

general expertise to educate and provide general information on the subject area to other members or employees.

[Statutory Authority: RCW 43.33A.110 and 42.52.200. 98-01-138, § 287-04-034, filed 12/19/97, effective 1/19/98.]

WAC 287-04-038 Definitions. The following definitions apply to this chapter:

(1) "Transaction involving the board" means a proceeding, application, investment decision, investment agreement, contract, sale, lease, purchase or any other acquisition or disposal of any asset, goods or services, request for a ruling or other determination, claim, case or similar matter that the member or employee in question believes, or has reason to believe:

- (a) Is, or will be the subject of board action; or
- (b) Is one to which the board is or will be a party; or
- (c) Is one in which the board has a direct and substantial proprietary interest.

"Transaction involving the board" does not include the following: Preparation, consideration or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by a member or employee; or a claim, case, lawsuit, or similar matter if the member or employee 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."

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

- (a) A decision, determination, finding, ruling, or board order; and
- (b) An investment decision or approval of an investment decision, an investment contract or approval of an investment contract, any other contract or approval of such contract, or any other transaction or approval of such transaction, sanction, denial of a transaction or request, or failure to act with respect to a decision, determination, finding, ruling or order.

[Statutory Authority: RCW 43.33A.110 and 42.52.200. 98-01-138, § 287-04-038, filed 12/19/97, effective 1/19/98.]

WAC 287-04-039 Violation of code. (1) A board member or employee who is found by the board to have violated the code of conduct set forth in WAC 287-04-031 through 287-04-034 may be subject to official reprimand by vote of the board. In the event that the board determines a violation of the code to be so egregious or apparent as to constitute malfeasance, misfeasance, inefficiency, neglect of duty, incapacity, or unfitness to perform his or her fiduciary duties and responsibilities in the exclusive interest of the board and its beneficiaries, and if the offending person is:

(a) A voting board member: The board, in its sole discretion, may refer the matter to the proper appointing authority or the attorney general, as deemed appropriate; or if

(b) A nonvoting board member: The board, in its sole discretion, may take the appropriate steps necessary to and remove the offending member from the board; or if

(c) The executive director: The board, in its sole discretion, may take the appropriate steps to remove the director in compliance with RCW 43.33A.100; or if

(d) An employee of the board governed by the merit systems rules: The executive director may take such disciplinary action as authorized under Title 356 WAC up to and including termination of employment; or if

(e) An exempt employee of the board: The executive director may take whatever disciplinary action deemed appropriate, up to and including termination of employment.

(2) The board may refer the alleged violation to the executive ethics board for further investigation as provided under RCW 42.52.360.

[Statutory Authority: RCW 43.33A.110 and 42.52.200. 98-01-138, § 287-04-039, filed 12/19/97, effective 1/19/98.]

Title 292 WAC ETHICS IN PUBLIC SERVICE

Chapters

- 292-09** Agency procedural rules.
- 292-11** Agency substantive rules.
- 292-120** Executive ethics board—Penalty rules.

Chapter 292-09 WAC AGENCY PROCEDURAL RULES

WAC

- 292-09-010 Purpose of this chapter.

WAC 292-09-010 Purpose of this chapter. The purpose of this chapter is to provide rules implementing the Ethics in Public Service Act (chapter 42.52 RCW) according to procedures prescribed in Article IV, Section 31, of the Constitution of the state of Washington and chapter 2.64 RCW for the commission on judicial conduct.

All proceedings involving state employees of the judicial branch of state government, except "judges" as defined in *Commission On Judicial Conduct Rules of Procedure (CJCRP)*, shall proceed under the rules set forth in this chapter. All proceedings involving "judges" as defined in RCW 2.64.010 and the Code of Judicial Conduct shall proceed exclusively under the rules set forth in the *CJCRP*.

[Statutory Authority: RCW 42.52.370 and Article IV, section 31 of the state Constitution. 97-13-069, § 292-09-010, filed 6/18/97, effective 7/19/97; 95-05-031 (Order 95-01), § 292-09-010, filed 2/8/95, effective 3/11/95.]

Chapter 292-11 WAC
AGENCY SUBSTANTIVE RULES

WAC

292-11-010	Purpose of this chapter.
292-11-020	Definitions.

WAC 292-11-010 Purpose of this chapter. The purpose of this chapter is to provide substantive rules implementing the Ethics in Public Service Act (chapter 42.52 RCW). The substantive rules in this chapter are intended to apply to all state employees of the judicial branch of state government, including "judges" as defined in the *Commission On Judicial Conduct Rules of Procedure (CJCRP)*.

[Statutory Authority: RCW 42.52.180 (2)(b) and 42.52.370. 97-13-075, § 292-11-010, filed 6/18/97, effective 7/19/97.]

WAC 292-11-020 Definitions. (1) The term "measurable expenditure" as used in RCW 42.52.180 (2)(b) shall mean an expenditure or consumption of public resources having more than a de minimis cost and value.

(2) As used herein, the term "de minimis cost and value" shall refer to a cost and/or value of the actual use of public resources that is sufficiently small to be reasonably disregarded as negligible or trifling.

[Statutory Authority: RCW 42.52.180 (2)(b) and 42.52.370. 97-13-075, § 292-11-020, filed 6/18/97, effective 7/19/97.]

Chapter 292-120 WAC

EXECUTIVE ETHICS BOARD—PENALTY RULES

WAC

292-120-010	Purpose.
292-120-020	Board may impose sanctions.
292-120-030	Criteria for determining sanctions.
292-120-040	Payment of civil penalty.

WAC 292-120-010 Purpose. The purpose of this rule is to set out the criteria that the board may consider when imposing sanctions for a violation of chapter 42.52 RCW and the rules adopted under it.

[Statutory Authority: RCW 42.52.360 (2)(e)-(g). 97-07-058, § 292-120-010, filed 3/18/97, effective 4/18/97.]

WAC 292-120-020 Board may impose sanctions. If the board finds a violation of chapter 42.52 RCW or rules adopted under it, the board may impose one or more of the following sanctions:

(1) Reprimand, either by letter of instruction or formal reprimand;

(2) Recommend to the appropriate authorities suspension, removal from the position, or prosecution or other appropriate remedy;

(3) A civil penalty of up to five thousand dollars per violation or three times the economic value of any thing sought or received in violation of chapter 42.52 RCW or rules adopted under it, whichever is greater. Payment of the

civil penalty shall be reduced by the amount of costs paid pursuant to subsection 5;

(4) Payment of damages sustained by the state that were caused by the violation and were not recovered by the state auditor;

(5) Costs, including reasonable investigative costs, that do not exceed the amount of any civil penalty;

(6) Recommend to the governor and the appropriate agency that they request the attorney general bring an action to cancel or rescind action taken by the violator, upon a board finding that:

(a) The violation has substantially influenced the state action; and

(b) Interests of the state require cancellation or rescission.

[Statutory Authority: RCW 42.52.360 (2)(e)-(g). 97-07-058, § 292-120-020, filed 3/18/97, effective 4/18/97.]

WAC 292-120-030 Criteria for determining sanctions. In determining the appropriate sanction, including the amount of any civil penalty, the board may consider the nature of the violation and the extent or magnitude or severity of the violation, including:

(1) The monetary cost of the violation including:

(a) The cost of the violation to the state;

(b) The value of anything received or sought in the violation;

(c) The amount of any damages incurred by the state as a result of the violation;

(d) The costs incurred in enforcement, including reasonable investigative costs;

(2) The nature of the violation including whether the violation:

(a) Was continuing in nature;

(b) Was motivated by financial gain;

(c) Involved criminal conduct;

(d) Impaired a function of the agency;

(e) Tended to significantly reduce public respect for or confidence in state government or state government officers or employees;

(f) Involved personal gain or special privilege to the violator;

(3) Aggravating circumstances including whether the violator:

(a) Intentionally committed the violation with knowledge that the conduct constituted a violation;

(b) Attempted to conceal the violation prior to the filing of the complaint;

(c) Was untruthful or uncooperative in dealing with the board or the board's staff;

(d) Had significant official, management, or supervisory responsibility;

(e) Had committed prior violations found by the board;

(f) Incurred no other sanctions as a result of the violation;

(4) Mitigating factors including:

(a) Prior corrective action taken against the violator;

(b) Prior recovery of damages to the state;

(c) The unethical conduct was approved or required by the violator's supervisor or agency;

(d) The violation was unintentional;

(e) Other mitigating factors deemed relevant by the board.

(5) For purposes of this section, each act which violates one or more provisions of chapter 42.52 RCW, or rules adopted under it, may constitute a separate violation.

[Statutory Authority: RCW 42.52.360 (2)(e)-(g). 97-07-058, § 292-120-030, filed 3/18/97, effective 4/18/97.]

WAC 292-120-040 Payment of civil penalty.

Payment of any monetary penalty assessed by the board must be made within 45 days of the date of the board's order, unless an extension is granted by the board.

[Statutory Authority: RCW 42.52.360 (2)(e)-(g). 97-07-058, § 292-120-040, filed 3/18/97, effective 4/18/97.]

Title 296 WAC LABOR AND INDUSTRIES, DEPARTMENT OF

Chapters

- 296-10 Practice and procedure—Industrial welfare committee.
- 296-11 Practice and procedure—Board of pilotage commissioners.
- 296-17 Manual of rules, classifications, rates, and rating system for Washington workers' compensation insurance.
- 296-20 Medical aid rules.
- 296-23 Radiology, radiation therapy, nuclear medicine, pathology, hospital, chiropractic, physical therapy, drugless therapeutics and nursing—Drugless therapeutics, etc.
- 296-23A Hospitals.
- 296-24 General safety and health standards.
- 296-27 Recordkeeping and reporting.
- 296-46 Safety standards—Installing electric wires and equipment—Administrative rules.
- 296-49 Governor's mobile home and recreational vehicle advisory board.
- 296-49A Director's factory assembled structures advisory board.
- 296-62 Occupational health standards—Safety standards for carcinogens.
- 296-63 Right to know fee assessment.
- 296-65 Asbestos removal and encapsulation.
- 296-86 Regulations and fees for freight and passenger elevators, manlifts, dumbwaiters, escalators, moving walks, automobile parking elevators, personnel elevators, and other lifting devices.
- 296-93 Material lifts.
- 296-93A Material lifts.
- 296-99 Safety standards for grain handling facilities.
- 296-104 Board of boiler rules—Substantive.

- 296-116 Pilotage rules.
- 296-126 Standards of labor for the protection of the safety, health and welfare of employees for all occupations subject to chapter 49.12 RCW.
- 296-128 Minimum wages.
- 296-129 Industrial welfare committee appeal procedures.
- 296-150C Commercial coaches.
- 296-150F Factory-built housing and commercial structures.
- 296-150M Manufactured homes.
- 296-150P Recreational park trailers.
- 296-150R Recreational vehicles.
- 296-155 Safety standards for construction work.
- 296-200 Contractor certificate of registration renewals—Security—Insurance.
- 296-200A Contractor certificate of registration renewals—Security—Insurance.
- 296-304 Safety standards for ship repairing, shipbuilding and shipbreaking.
- 296-306 Safety standards for agriculture.
- 296-306A Safety standards for agriculture.
- 296-307 Safety standards for agriculture.
- 296-400 Certification of competency for journeyman plumbers.
- 296-400A Certification of competency for journeyman plumbers.
- 296-401 Certification of competency for journeyman electricians.

Chapter 296-10 WAC

PRACTICE AND PROCEDURE—INDUSTRIAL WELFARE COMMITTEE

WAC

296-10-010 through 296-10-590 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 296-10-010 Appearance and practice before agency—Who may appear. [Rule .08.010, effective 3/18/60, filed 3/23/60.] Repealed by 97-17-064, filed 8/18/97, effective 9/18/97.
- 296-10-020 Appearance and practice before agency—Appearance in certain proceedings may be limited to attorneys. [Rule .08.020, effective 3/18/60, filed 3/23/60.] Repealed by 97-17-064, filed 8/18/97, effective 9/18/97.
- 296-10-030 Appearance and practice before agency—Solicitation of business unethical. [Rule .08.030, effective 3/18/60, filed 3/23/60.] Repealed by 97-17-064, filed 8/18/97, effective 9/18/97.
- 296-10-040 Appearance and practice before agency—Standards of ethical conduct. [Rule .08.040, effective 3/18/60, filed 3/23/60.] Repealed by 97-17-064, filed 8/18/97, effective 9/18/97.
- 296-10-050 Appearance and practice before agency—Appearance of former employee of board or former member of attorney general's staff. [Rule .08.050, effective 3/18/60, filed 3/23/60.] Repealed by 97-17-064, filed 8/18/97, effective 9/18/97.
- 296-10-060 Appearance and practice before agency—Former employee as expert witness. [Rule .08.060, effective 3/18/60, filed 3/23/60.] Repealed by 97-17-064, filed 8/18/97, effective 9/18/97.