



Washington State Executive Ethics Board

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Executive Ethics Board News

Judy Golberg, Chair
Neil Gorrell, Vice-Chair
Evelyn Yenson, Member
Linnaea Jablonski, Member
Mike Connelly, Member

July 11, 2008

The Executive Ethics Board (Board) met on Friday, July 11, 2008 for their annual retreat. All members were present. Others attending included: Melanie de Leon, Executive Director, Sue Jones, Investigator, Mickey Newberry, AAG, Jerry Anderson, AAG and Linda Dalton, Senior AAG. Other members of the public also attended.

Enforcement

In lieu of an enforcement hearing, the Board accepted a stipulation from the following:

Daniel Vincente, Director of Safety and Security for Seattle Central Community College. Mr. Vincente agreed to pay a civil penalty of \$500, with a portion suspended, for personal use of state resources.

Other

A. The Board discussed an agency question regarding participation in collective bargaining. Specifically, the Board addressed the two questions the Department of Transportation asked the Board in June:

1. May a manager, as part of the state's bargaining team, propose language during collective bargaining that may benefit himself or herself, his or her spouse, or child?

The applicable statute is RCW 42.52.070, Special privileges. A manager negotiating on the state's Collective Bargaining Agreement (CBA) team, who had reversion rights to a union position, would not be using their position to give themselves, their spouses, or family members any privilege they did not already have and that was not already part of the CBA. Retiring managers, on approved withdrawal from the union, have always had the right to a ferry pass by reverting back to the union, so they are not adding a new benefit, but merely eliminating the "bumping back" process required to get the ferry pass. In essence, the managers were and are not receiving any new benefit; they were just making the process of conferring a current benefit more efficient; therefore there is no *per se* beneficial interest.

2. May a manager, who on approved withdrawal from a union after accepting a management position, be a part of the state's collective bargaining team with that union when the manager may receive a benefit for himself or herself, his or her spouse, or child because the member has the right to voluntarily revert back to a represented position and receive benefits previously negotiated?

The applicable statute is RCW 42.52.030, Financial interests in transactions. The only member of the CBA team that has the ability to make any final decisions regarding proposals is the LRO negotiator. Therefore, the CBA is not a contract made by the manager, through the manager or by anyone under their supervision. The CBA is a tentative agreement reached by both parties and is not binding until the

Legislature funds it as part of the Governor's budget. The collective bargaining process also has checks and balances in place to insure that one individual cannot influence the outcome, i.e., OFM's review and approval for all proposals that have a fiscal implication and the LRO's ability to reject proposals before they go on the bargaining table.

A formal opinion will be issued in September.

B. The Combined Fund Drive (CFD) requested that the Board reconcile and clarify the issue regarding the use of state resources to promote or support agency participation in a commercial activity that benefits the CFD. To raise funds to offset some administrative costs as allowed under RCW 41.04.0331(6), the CFD has partnered with two commercial entities: Wild Waves and Rapid Refill. These businesses give a portion of the proceeds gathered from state employee participation in a specified activity to the CFD office to offset some of the administrative costs of the CFD; these funds do not go to any of the CFD charities.

The Board requested that Board staff provide more research before the Board issues a final answer, but it did agree that it would be a direct commercial solicitation for state employees to send out an all-agency e-mail promoting the purchase of a particular product even if the proceeds went to offset a portion of CFD's administrative costs.

C. The Board also deliberated regarding the question: Do agencies have the authority to contract with a paid speaker allowing the speaker to bring and sell items (books, CD, etc.) to the audience? The Board requested that Board staff provide more information on current contracts for the sale of products in the workplace, i.e., espresso carts, vending machines, first aid kits, before they issue a formal opinion.

D. The Board began discussions regarding the use of state resources. It is their hope to update the de minimis use rule (WAC 292-110-010). The Board reviewed all of the written comments provided to the Board staff by state agencies and listened to many comments by agency employees. The Board staff will draft changes to the rule for the Board's review at the September meeting. Once a new draft revision is finalized, it will go through the normal rulemaking process.

E. Each year the Board reviews and updates its Mission Statement and Strategic Plan. This year, the Board is completely revamping both and these should be finalized at the September meeting.

Staff News

The Board does not meet in August, so there will be no EAG Meeting as well.

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

The next meeting of the Executive Ethics Board is scheduled for September 12, 2008.