Washington State
Executive Ethics Board

http://www.ethics.wa.gov/
Welcome to State Service!

As a state employee, you are expected to follow certain rules and regulations. Here are a few things you should know as you begin your new job.

Use of Public Resources

You may not use the facilities of your agency for personal gain. That is, you may not use the computer, including e-mail, to conduct personal business or store personal documents. Personal use of the fax machine, copier and other equipment is also prohibited.

The law does allow for de minimis use, so long as the use does not interfere with your official duties and the use is infrequent and short in duration. Please ask your supervisor or human resources department for agency policies.

YOU MAY NEVER USE PUBLIC FACILITIES TO ASSIST IN AN ELECTION CAMPAIGN, OR TO PROMOTE OR OPPOSE A BALLOT ISSUE!

Gifts

As a general rule, never accept a gift, gratuity, or anything of value if it could be reasonably expected to influence your vote, judgment or action.

The law allows some employees to receive gifts up to $50, and also provides special limits and exemptions. You may receive:

- Gifts from family members;
- Gifts not related to the performance of your job;
- Items exchanged at a social event;
- Payments for expenses for an official speech or presentation;
- Payment of enrollment of course fees in a seminar or other educational program;
- Items returned within 30 days;
- Campaign contributions;
- Discounts available to a broad-based group;
- Awards, prizes for recognition of achievement.

Unless you regulate or contract with the person giving the gift, you may receive the following:

- Unsolicited flowers, advertising or promotional items, tokens of appreciation or items for evaluation purposes;
- Food and beverage at hosted receptions when related to official duties;
- Admission to and cost of food and beverage at an event hosted by a civic, charitable or governmental organization;
- Unsolicited gifts from dignitaries in other states or countries;
- Food and beverage on infrequent occasions in the ordinary course of business.

If you are in a position to regulate, further restrictions apply. Refer to RCW 42.52.150(4).

Outside Employment

You may, under certain circumstances, enter into a contract with another entity. The following conditions must be met:

- The contract is bona fide and performed;
- The performance is not within your official duties or under your supervision;
- It is not prohibited by law;
- Compensation is not from a person from whom you cannot receive a gift;
- Is not created by you in your official capacity; and
- Would not require you to disclose confidential information.

If the contract is with another state agency you must first get approval from the Executive Ethics Board by providing the following information:

- A description of your current duties;
- A statement of the work to be performed and a copy of the contract;
- The duration and dollar amount of the contract;
- A statement that no state resources will be used to perform the outside employment and a description of how the work will be performed without using state resources;
- A statement that the employing agency has reviewed or approved the outside contract.

For more information regarding outside employment, please refer to RCW 42.52.120 and WAC 292-100-060.

January 2007
Ethics in Public Service Act

RCW 42.52

Does this apply to me?

Washington State Executive Ethics Board
2425 Bristol Ct SW
PO Box 40149
Olympia WA 98504
(360) 664-0871
Government derives its powers from the people and 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

Are you a state employee?

A state employee is a person employed by an agency in any branch of state government, except for employees of the superior courts. (42.52.010(17)

A state officer means every person holding a position of public trust in or under an executive, legislative, or judicial office of the state and also includes 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.

Question? Do state officers and employees ever lose their identity or does their status as state officers and employees apply only during normal working hours or when they are performing their state duties at times not considered normal working hours?

Answer? No - State officers and employees never lose their identity as state officers or employees even when they are not working.

How does the Ethics Act affect me?

- You should not have financial or other interests, or engage in business or professional activities, that conflict with the performance of your official duties;
- You should not use your state positions to secure special privileges or exemptions for yourself or any other person;
- You should not receive compensation from a source other than the State of Washington for the performance or non-performance of an official duty; and,
You should not receive a gift if it could be reasonably expected to influence or reward the performance of your official duties.

These key ideas form the basis for ethical guidelines relating to conflicts of interest, use of state resources, political activities, confidential information, receipt of gifts, and post-state employment.

Scenarios

1. Pete works for Department of Transportation (DOT) as a maintenance technician. Pete also owns stock in Pepsi Cola. He joins the DOT vending machine committee and recommends that Pepsi machines be installed in the cafeteria. Violation?

2. Sarah used to regulate grants that the Department of Health (DOH) gave to small non-profits in the community for health-related services. She left DOH and now works for the Red Cross. A co-worker at the Red Cross asks Sarah to give him advice on resubmitting a grant to DOH that was declined by Sarah and her committee a year earlier. He makes it clear there would be no compensation for her—that it would be purely volunteer time. Would this be a violation if Sarah assists him now for no compensation?

3. Martha is an instructor at a local community college. During the first week of finals, Martha stops in one evening at a local coffee shop and runs into one of her students, Bob. Bob runs out to his car and returns with a beautifully wrapped gift. Although Martha is not at work, can she accept the gift?
Ethics in Public Service Act

RCW 42.52.020

Acts Incompatible with Public Service
(better known as Conflicts of Interest)

Washington State Executive Ethics Board
2425 Bristol Ct SW
PO Box 40149
Olympia WA 98504
(360) 664-0871
RCW 42.52.020, Activities incompatible with public duties, states:

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.

What is an **Incompatible Activity**?

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

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

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

An interest need not be financial to create a conflict of interest. According to the law, even a chance or thought of a conflict of interest is enough for a violation—no tangible outcome is needed.

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

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

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

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

You can:

- Abstain. Don’t participate in the activity.
- Disclose. Tell your supervisor about the potential conflict and let them decide whether to remove you from the activity.
- Review written procedures. Determine if your agency has a policy regarding how to handle conflicts of interest and follow that policy.
- Obtain screening memo. Have your work center write a memorandum outlining the conflicts and telling everyone that you are to be screened from specific information or decision-making regarding that particular transaction.

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

Scenarios

1. You supervise an employee with access to confidential donor records. The employee also serves on the board of directors of a non-profit organization that could benefit from the information contained in these records. As a supervisor, what should you do?

2. While reviewing a permit for a controversial development, the developer offers you a position with his company. Can you continue to work on the review?

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

RCW 42.52.030

Financial Interests in Transactions

Washington State Executive Ethics Board
2425 Bristol Ct SW
PO Box 40149
Olympia WA 98504
(360) 664-0871
RCW 42.52.030, Financial interests in transactions, states:

(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.

This law prohibits state employees from participating in a state transaction if they have a financial or other interest in the transaction.

What is a financial interest in a transaction?

- When you have an interest in a contract that is made by you, through you, or by an employee you supervise; OR
- When you receive compensation from any other person beneficially interested in a contract made by you, through you, or by an employee you supervise.

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

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

What does “Participate” and “Transaction” mean?

"Participation" must be both personal and substantial. However, the term is broadly defined and includes, but is not limited to approval, disapproval, decision, recommendation, the rendering of advice, or investigation.

“Transaction” is also broadly defined and includes a proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other similar matter that you believe, or have 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.
Scenarios

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

2. An employee serves on the board of directors for a nonprofit organization. This organization has applied for a grant from the employee’s agency. The employee serves on the review panel that will select grant recipients. Identify the ethics problem and the solution.

3. Pat’s spouse has a window-washing business. Through a legitimate bidding process his spouse is selected to wash windows for some campus self-support facilities. Pat’s responsibilities include verifying payroll transactions. How can he avoid an ethics violation?
Ethics in Public Service Act

RCW 42.52.040

Assisting in Transactions

Washington State Executive Ethics Board
2425 Bristol Ct SW
PO Box 40149
Olympia WA 98504
(360) 664-0871
RCW 42.52.040, Assisting in transactions, states:

(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.

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

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

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

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

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

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

RCW 42.52.050

Confidential Information

Washington State Executive Ethics Board
2425 Bristol Ct SW
PO Box 40149
Olympia WA 98504
(360) 664-0871
RCW 42.52.050, Confidential information- improperly concealed records, states:

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

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

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

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

What does this mean?

No state employee may disclose confidential information gained through their job, or otherwise use confidential information for personal gain or benefit.

What is “confidential information”?

Information that is confidential is not releasable upon public demand such as:

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

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

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

- The residential addresses and residential telephone numbers of employees or volunteers of a state agency which are held in personnel records, employment or volunteer rosters, or mailing lists.
It is important to know four main points about the information you may work with in your official position:

1. You may not accept any employment or engage in any business or activity where you might reasonably be expected to, required or persuaded to make an unauthorized disclosure of confidential information.

2. You may not make a disclosure of confidential information or use that information for your personal gain or benefit or to benefit another.

3. You may not intentionally conceal a record if 1) it is considered a public record (e-mail, voice-mail, Internet usage, and fax records included), 2) you were directly asked to release the information, then 3) failed to do so.

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

Scenarios

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

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

RCW 42.52.070

Special Privileges

Washington State Executive Ethics Board
2425 Bristol Ct SW
PO Box 40149
Olympia WA 98504
(360) 664-0871
RCW 42.52.070, Special privileges, states:

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.

What does this mean?

Specifically, the Special Privileges rule says that state employee may not use their position to secure special privileges or exemptions for themselves, or their spouse, child, parent, or other person.

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

Scenarios

1. After working hours, Todd uses the office computer and printer to prepare client billings for a private business using his own paper. His supervisor, Mary, has approved this use and monitors that Todd uses the paper he brings from home. Violation?

2. You are a full-time faculty member at a state college. The college charges for use of its classrooms to outside groups. Your wool gathering group needs a place to meet on a monthly basis, so you reserve a room through regular college channels, but as a faculty member, you do not pay for the room. You proceed to invite your buddies for the monthly meetings. Violation?
Ethics in Public Service Act

RCW 42.52.080

Employment after Public Service

Washington State Executive Ethics Board
2425 Bristol Ct SW
PO Box 40149
Olympia WA 98504
(360) 664-0871
RCW 42.52.080, Employment after public service, states:

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

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

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

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

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

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

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

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

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

Post-State employment restrictions are designed to ensure that a former state employee does not accrue advantage as a result of decisions or actions made while in public service. Post-state employment restrictions fall into one of three categories:

- a contract restriction
- a beneficial interest restriction
- continuing restrictions.

**Contract Restriction:** Contract restriction applies only to those state employees who were involved in the negotiation or administration of agency contracts. The restriction under RCW 42.52.080(1) prohibits a former state officer or employee from accepting employment or receiving compensation from an employer for one year if:

The employee was in negotiation or administration of contracts or had any discretionary authority to make decisions with regards to the post-state employer’s contract when he/she was a state employee; and,

The contract or contracts have a total value of more than $10,000; and,

The job duties the former state employee has been hired to fulfill by the post-state employer are, in whole or in part, due to the contract created while a state employee or include supervision or control of the state contract he/she negotiated or administered when with the state.

**Beneficial Interest Restriction:** Beneficial interest restriction means that for two years after leaving state employment, you cannot receive a beneficial interest from the specific contract or grant you created or administered while a state employee. You can still do business with the former state agency in general, just not in the area that you created or administrated.

**Continuing Restrictions:** Some post-state restrictions have no time limit on them. This means that they are on-going restrictions that don’t end. **Ever.** The following activities are restricted continuously:

- Accepting an offer of post-state employment if the state employee knows or has reason to believe that the offer was intended to influence or reward him/her for the performance or nonperformance of an official duty during state employment.

- Accepting an offer of post-state employment if circumstances would lead a reasonable person to believe the offer was made to influence the state employee during state employment. This is the same as above, except it focuses on the perceptions of others—the “reasonable person” standard—not on the employee’s perceptions.

- Assisting in any transaction involving the state in which the former state employee, at any time while fulfilling former state duties, participated. Once you participated in a transaction or supervised the team that participated in a transaction, you cannot give advice or switch sides and assist the outside interest—even if you now work for that outside interest.
Scenarios

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

2. Continuing with the above scenario, the Jones Company hiring manager states that if you accept the offer now and get a renewal of the contract between Jones and your agency before you leave the agency, you would get a “sizable bonus” once you “come to work with us.” Can you accept any job with them?
Ethics in Public Service Act

RCW 42.52.110

Compensation for Official Duties or Nonperformance

Washington State Executive Ethics Board
2425 Bristol Ct SW
PO Box 40149
Olympia WA 98504
(360) 664-0871
RCW 42.52.110, Compensation for official duties or nonperformance, states:

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.

What does this mean?

This rule underlines that you cannot get “extra” or outside compensation for your official duties or for not doing your duties. No state employee may, directly or indirectly, ask for or receive any compensation, gift, reward or gratuity from a source for performing or not performing any official duty unless otherwise authorized by law. There is an exception to this RCW. If you work for an institution of higher education and the additional compensation for your official duties is from one of the following, you are exempt:

- A governmental entity;
- An agency or instrumentality of a government entity;
- A nonprofit organized for the benefit and support of the institution; or
- A state agency in an agreement with the institution.

Scenarios

1. Bertha, a student employee, is responsible for issuing parking citations. Her basket weaving instructor jokingly tells her that he will introduce her to a major basket weaving employer if he doesn’t receive any citations this quarter. He often parks in the visitor reserved slots. She overlooks these parking violations. Violation?

2. As a liquor store clerk, you process credit card payments for purchases. A major bank sends you a $50 reward for returning a card that has been revoked. Can you keep the reward?
Ethics in Public Service Act

RCW 42.52.120

Compensation for Outside Activities

Washington State Executive Ethics Board
2425 Bristol Ct SW
PO Box 40149
Olympia WA 98504
(360) 664-0871
Under RCW 42.52.120, Compensation for outside activities, no state employee may receive anything of economic value under any contract or grant outside of official duties.

There are exceptions that are quite reasonable (all of the following conditions must be met for outside compensation to be accepted):

- The contract or grant is bona fide (real) and actually performed. This means you must actually do the work for which you are paid.

- The performance or administration of the contract is not within the course of your official duties, or is not within your official supervision. This means you cannot receive a “bonus” for doing the work you are paid by the state to do. No “double-dipping.”

- The performance of the grant or contract is not prohibited by RCW 42.52.040 (assisting in transactions) or by any other rules governing outside employment for you. This means you would not be assisting someone in a state transaction that you are prohibited to assist.

- The contract or grant is not performed for or compensated by any person from whom the employee would be prohibited by RCW 42.52.150(4) from receiving a gift. Remember: Section 4 employees cannot accept a gift from a vendor or contractor (or student) that they regulate or contract. These employees also cannot work for a vendor/contractor or accept compensation in an outside employment situation due to the same reason. No gift allowed, no job allowed.

- The contract or grant is not one expressly created or authorized by you in your official capacity. Basically, you cannot use your official position to create your outside job.

- The contract or grant would not require the disclosure of confidential information. Be careful if your outside work and your official state duties involve the same clients. Don’t use any confidential information that you have access to in your state position to benefit your outside work or another employer.

**Outside Employment with Another State Agency (RCW 42.52.120(2)(b) and (c))**

A unique standard governs having a contract or grant with another state agency while you are still employed by the state. This standard applies whenever a contract or grant is given as a result of a non-competitive process, or when the bid of a state employee is the only bid received in a competitive process. In other words, this standard applies if the outside work obtained was not open to the public or, if open, no one else applied for the job.
The Standard: You must receive the prior approval of the Executive Ethics Board before entering into a contract or grant. If approved, file a copy of the contract or grant with the ethics office within 30 days of execution.

- You must provide the following information to obtain approval:
  - A description of your current state duties;
  - A statement of the work to be performed under the contract or grant, or a copy of the proposed contract or grant;
  - A statement that no state resources will be used to perform all or any of the work;
  - An explanation of how you can perform the work without the use of state time or state resources.

Scenarios

1. You administer an arts program that gives grants to local artists for public art projects. Because you are also an artist, you submit an application for a grant from the arts commission and receive one for $1000. Can you receive the grant?

2. A state wetlands biologist is asked to teach a course on preserving endangered habitats at the local community college. The course will be taught two nights per week for eight weeks. Can the employee teach the course?
Ethics in Public Service Act

RCW 42.52.140

Gifts

Washington State Executive Ethics Board
2425 Bristol Ct SW
PO Box 40149
Olympia WA 98504
(360) 664-0871
RCW 42.52.140, Gifts, states:

No state officer or state employee may receive, accept, take, seek, or solicit, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from a person if it could be reasonably expected that the gift, gratuity, or favor would influence the vote, action, or judgment of the officer or employee, or be considered as part of a reward for action or inaction.

**What does this mean?**

In general, state employees cannot accept gifts with an aggregate value in excess of $50 from a single source in a calendar year. The value of the gift given to an employee’s family or guest will be attributed to the employee for the purpose of determining whether the limit has been exceeded.

Clarifications or exemptions include:

- Items not considered gifts.
- Gifts you may accept without regard to the $50 limit.
- “Section 4” Employee gift limitations.

**Items that are not considered gifts:**

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

Gifts you may accept without regard to the $50 limit, if you are not a “Section 4” employee:

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

When are you considered a “Section 4” employee? If your duties include regulating certain members of an industry, the Section 4 gift restrictions apply to gifts from those industries. If your duties include decisions about contracting or purchasing, the Section 4 gift restrictions apply to gifts from any current or potential future contractor or vendor.

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

• Items from family members where it is clear that the gift was not made as part of any effort to gain or maintain influence in the agency of which the recipient is an employee.
• Items related to the outside business of the recipient which are customary and not related to the recipient’s performance of official duties.
• Items exchanged among employees, or a social event hosted by a state employee for co-workers.
• Items a state employee is authorized by law to accept.
• Items returned by the recipient to the donor within 30 days of receipt or donated to a charitable organization within 30 days of receipt.
• Campaign contributions reported under 42.17 RCW.
• Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group.
• Awards, prizes, scholarships, or other items provided in recognition or academic/ scientific achievement.
• Unsolicited advertising or promotional items of nominal value.
• Unsolicited tokens or awards of appreciation—plaques, trophies, desk items.
• Unsolicited items for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the use or acquisition of the item by the agency.
• Informational material, publications, or subscriptions related to official duties.
• Food and beverages at hosted receptions where attendance is related to official duties.
• Admission to and the cost of food and beverages consumed at events sponsored by or in conjunction with a civic charitable, governmental or community organization.

Note: “Section 4” employees cannot accept any food or drink—not even a doughnut—by a person whom you regulate or who wishes to do business with you, i.e. any current or potential future contractor or vendor, in the ordinary course of state business. For example, if a vendor/contractor brings you food, you may put it in a public area with a sign “free food.” Now you have given that gift or reward away, it is available to the public at large (taxpayers) and you avoided a potential state ethics violation.

Scenarios

1. Martha is an instructor at a state community college. One of her students gives her a beautifully wrapped Christmas gift at the beginning of finals week. He may or may not enroll in her class next quarter. Is accepting the gift a violation?
2. Joe works for your agency in the purchasing department. An agent seeking an association with your agency takes Joe out for an expensive dinner and gives him two tickets to the symphony. The whole package is worth over $100. Is this an ethical violation?

3. Vera works as a gardener at a state university. Her job involves maintaining flowerbeds. The Petals Corporation supplies the university with gardening supplies but Vera’s job does not involve these contractual matters. Every three months Petals gives the college’s gardeners, including Vera, a new pair of gardening gloves, valued at $10. During the calendar year, Vera accepts four pairs of gloves for a total value of $40. Ethical violation?
Ethics in Public Service Act

RCW 42.52.160

Use of Persons, Money or Property for Private Gain

Washington State Executive Ethics Board
2425 Bristol Ct SW
PO Box 40149
Olympia WA 98504
(360) 664-0871
RCW 42.52.160, Use of persons, money or property for private gain, states:

(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.

What does this mean?

State employees have a duty to conserve public resources and funds against misuse and abuse. Basically, the idea is that we are using taxpayers’ money and we must be respectful of that fact and you cannot use state resources for private benefit or gain unless within an allowable exception within the ethics law or under WAC 292-110-010. Supervisors and anyone who manages others must be especially aware of this principle because they are in a position to affect the flow of resources as well as model appropriate behavior.

Before you feel guilty about sending the occasional personal e-mail or using the phone to check on your family, know that the ethics board has adopted rules providing exceptions to this section for occasional or de minimis use if the activity does not result in interference with the proper performance of official duties.

What is “de minimis” use of state resources? A de minimis (minimal) use is an infrequent or occasional use that results in little or no actual cost to the state. An occasional brief local phone call to make a medical appointment or check on a loved one is an example of allowable de minimis use of state resources. The cost of a brief local phone call is small and not likely to interfere with your job. The Executive Ethics Board has adopted guidelines for the exceptions to the “no personal use” rule. These exceptions are narrow and don’t apply to all state resources. The Board allows limited unofficial (not job related) use if:

- There is little or not cost to the state—no scan code use;
- There is no interference with the performance of official duties;
The use is brief in **duration** and **frequency**, i.e. 5 to 10 minutes, every once in a while;

- The use does not compromise the security or integrity of state information or software;
- The use does not disrupt other state employees, or does so very minimally.

In other words, you can make that occasional local telephone call or write an infrequent personal e-mail. You can even briefly use the Internet for personal use—as long as it is for nothing illegal or unprofessional. As a guide, ask yourself the following questions. If any are a “yes,” don’t use the state resource for personal matters:

- Will my use of state resources result in added costs or any other disadvantage to the state?
- Am I using this resource in order to avoid personal expense?
- Will my use of state resources compromise the security or integrity of state information or software?

**General prohibitions of “de minimis” use of state resources.** Certain uses of state resources are prohibited **regardless** of whether there is little or no cost to the state, it’s brief/infrequent and the use does not interfere with the performance of official duties. **These uses are absolutely not allowed - not even if you are on break or it is after hours.** These uses are:

- Any use for the purpose of conducting an outside business, whether or not for profit;
- Any use for the purpose of conducting outside group activities, unless authorized;
- Any use for the purpose of assisting the campaign of any candidate for election for the election to any office, or to oppose or promote (lobbying) a ballot proposition;
- Any use for commercial purposes such as advertising or selling;
- Illegal activities or activities incompatible with a professional workplace, i.e. accessing adult-oriented sites or gambling on the Internet;
- Any use of consumable state resources (paper, spare parts, postage, envelopes, etc.).

**Other Standards You Need to Know.**

- No personal use may be made of state resources that are removed from a state facility.
• Personal use of state resources may not be reimbursed. Why? According to WAC 292-110-010(6), this is to keep from allowing the rationalization of on-going personal use of state resources that should not be used in the first place.

Scenarios

1. A state employee operates an outside web consulting business. Everyday she makes or receives five to ten personal business calls on her state office telephone. All of the calls are local calls. Violation?

2. It’s Friday afternoon and Kathy needs to find out the best way to get to a party after work. She is going directly from work to the party so doesn’t have time to go home before the event. She accesses Map Quest, an internet directions and map site, using her college computer. Violation?

3. Petra’s son will be playing in the state soccer championships this weekend. Grandma and Grandpa live in Ohio but would love to see the little guy play. Petra takes home the agency’s video-cam which is stored in her office, uses her own tape, films the game, recharges the battery using her own electricity, and returns the camera Monday. Violation?

4. Marco has relocated to Seattle from another state. He works at a Community College as an exempt employee. During his lunch he uses his scan code to call his family and talks for 10 minutes. Violation?
Ethics in Public Service Act

RCW 42.52.180

Use of Public Resources for Political Campaigns

Washington State Executive Ethics Board
2425 Bristol Ct SW
PO Box 40149
Olympia WA 98504
(360) 664-0871
RCW 42.52.180, Use of public resources for political campaigns, states:

(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.

What does this mean?

The state’s ethics law prohibits the use of state facilities and resources for political campaigns, including lobbying. Facilities and resources include, but are not limited to, stationery, postage, machines, equipment, use of state employees during working hours, vehicles, office space, publications of the agency, and clientele list of persons served by the agency. Be careful. You can
actually violate the ethics law if you witness the use of public resources for political campaigns and do not act to stop the use.

**Exceptions to this rule:** Elected officials are exempt from RCW 42.52.180 as well as any activities that are the normal and regular conduct of a state agency. Contact your Ethics Officer, the ethics board staff or the Assistant Attorney General for guidance on whether an exception may apply to your activities.

**Scenarios**

1. Fred, a classified employee, has a fixed schedule of 8am-5pm, Monday through Friday. During the heated campaign for city dog catcher, Fred often stays until 8 or 9pm making telephone calls or sending e-mails on behalf of his candidate using agency equipment. Violation?

2. Lori, a state employee, is excited about the presidential elections coming up and feels very passionate that her friends need to vote. She sends 20 e-mails from her work the day before elections to urge people to “get out and vote” and encourages people to vote for her candidate. One of her friends, Sam, is a co-worker and gets the e-mail. Sam doesn’t say anything to his supervisor about it. Violation on Sam’s part?
Ethics 1 Answers

Scenario 1. It is a conflict of interest for Pete to be on the committee. He may receive financial or beneficial interest due to his having stock in the vending company he is recommending to the college.

Scenario 2. Sarah may not assist if, at any time, she participated in the transaction. Sarah had evaluated the colleague’s grant a year ago. Because of this, she is not able to help him resubmit it now. Whether she gets money or not doesn’t matter.

Scenario 3. No. Because Martha is regulating the student’s final grade and may be in a position to teach him in the future, accepting this as a personal gift is a violation even though she is technically not on “duty.”
Ethics 2 Answers

Scenario 1. Outside service for a non-profit organization may be incompatible with the performance of public duties. The employee may be unaware of the potential conflict. By discussing the ethics concern, you can work with the employee to find a resolution, which most likely would be to discuss the conflicts with the employee and get assurances from them that they would not provide any confidential information to the non-profit organization.

Scenario 2. The offer of employment could create an interest that is incompatible with the performance of your public duties. Expediting the review might also lead a reasonable person to conclude that the offer influenced your official actions. If you are considering the offer, the best thing to do is to disclose the offer to your supervisor and have the review assigned to another employee. Even if you think you can’t be influenced, others might disagree. Avoiding the appearance of conflict is as important as avoiding an actual conflict of interest. If you decline an offer of employment, you can continue to perform your official duties without raising a conflict of interest concern.

Scenario 3. Your inspection conflicts with the performance of your public duties because you have a financial interest in the restaurant. You cannot merely assign the inspection to someone on your staff as a conflict is not removed by delegating the official duty to an employee you supervise because you exercise discretionary judgment over that employee. The best thing to do is to immediately disclose your interest to your supervisor and ask for the inspection to be reassigned to another group.
Ethics 3 Answers

Scenario 1. You cannot simply delegate the decision-making to your assistant because you exercise authority over your assistant. Asking your spouse to withdraw the bid would immediately resolve the ethics problem because by virtue of your marital relationship, you have a beneficial interest in the contract. Participating in the award of the contract would be an ethical violation. The ethics problem may also be resolved by disclosing the relationship and declining participation in the contract. Your supervisor could act as an independent and impartial decision-maker on the contract.

Scenario 2. The employee has an outside interest in a transaction involving the state. He should disclose this interest and refrain from participating on the review panel.

Scenario 3. Pat needs to tell his supervisor immediately and be removed from regulating his spouse’s payroll and payments.
Ethics 4 Answers

Scenario 1. Yes. Emma may not assist Egbert because she, at one time, participated in the transaction he is requesting help for as a state employee.

Scenario 2. No. Even if you believe the agency made a mistake, your official duties no longer include participation in the investigation of complaints in that agency. It would be an ethical violation to assist the complainant in the appeal.

Scenario 3. Pat needs to tell his supervisor immediately and be removed from regulating his spouse’s payroll and payments.
Ethics 5 Answers

Scenario 1. Yes. James cannot intentionally conceal a public record, even if it was on a sticky note. It must be included, as is, to the public.

Scenario 2. Yes. Billing information is confidential information. Sammy may not use this information for his or another’s benefit or gain.

Scenario 3. Pat needs to tell his supervisor immediately and be removed from regulating his spouse’s payroll and payments.
Ethics 6 Answers

Scenario 1. Yes. Todd is not allowed to use any state resources (office computer, printer) for outside business purposes, even if he is using his own time and paper. Also, his supervisor is not allowed to give Todd a “special privilege” to do his outside business, because that would mean she is using her official role as a manager to provide someone an exemption from the law.

Scenario 2. Yes. It is okay to use the room as that is the policy of the college; however, you used your faculty status to avoid paying the cost of the room rental. You must follow the same procedure as everyone else or you have been given a “special” privilege.
Ethics 7 Answers

Scenario 1. No—at least not right away. Because you were overseeing the contract with Jones and it was over $10,000 in amount, you must wait one year before accepting a job to work on that specific contract. If Jones wanted to hire you to work on unrelated contracts in another division, that would be fine.

Scenario 2. No. Now they have created a situation where it could be perceived their offer was made to influence or reward your performance of your official state duties - a “sizable bonus” if you “renew the contract.” This falls under the Continuing Restrictions section law and has no time-limit.
Ethics 8 Answers

Scenario 1. Yes. Bertha is allowing herself to be placed under an obligation to an individual that is influencing her to not perform her official state duties for a potential future reward.

Scenario 2. No. You were just performing your official duties. State employees may not receive a reward from any source for the performance of an official duty. Because returning the card is within your official duties, you cannot accept the $50.
Ethics 9 Answers

Scenario 1. No, because it conflicts with my official duties. Even though you do not make decisions on who receives grants, you administer the arts program. You cannot accept the grant under a program that is within your official duties.

Scenario 2. Yes, because it is unlikely this could create a conflict of interest. Provided the employee did not use his official position to influence the decision to offer a teaching contract, he can teach the course.
Ethics 10 Answers

Scenario 1. Yes. Because Martha is regulating the student’s final grade and may be in a position to teach him in the future, accepting this as a personal gift is a violation. But, this one is tricky because people in different cultures often see gift giving as normal and respectful. If this happens, you may gracefully accept the gift and donate it to any charity within 30 days or you may use this as a “teaching moment” where you can explain to the student Washington’s ethics law that prohibits you from accepting gifts from anyone you regulate or have discretionary authority over.

Scenario 2. Yes. Jose is considered a “Section 4” employee in relation to the agent, so he could not accept any gifts—no matter the amount.

Scenario 3. No. Vera is allowed to accept up to $50 of gifts in one calendar year from the same source as long as she doesn’t directly regulate or contract with the person or vendor.
Ethics 11 Answers

Scenario 1. Yes. It is illegal for state employees to use any state resources (telephone, employee’s time while working) for the purpose of conducting an outside business.

Scenario 2. No. Some types of de minimis personal use of the internet are okay. As long as that internet use is legal and professional; as well as no selling, advertising, campaigning/lobbing, or conducting an outside business.

Scenario 3. Yes. Personal use of state resources, which are removed from the facility, is not allowed. By using the video-cam off site for nonofficial business, Petra is breaking the law.

Scenario 4. Yes. Scan codes are for official state business only. The de minimis rule doesn’t apply. You must bring in your own cell phone or phone card to make personal long distance calls.
Ethics 12 Answers

Scenario 1. Yes. Even though it is after hours, Fred cannot use any state resources (phone, e-mail) for any type of political campaign.

Scenario 2. Yes. You can violate the ethics law if you see the use of public resources for political campaigns and do not act to stop it. Both Lori and Sam could get an ethics penalty. Or, in Lori’s case, 20 citations because she sent 20 e-mails.