


State Ethics Law for Board & Commission Members



LEOFF 2 Board

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Purpose

- Spot issues and prevent problems
- General information, not legal advice



Why You Need to Know About the Law

- You are responsible for compliance
- Public officers & employees are held to a high standard
- High ethical standards help build trust in government



Scope

Applies to

- All state officers and employees
- Sometimes to former state officers and employees
- Bans payments to a state officer or employee if it violates the ethical requirements on gifts or outside compensation



State Officers

- Hold a position of public trust in or under an executive, legislative, or judicial office of the state
- Members of the LEOFF 2 Board are state officers



Attorney General Role

- Advise boards & agencies, not individuals
- Can only provide general information to individuals
- Individuals may benefit from AAG advice to agency
- Individuals must seek specific legal advice from a private attorney



Basic Ethical Standard

- May not use one's public position for private benefit or gain



Basic Principles of Public Service

- Maintain public trust & confidence in government
- Serve the best interest of all citizens by exercising fair, independent, and impartial judgment
- Place the public's interest before any private interest or outside obligation
- And . . .



Basic Principles, Continued:

- Conserve public resources & funds against misuse and abuse
- Practice open and accountable government



Summary

Four general prohibitions:

- No activities or interests, financial or otherwise, that are in conflict with official duties
- Can't use official position to secure special privileges for self or any other person
- Can't receive any compensation or gift from a source, except the state, for performing or deferring the performance of an official duty
- May not receive a gift or favor if it could be reasonably expected to influence or reward vote, judgment, action, or inaction



The Core Prohibition

- State officers may not engage in any activity or have any interest, financial or otherwise, that is in conflict with official duties



Prohibitions Apply to Specific Activities

- Receipt of gifts
- Disclosure of confidential information
- Use of state resources for private gain or benefit
- Outside financial interests, including compensation from outside activities
 - Except state officers serving without compensation from the state or who only receive reimbursement of expenses



More on Specific Activities

- Honoraria
- Use of state resources for political campaigns
- Post-state employment
- Assisting persons in transactions involving the state
- Financial interest in transactions involving the state

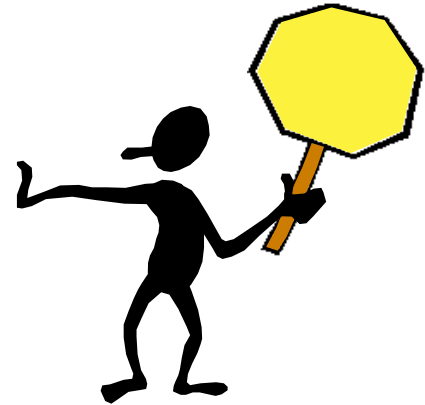


Gifts

General rules

- Cannot accept a gift, if it could reasonably be expected to influence the performance or nonperformance of an officer's official duties
- Cannot accept a gift from any one source with a value in excess of \$50 a year
- Does not include items related to outside business that are customary and not related to official duties

Gifts - Caution!



- Different and more restrictive standards apply if you are involved in
 - Regulation or acquiring goods and services
- Referred to as “section 4” restrictions
- Section 4 applies to gifts from those WHRC regulates



Gifts - Section 4

Under section 4 officers may only accept

- Advertising and promotional items
- Plaques and awards of appreciation
- Items received for purpose of evaluation, if no beneficial interest
- Publications related to official duties
- Food and beverages at hosted receptions
- Admission to a charitable event
- And . . .



Gifts - More on Section 4

- Items from family & friends, if clear purpose was not to influence
- Customary items related to outside business
- Items exchanged at social events by coworkers
- Items permitted by law
- Items returned or donated to charity within 30 days
- Lawful campaign contributions
- Discounts available to individual as a member of a broad based group



Gifts - Yet More on Section 4

Under section 4 officers may not accept

- Flowers
- Gifts from dignitaries
- Food and beverages
 - Even on infrequent occasions in the ordinary course of meals when related to official duties
- Expenses (travel, room & meals) for speech or seminar, even if reasonable
- Other gifts, even those valued at less than \$50



Confidential Information

A state officer may not

- Disclose confidential information to an unauthorized person
- Disclose or use confidential information for personal benefit or to benefit another
 - Confidential information is specific information, rather than generalized knowledge, that is not available to the general public on request
 - Or, information made confidential by law



More on Confidential Information

A state officer may not

- Accept employment or engage in business if it might induce or require the disclosure of confidential information
- Intentionally conceal a record that must be released under public disclosure law
 - Does not apply if record was withheld in good faith under public disclosure law



Use of State Resources

General rule

- May not use state resources
 - The office, money, property, or personnel
- For personal benefit or to benefit another person

Exception

- Restriction does not apply to using state resources to benefit others as part of the officer's official duties



More on Use of State Resources

"De minimis" exception

- Executive ethics board rules allow occasional but limited use of state resources when there is no cost to the state or if the cost is insignificant or negligible
 - Doesn't include consumables
 - Agency policy required for internet use
 - Other policies strongly encouraged



Compensation for Outside Activities

General rule

- A state officer may not receive anything of economic value under any contract or grant outside his or her official duties

Exception

- Prohibition does not generally apply to state officers serving without compensation from the state, or who only receive reimbursement of expenses



More on Compensation for Outside Activities

- However, outside employment or compensation could still raise ethical issues under other provisions of the ethics law
 - e.g., the general prohibitions on conflicts of interest
 - No interest, financial or otherwise, direct or indirect
 - No business or transaction or professional activity, or obligation of any nature
 - In conflict with the proper discharge of official duties



Honoraria

- An honorarium is money or anything of economic value offered for a speech, appearance, or article in connection with a state officer or employee's official duties

General rule - must be specifically authorized by officer's agency



More on Honoraria

- Agency may not permit an an honorarium if the person offering it is
 - Seeking a contract with the agency and the officer is in a position to participate
 - Is regulated by the agency and the officer is in a position to participate
 - May seek or oppose legislation, adoption of rules, or changes in policy by the agency and the officer is in a position to participate



Use of State Resources in Political Campaigns

General rule

- State officer may not use state resources for political campaigns, including support of or opposition to a ballot measure
- “Knowing acquiescence” is also a violation



More on Political Campaigns

Exception - does not apply to activities that are a part of the normal and regular conduct of the agency

- For example, providing research information, facts, or data if it is part of the agency's regular mission to do so



Post-state Employment

- The 1 year restriction: Cannot accept employment or compensation from an employer within 1 year of leaving board service if:
 - During the previous 2 years, the officer negotiated or administered a contract with the new employer
 - Contract(s) value in excess of \$10,000
 - Duties with new employer would include fulfilling or implementing that contract



More on Post-state Employment

- The 2 year restriction
 - Within 2 years after leaving board service a former state officer may not have a beneficial interest in a contract or grant expressly authorized or funded by executive action in which the officer or employee participated
 - "Beneficial interest" is the right to enjoy profit, benefit or advantage from a contract or other property. For example, a husband and wife each have a beneficial interest in the other spouse's community property



Yet More on Employment

- Permanent restriction
 - State officer may not accept employment as a reward or compensation for the performance or nonperformance of his or her official duties as a state officer



Assisting in Transactions Involving the State

- General rule - a state officer may not assist a person in a transaction involving the state
 - If the officer participated in that transaction
 - If it was under his or her official responsibility within two years prior to providing the assistance
 - Same restrictions apply to affiliated business entities, and, to some extent, to former state officers



More on Assisting in Transactions Involving the State

- Exception

- A state officer is not prohibited from assisting a person in a transaction involving the state if it falls within the officer's official duties



Financial Interest in State Transactions

■ General rules

- State officer may not have a beneficial interest in a contract that is made by or through him or her or is under his or her supervision
- State officer may not accept any compensation from any other person beneficially interested in a contract that is made by or through him or her or is under his or her supervision



More on Financial Interest in State Transactions

- State officer/employee may not 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



Investments

- For boards responsible for investment of funds
 - Restrictions apply and the board must adopt policies governing approval of investments
- LEOFF 2 Board consults on investment of expense fund, but does not make investment decisions



Enforcement

- By the executive ethics board
 - Staffed by the attorney general's office
 - Sanctions include
 - Damages sustained by the state
 - Civil penalties of up to \$5,000 per violation or 3 times any thing received or sought in the violation
 - Costs
- Compliance is YOUR responsibility



For More Information

- Visit the executive ethics board web site at www.wa.gov/ethics