

**WAC 415-200-050 Recusal of board members—Beneficial interest in transaction.** (1) When a member of the board is 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 board, in whole or in part, or when the member accepts, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in such contract, sale, lease, purchase or grant, the member shall:

(a) Recuse him or herself from the board discussion regarding the specific contract, sale, lease, purchase or grant;

(b) Recuse him or herself from the board vote on the specific contract, sale, lease, purchase or grant; and

(c) Refrain from attempting to influence the remaining board members in their discussion and vote regarding the specific contract, sale, lease, purchase or grant.

(2) The prohibition against discussion set forth in subsection (1)(a) and (c) of this section shall not prohibit the member of the board from using his or her general expertise to educate and provide general information on the subject area to the other members.

(3) Under subsection (1) of this section, "any other person" has a beneficial interest in a contract, sale, lease, purchase or grant when the other person bids or otherwise seeks to be awarded the contract, sale, lease, purchase or grant.

Example: The board is composed in part of individuals who are employed by companies which provide investment options to retirement plans. The board is in the process of selecting investment options for the defined contribution portion of the Teachers' Retirement System Plan 3. A company which employs one of the board members has bid on the contract. The board member who is employed by the bidding company may use his general expertise to educate and provide general information to the board regarding investments and defined contribution retirement plans in general. The member is prohibited from participating in the board discussion and analysis implementing the criteria for selecting an investment company, and is prohibited from participating in the board vote to select the company.

Example: The board has a contract with an investment company to provide investment options for the defined contribution portion of Teachers' Retirement System Plan 3 (TRS Plan 3). The board's contract with the investment company is almost expired, and the board must seek proposals from investment companies for the next contract period. The board issues a request for proposal to various investment companies, including Investment Company "A." Approximately one year ago, a board member worked for Investment Company "A" and received compensation from that company. The board member subsequently retired. The board member is not required to recuse herself from selecting the investment company for TRS Plan 3. Investment Company "A" did not have a beneficial interest in the board's contract until it bid on the contract. Therefore, Investment Company "A" was not beneficially interested in the contract when the board member received the compensation. However, if the board member received compensation from Investment Company "A" after it bid on the contract, the board member would be required to disclose the fact that she received the compensation from the bidder, and to recuse herself from the board's specific discussion and the vote awarding the contract.

[Statutory Authority: RCW 41.50.086. WSR 98-01-109, § 415-200-050, filed 12/17/97, effective 1/17/98.]