

Ethics Tidbits

Commercial solicitation and the CFD

The activities of the Washington State Combined Fund Drive (CFD) cannot result in the direct commercial solicitation of state employees or a benefit or advantage that would violate the Ethics Act.

This means that while state agencies may allow the de minimis use of state resources for CFD activities, in doing so, they may not send out e-mails or post flyers that identify a particular business that is offering discounts to state employees and provide a link to that business' website.

Lobbying

As budget cuts become a reality, you may be worried about losing your job or severe program cuts and may want to do everything you can to prevent that, including writing letters to your elected representatives, sending e-mails and/or testifying before the legislature.

Lobbying is defined in RCW 42.17.020 as:

“ . . . attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state Administrative Procedure Act, chapter 34.05 RCW. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the members of that association or organization.”

The Ethics in Public Service Act, RCW 43.52 does not prohibit you from lobbying as a private citizen. It does, however, prohibit you from using any state resources to lobby. WAC 292-110-010(6)(d) states:

(6) **Prohibited uses.** The state Constitution, state and federal laws, and the Ethics in Public Service Act strictly prohibit certain private activity and certain uses of state resources. Any use of state resources to support such activity clearly undermines public confidence in state government and reflects negatively on state employees generally. This rule explicitly prohibits at all times the following private uses of state resources.

...

(d) Any use for the purpose of participating in or assisting in an effort to lobby the state legislature, or a state agency head. Such a use of state resources is specifically prohibited by RCW 42.17.190, subject to the exceptions in RCW 42.17.190(3);

This prohibition does not apply to activities that are part of the normal and regular conduct of the agency, such as responding to questions asked by legislators. The exception under RCW 42.17.190(3) states in pertinent part:

(3) Any agency, not otherwise expressly authorized by law, may expend public funds for lobbying, but such lobbying activity shall be limited to (a) providing information or communicating on matters pertaining to official agency business to any elected official or officer or employee of any agency or (b) advocating the official position or interests of the agency to any elected official or officer or employee of any agency.

Political Campaigning

The Ethics in Public Service Act states that no state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, 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. Knowing acquiescence by a person with the authority to direct, control, or influence the actions of the state officer or state employee using public resources for political campaigning is also a violation.

“Facilities” is broadly defined and includes agency office space and working hours. It also includes voice-mail and e-mail on state phones and computer systems. Personal clothing and personal vehicles, however, would not be considered an agency facility. Therefore, the Ethics Act would not absolutely prohibit an agency policy that permits wearing typical political buttons on an individual’s clothing or affixing a political bumper sticker to a personal vehicle. If employees interact with the public they are urged to exercise caution because wearing political buttons while interacting with the public or displaying political signs in public areas, could result in prohibited campaigning or violate their agency policy.

Prohibited activities include, but are not limited to:

- Using work hours to solicit signatures for ballot propositions, to raise funds for or against propositions or candidates, organize campaigns for propositions or candidates.
- Displaying political material in or on state vehicles.
- Displaying or distributing campaign material on state owned or operated premises.¹

Employees may campaign for or against a ballot proposition or candidate on their own personal time (this includes authorized leave time), away from the office.

“...and the winner is...”

¹This does not include property considered to be a “neutral open forum,” which is public property open to all expression that is protected under the [First Amendment](#), i.e., streets, parks, and sidewalks or if the state intentionally opens a nontraditional forum for public discourse.

You, as a state officer or employee, cannot keep a door prize received at a conference paid for by your agency or enter into other “drawings” by placing your state business card into containers. These actions would violate RCW 42.52.020, Activities incompatible with public duties and RCW 42.52.160, Use of persons, money or property for private gain.

Door prize: You may not keep a door prize if your state agency paid for the conference and you are attending the conference, seminar, trade show, or similar event on state time. Should you win a door prize at the event, you must give it to the agency. The agency may either keep the prize or dispose of it in accordance with state rules and regulations. The agency may not allow you to keep the prize.² If you pay for the conference or seminar and attend it on your own time (including using vacation time to attend), then you may retain any door prize won at the conference or seminar.

Drawings: You may not use your official state business card to enter drawings, especially when you attend the event or place of business in your personal capacity. This includes placing your state business card in a “fishbowl” at your local coffee house or restaurant to win a free drink or lunch. If you want to participate in these types of drawings, use personal calling cards, not your state business card.

Conducting an outside business in the work place – just say “No”

RCW 42.52.160, Use of persons, money or property for private gain, states in pertinent part:

- (1) 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.

Before you feel guilty about sending the occasional personal e-mail or using the phone to check on your family, know that the ethics board has adopted rules providing exceptions to this section for occasional or de minimis use if the activity does not result in interference with the proper performance of official duties.

What is “de minimis” use of state resources? A de minimis (minimal) use is an infrequent or occasional use that results in little or no actual cost to the state. An occasional brief local phone call to make a medical appointment or check on a loved one is an example of allowable de minimis use of state resources. The cost of a brief local phone call is small and not likely to interfere with your job. The Executive Ethics Board has adopted guidelines for the exceptions

² Advisory Opinion 98-10 was revised and amended on July 13, 2007 eliminating the ability of the agency to allow the employee to keep the door prize. This amended opinion was not updated on the Ethics website at that time, but will be updated by the end of June 08.

to the “no personal use” rule.

Certain uses of state resources are prohibited *regardless* of whether there is little or no cost to the state, it’s brief/infrequent and the use does not interfere with the performance of official duties. **These uses are absolutely not allowed - not even if you are on break or it is after hours.** Any use for the purpose of conducting an outside business, whether or not for profit is **strictly prohibited**³ That means you can’t even bring catalogs that have items in them for sale and leave them in a break room.

³ Many organizations allow certain fund-raising activities for internal activities or external charities and de minimis use of state resources may be authorized for these activities by your agency. Refer to your agency’s use of state resources or organizational effectiveness policy for clarification on these activities.