



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

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EXECUTIVE
ETHICS BOARD

January 17, 2003

TO: Brian Malarky, Executive Ethics Board
Executive Director

FROM: Marc Harrison *Marc Harrison*
Office of Human Resources

SUBJECT: PROPOSED CHANGE TO DOH ETHICS POLICY

The Department of Health proposes to amend our Ethics policy in the *Use of State Resources* section, page 11, number 2.a., fifth bullet and number 3, second bullet (see below). We are making these two changes which cross reference each other to allow staff who serve as volunteer workers or board members for organizations whose functions are supportive of the mission statement of the Department of Health, to make de minimis use of state resources. As an example, staff who are members of such an organization might have their DOH email address or phone number listed on the organization's website or letterhead to communicate about official business. Any use of state resources for this purpose would be minimal and involve no personal gain.

The two proposed changes are underlined as they would appear in the current text:

2. **Exceptions** to the general rule

a. Employees may make **occasional but limited** use of state resources **except consumables** provided all the following conditions are met:

- there is de minimis or no cost to the state
- the use of state resources does not interfere with the performance of official duties
- the use is brief in duration and does not disrupt or distract from the conduct of state business due to volume or frequency
- the use does not compromise the security or integrity of state information or software

APPROVED
Executive Ethics Board

Date: 4/11/03



- **and** the use promotes organizational effectiveness or enhances an employee's job-related work skills. Organizational effectiveness relates to the department's mission and encompasses activities that enhance or augment the department's ability to perform its mission. DOH employees who serve as unpaid, volunteer workers or board members for organizations whose functions are supportive of the mission statement of the Department of Health, shall be permitted to make de minimis use of state resources as identified in this section. Authorization for such use may only be made by the Secretary or designee(s).

3. Occasional but limited use of state resources does not include:

- any use for purpose of conducting an outside business
- use for the purpose of supporting, promoting, or soliciting for an outside organization or group unless provided for by law or authorized by the Secretary or designee. In regard to this paragraph, it shall be permitted for DOH employees who serve as unpaid, volunteer workers or board members for organizations whose functions are supportive of the mission statement of the Department of Health, to make de minimis use of state resources as defined in part 2.a. of this section.
- any campaign or political use
- commercial uses such as advertising or selling
- an illegal activity
- private use of any state property which has been removed from state facilities or other official duty station

Would you please review these changes and let us know if they would meet with the Board's approval? These are the only changes we are proposing to the policy. Incidentally, the Executive Ethics Board reviewed and approved our policy April 18, 2001. Thank you.

APPROVED
Executive Ethics Board

Date: 4/11/03

Department of Health

Policy/Procedure

Title:	Ethics	Number: 07.015
References:	Chapter 42.52 RCW, Chapter 292-110 WAC, Executive Ethics Board Advisory Opinions, DOH Policy 10.008 (Internet Access and Use), DOH Policy 17.003 (Public Disclosure), 17.005 (Confidential Information)	
Contact:	Assistant Secretary, Management Services Division	
Effective Date:	May 1, 2001	
Supersedes:	Replaces 07.015 (Outside Employment) dated April 19, 1991; 07.016 (Political Activity) dated September 11, 1990; 07.017 (Employee Client Relationships) dated April 19, 1991; and 07.019 (Employment of Related Persons) dated June 1, 1990	
Approved:	Signed by Mary C. Selecky	
	Secretary, Department of Health	

Purpose

- To establish a policy/procedure that formally implements chapter 42.52 RCW. This policy/procedure shall apply to all employees, and members of all Department of Health boards and commissions.
- To foster an environment where employees understand that they hold a public trust. This trust obligates them to a) conduct the business of the department in accordance with the highest ethical standards, b) not use their public office for personal gain or private advantage, and c) avoid activities that conflict with the proper discharge of their duties.
- To inform employees about their ethical responsibilities.

Note: This policy is not intended to incorporate all the details of chapter 42.52 RCW, WAC-292-110 or the advisory opinions issued by the Executive Ethics Board. If you have questions that are not addressed by this policy, please review the ethics law RCW 42.52, WAC-292-110, the Executive Ethics Board advisory opinions and consult with your division management, or contact the Assistant Secretary, Management Services Division.

Website for Executive Ethics Board – <http://www.wa.gov/ethics/>

The site contains the applicable WACs, advisory opinions and information on ethics training.

Table of Contents

Page

1. Ethics Categories.....	3
<i>Assisting persons in transactions involving the state.....</i>	3
<i>Beneficial interests in transactions involving the state.....</i>	3
<i>Confidential information</i>	3
<i>Disclosure of public records.....</i>	4
<i>Employment of related persons</i>	4
<i>Gifts</i>	4
<i>Honoraria.....</i>	7
<i>Outside employment.....</i>	7
<i>Political activities</i>	8
<i>Post-state employment and beneficial interest.....</i>	9
<i>Use of state resources</i>	10
2. Ethics concerns and questions	12
3. Employees will be informed by their Division	12
4. Ethics matters or questions dealing with contracts/ contracting	12
5. Divisions may issue policies, procedures, or guidelines	13
6. Penalties.....	13
Procedures.....	14

Policies

1. Ethics Categories

Assisting persons in transactions involving the state

1. Employees may not assist another person in a transaction involving the state if :
 - they previously participated in that transaction and it is no longer one of their official duties or
 - the transaction was under their official responsibility within two years prior to their providing the assistance and is no longer under their official responsibility.
2. Participate means to take part personally and substantially in any action or proceeding on the part of a state agency including approval, disapproval, decision, recommendation, rendering advice, investigation or otherwise.

Beneficial interests in transactions involving the state

1. Employees may not have a beneficial interest in a contract that is made by, through, or is under their supervision. Beneficial interest means the right to enjoy profit, benefit, or advantage from a contract or other property.
2. Employees may not accept any compensation from any person beneficially interested in a contract that is made by, through, or is under their supervision.
3. Employees may not participate in a transaction involving the state with a partnership, association, or other person in which they own a beneficial interest. Participate means to take part personally and substantially in any action or proceeding on the part of a state agency including approval, disapproval, decision, recommendation, rendering advice, investigation or otherwise.

Confidential information

1. Employees shall not:
 - disclose confidential information for their own personal gain or benefit or the gain or benefit of another unless the disclosure is authorized by statute or by DOH contract.
 - disclose confidential information to an unauthorized person
 - accept employment or engage in business that they might reasonably expect would induce or require them to make an unauthorized disclosure of confidential information

For the purposes of this policy/procedure *confidential information* means (a) specific information, rather than generalized knowledge, that is not available to the general public on request or (b) information made confidential by law.

2. Employees shall be familiar and comply with the provisions of DOH Policy/Procedure 17.005 *Employee Responsibilities with Confidential Information*.

Disclosure of public records

1. Employees shall not intentionally conceal a record if they know the record is required to be released under the public disclosure law 42.17 RCW and are under a personal obligation to provide the record.
2. Employees shall be familiar and comply with the provisions of DOH Policy/Procedure 17.003 *Public Disclosure*.

Employment of related persons

1. The Department of Health shall hire, retain, promote and/or assign related persons, or unrelated persons sharing the same household, in a manner that avoids conflicts of interest and the reality or appearance of improper influence or behavior. For the purpose of this policy, a *related person* is a person related to another person by blood, marriage, or legal adoption.
2. Employees shall not be placed in a position where they would have the authority to supervise, appoint, promote, remove or discipline an employee who is a relative or an unrelated employee with whom they share the same household.
3. Should the department learn that employees have become relatives or have begun sharing the same household, the department shall attempt to locate appropriate assignments consistent with the requirements of this policy and Merit System Rules. Employees should inform their supervisor if they believe that they have been placed in a position, or the department is considering placing them in a position, which is not consistent with this policy.

Gifts

1. Employees may not accept, 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 employee, or be considered part of a reward for the employee's action or inaction.

2. Definitions

Gift - Something of value received by an employee that the employee did not pay for or earn. No consideration was given for the item received and it was unsolicited by the employee.

Section 4 employee - An employee who participates in regulatory or contractual matters with another person, company, or organization. In relation to that person, company, or organization, the employee is considered a section 4 employee.

Participate - To take part personally and substantially in any action or proceeding on the part of a state agency including approval, disapproval, decision, recommendation, rendering advice, investigation or otherwise.

3. Non section 4 employees (see definition of *Section 4 employee*) may accept unsolicited gifts as follows:
- a. a gift or gifts that could not reasonably be expected to influence or appear to influence them to perform, not perform or defer the performance of their job duties AND has an aggregate value of \$50 or less from a single or multiple sources in a calendar year.
 - b. the following gifts without regard to the \$50 limit provided the employee is not influenced by the gift as stated in 1a:
 1. Flowers, plants, and floral arrangements
 2. Tokens or awards of appreciation in the form of a plaque, trophy, desk item or similar item
 3. Publications, subscriptions or informational material related to official duties of recipient
 4. Admission and the cost of food and beverages consumed at events sponsored by a civic, charitable, governmental or community organization
 5. Advertising or promotional items of nominal value such as pens and note pads
 6. Items received for purpose of evaluation if the employee has no beneficial interest in the eventual use or acquisition of the item by the agency
 7. Food and beverages consumed at hosted reception if related to official duties
 8. Gifts from dignitaries intended to be personal in nature
 - c. Gifts in the form of food and beverage on infrequent occasions in the ordinary course of meals where attendance by the employee is related to the performance of official duties. Gifts in the form of food and beverage that exceed fifty dollars on a single occasion shall be reported as provided in chapter 42.17 RCW.

4. *Section 4* employees (see definition of *Section 4 employee*) may only accept the following unsolicited gifts from a person regulated by the agency or a person seeking to provide goods or services to the agency, without regard to the \$50 limit, provided the employee is not influenced by the gift as stated in 1a above:

- a. Advertising or promotional items of nominal value such as pens and note pads
- b. Items received for purpose of evaluation if the employee has no beneficial interest in the eventual use or acquisition of the item by the agency
- c. Food and beverages consumed at hosted reception if related to official duties
- d. Tokens or awards of appreciation in the form of a plaque, trophy, desk or similar item
- e. Publications, subscriptions or informational material related to official duties of recipient
- f. Admission and the cost of food and beverages consumed at events sponsored by a civic, charitable, governmental or community organization

5. The following items are not considered gifts and are not subject to the \$50 limit. *Section 4* employees may accept only these items from a person regulated by the agency or a person seeking to provide goods or services to the agency. This presumes the employee is not influenced by the item as stated in 1a above.

- a. Items from family and friends
- b. Items exchanged at social events by coworkers
- c. Items returned or donated to charity within 30 days
- d. Discounts available to an employee as a member of a broad based group
- e. Food and beverages at hosted reception
- f. Customary items related to outside business and not related to performance of official duties
- g. Items permitted by law
- h. Campaign contributions reported under 42.17 RCW
- i. Admission and the cost of food and beverages consumed at events sponsored by a civic, charitable, governmental or community organization
- j. Awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement

Honoraria

1. **Honoraria** - Money or anything of economic value offered for a speech, appearance or article in connection with an employee's official duties.
2. Honoraria may only be accepted if approved by the Secretary or designees **and provided all of the following conditions are met:**
 - The person offering the honoraria is not in a contract or grant relationship with or is not reasonably expected to seek a contract or grant from DOH and the intended recipient is not in a position to participate in the terms or award of the contract or grant
 - The person offering the honoraria is not regulated by DOH and the intended recipient is not in a position to participate in the regulation
 - The person offering the honoraria is not, or is not reasonably expected to seek or oppose enactment or adoption of legislation, rules, actions, or policies of DOH and the intended recipient does not participate in these activities.

Outside employment

1. Employees may engage in and receive compensation for outside employment provided that:
 - the job duties of their outside employment are unrelated to the job duties of their state employment and do not conflict with department goals/objectives.
 - the contract or grant for services was not created by the employee in his or her official capacity.
 - performance of the services would not require disclosure of confidential information.
 - they do not engage in regulatory or contractual matters with the outside employer.
 - prior to engaging in outside employment, they request and receive approval from their office director and assistant secretary (or designee) by submitting a completed *Report of Outside Employment* form (DOH 720-015). Employees reporting to the Secretary or Deputy Secretary, must receive prior approval from the Deputy or Secretary (using DOH 720-015).

Approval may be withdrawn or may require reapplication for approval at any time (as determined by the applicable Assistant Secretary) for any situation which may be or appears to be in conflict with this policy/procedure.

- if the outside employment is with the Department of Health, they must first consult with the DOH Office of Contracts, Properties, and Procurement (OCPP).
2. Hiring supervisors must
- inform candidates likely to be considered for hire (finalists) about the provisions of this section before a job offer is made and
 - provide them a copy of this policy/procedure.

Political Activities

1. Employees are permitted (subject to restrictions in number 2 below) to:
- register and vote as they choose
 - express their political opinions
 - solicit political contributions
 - contribute to any organization or candidate
 - hold membership in and participate in the affairs of political parties
 - assist or participate in the management of political campaigns
 - run for any political party office
 - hold any political party office or participate in managing a partisan or non-partisan political campaign
 - hold part-time public office in any political subdivision of the state, provided it does not interfere with their Department duties as determined by the appointing authority
2. Employees are not permitted to:
- use state resources for political activities that are **not** part of the normal and regular conduct of the department, even if the cost to the state is none or de minimis.
 - solicit contributions for political purposes on state property
 - demand that employees under their supervision make contributions for political purposes.
 - hold a part-time public office in a political subdivision of the state when the holding of such office is incompatible with, or substantially interferes with the discharge of their official duties as determined by the appointing authority.
- Each employee shall report the holding of public office to his/her supervisor.
3. Employees with authority to direct, control or influence the actions of another employee may not knowingly acquiesce in the other employee's use of state resources for political activities.

4. The rules and regulations of the United States Office of Personnel Management which pertain to political activities apply to some employees. Persons principally employed in state or local programs financed in whole or in part by federal loans or grants are covered by the "Hatch Act". Those employees:

May

- be a candidate for public office in nonpartisan election
- campaign for and hold elective office in political clubs and organizations
- actively campaign on behalf of candidates for public office elections
- contribute money to political organizations or attend political fundraising functions
- participate in any activity not specifically prohibited by law/regulation

May not (prohibited)

- be a candidate for public office in partisan election
- use official authority or influence for the purpose of interfering with or affecting the results of an election or nomination
- directly or indirectly coerce contributions from subordinates in support of a political party or candidate

Example: Posting flyers soliciting funds to reimburse lobbyist; requiring subordinate employees to share cost of tickets to fundraising dinner; involving subordinate employees in raffle of tickets to political party fundraiser.

Post-state employment and beneficial interest

1. One-Year Restriction

A former DOH employee may not accept employment or compensation from an employer within one year of leaving state employment if all three of the following conditions are present:

- During the two years immediately preceding termination of DOH employment, the employee negotiated or administered a contract with the new employer
- The contract(s) had a total value in excess of \$10,000; and
- Duties with the new employer would include fulfilling or implementing the contract.

2. Two-Year Restriction

- For two years following termination of DOH employment, an employee may not have a beneficial interest in a contract or grant expressly authorized or

funded by action in which the employee participated while in DOH employment.

Beneficial interest means the right to enjoy profit, benefit, or advantage from a contract or other property. Does not include ownership interest of a mutual fund or investment pool with no management powers (“control and ability to exert influence”) in the fund or pool.

Participate means to take part personally and substantially in any action or proceeding on the part of a state agency including approval, disapproval, decision, recommendation, rendering advice, investigation or otherwise.

3. Employment offered with intent to influence

- Employees may not accept an offer of post-state employment if it could reasonably be expected to influence the performance or nonperformance of their job duties.

4. Assisting in a transaction involving the state

- Former employees may not assist any person, whether or not for compensation, in any transaction involving the state if they previously participated in that transaction.

5. Ethics matters or questions dealing with contracts/contracting shall first be referred to the DOH Office of Contracts, Properties, and Procurement (OCP). OCP shall provide training, guidance, assistance and information as required.

Use of state resources

1. General rule

Employees shall not use state resources for private benefit or to benefit another person(s) except as part of the employee’s official duties. State resources include but are not limited to:

- money
- property
- personnel
- consumables – paper, envelopes, office supplies, etc., even if cost to the department is *de minimis* (insignificant, negligible).
- personal computers, computer networks, databases, electronic bulletin boards, Internet, electronic message systems (email), facsimile transmissions, voice mail.

2. Exceptions to the general rule

- a. Employees may make **occasional but limited** use of state resources **except consumables** provided all the following conditions are met:
- there is de minimis or no cost to the state
 - the use of state resources does not interfere with the performance of official duties
 - the use is brief in duration and does not disrupt or distract from the conduct of state business due to volume or frequency
 - the use does not compromise the security or integrity of state information or software
 - **and** the use promotes organizational effectiveness or enhances an employee's job-related work skills. Authorization for such use may only be made by the Secretary or designee(s). Organizational effectiveness relates to the department's mission and encompasses activities that enhance or augment the department's ability to perform its mission.
- b. Employees may make **occasional but limited** use of personal computers, computer networks, databases, electronic bulletin boards, Internet, electronic message systems (email), facsimile transmissions, and voice mail only if the use promotes organizational effectiveness as authorized by the Secretary or designee(s).

For example, an employee sending an email communication to his home to make sure his children have arrived home safely from school would be an authorized use because the Secretary has determined that this use promotes organizational effectiveness.

Some examples of prohibited use include but are not limited to:

- using state computers to write personal letters, play computer games, or check stock quotes
- using the Internet to conduct personal business or access sites that are not state business related.

Note: Employees shall be familiar and comply with policy/procedure 10.008 "Internet Access and Use."

3. Occasional but limited use of state resources does not include:

- any use for purpose of conducting an outside business
- use for the purpose of supporting, promoting, or soliciting for an outside organization or group unless provided for by law or authorized by the Secretary or designee
- any campaign or political use
- commercial uses such as advertising or selling
- an illegal activity

- private use of any state property which has been removed from state facilities or other official duty station

2. Ethics concerns and questions

a. Employees are encouraged to raise ethics concerns and questions

In most cases, employees' ethics questions and concerns can be resolved through their supervisor, management, or through other DOH sources such as the Assistant Secretary, MSD, or the Office of Contracts, Properties, and Procurement. However, if questions and concerns are not resolved at that level, employees are encouraged to raise ethics concerns or questions to their Assistant Secretary, Deputy Secretary, or Secretary. Employees may also direct concerns to the Executive Ethics Board, 1125 Washington Street SE, P.O. Box 40100, Olympia, WA 98504-0100 (phone: 360/664-0871) (web site: www.wa.gov/ethics). This may be done anonymously, however, concerns or questions addressed to the Executive Ethics Board are not confidential.

As warranted, questions and concerns may be referred to the Senior Management Team (SMT) for resolution. The SMT will consult with the Attorney General's office, DOH staff, and the Executive Ethics Board (EEB) as necessary. Matters beyond the authority of the SMT will be referred to the EEB.

b. No interference or retaliation

No employee shall interfere with or retaliate against any employee raising an ethics concern or question.

3. Employees will be informed by their Division

DOH Division Heads shall provide a copy of this policy/procedure to new employees. Training is available through the Executive Ethics Board (see website on page 1). The Human Resources Office shall include reference to this policy/procedure and the Executive Ethics Board in the employee handbook.

4. Ethics matters or questions dealing with contracts/contracting

Ethics matters or questions dealing with contracts/contracting shall be referred first to the DOH Office of Contracts, Properties, and Procurement (OCPP). OCPP shall provide training, guidance, assistance and information as required.

5. Divisions may issue additional policies, procedures, or guidelines

Divisions may issue additional policies, procedures, or guidelines as necessary to implement this policy/procedure. Those policies, procedures, or guidelines shall not conflict with or be less restrictive than this policy/procedure, the state ethics law RCW 42.52, WAC 292-110, and applicable Executive Ethics Board advisory opinions.

6. Penalties

Employees violating this policy/procedure are subject to disciplinary action under chapter 356-34 WAC as well as penalties imposed by the Executive Ethics Board under chapter 292-120 WAC.

PROCEDURES

To request approval to accept honoraria

Responsibility

Action

Employee

requests written approval from DOH Secretary, Deputy Secretary or designated Assistant Secretaries prior to accepting offers of honoraria.

DOH Secretary, Deputy Secretary or designated Assistant Secretaries

- reviews and approves or denies requests to accept honoraria
- maintains copy of approval or denial
- notifies employee of approval or denial

To request approval for outside employment

Responsibility

Action

Employee

completes and submits *Report of Outside Employment* (DOH 720-015) to Office Director and receives approval **prior** to engaging in outside employment.

consults with Office of Contracts, Properties, and Procurement (OCPP) if outside employment is in the form of a contract with the Department of Health.

Office Director

approves or denies *Report of Outside Employment*. Provides explanation if request is denied. Forwards to Assistant Secretary or designee.

Assistant Secretary or designee

- approves or denies *Report of Outside Employment*. provides explanation if request is denied. Consults with Attorney General, Office of Contracts, Properties, and Procurement, Assistant Secretary, MSD and others as necessary.
- maintains copy of request and approval or denial.
- notifies employee of action (approval or denial).