

Executive Ethics Board News

Neil Gorrell, Chair
Linnaea Jablonski, Vice-Chair
Judy Golberg, Member
Mike Connelly, Member
Martin Biegelman, Member

July 10, 2009

The Executive Ethics Board (Board) met on Friday, July 10, 2009. Mr. Connelly was absent; all other members attended. Others attending included: Melanie de Leon, Executive Director, Ruthann Bryant, Board Secretary, Nancy Lewin, Board Investigator and Jerry Anderson, Senior AAG, Board Counsel. Other members of the public also attended.

Board Action:

A. The Board held an open public hearing regarding the proposed changes to WAC 292-110-010, Use of resources. The Board considered written comments received prior to the hearing and one person testified during the hearing. The rule was adopted by the Board without any substantive changes. The Board staff will now file the CR 103 so that the rule can become permanent. The Board staff will then draft new guidance in the form of FAQs to accompany the rule change.

B. The Board discussed whether it had jurisdiction over gifts to an agency when a state employee or state official directly or indirectly benefitted from the gift. The Board opined that:

1. The gift limits under RCW 42.52.150 do not apply to gifts to the state or its agencies even if the source of the gift to the state agency may include persons regulated by the agency or those who contract, or seek to contract, with the state agency. However, the Ethics Act has jurisdiction over state officers and employees who may be the recipients of a gift to any agency.
2. When a state officer or employee is the ultimate beneficiary of a gift initially given to a state agency, close scrutiny must be given to the circumstances surrounding the gift to determine if the recipient violated the Ethics Act. The Board will look at several factors to determine whether a state officer or employee violated the Act. These factors include:
 - a. Did the state officer or employee actively solicit the gift or funds from the regulated entity or the entity that seeks to acquire goods and services ("the non-state entity"), if so, how?
 - b. Does the state officer or employee have significant influence on decisions regarding the non-state entity?
 - c. Is there a pending state agency action against or regarding the non-state entity?
 - d. Was the gift related to, or have the appearance of intent to influence the impending agency action?
 - e. Does the gift broadly benefit the state agency or is narrowly tailored to benefit specific agency employees, or group of employees?

Advisory Opinion 01-07 will be revised to reflect this new analysis.

Other News

The Board held their annual retreat in conjunction with the July board meeting. They reviewed the current strategic plan to determine if any changes were necessary – none were identified. They reviewed the budget for 2009-11 and will be meeting every other month to save some costs. For the rest of this calendar year, the Board will meet in September and November. A new chair will be elected at the November meeting.

Meeting agendas can be found at www.ethics.wa.gov under "Meetings."

The next meeting of the Executive Ethics Board is scheduled for September 11, 2009.