



Washington State Executive Ethics Board

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Executive Ethics Board News

Linnaea Jablonski, Chair
Mike Connelly, Vice Chair
Neil Gorrell, Member
Martin Biegelman, Member
Matthew Williams III, Member

May 18, 2010

The Executive Ethics Board (Board) met on Friday, May 14, 2010. Mr. Williams did not attend; all other members attended in person. Others attending included: Melanie de Leon, Executive Director, Ruthann Bryant, Board Secretary, Nancy Lewin and Sue Jones, Board Investigators and Jerry Anderson, Senior AAG, Board Counsel. Other members of the public also attended.

Enforcement

In lieu of an enforcement hearing, the Board accepted stipulations from:

1. David Hollingsworth, manager of the Community Colleges of Spokane Employee Compensation and Accounts Payable Division, violated RCW 42.52.160 when he stored personal documents relating to outside business ventures on his state computer, and used his state computer to send and receive non-work-related emails. The Board assessed a civil penalty of \$1,000.
2. Michael Robinson, an employee of the Department of Social and Health Services, violated RCW 42.52.160 when he used state resources to pursue personal interests. The Board assessed a civil penalty of \$500, suspending \$200.
3. Jade Duffy, an employee of the Employment Security Division, violated RCW 42.52.160 when she used her state computer to pursue personal matters to include sending personal documents, and using the agency's address on her car registration. The Board assessed a civil penalty of \$500.
4. Paulette Nelson, an employee of the Department of Natural resources, violated RCW 42.52.160 when she used state resources for personal matters. The Board assessed a civil penalty of \$50.

Board Action:

A. The Board combined Advisory Opinions 96-07 and 99-06 regarding whether state employees may accept outside employment to provide expert advice and testimony. Both Advisory Opinions concluded that state employees serving as expert witnesses under defined circumstances would not violate the Ethics Act. The analysis for both AOs also included consideration of RCW 42.52.120, Compensation for outside activities, RCW 42.52.150, Limitations on gifts, and RCW 42.52.160, Use of persons, money or property for private gain. The combined opinion will have a new 2010 number before it is posted on the ethics website.

B. At the June 2009 meeting the Board reviewed AO 99-03 regarding a state university athletic coach's ability to use his title for commercial purposes. In June, the Board concluded that state

titles are not a facility of their agency --so long as any use of their title is accompanied by a disclaimer that the officers/employees are speaking for themselves and not their agencies. In March 2010, the Board reversed its original opinion and determined that a state title for a non-elected employee or officer was a non-tangible facility of the state, therefore subject to regulation by the Ethics Board, and could not be used to promote or support the election of a person or a ballot initiative under RCW 42.52.180. Should a state employee do so, they must accompany their actions with a disclaimer that their actions/views were personal and did not represent the views of their agency.

The Board continued to hold that coaches could not use their titles when participating in a commercial activity for which they were paid over and above their state salary.

This AO resurfaced at the May meeting regarding accepting honoraria for speeches, presentations or other activities that a state employee does in connection with their state position and using state resources to prepare the materials. This question arose when a state agency was revising their honorarium policy, which had previously allowed state employees to use state resources to prepare the speech or presentation for which they were going to receive the honorarium.

The Board deferred this discussion until the July meeting so that the Board staff could gather more information on honorarium policies and look into the legislative intent of this section of the law.

C. The Board began looking at possible performance metrics to provide to the legislature that would fulfill the requirement placed on the Board under the new budget legislation. The Board will invite Representative Miloscia to attend the July Board meeting to discuss what he believes these metrics should measure.

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

The next meeting of the Executive Ethics Board is scheduled for July 9, 2010.