

## LEGISLATIVE ETHICS BOARD MINUTES

February 19, 2009

John A. Cherberg Building – Hearing Room 3

12 PM

Members and staff present: Neil Amondson; Tony M. Cook; David R. Draper, Vice-chair; Rep. Doug Ericksen; Senator Jim Honeyford; Donna L. McKereghan; Senator Debbie Regala; Rep. Jamie Pedersen; Mike Hoover and Marty Lovinger, Senate Counsels; Tim Sekerak, House Counsel; Mike O'Connell, Board Counsel.

The minutes from the last meeting were approved.

Mr. Draper and Mr. Cook were elected as Board Chair and Vice-chair, respectively.

Ms. McKereghan presented a report on the COGEL convention she attended on behalf of the Board. The Chair and other members thanked her for the report and for her efforts in keeping the members informed on ethics-related issues from other jurisdictions. The Board directed that her written report be posted on its web site.

A discussion and update on technology issues, particularly related to house and senate policies on use of public resources, the internet, and linkage issues, followed. Present for the panel-like discussion were Mr. Brad Hendrickson, Deputy Secretary of the Senate, and the attorneys from the offices of House and Senate Counsel. Mr. Hendrickson began by saying that he appreciated the Board making this an agenda item as these issues come across his desk on a daily basis and it can be difficult balancing senators' expectations with the ethics law and board opinions. He suggested that this is to be expected due to the changes in the way people obtain and share information. To the extent that some ethical considerations were formulated in literally a different communication generation it is beneficial to have these discussions with the board. Mr. Hendrickson explained that he works closely with Senate Counsel and the Secretary to help ensure that senate policies are consistent with ethical principles while taking into account rapidly changing technology. Senate Counsel stated the emphasis is properly on content rather than on the medium. In other words, while technology presents challenges the rules are that public resources may not be used for campaign purposes or improper personal use, for instance, regardless of the tools used. If, they said, everyone could retain this focus then the lines between internal policy and the applications of the ethics act were more distinct than sometimes thought. House Counsel agreed. Whether the House chooses to allow links to non-legislative sites should be viewed, first and foremost, as a matter of policy and the ethical considerations would involve how that policy was implemented. For instance, the House requires what the board has required through its opinions- for example, that non-legislative sites be relative to legislative issues and involves no campaign activity. The House policy provides for a preview of these sites and the House may dissolve the link if necessary. Senate Counsel added that the Senate also requires that any linkage to "outside" sites be tested by

these criteria and noted that the Secretary can approve a link on a trial basis to see how it actually works. Both the House and Senate Counsel stated that whenever it appeared that the ethics act or board opinions became considerations in the formulation of internal policy that they conferred with Board Counsel for feedback. All agreed that it was important to keep the Board informed on proposed changes to policy whenever there was a question about a potential conflict with ethics.

Mr. Cook asked if the houses still had a message appear on the computer to the effect that the user was now leaving the legislature's web site and was told "yes" this warning appears. He continued by asking if it was the counsel's position that a legislator or staff person was somehow protected by this notice when it came to ethics questions. Counsel explained that one would presume that an approved link would be an appropriate link, and that would be the first line of defense, if you will. If the House or the Senate has permitted the link one may conclude that the site complies with the ethics act. Since there is no guarantee the site will not be changed in some way which might violate the ethics act, both houses will remove such a link if that should occur.

Ms. McKereghan asked if the House and the Senate have different policies wouldn't that present a potential problem for the Board if it received a complaint? Was the Board going to find itself in the position of analyzing a complaint differently depending upon whether it was directed at a member of one house or the other? Mr. Sekerak responded by saying that if house and senate policies are implemented within the parameters of what is permitted by the ethics act and the opinions, then the ethical tests for both complaints should be the same. Ms. McKereghan agreed and stated that was the point she was making. If the policies were consistent with the ethical considerations as identified in the statute and the opinions then things were fine. If, however, that is not the case when is the Board going to find that out – after a complaint is filed? Mr. Sekerak reminded the Board that the draft policy he had distributed was a work in progress and he had brought it today with the hope that the Board would comment as they saw fit. Board Counsel stated there is a provision in the ethics act which calls for board preview, comment and approval if proposed agency rules are directed at ethics questions. It would be, suggested Counsel, helpful to keep the Board informed even if it appeared that proposed policies did not conflict with the act or board opinions and that feedback and comment are always helpful.

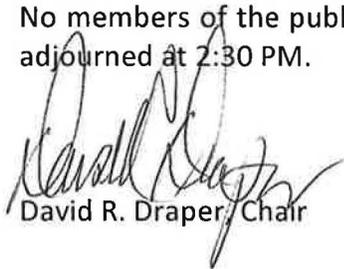
The Board expressed its thanks to all those who were involved in the discussion. On behalf of the Board, the Chair requested that the dialogue continue at future meetings. Mr. Draper called for public comment and recognized Mr. Mike Sherstad, a business person who owns a private web site described as being devoted to legislative and public policy issues. Mr. Sherstad encouraged the Board to recognize the value to legislators and their constituents in allowing greater use of public-resource technology and expanded linkage from state sites to appropriate private sites. He emphasized the rapid changes occurring in the information field and that people are becoming most accustomed to obtaining and sharing information through the internet as opposed to mediums most often used when some of the early ethical considerations were being discussed. He said he was encouraged by what he heard in today's

discussion and hoped the Board would continue to invite comment. He stated he felt that both houses could, if they chose, go forward with expansion of communication and information and still remain well within applicable ethical standards.

Mr. Draper called for further public comment and there was none. The public meeting was recessed for the purpose of an executive session to discuss preliminary matters relative to a pending complaint. The Chair announced that the public meeting would resume in forty-five minutes and if the executive session was going to last longer than that he would make an announcement to anyone waiting outside the room. Ms. McKereghan had previously recused herself from consideration of this complaint so she left the room at this time.

The public meeting was resumed at 2:10 PM. The Board approved (1) the printing and distribution of the 2009 Ethics Alert; (2) the purchase of a Washington State Bar Association-CLE Passport for 2009; and (3) 2009 Board meeting dates.

No members of the public were present and there was no further business. The meeting was adjourned at 2:30 PM.



David R. Draper, Chair

## LEGISLATIVE ETHICS BOARD MINUTES

March 19, 2009

John A. Cherberg Building – Hearing Room 3  
12 PM

Members and staff present: Neil Amondson; Tony M. Cook, Vice-chair; David R. Draper, Chair; Rep. Doug Ericksen; Senator Jim Honeyford; Donna L. McKereghan; Senator Debbie Regala; Rep. Jamie Pedersen; Mike O'Connell, Board Counsel.

The February minutes were approved as amended.

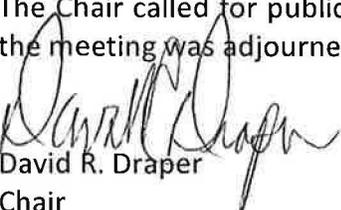
The public meeting was recessed at 12:15 and the Chair announced the Board would convene in executive session, estimated time of one hour, to discuss a complaint and related matters preliminary to determination of reasonable cause. Ms. McKereghan had previously recused herself from consideration of the complaint and left the meeting room at this time. At 1:15 the Chair directed Counsel to advise any members of the public who might be waiting outside the meeting room that the executive session would last approximately another twenty minutes. The public meeting was reconvened at 1:35. Ms. McKereghan returned to the meeting.

Counsel updated the Board on pending ethics legislation which appeared to be still under consideration by the Legislature.

The Board discussed and approved a revised budget request for the next biennium. In addition to cuts in specific spending categories the Board determined that for the foreseeable future regular board meetings will be held in Olympia, potentially reducing board expenditures. Counsel was directed to forward this revised request to the House and the Senate.

Counsel handed out a memo, dated March 18, to the Office of the Secretary of State containing informal advice that the Secretary could invite legislators to accompany him on a trade mission to Taiwan when all or part of the travel, lodging and meal expenses would be paid by the government of Taiwan.

The Chair called for public comment and there was none. There was no further business and the meeting was adjourned at 2:00PM.

  
David R. Draper  
Chair

## LEGISLATIVE ETHICS BOARD MINUTES

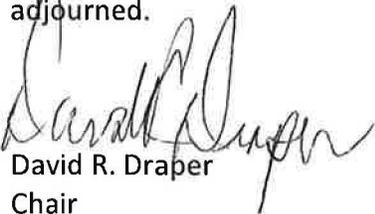
April 16, 2009

John C. Cherberg Bldg. – SHR 3 – 12PM

Members and staff present: Neil Amondson; Tony M. Cook, Vice-chair; David R. Draper, Chair; Rep. Doug Ericksen; Senator Jim Honeyford; Senator Debbie Regala; Rep. Jamie Pedersen; Mike O'Connell, Counsel.

This meeting of the Board was devoted to an executive session to discuss a pending complaint and matters preliminary to determination of reasonable cause. Ms. McKereghan had previously recused herself from consideration of the complaint and did not attend the meeting.

The Chair called the meeting to order at 12PM and the Board convened in executive session. The executive session ended at 2:05PM. The Board reconvened in public session and adjourned.



David R. Draper  
Chair

## LEGISLATIVE ETHICS BOARD MINUTES

May 20, 2009

Senate Rules Room – Legislative Building  
12 PM

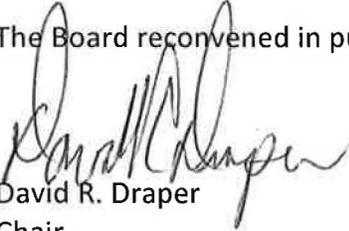
Members and staff present: Neil Amondson; Tony M. Cook, Vice-chair; David R. Draper, Chair; Rep. Doug Ericksen; Senator Jim Honeyford; Donna L. McKereghan; Rep. Jamie Pedersen; Senator Debbie Regala; Mike O'Connell, Counsel.

The March and April minutes were approved.

House Counsel Tim Sekerak advised the Board that at some future time the House may seek advisory opinions on (1) which ethics rules apply when legislators serve on executive committees and (2) political questions related to consideration of legislation.

There was no further public comment. The public meeting was recessed at 12:20 PM for the purpose of an executive session, the Chair having announced there would be no public business following the executive session which would be devoted to discussion of three pending complaints and matters related to determinations of reasonable cause. Ms. McKereghan took part in discussion of two of those complaints and left the room during the consideration of the third complaint as she had previously recused herself from the deliberations on that case.

The Board reconvened in public session at 2:20 PM and adjourned.



David R. Draper  
Chair

## LEGISLATIVE ETHICS BOARD MINUTES

June 18, 2009

Senate Hearing Room 3 – 12PM

Members and staff present: Neil Amondson; Tony M. Cook, Vice-chair; David R. Draper, Chair; Senator Jim Honeyford; Donna L. McKereghan; Rep. Jamie Pedersen; Senator Debbie Regala; Marty Lovinger, Senate Counsel; Mike O'Connell, Board Counsel.

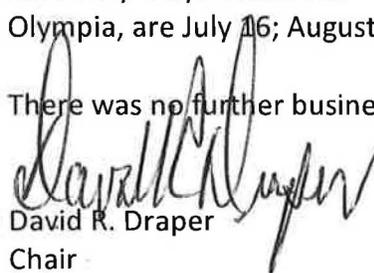
The May minutes were approved. Chair Draper called for public comment and there was none. The public meeting was recessed at 12:10 PM for the purpose of an executive session estimated to last until 1 PM. The executive session was called to consider three pending complaints and matters related to determinations of reasonable cause. The Board, having completed its discussions on two of the cases, recessed the executive session and reconvened in public session at 1PM.

Counsel and Senate Counsel presented two examples of informal advice given since the last meeting. (1) While there is a question whether members of the Legislative Youth Advisory Council are under the jurisdiction of the Executive Ethics Board or the Legislative Ethics Board they were advised not to solicit lobbyists or lobbyist-employers for contributions to their program. (2) The two counsels had opined, in response to a hypothetical question, that if a legislative staff member had worked extensively on legislation which established a competitive bid situation for a state contract and was later asked by one of the bidders to approve the use of the staff person's name as a reference in the bid materials, that the staff person should decline.

The Chair appointed Senator Regala and Mr. Cook as a sub-committee to look into the question of links from campaign sites to legislative sites and to report back to the Board.

At 1:30 PM the public session was recessed and the Board reconvened in executive session to continue discussion of the remaining complaint. Ms. McKereghan, having previously recused herself from consideration of this complaint, left the meeting room. The Board reconvened in public session at 2 PM. The Chair again called for public comment and there was none. The Board agreed to change the September meeting date to correspond with the Legislature's Assembly Days schedule. The regular meeting dates for the remainder of the year, all in Olympia, are July 16; August 20; October 1 and December 3

There was no further business and the Board adjourned at 2:05 PM.

  
David R. Draper  
Chair

## LEGISLATIVE ETHICS BOARD MINUTES

August 20, 2009 – 12PM  
John A. Cherberg Building – Hearing Room 3

Members and staff present: Neil Amondson; Tony M. Cook, Vice-chair; David R. Draper, Chair; Rep. Doug Ericksen; Senator Jim Honeyford; Donna L. McKereghan; Senator Debbie Regala; Rep. Jamie Pedersen; Tim Sekerak, House Counsel; Marty Lovinger and Mike Hoover, Senate Counsel. Board Counsel Mike O'Connell was absent and House and Senate Counsel acted as staff for the Board.

The June minutes were approved as drafted.

The Chair called for public comment and there was none. At 12:10 PM the Board convened in executive session to discuss a pending complaint and matters preliminary to determination of reasonable cause. Ms. McKereghan left the room as she had recused herself from consideration of the complaint at issue. At 12:34 PM the Board reconvened in public session and Ms. McKereghan returned to the meeting.

Ms. McKereghan presented a power point on the complaint process which was offered to the members for their consideration as an addition to the Board's website. Several general suggestions were offered about how to develop the website with educational and explanatory materials. Coordination with Senate and House educational efforts was also suggested and discussed. Members agreed that the website was well suited as a resource for public education. Any materials added to the website would be subject to Board approval before posting. Ms. McKereghan was encouraged to continue her efforts and to bring the matter before the Board at a future date for further review and discussion.

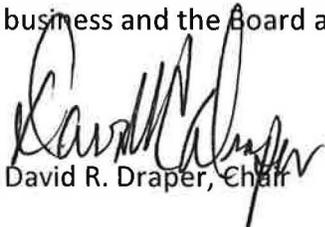
Senator Regala and Mr. Cook presented their subcommittee report on campaign links to legislative websites. The report recommended removing the single link limit but imposing a restriction that a specific document could not be linked to. The report also recommended that the current restriction on the use of legislative contact information in campaign materials be retained, even if accompanied by a disclaimer, and that no changes be made to the requirement that certain discretionary materials be removed from legislative websites by a date certain in election years. Discussion followed. Some questioned the proposed restriction which would limit a link to a specific document and some members questioned the efficacy of current rules/opinions and the degree the public's interest is served by limiting access to public records. Other members expressed the historical perspective on the need for caution when

linking a member's campaign activities and official legislative documents. There appeared to be consensus on the recommendation for removing the single link limit from campaign websites but not restricting links to specific documents. Staff was directed to prepare a draft advisory opinion for consideration at the next meeting.

The Board discussed jurisdiction relative to the members of the Legislative Youth Advisory Board. Counsel was directed at the last meeting to discuss the issue with the Executive Board to see if it agreed with the view of the Legislative Board that the LYAB should be subject to the jurisdiction of the Executive Board. Members noted that the statute governing the LYAB involves the executive branch offices of the Superintendent of Public Instruction and the Lt. Governor. Pending a response from the Executive Board the Legislative Ethics Board will continue to provide ethics training and advice to the LYAB. Clarifying legislation could be requested if deemed necessary.

Pursuant to the Act and Board rules Rep. Scott White filed with the Board, within the prescribed 30 days after accepting employment, a state agency contract disclosure form and background information. Rep. White had accepted employment with the University of Washington through a competitive process and was required to file notice of that employment.

Chair Draper again called for public comment and there was none. There was no further business and the Board adjourned at 2:08 PM.



David R. Draper, Chair

## LEGISLATIVE ETHICS BOARD MINUTES

October 1, 2009

John A. Cherberg Building – Senate Hearing Room 3

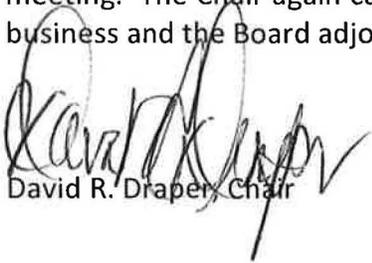
Members and staff present: Neil Amondson; Tony M. Cook, Vice-chair; David R. Draper, Chair; Rep. Doug Ericksen; Senator Jim Honeyford; Donna L. McKereghan; Kenny Pittman; Senator Debbie Regala; Rep. Jamie Pedersen; Marty Lovinger and Mike Hoover, Senate Counsel; Tim Sekerak, House Counsel; Mike O'Connell, Board Counsel.

The August minutes were approved (no meeting in September). The Board welcomed new member Kenny Pittman who was appointed to complete the term of Wayne Ehlers who had resigned.

The Board continued the discussion from previous meetings on the issue of campaign links to legislative web sites. A draft advisory opinion was discussed and adopted by the Board following grammatical corrections. Counsel was directed to publish Advisory Opinion 2009 – No. 1.

Counsel presented an update on the Board's budget and advised there were potential cost savings in the publication of the 2010 ethics manual if the Board approved publishing some of those manuals in a stapled 8.5 x 11 format. While noting the larger format was not as user-friendly as the smaller, bound pamphlet, but that it was important to continue to look for cost-savings, the Board directed Counsel to proceed with a mix of bound pamphlets and the larger format and to place, whenever possible, emphasis on the fact the manual may be found on the web site.

Counsel presented an example of informal advice rendered since the last meeting. A legislator was advised to not use public resources to prepare a letter in support of a group's annual fundraiser when it was learned the group used the fundraiser as a means to support campaigns, including those of legislators. Chair Draper called for public comment and there was none. The public meeting was recessed for an announced 30 minutes and the Board convened in executive session to discuss matters preliminary to determination of reasonable cause for a pending complaint. The public meeting was reconvened at 1:15 PM. Counsel was asked to prepare a proposed meeting schedule for 2010 to be discussed and agreed to at the December meeting. The Chair again called for public comment and there was none. There was no further business and the Board adjourned at 1:25 PM.



David R. Draper, Chair

## LEGISLATIVE ETHICS BOARD MINUTES

December 3, 2009

John A. Cherberg Building – Senate Hearing Room 3

Members and staff present: Neil Amondson; Tony M. Cook, Vice-chair; David R. Draper, Chair; Rep. Doug Ericksen; Senator Jim Honeyford; Donna L. McKereghan; Kenny Pittman; Senator Debbie Regala; Rep. Jamie Pedersen; Keith Buchholz and Mike Hoover, Senate Counsel; Tim Sekerak, House Counsel; Mike O'Connell, Board Counsel.

The October minutes were approved (no meeting in November). Keith Buchholz was welcomed as new Senate Counsel and presented an update on Senate efforts to assist legislators to comply with RCW 42.52.185(1)c. He explained that this recent amendment to the Ethics Act permits legislators in their election year to send unlimited legislative updates within a certain timeframe to constituents who, in the words of the statute, "...have specifically indicated they would like to be contacted to receive..." the updates. Legislators, he explained, have existing constituent mailing lists and most need to be reconstituted to ensure that those on the list have in some fashion opted-in to receive the updates. He presented a sample, electronic message provided to members to send to those on an existent mailing list which explains the new law and provides for a response. The Board was advised that assisting legislators with this opt-in requirement is an ongoing project as list compilation methods are not uniform.

Counsel advised the Board that inquiries had been made as to whether the Board had jurisdiction over questions related to the accounting of legislative per diem. Counsel had responded by referring to an earlier opinion in which the Board concluded that the applicable statutes governing per diem and the relationship between the Office of Fiscal Management (OFM) and the Legislature were not within the Board's jurisdiction. Senate Counsel Mike Hoover presented an overview of legislator reimbursement procedures including recent changes enacted by the Legislature to comply with IRS requirements.

The Board discussed and established meeting dates for 2010. Chair Draper called for public comment and there was none. At 1PM the public meeting was recessed for an announced 45 minutes and the Board convened in executive session to discuss matters preliminary to determination of reasonable cause in the matter of Complaint 2009 – No. 5. Rep. Pedersen had recused himself from consideration of the complaint and left the room. The public meeting reconvened at 1:45 PM. No members of the public were present and there was no further business. The Board adjourned.

  
David R. Draper, Chair