Ethics in Public Service

An in-depth review of

RCW 42.52

Executive Ethics Board
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Table of Contents

Introduction 3

Executive Ethics Board 4

Conflicts of Interest 6

Financial Interest in a Transaction 10

Assisting in a Transaction 12

Confidential Information 14

Special Privileges 16

Post-State Employment 18

Compensation for Official Duties 20

Gifts 21

Use of Resources 25

How Much Do you Know About the Ethics Act? 28

RCW 42.52 33

WAC 292-110-010 51

Ethics in Public Service

Objectives

Performing Public Duties to Advance the Public's Interest

Upon completion of this course, participants will:

1. Have a general understanding of the basic ethical standards for state employees.
2. Know how to find information to clarify ethical rules and standards and agency policies regarding ethical standards and the use of state resources.
3. Identify potential violations of the Ethics Act, RCW 42.52.

"Ethics is knowing the difference between what you have a right to do and what is right to do."

Potter Stewart
Associate Justice, Supreme Court

Introduction

The Washington State Executive Ethics Board is statutorily tasked with enforcing the Ethics in Public Service Act, RCW 42.52. The Board's mission is to promote integrity, confidence and public trust in state government through education, interpretation and enforcement of the Ethics in Public Service Act.

This guide provides general information. Please review the Advisory Opinions and enforcement actions on our website or contact us with any questions regarding the interpretation of the law.

For more information please contact us at:

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The law establishes a single code of ethics that applies to all state officers and state employees in the executive, legislative, and judicial branches of government. All state officers and employees are subject to the Ethics Act. Certain provisions of the Ethics Act apply to state employees or officials after they leave state service

Why an Ethics Act?

The Ethics Act was enacted to prevent state employees or officials from using their public position or authority for personal gain, financial benefit or for the benefit of other person. The Act establishes ***minimum*** standards of conduct while performing public duties and seeks to remove doubts concerning violations of public trust and confidence, the impairment of independent judgment, and favoritism in the performance of public duties that can be created by outside or personal interests

Many agencies have their own ethics policies that are more restrictive than the Ethics Act. Please be sure to know your agency's polices as well as the Ethics Act.

Executive Ethics Board

Who are they?

Established in 1995, the Washington State Executive Ethics Board ("the Board") is comprised of five members appointed by the Governor for five-year terms. Two of the five members must be current state employees, one an exempt employee and one a classified employee. One of the remaining three members of the Board is selected from names provided by the State Auditor's Office; one from names provided by the Attorney General's Office; and one is a citizen-at-large. A schedule of the Board's meeting dates, times and location is available on the Board's website, www.ethics.wa.gov.

The Board is an independent watchdog agency for the state of Washington that administers RCW 42.52 with jurisdiction over all state employees and officials of the executive branch of state government.

What they don't do:

While the Ethics Act applies to all branches of state government, the Executive Ethics Board has no role in the ethics programs of the legislative or judicial branches of the state government. Similarly, the Board has no jurisdiction over county, municipal or other local government employees or K-12 teachers.

What they can do:

If the Board finds that a state employee or official has violated the Ethics Act, they have the statutory authority to order payment of a civil penalty of up to five thousand dollars per violation or three times the amount of economic value of anything received or sought in violation of the Ethics Act or its rules. The Board has no authority to take any type of personnel action against anyone.

Potential penalties include:

1. A civil penalty not to exceed $5000 per violation or three times the economic value of anything sought or received in violation of the ethics law;
2. Restitution; and,
3. Recovery of investigative costs.

Agencies have independent authority to implement disciplinary action for violations of the state's ethics law. (RCW 42.52.520) The Executive Ethics Board does not consult with agencies or offer advice on disciplinary action.

Executive Ethics Board

Safe harbor

Under WAC 292-120-035, the Board may review and approve agency policies and as long as agency employees adhered to the approved policy, the Board would not impose sanctions for conduct that was permitted by the approved policy.

- The Board will not impose sanctions for conduct that would violate the Ethics in Public Service Act, if the conduct at issue was permitted under a board-approved agency policy, as provided for in RCW 42.52.360(4), prior to the conduct occurring.

- The effect of the **safe harbor** from sanction, as provided in WAC 292-120-035(1), is limited to conduct that conforms to a board-approved agency policy.

Complaints and investigations

The Board receives many ethics complaints. Any person, including any citizen, a state officer or a state employee, may file complaints. The Board may also initiate its own complaint, but normally reserves this authority to referrals from other state agencies, including the referral of whistleblower reports from the State Auditor. The Legislative Ethics Board, the Commission on Judicial Conduct, the Executive Ethics Board and the State Auditor's Office may also investigate ethics violations.

Complaints must name a specific state officer or state employee and allege conduct that, if true, could violate the state's ethics law or rules adopted under it. The ethics law applies to individual state officers and state employees. *State agencies cannot violate the ethics law*. (RCW 42.52.410 and RCW 42.52.420)

Dismissing a complaint

During the course of an initial investigation, the respondent is notified of the alleged violation(s) and provided with an opportunity to respond. The results of the investigation may be presented to the Executive Director for the purpose of making an Order of Dismissal. Under RCW 42.52.425, the Board or the Executive Director may dismiss a complaint if any violation that may have occurred was:

- Not within the jurisdiction of the Board;
- Obviously unfounded or frivolous;
- Inadvertent and minor, or has been cured.

Test your knowledge

1. Who is subject to the state Ethics in Public Service Act?

   A. All state and municipal employees in Washington State.
   B. All state employees except judges in the court system.
   C. All state employees except legislators.
   D. All state officers and employees including, justices, legislators, state elected officials, chief executive officers, and members of boards, commissions, or committees.

2. Does the Ethics Act only apply to state officers and employees during normal working hours or when they are performing their state duties at times not considered normal working hours?

3. What organization within state government can investigate a violation of the Ethics in Public Service Act?

   A. The Executive Ethics Board
   B. The Legislative Ethics Board
   C. The State Auditor's Office
   D. All of the above

4. Can the Executive Ethics Board take any personnel action against a state employee?

Notes

Conflicts of Interest (RCW 42.52.020)

Activities Incompatible with Public Duties

You should not have financial or other interests, or engage in business or professional activities, that conflict with the performance of your official duties.

No state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature that is in conflict with the proper discharge of the state officer's or state employee's official duties.

When is there a conflict of interest?

- When a private interest can benefit from your actions.
- When a private interest could interfere with official duties.

You cannot:

- Have direct or indirect financial interest
- Engage in a business or transaction or professional activity
- Incur any obligation

with anyone you regulate or contract with.

What is an "incompatible activity"?

An "incompatible activity" is any activity that may conflict with the proper discharge of your official duties. It could be outside employment, a volunteer activity, ownership of a private business or any private activity, relationship, business, etc. that would impair/conflict with your ability to make decisions on behalf of the state.

Conflicts of interest involve the concepts of *benefit* and *bias*. Questions to ask yourself when evaluating a potential conflict of interest include:

- Will *your* interests benefit as a result of your official action?
- Would a reasonable person conclude that a private or personal interest impairs your independent and impartial judgment in the exercise of your official duties?

An interest need not be financial to create a conflict of interest. Even an

intangible personal interest may create a conflict of interest.

NOTE TO SELF: If there could be a perceived violation, you need to step out of the situation totally. Talk to your supervisor and have yourself removed from any decision making authority or influence in that case.

Types of conflicts

Some conflicts of interest are clearly defined in the state's ethics law. These are:

- Having or acquiring a financial or other interest in a contract, sale, lease, purchase or grant that is under your authority or supervision.
- Accepting a payment, a gratuity, or a reward from someone else who has an interest in a contract, sale, lease, purchase or grant under your authority or supervision.
- Acting in a state matter or transaction involving a business or organization in which you own an interest, or an entity in which you serve as an officer, agent, employee, or member.
- Assisting other persons, or sharing in compensation, in transactions involving the state when you had responsibility for these transactions as a state officer.

How do you deal with a conflict?

Most conflict of interest issues can be resolved easily and without resort to more drastic measures such as removal from position or resignation. The resolution of conflicts depends on *disclosure* and *removing yourself from the conflict*.

You can:

- Abstain. Don't participate in the activity.
- Disclose. Tell your supervisor about the potential conflict and let them decide whether to remove you from the activity.
- Review written procedures. Determine if your agency has a policy regarding how to handle conflicts of interest and follow that policy.
- Obtain screening memo. Have your agency write a memorandum that outlined the conflicts and screens you from specific information or decision-making regarding that particular transaction or group of transactions.

To avoid a conflict, you cannot merely delegate the activity to a

subordinate.

Test your knowledge

1. You are a university instructor. You also own a painting company that you run privately out of your house. During the summer, your paint business gets very busy and you need to hire more painters to get the work done. Several students from your current summer class want to work part-time for you.

Can you hire some of your summer class students to paint houses for you?

2. Francis Fussbudget is a supervisor in a large state agency. She also loves to travel and owns several condominiums located in lovely faraway places. This summer, Francis had planned on staying in her condo in Bora Bora for two weeks. Just as she was gathering her clothes to pack into her travel suitcase, she slipped on a shoe and broke her ankle requiring her to stay at home instead of vacationing. Because she did not want the lovely condo to sit vacant, Francis wants to offer her condo to her subordinates for rent during that time.

Can Francis rent her condo to her subordinates?

3. You are a health inspector with a partnership interest in a local restaurant. This interest has not been disclosed to your agency. You are assigned to perform an inspection of your restaurant. Do you perform the inspection?

Notes

Financial Interest in a Transaction (RCW 42.52.030)

No state officer or state employee, may be beneficially interested, directly or indirectly, in a contract, sale, lease, purchase, or grant that may be made by, through, or is under the supervision of the officer or employee, in whole or in part, or accept, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in the contract, sale, lease, purchase, or grant.

No state officer or state employee may participate in a transaction involving the state in his or her official capacity with a person of which the officer or employee is an officer, agent, employee, or member, or in which the officer or employee owns a beneficial interest…

What is a financial interest in a transaction?

* When you have an interest in a contract that is made by you, through you, or by an employee you supervise; OR

* When you receive compensation from any other person beneficially interested in a contract made by you, through you, or by an employee you supervise.

If a decision you are about to make puts money into your pocket or those of friends, family or other persons including a business entity of which you are a partner, board member, managing officer, or employee, that constitutes private benefit and you cannot do it.

You are also prohibited from accepting—directly or indirectly—any compensation, gift, or reward from any person who gets a benefit in terms of a contract, sale, lease, purchase or grant.

What does "participate" mean?

"Participate" means to participate in state action or a proceeding **personally and substantially** as a state officer or state employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation, or otherwise but does not include preparation, consideration, or enactment of legislation or the performance of legislative duties.

What is a "transaction"?

A "transaction involving the state" means a proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other similar matter that the state officer, state employee, or former state officer or state employee in question believes, or has reason to believe:

(i) Is, or will be, the subject of state action; or

(ii) Is one to which the state is or will be a party; or

(iii) Is one in which the state has a direct and substantial proprietary interest.

(b) "Transaction involving the state" does not include the following: Preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by an officer or employee; or a claim, case, lawsuit, or similar matter if the officer or employee did not participate in the underlying transaction involving the state that is the basis for the claim, case, or lawsuit.

Test your knowledge

1. You manage a state mental health facility. Your spouse is the executive director of a non-profit corporation that wants to bid on a contract to provide services to your facility. How do you handle the situation?

2. Polly Wogg is a preeminent marine biologist who also teaches marine biology classes at the University. Ms. Wogg requires her students to purchase her book, *Tide pools and Tadpoles of the Pacific Northwest*, when they take her class at the University. What are the ethical issues?

3. You are an Administrative Law Judge who handles cases for the Department of Revenue. A case that you are assigned to regards a business who has not paid all of their business and operating taxes to the state. As you read through the case documents you realize that you have an ownership interest in this business. What do you do?

Notes

Assisting in a Transaction (RCW 42.52.040)

(1) Except in the course of official duties or incident to official duties, no state officer or state employee may assist another person, directly or indirectly, whether or not for compensation, in a transaction involving the state:

(a) In which the state officer or state employee has at any time participated; or

(b) If the transaction involving the state is or has been under the official responsibility of the state officer or state employee within a period of two years preceding such assistance.

(2) No state officer or state employee may share in compensation received by another for assistance that the officer or employee is prohibited from providing under subsection (1) or (3) of this section.

(3) A business entity of which a state officer or state employee is a partner, managing officer, or employee shall not assist another person in a transaction involving the state if the state officer or state employee is prohibited from doing so by subsection (1) of this section.

(4) This chapter does not prevent a state officer or state employee from assisting, in a transaction involving the state:

(a) The state officer's or state employee's parent, spouse, or child, or a child thereof for whom the officer or employee is serving as guardian, executor, administrator, trustee, or other personal fiduciary, if the state officer or state employee did not participate in the transaction; or

(b) Another state employee involved in disciplinary or other personnel administration proceedings.

NOTE TO SELF: These provisions limit your ability to assist others-- directly or indirectly, whether for compensation or not-- in a transaction involving the state, if you at any time participated in that transaction or the transaction has been under your official responsibility within a period of two years preceding the assistance.

To better understand this law, look at conflict of interest as a continuum that starts with your daily job responsibilities.

* This law requires that you have no outside interests in the outcome of decisions you make regarding your job responsibilities.

* Once you have made a decision or supervised the team that made the decision, you cannot give advice or switch sides and assist the outside interest.

Test your knowledge

1. Prior to accepting your current position, you investigated complaints for another state agency. One day a complainant contacts you to ask for help in appealing an unfavorable decision on a complaint filed with your former agency. Can you assist in the appeal?

2. Emma works in your agency's human resources office. Her official duties include assisting people who want to file harassment complaints against the agency. Emma helps Egbert file a sexual harassment complaint. Emma subsequently goes to work for a different agency. After Emma's departure, Egbert contacts her and asks for assistance in preparing an appeal to an adverse decision. What should she do?

Notes

Confidential Information (RCW 42.52.050)

(1) No state officer or state employee may accept employment or engage in any business or professional activity that the officer or employee might reasonably expect would require or induce him or her to make an unauthorized disclosure of confidential information acquired by the official or employee by reason of the official's or employee's official position.

(2) No state officer or state employee may make a disclosure of confidential information gained by reason of the officer's or employee's official position or otherwise use the information for his or her personal gain or benefit or the gain or benefit of another, unless the disclosure has been authorized by statute or by the terms of a contract involving (a) the state officer's or state employee's agency and (b) the person or persons who have authority to waive the confidentiality of the information.

(3) No state officer or state employee may disclose confidential information to any person not entitled or authorized to receive the information.

(4) No state officer or state employee may intentionally conceal a record if the officer or employee knew the record was required to be released under chapter 42.56 RCW, was under a personal obligation to release the record, and failed to do so

What is "confidential information?"

Information that is confidential is legally protected from public disclosure. For example:

* Personal information in employee, appointees or elected officials files that, if disclosed, would violate that person's right to privacy.

* Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

* All applications for public employment or contracting, including the names of the applicants, resumes, and other related materials.

* The residential addresses and residential telephone numbers of employees or volunteers of a state agency which are held in personnel records, employment or volunteer rosters, or mailing lists.

Refer to RCW 42.56, Public Records Act for a list of all of the records that are exempt from disclosure.

It is not an ethical violation if the decision to withhold the public record was made in good faith. If the mistake is found, you then need to send the missing information as soon as possible.

Test your knowledge

1. Your agency receives a subpoena for a group of personnel records. One of the public documents has a handwritten sticky note containing some potentially damaging information. James provides copies of all typed documents and omits the sticky note on the theory that it might have been added later and its author is undetermined. Is this is a violation?

2. Sammy works in your agency's purchasing department and takes care of billing for office supplies. He thinks that his agency is paying an unreasonable amount for paper, so he makes copies of the billing for his wife who works for a paper company and offers to provide superior products at a lesser cost. Is this is a violation?

3. You are a public records officer and receive a request for the director's payroll records. You determine they are disclosable. You decide, though, not to release the records because the director is sensitive about her level of compensation. Have you made the right decision?

Notes

Special Privileges (RCW 42.52.070)

Except as required to perform duties within the scope of employment, no state officer or state employee may use his or her position to secure special privileges or exemptions for himself or herself, or his or her spouse, child, parents, or other persons.

NOTE TO SELF: If you are a supervisor, you cannot use your supervisory authority to exempt a subordinate from the Ethics Law if what they are doing is against the law as it is written. For example, if a subordinate asks you if they can use state e-mail to give and receive client orders for their private business and you say yes, you just gave that person a special privilege or exemption from the Ethics Law. What you did was not fair and not legal.

This section of the law applies in two different ways:

* **On the one hand, you cannot use your position to *give* a privilege to yourself or others**
* **On the other hand, you cannot use your position to *receive* a privilege.**

How would I receive a special privilege?

State employees are often offered items at a discounted price due to their employment with the state. The Ethics Act exempts the following discounts from the definition of a gift and are therefore not considered a special privilege:

* Discounts that are broad-based – they apply to all state employees in Washington
* Discounts available to an individual as a member of an occupational group
* Discounts available to an individual as a member of an employee group

NOTE TO SELF: In Advisory Opinion 2003-03, the Board opined that state employees may keep and use frequent traveler benefits earned on official state travel for personal use.

State employees may use state government rates at hotels for personal travel, unless the hotel requires the person to be on official travel status.

Test your knowledge

1. You know that your agency will be surplusing some computer equipment next month. You and a friend run a small business on the side and your friend has asked that you let him know when equipment is to be surplused and available for bid. The announcements informing the public of this surplused property will be sent out next week, giving the public only two days to ascertain if they want to bid on any of the listed equipment. You are having lunch with your friend and business partner today and give him a list of the equipment that is being surplused. What are the ethical issues?

2. You are the Division Chief for a state agency and your division is trying to fill a position that requires a specific educational degree and experience. Your Assistant Division Chief is working with the Human Resources folks to gather a list of possible candidates to interview. During the past two summers, your daughter worked in your agency as an intern and was a quick learner. Your daughter just graduated from college and applied for the vacant position. Even though your daughter does not meet the educational requirements, your Assistant Division Chief puts her on the list to interview. Your daughter is interviewed for the position and you participate in the interview session. After all candidates have been interviewed, you offer your daughter the position. What are the ethical issues?

3. You work for the Department of Social and Health Services and grow orchids in your spare time. You even belong to an orchid club that meets on a monthly basis. Your agency has many large meeting rooms, some of which are available for groups to use for a nominal fee for their use. Your orchid club needs a place to meet this month, so you reserve a room through your agency, but because you are friends with the facilities person, you do not pay for the room. You invite your orchid club to attend the monthly meeting. Is this a violation?

Notes

Post-State Employment (RCW 42.52.080)

Individuals cannot benefit from decisions made while in state service when later employed in the private sector. Simply put, you cannot be on both sides of an employment situation...work for the state on a contract or regulatory matter and later work for a private employer on the same contract or regulatory matter.

The contract restriction

No former state officer or state employee may, within a period of one year from the date of leaving state employment, accept employment or receive compensation from an employer if:

* During the two years immediately preceding termination of state employment, the employee helped negotiate or administer, on behalf of the state or agency, one or more contracts with the post-state employer and was in a position to make discretionary decisions affecting the outcome of such negotiation or the nature of such administration; *and*

* The a contract or contracts have a total value of more than ten thousand dollars; *and*

* The duties of the employment with the (post-state) employer or the activities for which the compensation would be received include fulfilling or implementing, the provisions of the contract or contracts *or* include the supervision or control of actions taken to fulfill or implement, the provisions of the contract or contracts.

NOTE TO SELF: The Board has interpreted this section to also include employees who have not negotiated formal contracts with a post-state employer, but have regulated them in some fashion. If this is the case, there could be a one-year waiting period before a former state employee could work for the post-state employer.

Continuing restrictions

Several of the post-state employment restrictions are continuing in nature and do not have a statutorily defined time limit that determines when these restrictions end. There are continuing restrictions on the following activities by former state officers and state employees:

* Accepting an offer of (post-state) employment or receiving compensation from a (post-state) employer if the officer or employee knows or has reason to believe that the offer of employment or compensation was intended, in whole or in part, directly or indirectly, to influence the officer or employee or as

compensation or reward for the performance or nonperformance of a duty by the officer or employee during state employment.

* Accepting an offer of (post-state) employment or receiving compensation from a (post-state) employer if circumstances would lead a reasonable person to believe the offer has been made, or compensation given, for the purpose of influencing the performance or nonperformance of duties by the officer or employee during the course of state employment.

* Participating, at any time after state employment, whether or not for compensation, in any transaction involving the state in which the former state officer or state employee at any time participated during their state employment.

Test your knowledge

1. As an agency administrator you supervise a $40,000 contract with the Jones Company. The Jones Company offers you $20,000 more a year if you leave your agency, take a position with the Jones Company, and then oversee the contract with your former agency. Can you accept this offer?

2. You are an associate athletic director for a state university. A contract you helped develop is awarded to a vendor. Two weeks later, you terminate from state employment and go to work for that vendor. Your new job duties include working on the contract you helped develop and awarded to your new employer. What are the ethical issues?

3. You were the design engineer for a project to refurbish a bridge on I-5 and worked closely with the contractor (Bridge Builders, Inc.) assigned to actually complete the work. During the project, you retired from state employment. After a brief vacation in the Bahamas, you go to work for Bridge Builders on the same project. Are there any ethical issues?

Notes

Compensation for Official Duties (RCW 42.52.110)

No state officer or state employee may, directly or indirectly, ask for or give or receive or agree to receive any compensation, gift, reward, or gratuity from a source for performing or omitting or deferring the performance of any official duty, unless otherwise authorized by law except:

(1) The state of Washington; or

(2) in the case of officers or employees of institutions of higher education a governmental entity, an agency or instrumentality of a governmental entity, or a nonprofit corporation organized for the benefit and support of the state employee's agency or other state agencies pursuant to an agreement with the state employee's agency.

NOTE TO SELF: This rule underlines that you cannot get "extra" or outside compensation for your official duties or for not doing your duties. This includes gift cards, coffee cards and other types of "thank yous" for doing your job, even if the amount of the gift card is less than $50.

Test your knowledge

1. As a Department of Licensing vehicle registration clerk, you process credit card payments for vehicle registrations. A major bank sends you a $50 reward for returning a card that has been revoked. Can you keep the reward?

2. You are a case manager for the Department of Social and Health Services and help the public sign up for benefits. You have been working with Susan for several weeks trying to get her benefits started and after many hours on the phone you finally succeed. When Susan comes in to thank you for your help, she gives you a $5 gift card for coffee in appreciation. Can you keep the card?

Notes

Gifts
(RCW 42.52.140 & .150)

The basic gift rule states:

No state officer or state employee may receive, accept, take, 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 officer or employee, or be considered as part of a reward for action or inaction.

What is considered a gift?

A gift is something for which no consideration is given, i.e., free to the recipient.

There are many items that are NOT considered gifts under the Ethics Act

What is not considered a gift?

* Items from family members where it is clear that the gift was not made as part of any effort to gain or maintain influence in the agency of which the recipient is an employee.
* Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties.
* Items exchanged among employees, or a social event hosted by a state employee for co-workers.
* Items a state employee is authorized by law to accept.
* Items returned by the recipient to the donor within 30 days of receipt or donated to a charitable organization within 30 days of receipt.
* Campaign contributions reported under 42.17 RCW.
* Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group.
* Awards, prizes, scholarships, or other items provided in recognition or academic/ scientific achievement.
* Payments by an entity of reasonable expenses incurred in connection with a speech, presentation, appearance or trade mission made in an official capacity.
* Payments of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide nonprofit professional, educational, or trade association or charitable institution.

NOTE TO SELF: There are **two questions** you must ask yourself before you accept a gift from anyone and the answers will determine whether you can accept the gift under the Ethics Act:

* What is the value of the gift?
* Who is giving me the gift?

Question 1

What is the allowed value of the gift?

A state officer or state employee may accept up to $50 in gifts from a single source per calendar year. The value of gifts given to an officer's or employee's family member or guest shall be attributed to the official or employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.

What kind of items are not subject to the $50 rule and may be accepted in most cases?

* Unsolicited flowers, plants and floral arrangements.
* Unsolicited advertising or promotional items of nominal value.
* Unsolicited tokens or awards of appreciation—plaques, trophies, desk items.
* Unsolicited items for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the use or acquisition of the item by the agency.
* Informational material, publications, or subscriptions related to official duties.
* Food and beverages at hosted receptions where attendance is related to official duties.
* Admission to and the cost of food and beverages consumed at events sponsored by or in conjunction with a civic charitable, governmental or community organization.
* Unsolicited gifts from dignitaries in another state or a foreign country intended to be personal in nature.
* Food and beverages on infrequent occasions in the ordinary course of state business.

Question 2

Who is giving the gift?

If the entity or person giving the gift is someone that the gift receiver regulates or contracts with, then the $50 rule does not apply and stricter restrictions dictate what types of gifts, if any, the state employee may accept. To determine if you fall under these stricter gift rules, you need to determine if you would fall under the restrictions listed in RCW 42.52.150(4). These restrictions are called “Section 4” restrictions because they are listed in paragraph or “section” 4 of the statute.

Am I a Section 4 Employee?

To be considered a "Section 4" employee, you must meet three criteria:

1. You work for a regulatory agency or agency that seeks to acquire goods or services.
2. The person giving the GIFT is regulated by your agency or seeks to provide goods or services to the agency.
3. You participated in those regulatory or contractual matters with that person.

How did I participate?

In my relationship with the gift giver, I:

- Approved or disapproved an action
- Made decisions or recommendations regarding an action.
- Rendered advice
- Investigated
- Conducted adjudicative proceedings
- Issued permits or licenses
- Controlled or affected interests of identified persons
- Administered a Contract with them
- Monitored a contract with them
- Other (define)

"Section 4" Employee gift limitations (the only gifts you can accept):

* Unsolicited advertising or promotional items of nominal value, such as pens and note pads;
* Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
* Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;
* Informational material, publications, or subscriptions related to the recipient's performance of official duties;
* Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;
* Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and
* Those items excluded from the definition of gift in RCW 42.52.010 except:

  (i) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity;

  (ii) Payments for seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution; and

(iii) Flowers, plants, and floral arrangements.

NOTE TO SELF: "Section 4" employees cannot accept any food or drink—not even a doughnut—by a person whom they regulate or who wishes to do business with them, i.e. any current or potential future contractor or vendor UNLESS it is at a hosted reception.

Test your knowledge

1. Martha is an instructor at a state community college. One of her students gives her a beautifully wrapped Christmas gift at the beginning of finals week. He may or may not enroll in her class next quarter. Is accepting the gift a violation?

2. Your agency sent you to attend a conference in Orlando, Florida. Your agency paid your travel costs and you are receiving travel per diem while you are away. When you checked into your hotel, you received a packet with information regarding the conference. Included in the packet was a ticket stub that entered you into a door prize drawing to be made on the last day of the conference. On the last day of the conference, they draw for the door prize and lo and behold, you win! Can you keep the prize?

3. You work for the health department and are often in the field conducting inspections. From time to time, business owners offer you refreshments and sometimes lunch. What should you do?

Notes

Use of Resources (RCW 42.52.160)

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.

NOTE TO SELF: Agencies may adopt policies that are stricter than the law. Please review and understand your agency's use of resource policy to make sure you do not violate your internal policies.

General Rules Under WAC 292-110-010

The Executive Ethics Board has adopted guidelines for exceptions to the no personal use standard under RCW 42.52.160(1). A state officer or employee may make an occasional but limited personal use of state resources only if each of the following conditions are met:

* There is little or no cost to the state;
* Any use is brief;
* Any use occurs infrequently;
* The use does not interfere with the performance of any officer's or employee's official duties; and
* The use does not compromise the security or integrity of state property, information, or software.

What does "brief" and "infrequent" mean?

This means that *occasional* use of state equipment for local telephone calls, e-mail messages and access to the internet for personal purposes are acceptable, subject to your agency's internal policy and WAC 292-110-010. These rules apply to break times as well as work time.

Prohibited uses under WAC 292-110-010(5)

Certain uses of state resources are prohibited regardless of whether the use is no cost and does not interfere with the performance of official duties. Prohibited uses include:

* Any use for the purpose of conducting an outside business or private employment;
* Any use for the purpose of supporting, promoting the interests of, or soliciting for an outside organization or group, including but not limited

to: a private business, a non-profit organization, or a political party (unless provided for by law or authorized by an agency head or designee);

* Any use 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. Such a use of state resources is specifically prohibited by RCW 42.52.180, subject to the exceptions in RCW 42.52.180(2);
* 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);
* Any use related to conduct that is prohibited by a federal or state law or rule, or a state agency policy; and
* Any private use of any state property that has been removed from state facilities or other official duty stations, even if there is no cost to the state.

Use of Public Resources in Political Campaigns (RCW 42.52.180)

The state's ethics law prohibits the use of the facilities of a state agency for political campaigns. Facilities of an agency are broadly construed to include, but are not limited to, stationery, postage, machines, equipment, use of state employees during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency. You violate the ethics law if you allow the use of public resources for political campaigns and do not act to stop the use.

Exceptions to this prohibition can apply to elected officials and to activities that are the normal and regular conduct of a state agency.

Test your knowledge

1. One of your employees sells Pampered Pup products on the side to coworkers. The employee hands out catalogues in the workplace, and takes and distributes orders during the lunch hour and at break times. Is this an ethical violation?

2. Roger Rockstar asks his supervisor if it is okay to play CDs in his agency computer while he works. His supervisor advises him that it is okay as long as he does not disturb others and it does not interfere with his work. Roger is happy and he plays his music respectfully while he works. Several weeks later, Roger gets bored with the CD music he purchased and

downloads an MP3 player and MP3 songs for free from a friend's Internet site onto his network drive and plays them, as well as the "Internet Radio." What are the ethical issues, if any?

3. State employee Suzie Queue accessed the Internet site for the Department of Retirement Systems (DRS) to change her Deferred Compensation Plan (DCP) distribution after she reads an article in the DRS newsletter that warns employees about high risk investments in today's volatile market. Was Suzie's access to DRS's Internet site a violation of the Ethics code?

4. After seeing that her investments are doing great, Suzie scrolls over to the E-Trade.com website to do a little day trading. She is on her lunch hour and already finished eating her lunch, so she has s bit of time left over. What are the ethical issues, if any?

5. Sally was told that she would be working overtime today and needs to contact her day care provider to make arrangements for her daughter. Can she use the state phone to call her day care provider?

6. You are responsible for your agency's audio visual equipment. On Friday night you take home an agency-owned public address system to use at a friend's wedding on Saturday. She saves $300 in rental costs. You return the equipment on Monday. Is this an ethical violation?

7. One of your employees brings a petition to work opposing a controversial ballot proposition. After spending the morning gathering signatures around the office, she reaches your desk. She asks you to sign the petition, arguing that state workers will lose their jobs if the measure passes. What do you do?

Notes

Assessment of Knowledge

How much did you learn about the Ethics Act?

"Wise men learn by other men's mistakes, fools by their own."
~Unknown

Multiple Choice Questions — Circle the letter of the statement for each item that most correctly responds to the question or completes the statement truthfully.

1. Who does the 1995 State Ethics Law Apply to?

   A. All state employees.

   B. Elected state public officials.

   C. Appointed state public officials.

   D. All of the above.

2. The Executive Ethics Board may take the following actions against a state employee who violates the Ethics Act?

   A. A civil penalty not to exceed $5000 per violation or three times the economic value of anything sought or received in violation of the ethics law
   B. Restitution
   C. Investigative costs
   D. Terminate the employee's employment with the state

3. WAC 292-110-010, Use of State Resources, allows limited use of state resources for _____ reasons when there is little or no cost to the state, there is no interference with the performance of official duties, the use is brief in duration and infrequent, and the use does not compromise the security or integrity of state information or software.

   A. Official

   B. Personal

   C. Private business

   D. Political campaign

4. You may not receive, accept, take, seek, or solicit, directly or indirectly, anything of _____ if it could reasonably be expected that it would influence the vote, judgment or action, or be considered as part of a reward for an action or inaction.

   A. Significant value

B. Sentimental value

C. Economic value

D. All of the above

5. _____ laws define the line between public duties and personal interest, including financial and nonfinancial interest and obligations.

A. Outside employment.

B. Conflict of interest.

C. Assisting in transaction.

D. Employment of former state employee.

6. Except as required to perform duties within the scope of employment, no state officer or employee may use his or her position to secure a_____ for himself or herself, or his or her spouse, child, parents, or other persons.

7. When you leave state employment, there is a one-year restriction for which of the following conditions?

A. ___ Duties with the new employer would include fulfilling or implementing a contract you initiated during the past two years.

B. ___You may not have beneficial interest in a contract or grant in which you participated.

C. ___ The contract(s) had a total value in excess of $10,000.

8. Under the Public Disclosure Act, you may release confidential information to the public when requested.

True False

9. If records should be disclosed to someone, and you have a personal obligation to release the records, and you do not release the records when requested, and your decision was made in good faith, you violated the law under the Public Disclosure Act.

True False

10. The ***Statement*** column contains actions which are either **appropriate** (A) or **inappropriate** (I) *use of state resources*. Indicate whether the action is appropriate or inappropriate by writing "**A**" (Appropriate) or "**I**" (Inappropriate) in the ***Answer*** column for each statement below.

Answer Statement

10a._____Occasionally make local telephone calls for medical or dental appointments.

10b._____Advertising or selling personal items at work during work hours.

10c._____Send occasional and brief personal e-mail messages.

10d._____Conduct outside business at work on the office computer.

10e._____Assist in the campaign of any candidate for election to any office, or to oppose or promote a ballot proposition.

10f._____Use the Internet to search for information for your official state duties.

11. Which employee has made an inappropriate use of a state resource?

A) Sally used her state owned Blackberry to e-mail her son in order to tell him that she had arrived safely at her destination while traveling for state business.

B) Marty used state owned copier/scanner to upload family photos for his wall paper and has some stored on his hard drive.

C) Stewart made a purchase on a website for a professional reference book used in his job.

D) Barb accessed a computer dating site for singles.

E) B and D

12. ***Identify items in the Situation column that:***

(**A**) You may accept because the $50 limit does not apply or it is not defined as a gift.

(**B**) You may accept because the $50 limit does not apply and it is presumed not to influence.

(**C**) You may accept in a "Section 4 Relationship."

(**D**) You may not accept in a "Section 4 Relationship."

Two answers apply to each situation. Key words are underlined.

Answer Situation

12a._____Admission to a <u>charitable</u> event.

12b._____Unsolicited flowers, plants, and floral arrangements.

12c._____Gifts from dignitaries.

12d._____Items returned by the recipient to the donor within thirty days of receipt or donated to a charitable organization within thirty days of receipt.

12e._____Plaques and awards of appreciation.

12f._____Reasonable expenses (travel, room, and meals) for participating in a seminar or giving a speech.

12g._____ Food and beverages at hosted receptions where attendance is related to official duties.

12h._____Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties.

12i._____Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group.

12j._____Unsolicited advertising or promotional items of nominal value.

12k._____Items from family members where it is clear beyond a reasonable doubt that the gift was not made as part of any design to gain or maintain influence in the agency of which the recipient is an officer or employee.

13. Select the three criteria that place a state employee in a "Section 4 Relationship"?

A. You must work for a regulatory agency for over one year.

B. You must participate in regulatory or contractual matters with the person who offers a gift.

C. You must work for a regulatory agency or agency that seeks to acquire goods or services.

D. You must be a permanent full-time state employee.

E. The person giving the gift must be regulated by our agency or seek to provide goods or services to our agency.

14. Why do we have an Ethics Law? (Select all that apply.)

A. To establish laws on morals for state employees.

B. To establish minimum standards of conduct while performing public

duties.

C. To seek to remove doubts concerning violations of public trust and confidence and the impairment of independent judgment.

D. To ensure state employees hold a public trust that obligates them, in a special way, to honesty and integrity in fulfilling responsibilities to which they are elected or appointed.

Notes

Chapter 42.52.RCW

The Ethics in Public Service Act

SECTIONS

42.52.010 Definitions.
42.52.020 Activities incompatible with public duties.
42.52.030 Financial interests in transactions.
42.52.040 Assisting in transactions.
42.52.050 Confidential information -- Improperly concealed records.
42.52.060 Testimony of state officers and state employees.
42.52.070 Special privileges.
42.52.080 Employment after public service.
42.52.090 Limited assistance by former state officers and employees.
42.52.100 Conditions on appearance before state agencies or doing business with the state -- Hearing -- Judicial review.
42.52.110 Compensation for official duties or nonperformance.
42.52.120 Compensation for outside activities.
42.52.130 Honoraria.
42.52.140 Gifts.
42.52.150 Limitations on gifts.
42.52.160 Use of persons, money, or property for private gain.
42.52.170 Giving, paying, loaning, etc., any thing of economic value to state employee.
42.52.180 Use of public resources for political campaigns.
42.52.185 Restrictions on mailings by legislators.
42.52.190 Investments.
42.52.200 Agency rules.
42.52.220 Universities -- Administrative processes.
42.52.310 Legislative ethics board.
42.52.320 Authority of legislative ethics board.
42.52.330 Interpretation.
42.52.340 Transfer of jurisdiction.
42.52.350 Executive ethics board.
42.52.360 Authority of executive ethics board.
42.52.370 Authority of commission on judicial conduct.
42.52.380 Political activities of board members.
42.52.390 Hearing and subpoena authority.
42.52.400 Enforcement of subpoena authority.
42.52.410 Filing complaint.
42.52.420 Investigation.
42.52.425 Dismissal of complaint.
42.52.430 Public hearing -- Findings.
42.52.440 Review of order.
42.52.450 Complaint against legislator or statewide elected official.
42.52.460 Citizen actions.

SECTIONS

42.52.470 Referral for enforcement.
42.52.480 Action by boards.
42.52.490 Action by attorney general.
42.52.500 Optional hearings by administrative law judge.
42.52.510 Rescission of state action.
42.52.520 Disciplinary action.
42.52.530 Additional investigative authority.
42.52.540 Limitations period.
42.52.550 Compensation of ethics boards.
42.52.560 Communications from an employee organization or charitable organization -- Distribution by state employee.
42.52.570 Private business activity policy -- Department of fish and wildlife -- Parks and recreation commission.
42.52.800 Exemptions -- Solicitation for state capitol historic furnishings and preservation and restoration of state legislative building.
42.52.801 Exemption -- Solicitation to promote tourism.
42.52.802 Exemption -- Solicitation for Washington state legacy project, state library, and archives account.
42.52.8021 Exemption -- Solicitation for Washington state flag account.
42.52.8022 Exemption -- Informational or educational meetings regarding legislative issues.
42.52.803 Exemption -- Solicitation for legislative oral history account.
42.52.804 Exemption -- Health profession board or commission -- Professional opinions.
42.52.805 Solicitation for charitable activities of executive branch state employees -- Limitations -- Definitions.
42.52.810 Solicitation for the legislative international trade account -- Report.
42.52.820 Solicitation for hosting national legislative association conference.
42.52.900 Legislative declaration.
42.52.901 Liberal construction.
42.52.902 Parts and captions not law -- 1994 c 154.
42.52.903 Serving on board, committee, or commission not prevented.
42.52.904 Effective date -- 1994 c 154.
42.52.905 Severability -- 1994 c 154.
42.52.906 Construction -- Chapter applicable to state registered domestic partnerships -- 2009 c 521.

42.52.010
Definitions. (*Effective until January 1, 2012.*)

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means any state board, commission, bureau, committee, department, institution, division, or tribunal in the legislative, executive, or judicial branch of state government. "Agency" includes all elective offices, the state legislature, those institutions of higher education created and supported by the state government, and those courts that are parts of state government.

(2) "Head of agency" means the chief executive officer of an agency. In the case of an agency headed by a commission, board, committee, or other body consisting of more than one natural person, agency head means the person or board authorized to appoint agency employees and regulate their conduct.

(3) "Assist" means to act, or offer or agree to act, in such a way as to help, aid, advise, furnish information to, or otherwise provide assistance to another person, believing that the action is of help, aid, advice, or assistance to the person and with intent so to assist such person.

(4) "Beneficial interest" has the meaning ascribed to it under the Washington case law. However, an ownership interest in a mutual fund or similar investment pooling fund in which the owner has no management powers does not constitute a beneficial interest in the entities in which the fund or pool invests.

(5) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, or transferred, or to be paid, loaned, granted, or transferred for, or in consideration of, personal services to any person.

(6) "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.

(7) "Contract" or "grant" means an agreement between two or more persons that creates an obligation to do or not to do a particular thing. "Contract" or "grant" includes, but is not limited to, an employment contract, a lease, a license, a purchase agreement, or a sales agreement.

(8) "Ethics boards" means the commission on judicial conduct, the legislative ethics board, and the executive ethics board.

(9) "Family" has the same meaning as "immediate family" in *RCW 42.17.020.

(10) "Gift" means anything of economic value for which no consideration is given. "Gift" does not include:

(a) Items from family members or friends where it is clear beyond a reasonable doubt that the gift was not made as part of any design to gain or maintain influence in the agency of which the recipient is an officer or employee;

(b) Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties;

(c) Items exchanged among officials and employees or a social event hosted or sponsored by a state officer or state employee for coworkers;

(d) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;

(e) Items a state officer or state employee is authorized by law to accept;

(f) Payment of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;

(g) Items returned by the recipient to the donor within thirty days of receipt or donated to a charitable organization within thirty days of receipt;

(h) Campaign contributions reported under **chapter 42.17 RCW;

(i) Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group; and

(j) Awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement.

(11) "Honorarium" means money or thing of value offered to a state officer or state employee for a speech, appearance, article, or similar item or activity in connection with the state officer's or state employee's official role.

(12) "Official duty" means those duties within the specific scope of employment of the state officer or state employee as defined by the officer's or employee's agency or by statute or the state Constitution.

(13) "Participate" means to participate in state action or a proceeding personally and substantially as a state officer or state employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation, or otherwise but does not include preparation, consideration, or enactment of legislation or the performance of legislative duties.

(14) "Person" means any individual, partnership, association, corporation, firm, institution, or other entity, whether or not operated for profit.

(15) "Regulatory agency" means any state board, commission, department, or officer, except those in the legislative or judicial branches, authorized by law to conduct adjudicative proceedings,

issue permits or licenses, or to control or affect interests of identified persons.

(16) "Responsibility" in connection with a transaction involving the state, means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or through subordinates, effectively to approve, disapprove, or otherwise direct state action in respect of such transaction.

(17) "State action" means any action on the part of an agency, including, but not limited to:

(a) A decision, determination, finding, ruling, or order; and

(b) A grant, payment, award, license, contract, transaction, sanction, or approval, or the denial thereof, or failure to act with respect to a decision, determination, finding, ruling, or order.

(18) "State officer" means every person holding a position of public trust in or under an executive, legislative, or judicial office of the state. "State officer" includes judges of the superior court, judges of the court of appeals, justices of the supreme court, members of the legislature together with the secretary of the senate and the chief clerk of the house of representatives, holders of elective offices in the executive branch of state government, chief executive officers of state agencies, members of boards, commissions, or committees with authority over one or more state agencies or institutions, and employees of the state who are engaged in supervisory, policy-making, or policy-enforcing work. For the purposes of this chapter, "state officer" also includes any person exercising or undertaking to exercise the powers or functions of a state officer.

(19) "State employee" means an individual who is employed by an agency in any branch of state government. For purposes of this chapter, employees of the superior courts are not state officers or state employees.

(20) "University" includes "state universities" and "regional universities" as defined in RCW 28B.10.016 and also includes any research or technology institute affiliated with a university, including without limitation, the Spokane Intercollegiate Research and Technology Institute and the Washington Technology Center.

(21) "University research employee" means a state officer or state employee employed by a university, but only to the extent the state officer or state employee is engaged in research, technology transfer, approved consulting activities related to research and technology transfer, or other incidental activities.

(22) "Thing of economic value," in addition to its ordinary meaning, includes:

(a) A loan, property interest, interest in a contract or other chose in action, and employment or another arrangement involving a right to compensation;

(b) An option, irrespective of the conditions to the exercise of the option; and

(c) A promise or undertaking for the present or future delivery or procurement.

(23)(a) "Transaction involving the state" means a proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other similar matter that the state officer, state employee, or former state officer or state employee in question believes, or has reason to believe:

(i) Is, or will be, the subject of state action; or

(ii) Is one to which the state is or will be a party; or

(iii) Is one in which the state has a direct and substantial proprietary interest.

(b) "Transaction involving the state" does not include the following: Preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by an officer or employee; or a claim, case, lawsuit, or similar matter if the officer or employee did not participate in the underlying transaction involving the state that is the basis for the

42.52.020
Activities incompatible with public duties.

No state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer's or state employee's official duties.

42.52.030
Financial interests in transactions.

(1) No state officer or state employee, except as provided in subsection (2) of this section, may be beneficially interested, directly or indirectly, in a contract, sale, lease, purchase, or grant that may be made by, through, or is under the supervision of the officer or employee, in whole or in part, or accept, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in the contract, sale, lease, purchase, or grant.

(2) No state officer or state employee may participate in a transaction involving the state in his or her official capacity with a person of which the officer or employee is an officer, agent, employee, or member, or in which the officer or employee owns a beneficial interest, except that an officer or employee of an institution of higher education or the *Spokane intercollegiate research and technology institute may serve as an officer, agent, employee, or member, or on the board of directors, board of trustees, advisory board, or committee or review panel for any nonprofit institute, foundation, or fund-raising entity; and may serve as a member of an advisory board, committee, or review panel for a governmental or other nonprofit entity.

42.52.040
Assisting in transactions.

(1) Except in the course of official duties or incident to official duties, no state officer or state employee may assist another person, directly or indirectly, whether or not for compensation, in a transaction involving the state:

(a) In which the state officer or state employee has at any time

participated; or

(b) If the transaction involving the state is or has been under the official responsibility of the state officer or state employee within a period of two years preceding such assistance.

(2) No state officer or state employee may share in compensation received by another for assistance that the officer or employee is prohibited from providing under subsection (1) or (3) of this section.

(3) A business entity of which a state officer or state employee is a partner, managing officer, or employee shall not assist another person in a transaction involving the state if the state officer or state employee is prohibited from doing so by subsection (1) of this section.

(4) This chapter does not prevent a state officer or state employee from assisting, in a transaction involving the state:

(a) The state officer's or state employee's parent, spouse or domestic partner, or child, or a child thereof for whom the officer or employee is serving as guardian, executor, administrator, trustee, or other personal fiduciary, if the state officer or state employee did not participate in the transaction; or

(b) Another state employee involved in disciplinary or other personnel administration proceedings.

42.52.050
Confidential information — Improperly concealed records.

(1) No state officer or state employee may accept employment or engage in any business or professional activity that the officer or employee might reasonably expect would require or induce him or her to make an unauthorized disclosure of confidential information acquired by the official or employee by reason of the official's or employee's official position.

(2) No state officer or state employee may make a disclosure of confidential information gained by reason of the officer's or employee's official position or otherwise use the information for his or her personal gain or benefit or the gain or benefit of another, unless the disclosure has been authorized by statute or by the terms of a contract involving (a) the state officer's or state employee's agency and (b) the person or persons who have authority to waive the confidentiality of the information.

(3) No state officer or state employee may disclose confidential information to any person not entitled or authorized to receive the information.

(4) No state officer or state employee may intentionally conceal a record if the officer or employee knew the record was required to be released under chapter 42.56 RCW, was under a personal obligation to release the record, and failed to do so. This subsection does not apply where the decision to withhold the record was made in good faith.

42.52.060
Testimony of state officers and state employees.

This chapter does not prevent a state officer or state employee from giving testimony under oath or from making statements required to be made under penalty of perjury or contempt.

42.52.070
Special privileges.

Except as required to perform duties within the scope of employment, no state officer or state employee may use his or her position to secure special privileges or exemptions for himself or herself, or his or her spouse, child, parents, or other persons.

42.52.080
Employment after public service.

(1) No former state officer or state employee may, within a period of one year from the date of termination of state employment, accept employment or receive compensation from an employer if:

(a) The officer or employee, during the two years immediately preceding termination of state employment, was engaged in the negotiation or administration on behalf of the state or agency of one or more contracts with that employer and was in a position to make discretionary decisions affecting the outcome of such negotiation or the nature of such administration;

(b) Such a contract or contracts have a total value of more than ten thousand dollars; and

(c) The duties of the employment with the employer or the activities for which the compensation would be received include fulfilling or implementing, in whole or in part, the provisions of such a contract or contracts or include the supervision or control of actions taken to fulfill or implement, in whole or in part, the provisions of such a contract or contracts. This subsection shall not be construed to prohibit a state officer or state employee from accepting employment with a state employee organization.

(2) No person who has served as a state officer or state employee may, within a period of two years following the termination of state employment, have a direct or indirect beneficial interest in a contract or grant that was expressly authorized or funded by specific legislative or executive action in which the former state officer or state employee participated.

(3) No former state officer or state employee may accept an offer of employment or receive compensation from an employer if the officer or employee knows or has reason to believe that the offer of employment or compensation was intended, in whole or in part, directly or indirectly, to influence the officer or employee or as compensation or reward for the performance or nonperformance of a duty by the officer or employee during the course of state employment.

(4) No former state officer or state employee may accept an offer of employment or receive compensation from an employer if the circumstances would lead a reasonable person to believe the offer has been made, or compensation given, for the purpose of influencing the performance or nonperformance of duties by

the officer or employee during the course of state employment.

(5) No former state officer or state employee may at any time subsequent to his or her state employment assist another person, whether or not for compensation, in any transaction involving the state in which the former state officer or state employee at any time participated during state employment. This subsection shall not be construed to prohibit any employee or officer of a state employee organization from rendering assistance to state officers or state employees in the course of employee organization business.

(6) As used in this section, "employer" means a person as defined in RCW 42.52.010 or any other entity or business that the person owns or in which the person has a controlling interest. For purposes of subsection (1) of this section, the term "employer" does not include a successor organization to the rural development council under chapter 43.31 RCW.

42.52.090
Limited assistance by former state officers and employees.

This chapter shall not be construed to prevent a former state officer or state employee from rendering assistance to others if the assistance is provided without compensation in any form and is limited to one or more of the following:

(1) Providing the names, addresses, and telephone numbers of state agencies or state employees;

(2) Providing free transportation to another for the purpose of conducting business with a state agency;

(3) Assisting a natural person or nonprofit corporation in obtaining or completing application forms or other forms required by a state agency for the conduct of a state business; or

(4) Providing assistance to the poor and infirm.

42.52.100
Conditions on appearance before state agencies or doing business with the state — Hearing — Judicial review.

(1) The head of an agency, upon finding that any former state officer or state employee of such agency or any other person has violated any provision of this chapter or rules adopted under it, may, in addition to any other powers the head of such agency may have, bar or impose reasonable conditions upon:

(a) The appearance before such agency of such former state officer or state employee or other person; and

(b) The conduct of, or negotiation or competition for, business with such agency by such former state officer or state employee or other person, such period of time as may reasonably be necessary or appropriate to effectuate the purposes of this chapter.

(2) Findings of violations referred to in subsection (1)(b) of this section shall be made on record after notice and hearing, conducted in accordance with the Washington Administrative Procedure Act, chapter 34.05 RCW. Such findings and orders are subject to judicial review.

(3) This section does not apply to the legislative or judicial branches of government.

42.52.110
Compensation for official duties or nonperformance.

No state officer or state employee may, directly or indirectly, ask for or give or receive or agree to receive any compensation, gift, reward, or gratuity from a source for performing or omitting or deferring the performance of any official duty, unless otherwise authorized by law except: (1) The state of Washington; or (2) in the case of officers or employees of institutions of higher education or of the *Spokane intercollegiate research and technology institute, a governmental entity, an agency or instrumentality of a governmental entity, or a nonprofit corporation organized for the benefit and support of the state employee's agency or other state agencies pursuant to an agreement with the state employee's agency.

42.52.120
Compensation for outside activities.

(1) No state officer or state employee may receive any thing of economic value under any contract or grant outside of his or her official duties. The prohibition in this subsection does not apply where the state officer or state employee has complied with *RCW 42.52.030(2) or each of the following conditions are met:

(a) The contract or grant is bona fide and actually performed;

(b) The performance or administration of the contract or grant is not within the course of the officer's or employee's official duties, or is not under the officer's or employee's official supervision;

(c) The performance of the contract or grant is not prohibited by RCW 42.52.040 or by applicable laws or rules governing outside employment for the officer or employee;

(d) The contract or grant is neither performed for nor compensated by any person from whom such officer or employee would be prohibited by RCW 42.52.150(4) from receiving a gift;

(e) The contract or grant is not one expressly created or authorized by the officer or employee in his or her official capacity;

(f) The contract or grant would not require unauthorized disclosure of confidential information.

(2) In addition to satisfying the requirements of subsection (1) of this section, a state officer or state employee may have a beneficial interest in a grant or contract or a series of substantially identical contracts or grants with a state agency only if:

(a) The contract or grant is awarded or issued as a result of an open and competitive bidding process in which more than one bid or grant application was received; or

(b) The contract or grant is awarded or issued as a result of an open and competitive bidding or selection process in which the

officer's or employee's bid or proposal was the only bid or proposal received and the officer or employee has been advised by the appropriate ethics board, before execution of the contract or grant, that the contract or grant would not be in conflict with the proper discharge of the officer's or employee's official duties; or

(c) The process for awarding the contract or issuing the grant is not open and competitive, but the officer or employee has been advised by the appropriate ethics board that the contract or grant would not be in conflict with the proper discharge of the officer's or employee's official duties.

(3) A state officer or state employee awarded a contract or issued a grant in compliance with subsection (2) of this section shall file the contract or grant with the appropriate ethics board within thirty days after the date of execution; however, if proprietary formulae, designs, drawings, or research are included in the contract or grant, the proprietary formulae, designs, drawings, or research may be deleted from the contract or grant filed with the appropriate ethics board.

(4) This section does not prevent a state officer or state employee from receiving compensation contributed from the treasury of the United States, another state, county, or municipality if the compensation is received pursuant to arrangements entered into between such state, county, municipality, or the United States and the officer's or employee's agency. This section does not prohibit a state officer or state employee from serving or performing any duties under an employment contract with a governmental entity.

(5) As used in this section, "officer" and "employee" do not include officers and employees who, in accordance with the terms of their employment or appointment, are serving without compensation from the state of Washington or are receiving from the state only reimbursement of expenses incurred or a predetermined allowance for such expenses.

42.52.130
Honoraria.

(1) No state officer or state employee may receive honoraria unless specifically authorized by the agency where they serve as state officer or state employee.

(2) An agency may not permit honoraria under the following circumstances:

(a) The person offering the honorarium is seeking or is reasonably expected to seek contractual relations with or a grant from the employer of the state officer or state employee, and the officer or employee is in a position to participate in the terms or the award of the contract or grant;

(b) The person offering the honorarium is regulated by the employer of the state officer or state employee and the officer or employee is in a position to participate in the regulation; or

(c) The person offering the honorarium (i) is seeking or opposing or is reasonably likely to seek or oppose enactment of legislation or adoption of administrative rules or actions, or policy changes by the state officer's or state employee's agency; and (ii) the officer or employee may participate in the enactment or adoption.

42.52.140
Gifts.

No state officer or state employee may receive, accept, take, 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 officer or employee, or be considered as part of a reward for action or inaction.

42.52.150
Limitations on gifts. (*Effective until January 1, 2012.*)

(1) No state officer or state employee may accept gifts, other than those specified in subsections (2) and (5) of this section, with an aggregate value in excess of fifty dollars from a single source in a calendar year or a single gift from multiple sources with a value in excess of fifty dollars. For purposes of this section, "single source" means any person, as defined in RCW 42.52.010, whether acting directly or through any agent or other intermediary, and "single gift" includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs, not excluded from the definition of gift under RCW 42.52.010. The value of gifts given to an officer's or employee's family member or guest shall be attributed to the official or employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.

(2) Except as provided in subsection (4) of this section, the following items are presumed not to influence under RCW 42.52.140, and may be accepted without regard to the limit established by subsection (1) of this section:

(a) Unsolicited flowers, plants, and floral arrangements;

(b) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;

(c) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(d) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;

(e) Informational material, publications, or subscriptions related to the recipient's performance of official duties;

(f) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;

(g) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise accepted and solicited for deposit in the legislative international trade account created in *RCW 44.04.270;

(h) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise accepted and solicited for the purpose of promoting the **expansion of tourism as provided for in RCW 43.330.090;

(i) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, solicited on behalf of a national legislative association, 2006 official conference of the national lieutenant governors' association, or host committee for the purpose of hosting an official conference under the circumstances specified in RCW 42.52.820 and section 2, chapter 5, Laws of 2006. Anything solicited or accepted may only be received by the national association or host committee and may not be commingled with any funds or accounts that are the property of any person;

(j) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and

(k) Unsolicited gifts from dignitaries from another state or a foreign country that are intended to be personal in nature.

(3) The presumption in subsection (2) of this section is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.

(4) Notwithstanding subsections (2) and (5) of this section, a state officer or state employee of a regulatory agency or of an agency that seeks to acquire goods or services who participates in those regulatory or contractual matters may receive, accept, take, or seek, directly or indirectly, only the following items from a person regulated by the agency or from a person who seeks to provide goods or services to the agency:

(a) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;

(b) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(c) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;

(d) Informational material, publications, or subscriptions related to the recipient's performance of official duties;

(e) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;

(f) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and

(g) Those items excluded from the definition of gift in RCW 42.52.010 except:

(i) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity;

(ii) Payments for seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution; and

(iii) Flowers, plants, and floral arrangements.

(5) A state officer or state employee may accept gifts in the form of food and beverage on infrequent occasions in the ordinary course of meals where attendance by the officer or 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.

42.52.160
Use of persons, money, or property for private gain.

(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.

(2) This section does not prohibit the use of public resources to benefit others as part of a state officer's or state employee's official duties.

(3) The appropriate ethics boards may adopt rules providing exceptions to this section for occasional use of the state officer or state employee, of de minimis cost and value, if the activity does not result in interference with the proper performance of public duties.

42.52.170
Giving, paying, loaning, etc., any thing of economic value to state employee.

No person shall give, pay, loan, transfer, or deliver, directly or indirectly, to any other person any thing of economic value believing or having reason to believe that there exist circumstances making the receipt thereof a violation of RCW 42.52.040, 42.52.110, 42.52.120, 42.52.140, or 42.52.150.

42.52.180
Use of public resources for political campaigns. (*Effective until January 1, 2012.*)

(1) 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 authority to direct, control, or influence the actions of the state officer or state employee using public resources in violation of this section constitutes a violation of this section. Facilities of an agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of state employees of the agency during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency.

(2) This section shall not apply to the following activities:

(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to

actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition as long as (i) required notice of the meeting includes the title and number of the ballot proposition, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(b) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry. For the purposes of this subsection, it is not a violation of this section for an elected official to respond to an inquiry regarding a ballot proposition, to make incidental remarks concerning a ballot proposition in an official communication, or otherwise comment on a ballot proposition without an actual, measurable expenditure of public funds. The ethics boards shall adopt by rule a definition of measurable expenditure;

(c) The maintenance of official legislative web sites throughout the year, regardless of pending elections. The web sites may contain any discretionary material which was also specifically prepared for the legislator in the course of his or her duties as a legislator, including newsletters and press releases. The official legislative web sites of legislators seeking reelection shall not be altered between June 30th and November 15th of the election year. The web site shall not be used for campaign purposes;

(d) Activities that are part of the normal and regular conduct of the office or agency; and

(e) De minimis use of public facilities by statewide elected officials and legislators incidental to the preparation or delivery of permissible communications, including written and verbal communications initiated by them of their views on ballot propositions that foreseeably may affect a matter that falls within their constitutional or statutory responsibilities.

(3) As to state officers and employees, this section operates to the exclusion of *RCW 42.17.130.

42.52.180
Use of public resources for political campaigns. (*Effective January 1, 2012.*)

(1) 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 authority to direct, control, or influence the actions of the state officer or state employee using public resources in violation of this section constitutes a violation of this section. Facilities of an agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of state employees of the agency during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency.

(2) This section shall not apply to the following activities:

(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition as long as (i) required notice of the meeting includes the title and number of the ballot proposition, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(b) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry. For the purposes of this subsection, it is not a violation of this section for an elected official to respond to an inquiry regarding a ballot proposition, to make incidental remarks concerning a ballot proposition in an official communication, or otherwise comment on a ballot proposition without an actual, measurable expenditure of public funds. The ethics boards shall adopt by rule a definition of measurable expenditure;

(c) The maintenance of official legislative web sites throughout the year, regardless of pending elections. The web sites may contain any discretionary material which was also specifically prepared for the legislator in the course of his or her duties as a legislator, including newsletters and press releases. The official legislative web sites of legislators seeking reelection shall not be altered between June 30th and November 15th of the election year. The web site shall not be used for campaign purposes;

(d) Activities that are part of the normal and regular conduct of the office or agency; and

(e) De minimis use of public facilities by statewide elected officials and legislators incidental to the preparation or delivery of permissible communications, including written and verbal communications initiated by them of their views on ballot propositions that foreseeably may affect a matter that falls within their constitutional or statutory responsibilities.

(3) As to state officers and employees, this section operates to the exclusion of RCW 42.17A.555.

42.52.185
Restrictions on mailings by legislators. (*Effective until January 1, 2012.*)

(1) During the twelve-month period beginning on December 1st of the year before a general election for a state legislator's election to office and continuing through November 30th immediately after the general election, the legislator may not mail, either by regular mail or electronic mail, to a constituent at public expense a letter, newsletter, brochure, or other piece of literature, except as follows:

(a) The legislator may mail two mailings of newsletters to constituents. All newsletters within each mailing of newsletters must be identical as to their content but not as to the constituent name or address. One such mailing may be mailed no later than thirty days after the start of a regular legislative session, except that a legislator appointed during a regular legislative session to fill a vacant seat may have up to thirty days from the date of appointment to send out the first mailing. The other mailing may be mailed no later than sixty days after the end of a regular legislative session.

(b) The legislator may mail an individual letter to (i) an individual constituent who has contacted the legislator regarding

the subject matter of the letter during the legislator's current term of office; (ii) an individual constituent who holds a governmental office with jurisdiction over the subject matter of the letter; or (iii) an individual constituent who has received an award or honor of extraordinary distinction of a type that is sufficiently infrequent to be noteworthy to a reasonable person, including, but not limited to: (A) An international or national award such as the Nobel prize or the Pulitzer prize; (B) a state award such as Washington scholar; (C) an Eagle Scout award; and (D) a Medal of Honor.

(c) In those cases where constituents have specifically indicated that they would like to be contacted to receive regular or periodic updates on legislative matters, legislators may provide such updates by electronic mail throughout the legislative session and up until thirty days from the conclusion of a legislative session.

(2) For purposes of subsection (1) of this section, "legislator" means a legislator who is a "candidate," as defined by *RCW 42.17.020, for any public office.

(3) A violation of this section constitutes use of the facilities of a public office for the purpose of assisting a campaign under RCW 42.52.180.

(4) The house of representatives and senate shall specifically limit expenditures per member for the total cost of mailings. Those costs include, but are not limited to, production costs, printing costs, and postage costs. The limits imposed under this subsection apply only to the total expenditures on mailings per member and not to any categorical cost within the total.

(5) For purposes of this section, persons residing outside the legislative district represented by the legislator are not considered to be constituents, but students, military personnel, or others temporarily employed outside of the district who normally reside in the district are considered to be constituents.

42.52.185
Restrictions on mailings by legislators. (*Effective January 1, 2012.*)

(1) During the twelve-month period beginning on December 1st of the year before a general election for a state legislator's election to office and continuing through November 30th immediately after the general election, the legislator may not mail, either by regular mail or electronic mail, to a constituent at public expense a letter, newsletter, brochure, or other piece of literature, except as follows:

(a) The legislator may mail two mailings of newsletters to constituents. All newsletters within each mailing of newsletters must be identical as to their content but not as to the constituent name or address. One such mailing may be mailed no later than thirty days after the start of a regular legislative session, except that a legislator appointed during a regular legislative session to fill a vacant seat may have up to thirty days from the date of appointment to send out the first mailing. The other mailing may be mailed no later than sixty days after the end of a regular legislative session.

(b) The legislator may mail an individual letter to (i) an individual constituent who has contacted the legislator regarding the subject matter of the letter during the legislator's current term of office; (ii) an individual constituent who holds a governmental office with jurisdiction over the subject matter of the letter; or (iii) an individual constituent who has received an award or honor of extraordinary distinction of a type that is sufficiently infrequent to be noteworthy to a reasonable person, including, but not limited to: (A) An international or national award such as the Nobel prize or the Pulitzer prize; (B) a state award such as Washington scholar; (C) an Eagle Scout award; and (D) a Medal of Honor.

(c) In those cases where constituents have specifically indicated that they would like to be contacted to receive regular or periodic updates on legislative matters, legislators may provide such updates by electronic mail throughout the legislative session and up until thirty days from the conclusion of a legislative session.

(2) For purposes of subsection (1) of this section, "legislator" means a legislator who is a "candidate," as defined by RCW 42.17A.005, for any public office.

(3) A violation of this section constitutes use of the facilities of a public office for the purpose of assisting a campaign under RCW 42.52.180.

(4) The house of representatives and senate shall specifically limit expenditures per member for the total cost of mailings. Those costs include, but are not limited to, production costs, printing costs, and postage costs. The limits imposed under this subsection apply only to the total expenditures on mailings per member and not to any categorical cost within the total.

(5) For purposes of this section, persons residing outside the legislative district represented by the legislator are not considered to be constituents, but students, military personnel, or others temporarily employed outside of the district who normally reside in the district are considered to be constituents.

42.52.190
Investments.

(1) Except for permissible investments as defined in this section, no state officer or state employee of any agency responsible for the investment of funds, who acts in a decision-making, advisory, or policy-influencing capacity with respect to investments, may have a direct or indirect interest in any property, security, equity, or debt instrument of a person, without prior written approval of the agency.

(2) Agencies responsible for the investment of funds shall adopt policies governing approval of investments and establishing criteria to be considered in the approval process. Criteria shall include the relationship between the proposed investment and investments held or under consideration by the state, the size and timing of the proposed investment, access by the state officer or state employee to nonpublic information relative to the proposed investment, and the availability of the investment in the public market. Agencies responsible for the investment of funds also shall adopt policies consistent with this chapter governing use by their officers and employees of financial information acquired by virtue of their state positions. A violation of such policies adopted to implement this subsection shall constitute a violation of this chapter.

(3) As used in this section, "permissible investments" means any mutual fund, deposit account, certificate of deposit, or money market fund maintained with a bank, broker, or other financial institution, a security publicly traded in an organized market if the interest in the security at acquisition is ten thousand dollars or less, or an interest in real estate, except if the real estate interest is in or with a party in whom the agency holds an investment.

42.52.200
Agency rules.

(1) Each agency may adopt rules consistent with law, for use within the agency to protect against violations of this chapter.

(2) Each agency proposing to adopt rules under this section shall forward the rules to the appropriate ethics board before they may take effect. The board may submit comments to the agency regarding the proposed rules.

(3) This section applies to universities only to the extent their activities are not subject to RCW 42.52.220.

42.52.220
Universities — Administrative processes.

(1) Consistent with the state policy to encourage basic and applied scientific research by the state's research universities as stated in RCW 28B.140.005, each university may develop, adopt, and implement one or more written administrative processes that shall, upon approval by the governor, apply in place of the obligations imposed on universities and university research employees under RCW 42.52.030, 42.52.040, 42.52.080, 42.52.110, 42.52.120, 42.52.130, 42.52.140, 42.52.150, and 42.52.160. The universities shall coordinate on the development of administrative processes to ensure the processes are comparable. A university research employee in compliance with the processes authorized in this section shall be deemed to be in compliance with RCW 42.52.030, 42.52.040, 42.52.080, 42.52.110, 42.52.120, 42.52.130, 42.52.140, 42.52.150, and 42.52.160.

(2) The executive ethics board shall enforce activity subject to the written approval processes under this section, as provided in RCW 42.52.360.

42.52.310
Legislative ethics board.

(1) The legislative ethics board is created, composed of nine members, selected as follows:

(a) Two senators, one from each of the two largest caucuses, appointed by the president of the senate;

(b) Two members of the house of representatives, one from each of the two largest caucuses, appointed by the speaker of the house of representatives;

(c) Five citizen members:

(i) One citizen member chosen by the governor from a list of three individuals submitted by each of the four legislative caucuses; and

(ii) One citizen member selected by three of the four other citizen members of the legislative ethics board.

(2) Except for initial members and members completing partial terms, nonlegislative members shall serve a single five-year term.

(3) No more than three of the public members may be identified with the same political party.

(4) Terms of initial nonlegislative board members shall be staggered as follows: One member shall be appointed to a one-year term; one member shall be appointed to a two-year term; one member shall be appointed to a three-year term; one member shall be appointed to a four-year term; and one member shall be appointed for a five-year term.

(5) A vacancy on the board shall be filled in the same manner as the original appointment.

(6) Legislative members shall serve two-year terms, from January 31st of an odd-numbered year until January 31st of the next odd-numbered year.

(7) Each member shall serve for the term of his or her appointment and until his or her successor is appointed.

(8) The citizen members shall annually select a chair from among themselves.

42.52.320
Authority of legislative ethics board.

(1) The legislative ethics board shall enforce this chapter and rules adopted under it with respect to members and employees of the legislature.

(2) The legislative ethics board shall:

(a) Develop educational materials and training with regard to legislative ethics for legislators and legislative employees;

(b) Issue advisory opinions;

(c) Adopt rules or policies governing the conduct of business by the board, and adopt rules defining working hours for purposes of RCW 42.52.180 and where otherwise authorized under chapter 154, Laws of 1994;

(d) Investigate, hear, and determine complaints by any person or on its own motion;

(e) Impose sanctions including reprimands and monetary penalties;

(f) Recommend suspension or removal to the appropriate legislative entity, or recommend prosecution to the appropriate authority; and

(g) Establish criteria regarding the levels of civil penalties appropriate for different types of violations of this chapter and rules adopted under it.

(3) The board may:

(a) Issue subpoenas for the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under examination by the board or involved in any hearing;

(b) Administer oaths and affirmations;

(c) Examine witnesses; and

(d) Receive evidence.

(4) Subject to RCW 42.52.540, the board has jurisdiction over any alleged violation that occurred before January 1, 1995, and that was within the jurisdiction of any of the boards established under *chapter 44.60 RCW. The board's jurisdiction with respect to any such alleged violation shall be based on the statutes and rules in effect at [the] time of the violation.

42.52.330
Interpretation.

By constitutional design, the legislature consists of citizen-legislators who bring to bear on the legislative process their individual experience and expertise. The provisions of this chapter shall be interpreted in light of this constitutional principle.

[**42.52.340**
Transfer of jurisdiction.

On January 1, 1995, any complaints or other matters under investigation or consideration by the boards of legislative ethics in the house of representatives and the senate operating pursuant to *chapter 44.60 RCW shall be transferred to the legislative ethics board created by RCW 42.52.310. All files, including but not limited to minutes of meetings, investigative files, records of proceedings, exhibits, and expense records, shall be transferred to the legislative ethics board created in RCW 42.52.310 pursuant to their direction and the legislative ethics board created in RCW 42.52.310 shall assume full jurisdiction over all pending complaints, investigations, and proceedings.

42.52.350
Executive ethics board.

(1) The executive ethics board is created, composed of five members, appointed by the governor as follows:

(a) One member shall be a classified service employee as defined in chapter 41.06 RCW;

(b) One member shall be a state officer or state employee in an exempt position;

(c) One member shall be a citizen selected from a list of three names submitted by the attorney general;

(d) One member shall be a citizen selected from a list of three names submitted by the state auditor; and

(e) One member shall be a citizen selected at large by the governor.

(2) Except for initial members and members completing partial terms, members shall serve a single five-year term.

(3) No more than three members may be identified with the same political party.

(4) Terms of initial board members shall be staggered as follows: One member shall be appointed to a one-year term; one member shall be appointed to a two-year term; one member shall be appointed to a three-year term; one member shall be appointed to a four-year term; and one member shall be appointed to a five-year term.

(5) A vacancy on the board shall be filled in the same manner as the original appointment.

(6) Each member shall serve for the term of his or her appointment and until his or her successor is appointed.

(7) The members shall annually select a chair from among themselves.

(8) Staff shall be provided by the office of the attorney general.

42.52.360
Authority of executive ethics board.

(1) The executive ethics board shall enforce this chapter and rules adopted under it with respect to statewide elected officers and all other officers and employees in the executive branch, boards and commissions, and institutions of higher education.

(2) The executive ethics board shall enforce this chapter with regard to the activities of university research employees as provided in this subsection.

(a) With respect to compliance with RCW 42.52.030, 42.52.110, 42.52.130, 42.52.140, and 42.52.150, the administrative process shall be consistent with and adhere to no less than the current standards in regulations of the United States public health service and the office of the secretary of the department of health and human services in Title 42 C.F.R. Part 50, Subpart F relating to promotion of objectivity in research.

(b) With respect to compliance with RCW 42.52.040, 42.52.080, and 42.52.120, the administrative process shall include a comprehensive system for the disclosure, review, and approval of outside work activities by university research employees while assuring that such employees are fulfilling their employment obligations to the university.

(c) With respect to compliance with RCW 42.52.160, the administrative process shall include a reasonable determination by the university of acceptable private uses having de minimis costs to the university and a method for establishing fair and reasonable reimbursement charges for private uses the costs of which are in excess of de minimis.

(3) The executive ethics board shall:

(a) Develop educational materials and training;

(b) Adopt rules and policies governing the conduct of business by the board, and adopt rules defining working hours for purposes of RCW 42.52.180 and where otherwise authorized under chapter 154, Laws of 1994;

(c) Issue advisory opinions;

(d) Investigate, hear, and determine complaints by any person or on its own motion;

(e) Impose sanctions including reprimands and monetary penalties;

(f) Recommend to the appropriate authorities suspension, removal from position, prosecution, or other appropriate remedy; and

(g) Establish criteria regarding the levels of civil penalties appropriate for violations of this chapter and rules adopted under it.

(4) The board may:

(a) Issue subpoenas for the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under examination by the board or involved in any hearing;

(b) Administer oaths and affirmations;

(c) Examine witnesses; and

(d) Receive evidence.

(5) Except as provided in RCW 42.52.220, the executive ethics board may review and approve agency policies as provided for in this chapter.

(6) This section does not apply to state officers and state employees of the judicial branch.

42.52.370
Authority of commission on judicial conduct.

The commission on judicial conduct shall enforce this chapter and rules adopted under it with respect to state officers and employees of the judicial branch and may do so according to procedures prescribed in Article IV, section 31 of the state Constitution. In addition to the sanctions authorized in Article IV, section 31 of the state Constitution, the commission may impose sanctions authorized by this chapter.

42.52.380
Political activities of board members. (*Effective until January 1, 2012.*)

(1) No member of the executive ethics board may (a) hold or campaign for partisan elective office other than the position of precinct committeeperson, or any full-time nonpartisan office; (b) be an officer of any political party or political committee as defined in *chapter 42.17 RCW other than the position of precinct committeeperson; (c) permit his or her name to be used, or make contributions, in support of or in opposition to any state candidate or state ballot measure; or (d) lobby or control, direct, or assist a lobbyist except that such member may appear before any committee of the legislature on matters pertaining to this chapter.

(2) No citizen member of the legislative ethics board may (a) hold or campaign for partisan elective office other than the position of precinct committeeperson, or any full-time nonpartisan office; (b) be an officer of any political party or political committee as defined in *chapter 42.17 RCW, other than the position of precinct committeeperson; (c) permit his or her name to be used, or make contributions, in support of or in opposition to any legislative candidate, any legislative caucus campaign committee that supports or opposes legislative candidates, or any political action committee that supports or opposes legislative candidates; or (d) engage in lobbying in the legislative branch under circumstances not exempt, under **RCW 42.17.160, from lobbyist registration and reporting.

(3) No citizen member of the legislative ethics board may hold or campaign for a seat in the state house of representatives or the state senate within two years of serving on the board if the citizen member opposes an incumbent who has been the respondent in a complaint before the board.

42.52.380
Political activities of board members. (*Effective January 1, 2012.*)

(1) No member of the executive ethics board may (a) hold or campaign for partisan elective office other than the position of precinct committeeperson, or any full-time nonpartisan office; (b) be an officer of any political party or political committee as defined in chapter 42.17A RCW other than the position of precinct committeeperson; (c) permit his or her name to be used, or make contributions, in support of or in opposition to any state candidate or state ballot measure; or (d) lobby or control, direct, or assist a lobbyist except that such member may appear before any committee of the legislature on matters pertaining to this chapter.

(2) No citizen member of the legislative ethics board may (a) hold or campaign for partisan elective office other than the position of precinct committeeperson, or any full-time nonpartisan office; (b) be an officer of any political party or political committee as defined in chapter 42.17A RCW, other than the position of precinct committeeperson; (c) permit his or her name to be used, or make contributions, in support of or in opposition to any legislative candidate, any legislative caucus campaign committee that supports or opposes legislative candidates, or any political action committee that supports or opposes legislative candidates; or (d) engage in lobbying in the legislative branch under circumstances not exempt, under RCW 42.17A.610, from lobbyist registration and reporting.

(3) No citizen member of the legislative ethics board may hold or campaign for a seat in the state house of representatives or the state senate within two years of serving on the board if the citizen member opposes an incumbent who has been the respondent in a complaint before the board.

42.52.390
Hearing and subpoena authority.

Except as otherwise provided by law, the ethics boards may hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of a person under oath, and in connection therewith, to require the production for examination of any books or papers relating to any matter under investigation or in question before the ethics board. The ethics board may make rules as to the issuance of subpoenas by individual members, as to service of complaints, decisions, orders, recommendations, and other process or papers of the ethics board.

42.52.400
Enforcement of subpoena authority.

In case of refusal to obey a subpoena issued to a person, the superior court of a county within the jurisdiction of which the investigation, proceeding, or hearing under this chapter is carried on or within the jurisdiction of which the person refusing to obey is found or resides or transacts business, upon application by the appropriate ethics board shall have jurisdiction to issue to the person an order requiring the person to appear before the ethics board or its member to produce evidence if so ordered, or to give testimony touching the matter under investigation or in question. Failure to obey such order of the court may be punished by the court as contempt.

42.52.410
Filing complaint.

(1) A person may, personally or by his or her attorney, make, sign, and file with the appropriate ethics board a complaint on a form provided by the appropriate ethics board. The complaint shall state the name of the person alleged to have violated this chapter or rules adopted under it and the particulars thereof, and contain such other information as may be required by the appropriate ethics board.

(2) If it has reason to believe that any person has been engaged or is engaging in a violation of this chapter or rules adopted under it, an ethics board may issue a complaint.

42.52.420
Investigation.

(1) After the filing of any complaint, except as provided in RCW 42.52.450, the staff of the appropriate ethics board shall investigate the complaint. The investigation shall be limited to the allegations contained in the complaint.

(2) The results of the investigation shall be reduced to writing and the staff shall either make a determination that the complaint should be dismissed pursuant to RCW 42.52.425, or recommend to the board that there is or that there is not reasonable cause to believe that a violation of this chapter or rules adopted under it has been or is being committed.

(3) The board's determination on reasonable cause shall be provided to the complainant and to the person named in such complaint.

42.52.425
Dismissal of complaint.

(1) Based on the investigation conducted under RCW 42.52.420 or 42.52.450, and subject to rules issued by each board, the board or the staff of the appropriate ethics board may issue an order of dismissal based on any of the following findings:

(a) Any violation that may have occurred is not within the jurisdiction of the board;

(b) The complaint is obviously unfounded or frivolous; or

(c) Any violation that may have occurred does not constitute a material violation because it was inadvertent and minor, or has been cured, and, after consideration of all of the circumstances, further proceedings would not serve the purposes of this chapter.

(2) Written notice of the determination under subsection (1) of this section shall be provided to the complainant, respondent, and the board. The written notice to the complainant shall include a statement of the complainant's right to appeal to the board under subsection (3) of this section if the dismissal order was issued by staff.

(3) In the event that a complaint is dismissed by staff under this section, the complainant may request that the board review the action. Following review, the board shall:

(a) Affirm the staff dismissal;

(b) Direct the staff to conduct further investigation; or

(c) Issue a determination that there is reasonable cause to believe that a violation has been or is being committed.

(4) The board's decision under subsection (3) of this section shall be reduced to writing and provided to the complainant and the respondent.

42.52.430
Public hearing — Findings.

(1) If the ethics board determines there is reasonable cause under RCW 42.52.420 that a violation of this chapter or rules adopted under it occurred, a public hearing on the merits of the complaint shall be held.

(2) The ethics board shall designate the location of the hearing. The case in support of the complaint shall be presented at the hearing by staff of the ethics board.

(3) The respondent shall file a written answer to the complaint and appear at the hearing in person or otherwise, with or without counsel, and submit testimony and be fully heard. The respondent has the right to cross-examine witnesses.

(4) Testimony taken at the hearing shall be under oath and recorded.

(5) If, based upon a preponderance of the evidence, the ethics board finds that the respondent has violated this chapter or rules adopted under it, the board shall file an order stating findings of fact and enforcement action as authorized under this chapter.

(6) If, upon all the evidence, the ethics board finds that the respondent has not engaged in an alleged violation of this chapter or rules adopted under it, the ethics board shall state findings of fact and shall similarly issue and file an order dismissing the complaint.

(7) If the board makes a determination that there is not reasonable cause to believe that a violation has been or is being committed or has made a finding under subsection (6) of this section, the attorney general shall represent the officer or employee in any action subsequently commenced based on the alleged facts in the complaint.

42.52.440
Review of order.

Except as otherwise provided by law, reconsideration or judicial review of an ethics board's order that a violation of this chapter or rules adopted under it has occurred shall be governed by the provisions of chapter 34.05 RCW applicable to review of adjudicative proceedings.

42.52.450
Complaint against legislator or statewide elected official.

(1) If a complaint alleges a violation of RCW 42.52.180 by a legislator or statewide elected official other than the attorney general, the attorney general shall, if requested by the appropriate ethics board, conduct the investigation under RCW 42.52.420 and recommend action.

(2) If a complaint alleges a violation of RCW 42.52.180 by the attorney general, the state auditor shall conduct the investigation under RCW 42.52.420 and recommend action to the appropriate ethics board.

42.52.460
Citizen actions.

Any person who has notified the appropriate ethics board and the attorney general in writing that there is reason to believe that RCW 42.52.180 is being or has been violated may, in the name of the state, bring a citizen action for any of the actions authorized under this chapter. A citizen action may be brought only if the appropriate ethics board or the attorney general have failed to commence an action under this chapter within forty-five days after notice from the person, the person has thereafter notified the appropriate ethics board and the attorney general that the person will commence a citizen's action within ten days upon their failure to commence an action, and the appropriate ethics board and the attorney general have in fact failed to bring an action within ten days of receipt of the second notice.

If the person who brings the citizen's action prevails, the judgment awarded shall escheat to the state, but the person shall be entitled to be reimbursed by the state of Washington for costs and attorneys' fees incurred. If a citizen's action that the court finds was brought without reasonable cause is dismissed, the court may order the person commencing the action to pay all costs of trial and reasonable attorneys' fees incurred by the defendant.

Upon commencement of a citizen action under this section, at the request of a state officer or state employee who is a defendant, the office of the attorney general shall represent the defendant if the attorney general finds that the defendant's conduct complied with this chapter and was within the scope of employment.

42.52.470
Referral for enforcement.

As appropriate, an ethics board may refer a complaint:

(1) To an agency for initial investigation and proposed resolution which shall be referred back to the appropriate ethics board for action; or

(2) To the attorney general's office or prosecutor for appropriate action.

42.52.480
Action by boards.

(1) Except as otherwise provided by law, an ethics board may order payment of the following amounts if it finds a violation of this chapter or rules adopted under it after a hearing under RCW 42.52.370 or other applicable law:

(a) Any damages sustained by the state that are caused by the conduct constituting the violation;

(b) From each such person, a civil penalty of up to five thousand dollars per violation or three times the economic value of any thing received or sought in violation of this chapter or rules adopted under it, whichever is greater; and

(c) Costs, including reasonable investigative costs, which shall be included as part of the limit under (b) of this subsection. The costs may not exceed the penalty imposed. The payment owed on the penalty shall be reduced by the amount of the costs paid.

(2) Damages under this section may be enforced in the same manner as a judgment in a civil case.

42.52.490
Action by attorney general.

(1) Upon a written determination by the attorney general that the action of an ethics board was clearly erroneous or if requested by an ethics board, the attorney general may bring a civil action in the superior court of the county in which the violation is alleged to have occurred against a state officer, state employee, former state officer, former state employee, or other person who has violated or knowingly assisted another person in violating any of the provisions of this chapter or the rules adopted under it. In such action the attorney general may recover the following amounts on behalf of the state of Washington:

(a) Any damages sustained by the state that are caused by the conduct constituting the violation;

(b) From each such person, a civil penalty of up to five thousand dollars per violation or three times the economic value of any thing received or sought in violation of this chapter or the

rules adopted under it, whichever is greater; and

(c) Costs, including reasonable investigative costs, which shall be included as part of the limit under (b) of this subsection. The costs may not exceed the penalty imposed. The payment owed on the penalty shall be reduced by the amount of the costs paid.

(2) In any civil action brought by the attorney general upon the basis that the attorney general has determined that the board's action was clearly erroneous, the court shall not proceed with the action unless the attorney general has first shown, and the court has found, that the action of the board was clearly erroneous.

42.52.500
Optional hearings by administrative law judge.

If an ethics board finds that there is reasonable cause to believe that a violation has occurred, the board shall consider the possibility of the alleged violator having to pay a total amount of penalty and costs of more than five hundred dollars. Based on such consideration, the board may give the person who is the subject of the complaint the option to have an administrative law judge conduct the hearing and rule on procedural and evidentiary matters. The board may also, on its own initiative, provide for retaining an administrative law judge. An ethics board may not require total payment of more than five hundred dollars in penalty and costs in any case where an administrative law judge is not used and the board did not give such option to the person who is the subject of the complaint.

42.52.510
Rescission of state action.

(1) The attorney general may, on request of the governor or the appropriate agency, and in addition to other available rights of rescission, bring an action in the superior court of Thurston county to cancel or rescind state action taken by a state officer or state employee, without liability to the state of Washington, contractual or otherwise, if the governor or ethics board has reason to believe that: (a) A violation of this chapter or rules adopted under it has substantially influenced the state action, and (b) the interest of the state requires the cancellation or rescission. The governor may suspend state action pending the determination of the merits of the controversy under this section. The court may permit persons affected by the governor's actions to post an adequate bond pending such resolution to ensure compliance by the defendant with the final judgment, decree, or other order of the court.

(2) This section does not limit other available remedies.

42.52.520
Disciplinary action.

(1) A violation of this chapter or rules adopted under it is grounds for disciplinary action.

(2) The procedures for any such action shall correspond to those applicable for disciplinary action for employee misconduct generally; for those state officers and state employees not specifically exempted in chapter 41.06 RCW, the rules set forth in chapter 41.06 RCW shall apply. Any action against the state officer or state employee shall be subject to judicial review to the extent provided by law for disciplinary action for misconduct of state officers and state employees of the same category and grade.

42.52.530
Additional investigative authority.

In addition to other authority under this chapter, the attorney general may investigate persons not under the jurisdiction of an ethics board whom the attorney general has reason to believe were involved in transactions in violation of this chapter or rules adopted under it.

42.52.540
Limitations period.

Any action taken under this chapter must be commenced within five years from the date of the violation. However, if it is shown that the violation was not discovered because of concealment by the person charged, then the action must be commenced within two years from the date the violation was discovered or reasonably should have been discovered: (1) By any person with direct or indirect supervisory responsibilities over the person who allegedly committed the violation; or (2) if no person has direct or indirect supervisory authority over the person who committed the violation, by the appropriate ethics board.

42.52.550
Compensation of ethics boards.

The citizen members of the legislative ethics board and the members of the executive ethics board shall be compensated as provided in RCW 43.03.250 and reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Legislator members of the legislative ethics board shall be reimbursed as provided in RCW 44.04.120.

42.52.560
Communications from an employee organization or charitable organization — Distribution by state employee. (*Effective until January 1, 2012.*)

(1) Nothing in this chapter prohibits a state employee from distributing communications from an employee organization or charitable organization to other state employees if the communications do not support or oppose a ballot proposition or candidate for federal, state, or local public office. Nothing in this section shall be construed to authorize any lobbying activity with public funds beyond the activity permitted by *RCW 42.17.190.

(2) "Employee organization," for purposes of this section, means any organization, union, or association in which employees participate and that exists for the purpose of collective bargaining with employers or for the purpose of opposing collective bargaining or certification of a union.

42.52.560
Communications from an employee organization or charitable organization — Distribution by state employee. (*Effective January 1, 2012.*)

(1) Nothing in this chapter prohibits a state employee from distributing communications from an employee organization or charitable organization to other state employees if the communications do not support or oppose a ballot proposition or candidate for federal, state, or local public office. Nothing in this section shall be construed to authorize any lobbying activity with public funds beyond the activity permitted by RCW 42.17A.635.

(2) "Employee organization," for purposes of this section, means any organization, union, or association in which employees participate and that exists for the purpose of collective bargaining with employers or for the purpose of opposing collective bargaining or certification of a union.

42.52.570
Private business activity policy — Department of fish and wildlife — Parks and recreation commission.

(1) The department of fish and wildlife and the parks and recreation commission may approve private business activity in state-owned housing provided under Title 77 RCW or chapter 79A.05 RCW.

(2) Prior to granting approval of private business activity in state-owned housing, the department of fish and wildlife and the parks and recreation commission must adopt a private business activity policy that is approved by the executive ethics board.

(a) The private business activity policy may only authorize private business activity by the resident state employee while the employee is off duty or the employee's spouse who is approved for residency in the agency housing or the employee's children.

(b) The private business activity policy may not allow private business activity that negatively impacts the agency's operations. For the purposes of this section, "negatively impacts" includes but is not limited to: (i) Negative impacts to visitors' services or access; (ii) in-person visits to state-owned housing for the purpose of transacting business that negatively impacts agency operations; (iii) the incurrence of additional expenses by the state; (iv) the use of signage in the state-owned residence; (v) advertising on state-owned property; or (vi) an appearance of state endorsement of the private business activity.

(3) The private business activity must comply with all other local, state, and federal laws.

(4) All approvals of a private business activity in state-owned housing must be by the agency director or designee in writing.

(5) A state employee is presumed not to be in violation of RCW 42.52.070 or 42.52.160 if the employee or the employee's spouse or child complies with this section.

42.52.800
Exemptions — Solicitation for state capitol historic furnishings and preservation and restoration of state legislative building.

(1) When soliciting charitable gifts, grants, or donations solely for the limited purposes of RCW 27.48.040, members of the capitol furnishings preservation committee are exempt from the laws of this chapter.

(2) When soliciting charitable gifts, grants, or donations solely for the limited purposes of RCW 27.48.050 or when assisting a nonprofit foundation established for the purposes of RCW 27.48.050, state officers and state employees are exempt from the laws of this chapter.

42.52.801
Exemption — Solicitation to promote tourism.

When soliciting charitable gifts, grants, or donations solely for the purposes of promoting the *expansion of tourism as provided for in RCW 43.330.090, state officers and state employees are presumed not to be in violation of the solicitation and receipt of gift provisions in RCW 42.52.140.

42.52.802
Exemption — Solicitation for Washington state legacy project, state library, and archives account.

This chapter does not prohibit the secretary of state or a designee from soliciting and accepting contributions to the Washington state legacy project, state library, and archives account created in RCW 43.07.380.

42.52.8021
Exemption — Solicitation for Washington state flag account.

This chapter does not prohibit the secretary of state or the secretary of state's designee from soliciting and accepting contributions to the Washington state flag account created in RCW 43.07.388.

42.52.8022
Exemption — Informational or educational meetings regarding legislative issues.

This chapter does not prohibit state employees from attending informational or educational meetings regarding legislative issues with a legislator or other elected official. It is not a violation of this chapter to hold such meetings in public facilities, including state-owned or leased buildings. This section is not intended to allow the use of state facilities for a political campaign or for the promotion of or opposition to a ballot proposition.

42.52.803
Exemption — Solicitation for legislative oral history account.

This chapter does not prohibit the secretary of the senate, the chief clerk of the house of representatives, or their designee from soliciting and accepting contributions to the legislative oral history account created in RCW 44.04.345.

42.52.804
Exemption — Health profession board or commission — Professional opinions.

Members of a health profession board or commission as identified in RCW 18.130.040(2)(b) may express their professional opinions to an elected official about the work of the board or commission on which the member serves, even if those

opinions differ from the department of health's official position. Such communication shall be to inform the elected official and not to lobby in support or opposition to any initiative to the legislature.

42.52.805
Solicitation for charitable activities of executive branch state employees — Limitations — Definitions.

(1) When soliciting gifts, grants, or donations solely to support the charitable activities of executive branch state employees conducted pursuant to RCW 9.46.0209, the executive branch state officers and executive branch state employees are presumed not to be in violation of the solicitation and receipt of gift provisions in RCW 42.52.140. However, the gifts, grants, or donations must only be solicited from state employees or businesses and organizations that have no business dealings with the soliciting employee's agency. For the purposes of this subsection, "business dealings" includes being subject to regulation by the agency, having a contractual relationship with the agency, and purchasing goods or services from the agency.

(2) For purposes of this section, activities are deemed to be charitable if the activities are devoted to the purposes authorized under RCW 9.46.0209 for charitable and nonprofit organizations listed in that section, or are in support of the activities of those charitable or nonprofit organizations.

42.52.810
Solicitation for the legislative international trade account — Report.

(1) When soliciting charitable gifts, grants, or donations solely for the legislative international trade account created in *RCW 44.04.270, the president of the senate is presumed not to be in violation of the solicitation and receipt of gift provisions in RCW 42.52.140.

(2) When soliciting charitable gifts, grants, or donations solely for the legislative international trade account created in *RCW 44.04.270, state officers and state employees are presumed not to be in violation of the solicitation and receipt of gift provisions in RCW 42.52.140.

(3) An annual report of the legislative international trade account activities, including a list of receipts and expenditures, shall be published by the president of the senate and submitted to the house of representatives and the senate and be a public record for the purposes of RCW 42.56.070.

42.52.820
Solicitation for hosting national legislative association conference.

When soliciting gifts, grants, or donations to host an official conference within the state of Washington of a national legislative association as approved by both the chief clerk and the secretary of the senate, designated legislative officials and designated legislative employees are presumed not to be in violation of the solicitation and receipt of gift provisions in this chapter. For the purposes of this section, any legislative association must include among its membership the Washington state legislature or individual legislators or legislative staff.

42.52.900
Legislative declaration.

Government derives its powers from the people. Ethics in government are the foundation on which the structure of government rests. State officials and employees of government hold a public trust that obligates them, in a special way, to honesty and integrity in fulfilling the responsibilities to which they are elected and appointed. Paramount in that trust is the principle that public office, whether elected or appointed, may not be used for personal gain or private advantage.

The citizens of the state expect all state officials and employees to perform their public responsibilities in accordance with the highest ethical and moral standards and to conduct the business of the state only in a manner that advances the public's interest. State officials and employees are subject to the sanctions of law and scrutiny of the media; ultimately, however, they are accountable to the people and must consider this public accountability as a particular obligation of the public service. Only when affairs of government are conducted, at all levels, with openness as provided by law and an unswerving commitment to the public good does government work as it should.

The obligations of government rest equally on the state's citizenry. The effectiveness of government depends, fundamentally, on the confidence citizens can have in the judgments and decisions of their elected representatives. Citizens, therefore, should honor and respect the principles and the spirit of representative democracy, recognizing that both elected and appointed officials, together with state employees, seek to carry out their public duties with professional skill and dedication to the public interest. Such service merits public recognition and support.

All who have the privilege of working for the people of Washington state can have but one aim: To give the highest public service to its citizens.

42.52.901
Liberal construction.

This chapter shall be construed liberally to effectuate its purposes and policy and to supplement existing laws as may relate to the same subject.

42.52.902
Parts and captions not law — 1994 c 154.

Parts and captions used in this act do not constitute any part of the law.

42.52.903
Serving on board, committee, or commission not prevented.

Nothing in this chapter shall be interpreted to prevent a member of a board, committee, advisory commission, or other body required or permitted by statute to be appointed from any identifiable group or interest, from serving on such body in accordance with the intent of the legislature in establishing such body.

42.52.904
Effective date — 1994 c 154.

Sections 101 through 121, 203, 204, 207 through 224, and 301 through 317 of this act shall take effect January 1, 1995.

42.52.905
Severability — 1994 c 154.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

42.52.906
Construction — Chapter applicable to state registered domestic partnerships — 2009 c 521.

For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships.

WAC 292-110-010

Use of Resources

(1) **Statement of principles - stewardship.** The proper stewardship of state resources, including funds, facilities, tools, property, and employees and their time, is a responsibility that all state officers and employees share. Accordingly, state employees may not use state resources for personal benefit or gain or for the benefit or gain of other individuals or outside organizations. Responsibility and accountability for the appropriate use of state resources ultimately rests with the individual state officer or state employee, or with the state officer or state employee who authorizes such use. State officers and employees should ensure that any personal use of state resources permitted by this section is the most efficient in terms of overall time and resources.

(2) **The following are permitted uses:**

(a) Use of state resources that is reasonably related to the conduct of official state duties, or which is otherwise allowed by statute.

(b) An agency head or designee may authorize a use of state resources that is related to an official state purpose, but not directly related to an individual employee's official duty.

(c) An agency may authorize a specific use that promotes organizational effectiveness or enhances the job-related skills of a state officer or state employee.

(d) A state officer or employee may make an occasional but limited personal use of state resources only if each of the following conditions are met:

(i) There is little or no cost to the state;

(ii) Any use is brief;

(iii) Any use occurs infrequently;

(iv) The use does not interfere with the performance of any officer's or employee's official duties; and

(v) The use does not compromise the security or integrity of state property, information, or software.

(3) **Permitted use of computers, electronic mail, the internet, and other technologies.** A state officer or employee may use equipment such as the telephone, the internet, and electronic mail provided such use conforms to ethical standards under subsection (2) of this section, and the use is not otherwise prohibited under subsection (5) of this section.

(4) **No expectation of privacy.** Technologies such as electronic mail, facsimile transmissions, the internet, and voice mail may create an electronic record. This is what separates these from other forms of communication such as a telephone conversation. The ethics rules do not distinguish between the various forms of communication. Electronic records are reproducible and therefore cannot be considered private. Such records may be subject to disclosure under the Public Records Act, or may be disclosed for audit or legitimate state operational or management purposes.

(5) **Prohibited uses.**

(a) Any use for the purpose of conducting an outside business, private employment, or other activities conducted for private financial gain;

(b) Any use for the purpose of supporting, promoting the interests of, or soliciting for an outside organization or group, including, but not limited to, a private business, or a political party, or supporting, promoting the interests of, or soliciting for a nonprofit organization unless provided for by law or authorized by an agency head or designee;

(c) Any use 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. Such a use of state resources is specifically prohibited by RCW 42.52.180, subject to the exceptions in RCW 42.52.180(2);

(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);

(e) Any use related to conduct that is prohibited by a federal or state law or rule, or a state agency policy; and

(f) Any private use of any state property that has been removed from state facilities or other official duty stations, even if there is no cost to the state.

(6) **Reimbursement for personal use.** Establishing a system for reimbursement for private or personal use of state resources undermines the purpose of the Ethics in Public Service Act and imposes significant administrative burdens on state agencies. However, the board recognizes that in some limited situations, such as officers or employees working at remote locations, a system of reimbursement may be appropriate. Any system of reimbursement must be established by the agency in advance, and must result in little or no cost to the state, including administrative costs. To be permitted under this section, the board must approve any reimbursement system implemented by an agency.

(7) **Agency policies encouraged.** State agencies are encouraged to adopt policies applying these principles to their unique circumstances. Agency policies that are approved by the

board qualify for "safe harbor" under WAC 292-120-035. Nothing in this section is intended to limit the ability of an agency to adopt policies that are more restrictive. However, violation of a more restrictive agency policy by itself will not constitute a violation of RCW 42.52.160, even if it would constitute a violation of agency policy.

(8) **Frequently asked questions and examples.** The board maintains a list of frequently asked questions and examples that provide additional guidance regarding this section. State officers and employees are encouraged to review this document at the board's web site www.ethics.wa.gov or to request a copy of the document through the board's office.

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