

WAC 222-08-130 Ethics standards. This rule implementing the Ethics in Public Service Act, chapter 42.52 RCW, applies to the board.

(1) The following definitions apply to this section:

(a) "Beneficial interest" has the meaning ascribed to it under the Washington case law.

(b) "Gift" means anything of economic value for which no consideration is given.

(c) "Transaction involving the board" means a proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other similar matter that the board member in question believes, or has reason to believe:

(i) Is, or will be, the subject of board action; or

(ii) Is one to which the board is or will be a party; or

(iii) Is one in which the board has a direct and substantial proprietary interest.

(d) "Transaction involving the board" does not include the following:

(i) Preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by a board member; or

(ii) A claim, case, lawsuit, or similar matter if the board member did not participate in the underlying transaction involving the board that is the basis for the claim, case, or lawsuit.

Rule making is not a transaction involving the board.

(e) "Board action" means any action on the part of the board, including, but not limited to:

(i) A decision, determination, finding, ruling, order; or

(ii) A grant, payment, award, license, contract, transaction, sanction, approval, or the denial thereof, or failure to act with respect to a decision, determination, finding, ruling, or order.

(f) "Recusal" involves the following actions:

(i) Recuse himself or herself from discussions by the board regarding the related action(s);

(ii) Recuse himself or herself from any vote by the board on the related action(s); and

(iii) Refrain from attempting to influence any other member in any discussion or vote regarding the related action(s).

(2) No board member may accept honoraria under the circumstances set forth in RCW 42.52.130. Board members may receive honoraria if all of the following are met:

(a) The board member will not be carrying out their board duties nor engaging in activity which focuses specifically on the board's responsibilities, policies or programs;

(b) The honorarium is not being offered because of the board member's official position on the board;

(c) The topic is such that it does not appear that the board member could have used information acquired in the course of membership on the board;

(d) The honorarium is not being offered by a person or entity which does business with or can reasonably be expected to seek business with the board; and

(e) No use of government time or resources was used by the board member to produce the materials or prepare for the article, appearance, or item for which the honorarium is being given.

(3) "Gifts":

(a) No board member shall receive or solicit, directly or indirectly, any gift if it could be reasonably perceived that the gift

would influence the vote, action, or judgment of the board member, or be perceived as part of a reward for action or inaction.

(b) Notwithstanding the exceptions specified in RCW 42.52.150 (2) and (5), a board member may receive only the items specifically listed in RCW 42.52.150(4) from a person regulated by the board or from a person who seeks to provide goods or services to the board.

(4) If a board member receives or solicits gifts prohibited in subsection (3) of this section, the board member is in violation of the Ethics in Public Service Act and shall return the gift or donate it to charity within thirty days. In addition, the board member shall recuse himself or herself in accordance with subsection (1)(f) of this section.

(5) Board members shall recuse themselves in compliance with subsection (1)(f) of this section when the following circumstances apply or it is reasonably foreseeable that they will apply:

(a) The member is beneficially interested, directly or indirectly, in a contract, sale, lease, purchase, or grant that may be made by, through, or under the supervision of the board in whole or in part; or

(b) The member accepts, directly or indirectly, any compensation, gratuity or reward from any other person beneficially interested in a contract, sale, lease, purchase, or grant that may be made by, through, or under the supervision of the board, in whole or in part; or

(c) The member either owns a beneficial interest in, or is an officer, agent, employee, or member of, an entity which is engaged in a transaction involving the board.

(6) Under subsection (5)(b) 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.

(7) The circumstances contained in subsection (5) of this section do not limit the member from using his or her general expertise to educate and provide general information on the subject area to other board members.

(8) If recusal occurs pursuant to chapter 42.52 RCW, or rules adopted pursuant to that law or this chapter, the board member must disclose to the public the reasons for his or her recusal from any board action whenever recusal occurs. The board staff must record each such recusal and basis for the recusal.

EXAMPLE: The board includes members appointed by the governor who are employed in the private sector. Board members are appointed because they have general knowledge of forestry and are often recommended by interest groups, such as the timber industry and environmental organizations. A board member is employed by a company that provides economic analysis. The board is in the process of selecting a contractor to provide small business economic impact statements for several proposed rules. The company that employs the board member has bid for the contract. The board member may use his or her general expertise to educate the other board members about the requirements for a good small business economic impact statement. However, the board member is prohibited from participating in the board discussion establishing criteria for selecting a contractor and is prohibited from participating in the vote to select a contractor. The board member would publicly announce his or her recusal and the reasons for it, and the board staff would record this information as part of the public record.

(9) No board member shall divulge state agency or board information or proprietary information in the board's possession, whether labeled confidential or not, to any unauthorized person or in advance of the time prescribed for its authorized issuance, or otherwise make use of, or permit others to make use of, information not available to the general public.

(10) No board member shall use his or her position with the board, or use board facilities, equipment, or supplies to obtain or attempt to obtain private gain or advantage, either for themselves or for other persons.

(11) No board member shall use his or her position with the board, or use board facilities, equipment, or supplies to assist another in a transaction involving the board, or use his or her influence over the board to obtain or attempt to obtain gain or advantage for the person or entity seeking to transact business with the board.

(12) No board member shall accept employment that will adversely affect the performance of that member's official duties, discredit the board, or result in a conflict of interest.

[Statutory Authority: RCW 34.05.220, 42.17.250, 42.17.260, and 76.09.040. WSR 04-05-122, § 222-08-130, filed 2/18/04, effective 3/20/04.]