

Chapter 292-110 WAC

AGENCY SUBSTANTIVE RULES

WAC

292-110-010	Use of state resources.
292-110-020	Working hours.
292-110-030	Measurable expenditure.
292-110-050	Advisory opinions.
292-110-060	Current state officers and employees contracting with state agencies.

WAC 292-110-010 Use of state resources. (1) **Statement of principles - stewardship.** The proper stewardship of state resources, including funds, facilities, tools, property, and employees and their time, is a responsibility that all state officers and employees share. Accordingly, state employees may not use state resources for personal benefit or gain or for the benefit or gain of other individuals or outside organizations. Responsibility and accountability for the appropriate use of state resources ultimately rests with the individual state officer or state employee, or with the state officer or state employee who authorizes such use. State officers and employees should ensure that any personal use of state resources permitted by this section is the most efficient in terms of overall time and resources.

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

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

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

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

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

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

(ii) Any use is brief;

(iii) Any use occurs infrequently;

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

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

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

(4) **No expectation of privacy.** Technologies such as electronic mail, facsimile transmissions, the internet, and voice mail may create an electronic record. This is what separates these from other forms of communication such as a telephone conversation. The ethics rules do not distinguish between the various forms of communication. Electronic

records are reproducible and therefore cannot be considered private. Such records may be subject to disclosure under the Public Records Act, or may be disclosed for audit or legitimate state operational or management purposes.

(5) **Prohibited uses.**

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

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

(c) Any use for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Such a use of state resources is specifically prohibited by RCW 42.52.180, subject to the exceptions in RCW 42.52.180(2);

(d) Any use for the purpose of participating in or assisting in an effort to lobby the state legislature, or a state agency head. Such a use of state resources is specifically prohibited by RCW 42.17.190, subject to the exceptions in RCW 42.17.190(3);

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

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

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

(7) **Agency policies encouraged.** State agencies are encouraged to adopt policies applying these principles to their unique circumstances. Agency policies that are approved by the board qualify for "safe harbor" under WAC 292-120-035. Nothing in this section is intended to limit the ability of an agency to adopt policies that are more restrictive. However, violation of a more restrictive agency policy by itself will not constitute a violation of RCW 42.52.160, even if it would constitute a violation of agency policy.

(8) **Frequently asked questions and examples.** The board maintains a list of frequently asked questions and examples that provide additional guidance regarding this sec-

tion. State officers and employees are encouraged to review this document at the board's web site www.ethics.wa.gov or to request a copy of the document through the board's office.

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[Statutory Authority: RCW 42.52.360 (2)(b), 09-16-046, § 292-110-010, filed 7/28/09, effective 8/28/09. Statutory Authority: RCW 42.52.360 (2)(b), 42.52.160(3), 02-07-074, § 292-110-010, filed 3/18/02, effective 4/18/02; 98-08-054, § 292-110-010, filed 3/27/98, effective 4/27/98. Statutory Authority: RCW 42.52.160(3), 96-01-036, § 292-110-010, filed 12/13/95, effective 1/13/96.]

WAC 292-110-020 Working hours. (1) RCW 42.52.180(1) provides that 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. Facilities of an agency includes use of state officers or state employees during working hours. The purpose of the rule is to define the term "working hours" for officers and employees of the executive branch of state government. The prohibition in RCW 42.52.180(1) only applies during working hours. Nothing in RCW 42.52.180(1) or this rule prohibits a state officer or state employee from assisting in a campaign during nonworking hours. An officer or employee who assists in a campaign during nonworking hours may not use any facilities of an agency.

(2) Some state officers and state employees occupy positions that have fixed schedules with the same beginning and ending times. For officers and employees with fixed schedules, working hours are the hours between the starting and ending times of their positions. Officers and employees with fixed schedules may not assist in a campaign during these fixed working hours, unless they are on a lunch break under section four of this rule or on annual leave under section five of this rule.

Example 1: An employee works for an agency open to the public during the hours of 8:00 a.m. to 5:00 p.m. The employee is in a position with a fixed schedule of Monday through Friday 8:00 a.m. to 5:00 p.m. The employee's working hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. The employee may not assist in a campaign during these hours unless the employee is on a lunch break or on annual leave. The employee may assist in a campaign before 8:00 a.m. or after 5:00 p.m. Monday through Friday or on Saturday or Sunday.

Example 2: An employee works for an agency open to the public during the hours of 8:00 a.m. to 5:00 p.m. Although the agency is open during the hours 8:00 a.m. to 5:00 p.m., the employee is in a position with a fixed schedule of Monday through Thursday 3:00 p.m. through 12:00 a.m. The employee's working hours are 3:00 p.m. to 12:00 a.m. Monday through Thursday. The employee may not assist in a campaign during these hours unless the employee is on a lunch break or on annual leave. The employee may assist in a campaign before 3:00 p.m. or after

12:00 a.m. Monday through Thursday or anytime on Friday, Saturday or Sunday.

(3) Some state officers and state employees occupy positions that do not have fixed schedules with the same starting and ending times. For officers and employees who do not have fixed schedules, working hours are defined as either:

(a) The hours set forth in any policy on working hours adopted by an agency. Agencies have flexibility in determining working hours for the officers and employees to meet their unique needs so long as the time considered to be working hours is clearly established. If an agency does not adopt a working hours policy, working hours shall be 8:00 a.m. to 5:00 p.m. Monday through Friday when state agencies are generally open to the public; or

(b) The work schedule for an officer or employee approved by the agency, if it is different from the agency policy or, if the agency has not adopted a policy, 8:00 a.m. to 5:00 p.m. Monday through Friday.

Example 3: An employee works for an agency that is open to the public 8:00 a.m. to 5:00 p.m. Monday through Friday. Although the agency is open to the public at these times, the work of the agency goes on twenty-four hours a day. The agency has adopted a working hours policy that divides working hours into three shifts: The day shift (8:00 a.m. to 5:00 p.m.); swing shift (3:00 p.m. to 12:00 a.m.) and mid-night shift (12:00 a.m. to 9:00 a.m.). An employee without a fixed schedule is assigned to the swing shift (3:00 p.m. to 12:00 a.m.) Monday through Friday. Since the employee does not have a fixed schedule, the employee sometimes comes to work before 3:00 p.m. and sometimes after 3:00 p.m. Similarly, the employee may leave work before or after 12:00 a.m. This employee's working hours are 3:00 p.m. to 12:00 a.m. Monday through Friday. The employee may not assist in a campaign during these hours unless the employee is on a lunch break or on annual leave. The employee may assist in a campaign before 3:00 p.m. or after 12:00 a.m. Monday through Friday or on Saturday or Sunday.

Example 4: An employee works for an agency that is open to the public 8:00 a.m. to 5:00 p.m. Monday through Friday. The agency has not adopted a policy on working hours. An employee without a fixed schedule usually works 8:00 a.m. to 5:00 p.m. Since the employee does not have a fixed schedule, the employee sometimes comes to work before 8:00 a.m. and sometimes after 8:00 a.m. Similarly, the employee may leave work before or after 5:00 p.m. Since the agency has not adopted a policy on working hours, this employee's working hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. The employee may not assist in a campaign during these hours unless the employee is on a lunch break or on annual leave. The employee may assist in a campaign before 8:00 a.m. or after 5:00 p.m. Monday through Friday, or on Saturday or Sunday.

Example 5: An employee works for an agency that is open to the public 8:00 a.m. to 5:00 p.m. Monday

through Friday. Although the agency is open to the public at these times, the work of the agency goes on twenty-four hours a day. The agency has adopted a working hours policy that divides working hours into three shifts: The day shift (8:00 a.m. to 5:00 p.m.); swing shift (3:00 p.m. to 12:00 a.m.) and mid-night shift (12:00 a.m. to 9:00 a.m.). An employee without a fixed schedule is assigned to the day shift (8:00 a.m. to 5:00 p.m.) Monday through Friday. However, the agency has approved a different work schedule for this employee. Instead of the usual day shift of 8:00 a.m. to 5:00 p.m., the employee works 7:00 a.m. to 4:00 p.m. Since the employee does not have a fixed schedule the employee, sometimes comes to work before 7:00 a.m. and sometimes after 7:00 a.m. Similarly, the employee may leave work before or after 4:00 p.m. This employee's working hours are 7:00 a.m. to 4:00 p.m. Monday through Friday. The employee may not assist in a campaign during these hours unless the employee is on a lunch break or on annual leave. The employee may assist in a campaign before 7:00 a.m. or after 4:00 p.m. Monday through Friday, or on Saturday or Sunday.

(4) Working hours do not include state legal holidays unless the officer's or employee's work schedule requires the officer or employee to work on a state legal holiday.

(5) Working hours do not include the time approved and designated for an officer's or employee's lunch break. A lunch break is between 12:00 p.m. and 1:00 p.m., unless the agency has designated a different time in a working hours policy or has approved a different lunch break as part of an officer's or employee's work schedule. If an officer or employee engages in campaign activity during the lunch break, the officer or employee may not make use of any of the facilities of the agency.

Example 6: An employee works for an agency that is open to the public 8:00 a.m. to 5:00 p.m. Monday through Friday. The agency has not adopted a policy on working hours. An employee without a fixed schedule usually works 8:00 a.m. to 5:00 p.m. Since the employee does not have a fixed schedule, the employee sometimes comes to work before 8:00 a.m. and sometimes after 8:00 a.m. Similarly, the employee may leave work before or after 5:00 p.m. Since the agency has not adopted a policy on working hours, this employee's working hours are 8:00 a.m. to 5:00 p.m. Monday through Friday with a lunch break between 12:00 p.m. and 1:00 p.m. The employee may assist in a campaign during the employee's lunch break between 12:00 p.m. and 1:00 p.m.

(6) Working hours do not include the time in official leave status if the leave has received advance documented or written authorization. An officer or employee on leave may assist in a campaign.

Example 7: An employee works for an agency that is open to the public 8:00 a.m. to 5:00 p.m. Monday through Friday. The agency has not adopted a policy on working hours. An employee without a fixed

schedule usually works 8:00 a.m. to 5:00 p.m. Since the employee does not have a fixed schedule, the employee sometimes comes to work before 8:00 a.m. and sometimes after 8:00 a.m. Similarly, the employee may leave work before or after 5:00 p.m. Since the agency has not adopted a policy on working hours, this employee's working hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. On Friday the employee receives advance written authorization to be on leave for five days, Monday through Friday of the next week. The employee may assist in a campaign during this leave.

Example 8: An employee works for an agency that is open to the public 8:00 a.m. to 5:00 p.m. Monday through Friday. The agency has not adopted a policy on working hours. An employee without a fixed schedule usually works 8:00 a.m. to 5:00 p.m. Since the employee does not have a fixed schedule the employee sometimes comes to work before 8:00 a.m. and sometimes after 8:00 a.m. Similarly, the employee may leave work before or after 5:00 p.m. Since the agency has not adopted a policy on working hours, this employee's working hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. In this agency employees without fixed schedules take leave during a month and then get written authorization for the leave at the end of the month. An employee takes leave Monday through Friday and assists in a campaign. At the end of the month the employee obtains written authorization for the leave. The employee has assisted in a campaign during working hours since the employee did not obtain written authorization prior to taking leave to assist in a campaign. To assist in a campaign while on leave, the employee must obtain written authorization prior to going on leave.

(7) The definition of working hours also includes any time an officer or employee is actually working. For an officer or employee with a fixed schedule, working hours includes overtime when the officer or employee is working additional hours other than those in the fixed schedule. For an officer or employee without a fixed schedule, working hours include any time the officer or employee is working.

Example 9: An employee works for an agency that is open to the public 8:00 a.m. to 5:00 p.m. Monday through Friday. The agency has not adopted a policy on working hours. An employee without a fixed schedule usually works 8:00 a.m. to 5:00 p.m. Since the employee does not have a fixed schedule, the employee sometimes comes to work before 8:00 a.m. and sometimes after 8:00 a.m. Similarly, the employee may leave work before or after 5:00 p.m. Since the agency has not adopted a policy on working hours, this employee's working hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. On a Monday the employee works from 8:00 a.m. to 9:00 p.m. Even though the employees working hours are 8:00 to 5:00 the time spent working between 5:00 p.m. and 9:00 p.m. are working hours because the

employee is working for the agency during this time.

(8) The governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general, superintendent of public instruction, commissioner of public lands, and the insurance commissioner are state officers in the executive branch subject to RCW 42.52.180. These officers are elected to office and hold office for a term of four years and until their successors are elected and qualified. Since these officers are elected to a term of office, they do not have working hours and may assist in a campaign at any time. However, if these officers do assist in a campaign, they may not make use of any facilities of an agency except as provided in RCW 42.52.180(2).

[Statutory Authority: RCW 42.52.180(1) and 42.52.360 (2)(b). 96-22-030, § 292-110-020, filed 10/30/96, effective 11/30/96.]

WAC 292-110-030 Measurable expenditure. (1) RCW 42.52.180(1) provides that 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. Facilities of an agency include, but are not limited to, use of stationery, postage, machines and equipment, use of state employees during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency.

(2) RCW 42.52.180(2) sets forth exceptions to the prohibition in RCW 42.52.180(1). The exceptions include 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 without an actual measurable expenditure of public funds (RCW 42.52.180 (2)(b)); activities that are part of the normal and regular conduct of the office (RCW 42.52.180 (2)(c)); and de minimis use of public facilities by statewide elected officials incidental to the preparation or delivery of permissible communications initiated by the official regarding the official's views on a ballot proposition that may foreseeably affect a matter that falls within the official's constitutional or statutory responsibilities (RCW 42.52.180 (2)(d)).

(3) Elected officials regularly expend public funds to respond to inquiries from the media, constituents and other persons on matters unrelated to ballot propositions. RCW 42.52.180 (2)(b) permits elected officials to respond to such inquiries regarding ballot propositions without an actual measurable expenditure of public funds. For purposes of RCW 42.52.180 (2)(b) measurable expenditure means an expenditure or separately identifiable cost or specific portion of a cost incurred by the agency beyond the normal and regular expenditures or costs incurred by the agency in responding to inquiries from the media, constituents and other persons on matters unrelated to ballot propositions.

Example 1: A statewide elected official conducts a press conference in state office space. During the conference the official is asked about a ballot proposition. The subject of the ballot proposition does not fall within the normal and regular conduct of the official's agency nor within the official's constitutional or statutory responsibilities. The official

replies to the question explaining his or her opinion on the ballot proposition and the reason for the opinion. It is not an ethical violation to reply to such an inquiry. The use of state office space, during the time the official answers the question about the ballot proposition, does not result in a measurable expenditure of public funds. This is because the expenditure or cost of the office space during this period is not a separately identifiable cost.

Example 2: A statewide elected official receives a letter from a constituent asking for the official's position on a ballot proposition. The subject of the ballot proposition does not fall within the normal and regular conduct of the official's agency nor within the official's constitutional or statutory responsibilities. The official replies by letter explaining his or her opinion on the ballot proposition and the reason for the opinion. In the course of preparing the reply the official has the assistance of staff and uses office space, equipment, stationery and postage. It is not an ethical violation to reply to such an inquiry. There is no measurable expenditure of public funds because the agency has not incurred a cost beyond the normal and regular costs incurred by the agency in responding to inquiries from the media, constituents and other persons on matters unrelated to ballot propositions.

Example 3: A statewide elected official received a letter from a constituent asking for the official's position on a ballot proposition. The subject of the ballot proposition does not fall within the normal and regular conduct of the official's agency nor within the official's constitutional or statutory responsibilities. The official replies by letter explaining his or her opinion on the ballot proposition and the reason for the opinion. In the course of preparing the reply the official has the assistance of staff and uses office space, equipment, stationery and postage. The official sends copies of the reply to other individuals on the agency mailing list. This is an ethical violation. While it is permissible to reply to the constituent who inquired about the official's position (Example 1), it is improper to send copies of the response to others. There is a measurable expenditure of public funds because the cost of the paper and postage for the additional copies is a separate identifiable cost beyond the normal and regular costs incurred by the agency in responding to inquiries from the media, constituents and other persons on matters unrelated to ballot propositions.

Example 4: A statewide elected official writes a letter to the editor of a newspaper stating the official's position on a ballot proposition. The subject of the ballot proposition does not fall within the normal and regular conduct of the official's agency nor within the official's constitutional or statutory responsibilities. In the course of preparing the letter the official has the assistance of staff and uses office space, equipment, stationery and postage. This is an ethical violation. The official has used the facilities

of the agency and the exception in RCW 42.52.180 (2)(b) does not apply because the official is not responding to an inquiry.

[Statutory Authority: RCW 42.52.180 (2)(b) and 42.52.360 (2)(b). 96-22-029, § 292-110-030, filed 10/30/96, effective 11/30/96.]

WAC 292-110-050 Advisory opinions. State officers and employees are encouraged to seek an advisory opinion whenever they have questions concerning ethical standards or potential conflicts of interest. Advisory opinions are intended to provide guidance to a state officer or state employee in advance of an action or decision and thereby prevent ethics violations.

(1) Whenever requested by a state officer, state employee, or other person, or whenever it deems it in the public interest, the board shall issue advisory opinions. Requests for advisory opinions, if not issued in response to a motion by the board, shall be written and signed, and addressed to either the chair of the board or the executive director. Requests may be made by electronic mail. Each request should provide sufficient information and circumstances to enable the board to evaluate the request and issue the advisory opinion.

(2) Upon receiving a request for an advisory opinion, the executive director shall, within fifteen calendar days of receipt, acknowledge the request. Persons requesting advisory opinions shall be notified of the status of the request at thirty day intervals until final action is taken.

(3) The board shall either:

(a) Deny the request and state the reason(s) for the denial; or,

(b) Issue a written advisory opinion.

(4) An advisory opinion is final when it has been approved by the board and is signed by the executive director.

(5) A person requesting an advisory opinion may, upon receiving the opinion, petition the board for reconsideration within thirty days of the date the opinion is issued if the person believes that the opinion is erroneous in factual detail. A petition for reconsideration shall be written and signed, and shall briefly state the errors of fact. The board may deny the petition if it lacks merit, or if the person who submitted the request provided erroneous information to the board.

(6) If a state officer or state employee receives an advisory opinion and fails to make a good faith effort to follow its guidance, the board shall give this fact weight when considering a complaint alleging a violation based on the advice received.

(7) Informal staff analysis. It is the responsibility of the executive director to provide ethics advice to any state officer, state employee, or other person; however, a state officer, state employee, or other person may only rely on written ethics advice. In providing such advice, the executive director may issue a written nonbinding staff analysis. A nonbinding staff analysis is intended to provide ethics guidance and advice in an expeditious manner, but does not substitute for a formal advisory opinion from the board. The executive director shall provide a disclaimer to the person requesting the nonbinding staff analysis that the advice is solely the opinion of the executive director and not the opinion of the board or in any respect binding on the board. Only advisory opinions

issued by the board and complaints decided by the board may be relied on for determining how the board will interpret a provision of the Ethics in Public Service Act.

(a) In considering a complaint alleging a violation, the board will give weight to the fact that the person charged in the complaint relied in good faith on written advice from the executive director.

(b) The board may review staff analyses provided under this subsection and may approve or disapprove of any advice so provided. However, any such approval or disapproval is limited to whether staff had reasonable grounds for the advice and should not be interpreted as indicating approval or disapproval of the advice provided.

[Statutory Authority: RCW 42.52.360 (2)(b) and 42.52.425. 01-13-080, § 292-110-050, filed 6/19/01, effective 7/20/01. Statutory Authority: RCW 42.52.360 (2)(b) and (c). 98-03-045, § 292-110-050, filed 1/15/98, effective 2/15/98.]

WAC 292-110-060 Current state officers and employees contracting with state agencies. (1) **Purpose** -

The primary purposes of the Ethics in Public Service Act are to prevent conflicts of interest that impair the impartial and independent judgment of state officers and employees and the misuse of state position for private gain. Conflicts of interest occur whenever a state officer or state employee:

(a) Has a beneficial interest relating to a matter in which the officer or employee participated in an official capacity;

(b) Accepts outside compensation for the performance or nonperformance of official duties; or

(c) Accepts or seeks outside compensation from persons that they regulate or conduct state business with.

A misuse of state position occurs whenever a state officer or employee:

(i) Uses his or her official position to influence a contract award; or

(ii) Uses state resources to engage in private work that is not part of official duties.

(2) **Applicable law, standards of review** - RCW 42.52.020 prohibits financial and other interests that conflict with official duties. RCW 42.52.030 prohibits financial and beneficial interests in transactions involving the state. RCW 42.52.030(2) provides alternate conflict of interest provisions related to research and technology transfer agreements at certain institutions of higher education. RCW 42.52.160(1) prohibits the use of state resources for private benefit or gain. RCW 42.52.120(1) prohibits compensation outside of official duties unless certain conditions are met. RCW 42.52.120(2) requires prior board approval of noncompetitive contracts between state officers and employees and any state agency. RCW 42.52.120(3) requires that contracts approved by the board must also be filed with the board within thirty days of execution.

(3) **Approval required** - A state officer or employee must receive board approval before entering into, or obtaining a beneficial interest in, a contract or grant with a state agency only if the process for awarding the contract or grant was not open and competitive, or, whenever only one bid or application was received.

(4) **Application for approval** - State officers and employees seeking the approval of the board for a contract, grant application, or outside employment with a state agency

shall provide the following information to the executive director no later than thirty days prior to the commencement of the contract:

- (a) A description of current official duties and responsibilities;
- (b) A statement of the work to be performed and a copy of the contract;
- (c) The duration and dollar value of the contract, if applicable;
- (d) A statement that no state resources will be used to perform the outside employment or to fulfill the contract or grant;
- (e) A description of how the work will be performed without the use of state resources; and
- (f) A statement that the employing agency has reviewed or approved the outside contract under applicable rules or policies, except when requesting a conditional approval as provided in subsection (5)(b) of this section.

(5) **Approval process** - The executive director shall review the contract or grant application terms and related documents and may determine whether there could be a potential conflict with RCW 42.52.120(1) or other applicable provisions of the Ethics in Public Service Act as noted in subsection (2) of this section. If the executive director determines:

(a) There would be no potential conflict under RCW 42.52.120(1) or other applicable provisions of chapter 42.52 RCW, the executive director shall approve the contract or grant application.

(b) There would be no potential conflict under RCW 42.52.120(1) or other applicable provisions of chapter 42.52 RCW but the contract or grant has not been approved by the appointing authority pending a board review, the executive director may conditionally approve the contract or grant application; or

(c) There could be a potential conflict under RCW 42.52.120(1) or other applicable provisions of chapter 42.52 RCW, the executive director shall refer the contract or grant application to the board for approval or disapproval.

(6) **Contract amendments** - If a contract has been amended or the scope of work altered, and the effect of the amendment or alteration may create a potential conflict of interest under RCW 42.52.120(1) or other applicable provisions of chapter 42.52 RCW, the employee must resubmit the contract to the board at least fifteen days prior to commencement of work under the amended or altered contract.

(7) **Series of similar contracts** - If a state officer or employee anticipates receiving a series of substantially identical contracts or grants with a state agency is anticipated, they may request that the board preapprove such contracts or grants. Preapproval shall be effective for the period of one calendar year, after which the state officer or employee shall resubmit the request.

(8) **Exemptions, preapproved contracts or grants** - An employee who has a contract or grant or a beneficial interest therein which is preapproved by the board under this section is not required to file an application for approval of the contract. However, the employee is responsible for determining that the contract or grant would not conflict with RCW 42.52.120(1) or other applicable provisions of chapter 42.52 RCW. Provided that the applicable conditions in RCW

42.52.120(1) are met, the following contracts are approved by the executive ethics board:

(a) A contract or grant whereby the state officer or state employee receives assistance through state programs or federal programs administered by the state when they are entitled to receive such assistance by law and on the same basis as similarly situated citizens, and when the officer or employee does not exercise discretionary judgment with regard to an assistance program for which he or she is otherwise eligible;

(b) A contract to perform teaching duties at a bona fide community college, vocational-technical school, or institution of higher learning, provided no state resources are used to perform the duties; there is no conflict with the performance of official duties; and the state officer or state employee did not use his or her official position to influence the contract of employment;

(c) A contract held by a spouse, in which the officer or employee has a beneficial interest, with a state agency, provided that the officer or employee did not participate in the contract;

(d) A contract that was received by an officer or employee of an institution of higher education to provide expert witness services in state litigation provided no higher education resources are used to perform the duties; there is no conflict with the performance of official duties; and the officer or employee did not use his or her official position to influence the contract; and

(e) A contract or grant that was received by an officer or employee of an institution of higher education or of the Spokane Intercollegiate Research and Technology Institute under conditions that complied with RCW 42.52.030(2). At the request of the institution the board may advise the institution if a specific contract or grant would raise significant conflict of interest concerns under applicable provisions of chapter 42.52 RCW.

(9) **Filing required** - Final contracts reviewed under this rule shall be filed with the executive director within thirty days of execution. An employee who is awarded a contract or grant preapproved under subsection (8)(a) through (c) of this section shall file a copy of the contract with the board.

(10) **Filing exemptions** - An officer or employee of an institution of higher education or of the Spokane Intercollegiate Research and Technology Institute who is awarded a contract or grant preapproved under subsection (8)(d) or (e) of this section is not required to file a copy of the contract or grant with the board. A copy of all expert witness contracts awarded under subsection (8)(d) of this section shall be maintained by the office of the attorney general subject to review by board staff. Those state institutions of higher education or the Spokane Intercollegiate Research and Technology Institute who award contracts or grants under RCW 42.52.030(2) shall maintain copies of all contracts or grants approved under subsection (8)(e) of this section. In lieu of filing the contracts with the board, these institutions shall provide the board by September 1 of each year a brief summary of all such contracts or grants awarded in the previous fiscal year.

[Statutory Authority: RCW 42.52.360 (2)(b) and 42.52.120(2). 04-18-019, § 292-110-060, filed 8/23/04, effective 9/23/04. Statutory Authority: RCW 42.52.360 (2)(b) and 42.52.425. 01-13-080, § 292-110-060, filed 6/19/01,

effective 7/20/01. Statutory Authority: RCW 42.52.360 (2)(b). 98-04-001, § 292-110-060, filed 1/21/98, effective 2/21/98.]