# 2021 Annual Report

## MISSION STATEMENT

To fairly administer the Ethics in Public Service Act (Act) and to always be aware of the long-term effects that Board decisions may have on the legislative branch of government and the public trust.

To emphasize training and the utilization of ethics advisers so that, whenever possible, questions may be addressed in an educational rather than a confrontational setting.

# **BACKGROUND**

Established in 1994 by statute, the Washington Legislative Ethics Board (Board) is composed of nine members. Four members are current legislators selected by their caucuses and appointed by either the President of the Senate or the Speaker of the House. Four members are citizens who are selected by the Governor from a list of three individuals submitted by each of the four caucuses. The fifth citizen member is selected by at least three of the four citizen members. The chair must be a citizen member. Legislative members serve two-year terms and can be reappointed; citizen members serve one five-year term. All members serve until their successor is appointed.

### **MEMBERS**

**Rep. Laurie Dolan** was appointed by the House Democratic Caucus in 2017. She is a current member of the House of Representatives representing the 22<sup>nd</sup> legislative district (Olympia area). Rep. Dolan received her undergraduate degree from the UW and her Master's degree and Ph.d. from Gonzaga University. After spending 30 years in education, she was hired as then-Governor Gregoire's policy director. She currently serves as Vice-Chair of the House Education Committee.

Tom Hoemann was selected as a citizen member by the Senate Democratic Caucus in 2020. He retired from the Senate in 2013 after spending almost all of the previous 34 years serving there in various positions, the last eight as Secretary of the Senate. He received his undergraduate and law degrees from the University of Washington.

**Rep. Larry Hoff** was appointed by the House Republican Caucus in 2020. He is a current member of the House of Representatives representing the 18th legislative district located in the Vancouver, Washington area. Rep. Hoff received his undergraduate degree in Accounting from the University of North Dakota. He retired from the credit union industry in 2017 after serving as CEO for several credit unions. Rep. Hoff serves as the ranking minority member on the House Labor and Workplace Standards Committee.

**Senator Jim Honeyford** was appointed by the Senate Republicans in 2007. He has been reappointed multiple times since then. Sen. Honeyford was a member of the House of Representatives from 1994-1998 and has been a member of the Senate representing the 15th legislative district (eastern Washington) since 1998. He currently serves as the Assistant Ranking member on the Capital Budget Cabinet, Ways and Means Committee. Sen. Honeyford earned his undergraduate degrees at Central Washington University and a Master's degree of Education in Instructional Media.

**Judge Terry Lukens (ret.), Chair,** was selected by the House Republican Caucus as a citizen member in 2016. Judge Lukens has been a city council member, the mayor of Bellevue, a member of a large Seattle law firm, a mediator and a Superior Court judge. He received his undergraduate degree from Brown University and his law degree from Rutgers University.

Pam Madson, Vice-Chair, was selected by the House Democratic Caucus as a citizen member in 2019. Ms. Madson is a retired state employee having served as Senior Counsel to the Washington State House of Representatives Office of Program Research for 18 years, as well as a Senior Policy Analyst for the State Liquor Control Board and a Special Assistant to the Director of the State Department of Wildlife. Ms. Madson received her undergraduate degree from Washington State University and her law degree from Gonzaga University.

Dan McDonald was selected by the Senate Republican Caucus as a citizen member in 2019. Mr. McDonald is a former member of the House of Representatives (1978-1982) and the State Senate (1983-2002). While in the Senate, Mr. McDonald served first as Chair of the Ways and Means Committee and then as the Senate Majority Leader. Mr. McDonald is an engineer having received his undergraduate degree in engineering from the UW and his graduate degree in economics also from the UW.

Sen. Jamie Pedersen was appointed by the Senate Democratic Caucus in 2014. Sen. Pedersen represents the 43<sup>rd</sup> legislative district (central Seattle). He was elected to the House of Representatives in 2006 and was appointed to the state Senate in 2013 and was reelected in 2014 and 2018. Sen. Pedersen has been a member of the Legislative Ethics Board since 2008, representing the House Democratic Caucus from 2008-2013. Sen. Pedersen received both his undergraduate and law degrees from Yale University. He currently serves as the chair of the Senate Law & Justice Committee.

Pam Tajima Praeger was selected by the other citizen members as the 5th citizen member, replacing long time member, Eugene Green. Ms. Praeger served as President of Spokane Falls Community College from 2011-2012. She also previously served in a variety of other professional positions with the College for more than 30 years. Ms. Praeger has served on various boards and commissions, including a stint as Chair of the Commission on Judicial Conduct. She received her undergraduate degree from Pacific Oaks College and her Master's Degree from the University of Idaho.

## **STAFF**

The Board employs one Board counsel who investigates complaints filed with the Board; drafts complaint opinions, advisory opinions, and ethics alerts; trains on ethics issues; and assists legislative members and staff with ethics issues. The Board counsel also staffs the bi-monthly meetings of the Board.

The current Board counsel is Jennifer Strus. Ms. Strus served as Senior Coordinator/Counsel with the Senate staffing various committees for 15 years; served five years as the Assistant Secretary for the Children's Administration in DSHS, and has served as budget counsel at the Office of Financial Management and as an Assistant Attorney General. Ms. Strus

received her undergraduate degree from Illinois State University and her law degree from Washburn University of Topeka School of Law.

## **BOARD RESPONSIBILITIES**

#### **ADVICE**

There are four designated ethics advisers for the legislature: House counsel; both Senate counsels; and the Board counsel. These advisers meet on a regular basis to discuss ethical issues that have arisen to ensure that they are consistent in their advice. Board counsel routinely responds to several hundred queries (some of which come from the other ethics advisers) per year from legislators, legislative staff, lobbyists and the general public regarding ethical situations and assists them in effectively handling these situations.

In 2021, Board counsel was involved in answering over 439 ethics inquiries, on the telephone, virtually and through email. The most frequent topics of inquiry involved the following areas: use of state resources (RCW 42.52.160); gifts (RCW 42.52.140); and campaigns (RCW 42.52.180). The following breakdown<sup>1</sup> shows the numbers of inquiries by topic areas:

•	Conflict of interest	(RCW 42.52.020)	52 inquiries		
•	Special Privileges	(RCW 42.52.070)	11 inquiries		
•	Confidentiality	(RCW 42.52.050)	2		
•	State resources	(RCW 42.52.160)	231 inquiries		
•	Campaign	(RCW 42.52.180)	65 inquiries		
•	Mailing restrictions	(RCW 42.52.185)	6 inquiries		
•	Gifts	(RCW 42.52.150/.140	51 inquiries		
•	General information	13 inquiries			
•	Employment after le	aving (RCW 42.52.080)	3 inquiries		
•	No money for legislative				
	advice or assistance	(RCW 42.52.110)	1 inquiries		
•	Honoraria (RCW 4	-2.52.130)	2 inquiries		
•	Jurisdiction of the Bo	4 inquiries			
•	Citizen-legislature pr	inciple (RCW 42.52.330)	13 inquiries		
•	Compensation for or	utside activities (RCW 42.52.120)	0 inquiries		
•	Redistricting (RCW	44.05)	2 inquiries		
•	Political Activities of	the Board (RCW 42.52.380)	1 inquiry		

#### **TRAINING**

<sup>&</sup>lt;sup>1</sup> A number of inquiries involved more than one area of the Ethics Act; hence, the total number of topics addressed in the inquiries exceeds the total number of inquiries.

The Act does not require ethics training but does encourage training of all state employees, which includes legislators and legislative staff, every 36 months. The Act does require all state agencies (including the legislature) to designate ethics advisers. The legislature has designated the following as ethics advisers: House Counsel; both Senate Counsels; and Board Counsel.

Both the House and Senate and some legislative agencies provide ethics training for new employees and new legislative members on a regular basis. Board counsel participates in developing and providing those trainings. Furthermore, Board counsel has provided continuing legal education seminars on legislative ethics to legislative attorneys as well as to members of the Government Lawyers Bar Association.

#### **ETHICS MANUAL**

The Board publishes the *Legislative Ethics Manual*, which is updated annually. It is available electronically on the Board's website as well as in hard copy. The *Manual* contains a summary of new cases decided by the Board the previous year, a question and answer section about the most frequently asked about areas of the Act, the complete Ethics in Public Service Act (RCW 42.52) and the Board's Administrative Rules and Policies.

#### **OUTSIDE EMPLOYMENT CONTRACTS**

Under RCW 42.52.120 and Board Operating Policies, a legislator or legislative employee must submit on the designated form all contracts, grants or employment situations requiring Board approval.<sup>2</sup> A legislator or legislative employee must receive Board approval before entering into or obtaining a beneficial interest in a contract or grant with a state agency only if the process for awarding the contract or grant was not open and competitive, or whenever only one bid or application was received. The Board also requires that legislative employees and legislators submit the form for Board approval if their spouse or registered domestic partner works for or has a contract with a state agency. The purpose of this submission is to ensure there is no conflict of interest between the duties of the employee and the duties of the spouse or domestic partner. In 2021, the Board reviewed 6 submissions.

#### **NEW RULES OR BOARD POLICIES**

After considerable discussion, the Board determined that if a person entitled to whistleblower protection files a complaint, Board counsel must redact any identifying information from the complaint before forwarding the complaint to the respondent and the Board members. The Board also issued a new complaint form that includes a specific area by which complainants can indicate they believe they are entitled to whistleblower protection.

The Board discussed whether to allow complaints to be filed anonymously. After several portions of meetings devoted to this topic, the Board determined that it would continue its longstanding practice not to allow complaints to be filed anonymously.

<sup>&</sup>lt;sup>2</sup> In late 2020, the Board updated the Disclosure Form by creating two forms: one for employment with a state agency and one for contracts and grants with state agencies. The new forms clarified who was completing the form (legislator or legislative staff) and who had the employment or contractual relationship with the state agency (legislator, legislative staff, spouse or domestic partner).

At the start of the pandemic, the Board allowed complaints to be submitted to Board counsel by email. Prior to the pandemic, complaints had to be submitted by hard copy. The Board decided in its October meeting that henceforth complaints may be filed in hard copy, by email or through Adobe docusign (to be implemented within the next several months). The Board will re-evaluate the methods by which complaints are filed within the next year to determine whether allowing complaints to be filed in hard copy should be discontinued.

#### REVIEW OF ADVISORY OPINIONS

Many of the Board's Advisory Opinions were written during the first few years of the Board's existence. The Board has decided to conduct a review of all 76 advisory opinions to ensure that it still agrees with the legal conclusions in the opinion. A subcommittee of Board members has been tasked with developing a process under which all advisory opinions will be reviewed. The subcommittee recommended, and the full Board adopted, that the first review include those opinions which address campaign issues since 2022 is a campaign year. The Board decided that an all-encompassing opinion dealing with the panoply of both advisory and complaint opinions dealing with campaign issues should be produced.

#### ADVISORY OPINIONS AND ETHICS ALERTS

The Board issued no advisory opinions during 2021, although the Board received one request for an advisory opinion to clarify its decision in the *In re Wilson* opinion. Additionally, the Board, upon its own motion, plans to issue two additional advisory opinions: one compiling the Board's opinions regarding campaign advice (as a result of the advisory opinion review) and another dealing with the staff responsibilities around the redistricting process.

The Board issued two *Ethics Alerts* during 2021. *Ethics Alerts* are issued when an issue continues to arise and the Board believes it is important to provide some direction to legislators and staff. The *Alert* issued in May 2021addressed whether a link to an organization's homepage can be included in official media if the organization's page contains a "donate" button. The second *Alert*, issued in August 2021, dealt with the use of state resources by legislators to address the Afghanistan crisis.

#### **COMPLAINTS**

Anyone can make an ethics complaint to the Board and the Board can initiate a complaint. No complaint can be anonymous. Each complaint is investigated, and the results of the investigation are provided to the Board through a report. The Board debates the complaint in executive session and once a decision is made, the Board issues a written opinion which is posted on its website and available to the public.

In 2021, the Board resolved the following complaints:

No.	Allegation	Statute(s) Implicated	Result
2021-01	During a committee hearing, a legislator asks	RCW 42.52.070 (special privileges)	No reasonable cause; complaint
	questions about a bill being heard during an official		dismissed
	committee hearing; complaint alleged those		
	questions constituted harassment because they were		
	offensive, rude and insensitive?		

No.	Allegation	Statute(s) Implicated	Result
2021-02	During a committee hearing, a legislator asks questions about a bill being heard during an official committee hearing; complaint alleged those questions were harassment because they were offensive, rude and insensitive?	RCW 42.52.070 (special privileges)	No reasonable cause; complaint dismissed
2021-03	During a committee hearing, a legislator asks questions about a bill being heard during an official committee hearing; complaint alleged those questions were harassment because they were offensive, rude and insensitive?	RCW 42.52.070 (special privileges)	No reasonable cause; complaint dismissed
2021-04	Complaint alleged that Respondent's rude behavior during a meeting constituted harassment.	RCW 42.52.070 (special privileges)	No reasonable cause; complaint dismissed
2021-05	Complaint alleged that the Act was violated when a photograph of a legislator appeared on an official website and the name and slogan of the organization to which she was speaking were visible on the lectern at which she was standing.	RCW 42.52.160 (use of state resources for private gain of another)	Reasonable cause; \$100 fine
2021-06	Complaint alleged that the respondent's former campaign posters hanging in respondent's legislative office violated the Act.	RCW 42.52.180 (use of state resources for campaign purposes)	Public hearing held; motion for summary judgment filed against respondent granted. No penalty assessed.
2021-08	Complaint filed against the attorney for a Homeowner's Association	RCW 42.52.320	No personal jurisdiction; complaint administratively dismissed