

# Ethical Conduct Policy

<b>Title:</b>	Ethical Conduct
<b>Applies To:</b>	Officers, employees, volunteers and members of Department of Enterprise Services (DES) boards and commissions
<b>Authorizing Sources:</b>	<ul style="list-style-type: none"><li>• <u>RCW 42.20: Misconduct of Public Officers</u></li><li>• <u>RCW 42.40: Whistleblower Act</u></li><li>• <u>RCW 42.52: Ethics in Public Service</u></li><li>• <u>RCW 42.20: Misconduct of Public Officers</u></li><li>• <u>RCW 42.40: State Employee Whistleblower Protection</u></li><li>• <u>RCW 42.52.120 Compensation for Outside Activities</u></li><li>• <u>RCW 42.52.080: Employment after Public Service</u></li><li>• <u>RCW 43.19.1937 Acceptance of benefits, gifts, etc., prohibited - Penalties</u></li><li>• <u>RCW 43.19.1939 Unlawful to offer, give, accept benefits as inducement for or to refrain from bidding - Penalty</u></li><li>• <u>WAC 292 Ethics in public service</u></li><li>• <u>Governor's Executive Order - 98-02 Training And Protocols for State Investigators</u></li><li>• <u>Governor's Executive Order - 91-10 Establishing The Governor's Policy On Electronic Message Systems</u></li></ul>
<b>Information Contact:</b>	Human Resource Office
<b>Effective Date:</b>	October 1, 2011
<b>Last Update:</b>	Not Applicable
<b>Sunset Review Date:</b>	October 1, 2013
<b>Approved By:</b>	<p style="text-align: right;">_____/s/ Joyce Turner Director</p>

## Purpose

This policy implements the requirements of state ethics laws, fosters an environment where employees understand they hold a public trust and informs employees about their ethical responsibilities.

## Policy Statement

The ethics laws are designed to protect state employees from conflicts of interest or from engaging in activities where their interests or loyalties could be divided or may be questioned.

DES employees are to be familiar with the state ethics laws, rules and other related policies and act in a way that is consistent with law, rules and policies.

Compliance with the ethics requirements is an individual responsibility. Maintaining a working knowledge of the requirements will help ensure proper and ethical actions by employees.

Employees are to base their conduct on these core ethical principles:

- Objectivity - Employees must place the public's interest before any private interest or outside obligation – choices need to be made on the merits.
- Selflessness - Employees should not take actions or make decisions in the performance of their position in order to gain financial or other benefits for themselves, their family, or their friends.
- Stewardship - Employees have a duty to conserve public resources and funds against misuse and abuse.
- Transparency - Employees must practice open and accountable government. They should be as open as possible about their decisions and actions, while protecting truly confidential information.
- Integrity - Employees should not place themselves under any financial or other obligation to outside individuals or organizations that might influence them in the performance of their official duties.

Failure to follow the requirements of this policy may result in corrective or disciplinary action up to and including dismissal.

The Internal Auditor is DES's central point of contact for internal agency advice about ethics issues. The Human Resources Safety Program and Training Manager is the secondary contact.

The Executive Ethics Board provides an informative web site and their staff may also be contacted for guidance.

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## General

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### A. DES will provide ethics requirements and information to employees.

DES posts this ethics policy and related information on the agency's internal web site.

To promote green or sustainable practices, DES will normally provide information in electronic form or as web site links.

Employees will receive a copy of this policy at their new hire orientation.

### B. DES will provide ethics training to employees.

The Human Resources Training Manager will coordinate ethics training for employees within their first two months of employment.

Supplemental training or educational communications will be provided to employees in a timely manner after any significant changes to the ethics requirements.

### C. Employees will review DES's ethics policy once a year.

Once a year, employees will receive an emailed checklist that will provide intranet links to relevant policies and/or guidelines. Hard copies are provided to those without access to email. Employees must certify they have reviewed the listed policies and guidelines.

### D. Former employees continue to have ethical responsibilities for a period of time.

State law does not allow former state employees to gain an advantage as a result of their decisions or actions while employed by the state. State law also does not allow former state employees to help other people with certain kinds of transactions.

To avoid conflicts of interest:

1. A current employee who is thinking about doing business with the state after leaving state employment; or
2. A former employee who wishes to do business with the state;

Should, in advance:

1. Review RCW 42.52.080 and RCW 42.52.090 and related statutes; and
2. Seek legal advice if desired.

### E. Employees should report actual, potential or perceived ethics violations.

1. Employees, suspecting or alleging unethical action, should report it to the DES Internal Auditor, the Director of Human Resources, or the State Auditor's Office.
2. When appropriate, an investigation will be conducted. The investigation may result in corrective and/or disciplinary action.

3. Employees not comfortable with this reporting process may instead anonymously report it as an improper government action with protected Whistleblower status. See DES Whistleblower Policy for specific information.
4. Employees will notify their supervisor in writing in advance of any situation that could possibly involve a personal conflict of interest. Supervisors will notify their Division Assistant Director, who will review potential conflicts and notify the agency's Internal Auditor and the Human Resources Director of any situations they believe requires further review or formal investigation.
5. DES may also report ethics violations to the Executive Ethics Board. The Executive Ethics Board may decide to conduct an independent investigation and may impose civil fines or other disciplinary action beyond the actions of DES.

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### **Confidential Information**

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#### **F. DES will provide ethics requirements and information to employees.**

DES employees have an obligation to maintain confidential information acquired as part of their official position. Employees may not disclose confidential information to an unauthorized person; disclose or use confidential information for personal benefit or to benefit another person; or, accept employment or engage in business if it might reasonably be expected to require or induce the disclosure of confidential information.

The state ethics law also makes it an ethical violation for an employee to intentionally conceal a record if he or she, knew that the record was required to be released under the public records act, is under a personal obligation to provide the record, but failed to do so. (See RCW 42.56 Public Records Act.)

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### **Financial Transactions**

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#### **G. DES employees are prohibited from having a financial interest in certain contracts and/or other kinds of transactions involving the agency.**

Employees are prohibited from being beneficially interested, directly or indirectly, in a contract, sale, lease, purchase, or grant that is made by, through, or under their supervision (in whole or in part), or to accept, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in the contract, sale, lease, purchase, or grant. DES employees may not participate in a transaction involving DES with an organization of which the employee is an officer, agent, employee, member, or in which the employee owns a beneficial interest.

"Transactions involving DES" mean a proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other similar matter that the employee or former employee believes, or has reason to believe (1) is, or will be, the subject of DES action; (2) is one to which DES is or will be a party; or (3) is one in which DES has a direct and substantial proprietary interest.

"Transactions involving DES" does not include the preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by an employee; or a claim, case, lawsuit, or similar matter, except for DES employees who participated in the underlying transaction involving the agency.

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## Acceptance of Gifts

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### H. DES holds its employees to a stricter set of rules governing gifts.

1. DES is a regulatory and purchasing agency and considers all its employees to be "Section 4" employees.
  - a. As "Section 4" employees, DES employees are not allowed to seek or accept, directly or indirectly, anything of economic value or of personal value as a gift, reward or compensation for a speech, appearance, article, or in connection with the performance of their official duties.
  - b. Prohibited gifts shall not be diverted to family or friends. If in doubt, decline it.
2. The only items or gifts that employees are allowed to accept from a person:
  - a. Regulated by DES;
  - b. Seeking to provide goods and services to DES or to other state agencies through DES;
  - c. Participating in DES's contractual matters.

Are the following:

- i. Unsolicited advertising and promotional items of nominal value;
- ii. Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item (without any significant cash or resale value);
- iii. Unsolicited items received for the purpose of evaluation, if of no beneficial interest;
- iv. Publications related to official duties;
- v. Food and beverages at hosted receptions related to official duties;
- vi. Token beverages offered by a taxpayer as a gesture of common courtesy to a DES employee performing their duties at a taxpayer's business. So long as the "gestures of common courtesy" are extended to all of the taxpayer's employees, visitors and customers;
- vii. Admission to and food and beverages consumed at a charitable or civic event;
- viii. Items from family and friends if clear purpose was not to influence;
- ix. Customary items related to outside business (not connected to state duties);
- x. Items exchanged at social events between co-workers;
- xi. Items not otherwise permitted when returned or donated to charity within 30 days;
- xii. Campaign contributions;
- xiii. Discounts available to the individual as a member of a broad based group;

- xiv. Awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement.

- 3. Employees are specifically prohibited from accepting the following gifts:
  - a. All food gifts, even token gifts such a cookie, except for food accepted during hosted receptions listed above in 7.b;
  - b. Flowers, plants and floral arrangements;
  - c. Expenses (travel, room, and meals) for a speech and/or seminar;
  - d. All other gifts, regardless of value that are not specifically allowed by state law.

Exception: A prohibited gift may be accepted if it is donated to charity or given out to the public within 30 days.

- 4. The Director may approve for the agency to accept certain gifts, but must be careful and consider if there may be an actual or a perceived conflict of interest.

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## Honoraria

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- I. **An employee may not accept an honorarium unless specifically authorized by the Deputy Director or Director. Under no circumstances may an employee receive an honorarium if:**
  - 1. The person or entity offering the honorarium is seeking, or is reasonably expected to seek, a contract or grant from DES and the employee is in a position to participate in the terms or award of the contract or grant;
  - 2. The person or entity offering the honorarium is regulated by DES and the employee is in a position to participate in the regulation; or
  - 3. The person or entity offering the honorarium is seeking or opposing, or is reasonably likely to seek or oppose, enactment of legislation or DES rules or policy and the employee may participate in the enactment or adoption.

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## Use of state resources

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- J. **Employees must conserve, safeguard, and appropriately use state resources under their control or provided for the performance of their duties.**

Electronic storage or e-mailing of confidential or highly sensitive information requires extra security measures; contact Information Services for assistance.

**Exception:** E-mails involving only the addresses that are listed in the State's Global Address Book in Outlook (i.e. inside of the secure state government network) do not require extra security measures.

Employees may make limited personal use of state resources when the use is not specifically prohibited.

1. DES employees may make de minimus personal use of state resources only when the following conditions apply:
  - a. There is little or no cost to the state.
  - b. Any use is brief in duration, occurs infrequently, and is the most effective use of time or resources.
  - c. The use of state resources does not interfere with the performance of official duties.
  - d. The use does not disrupt or distract from the conduct of state business due to volume or frequency.
  - e. The use does not disrupt other employees and does not obligate them to make personal use of state resources; and
  - f. The use does not compromise the security or integrity of state information or software. Read DES's Information Technology Security Program Policy for specific security requirements.
  - g. The use is consistent with the current Collective Bargaining Agreement.
2. Employees are always prohibited from the following attempted or actual use of state resources:
  - a. Any use for the purpose of conducting an outside business or outside employment; or
  - b. Any use for the purpose of supporting, promoting, or soliciting for an outside organization or group unless provided for by law or authorized by the Director; or
  - c. Any campaign, political or lobbying use; or
  - d. Commercial uses such as advertising or selling; or
  - e. Any use that is otherwise prohibited by or incompatible with DES's mission, business, rules or policy; or
  - f. Illegal Activity; or
  - g. Any private use of state equipment that has been removed from state facilities or other official duty station.

Examples of activities for personal use that are always prohibited are:

- Example 1: Data streaming audio or streaming video from the internet to an agency computer for extended periods of time.
- Example 2: Online gambling or viewing images and materials that are pornographic or involve sexual content.
- Example 3: Attempts to visit an adult internet site even if access to that site was blocked. If you accidentally click on an adult site, immediately close it out and notify your supervisor.
- Example 4: Discrimination, racism, bullying or harassment.

**K. DES may allow limited usage of state resources to achieve indirect agency benefits.**

1. The Director may authorize in advance the limited use of state resources for activities or events that:
  - a. promote organizational effectiveness;
  - b. enhance job-job related skills;
  - c. build teams;
  - d. improves moral; or
  - e. Supports the health, safety, and well-being of employees.
2. Activities authorized by the Director are listed as an appendix to this policy.
3. Planning and soliciting for approved charitable events and activities may be conducted during the work day so long as the planning and soliciting meets the criteria of section 9.a above.
4. Managers and supervisors should never personally solicit charitable donations from employees who work under their supervision or over whom they have influence.
5. Aside from Director authorized charitable activities or events, staff engaged in any charitable solicitation should avoid conveying the perception that the solicitation is supported or endorsed by managers or supervisors.

**L. DES may monitor usage of all state resources for business and compliance purposes.**

DES may monitor usage of state resources unannounced on a periodic basis to determine compliance with this policy or for personnel issues.

All electronic internet access records, messages, and other files are reproducible, are not private, and are subject to disclosure under public disclosure laws. Deleted files may still be subject to recovery, review, and disclosure.

The monitoring, review or investigation of employee e-mail accounts, internet usage, or personal computer activity will be done in accordance with DES's Information Technology Security Program or Loss of Funds or Property policy.

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**Outside employment**

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**M. Employees will not knowingly seek outside employment that could conflict with their official duties.**

Employees will not seek outside employment that is, or could be, perceived as conflicting with their official duties.

Outside employment includes, but is not limited to:

- Private employment;
- The ownership or operation of a private business;

- Employment as a consultant, advisor, or other independent contractor;
- Employment in another subdivision of the department or in another state, federal, or local government entity;
- Becoming a state contractor or grantee.

**N. Employees must inform DES of outside employment.**

Employees that have additional jobs outside of DES must inform their supervisor using DES's Notification of Outside Employment form.

Employees that want to contract with or obtain a grant from a state agency must get advance approval by the Executive Ethics Board before starting work.

**O. Outside employment must not detract from performance of state job duties.**

An employee may not engage in outside employment if the demands of such employment prevent the satisfactory performance of their state duties. Outside employment must not be inconsistent with RCW 42.52 which establishes a code of ethics for public officers and employees.

**P. Outside employment with a contractor or vendor may be allowed.**

1. An employee may accept outside employment with an employer who provides goods or services to DES or the state if:
2. The employment has been approved in advance by the employee's Division Assistant Director after consult with the Internal Auditor; and
3. The nature of the employment is clearly unrelated to the goods or services provided to DES or the state; or
4. The employee has no opportunity to influence the relationship between the outside employer and DES or the state; or
5. The employment includes only performance on contracts authorized by DES or the state, when:
  - a. Those contracts are not expressly created or authorized by the employee;
  - b. Those contracts are not expressly created or authorized by staff subject to the employee's direction; and
  - c. The employment will not be perceived as conflicting with the employee's official duties.

**Q. Caution should be taken to avoid possible conflicts of interest.**

Employees may not accept employment or engage in any outside activity (e.g. business, charitable, political, professional, etc.) that they might reasonably expect would require or persuade them to reveal confidential information used in their official position.

Employees should not solicit or accept any offer of employment if they have reasons to believe the offer has been made or would be made for the purpose of influencing the performance of their official duties and obligations.

An employee may not use their official position to influence customers for any reason related to the employee's outside employment.

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## Appendices

- Approved Employee Activities and Events

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## Definitions

- **Confidential information** means specific information that is not available to the general public or is protected by law. Confidential information cannot be released to the public and is exempt from public disclosure.
- **De minimis** means infrequent or occasional use that result in little or no actual cost to the state.
- **Employee** means officers and employees of DES, volunteers doing work for DES, and members of DES Boards and Commissions.  
Exception: The state Ethics Laws and Sections 1 and 13 through 15 of this policy in regard to outside employment do not apply to volunteers.
- **Highly sensitive** means information that, in your judgment, could be very embarrassing to individuals, our agency, or the state if it were unnecessarily distributed to unintended recipients.
- **Hosted reception** means a social event involving a diverse group of people, some of whom are regulated by the agency and others, who are not, and some who provide goods or services to the agency and some who do not. It does not involve a sit-down meal.
- **Meal** means a sit-down meal where the guests are expected to sit down to eat.
- **Section 4 employee** means all DES employees in the context of this policy. (In the state ethics law it means an employee who participates in regulatory or contracting activities.) Section 4 employees are subject to the strict gift limit requirements of RCW 42.52.150(4).
  - Participation includes such things as recommendation, approval and disapproval, decision, giving advice, monitoring or investigation.
  - Contracting include such things as agreements, leases, contracts, purchases, or sales.
  - Regulatory activities include such things as issuing permits or licenses, exercising authority, or controlling or affecting the interests of identified persons.

- **Person** means any individual, partnership, association, corporation, firm, institution, governmental agency, or other entity, whether or not operated for profit.

Some examples of persons that participate in contractual matters are purchasing personnel as defined by the Washington Purchasing Manual or a state employee at an institution of higher education that assists Engineering and Architectural Services in evaluating design proposals for a new building.

Some examples of persons that are regulated by DES are persons that receive a Campus Use Permit issued by Visitor Services, persons that must comply with the State Building Code or persons that receive a delegation of DES's authority.

- **State resources** means the same as public resources, public facilities and facilities of an agency where used in state law or rule.

State resources includes, but are not limited to, funds, facilities, tools, property, systems such as the internet and email, and employees and their time during working hours, use of stationery, postage, machines, and equipment, vehicles, office space, intangible and intellectual property, electronic data, images, files, and software, publications of the agency, and clientele lists of persons served by the agency.