II.D. Ethics in Public Service

- II.D.1. Use of Public Property or Equipment for Private Purposes
- II.D.2. Gifts
- II.D.3. Honoraria
- II.D.4. Compensation for Outside Activities
- II.D.5. Financial Interest in Contracts or Transactions
- II.D.6. Disclosure and Use of Confidential Information
- II.D.7. Failure to Release Public Records
- II.D.8. Information Resources Regarding State Ethics Law

The Washington State Ethics in Public Service Act, RCW Chapter 42.52, and its implementing regulations, WAC Chapter 292-09, establish a single code of ethics applicable to all state officers and employees. WSU’s University Ethics Policy (EP45) incorporates state laws and regulations and also sets forth additional requirements in the areas of conflict of interest and conflict of commitment. Washington State University faculty members are state employees and are subject to the ethics law and rules, as well as University ethics policies. With very limited exceptions, faculty members are subject to the provisions of the Ethics in Public Service Act and related University policies at all times, including off-hours, weekends, and breaks during the academic year. This includes faculty on academic-year appointments.

Faculty should familiarize themselves with the provisions of the University Ethics Policy (EP45), which also requires all University personnel, including faculty, to undergo annual ethics training (available through the HRS training platform). For questions related to ethics requirements, faculty should contact the University’s Ethics Compliance Advisor at ethics@wsu.edu.

This chapter provides additional policy and guidance on honoraria and compensation for outside activities, which may be of particular interest to faculty.

II.D.1. Use of Public Property or Equipment for Private Purposes

State employees may not use state property, equipment, or other resources for their private benefit, except as authorized by rules adopted by the state Executive Ethics Board (RCW 42.52.160). The state Executive Ethics Board and the University adopt rules from time to time which describe permitted and prohibited activities involving use of state property such as telephones, computers, e-mail, and consumables such as paper and envelopes. See also WAC 292-110-010 and BPPM 20.37.

II.D.2. Gifts

A state employee may not solicit or receive a gift from any person if it could reasonably be expected to influence the performance of official duties (RCW 42.52.140). In addition, an employee may not accept a gift in excess of fifty ($50) dollars in a given year from any one person or source. Certain items are specifically excluded from the fifty ($50) dollars limit such as unsolicited floral arrangements or food and beverages consumed at hosted receptions where attendance is related to the employee’s official duties.

II.D.3. Honoraria

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. Accordingly, the 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. Receipt of honoraria is not permitted in the following circumstances:

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;

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.

Should any question arise regarding the propriety of any given honorarium, the potential recipient should contact their supervisor or the University’s Ethics Compliance Advisor at ethics@wsu.edu to obtain guidance as to whether or not the arrangement is proper.

II.D.4. Compensation for Outside Activities

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 is bona fide and actually performed.

b) The contract 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 is neither performed for nor compensated by any person who is regulated by Washington State University or seeks to provide goods or services to Washington State University (same as person from whom the employee would be prohibited by RCW 42.52.150[4] from receiving a gift).

e) The contract is not expressly created or authorized by the employee in their official capacity.

f) The contract would not require unauthorized disclosure of confidential information.

If the contract is with a state agency, then additional requirements apply. Therefore, if a Washington State University employee privately contracts with Washington State University or the state Department of Ecology, for example, then one of the following conditions must be met:

a) There is an open and competitive bidding or selection process in which more than one bid or grant application is received,

b) 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,

c) 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,

The contracts or grants described in a), b), or c) must be filed with the Executive Ethics Board within thirty (30) business days of execution.

A Washington State University employee is not prohibited from performing duties under an employment contract with a governmental entity.

When the proposed compensated outside activity relates to scholarship, as defined by the faculty member’s unit, and is within the scope and expectations of the faculty member’s employment, the faculty member may seek preapproval to engage in the activity. See University Ethics Policy (EP45), Section 6.0. In addition, see Section IV.D, Policy on Compensated Outside Service by Faculty Members—Consulting, and IV.E, Extended Professional Activities.

II.D.5. Financial Interest in Contracts or Transactions

A state employee may not be beneficially interested in a contract that is made by, through, or is under the supervision of the employee, in whole or in part, or accept compensation or reward from any other person beneficially interested in the contract. A beneficial interest is the right to enjoy profit, benefit, or advantage from a contract or other property.

For example, a beneficial interest includes the community property interest one spouse has in the other’s earnings (RCW 42.52.030).

II.D.6. Disclosure and Use of Confidential Information

State employees may not disclose confidential information by reason of their official position or otherwise use such information for their personal gain or benefit, nor may they disclose confidential information to any person not entitled or authorized to receive it (RCW 42.52.050).

II.D.7. Failure to Release Public Records

It is a violation of the ethics law for state employees to intentionally conceal a record if they know the record is required to be released under the public disclosure law, (RCW 42.56). This prohibition applies if the employee is under a personal obligation to release the record and the decision to withhold is not made in good faith (RCW 42.52.050)[4].

II.D.8. Information Resources Regarding State Ethics Law

Information resources regarding state Ethics Law are available in the various administrative offices and in Holland Library. They include:

RCW 42.52 Ethics in Public Service
Rules of the state Executive Ethics Board
Advisory opinions of the state Executive Ethics Board
WAC 292-110-010
http://www.wsu.edu/~forms/manuals.html

Additional information is available on the Washington State Executive Ethics Board website at http://www.ethics.wa.gov/.