

# AGENDA ITEM #15.

## Executive Ethics Board

**Melanie deLeon**

Executive Director

(360) 586-6759

[melanied@atg.wa.gov](mailto:melanied@atg.wa.gov)

EEB Executive Director Melanie deLeon will join the Commission for questions and answers on the Ethics in Public Service Act, as it relates specifically to serving on the Fish and Wildlife Commission.

###

## TABLE OF CONTENTS

Executive Ethics Website Training .....	2
Ethics in Public Service Laws and Rules.....	2
WAC 232-12-002, Fish and wildlife commission members' recusal requirements .....	3-5
Ethics Board Overview .....	6
About Gifts.....	7

## Executive Ethics Training Modules

Available on the Internet at -- <http://www.ethics.wa.gov/RESOURCES/Resources.htm>

1 - Does it apply to me	Ethics 1
2 - Conflicts of Interest	Ethics 2
3 - Financial Interests	Ethics 3
4 - Assisting in transactions	Ethics 4
5 - Confidential Information	Ethics 5
6 - Special Privileges	Ethics 6
7 - Employment after Public Service	Ethics 7
8 - Compensation for Official Duties	Ethics 8
9 - Compensation for Outside Activities	Ethics 9
10 - Gifts	Ethics 10
11 - Use of Persons, Money or Property for Private Gain	Ethics 11
12 - Use of Public Resources for Political Campaigns	Ethics 12

\* \* \* \* \*

From the Ethics Board web page

< [http://www.ethics.wa.gov/ENFORCEMENT/Laws\\_Rules.htm](http://www.ethics.wa.gov/ENFORCEMENT/Laws_Rules.htm) >

### Laws & Rules

Laws and rules governing the Ethics in Public Service Act.

#### Laws

[RCW 42.52](#), Ethics in Public Service

#### Rules

[WAC 292-100](#), Procedural Rules

[WAC 292-110](#), Substantive Rules

[WAC 292-120](#), Penalty Rules

[WAC 292-130](#), Public Record and Agency Organization Rules.

\* \* \* \* \*

*[Unofficial Copy -- Printed from the Internet]*

**WAC 232-12-002 Fish and wildlife commission members' recusal requirements for commissioners with beneficial interests in certain commission decisions and transactions.**

(1) Commission members must comply with subsection (2) 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 commission, 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 commission, 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 commission.

(2) If required by subsection (1) of this section, the member must:

(a) Recuse himself or herself from discussions by the commission, regarding the specific contract, sale, lease, purchase, grant, or transaction; and

(b) Recuse himself or herself from any vote by the commission on the specific contract, sale, lease, purchase, grant, or transaction; and

(c) Refrain from attempting to influence any other member or employee in any discussion or vote regarding the specific contract, sale, lease, purchase, grant, or transaction.

(3) Definitions. The following definitions apply to this section:

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

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

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

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

(b) "Transaction involving the commission" 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 commission member; or a claim, case, lawsuit, or similar matter if the commission member did not participate in the underlying transaction involving the commission that is the basis for the claim, case, or lawsuit. Rule making is not a transaction involving the commission.

(c) "Commission action" means any action on the part of the commission, including, but not limited to:

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

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

(4) Under subsection (1)(b), "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.

(5) The prohibitions contained in subsection (2) do not prohibit the member from using his or her general expertise to educate and provide general information on the subject area to other commission members.

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

#### EXAMPLES:

EXAMPLE ONE: The commission is composed of individuals who often are employed in the private sector. The governor appoints members of the commission. In making these appointments, the governor is required to seek to maintain a balance reflecting all aspects of fish and wildlife. Commission members are appointed because they have general knowledge of the habit and distribution of fish and wildlife and are often recommended by interest groups, such as sport fishers, commercial fishers, hunters, private landowners, and environmentalists. A commission member is employed by a company that provides contract facilitation services. The commission is in the process of selecting a contractor to conduct a series of public meetings on fishing in Washington. The company which employs the member of the commission has bid for the contract. The commission member may use his or her general expertise to educate

commissioners about desirable public meeting design elements for a successful public involvement project like the one the commission wants to conduct. The commission member is prohibited from participating in the commission discussion and analysis establishing criteria for selecting a contractor and is prohibited from participating in the commission vote to select a contractor (see WAC 232-12-002 (1)(c)). The commission member would publicly announce his or her recusal and the reasons for it, and the commission staff would record this information as part of the public record.

EXAMPLE TWO: The commission contracts with King Software (hypothetical company) to provide computer systems for tracking recreational license purchases. King Software's contract with the commission is almost expired, and the commission must seek bids from software companies for the next contract period. The commission issues a request for bids to various software companies who offer suitable software, including Fishsoft, Inc. (hypothetical company). Approximately nine months ago, one commission member worked for Fishsoft, Inc. and received compensation from that company. The commission member subsequently left Fishsoft, Inc. The commission member is not required to recuse himself or herself from selecting a contractor for the commission's computer license system. Fishsoft, Inc. did not have a beneficial interest in the commission's contract until it bid on the contract. Therefore, Fishsoft, Inc. was not a person beneficially interested in the contract when the commission member received the compensation (see WAC 232-12-002(4)). However, if the commission member received compensation from Fishsoft, Inc. after it bid on the contract, the commission member would be required to disclose the fact that he or she received the compensation from a bidder and recuse himself or herself from the commission's specific discussion and the vote awarding the contract (see WAC 232-12-002 (1)(b)). The commission staff would record this information into the public record. Again, the commission member could participate in discussions using his or her general expertise to educate and provide general information on the subject area to the other commission members.

[Statutory Authority: RCW 42.52.200 and 77.04.055. 98-14-013 (Order 98-107), § 232-12-002, filed 6/19/98, effective 7/20/98.]

---

Unofficial Copy

Retrieved 04/04/2008 from the Internet at -- <http://search.leg.wa.gov/pub/textsearch>

# **Washington State Executive Ethics Board**

2425 Bristol Court SW, PO Box 40149, Olympia WA 98504-0149

---

## **Ethics in Public Service RCW 42.52**

### **Background**

The Executive Ethics Board (the Board) was created in 1994 by legislation at the request of the Governor and Attorney General. The law went into effect on January 1, 1995.

The Board is comprised of five members appointed by the Governor and serve five year terms:

- State Exempt Employee
- State Classified Employee
- Recommended by State Auditor
- Recommended by Attorney General
- Member at large.

### **Roles of the Members**

The members have statutory responsibility to:

- Develop training materials
- Adopt rules
- Issue advisory opinions
- Investigate and hear complaints
- Impose penalties for violations
- Recommend suspension or other disciplinary action

### **Violations and Penalties**

If the Board determines that a state employee or officer violated the ethics law, they can order the following:

- Penalties up to \$5,000 per violation
- Damages sustained by the State
- Investigative Costs

### **Staff**

The agency is staffed by members of the Office of the Attorney General and is comprised of an Executive Director, Administrative Officer and two Investigators. They are charged with:

- Issuing non-binding staff opinions
- Approving contracts for outside employment if with another state agency
- Investigating complaints – making recommendations to the Board
- Developing training materials and conducting training.

### **Issuing Non-Binding Staff Opinions**

Staff frequently receives questions from the public or state employees about a variety of topics. Staff provides answers to these questions in the form of a non-binding staff opinion. This is staff's best guess on how the Board would view the situation, and is based on Advisory Opinions and previously heard enforcement cases.

### **Approving Contracts for Outside Employment**

With a few exceptions, when a state employee contracts with another state agency to perform work, the employee must seek approval from the Board.

### **Investigating Complaints**

Staff investigates complaints that are submitted. If staff believes that a violation of the ethics law has occurred, they will submit the case before the Board. The Board members decide if the law was violated and what penalty should be assessed for the violation.

### **Training**

The Board has partnered with the Department of Personnel to provide training to state employees. The Board staff will provide Executive Management training as requested. Board staff also conducts Train-the-Trainer classes.

# Washington State Executive Ethics Board

2425 Bristol Court SW, PO Box 40149, Olympia WA 98504-0149

---

## Can I Accept the Gift?

As a state employee or officer, you are limited in the types of gifts you may receive. The general rule is that you cannot accept a gift from any one source during a calendar year in which the aggregate exceeds \$50.

There are circumstances in which you can accept gifts that exceed that limit. You may accept the following:

- Unsolicited flowers, candy and such, promotional items, awards of appreciation such as a plaque or trophy;
- Items received for evaluation purposes, if no personal beneficial interest exists;
- Informational material, publications or the like if it is related to your official duties;
- Food and beverages consumed at a hosted reception;
- Admission to and food and beverages consumed at events sponsored by a civic, charitable, governmental or community organization;
- Unsolicited gifts from foreign dignitaries;
- Items from family members and friends;
- Items from businesses that are customary, such as pens, note pads or refrigerator magnets;
- Items exchanged between co-workers;
- Payments made for reasonable expenses in connection with a speech or presentation;
- Payments of enrollment and course fees and reasonable travel expenses attributable to seminars and educational programs sponsored by a nonprofit professional, educational, trade or charitable association;
- Campaign contributions;
- Discounts available to broad based groups;
- Awards in recognition of academic or scientific achievement.

You may also receive gifts in the form of food and beverage that is served "during the ordinary course of meals" while performing your official duties, so long as it is on infrequent occasions that you do so.

**If you are an employee or officer who works for a regulatory agency or an agency that seeks to acquire goods or services, and you participate in those regulatory or contractual matters, you are further limited in what you may accept.**

### You may accept:

- Unsolicited advertising or promotional items of nominal value;
- Unsolicited tokens of appreciation such as a plaque or trophy;
- Items received for evaluation purposes, if no personal beneficial interest exists;
- Informational material, publications or the like if it is related to your official duties;
- Food and beverages consumed at a hosted reception;
- Admission to and food and beverages consumed at events sponsored by a civic, charitable, governmental or community organization;
- Items from family members and friends;
- Items from businesses that are customary, such as pens, note pads or refrigerator magnets;
- Items exchanged between co-workers;
- Campaign contributions;
- Discounts available to broad based groups;
- Awards in recognition of academic or scientific achievement.

### You may NOT accept:

- Flowers, plants, or floral arrangements;
- Candy;
- Payments made for reasonable expenses in connection with a speech or presentation;
- Payments of enrollment and course fees and reasonable travel expenses attributable to seminars and educational programs sponsored by a nonprofit professional, educational, trade or charitable association;
- Food and beverage served in the ordinary course of meals even if attendance is related to the performance of your official duties.