LEGISLATIVE ETHICS MANUAL

2007

Produced at the direction of the
Washington State Legislative Ethics Board

MISSION OF THE LEGISLATIVE ETHICS BOARD

To fairly administer the Ethics Act and to always be aware of the long-term effects Board decisions may have on the legislative branch of government and the public trust.

To emphasize training and the utilization of ethics advisors so that whenever possible, questions may be addressed in an educational rather than a confrontational setting.

TABLE OF CONTENTS

Topic **Page**

Introduction 1

Contacting the Legislative Ethics Board 2

Members of the Board 3

Duties and authority of Legislative Ethics Board 4

Summary of ethics law 6

Legislative declaration of state ethics policy 8

Particular areas of interest

- Conflicts of interest — introduction 9
  - Part-time employment by legislators 9
  - Lobbying by legislators and employees 10
  - Contracts with state agencies 11
  - Honoraria 12
- Improper use of position or public resources — intro 13
  - Improper use of position 14
  - Use for private purposes 15
  - Congratulatory letters 16
  - Campaign assistance generally 16
  - Newsletters 19
  - Comment on ballot measures 22
  - Press Releases 25
  - Mailing restrictions 25
  - Charitable Fund Raising 27
  - Confidential information 28
- Acceptance of gifts and payments for expenses - intro 30
  - Meals, entertainment and miscellaneous items 30
  - Conference and seminar admission and travel costs 32

Appendix

- RCW/ethics opinions table 34
- Board rules 74
- Board operating policies 93

WHAT IS NEW?

Advisory Opinion 2006 – No. 1
When a legislator becomes an advocate for a constituent public resources and the office of the legislator may only be used on behalf of that constituent if a government official or government office is involved or if the constituent is seeking assistance on legislative issues.

Complaint Opinion 2006 – No. 1
Legislators' appearance and testimony before a local school board was directed at legislative-related issues and was a proper exercise of his discretionary authority within the scope of his legislative employment.

Complaint Opinion 2006 – No. 2
Legislator violated RCW 42.52.180 by use of senate equipment and staff in support of a candidate for city council. Monetary penalty imposed.

Complaint Opinion 2006 – No. 3
Legislator accused of conflict-of-interest and use of legislative position to confer special privileges for himself, his employer and/or his lobbyist/son. Board dismissed for lack of reasonable cause to believe the Act had been violated.

Complaint Opinion 2006 – No. 4
Legislator violated the Act when he improperly used his legislative position and legislative stationery to intervene on behalf of a friend who was involved in a construction dispute with another individual. A Letter of Instruction was issued.

Complaint Opinion 2006 – No. 5
Legislator violated RCW 42.52.180, use of public resources to assist a campaign, when he posted his legislative press releases on his campaign web site. A Letter of Instruction was issued.

Complaint Opinion 2006 – No. 6
Legislator violated RCW 42.52.180 when, for a three week period, he advertised his legislative web site as a campaign contact. A Letter of Instruction was issued.

Complaint 2006 – No. 7
Legislator violated RCW 42.52.180, use of public resources to assist a campaign, when he posted his legislative press releases and legislative newsletters on his campaign web site. A Letter of Instruction was issued.

Complaint 2006 – No. 8
Legislative employee violated the Act through improper use of the facilities of the legislature by, among other things, using the SCAN line for frequent and lengthy

personal phone calls. Costs were imposed for partial expense of investigation and reimbursement for SCAN use.

Complaint 2006 – No. 9
Legislator and legislative employee accused of preparing a campaign press release with the use of public resources in violation of RCW 42.52.180. Board dismissed the complaint as unfounded.

Complaint 2006 – No. 10
Complaint alleged that a legislator accepted per diem, pursuant to RCW 44.04, for days he was excused from voting during a legislative session. Board's jurisdiction is limited to enforcement of RCW 42.52 and the complaint was dismissed.

Complaint 2006 – No. 11
Board does not have jurisdiction of a complaint which alleges legislators impeded the ability of the State Auditor to conduct performance audits under authority granted the Auditor in RCW 43.09. Board's jurisdiction is limited to enforcement of RCW 42.52.

Complaint 2006 – No. 12
Case was pending when this manual printed.

Complaint 2006 – No. 13
Complaint alleges a number of offenses committed by members of the executive and judicial branches of government including denial of injury claim, medical and legal malpractice and reverse discrimination. Complaint dismissed for lack of both personal and subject matter jurisdiction.

INTRODUCTION

Washington legislators and legislative employees are subject to the "Ethics in Public Service Act" (chapter 42.52 RCW), also called the "State Ethics Act." The law states that "[e]thics in government are the foundation on which the structure of government rests."

This manual provides a summary of the ethical laws and principles which provide that foundation.

It is not possible to answer every question in one document, but many of the problems most often encountered by legislators and legislative employees are covered. The manual generally covers legislators' and legislative employees' responsibilities and obligations regarding conflicts of interest and outside compensation; improper use of position or public resources; and acceptance of gifts and payments for expenses.

This manual may be used in the same manner as informal advice from Board staff or the designated ethics advisers. Although that advice does not represent the formal opinion of the Board, and is therefore not binding on future Board decisions, the Board will give weight to the fact that a person in good faith relied on the advice. Ultimately, the provisions of the Ethics in Public Service Act determine whether or not particular conduct is a violation.

CONTACTING THE BOARD OR OBTAINING BOARD INFORMATION

All Board opinions and rules, as well as organizational information about the Board, are available on ATLAS ("Text of a Legislative Document" followed by "ethics*") or Internet: http://www.leg.wa.gov/LEB/

If you have questions, the Legislative Ethics Board counsel will help you by discussing your concerns and the possible actions that you can take within the limits of the ethics laws and rules. The House of Representatives and Senate have designated ethics advisers who can also assist you with such questions. If your situation is not clearly covered by the law or previous Board opinions, staff can recommend that you seek a formal advisory opinion from the Legislative Ethics Board. Or, you may choose to seek such an opinion without obtaining informal advice. Staff informal advice is not binding on the Legislative Ethics Board; only formal Board advisory opinions have that effect.

To contact the Board or Board staff

Board Office:
418 Legislative Building
PO Box 40482
Olympia, WA 98504-0482
(360) 786-7540
internet site:
http://www.leg.wa.gov/LEB/

Staff:
Mike O'Connell, Counsel
418 Legislative Building
PO Box 40482
Olympia, WA 98504-0482
(360) 786-7540
e-mail: oconnell_mi@leg.wa.gov
Fax: (360) 786-1553

To contact a designated ethics adviser

Mike Hoover, Senate Counsel.....786-7532
Marty Lovinger, Senate Counsel 786-7443
Tim Sekerak, House Counsel.....786-7767

Board Members: *

- Neil Amondson
  3628 Cooks Hill Road
  Centralia, WA 98531

- Tony M. Cook
  23511 Country Drive East
  Graham, WA 98338

- David R. Draper (Vice Chair)
  PO Box 926
  Rochester, WA 98579

- Wayne Ehlers (Chair)
  637 NW 84th Street
  Seattle, WA 98117

- Representative Doug Ericksen
  335 Legislative Building
  Olympia, WA 98504-0600
  (360) 786-7980

- Representative John Lovick
  429 Legislative Building
  Olympia, WA 98504-0600
  (360) 786-7892

- Donna McKereghan
  709 East Indiana Ave.
  Spokane, WA 99207

- Senator Debbie Regala
  233 John A. Cherberg Building
  Olympia, WA 98504
  (360) 786-7652

* Each member shall serve for the term of his or her appointment and until his or her successor is appointed.
RCW 42.52.310 (2) (7)

LEGISLATIVE ETHICS BOARD DUTIES AND AUTHORITY

The Board's activities fall into four broad categories:

(1) Training and education

The Board develops and distributes educational materials, and ensures that legislators and employees are receiving training in ethics issues. Board staff provides informal advice to ethics inquiries, based on the ethics statutes and prior Board opinions.

(2) Rules and policies

The Board has authority to adopt its own rules of procedure, and has done so. The Board has also issued substantive rules interpreting the prohibitions on use of state facilities for campaign or personal purposes.

(3) Advisory Opinions

Either in response to a request, or on its own motion, the Board has authority to publish formal written advisory opinions addressing whether or not particular fact situations involve unethical conduct.

(4) Complaint proceedings

The Board can respond to signed complaints from any person, or can initiate complaints on its own motion. The Board can only act on complaints involving conduct that falls under the provisions of the ethics act and related legislative rules.

If the Board finds a violation, it may impose penalties, including the amount of any direct damages to the state, and a civil penalty up to $5,000 per violation or three times the value of the item involved in the violation, whichever is greater.

METHOD OF OPERATION

Meetings

The Board usually meets on a monthly basis. The Board's proceedings are open to the public, except for the preliminary consideration of complaints.

Hearings

If the Board determines that there is "reasonable cause" to believe that a violation has been committed in a particular case, the matter may proceed to a formal public hearing.

Staff

The Board has one staff who serves as administrator and legal counsel. Additional investigative and counsel staff have been utilized on a temporary basis when needed for complaint proceedings.

TOPICAL SUMMARY OF ETHICS IN PUBLIC SERVICE LAW CHAPTER 42.52 RCW

I. STATEMENT OF ETHICS POLICY (.900)

II. CONFLICT OF INTEREST

A. Activities in conflict with proper discharge of official duties (.020)
B. Financial interests in private transactions with the state (.030)
C. Assisting another person in transactions with the state (.040)
D. Investments by those with authority over state investments (.190)

III. IMPROPER USE OF POSITION OR PUBLIC RESOURCES

A. Confidential information: use for private benefit; improper disclosure or failure to disclose public information (.050)
B. Special privileges obtained or granted for self or others (.070)
C. Use of public employees, money, or property for private gain or personal purposes (.160)
D. Use of public resources for election campaigns for persons or ballot measures (.180)

IV. RESTRICTIONS ON COMPENSATION

A. Employment after public service (.080)
B. Compensation for official duties only from official sources (.110)
C. Compensation for outside activities (.120)
D. Honoraria (.130)

V. ACCEPTANCE OF GIFTS AND PAYMENTS FOR EXPENSES

A. "Gift" defined; exclusions listed (.010)
B. "Reasonable expectation" rule: nothing of value that would be reasonably expected to influence judgement or action (.140)
C. General limitation and guidelines on gifts; items presumed not to influence listed (.150)

VI. CONSIDERATION OF OTHER RESPONSIBILITIES

A. Ethics law not a bar to providing testimony under oath (.060)
B. Assistance to others that would otherwise be prohibited (.090)
C. Recognizing constitutional principle of citizen legislature (.330)

VII. BOARD AUTHORITY AND PROCEDURES

A. Membership and compensation of Legislative Ethic Board (.310, .550)
B. Authority and duties (.320)
C. Citizen members restricted in political activity (.380)
D. Subpoena authority (.390, .400)
E. Complaints filed and investigated (.410, .420)
F. Public hearings on complaints; use of administrative law judge (.430, .500)
G. Judicial review (.440)
H. Time limit for ethics violations (.540)

VIII. PENALTY PROVISIONS

A. Monetary and other penalties imposed by ethics board (.480)
B. Actions by the Attorney General (.490)
C. Citizen actions to enforce campaign use statute (.460)
D. Rescission of state action (.510)
E. Disciplinary action (.520)
F. Restrictions on agency appearances (.100)
G. Violations by non-state employees (.170, .490, .530)

LEGISLATIVE DECLARATION OF POLICY

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.

Source: RCW 42.52.900

CONFLICTS OF INTEREST AND OUTSIDE COMPENSATION

The ethics law contains a number of specific standards regulating activities outside of state office or employment. The guiding principle is that all legislators and legislative employees are prohibited from having obligations or interests that are in conflict with their official duties, whether or not the outside interest is compensated.

Legislators and employees are specifically precluded from seeking or accepting job offers or compensation from outside sources for performing their official duties.

Detailed standards and procedures are established for contracts between state agencies and legislators or employees. Filing and approval provisions apply to most of such contracts. Any legislator or employee who issues or supervises contracts in the course of his or her official duties is prohibited from having a personal financial interest in those contracts.

The ethics law also contains limits on employment after public service, where that employment creates an unauthorized conflict.

The following questions and answers are intended to provide further detail regarding:

- special rules for legislative part-time employment;
- lobbying by legislators and employees;
- contracts with state agencies; and
- honoraria.

Part-time employment by legislators

The State Ethics Act recognizes that legislators are intended by constitutional design to have part-time official duties, and are expected to have outside sources of compensation. No such expectation applies to legislative employees. The current Ethics Board opinions have adopted the long-standing interpretations of the predecessor House and Senate boards, as well as prior legislative rules, related to this concept.

What is the general and primary rule for a legislative conflict of interest?

A legislator does not have an interest which is in conflict with the proper discharge of legislative duties if no benefit or detriment accrues to the legislator as a member of a business, profession, occupation, or group, to a greater extent than to any other member of such business, profession, occupation or group.

Is the purpose of outside compensation restricted?

Yes. A legislator shall not accept any remuneration other than legislative compensation for "legislative advice or assistance."

May an employer reduce a legislator/employee's private compensation by the amount of legislative compensation?

Such an arrangement would be a violation of the ethics law if the legislator is paid for providing legislative services for the employer; or if it could be reasonably inferred that the acceptance of the compensation would influence the legislator in the discharge of duties, or was a reward or gift.

References: RCW 42.52.020
RCW 42.52.110
RCW 42.52.140
RCW 42.52.330

Complaint Opinion 1995 - No. 2

Advisory Opinions 1995 -
Nos. 1, 4, 6, 11 and 16; 1998 - No. 6;
2001 - No. 1

Lobbying by legislators and employees

Is there a restriction on outside employment of legislators that involves lobbying?

Yes, legislators are prohibited from holding the position of executive director or other administrative officer of a trade association or other similar organization which has lobbying as a principal activity.

Can legislators be employed by state or local governments?

Yes, unless the nature of the outside position creates a direct conflict with the office of state legislator. Examples of such conflicts include the positions of state agency director or legislative liaison.

Can legislative employees join organizations which take positions on legislation?

Yes, as long as the employee avoids holding a position with the organization which would involve active lobbying on legislative proposals. For example, many parents of school-age children belong to the Parent-Teacher Association, or Parent-Teacher-Student Association (PTA or PTSA). Such membership is not a conflict with legislative employment, unless the employee holds the position of "legislative representative." However, an employee who performs substantive and policy-related responsibilities in the area of K-12 education

would have a conflict with his duties as a member of a local school board.

What about attendance at rallies?

Many organizations hold "rallies" on the capitol grounds, especially during legislative sessions. Employees are not permitted to attend such rallies during their official time. If the rally occurs during an employee's personal time, the employee can be an observer, but should avoid becoming a participant.

Are employees free to testify at hearings?

Only when it is within their official duties. Testimony by staff on behalf of a legislator is limited to reading a prepared statement with the permission of the committee chair.

References: RCW 42.52.020
RCW 42.52.330

Advisory Opinions 1995 - No. 1; 1998 - No. 6; 1999 - No. 1

Contracts, grants, and employment situations with state agencies

Do the filing and approval requirements apply only to personal service contracts and grants?

No, the law applies to all contracts between legislators or legislative employees and state agencies, including employment situations, property leases, equipment sales, rentals, and other goods and services.

What kind of involvement requires pre-approval?

The keys are whether the legislator or employee has a financial interest in the contract and whether the process was competitive.

Are spouses covered?

Yes. Since Washington is a community property state, legislators and employees have a financial interest when their spouses have employment, a grant or a contract with a state agency.

Are there any exceptions?

Yes, the Board has stated that the following categories of contracts do not require pre-approval:

- contracts of such wide availability that there is effectively no competition among contractors, and no opportunity for favoritism, such as medical examiner contracts with the Department of Labor & Industries;
- contracts where the financial interest in the individual transaction is insignificant, such as

a retail sale of a small item at the posted price; or

- the contracting entity is a corporation or other business entity in which the legislator or legislative employee or his or her spouse has neither a controlling financial interest nor substantial management responsibility over the firm or the particular contract.

Are the filing requirements broader than the pre-approval provisions?

Yes. Even contracts which are awarded based on a competitive bid or proposal must be filed with the Board. The only exceptions to the filing requirement are the exceptions listed above.

Can the Board approve a contract for an employee who has official involvement with award or execution of the contract?

No, the law prohibits a legislator or employee from having a financial interest in a contract that is made by the legislator or employee, or is under his or her supervision. For example, it would be an ethics law violation for the spouse of an employee of the Legislative Service Center to contract to provide computers, if the employee is responsible for awarding or administering the contract.

References: RCW 42.52.030
RCW 42.52.120

Advisory Opinions 1995 - Nos. 9, 12 and 14; 1996 - No. 3; 1997 - No. 1; 2001 - No. 1

Complaint Opinion 1999 - No. 5

Honoraria prohibited

Legislators and legislative employees are prohibited from receiving an honorarium in connection with their official role. An "honorarium" is defined as money or any other thing of value offered for a speech, appearance, article, or similar activity. An honorarium is usually offered as a token of appreciation for a single appearance or writing, and is not the same as compensation under an employment agreement, such as a teaching arrangement. Payment for expenses for a speech or appearance is not within the definition of "honorarium," and can be accepted in most circumstances (see "conference and seminar travel costs" on p. 35).

Speaking or writing on any legislative matter invokes the prohibition on honoraria. The Ethics Board presumes that invitations are issued to the legislator or employee in an official role. To demonstrate that the

honorarium is for purely personal activity, and therefore does not violate the ethics law, there must be a showing that the invitation is issued to the legislator or employee in a strictly personal capacity; that the topic is not related to legislation; and that the organization issuing the invitation is not active in legislative matters.

References: RCW 42.52.130

Advisory Opinion 1998 - No. 4

IMPROPER USE OF OFFICIAL POSITION OR PUBLIC RESOURCES

One of the guiding principles of the ethics law is that to maintain the public trust, persons occupying public positions may not use their positions for personal gain or private advantage, or to provide special privileges or exemptions for anyone else. The only exception is when a legislator or legislative employee must use a privilege or exemption not available to the general public to perform duties within the scope of his or her employment.

The use of public property, personnel, equipment, and other resources for personal gain or benefit is generally prohibited. Some narrow exceptions have been established.

Use of public facilities for individual election campaigns is strictly prohibited. Use of public facilities to support or oppose a ballot measure is also prohibited, with limited exceptions. Supervisors and officers are liable if they knowingly permit the use of public facilities for campaigns.

Unauthorized disclosure of confidential information is prohibited. Likewise, it is an ethics violation to refuse to disclose public information.

The following questions and answers provide further detail on the limits and exceptions relating to:

- improper use of position;
- use of public resources for private purposes;
- congratulatory letters;
- use of resources for campaign purposes, including specific sections on newsletters; ballot measures; press releases and mailing restrictions; and
- use of confidential information.

Personal use of resources
Improper use of position

Legislators and legislative employees must be especially careful in dealing with state agencies. The ethics board has stated that legislators may not use "improper means" to influence a state agency, board or commission.

What is meant by the phrase "improper means?"

Communications to state or local agencies that seek special favors or privileges, or which agency officials or employees might reasonably perceive as threatening.

What are some examples of threatening communications?

The following are examples of communications that would carry a high risk for being perceived as threatening:

- a communication in which the agency official or employee is reminded that the legislator chairs a committee having jurisdiction over the agency's programs.
- a legislator's persistent communications on behalf of a constituent or other party.
- a communication stressing that favorable agency action is important to the legislator or that the legislator will be disappointed if a favorable decision is not made, especially when the communication is from legislative leaders or committee chairs.

What about personal issues?

These cautions apply even more forcefully if the legislator or legislative employee has a private, personal interest in a matter with a state agency.
In such circumstances, the legislator or employee should make every effort to ensure that he or she is not given any special recognition or treatment due to legislative position. Whenever possible, it is best to avoid personal contact. If personal contact is necessary, it should never involve the agency's legislative liaison. These cautions refer to matters that are personal to the legislator or employee; constituent matters often necessarily involve personal contact with the legislative liaison.

Are these restrictions limited to communications with government agencies?

No. Legislators and staff may not use their position or public resources to become an advocate for a constituent involved in a dispute unless a government official or government office is involved or the constituent is seeking assistance on legislative issues.

References: RCW 42.52.070
RCW 42.52.160

Advisory Opinion 1995 - No. 1
Advisory Opinion 1995 - No. 17
Advisory Opinion 2006 - No. 1

Complaint Opinion 1999 - Nos. 1,2
Complaint Opinion 2003 - No. 1
Complaint Opinion 2005 - No. 7
Complaint Opinion 2006 - No. 1
Complaint Opinion 2006 - No. 4

Personal use of resources
Use for private purposes

Legislators and legislative employees are expected to use good judgment in protecting public resources and using the time, facilities and equipment entrusted to them for public purposes. Limited exceptions for personal use are provided when the use is incidental, infrequent, involves little or no cost to the state, does not interfere with performance of official duties, and is reasonable in light of legitimate needs and expectations of the public work force.

Certain personal uses are strictly prohibited, regardless of cost or time involved:

(1) any campaign related activity;

(2) use of any property which has been removed from state facilities;

(3) use of any consumables, such as paper, envelopes or spare parts; and

(4) any use for a private business activity.

Special rules have also been established for use of telecommunication and computer equipment:

(1) local telephone calls are permitted under the general rules, but any personal toll calls must be placed with a personal credit card or charged to a personal account;

(2) personal electronic mail messages are treated under the same general rule as local telephone calls, since they do not produce a usage charge to the legislature;

(3) Internet access is generally subject to the same principles, but users may not send a message to a personal list-serve or other "posting," nor may users access sites which constitute an inherent mis-use of state equipment, such as obscene or pornographic sites; and

(4) no personal software or other computer products may be loaded, downloaded, or attached to legislative computers.

References: RCW 42.52.160
Board Rule 3

Ethics Complaints 1996 - No. 1; 1997 - No. 1; 1998 - Nos. 1 and 2; 2001 - No. 1: 2003 - Nos. 5,6,7, 8 and 9; 2005 - Nos. 1 and 2; 2006 - No. 8

Use of resources
Congratulatory letters

Many legislators send letters of congratulation to constituents who have achieved some noteworthy distinction. The ethics law limits such letters to awards or honors of extraordinary distinction,
defined as:

> "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."

The ethics board has specifically advised that birthdays and regular graduations are not normally extraordinary achievements.

Factors to consider in evaluating whether a particular award fits the statutory criteria are: level of the award (national, state, or local); frequency or number of recipients; whether it is an "outside" award or simply an employment incentive recognition.

These restrictions apply only to letters prepared and/or mailed at public expense. Members are free to congratulate whomever they wish by personal mail, phone calls, etc.

References: RCW 42.52.160
RCW 42.52.185

Advisory Opinions 1995 - No. 17;
1996 - No. 7; 2000 - No. 5; 2005 - No. 1

Use of resources
Campaign assistance generally

The ethics law prohibits direct or indirect use of legislative facilities to assist the campaign of a person for elective office, or to assist a ballot measure campaign. "Normal and regular conduct" is exempt from the prohibition. (Ballot measures have additional specific exceptions, and are separately summarized.)

The Ethics Board has adopted a "zero-tolerance" policy for campaign-related personal use of legislative facilities, even if such usage does not actually assist a campaign.

The Board has stated a general guideline in determining whether particular conduct is "normal and regular." Contact with constituents, using state resources, which is in response to their requests for legislative information and/or assistance is generally permitted. Contact with constituents which is initiated by members and staff is subject to time, place, content, and method restrictions, depending on:
(1) proximity to election; (2) relevance to legislative issues; (3) references to voting; and (4) tone and tenor of the communication.

The following are some specific examples which demonstrate the application of these factors. (Note: newsletters are separately considered as a special case.)

Are there any particular words or phrases which would "taint" a legislative publication?
Yes. In analyzing press releases, the Board stated that language which is pejorative toward other members or impugns the character of other members or groups of members is suspect. Language that specifically refers to "candidates" or "campaigns" is normally considered a violation, regardless of context.

Do timing and distribution make a difference?
Yes. The Board determined that language which could be a violation if published in other circumstances, was permissible where it was developed specifically for use during session by members in partisan debate.

In another example, the Board found that it would not be a violation for a member to use legislatively prepared material in connection with doorbelling, if the doorbelling was conducted on a legislative, rather than a campaign basis. The Board conditioned its finding on the assumption that the material was initially prepared for a legitimate legislative purpose, and that no such use would take place after June 30 of an election year.

Are there any restrictions on campaign activities apart from use of legislative facilities?
Members and staff are free to engage in any campaign activity they wish as long as it does not involve legislative time or equipment. However, it is a violation to solicit contributions to legislative candidates from legislative employees, regardless of time or place.

Does the definition of "facilities" extend to the entire capitol campus?
No. Hallways and other public use areas outside the offices and legislative chambers are not covered by the prohibition, if they are available to members of the public for such use. For example, the capitol steps

are often used for political rallies without violating the prohibition.

Is the State Seal a "facility" as defined by the State Ethics Act?

No, the Seal is not a "facility" for purposes of applying the Act's prohibition on the use of facilities for campaign purposes **but** use of the Seal in a political campaign is **prohibited** by RCW 43.04. The Legislature has specifically directed enforcement of this statute to the Office of the Secretary of State. Misuse of the Seal can result in criminal penalties.

Are legislative phone numbers and addresses "facilities" as defined by the Act?

Yes. These are facilities for purposes of applying the Act's prohibition on the use of facilities for campaign purposes.

May a legislator's legislative press releases or legislative newsletters be posted on her/his campaign web site?

No. Such posting would violate the prohibition on the use of the facilities of an agency (public resources) to assist a campaign

May a legislator post legislative press releases or legislative newsletters on her/his private non-campaign web site?

Yes, provided these are removed from the site no later than June 30 in the legislator's election year.

Is attending fundraisers on a complimentary basis prohibited?

No, it is part of the normal and regular conduct expectation for legislators to appear at party and legislative events on a complimentary basis. Payment for such attendance by an entity other than the event sponsor would violate the gift laws, however. Members are cautioned that such complimentary attendance may require campaign reporting, under the law or rules of the Public Disclosure Commission. This exemption has not been extended to legislative staff.

What can legislative assistants do about member's schedules?

Legislative assistants are allowed to undertake scheduling responsibilities for members, even when a scheduled event is for a campaign purpose. This includes calling back on the member's behalf to accept an invitation. It also may involve several communications to settle on an appropriate time.

However, when dealing with campaign events, the assistants are limited to scheduling activities only. Planning, organizing, making arrangements, or inviting other participants for campaign events are prohibited activities if they involve public facilities or are done during the LA's work hours.

The authority for assistants to schedule campaign events is limited to only those events to which the legislator was invited, and not those to which the legislator is seeking an invitation.

References: RCW 42.17.750
RCW 42.52.180
RCW 42.52.185

Complaint Opinions 1996 - Nos. 8 and 10; 2000 - No. 7; 2001 - No. 5; 2002 - Nos. 2 and 5; 2003 - No. 10; 2004 - No. 3; 2006 - Nos. 5,6 and 7
Advisory Opinions 1996 - Nos. 2 and 11; 1997 - Nos. 5 and 7; 2000 - No. 2; 2004 - Nos. 1, 2 and 3

Use of resources
Newsletters

One of the methods many legislators use to communicate with their constituents is the mailing of newsletters. The statutory prohibitions on personal and campaign use apply to newsletters, since they are developed, printed, and mailed at legislative expense. The following are some of the most frequently asked questions about newsletter timing and content.

When can I mail a newsletter?

Only two newsletters can be mailed during the twelve months preceding a legislator's election (the twelve months are specified as December 1 through November 30). One of the newsletters has to be in the mail within thirty days of the start of the legislative session. The other has to be mailed no later than sixty days after the end of the regular session.

Can I use different content for different groups?

During the twelve-month restriction period, the content of each of the mailings has to be identical. If one version of a newsletter highlighted senior citizen issues, and another focused on business matters, that would count as two newsletters, even if they were mailed to different constituents.

What is a "newsletter?"

The ethics board has adopted the dictionary definition: as a "report issued by a firm, governmental agency, etc. to keep employees or the public informed of pertinent matters," or "a printed sheet . . . containing news or information of current interest to or bearing upon the interests of a special group" (Webster's New World Dictionary, College Edition; Webster's Third New International Dictionary). A legislative newsletter typically consists of a report to constituents on pertinent legislative matters, and may include information about opportunities to communicate with the legislator on legislative issues.

Can a newsletter include a questionnaire?

Yes, but only within specified limits:

(1) During an election year, questionnaires can only be included in the first newsletter.

(2) During the election year, If the questions include a check-off for the constituent to request further information, a response is only appropriate if the questions are limited to specific bills or narrow topics rather than broad categories ("death penalty" rather than "crime;" "class size" rather than "education").

(3) Questionnaires cannot be designed to obtain demographic information, such as partisan affiliation, for use in a campaign contact list.

Can a newsletter include a "government guide?"

Yes. A newsletter can include a directory of addresses and phone numbers for government officials, commonly called a "government guide."

May a legislator include non-government entities in what is commonly referred to as a "government guide" or "public resource guide?"

Yes. The inclusion of the names, addresses, phone numbers and/or fax numbers, only, of organizations which provide some sort of educational or social service, would not violate the State Ethics Act. It would, however, be an unlawful promotion of a non-government entity if a particular provider in a class of providers was selectively included or excluded.

What about partisan statements and their timing?

The expected and authorized content of newsletters includes a report to constituents on issues that the legislator will address or has been addressing in a legislative session. Since the members are elected on a partisan basis, it is acceptable to express their positions in partisan terms. It is not proper to include partisan material unrelated to state legislative issues and highly partisan material is subject to increasing scrutiny as an election draws nearer.

Do personal references present a problem?

Newsletters cannot include personal promotional material, since it could be interpreted as serving a campaign rather than a legislative purpose. Personal slogans, such as "your voice in Olympia," generally fall into this category.

Negative references to other members are also prohibited, although it is proper to criticize the opposing caucus' actions or agenda.

What about voting records?

It is proper for a legislator to discuss his or her own voting record. However, it is not appropriate to com-

ment on the voting record or stated positions of other members.

Can a newsletter include references to outside groups?

Yes, if an outside group is referenced in connection with a relevant legislative issue. Giving an outside group a "plug," for donations, for example, would be an ethics violation as a use of state resources for private benefit.

What are the Board's guidelines for newsletter comments on ballot measures?

- *Explanatory material* is always permitted.
- *Extensive direct comment on the merits* is not permitted, unless the subject matter was a bill in the preceding session.
- *Personal advocacy statements* on ballot measures are not permitted unless they are de minimis and there was a bill of the same substance in the preceding session.

  Short sentence or paragraph is usually de minimis;

  Entire newsletter, or even most of a page, devoted to advocacy or opposition would be a violation, unless the statements relate to the legislator's action or position on the same subject during the preceding session.
- *Voting record and legislative actions* on an initiative, referendum, or bill of the same substance in the preceding session may be discussed.
- *Appeals for votes* are prohibited.

  Direct appeals are always prohibited;

  Indirect appeals (like "You will have an opportunity to vote . . .") are prohibited if combined with comment about the merits of a ballot measure.
- Fact of being a ballot measure may be stated.

References: RCW 42.52.160
RCW 42.52.180
RCW 42.52.185

Complaint Opinions 1996 - Nos. 2, 3, 7 and 9; 1998 - Nos. 4,5; and 1999 - Nos. 3,4

Advisory Opinions 1995 - Nos. 17 and 19; 1996 - Nos. 4 and 12; 1997 - No. 8; and 2000 - No. 1

Use of resources
Comment on ballot measures

The ethics law prohibits use of legislative facilities to support or oppose a candidate, or a ballot measure. Because ballot measures are matters of public policy, public officials, including legislators, are provided several exceptions to the prohibition.
The exceptions are:

(1) action taken by a legislative body at an open meeting;

(2) a statement at an open press conference or in response to a specific inquiry;

(3) activities that are part of the normal and regular conduct of the office or agency; and

(4) de minimis use of public facilities incidental to the preparation or delivery of permissible communications.

The most common questions and problems with respect to these exceptions are summarized below. Nothing prevents a legislator or legislative employee, on his or her own time and without any use of legislative staff or other public resources, from making statements or otherwise supporting or opposing ballot propositions.

What is a "ballot proposition" or "measure?"
The ethics board uses the definition from the public disclosure law:

> any state or local government measure that is proposed to be submitted to the voters . . . from and after the time when the proposition has been initially filed with the appropriate election officer of that constituency prior to its circulation for signatures.

Under this definition, a state measure for which voter signatures are required to qualify it for the ballot will become a "ballot proposition" when the measure is filed with the secretary of state. A measure referred to the voters by the legislature, either as a referendum or proposed constitutional amendment, will become a "ballot proposition" when it passes the legislature. An initiative to the legislature is also treated as a "ballot proposition" when it is filed with the secretary of state. However, during a legislative session, it is within the "normal and regular conduct" of legislative office for legislators to discuss an initiative to the legislature, or to argue for or against it, as they would any other legislative measure. It then becomes a "ballot measure" again after the session, unless it has been enacted by the legislature.

What type of activities would violate the law against assisting a ballot campaign?

Activities using public resources that directly assist a campaign for or against a ballot proposition, such as telephone calls to the campaign to assist it, strategy meetings in a legislative office, and advertising campaign information in a newsletter, are strictly prohibited. None of the exceptions to the prohibition, such as the exception for statements made at an open press conference, may be used to actively and directly assist the campaign. In other words, although a legislator may make responsive statements about a ballot proposition at an open press conference, the legislator may not use state resources to conduct an open press conference to launch or otherwise actively and directly assist the campaign.

Does the exception for action in an open meeting apply to the legislature?

Local government bodies such as city councils often take a position on ballot measures which affect their jurisdiction. This exception only applies to the legislature when a resolution regarding a ballot measure is being considered by the House or Senate. Such activity could not occur during the interim between sessions.

How broad is the exception for replies to direct inquiries?

This provision permits legislators to specifically state their views in response to questions. As noted below, they cannot go beyond their own views to urge a particular action by other voters, however. Legislative assistants can provide their member's positions to people who inquire, if asked, but should avoid getting into discussion or argument with the inquirer about the merits of the measure.

What about Voters' Pamphlet arguments?

Legislators serve on committees appointed to write arguments for the voters pamphlet. The creation of these committees is required by statute and legislators appointed to them are authorized to use office equipment and legislative staff to write the voter pamphlet arguments.

Are there other examples of direct appeals for votes?

No. The use of public resources to make direct appeals to either vote for or against a ballot proposition goes beyond the scope of the exceptions and is therefore prohibited. Statements such as "Vote for Initiative 100" or "Support our children and vote against Referendum 100" would be violations.

Similarly, it is a violation to include an indirect appeal for votes in legislative material. Here is an example of an indirect appeal: "You will have an opportunity to vote on this measure in November. I am confident you will reject it." In describing ballot measures in

newsletters or other legislative material, legislators are required to choose between: "(1) encouraging voting and including only a balanced objective description of a measure; and (2) including direct comment on the merits of the proposal with no reference to voting on it, other than the fact that the bill is now a ballot measure" (Advisory Opinion 1997 - No. 8).

Does that mean I can't explain why a ballot measure is good or bad in a newsletter?

No, it is proper to discuss the merits of a proposal within the context of a larger message if the same subject matter was a bill in the preceding session. It would not be proper to devote an entire newsletter, or even a significant portion of a newsletter, to advocacy for or against a ballot issue.

The general rule is that legislators will be given wide latitude to use public resources to respond to questions on ballot propositions, but little leeway to use public resources to initiate comments themselves. Also, less restrictive standards apply to comments initiated on the substance of ballot propositions that were before the legislature than on initiatives to the people.

What can the staff do to assist legislators in ballot measure comments?

To the extent legislators are permitted to engage in activities under the exceptions, it is also proper for legislative employees to assist legislators to engage in those activities.

What does the "normal and regular conduct" exception include?

The "normal and regular conduct" exception allows legislative staff to conduct their typical analysis and explanation of ballot propositions. It is normal and regular for legislative staff to analyze and explain the content of a ballot proposition, as well as the arguments for and against it. It is also normal and regular to explain and analyze the legal and policy options that the legislature might consider if the ballot proposition is approved or disapproved by the voters. However, if information is presented in a way that suggests it is intended to solicit support for or opposition to a ballot proposition (if it is one-sided, for example), the scope of the exception has been exceeded and a violation has occurred.

Can legislators use state resources to prepare a "guest editorial" on a ballot measure?

Not if It would be an advocacy or opposition editorial. If a legislator's "guest" editorial is a factual explanation of a ballot proposition and not an argument for or against it, then the legislator could use legislative staff and equipment to prepare it. However, if the editorial is an advocacy piece or includes a direct appeal for votes or campaign assistance, then, legislative staff or equipment should not be used in its preparation.

References: RCW 42.52.180
RCW 42.52.185

Ethics Board Rule 2

Advisory Opinions 1995 - No. 18; 1996 - No. 11; 1997 - Nos. 5 and 9

Use of resources
Press releases

What criteria must a proposed press release meet before it is considered part of the "normal and regular conduct" of a legislative office?
Press releases may issue if they meet the tests of timeliness; proximity to election; relevance; source of intitial statement (if a responsive release); and tone and tenor.

Do these tests apply equally before and after June 30 in a legislator's election year?
No. The analysis is much more strict after June 30. Press releases would normally be prohibited after June 30 because of "proximity of election." However, a proposed release about a relevant and emergent issue may overcome the "proximity" problem. Unless there is some relevant and emergent legislative issue which cannot be left unaddressed until after the election, a release would not be proper. Examples of such highly relevant and emergent issues which would support a release after June 30 are the Governor's call for an immediate special session or a natural disaster affecting a legislator's district.

References: Advisory Opinions 1996 - No. 11; 2000 - No. 4

Use of resources
Mailing restrictions

Beginning with the passage of Initiative 134 in 1992, legislators have been restricted in mail sent out at state expense during the twelve month period preceding the end of their term. Enforcement of this statute was assigned to the Legislative Ethics Board by passage of the 1994 ethics law. The meaning of this section has proven to be one of the most frequently questioned. This section was also the source of the only monetary penalty imposed by the Board in its first three years of operation.

The following are the most frequently asked questions about this statute:

When are mailing restrictions in effect?

Beginning December 1 preceding a state legislator's election to office and continuing through November 30.

Are all legislators affected?

No, only those whose terms are ending, or those who are "candidates" as defined by RCW 42.17.020 making them candidates for re-election. After the filing date, a member who is not a candidate is no longer covered by the restriction.

Do the restrictions apply only to "mass mailings" like newsletters?

No. The law prohibits the mailing of any "letter, newsletter, brochure, or other piece of literature" at state expense during the restriction period, unless the mailing fits a specified exception.

What about electronic transmission?

Electronic mail and facsimile transmissions are also restricted. However, telephone calls do not count as mail.

What are the exceptions?

(1) Two newsletters, one no later than thirty days after the start of the legislative session; and the other no later than sixty days after the close of the regular session.

(2) Letters to individual constituents who have contacted the legislator about a subject matter to which the legislator responds.

(3) Letters to constituents who hold a governmental office with jurisdiction over the subject matter of the letter.

(4) Congratulatory letters for awards or honors of extraordinary distinction (see page 16 for a detailed discussion of this exception).

(5) Letters to persons who are not constituents, provided that such letters meet the policies of the House of Representatives and Senate regarding out-of-district mailings.

Can legislators use standardized responses?

Yes, with conditions. If a member receives a large number of letters on the same topic, it is perfectly proper to use a standard text response. The response must be tailored to the specific subject of the constituent's letter, however. Identical letters which address broad topics are considered "newsletters."

Also, in order to be considered as individual responses, each letter must be addressed to a particular person, with that person's name in the salutation.

What is a "contact?"

Legislators are authorized to send responses to constituents who have contacted them. Contacts include any communication which creates a normal expec-

tation of a response. Examples are letters, telephone calls, hotline messages, electronic mail messages, and office visits.

What about town meetings?

Mere attendance at a town meeting is not considered sufficient contact. If a constituent at such a meeting makes a verbal or written request for information, then the legislator may respond.

Is returning a questionnaire a "contact?"

No. In order to be considered a "contact" for the purpose of the exception, the constituent would need to check a box requesting information, or write in a comment.

What about multiple responses or "updates?"

The general rule is that one contact is sufficient to authorize one letter in response. Periodic updates are permitted if the constituent has requested continuing information and the updates are individually tailored to the subject matter which the constituent requested.

References: RCW 42.52.185

Complaint Opinion 1996 - No. 9

Advisory Opinions 1995 - Nos. 17 and 19; 1996 - Nos. 4, 7, and 12; 1997 - Nos. 3 and 12; 2004 - No. 3

Use of resources
Fund raising

May a legislator use state facilities to raise funds for charities?

Generally not. Certain "public benefit" uses may be identified by the House or Senate when there is a finding that the use complies with the following criteria: the use may not interfere with the performance of duties; it must be infrequent and incidental; and it must be performed at no cost or de minimis cost. The Board has acknowledged that workplace projects which meet all these criteria, such as assistance to the "legislative family" in time of need, Habitat for Humanity, and the United Fund drive, would be permissible, narrow exceptions to the prohibition. In each of these cases the Board has noted that at some point there has been an institutional decision to proceed and that all requirements have been met and that legislators and staff are free to participate, or not.

Are there any restrictions on who a legislator or legislative employee may solicit, regardless of whether state facilities are used?

Yes. Lobbyists or lobbyist employers may not be solicited for any thing, including charities or good causes.

The perception is that refusal to participate could have negative consequences in terms of access and good will. Exceptions have been granted by the legislature: the legislative renovation project, the capitol furnishings preservation committee, a specific international trade account hosting national conferences, tourism and the oral history program.

References: RCW 42.52.070
RCW 42.52.140
RCW 42.52.160
RCW 42.52.800
Advisory Opinion 2000 - No. 1
RCW 42.52.801
RCW 42.52.802
RCW 42.52.810
RCW 42.52.820

Use of resources
Confidential Information

Is release of confidential information an ethics violation?

Yes, legislators and employees have an obligation to keep confidential that information which is not available to the general public upon request, as well as information which the law requires to be kept confidential.

What legislative information is "available to the general public upon request?"

For the legislature, "public information" includes: legislative records (which are defined as correspondence or records made by or submitted to legislative committees or subcommittees); financial records; personnel leave, travel, and payroll records; and other records designated by the House of Representatives or the Senate as public.

Is there a penalty for withholding public information?

Yes, it is an ethics violation to knowingly refuse to provide public information. The application of the public records law to legislative records is not always clear. If you receive such a request, you should immediately consult with the Secretary of the Senate or Chief Clerk of the House.

How are telephone records handled?

The volume and cost of telephone calls are part of the legislature's financial records, and are therefore subject to public disclosure. To protect the privacy of called parties, the telephone numbers called are not public information. The State Auditor checks legislative telephone records, and retains a file of those numbers which are found to be improper personal or campaign

calls. Such numbers would then be subject to public disclosure.

Is bill drafting request information confidential?

Yes, if the requester asks for a confidential draft, the unauthorized disclosure of the substance of the request or the identity of the requester is a violation of the State Ethics Act. Disclosure of otherwise confidential drafting requests is permissible to persons entitled by law or formal written legislative policy to receive information about confidential drafting requests. Limited disclosure to co-workers and administrative supervisors is permissible, but only to the extent necessary for supervision and workload decisions, or to obtain needed expertise. No disclosure is authorized to other legislators without permission of the person making the drafting request.

Are there limits on information which a legislator or employee might use for outside or subsequent employment?

Yes. A legislator or employee may not accept a job or participate in any business or professional activities which would require or induce him or her to disclose confidential information. Personal gain or benefit from the disclosure of confidential information, whether by the legislator or employee or another person, is also prohibited.

References:
RCW 40.14.100
RCW 42.17.020(36)
RCW 42.52.010(6)
RCW 42.52.050

Advisory Opinion 1998 - No. 1
House and Senate telecommunication policies

Complaint Opinions 2003 - Nos. 1 and 10

ACCEPTANCE OF GIFTS AND PAYMENTS FOR EXPENSES

When the ethics law was substantially rewritten in 1994, one of the areas of greatest interest and discussion involved gifts. Between the extremes of "no cup of coffee" and "business as usual," the Ethics Commission recommended, and the legislature passed, a gift provision that incorporates three basic considerations:

(1) gifts that could reasonably be expected to influence legislators or staff in their votes, action or judgement are prohibited; as well as gifts to anyone with authority to purchase goods or services from the donor;

(2) a general threshold of $50 per calendar year either from a single source or a gift from multiple sources is established for gifts other than those which violate the reasonable expectation rule; and

(3) a set of specified exceptions is established, which may be accepted without limit unless the context of the gift changes the presumption.

The following sets of questions are the most frequently asked with respect to meals, entertainment, travel, and educational expenses.

Gifts – Meals Entertainment and Miscellaneous items

Are charity or community events subject to the $50 limit?

No, not if the invitation to attend comes from the charitable, governmental, community or civic organization which is sponsoring the event. Directed admissions to such events by a lobbyist or lobbyist-employer are subject to the gift limits.

What if a lobbyist-employer other than a charitable, governmental, community or civic organization sponsors an entertainment event , and pledges a portion of the proceeds to charity?

In that case the gift law would still apply. Donating a portion of the proceeds does not change the nature of the sponsoring organization.

Are meals subject to the $50 limits?

There is an exemption for infrequent meals related to official business. The Board has interpreted this to mean that the person purchasing the meal must be present, with an expectation that some legislative business will be discussed.

What about receptions and banquets?

There is a specific exception to the $50 limit for hosted receptions, which does not include the business contact provision applied to meals. Banquets, which are typically seated and include a full meal, do not usually fit either exemption. The Board has determined that only two unique banquet-style events could be attended without violation: the Restaurant Association Gala and the AT&T museum night. Banquets do not violate the statute if they fall under the previously described charity or community event exemption.

Is the cost of food provided during a sports event exempt from the gift limit?

No, the gift analysis is applied to the full cost of the "event," which would include the admission price plus food and beverages consumed during the performance or game. If a business meal is hosted separate from the entertainment event, the meal is not subject to the limit.

What are the reporting requirements for food and beverages?

Legislators and staff who file annual financial affairs statements with the Public Disclosure Commission are required to list instances when they receive food and beverage in excess of $50. The reporting requirement applies to all such instances, not just business meals. The value of food and beverage provided for a legislator or employee's guest is attributed to the legislator or employee.

Are legislators and staff permitted to "buy-down" the cost of entertainment events, or other item subject to the gift limit?

Yes. If the recipient pays a portion of the cost of the item, the cost for gift limit purposes is reduced by the amount paid. Recipients should be aware that the Public Disclosure Commission requires the donors in such situations to report the full cost, however.

Can legislators or employees solicit donations of food and beverage for legislative events?

No, not if the person being solicited is a lobbyist or lobbyist-employer. This is a complete prohibition, regardless of value. Totally unsolicited gifts for such purposes are subject to the gift limits.

Are door prizes acceptable?

There is no formal opinion or specific statute on this question. It is best to follow a conservative guideline, since door prizes are notoriously subject to manipulation: door prizes or similar complimentary gifts at events which are attended as a legislator or employee should not be accepted if the value is greater than $50. Purchased raffle or lottery tickets are not usually subject to the same manipulation, so they would not ordinarily present a problem.

What about group discounts?

The ethics law exempts discounts available to "broad-based groups." The Board has stated that in order to meet this test, the discount or waiver must be available to some broad category of occupation or employee group. A listing of particular positions does not qualify, even if the list includes a large number of persons.

Is there an exemption for publications?

Yes, publications and subscriptions related to official duties are normally exempt from the gift limits. However, such items cannot be provided by lobbyists or lobbyist-employers unless they produce the material.

What about campaign contributions?

They are not "gifts." Acceptance and reporting of a permissible campaign contribution is not probative of any alleged violation of the Ethics Act. However, such contributions are subject to a "quid pro quo" analysis and the test is whether something specific is offered in exchange for something specific.

References: RCW 42.52.010(10)
RCW 42.52.140
RCW 42.52.150

Complaint Opinion 2001 - No. 4
Complaint Opinion 2002 - No. 1

Advisory Opinions 1995 - Nos. 3, 5 and 13; 1996 - Nos. 2, 10, 13 and 15; 1997 - Nos. 6 and 10; 1998 - Nos. 2 and 5; 2000 - No. 3

Gifts — Conference and Seminar Travel costs

The definition of "gift" specifically excludes reasonable expenses in connection with a speech, presentation, appearance, or trade mission in an official capacity. Also excluded are enrollment and course fees, as well as reasonable expenses, for attendance at seminars and educational programs sponsored by governmental or nonprofit professional, education, trade, or charitable associations or institutions.

"Reasonable expenses" means travel, lodging, and subsistence expenses incurred the day before through the day after the event.

Are legislative "tours" within the exception?

Tours, or other visits to acquaint legislators and staff with local conditions, meet the definition of an official appearance when they are structured to provide legislators and employees information to assist them in performing tasks appropriate to their positions. Such events should be approved by the Secretary of the Senate or Chief Clerk of the House of Representatives.

Caution should be exercised with respect to tours which involve significant expense; costs that are not reasonably necessary for the educational aspect of the tour; or recreational activities.

Can assistance for seminar attendance be solicited?

Only from persons who are not lobbyists or lobbyist-employers. It is not a violation to ask the sponsor of a conference or seminar if there is a discount available to legislators or legislative employees.

Are there limits on seminar activities that can be complimentary?

Yes. The gift limits apply to activities which are not included in the basic conference fee. For example, if other attendees would pay $75 extra to participate in a golf tournament, it would be a violation for a legislator or employee to play on a complimentary basis.

What if the sponsor wants to pay for spouse travel and lodging?

Such a payment would ordinarily be an ethics violation, because there is no educational or official purpose being served. The spouse's travel could be considered separately if there is an independent business, family, or social relationship between the spouse and the donor.

References: RCW 42.52.010(10)
RCW 42.52.140
RCW 42.52.150

Advisory Opinions 1995 - Nos. 2, 10, 15 and 17; 1996 - Nos. 1, 8, and 9; 2002 - No. 1

RCW SECTION/BOARD OPINION TABLE

"C" indicates a Complaint Opinion
"A" indicates an Advisory Opinion

42.52.010 Definitions.

C 1995 - No. 2 (impact of section generally)
C 1995 - No. 2 (subsection (19), transaction involving the state)
A 1995 - Nos. 9, 12 (subsection (4), beneficial interest)
A 1998 - No. 1 (subsection (6), confidential information)
A 1995 - Nos. 2, 10, 15; 1996 - Nos. 1, 2, 8, 9, 10 (subsection (10), gifts); 2002 - No. 1
A 1998 - No. 11 (subsection (11), honoraria)
A 1995 - No. 10 (subsection (16-17), officer and employee)

42.52.020 Activities incompatible with public duties.

C 1995 - Nos. 1, 2, 4
C 1999 - No. 5
C 2000 - Nos. 2, 3, 4, 5
C 2005 - Nos. 5, 6
C 2006 - No. 3
A 1995 - Nos. 1, 4, 6, 7, 16
A 1996 - No. 5
A 1998 - No. 6
A 1999 - No. 1
A 2001 - No. 1

42.52.030 Financial interests in transactions.

C 1995 - No. 2
A 1995 - Nos. 6, 11
A 1997 - No. 1

42.52.040 Assisting in transactions.

C 1995 - Nos. 2, 4
C 2005 - No. 6

42.52.050 Confidential information.

C 1996 - No. 1
A 1998 - No. 1
C 2003 - No. 2
C 2003 - No. 10
C 2005 - No. 6

42.52.070 Special privileges.

C 1995 - Nos. 1, 4
C 1996 - No. 1
C 1999 - Nos. 1, 2
C 2001 - No. 4
C 2006 - Nos. 1, 3, 4

A 1995 - Nos. 1, 7, 17
A 1996 - Nos. 5, 11
A 1997 - No. 6
A 1998 - No. 5
A 2006 - No. 1

42.52.110 Compensation for official duties or nonperformance.

C 1995 - Nos. 2, 4
A 1995 - Nos. 1, 2, 11
A 1996 - No. 9
A 1998 - No. 4

42.52.120 Compensation for outside activities.

C 1995 - 4
C 1999 - No. 5
A 1995 - Nos. 2, 6, 9, 11, 12, 14
A 1996 - Nos. 3, 5
A 1997 - No. 1
A 2001 - No. 1

42.52.130 Honoraria.

A 1998 - No. 4

42.52.140-.150 Gifts.

C 1995 - Nos. 2, 4
C 1999 - Nos. 1, 2
C 2001 - No. 4
C 2002 - No. 1
A 1995 - Nos. 3, 10, 13
A 1996 - Nos. 1, 2, 8, 10, 13, 15
A 1997 - Nos. 6, 10
A 1998 - Nos. 2, 5

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

C 1996 - No. 1
C 1997 - No. 1
C 1998 - Nos. 1, 2
C 2001 - No. 1
C 2003 - No. 1
C 2005 - Nos. 1, 2
C 2006 - Nos. 1, 4, 8
A 1995 - Nos. 8, 17
A 1996 - Nos. 5, 11
A 2006 - No. 1

42.52.170 Giving a thing of economic value in violation of other sections.

C 1995 - No. 4

42.52.180 Use of public resources for political campaigns.

C 1996 - Nos. 1, 2, 3, 7, 8, 9, 10
C 1998 - No. 1
C 2002 - No. 2
C 2003 - No. 10
C 2006 - Nos. 2, 5, 6, 7, 9
A 1995 - Nos. 17, 18
A 1996 - No. 11
A 1997 - Nos. 2, 5, 7, 8, 9, 12
A 2004 - No. 1
A 2004 - No. 2, 3

42.52.185 Restrictions on mailings by legislators (formerly 42.17.132).

C 1996 - Nos. 2, 3, 7, 9, 10
C 2000 - No. 1
A 1995 - No. 19
A 1996 - Nos. 4, 6, 7, 12
A 1997 - Nos. 2, 3, 12
A 2004 - No. 3
A 2005 - No. 1

42.52.320 Authority of ethics board.

C 1995 - No. 3
C 1996 - Nos. 4, 5, 6
C 2000 - Nos. 6, 7, 8
C 2003 - No. 3
C 2003 - No. 4
C 2003 - No. 11
C 2004 - No. 1
C 2006 - Nos. 10, 11, 13

42.52.330 Interpretation of part-time employment.

C 1995 - No. 2
A 1995 - No. 4
A 1998 - No. 6

42.52.900 Declaration of policy.

C 1995 - Nos. 1, 2, 4
A 1995 - No. 7

Rule 3 – Private Use of State Resources

C 2003 - Nos. 5, 7
C 2003 - Nos. 6, 8, 9

ETHICS IN PUBLIC SERVICE LAW

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.
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.
42.52.800 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 oral history, state library, and archives account.
42.52.810 Solicitation for the legislative international trade account.
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.

ETHICS IN PUBLIC SERVICE LAW

RCW 42.52.010
Definitions.
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 claim, case, or lawsuit.

[2005 c 106 § 1; 1998 c 7 § 1; 1996 c 213 § 1; 1994 c 154 § 101.]

RCW 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.

[1996 c 213 § 2; 1994 c 154 § 102.]

RCW 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 fundraising entity; and may serve as a member of an advisory board, committee, or review panel for a governmental or other nonprofit entity.

[2005 c 106 § 2; 1996 c 213 § 3; 1994 c 154 § 103.]

RCW 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 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.

[1994 c 154 § 104.]

RCW 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.

[2005 c 274 § 292; 1996 c 213 § 4; 1994 c 154 § 105.]

Notes:
Part headings not law -- Effective date -- 2005 c 274: See RCW 42.56.901 and 42.56.902.

RCW 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.

[1994 c 154 § 106.]

RCW 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.

[1994 c 154 § 107.]

RCW 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 legisla-

tive 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.

[1999 c 299 § 3; 1994 c 154 § 108.]

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.

[1994 c 154 § 109.]

RCW 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.

[1994 c 154 § 110; 1969 ex.s. c 234 § 27. Formerly RCW 42.18.270.]

RCW 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.

[1996 c 213 § 5; 1994 c 154 § 111.]

RCW 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.

[1997 c 318 § 1; 1996 c 213 § 6; 1994 c 154 § 112.]

Notes: *Reviser's note:
RCW 42.52.030 was amended by 2005 c 106 § 2, deleting subsection (2).

RCW 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.

[1994 c 154 § 113.]

RCW 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.

[1994 c 154 § 114.]

RCW 42.52.150
Limitations on gifts.

(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.

[2006 c 5 § 3; 2003 1st sp.s. c 23 § 2. Prior: 2003 c 265 § 3; 2003 c 153 § 6; 1998 c 7 § 2; 1994 c 154 § 115.]

Notes: *Reviser's note:
RCW 44.04.270 was recodified as RCW 43.15.050 pursuant to 2006 c 317 § 5.

Findings -- 2006 c 5: "The legislature finds that due to the massive devastation inflicted on the city of New Orleans by hurricane Katrina on August 29, 2005, the city of New Orleans will not be able to meet its obligation to host the national lieutenant governors' association's annual conference scheduled for July 17 through July 19, 2006. As a result of this unfortunate situation, the members of the national lieutenant governors' association officially pressed to have Washington state host the next annual conference in Seattle, Washington, and lieutenant governor Brad Owen has agreed to do so. The legislature further finds, in recognition of the

unprecedented situation created by this natural disaster, the high national visibility of this important event, and due to the limited amount of time remaining for planning and fund-raising, it is necessary to initiate fund-raising activities for this national conference as soon as possible." [2006 c 5 § 1.]

Official conference of the national lieutenant governors' association -- Solicitation of gifts -- 2006 c 5: "When soliciting gifts, grants, or donations solely for the purpose of hosting the 2006 official conference of the national lieutenant governors' association to be held in Seattle, Washington, as approved by the lieutenant governor of the state of Washington, the lieutenant governor, and his or her staff designated by the lieutenant governor for this purpose, are presumed not to be in violation of the solicitation, receipt of gift, and conflict of interests with official duties provisions in chapter 42.52 RCW. For the purposes of this section, the national lieutenant governors' association must include among its membership the Washington state lieutenant governor. The solicitation of gifts, grants, or donations for the purpose of hosting the 2006 lieutenant governors' conference is considered an official duty." [2006 c 5 § 2.]

Effective date -- 2006 c 5: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [February 7, 2006]." [2006 c 5 § 4.]

Findings -- 2003 c 153: See note following RCW 43.330.090.

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.

[1996 c 213 § 7; 1994 c 154 § 116; 1987 c 426 § 3. Formerly RCW 42.18.217.]

RCW 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.

[1994 c 154 § 117; 1987 c 426 § 5; 1969 ex.s. c 234 § 23. Formerly RCW 42.18.230.]

RCW 42.52.180
Use of public resources for political campaigns.

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

(d) 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.

[1995 c 397 § 30; 1994 c 154 § 118.]

Notes:
Effective date -- Captions -- Severability -- 1995 c 397: See RCW 42.17.960 through 42.17.962.

RCW 42.52.185
Restrictions on mailings by legislators.

(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.

(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.

[1997 c 320 § 1; 1995 c 397 § 5; 1993 c 2 § 25 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.132.]

RCW 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.

[1994 c 154 § 119.]

RCW 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.

[2005 c 106 § 3; 1994 c 154 § 120.]

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.

[2005 c 106 § 4.]

RCW 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.

[1994 c 154 § 201.]

RCW 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.

[1994 c 154 § 202.]

Notes: *Reviser's note:
Chapter 44.60 RCW was repealed by 1994 c 154 § 304, effective January 1, 1995.

RCW 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.

[1994 c 154 § 203.]

RCW 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.

[1994 c 154 § 204.]

Notes: *Reviser's note:
Chapter 44.60 RCW was repealed by 1994 c 154 § 304, effective January 1, 1995.

RCW 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.

[1994 c 154 § 205.]

RCW 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.

[2005 c 106 § 5; 1994 c 154 § 206.]

RCW 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.

[1994 c 154 § 207.]

RCW 42.52.380
Political activities of board members.
(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.

[1997 c 11 § 1; 1994 c 154 § 208.]

RCW 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.

[1994 c 154 § 209.]

RCW 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.

[1994 c 154 § 210.]

RCW 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.

[1994 c 154 § 211.]

RCW 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.

[2000 c 211 § 1; 1994 c 154 § 212.]

RCW 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.

[2005 c 116 § 1; 2000 c 211 § 2.]

RCW 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.

[1994 c 154 § 213.]

RCW 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.

[1994 c 154 § 214.]

RCW 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.

[2005 c 116 § 2; 1994 c 154 § 215.]

RCW 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.

[1994 c 154 § 216.]

RCW 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.

[1994 c 154 § 217.]

RCW 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.

[1994 c 154 § 218.]

RCW 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.

[1994 c 154 § 219.]

RCW 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.

[1994 c 154 § 220.]

RCW 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.

[1994 c 154 § 221.]

RCW 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.

[1994 c 154 § 222; 1969 ex.s. c 234 § 26. Formerly RCW 42.18.260.]

RCW 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.

[1994 c 154 § 223.]

RCW 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.

[1994 c 154 § 224.]

RCW 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.

[1994 c 154 § 227.]

42.52.560
Communications from an employee organization or charitable organization — Distribution by state employee.

(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.

[2006 c 217 § 1.]

RCW 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.

[2002 c 167 § 3; 1999 c 343 § 4.]

NOTES:

Findings — Effective date — 2002 c 167:
See notes following RCW 27.48.050.

Findings — Purpose — 1999 c 343:
See note following RCW 27.48.040.

RCW 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.

[2003 c 153 § 5.]

Notes:
Findings -- 2003 c 153: See note following RCW 43.330.090.

RCW 42.52.802
Exemption — Solicitation for oral history, state library, and archives account.

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

[2003 c 164 § 4.]

RCW 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.

[2005 c 274 § 293; 2003 c 265 § 2.]

Notes:
*Reviser's note: RCW 44.04.270 was recodified as RCW 43.15.050 pursuant to 2006 c 317 § 5.

Part headings not law -- Effective date -- 2005 c 274: See RCW 42.56.901 and 42.56.902.

RCW 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.

[2003 1st sp.s. c 23 § 1.]

RCW 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.

[1994 c 154 § 1.]

RCW 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.

[1994 c 154 § 301.]

RCW 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.

[1994 c 154 § 302.]

RCW 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.

[1969 ex.s. c 234 § 33. Formerly RCW 42.18.330.]

RCW 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.

[1994 c 154 § 319.]

RCW 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.

[1994 c 154 § 320.]

BOARD RULES

Rule Number 1: Procedures

A. Meetings

A quorum for transaction of board business shall consist of at least a majority of the members, which shall include not less than a majority of the citizen members.

B. Filing of Complaints

(1) The board shall decide complaints alleging violations of chapter 42.52 RCW and rules adopted under it. Complaints may be filed by any person, personally, or by his or her attorney, or the board. Complaints must be written, on a form prescribed by the board, signed under oath by the complainant or his or her attorney, and directed to the board. A copy of the complaint shall be provided to the respondent by the board staff.

(2) Upon receipt, complaints shall be assigned a reference number. The board shall maintain and keep current for public inspection a status sheet which shall contain with respect to each complaint: Its reference number, the date received by the board, and its present status, including the date of any hearings scheduled. The name of the complainant and the person charged shall be entered on the status sheet following the determination of reasonable cause provided for in section D. of this rule.

C. Investigation of Complaints

(1) Each investigation shall be limited to the alleged facts contained in the complaint.

(2) On each complaint, the staff shall first conduct a jurisdiction investigation for the purpose of determining whether the board has personal and subject-matter jurisdiction. If the staff concludes that the complaint is within the jurisdiction of the board, the staff shall commence an investigation of the allegations. If the staff concludes that the complaint is not within such jurisdiction, the staff shall end the investigation and shall provide the board with the investigative report as required in paragraph (4) of this section.

(3) If the complaint alleges a violation of RCW 42.52.450 by a legislator, the board may provide the complaint to the attorney general for investigation of such allegation by the attorney general. For purpose of such investigation, the attorney general shall serve as the board's staff.

(4) The results of each investigation shall be reduced to writing and included in an investigative report which shall be provided to the board for the purpose of making a determination under section D. of this rule. If the board desires more information, it may require the

staff to investigate further. The results of such additional investigation shall also be reduced to writing and included in an investigative report.

D. Determination of Reasonable Cause

(1) The board shall review the results of the investigation and shall determine whether the complaint is within its jurisdiction and, if so, whether there is reasonable cause to believe that a violation has occurred.

(2) If the board determines that the complaint is not within its jurisdiction or that there is not such reasonable cause, it shall issue an order dismissing the complaint, and shall notify the complainant, the respondent, and news media and others who have requested notice of the board's actions with a copy of the complaint and the board's reasons for dismissal.

(3) If the board determines that the complaint is within its jurisdiction and that there is such reasonable cause, the board shall conduct or provide for conducting a public hearing on the complaint.

E. Notice of Hearing and Respondent's Answer

(1) The board shall provide notice of the public hearing to the complainant, the respondent, and news media and others who have requested notice of the board's actions.

(2) The notice shall include the board's determination of reasonable cause, as well as the date, time and place for the hearing. The notice shall provide that the respondent shall be entitled to appear in person or otherwise, with or without counsel, submit testimony, be fully heard, and cross-examine witnesses. The notice shall provide the respondent with an explanation of the option to request that the hearing be conducted by an administrative law judge if the penalty for the alleged violation may be greater than $500.

(3) The respondent shall be notified of the date of the hearing no later than forty-five days before the hearing date. At the request of the respondent, the board may move the hearing to an earlier date.

(4) The respondent shall file a written answer to the complaint not later than thirty days after service of the notice of hearing . The answer shall include either a request for, or a waiver of the right to request, an administrative law judge if the penalty for the alleged violation may be greater than $500. The board may extend the time for an answer, on a showing of good cause. Absent a showing of good cause, failure to file a written answer shall be deemed an admission to the facts alleged in the complaint and the determination.

F. Conduct of Hearings

(1) From the time the board issues notice of a public hearing on a complaint, the proceeding shall be conducted pursuant to the Administrative Procedures Act (chapter 34.05 RCW), except as modified by chapter 42.52 RCW or these rules. Prior to the issuance of such notice, the board's consideration and disposition of a complaint shall not be considered an adjudicative proceeding. In the case of a conflict between Chapter 34.05 RCW and these procedures rules, the procedures rules adopted by the board shall take precedence.

(2) All hearings conducted under this section are open to the public. The board's deliberations on a complaint that do not occur during a public hearing are confidential. The staff's written investigative results submitted to the board under subsection C(4) are also confidential.

(3) A hearing shall be conducted either by the board or by an administrative law judge. If an administrative law judge participates, either by request of a respondent pursuant to RCW 42.52.500, or by the board on its own initiative, the board may choose to sit with the administrative law judge to hear the matter and to enter a final order at the conclusion of the proceedings; or to have the administrative law judge hear the matter alone and prepare an initial order for review by the board. If an administrative law judge sits with the board, he or she shall rule on procedural and evidentiary matters.

(4) Parties to a complaint proceeding shall be the respondent and the board staff assigned to present the case in support of the complaint pursuant to RCW 42.52.430(2). Parties are subject to the ex parte restrictions stated in RCW 34.05.455.

(5) When a complaint has been filed with the board, neither the complainant, if other than board staff, nor any other person shall have special standing to participate or intervene in the investigation or consideration of the complaint by the board.

(6) Board staff assigned to investigate a complaint pursuant to RCW 42.52.420 may be subsequently assigned as adviser(s) to the board following a determination of reasonable cause, without regard to the restrictions of RCW 34.05.455 and .458.

(7) The board may subpoena witnesses, compel their attendance, administer oaths, take testimony of a persons under oath, and require production for examination of any books, papers, documents or tangible things relating to any matter under investigation or in hearing before the board. The subpoena shall:

(a) Specifically describe the testimony which is sought; and materials to be produced, in the form of designated books, papers, documents or tangible things under control of the witness;

(b) Set forth a reasonable time and place for the taking of testimony and production of the materials, and

(c) Notify the person that if the testimony is not given or designated materials are not produced, the board will apply to the superior court for an appropriate order or other remedy. The subpoena may be personally delivered or sent by certified mail, return receipt requested.

(8) No party shall have the right to issue subpoenas; or to demand interrogatories, depositions, or other forms of discovery, without prior approval by the board.

(9) The board may conduct all or part of the hearing by telephone, television, or other electronic means, if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

(10) The time limits stated in RCW 34.05.419 shall not apply to board complaint proceedings.

(11) Service of notices, filings, pleadings and other papers shall be made personally or by first-class, registered, or certified mail; by electronic telefacsimile transmission and same-day mailing of copies; or by commercial parcel delivery company. Service by mail shall be regarded as completed upon deposit in the United States mail properly stamped and addressed. Service by electronic telefacsimile transmission shall be regarded as completed upon production by the telefacsimile device of confirmation of transmission. Service by commercial parcel delivery shall be regarded as completed upon delivery to the parcel delivery company with charges prepaid.

G. Prehearing Conferences

(1) In any proceeding, the board on its own motion or upon request by a party or their authorized representative, may direct the parties to appear at a specified time and place for a conference to consider:

(a) Simplification of issues;

(b) The necessity of amendments to the hearing notice;

(c) The possibility of obtaining stipulations, admissions of facts and of documents;

(d) Limitation on the number of witnesses; and

(e) Procedural and such other matters as may aid in the disposition of the proceeding.

(2) Prehearing conferences may be presided over by the board or an administrative law judge.

(3) Prehearing conferences may be held at a time and place, or by telephone, television, or other electronic means, as specified by the presiding officer.

(4) Following the prehearing conference, the presiding officer shall issue an order reciting the action taken and decisions made at the conference. If no objection to the order is filed with the presiding officer within seven days after the date the order is mailed, the order shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

H. Stipulation and Settlement

(1) Any matter before the board may be settled by stipulation after completion of the staff investigative report. Settlement of a matter may be concluded by:

(a) Stipulation of facts; or

(b) Stipulation of facts, conclusions and penalty.

(2) A stipulation must be signed by the respondent or his or her representative, and presented to the board. If the stipulation is presented prior to a board determination of reasonable cause, the stipulation shall be received in executive session. If the stipulation is received after the determination of reasonable cause, it shall be received at the public hearing.

(3) The board may accept, reject or modify the proposed stipulation. If the board accepts the stipulation or modifies the stipulation with the agreement of the respondent and enters an order in conformity with the stipulation, the stipulation shall become part of the public record. If the stipulation is rejected by the board, it shall be withdrawn and cannot be used by or against the respondent in any proceeding before the board.

(4) The board may direct staff to commence discussions with the respondent or his or her representative in an effort to achieve a stipulation. Staff has no authority to bind or obligate the board. The stipulation may be presented by staff who may recommend its acceptance, rejection or modification.

I. Final Order in Complaints

(1) If the board in its final decision determines that the person has committed a violation, it shall issue an order stating its findings of fact, conclusions of law, and specifying such enforcement or remedial action as the board finds appropriate. If the board in its final decision determines that the person has not committed a violation, it shall issue an order stating its findings of fact, conclusions of law, and dismissing the complaint.

(2) Notification of the results of final orders in complaint cases shall be accomplished by simultaneous mailing to the complainant and respondent. Other distribution shall occur the following working day.

(3) Following a hearing in which the board participates, the board shall:

(a) Set forth in writing its findings of fact, conclusions of law and decision on the merits of the case; and

(b) Deliver, either in person or by mail, to the respondent, complainant, and news media and others who have requested notice of the board's actions, a copy of the findings of fact, conclusions of law and decision.

(4) Following a hearing in which the board does not participate, the administrative law judge shall:

(a) Set forth written findings of fact, conclusions of law and decision on the merits of the case in an initial order;

(b) Deliver, either in person or by mail, to each party, board member, and board counsel, a copy of the findings of fact, conclusions of law and decision, including a statement of the right to request review of the initial order by the board.

(c) If neither party files exceptions to the initial order within 20 days, the board may adopt the initial order as the final order of the board.

(d) Within 20 days of entry of the initial order, either the board staff or the respondent may file written exceptions to the initial order. Such exceptions shall be served on all other parties, the Administrative Law Judge, board counsel, and all members of the board. The board shall set a date for submission of written argument on the exceptions and shall notify the board staff and the respondent in writing.

(e) The board shall review the initial order, any exceptions and argument filed and shall issue a final order which shall be delivered, either in person or by mail, to the board staff, the respondent, complainant, and media and others who have requested notice of the board's actions.

J. Brief Enforcement Hearings

(1) The board may provide a brief enforcement hearing for violations of provisions in chapter 42.52 RCW in which the facts are undisputed, the violations appear to be relatively minor in nature, and a penalty no greater than $500 will be assessed for the violations.

(2) A brief enforcement hearing may be presided over and conducted by the chair, or a member of the board designated by the chair.

(3) When a violation is alleged, before taking action, the board staff shall send the alleged violator notice, which shall include:

(a) Alleged violation;

(b) Maximum amount of the penalty which can be imposed at the hearing and the amount of any proposed fine; and

(c) Respondent's right to respond, within ten days, either in writing or in person to explain his/her view of the matter.

(4) At the time of the hearing if the presiding officer believes alleged violations are of such magnitude as to merit penalties greater than $500, the presiding officer shall immediately adjourn the hearing and direct the matter be scheduled for an enforcement hearing by the full board or an administrative law judge.

(5) At the time any final action adverse to the respondent is taken, the presiding officer shall serve upon each party a written statement describing the violation, the reasons for the decision, the penalty imposed and their right to request review by the board at the next scheduled board meeting.

(6) The written decision of the presiding officer is an initial order. If no review is taken of the initial order, the initial order shall be the final order.

(7) The board shall conduct a review of the initial order upon the written or oral request of a party if the board receives the request within twenty-one days after the service of the initial order.

(8) If the parties have not requested review, the board may conduct a review of the initial order upon its own motion and without notice to the parties, but it may not take any action on review less favorable to any party than the original order without giving that party notice and an opportunity to explain that party's view of the matter.

(9) The order on review shall be in writing stating the findings made, and the reasons for the decision, and notice that judicial review is available. The order on review shall be entered within thirty days after the date of the initial order or of the request for review, whichever is later.

K. Procedures Applicable to Advisory Opinions

The legislative ethics board shall issue advisory opinions with regard to the application of chapter 42.52 RCW and the rules adopted under the chapter. The following procedures apply to requests for advisory opinions:

(1) Requests for advisory opinions may be made by any legislator, legislative employee, or board member. Requests may also be made by other persons with respect to the application of the State Ethics Act to them. A request must be stated hypothetically unless the individual requests a specific opinion concerning his or

her own conduct. Requests must be written, signed, and directed to the chair of the board in care of Board Counsel, PO Box 40482, Olympia, WA 98504-0482. Requests shall supply such information as the board requires to enable it to issue the opinion. The identity of the person making the request shall be known only to the chair and staff of the board, unless such confidentiality is waived in the request. Requests for advisory opinions must be received more than six days prior to a scheduled board meeting to be considered at that meeting; the board may waive this notice requirement only by a unanimous vote of those present.

(2) The board shall either:

(a) Issue a written advisory opinion; or

(b) notify the person requesting such opinion that the request is denied and the reason(s) for the denial.

(3) The staff shall notify the person requesting the opinion as to the status of the request within thirty days and at thirty day intervals thereafter until final action is taken.

(4) Upon receipt, requests shall be assigned a reference number. The board shall maintain and keep current for public inspection a status sheet which shall contain with respect to each request: Its reference number, the date received by the board, and its present status.

(5) The board shall make available to the public copies of the status sheets and advisory opinions issued by the board.

L. Procedures Applicable to Informal Advice

(1) It is a function of the board's staff to provide ethics advice to persons eligible to request advisory opinions. In providing such advice, the staff should also provide a disclaimer that the advice represents solely the opinion of the staff and is not the opinion of the Board or in any respect binding on the Board.

(2) In considering a complaint, the board will give weight to the fact that the person charged in the complaint relied in good faith on staff advice.

(3) The board may review staff advice provided under subsection (1) and may approve or disapprove of any advice so provided. However, any such approval or disapproval is limited to whether the staff had reasonable grounds for the advice and should not be interpreted as indicating that the board approves or disapproves the actual advice provided. Only advisory opinions issued by the board and complaints decided by the board may be relied on for purposes of determining how the board will interpret a provision of the State Ethics Act.

M. Designated Ethics Advisers

(1) The Chief Clerk of the House and the Secretary of the Senate may each designate and assign legal counsel as "Designated Ethics Advisers" to assist legislators, legislative staff and, if requested, the Legislative Ethics Board. The responsibilities of such advisers should be in accordance with this rule.

(2) No more than two such Designated Ethics Advisers may be from each legislative body and their designation and assignment should be within the sole discretion of the Chief Clerk of the House and the Secretary of the Senate, respectively.

(3) The advisers may assist legislators and employees, in their respective legislative bodies, with advice and analysis based upon legislative ethics statutes and rules and upon published opinions of the Legislative Ethics Board. In those instances where an adviser has conferred with the Board staff, and the Board staff has concurred with the proposed advice, the advice shall be deemed to be entitled to the protections afforded in Rule 1 L(2). Advice or analysis, which is not concurred in by Board staff, will be viewed as in-house legal advice and outside the scope of the protections provided in Rule 1L(2). Requests for advisory opinions are appropriate in cases where designated ethics advisers and Board staff disagree.

(4) The advisers are expected to serve as liaison between their respective legislative bodies, including their chief administrative officers, and the Board staff, and may communicate matters of mutual concern to the Board.

(5) The advisers, in coordination and consultation with Board staff, may develop and assist Board staff to implement a program of ethics training and education for legislators and legislative staff.

(6) The advisers should, to the extent reasonably possible, attend Board meetings and be available and prepared to comment on matters before the Board with the exception of formal complaints. The designated advisers will not participate in the Board's review and decision making on formal complaints before the Board.

(7) The designated advisers may assist legislators and staff in the preparation of advisory opinion requests, responses to complaints, and other communication with the Board but shall not, however, represent members or staff before the Board as advocates on their behalf.

Rule Number 2: "Measurable Expenditure" Defined

Authority for rule:
RCW 42.52.180(2)(b) directs the ethics boards to define "measurable expenditure of public funds" in the context of a prohibition on the use of public facilities for campaign purposes.

Explanatory note:
The rulemaking directive is limited to subsection (b). In order to fully understand the prohibitions and exceptions contained in this section, refer to the board advisory opinions, especially Advisory Opinion 1995-No. 18.

Text of rule:
For purposes of RCW 42.52.180(2)(b), "measurable expenditure" has very limited application. The purpose of the measurable expenditure provision is to make it clear that the exception for statements made at open press conferences or in response to specific inquiries will, at a minimum, be construed to include statements that do not result in measurable expenditures. Consistent with this legislative intent, the definition provided in this rule does not restrict the scope of the exception for statements made at an open press conference or in response to a specific inquiry. The term is construed to include any specific cost, or specific portion of a cost, that can be reasonably determined and attributed to a statement made at an open press conference or in response to a specific inquiry and for the purpose of promotion or opposition of a ballot proposition.

(1) All written statements will result in a measurable expenditure if the writing was prepared using state time or resources such as paper and equipment; or if state resources such as postage were used in delivering the statement.

(2) An oral statement will result in a measurable expenditure if its specific cost, or portion of its cost, can be reasonably determined and attributed to the statement. An oral statement constitutes a measurable expenditure if staff time or state resources were used to prepare the oral statement.

Rule Number 3:
Private Use of State Resources

(1) Introduction.
Public resources are entrusted to legislators and legislative employees to further the public interest. Appropriation of public facilities, equipment, services, and personnel for personal benefit can undermine this trust and impedes the proper performance of government's work. At the same time, legitimate need exists for limited exceptions to this rule. Where use is incidental, infrequent, involves de minimis or no cost to the state, does not interfere with performance of official duties, and is reasonable in light of legitimate needs and expectations of the public work force, neither the public trust nor government efficiency suffers to any significant degree. This rule defines the circumstances when such limited exceptions are appropriate.

Adoption of this rule is based on the premise that all legislators and legislative employees will use good judgment to protect public resources and to fulfill the obligations stated in the policy of the ethics act: "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." This trust is grounded in the personal responsibility of each legislator and employee.

(2) Purpose and scope.
This rule provides guidance on the proper use of state resources. It is not intended to cover every situation that could arise regarding such resources. Further clarifications may be sought from the board.

The Senate and House of Representatives are encouraged to adopt policies applying these principles to their unique circumstances. Nothing in this rule is intended to limit the ability of the Senate and the House of Representatives to adopt policies that are more restrictive. However, violation of a more restrictive Senate or House of Representatives policy will not constitute a violation of RCW 42.52.160, but will constitute a violation of Senate or House of Representatives policy.

(3) General rules.
(a) Legislators and legislative employees may not use state resources including any person, money, or property under the legislator's or employee's official control or direction or in his or her custody for private benefit or gain of the legislator or employee or any other person except on an incidental and infrequent basis as provided in these rules. This prohibition does not

apply to the use of public resources to benefit another person as part of the legislator's or employee's official duties.

(b) If there is no actual cost to the state or the cost is de minimis, if there is a public benefit, and if the use does not interfere with the performance of official duties, then infrequent and incidental use of state resources for private benefit may be permissible.

(i) The cost to the state is de minimis if the actual expenditure of state funds is so small as to be insignificant or negligible.

(ii) A public benefit under this rule may be direct or indirect, such as improving employee morale or activities that improve the work-related job skills of a legislator or employee.

(4) Special qualifications and limits.

(a) A legislator or legislative employee may not make private use of state resources for any campaign related activity. Such a use of state resources is not authorized by this rule and may also be prohibited by RCW 42.52.180, subject to the exceptions in RCW 42.52.180(2) regarding normal and regular conduct of an elected official's office and certain permissible communications about ballot propositions.

(b) A legislator or legislative employee may not make private use of any state property which has been removed from state facilities or other official duty stations, even if there is no cost to the state. Use of computers which have been authorized to be taken out of the office for official purposes is permitted as an exception to this rule, to the same extent as personal use of such computers is permitted when located in a state facility or other official duty station.

(c) A legislator or legislative employee may not make private use of any state property which is consumable such as paper, envelopes or spare parts, even if the actual cost to the state is de minimis.

(d) A legislator or legislative employee may not make private use of state computers or other equipment to access a computer network or other database for personal use unless there is no cost to the state and the use does not interfere with the performance of the legislator's or the employee's official duties. Legislative electronic mail and internet uses which do not incur charges are examples of uses which meet the no-cost test.

(e) In general, a legislator or legislative employee may not make private use of state resources and then reimburse the legislature so there is no actual cost to the state. However, the Board recognizes that in some limited situations, such as legislators or employees working at remote locations, a system of reimbursement may be appropriate. Any system of reimbursement

must be established by the Senate or House of Representatives in advance and must result in no cost to the state. To be valid under this rule a reimbursement system must be approved by the Board.

(5) Guidelines and hypothetical examples.

(a) Questions to ask yourself:

(i) Will my personal use of public resources result in added costs or any other disadvantage to the legislature? Am I using this resource in order to avoid personal expense?

(ii) Are my supervisors aware of my personal use of public resources? Do I feel a reluctance to discuss this subject with my supervisor or my fellow employees?

(iii) Am I confident that my use of legislative equipment will not compromise the security or integrity of legislative information, software, or the legislative information network?

(iv) Are public resources being used for purposes that could be embarrassing to the legislature by creating an appearance of impropriety?

Example 1: An employee makes a local telephone call home every afternoon while on break to make sure the employee's children have arrived home safely from school. This is not an ethical violation. There is no cost to the state and since the call takes place on the employee's break it will not interfere with the performance of the employee's duties.

Example 2: An employee operates an outside business. Every day the employee makes or receives five to ten business calls using a state telephone. All of the calls are local calls. This is an ethical violation. Although there is no cost to the state, making and receiving private calls throughout the day interferes with the performance of the employee's official duties because the employee is conducting private business during working hours.

Example 3: A legislator has employment other than the legislative position. While in Olympia during legislative session, the legislator makes or receives five to ten business calls per day using the state telephone. All of the calls are local or paid with a personal credit card. This is not an ethical violation. RCW 42.52.330 directs the board to interpret the ethics laws in light of the constitutional principle that the legislature consists of citizen-legislators. Fulfilling the concept of the part-time legislature by retaining contact with outside employment does not interfere with the performance of the legislator's duties.

Example 4: An employee posts a notice to sell a used car on the office bulletin board. The notice gives the employee's home telephone number for those inter-

ested in inquiring about the car. This is not an ethical violation. There is no cost to the state and posting the notice will not interfere with the performance of official duties since those who want to inquire about the car can call the employee at home.

Example 5: Once a year, during a two-week period, an employee sells candy bars to support a youth soccer team. The employee leaves the candy bars in an employee common area and employees may buy the bars at their leisure. This is not an ethical violation. There is no cost to the state and the transactions do not interfere with the performance of official duties.

Example 6: Every spring a group of employees meet at lunch time to organize an agency softball team. The meeting is held in a conference room that is not needed for agency business during the lunch hour. This is not an ethical violation. There is no cost to the state and since the meeting takes place during the lunch hour it does not interfere with the performance of the employees' official duties.

Example 7: An employee is taking a night school class and after working hours uses a legislative computer to do homework. The employee prints the homework using the office printer and personal paper. The appropriate official of the Senate or House of Representatives has determined by advance written approval that the class will enhance the employee's job skills. This is not an ethical violation. The use of the office computer and printer will result in some cost to the state. However, the cost is negligible and the employee is using personal paper. Since the class will enhance the employee's job skills there is a public benefit and, since the activity takes place after working hours it will not interfere with the performance of the employee's official duties.

Example 8: After working hours an employee uses the office computer and printer to compose and print reports for a private business using personal paper. This is an ethical violation. The use of the office computer and printer will result in some cost to the state. Although the cost is negligible, there is no public benefit to the state from the employee's conducting his private business.

Example 9: An employee is in the legislative intern program and is a student at a state four-year university. When time is available, the intern uses a legislative computer to work on a paper as part of an assigned school project. The intern also communicates occasionally with the supervising professor regarding the project using electronic mail and state-paid long distance telephone calls. This is not an ethical violation. The internship program is a combination education and work experience which is specifically designed by the legislature to combine academic and professional

experiences. The use of work time and resources is not sufficient to interfere with legislative duties, and there is a stated public benefit.

Example 10: Legislative equipment includes a video tape player. One night an employee takes the machine home to watch videos of a family vacation. This is an ethical violation. Although there is no cost to the state an employee may not make private use of state equipment removed from state facilities or other official duty station.

Example 11: An employee is authorized to do temporary work in another location away from the employee's usual duty station. To perform official duties the employee takes an office laptop computer which has been checked out for this purpose from the legislature. The employee uses the computer to do homework for a class. The appropriate official of the Senate or House of Representatives has determined by advance written approval that the class will enhance the employee's job skills. This is not an ethical violation. The same considerations which allow the use in Example 7 apply as long as the computer has been authorized for official business away from the legislative office.

Example 12: Two employees use the legislative computer network to play a game of chess via electronic mail during their lunch hour. This is not an ethical violation because there is no cost to the state and the game does not interfere with official duties.

Example 13: A legislative employee returns a long-distance telephone call to a name and number that the employee does not recognize. Upon learning that the call is personal rather than business, the employee arranges for the call to take place on personal time. The employee notes the time of the call, and makes a reimbursement pursuant to Senate and House of Representatives' telephone use policies. This is not an ethical violation. The charge to the state was unintentional, and the Board has approved the procedures of the legislative telephone policies.

Example 14: A legislator conducts stock trades on a state-issued laptop computer. This is an ethical violation. While conducting a stock trade may not interfere with the performance of legislative duties, it is an improper use of state resources for private gain. However, occasional viewing of general stock market activity would fall within the de minimis use exception.

Example 15: For convenience, while unable to access a home computer during the legislative session, a legislator establishes an e-mail account with a private Internet provider for the receipt of personal e-mails on his or her computer. This is not an ethical violation, so long as, (1) there are no actual costs to the State for establishing or accessing the e-mail account, and (2) the personal e-mails received or sent from the

account are not campaign-related and (3) account activity does not interfere with the performance of legislative duties, and (4) the account is not used for private gain.

Example 16: A legislative employee uses a legislative computer during the lunch hour to send a single, de minimis (at little or no cost) e-mail to family and friends describing the employee's efforts on behalf of a constituent. This is an ethical violation. Personal use of a legislative computer to discuss legislative casework with family and friends constitutes an interference with the performance of official duties.

Rule Number 4: Working Hours

Authority for rule

RCW 42.52.320(2)(c) directs the ethics boards to adopt rules defining "working hours for purposes of RCW 42.52.180." RCW 42.52.180 prohibits the direct or indirect use of public facilities to assist a campaign for election or to promote or oppose a ballot measure. Public facilities specifically include "use of state employees of the agency during working hours" (emphasis added).

Text of rule

(1) A legislative employee's working hours are those designated or required by Senate, House of Representatives, or legislative agency work schedule policy. If an employee has a designated work schedule different from the work schedule policy, that employee's working hours are the hours approved by that employee's supervisor and the Secretary of the Senate, Chief Clerk of the House of Representatives, or administrative director of a legislative agency, as appropriate.

(2) "Working hours" do not include the time approved and designated for the employee's lunch break. Employee lunch periods are assumed to be 12:00 p.m. to 1:00 p.m., unless an employee has a designated work schedule different from the work schedule policy which has been approved by the employee's supervisor and the Secretary of the Senate, Chief Clerk of the House of Representatives, or administrative director of a legislative agency.

(3) "Working hours" do not include time in official leave status, if the leave has received advance written authorization.

Rule Number 5: Penalties

A. Purpose.
The purpose of this rule is to set out the criteria that the board may consider when imposing sanctions for a violation of chapter 42.52 RCW and the rules adopted under it, in accordance with RCW 42.52.320(2)(g).

B. Board may impose sanctions.
If the board finds a violation of chapter 42.52 RCW or rules adopted under it, the board may impose one or more of the following sanctions, pursuant to RCW 42.52.480:

(1) Reprimand, either by letter of instruction or formal reprimand;

(2) A civil penalty of up to five thousand dollars per violation or three times the economic value of any thing sought or received in violation of chapter 42.52 RCW or rules adopted under it, whichever is greater. Payment of the civil penalty shall be reduced by the amount of costs paid pursuant to subsection (4);

(3) Payment of damages sustained by the state that were caused by the violation and were not recovered by the state; and

(4) Costs, including reasonable investigative costs, that do not exceed the amount of any civil penalty.

C. Criteria for determining sanctions.
In determining the appropriate sanction, including the amount of any civil penalty, the board may consider the following factors, as well as other factors which the board may find appropriate in a particular case:

(1) The monetary cost of the violation, including:

(a) The cost of the violation to the state;

(b) The value of anything received or sought in the violation;

(c) The amount of any damages incurred by the state as a result of the violation;

(d) The costs incurred in enforcement, including reasonable investigative costs;

(2) The nature of the violation, including whether the violation:

(a) Was continuing in nature;

(b) Was motivated by financial gain;

(c) Involved criminal conduct;

(d) Impaired a function of the agency;

(e) Tended to significantly reduce public respect for or confidence in state government or state

government officers or employees;

(f) Involved personal gain or special privilege to the violator;

(3) Aggravating circumstances, including whether the violator:

(a) Intentionally committed the violation with knowledge that the conduct constituted a violation;

(b) Attempted to conceal the violation prior to the filing of the complaint;

(c) Was untruthful or uncooperative in dealing with the board or the board's staff;

(d) Had significant official, management, or supervisory responsibility;

(e) Had committed prior violations found by the board;

(f) Incurred no other sanctions as a result of the violation;

(4) Mitigating factors, including:

(a) Prior corrective action taken against the violator;

(b) Prior recovery of damages to the state;

(c) The unethical conduct was approved or required by the violator's supervisor or agency;

(d) The violation was unintentional;

(e) The violator relied on advice from board staff or designated ethics advisers;

(f) Other mitigating factors deemed relevant by the board.

D. Payment of civil penalty.

Payment of any monetary penalty assessed by the board must be made within 45 days of the date of the board's order, unless an extension is granted by the board. Payments are the personal responsibility of the officer or employee against whom the penalty is assessed.

E. Recommendations or requests to others.

In addition to any sanctions imposed by the board, the board may take one or both of the following actions:

(1) Recommend to the appropriate authorities suspension, removal from the position, or prosecution or other appropriate remedy, as provided by RCW 42.52.470, .520;

(2) Request that the attorney general bring an action pursuant to RCW 42.52.510 to cancel or rescind state

action taken by the violator, upon a board finding that:

(a) The violation has substantially influenced the state action; and

(b) Interests of the state require cancellation or rescission.

BOARD OPERATING POLICIES

Circulation of minutes:
Meeting minutes shall be prepared in draft form, circulated to members prior to the next meeting, and included in the meeting packet. Once adopted, minutes are available on request.

Recording votes:
Written board opinions and board minutes will not reflect the board's vote, although any member may request his or her vote be shown in the record.

Advisory Opinion circulation procedures:
The board may adopt final advisory opinions during board meetings or by circulation to board members. If the board decides to adopt an opinion by circulation, at least ten days shall be provided for a review period. No response is assumed to mean concurrence with the opinion as circulated. Non-substantive grammatical changes may be made without re-circulation. Any other changes shall only be accomplished by re-circulation or consideration at the following board meeting.

Review of contracts, grants, and employment situations with state agencies:
All contracts, grants, or employment situations submitted for approval shall be made available to the board in full. Matters which are submitted for filing only shall be summarized in a report to the board at the next meeting. All contracts, grants, or terms-of-employment information shall be submitted in conjunction with an advice request form provided by the board and completed by the legislator or the legislative employee and the counsel to the board.

Telephone conference meetings:
The board may conduct meetings by telephone or video conferencing. In such cases, if the meeting is a public meeting, a location shall be made available where public access is provided to hear and/or view the meeting.