct of state officers and state employees of the same category and grade.

### **Procedures For Recusal**

Washington State Transportation Commission officers and employees will abide by the following procedures for recusal in accordance with the Ethics Board Advisory Opinion 96-09A, and will apply the following recusal procedures.

#### **VI. Recusal Procedure (Ethics Board Advisory Opinion 96-09A)**

1. When a Commissioner is beneficially interested, directly or indirectly, in a contract, sale, lease, purchase or grant that may be made by, through or is under the supervision of the Commission, in whole or in part, or when the member accepts, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in such contract, sale, lease, purchase or grant, the Commissioner shall:
  - a. Recuse him or herself from the Commission discussion regarding the specific contract, sale, lease, purchase or grant, and announce the reasons for the recusal;
  - b. Recuse him or herself from any vote on the specific contract, sale, lease, purchase or grant; and

- c. Refrain from attempting to influence the remaining Commissioners in their discussion and vote regarding the specific contract, sale, lease, purchase or grant; and
  - d. Refrain from using his or her position as a Commissioner to obtain any special benefit from such transaction.
- 2.
  - a. Under Paragraph 1. above, "any other person" has a beneficial interest in a contract, sale, lease, purchase or grant when the other person bids or otherwise seeks to be awarded the contract, sale, lease, purchase or grant.
  - b. The reference to an "indirect beneficial interest" above, does not include the shared interest that all Washingtonians have in an effective and efficient transportation system.
- 3. When a Commissioner either owns a beneficial interest in or is an officer, agent, employee or member of an entity or individual which is engaged in a transaction involving the Commission, the Commissioner shall:
  - a. Recuse him or herself from the Commission discussion regarding the specific transaction and announce the reasons for the recusal;
  - b. Recuse him or herself from the Commission vote on the specific transaction; and
  - c. Refrain from attempting to influence the remaining Commissioners in their discussion and vote regarding the specific transaction; and
  - d. Refrain from using his or her position as a Commissioner to obtain any special benefit from such transaction.
- 4.
  - a. "Transaction involving the Commission" means a proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other similar matter that the Commissioner in question believes, or has reason to believe:
    - (1) Is, or will be, the subject of Commission action; or
    - (2) Is one to which the Commission is or will be a party; or
    - (3) Is one in which the Commission has a direct and substantial proprietary interest.
  - b. "Transaction involving the Commission" 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 a member; or a claim, case, lawsuit, or similar matter if the member did not participate in the underlying transaction involving the Commission that is the basis for the claim, case, or lawsuit. Rulemaking or other legislative or quasi-legislative decision making that affects Washingtonians generally is not a "transaction involving the Commission."
- 5. "Commission action" means any action on the part of the Commission including, but not limited to:
  - a. A decision, determination, finding, ruling, or order; and
  - b. A grant, payment, award, license, contract, transaction, sanction, or approval, or the denial thereof, or failure to act with respect to a decision, determination, finding, ruling, or order.
- 6. Any Commissioner who believes that one or more Commissioners should recuse themselves from consideration of an item before the Commission pursuant to items 2 or 4 of this policy, and have failed to do so, shall raise the issue before any Commission action or discussion has taken place. In the event the purportedly disqualified Commissioner continues to refuse to recuse himself or herself, the matter shall be resolved by a vote of the Commission. The vote of the Commission is not binding upon other agencies that may have occasion to review the issue, including without limitation the State Executive Ethics Board.