

WAC 292-110-050 Advisory opinions and informal staff analysis.

State officers and state employees are encouraged to seek an advisory opinion whenever they have questions concerning situations that implicate the Ethics in Public Service Act and corresponding rules. Advisory opinions are intended to provide guidance to a state officer or state employee in advance of an action or decision and prevent ethics violations.

(1) Requests for advisory opinions, if not issued in response to a motion by the board, must be written and addressed to either the chair of the board or the executive director. Each request should provide sufficient information and circumstances to enable the board to evaluate the request.

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

(3) The board will 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.

(5) A person requesting an advisory opinion may, after receiving the board approved opinion, petition the board for reconsideration within thirty days of the approval date of the advisory opinion if the person believes that the advisory opinion is erroneous in factual detail. A petition for reconsideration must be written and must 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 will give this fact weight when considering a complaint alleging a violation based on the advice received.

(7) 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 will 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 provided. However, any such approval or disapproval is limited to whether staff had reasonable grounds for the advice.

[Statutory Authority: RCW 42.52.360. WSR 18-11-062, § 292-110-050, filed 5/14/18, effective 6/14/18. Statutory Authority: RCW 42.52.360

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