



Published at the direction of the

LEGISLATIVE ETHICS BOARD

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ETHICS ALERT

Use of Legislative Scorecards in Official Legislative Websites, Social Media Accounts or Publications

September 2019

Each year, some advocacy organizations issue “scorecards”¹ to rank sitting legislators or candidates for legislative office on their voting records. Some scorecards are created with a focus on specific issues while others are broad in scope.

Generally, the legislators are ranked based upon how they voted on issues of interest to the advocacy organization issuing the scorecards. For example, if the member has voted for legislation the organization has supported or promoted, the organization will give the member an “A” or 100%. If the member has voted against legislation supported or promoted by the organization, the member could receive an “F” or a low percentage.

The purpose of these scorecards is to inform the organizations’ members how legislators have performed on legislative issues of importance to the issuing organization. They are also used as educative tools for voters in their decision making at the ballot box and can be useful for other organizations’ endorsement of candidates. The following organizations issued scorecards in Washington following the 2018 legislative session: Associated General Contractors; Building Industry Association of Washington; NARAL; Washington Alliance for Gun Responsibility; Washington Conservation Voters; and the Washington State Labor Council.

While these scorecards are usually posted on the issuing organization’s website, the Board has been asked whether a legislator can include a scorecard produced by an advocacy or other outside organization on his or her official legislative website, in official social media accounts or in legislative publications.

RCW 42.52.180 provides in pertinent part as follows:

- (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.

It is the Board’s experience that the fundamental purpose of scorecards is use in political campaigns either to support or oppose the person scored. The Board therefore believes that the inclusion of scorecards in an official legislative website, social media account, or publication would violate RCW 42.52.180. Legislative websites, social media accounts, and publications are themselves “facilities of an agency” under RCW 42.52.180. They are also produced, updated and edited by legislative staff. Legislative staff is also considered a “facility of an agency” under RCW 42.52.180. Therefore, the use of staff to place scorecards on an official legislative website, social media account or publication would violate RCW 42.52.180.

¹ Ballotpedia defines scorecards as those produced by newspapers, interest groups, think tanks, partisan groups, 501(c)(3) or (4) organizations that provide relative rankings and cover all federal and state legislators.