

Title 287 WAC

INVESTMENT BOARD, STATE

Chapters

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Chapter 287-01 WAC

BOARD ORGANIZATION AND ADMINISTRATION

WAC

287-01-030 Regular board meetings.

WAC 287-01-030 Regular board meetings. The regular meetings of the state investment board are held on the third Thursday of each month, beginning at 9:30 a.m. at the board's offices at 2424 Heritage Court S.W., Olympia, Washington 98504-0916.

[Statutory Authority: RCW 43.33A.110 and 43.33A.040(2), 95-15-080, § 287-01-030, filed 7/18/95, effective 8/18/95.]

Chapter 287-02 WAC

PUBLIC RECORDS

WAC

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WAC 287-02-010 Purpose. The purpose of this chapter shall be to ensure compliance by the state investment board with the provisions of chapter 42.17 RCW dealing with public records.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260, 81-23-012 (Order 81-1), § 287-02-010, filed 11/10/81.]

WAC 287-02-020 Definitions. The following definitions shall apply to this chapter:

(1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of

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recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic of paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

(3) "State investment board" means the board established by chapter 3, Laws of 1981. The state investment board shall hereinafter be referred to as the "board." Where appropriate, the term state investment board also refers to the staff and employees of the board.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260, 81-23-012 (Order 81-1), § 287-02-020, filed 11/10/81.]

WAC 287-02-030 Description of central and field organization of the state investment board. The state investment board is a state agency empowered to perform all duties prescribed by law with respect to the investment of trust and public funds. The administrative offices of the state investment board and its staff are located at 314 Insurance Building, Olympia, Washington.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260, 81-23-012 (Order 81-1), § 287-02-030, filed 11/10/81.]

WAC 287-02-040 Operations and procedures. The state investment board is charged with the duty to invest certain trust and public funds, as set forth in RCW 43.84.150, and chapter 3, Laws of 1981. The board shall meet at least quarterly, at times and locations determined by the board, in order to perform its duties. All such meetings will comply with the Open Meetings Act.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260, 81-23-012 (Order 81-1), § 287-02-040, filed 11/10/81.]

WAC 287-02-050 Public records available. All public records of the state investment board as defined in WAC 287-02-020 are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.370.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260, 81-23-012 (Order 81-1), § 287-02-050, filed 11/10/81.]

WAC 287-02-060 Public records officer. The state investment board's public records shall be in the charge of the public records officer designated by the agency. The person so designated shall be located in the administrative office of the agency. The public records officer shall be responsible for the following: The implementation of the state investment board's rules and regulations regarding release of public records, coordinating the staff of the committee in this regard and generally insuring compliance by the staff with the public records disclosures requirements of chapter 42.17 RCW.

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[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-060, filed 11/10/81.]

WAC 287-02-070 Office hours. Public records shall be available for inspection and copying during the customary office hours of the state investment board. For the purposes of this chapter, the customary office hours shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday excluding legal holidays.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-070, filed 11/10/81.]

WAC 287-02-080 Requests for public records. In accordance with requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the state investment board which shall be available at its administrative office. The form shall be presented to the public records officer, or to any member of the board's staff, if the public records officer is not available at the administrative office of the board during customary office hours. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;

(e) If the requested matter is not identifiable by reference to the board's current index, and appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made to assist the member of the public in appropriately identifying the public record requested.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-080, filed 11/10/81.]

WAC 287-02-090 Copying. No fee shall be charged for the inspection of public records. The board shall charge a fee for copying public records not to exceed 50 cents per page. This charge is the amount necessary to reimburse the board for its actual costs incident to such copying.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-090, filed 11/10/81.]

WAC 287-02-100 Exemptions. (1) The board reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 287-02-080 is exempt under the provisions of RCW 42.17.310.

(2) In addition, pursuant to RCW 42.17.260(1), the board reserves the right to delete identifying details when it makes available or publishes any public record, in any case when

there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-100, filed 11/10/81.]

WAC 287-02-110 Review of denials of public record requests. (1) Any person who objects to the denial of a request for a public record may petition for review of such decision by rendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the executive director of the board. The executive director shall immediately consider the matter and either affirm or reverse such denial. In any case, the request shall be returned with a final decision, within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the executive director has returned the petition with a decision or until the close of the second business day following the denial of inspection, whichever occurs first.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-110, filed 11/10/81.]

WAC 287-02-120 Records index. (1) Index. The board has available to all persons a current index which provides identifying information as to the following records issued, adopted or promulgated since May 1, 1981:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statute and the constitution which have been adopted by the agency;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(2) Availability. The current index promulgated by the board shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-120, filed 11/10/81.]

WAC 287-02-130 State investment board address.

All communications with the board including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 42.17 RCW and these rules, requests for copies of the board's decisions and other matters, shall be addressed as follows: State Investment Board, c/o Public Records Officer, 314 Insurance Building, Olympia, Washington 98504.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-130, filed 11/10/81.]

WAC 287-02-140 Adoption of form. The board hereby adopts for use by all persons requesting inspection and/or copying or copies of its records, the form set out below entitled "Request for public record."

REQUEST FOR PUBLIC RECORD

Name of Requestor:
Address: Phone:
Date of Request: Time of Request:
Nature of Request:
1. Index Reference
2. If not identifiable by reference to the index, then describe the document(s) in detail
Signature

For Office Use Only:

(1) Request Record Withheld
Granted [] Withheld [] In Part []
(2) If withheld, name the exemption contained in RCW 42.17.310, which authorizes the withholding of the record or part of record.
(3) If withheld, briefly explain how the exemption applies to the record withheld.
(4) If request granted, time,, day,

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-140, filed 11/10/81.]

Chapter 287-04 WAC
CONFLICT OF INTEREST

WAC

287-04-010 Promulgation.
287-04-020 Purpose.
287-04-029 Rules of conduct.
287-04-031 Gifts.
287-04-032 Personal investments.
287-04-033 Additional prohibitions.
287-04-034 Recusal.
287-04-038 Definitions.
287-04-039 Violation of code.
287-04-040 Conflict of employment.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

287-04-030 Rules of conduct. [Statutory Authority: RCW 43.33A.110. 81-23-012 (Order 81-1), § 287-04-030, filed 11/10/81.] Repealed by 93-04-008, filed 1/22/93, effective 2/22/93. Statutory Authority: RCW 43.33A.110.

WAC 287-04-010 Promulgation. Pursuant to section 4, chapter 219, Laws of 1981 the board promulgates the following rules relating to conflict of interest and ethical conduct appropriate to the specific needs of the board.

[Statutory Authority: RCW 43.33A.110. 81-23-012 (Order 81-1), § 287-04-010, filed 11/10/81.]

WAC 287-04-020 Purpose. The board finds that the trusteeship and investment management of the state's trust and retirement funds demand the highest degree of confidence from the beneficiaries of the funds and the public in general, and the establishment of rules regarding conflict of interest and ethical conduct will promote and sustain public trust and maintain integrity in government.

[Statutory Authority: RCW 43.33A.110. 81-23-012 (Order 81-1), § 287-04-020, filed 11/10/81.]

WAC 287-04-029 Rules of conduct. WAC 287-04-031 through 287-04-039 are promulgated pursuant to RCW 43.33A.110 and 42.52.200 to ensure compliance with chapter 42.52 RCW (Ethics in public service) and the code of conduct, as adopted by the board. All employees of the board and board members must comply with the code of conduct.

[Statutory Authority: RCW 43.33A.110 and 42.52.200. 98-01-138, § 287-04-029, filed 12/19/97, effective 1/19/98.]

WAC 287-04-031 Gifts. (1) "Gifts" and "thing of economic value"

(a) No employee of the board or member of the board shall receive, accept, seek or solicit, directly or indirectly, any gift as defined in RCW 42.52.010(18) if such employee or member of the board has reason to believe that it could be reasonably expected that the gift, gratuity, or favor would influence the vote, action, or judgment of the officer or employee, or be considered as part of a reward for action or inaction.

(b) No employee of the board or member of the board shall accept gifts, except those specified in RCW 42.52.150 (2) and (5), with an aggregate value in excess of fifty dollars from a single source in a calendar year or a single gift from multiple sources.

(c) Notwithstanding the above exception found in RCW 42.52.150 (2) and (5), a board member or an employee of the board who participates in the acquisition of goods and services cannot accept things of economic value from a person who seeks to provide goods or services to the board, except for those items specifically listed in RCW 42.52.150(4).

(2) No employee of the board or board member may accept honorarium under the circumstances set forth in RCW 42.52.130. An employee or board member may accept honorarium if all of the following are met:

(a) The employee or board member will not be carrying out their agency 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 employee's or board member's official position in the board;

(c) The topic is such that it does not appear that the employee or board member could have used information acquired in the course of employment or 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 employee or board member to produce the materials or prepare for the article, appearance, or item for which the honorarium is being given.

[Statutory Authority: RCW 43.33A.110 and 42.52.200. 98-01-138, § 287-04-031, filed 12/19/97, effective 1/19/98. Statutory Authority: RCW 43.33A.110. 95-15-081, § 287-04-031, filed 7/18/95, effective 8/18/95; 93-04-008, § 287-04-031, filed 1/22/93, effective 2/22/93.]

WAC 287-04-032 Personal investments. (1) The following definitions apply to this section:

(a) "Permissible investment" means any mutual fund or deposit account, certificate of deposit or money market fund maintained with a bank, broker, or other financial institution, any security publicly traded in an organized market if the interest in the security at acquisition is ten thousand dollars or less or an interest in real estate unless such interest involves a related party transaction.

(b) "Other investment" means any investment not defined as a permissible investment in (a) of this subsection.

(c) "Immediate family" includes the spouse, dependent children, other dependent relatives if living in the household and any other household member, whether or not related.

(2) Board members and employees may purchase "permissible investments" without prior approval.

(3) No employee of the board shall or shall permit any member of his or her immediate family to, purchase any "other investment," without the written prior approval of the executive director or his or her designee. The executive director shall not purchase or permit any member of his or her immediate family to purchase any "other investment," without the prior written approval of the chair or his or her designee who shall report to the board any approval granted or denied. No member of the board shall or shall permit any member of his or her immediate family to purchase any "other investment," without the prior written approval of the executive director or his or her designee, who shall report to the board any approval granted or denied.

(4) No employee of the board or board member shall participate in an LBO or venture capital IPO of which the board has an interest until such shares are available to the general public.

[Statutory Authority: RCW 43.33A.110 and 42.52.200. 98-01-138, § 287-04-032, filed 12/19/97, effective 1/19/98.]

WAC 287-04-033 Additional prohibitions. (1) No board member or employee shall borrow from investment managers, outside service providers, professional advisors or consultants, banks, or other financial institutions with which

the board has a business relationship, except and unless such entities are normally engaged in such lending in the usual course of their business, and then only on terms offered to others under similar circumstances.

(2) Confidential information shall be used solely for the board's purposes and under no circumstances revealed to unauthorized persons, except as may be otherwise required to be disclosed as a public record pursuant to the requirements of chapter 42.17 RCW. If a document is subject to disclosure pursuant to chapter 42.17 RCW, there is an affirmative duty to properly release the document upon request.

(3) No board member or employee 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 making use of, or permitting others to make use of, information not available to the general public.

(4) No board member or employee shall use his or her position or employment 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.

(5) No board member or employee shall use his or her position or employment 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.

(6) No member of the board or its staff shall accept employment or engage in business or professional activity which he or she might reasonably expect would require or induce him or her to disclose confidential information acquired by him or her by reason of his or her official position.

[Statutory Authority: RCW 43.33A.110 and 42.52.200. 98-01-138, § 287-04-033, filed 12/19/97, effective 1/19/98.]

WAC 287-04-034 Recusal. (1) A member or employee of the state investment board shall comply with subsection (2) of this section when the following circumstances apply or it is reasonably foreseeable that they will apply:

(a) The member or employee is beneficially interested, directly or indirectly, in an investment decision, investment agreement, contract, sale, lease, purchase, or any other acquisition or disposal of an asset, goods or services made by, through, or under the supervision of the board, in whole or in part; or

(b) The member or employee 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; or

(c) A member or employee accepts, directly or indirectly, any compensation, gratuity or reward from any other person beneficially interested in such investment decision, investment agreement, contract, sale, lease, purchase, or any other acquisition or disposal of assets, goods or services; or

(d) A member or employee's participation in a board discussion or vote is motivated by something other than the best

interests of the board, its members and beneficiaries, in violation of that person's duty of loyalty.

(2)(a) If required by subsection (1) of this section, the member or employee shall:

(i) Recuse him or herself from discussions by the board, or any committee of the board, regarding the specific investment decision or other transaction; and

(ii) Recuse him or herself from any vote by the board, or any committee of the board, upon the specific investment decision or other transaction; and

(iii) Refrain from attempting to influence any other board member or employee in any discussion or vote regarding the specific investment decision or transaction.

(b) If recusal by a member or employee occurs pursuant to this subsection, the member or employee shall disclose to the public the reasons for his or her recusal from any board discussion or action at or prior to the time recusal occurs. The board staff shall record each such recusal and basis for the recusal.

(c) The prohibitions contained in this subsection do not prohibit the member or employee from using his or her 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.]

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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.]

WAC 287-04-040 Conflict of employment. No board or staff member shall accept employment which will adversely affect the performance of that member's official duties, discredit the board or result in a conflict of interest.

[Statutory Authority: RCW 43.33A.110. 81-23-012 (Order 81-1), § 287-04-040, filed 11/10/81.]

Chapter 287-06 WAC

STATE ENVIRONMENTAL POLICY ACT— INTERPRETATION

WAC

287-06-010

Exemption from provisions of WAC 197-10-800.

WAC 287-06-010 Exemption from provisions of WAC 197-10-800. The state investment board has reviewed its authorized activities and found them all to be exempt from the provisions of Title 197 WAC. This statement is adopted in compliance with the requirement that the board adopt guidelines consistent with Title 197 WAC.

[Statutory Authority: RCW 43.21C.120. 81-23-012 (Order 81-1), § 287-06-010, filed 11/10/81.]