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LEGISLATIVE ETHICS BOARD

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ETHICS ALERT

Use of State Resources to Address Current Afghanistan Crisis August 2021

Introduction

During its August meeting, the Board was asked whether legislators can use state resources to respond to inquiries from constituents about resources for refugees coming to this state from Afghanistan, and if so, to what extent? The Board was also asked whether legislators can use state resources to provide information about refugee resources available in this state without first receiving a constituent request.

Legislative Nexus

Before a legislator can use state resources or the “facilities of an agency,” there must be a sufficient legislative nexus. “Facilities of an agency” include but are not limited to, use of stationery, postage, machines, and equipment, use of state employees of the agency during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency. RCW 42.52.180(1).

A threshold question in determining nexus is whether there is a tangible legislative nexus with the contemplated use of position or resources or whether that nexus is negligible. *In re Haler*, 2007 – No. 1A. A legislative nexus is established if the actions of a legislator have a reasonably objective nexus or connection to the legislator’s official duties. *In re Fitzgibbon*, 2017-No. 1.

Current Question

It has been confirmed that a number of Afghan refugees will be settling in Washington state. Many legislators have been contacted by constituents and others about assistance available for these refugees when they arrive and the legislators want to provide information to people requesting it. The Board believes that the refugees coming to Washington state may need assistance that may require legislative action. Because of this factor, the Board is of the opinion that there is a sufficient legislative nexus between the current Afghan refugee crisis and the legislature so that state resources can be used to provide information on refugee assistance. The Board believes that it is within the confines of the Ethics Act for caucus staff to develop a comprehensive list of state and local government agencies and state and local non-profit organizations who provide refugee assistance. The list cannot single out individual agencies but must be an objective list that does not direct anyone to a particular agency for assistance. The list may be used to respond to constituents and can be posted on legislative websites as well as on official social media pages.