

**UNDERSTANDING
ETHICS IN PUBLIC
SERVICE**

RCW 42.52
WAC 292-110
BPPM/Executive Policies
Faculty Manual

Revised February 2018

Recording date of this workshop is
February 6, 2018.

Some of the information presented in this
workshop is subject to change.

Please check university resources
before relying exclusively
on this recorded presentation.

Overview of the State Ethics Law

- The standards established under the state's ethics law, **RCW 42.52**, are based on **4 key areas**:
- **FIRST:** State employees should not have financial or other interests, or engage in business or professional activities that conflict with the performance of their official duties -- **Conflict of Interest**
- **SECOND:** State officers and employees should not use their state positions to secure special privileges or exemptions for themselves or any other person -- **Special Privileges**

- **THIRD:** State employees should not receive compensation from a source other than the State of Washington for the performance or non-performance of an official duty -- **Outside Compensation**

- **FOURTH:** State employees should not receive a gift if it could be reasonably expected to influence or reward the performance of their official duties -- **Gifts are Restricted**



Faculty Code of Professional Ethics

- Obligations derived from membership in the University Community
- Expectation that faculty have deep conviction to advance knowledge
- Obligation to exercise critical self-discipline and intellectual honesty
- Encourage free pursuit of learning by students
- Be available for student advising and consultation

ESSENTIAL RESOURCES

- Executive Ethics Board (EEB) Web Page www.ethics.wa.gov
 - Ethics Act and Rules
 - Advisory Opinions
 - Training (online quiz)
- BPPM 10.21—Summary of Ethics Law and Policies
- BPPM 20.37—Personal Use of University Resources
- Executive Policy 4—Electronic Communication Policy
- Executive Policy 27—Ethics, Conflict of Interest, and Technology Transfer
- Faculty Manual II.D—Ethics in Public Service
- Faculty Manual II.C.1—Faculty Code of Professional Ethics.

SANCTIONS AND PENALTIES

- **Fines:** The greater of \$5,000 or three times the benefit
- **Damages sustained by the state plus costs**
- **Disciplinary action up to and including termination**
- Negative publicity and perceptions of the violator, WSU, and the State of Washington

Special Note: Every action taken by the Executive Ethics Board is a public record and published online

Personal Responsibility: Responsibility and accountability for the appropriate use of state resources ultimately rests with the individual state employee, or with the state employee who authorizes such work.
WAC 292-110-010(1)

- **In other words: Ignorance of the law won't work**

Washington State Ethics Law Covers the Following General Areas:

- Use of State Resources
- Gifts
- Conflict of Interest, Including Outside Employment
- Compensation for Official Duties
- Nepotism & Special Privileges
- Political Activities
- Confidential Information
- Public Records

Use of State Resources

State resources are to be used for the conduct of state business only

▪ The State's ethics law protects and limits the use of state resources for the conduct of official state business, with only very narrow exceptions as determined by the EEB

▪ **State Resources Include:**

- Equipment, computers, cell phones, cameras, and general supplies
- Office/conference rooms and university facilities
- Vehicles
- Personnel, co-workers, and work time
- **THE UNIVERSITY WIRELESS SYSTEM**

- RCW 42.52.160
- WAC 292-110-010
- BPPM 20.37



De Minimis (minimal) Use Exception

- De Minimis: Use **MAY** be allowed if the use results in:
 - No cost to the State
 - Does not interfere with the performance of official duties, and
 - Is brief in duration and accumulation
 - WAC 292-110-010
- **HOWEVER:** State resources **MAY NEVER be used:**
 - To support an outside business (either profit or nonprofit, unless approved by WSU)
 - For private use of state property away from WSU
 - For commercial activities (ads, sales, or solicitations)
 - For political activities -- campaigning for/against candidates or initiatives or lobbying
 - Any use prohibited by law or WSU policy

In these situations, the de minimis use exception will not apply.

Research Patent Policy

- Potentially patentable discoveries and proprietary information which are developed using University equipment, supplies, facilities, employee time, or proprietary information, or which relate directly to the University's business, research, or development.
- The University will be assigned ownership in patents and other tangible research property developed by its employees as a result of their University' research or employment.
- The policy and the patentable discoveries are administered by the University through its Office of Commercialization (OC).
- The University does not claim rights in inventions for which no equipment, supplies, facilities, or proprietary information was used and which was developed entirely on the employee's own time.




Copyright Ownership

- WSU Faculty Manual IV.H.2.a.1, states:
 - Work Made for Hire. Except as otherwise provided in the Employee Ownership of Copyrighted Works section of this Policy, IV.H.2.b of this manual or as otherwise provided in WSU policy, the University shall own all copyrightable works that were created as a "work made for hire."
 - "Work made for hire," as defined by the Copyright Act, includes (1) works prepared by University employees within the employee's scope of employment, or (2) works not created within the employee's scope of employment but that are specially commissioned by the University pursuant to a written agreement that is signed by both the University and the employee.



COPYRIGHT

Copyright (Cont.)

- The University shall not assert ownership in the following works created by employees within the employee's scope of employment including, but not necessarily limited to, the following:
 - (a) scholarly material,
 - (b) educational material (e.g., text books),
 - (c) art works,
 - (d) musical compositions
 - (e) sound recordings
 - (f) dramatic and nondramatic literary works, and
 - (g) creative works fixed in a film, video, or other media.
- Unless (1) substantial kinds or amounts of University resources were used to create the works



Use of Scholarly Material

- Faculty Manual IV.I states:
 - Faculty members may not sell any materials directly to students. Students may be required to use textbooks or other material written by WSU faculty only if:
 - the faculty member receives no financial gain from sales to WSU students, or
 - the materials are printed and copyrighted by a recognized publishing house and either in widespread use in other institutions or with evidence of independent external review by peers, or
 - the materials are reviewed and approved for use by a group designated by the Faculty Senate Executive Committee. A request for review and approval must be submitted every five (5) years or at the issuance of a new edition or whichever comes first.

Honoraria

- Faculty Manual II.D.3 states: "State employees are prohibited from receiving honoraria unless specifically authorized by the employer. The University recognizes that allowing faculty to accept appropriate honoraria in connection with involvement in the larger community in order to carry out the University's academic and community outreach mission as a land-grant institution encourages participation in such activities."
- University policy on honoraria specifically authorizes faculty to accept honoraria if offered for their participation in community, business, trade, and professional activities related to their University duties.

Honoraria is not permitted when:

- a) The person offering the honorarium is seeking or is reasonably expected to seek a contract or a grant from Washington State University, and the employee is in a position to participate in the terms or the award of the contract or grant;
- b) The person offering the honorarium is regulated by the employer of the state officer or state employee and the officer or employee is in a position to participate in the regulation; or
- c) The person offering the honorarium is seeking or opposing or is reasonably likely to seek or oppose enactment of legislation or adoption of administrative rules or actions, or policy changes by Washington State University; and the employee may participate in the enactment or adoption.

Faculty Manual II.D.3

Compensation for Official Duties

- RCW 42.52.110: No state officer or employee may, directly or indirectly, ask for or give or receive or agree to receive any compensation, gift, reward, or gratuity from a source for performing or omitting or deferring the performance of any official duty (*certain higher ed exceptions apply.*)
- No extra or outside compensation for your official duties or for not doing your duties
- *Example:* Working in accounting, you process credit card payments to the university; a major bank sends you a \$50 award for services provided. Can you keep it?



Compensation/Outside Activities

- IV.D Policy on Compensated Outside Service
- Full time faculty compensated for full time service.
- Faculty Manual – Full time faculty may engage in consulting activity one day person week. Part-time faculty may engage as to achieve full time FTE.
- Must not interfere with professional duties.
- Outside work must be disclosed and reported annually
- University facilities and resources may not be used

Outside Compensation

- The general rule is that no state employee may accept anything of economic value under any contract or grant outside the employee's official duties. Therefore, under the general rule, a Washington State University employee is prohibited from contracting to do private work. However, this general prohibition does not apply and the state employee can have a beneficial interest in a personal contract or grant if all six conditions listed in the law are met:

- a) The contract or grant is bona fide and actually performed;
- b) The contract or grant is not within the course of the employee's official duties;
- c) The performance of the contract or grant is not prohibited by RCW 42.52.040 regarding assisting another in transactions involving the state, or by applicable law or rules governing outside employment discussed in this section;
- d) The contract or grant is neither performed for nor compensated by any person who is regulated by WSU or seeks to provide goods or services to WSU (same as person from whom the employee would be prohibited by RCW 42.52.150(4) from receiving a gift);
- e) The contract or grant is not expressly created or authorized by the employee in his or her official capacity; and
- f) The contract or grant would not require unauthorized disclosure of confidential information.

RCW 42.52.120(1)

Contracts/Compensation with State Entities

- If the contract is with a state agency, then additional requirements apply. Therefore, if an employee privately contracts with WSU or another state agency, then one of the following conditions must be met:
 - There is an open and competitive bidding or selection process in which more than one bid or grant application is received;
 - There is an open and competitive bidding or selection process in which the employee's bid or proposal is the only one received and the employee has been advised by the state Executive Ethics Board that the contract or grant will not be in conflict with the proper discharge of official duties; or
 - There is no open and competitive process, but the employee has been advised by the state Ethics Board that the contract or grant will not be in conflict with the proper discharge of official duties
- Note: Contracts/grants must also be filed with EEB within 30 calendar days of execution.

Social Media Use

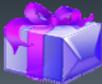
- EP 4 -- Electronic Communication Policy
 - WSU may ask that employees maintain work-related, approved social media accounts or blogs
 - Can be managed and updated during business hours
 - Professional v. Private: personal networking sites should remain personal and not used for work-related purposes; no university account should be used to maintain personal social network accounts
- Protect your WSU.EDU good name
- Any communication can become a public record
- Someone may be watching



RCW 42.52.140 GIFTS

- RULE:** No state officer or state employee may receive, accept, take, seek, or solicit, directly or indirectly, any thing of economic value as a gift or favor from a person if it could be:
 - reasonably expected that the gift or favor would influence the vote, action, or judgment of the officer or employee, or
 - considered part of a reward for action or inaction

NOTE: As a general rule, you do not want to accept gifts from students and/or their parents



GIFTS, GRATUITIES & FAVORS

- When neither of these conditions are present, you may accept a gift or gifts up to \$50 in value per calendar year.
- State ethics laws also provide for the acceptance of certain items that are either:
 - Not included in the definition of "gift"
 - Items that are gifts but are presumed not to influence unless circumstances indicate otherwise



GIFT BASICS

▪ GIFTS **DO NOT** INCLUDE:

- Items from family and friends with clear purpose not to influence
- Customary items related to an outside business
- Items exchanged at social events by coworkers
- Reasonable expenses for a speech or seminar
- Discounts available to individuals as a member of a broad-based group.

Example: discount Mariner tickets for state employees



What to do with a gift you can't accept?

- If someone gives you a gift you cannot accept, you may, within 30 days:
 - Return it to the sender
 - Donate it to a charity
 - Accept it on behalf of an office or department (sometimes)
- Make a record (essentially a receipt) of what you did with the gift and hold on to it

GIFTS, RCW 42.52.150(4) Section 4 Employees

▪ SECTION 4 EMPLOYEES MEET ALL THREE CRITERIA:

- Work for an agency that seeks to acquire goods or services
- Gift-giving person seeks to provide goods or services to the agency
- Employee participates in those contractual matters with that gift-giving person
- If your duties include decisions about contracting or purchasing, the Section 4 restrictions apply to gifts from any past, current, or potential future contractors or vendors



Section 4 Employees May NOT Accept Gifts

- If the gift giver has been or could ever be a party in a contracting relationship with you in your official capacity, do not accept the gift
- There will be few, if any, times when it will be acceptable for you to accept any kind of gift.
 - Certain exceptions apply, call AGO if you have a question



CONFLICTS OF INTEREST

- RCW 42.52.020: No state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state employee's official duties.
- Conflicts boil down to *benefits and bias*.
 - You cannot:
 - Have direct or indirect financial interest
 - Engage in a business or transaction or professional activity
 - Incur any obligation



With anyone you regulate or contract with



CONFLICTS OF INTEREST

Questions to ask yourself when evaluating a potential conflict of interest:

1. Will your private interest benefit as a result of your official action?
2. Would a *reasonable person* conclude that a private or personal interest impairs your independent judgment in the exercise of official duties?

- However, these are not always easy to spot and can be complex
 - *Determined on a case-by-case basis: Err on the side of caution and ask for advice when you are unsure*

Conflicts of Interest: Research Office of Research COI Committee

- Things to remember:
 - Significant financial interest disclosure
 - Conflict of interest application for a management plan
 - Issuance of COI management plan by the committee
 - Annual reporting of COI management plan
 - Don't forget EP #27

Nepotism & Special Privileges

- A state employee may not use his or her official position to secure special privileges for **himself or herself or any other person**
- WSU employees may not supervise or participate in employment decisions affecting:
 - Family members
 - Household members
 - Intimate partners
- BPPM 60.14
- Purpose: minimize conflicts of interests
- Employee has the responsibility to self-report possible conflicts related to family members



Political Campaigns, Candidates and Initiatives

- **Basic Rule:** A state employee may *not* use state resources for political campaigns
 - This prohibition applies to **knowing acquiescence:**

A state employee, with authority to direct, control, or influence the actions of another employee, may not knowingly acquiesce in the other employee's use of state resources for a political campaign



Confidential Information

- WSU employees are often in positions where they have access to confidential information. If you have access to such information, you may not disclose it, unless provided for by law, or by an agreement between the agency and the person.
- Under no circumstance may the confidential information be used for personal benefit or for the benefit of others--**RCW 42.52.050**
- Examples:** student records, employee records, medical records, certain internal memos
- If you receive a request for a record that may be confidential, contact the AG's Office**



Public Records RCW 42.52

- You may receive requests for public records
- Contact the WSU Office of Procedures, Records and Forms if you receive such a request; they will assist you in responding
- Ethical Duty under RCW 42.52.050(4):** No state officer or state employee may intentionally conceal a record if the officer or employee knew the record was required to be released under the Public Records Act, was under a personal obligation to release the record, and failed to do so



SUMMARY

- Accept gifts with caution
- De minimis personal use of state resources
- Don't use state resources for political campaigns
- Don't accept outside compensation related to your state employment
- Respond appropriately to PRRs
- Avoid financial interest in state transactions you work on
- Don't accept any special privilege related to state employment



This has been a
WSU Training
Videoconference

If you attended this live training session and
wish to have your attendance documented in
your training history,
please notify Human Resource Services
within 24 hours of today's date:

hrstraining@wsu.edu
