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# LEGISLATIVE ETHICS BOARD

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# 2023 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 and cannot be reappointed. All members serve until their successors are appointed.

## MEMBERS

**Shontrana Gates-Wertman** was selected by the House Democratic Caucus as a citizen member in 2022. Ms Gates-Wertman is an attorney and has worked for the Valley Defenders, PLLC; the King County Prosecuting Attorney's Office and the Division of Child Support in the Department of Social and Health Services. She received her law degree from Seattle University and her undergraduate degree from Saint Mary's College of California.

**Sen. Chris Gildon** was appointed by the Senate Republican Caucus in January 2023. He is a current member of the Senate representing the 25<sup>th</sup> legislative district located in the Puyallup area. Prior to his election to the Senate, Sen. Gildon served in the House of Representatives from 2019-2021. Sen. Gildon is a 23 year veteran Army officer and currently holds the position of Deputy Leader for the Republican Caucus. Sen. Gildon earned a bachelor's degree in political science from the University of Texas, complemented by a master's degree in public administration from Webster University and a master's in strategic security studies from the National Defense University.

**Rep. David Hackney** was appointed by the House Democratic Caucus in January 2023. Rep. Hackney has represented the 11<sup>th</sup> legislative district since 2020. He is currently vice-chair of the Capital Budget Committee and also serves on the Consumer Protection & Business & Transportation Committees. Rep. Hackney received his undergraduate degree from Cornell University and his law degree from Harvard University.

**Tom Hoemann**, Chair, was selected as a citizen member by the Senate Democratic Caucus in 2019. 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.

**Larry Hoff** was selected by the House Republican Caucus as a citizen member in April 2023. . He was previously a member of the House of Representatives representing the 18<sup>th</sup> legislative district. 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. As a House member, Mr. Hoff served on the Legislative Ethics Board.

**Steve O’Ban** was selected by the Senate Republican Caucus as a citizen member in January 2023. Mr. O’Ban previously served in the House of Representatives from January 2013 to June 2013 at which time he was appointed to the Senate. He served in the Senate from 2013 to 2021 representing the 28<sup>th</sup> legislative district located in University Place. Mr. O’Ban currently serves as the Senior Counsel to the Pierce County Executive. He completed his undergraduate work at the University of Washington and received his law degree from Seattle University.

**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 2022. 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 Senate Floor Leader.

**Pam Tajima Praeger** was selected by the other citizen members as the 5<sup>th</sup> 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.

**Rep. Mike Steele** was appointed by the House Republican Caucus in January 2023. Rep. Steele has represented the 12<sup>th</sup> legislative district which includes parts of Chelan, Douglas, King and Snohomish counties since 2017. Rep. Steele currently serves as the deputy leader of the House Republican Caucus and also serves on the House Capital Budget, Education and Rules Committees. He is currently employed as the Executive Director for the Lake Chelan Chamber of Commerce. He received degrees in business administration and political science from Pacific Lutheran University.

## 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 providing consistent 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 2023, Board counsel was involved in answering over 487 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 42.52.150); and campaigns (RCW 42.52.180). The following breakdown<sup>1</sup> shows the numbers of inquiries by topic areas:

▪ Definitions (gifts) (RCW 42.52.010)	21 inquiries
▪ Conflict of interest (RCW 42.52.020)	64 inquiries
▪ Special Privileges (RCW 42.52.070)	10 inquiries
▪ Confidentiality (RCW 42.52.050)	3 inquiries
▪ State resources (RCW 42.52.160)	239 inquiries
▪ Campaign (RCW 42.52.180)	82 inquiries
▪ Mailing restrictions (RCW 42.52.185)	5 inquiries
▪ Gifts (RCW 42.52.150/.140)	53 inquiries
▪ General information	13 inquiries
▪ Employment after leaving (RCW 42.52.080)	0 inquiries
▪ No money for legislative advice or assistance (RCW 42.52.110)	1 inquiry
▪ Honoraria (RCW 42.52.130)	5 inquiries
▪ Jurisdiction of the Board (RCW 42.52.320)	13 inquiries
▪ Citizen-legislature principle (RCW 42.52.330)	0 inquiries
▪ Compensation for outside activities (RCW 42.52.120)	2 inquiries
▪ Redistricting (RCW 44.05)	0 inquiries
▪ Authority of the Executive Ethics Board (.360)	0 inquiries
▪ Board Rule 1	0 inquiries
▪ Board Rule 3	1 inquiry
▪ Board Rule 7	0 inquiries
▪ Raising campaign funds (RCW 42.17A)	3 inquiries

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<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.

- Letters of recommendation or congratulations (RCW 42.52.187) 3 inquiries

## **TRAINING**

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 persons 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. In 2023, Board counsel participated in approximately 10 ethics trainings. Furthermore, Board counsel has previously 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.

## **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 (financial) 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 official duties of the employee or legislator and the duties of the spouse or domestic partner. In 2023, the Board reviewed 14 submissions.

## **NEW RULES OR BOARD POLICIES**

Most of the Ethics Board's rules were written 30 years ago. The Board has undertaken a review of all its rules and policies and discussed making a number of substantive changes. Many of the rule changes are not substantive in nature and are

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<sup>2</sup> There are 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).

designed to align the rules with the current practices of the Board. The Board’s policies have been designated as a new rule. These rules will be incorporated into the new edition of the Ethics Manual and posted on the Board’s website.

**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 undertaken a review of all 76 advisory opinions to ensure that it still agrees with the legal conclusions in the opinions. In 2023, a Board subcommittee reviewed all advisory opinions interpreting RCW 42.52.120 - Compensation for Outside Activities. The Board determined that it should craft a definition of the term “beneficial interest.” Further action on this definition was tabled until 2024 because of the volume of complaints and advisory opinion requests received by the Board.

**ADVISORY OPINIONS AND ETHICS ALERTS**

The Board issued 1 advisory opinion during 2023. The Advisory Opinion issued by the Board was in response to a question from a House member concerned with whether his outside employment posed a conflict of interest with his official legislative duties. The Board did receive a request for another Advisory Opinion regarding collective bargaining by legislative employees. The Board did not issue an opinion because the members disagreed on the responses and the Board decided not to issue an Advisory Opinion that was not unanimous.

The Board issued no *Ethics Alerts* during 2023. *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.

**COMPLAINTS**

Anyone can file an ethics complaint with 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 2023, the Board resolved the following complaints:

Allegation	Statute(s) Implicated	Result
Complaint alleged that the Act was violated when, on two separate occasions, legislator attended campaign events organized by Governor’s staff using state resources of other state agencies.	RCW 42.52.180	Reasonable cause found; \$250 fine and reimbursement of mileage paid
Complaint alleged Act was violated when legislative employee also served as the volunteer chair of the Thurston County Republican party.	RCW 42.52.020	No reasonable cause – complaint dismissed
Complaint alleged Act violated when legislator received something of value for publicly supporting the location of a methadone clinic in her district.	RCW 42.52.140	No reasonable cause – complaint dismissed
Complaint alleged Act violated when legislator used her position and public resources to advocate for and publicly endorse a person’s position.	RCW 42.52.070 RCW 42.52.160	No reasonable cause – complaint dismissed

Allegation	Statute(s) Implicated	Result
Complaint alleged Act violated when legislator posted comments on her personal Twitter account from the House floor during floor action even though her Twitter account contained campaign material.	RCW 42.52.180	Reasonable cause found - \$100 fine – suspended pending no further ethics violations
Complaint alleged Act violated because legislator employed by an organization that employs a lobbyist.	RCW 42.52.020	No reasonable cause – complaint dismissed
Complaint alleged Act violated when legislator accepted \$1000 for participating on a panel to discuss her lived experience.	RCW 42.52.130	Reasonable cause found - \$250 fine - suspended pending repayment of \$1000 honorarium
Complaint alleged Act violated when legislator posted a campaign endorsement on a personal social media account in which she used her official title as the name of the account.	RCW 42.52.180	No reasonable cause – complaint dismissed
Three complaints alleged Act violated because legislator either posted or allowed another to post false information on social media about the Complainants.	RCW 42.52.320	No reasonable cause – complaint dismissed
Three Complaints filed alleging Act violated because legislators are members of the Boards of Directors for non-profit organizations that employ lobbyists.	RCW 42.52.020	No reasonable cause – complaints dismissed
Complaint alleged Act violated when legislator as a member of the Board of Directors for a non-profit organization voted to approve the annual legislative agenda.	RCW 42.52.020	Reasonable cause found - \$100 fine imposed
Complaint alleged Act violated because legislator spoke at two rallies on issues about which the Complainant disagreed.	N/A	Complaint administratively dismissed.
Complaint alleged Act violated when legislative employee used his position to prevent Complainant from meeting with a particular legislator.	RCW 42.52.070	No reasonable cause found – complaint dismissed.
Complaint alleged Act violated when legislative employee used her legislative computer, her legislative title and influence of a legislator’s office to benefit herself and a close relative.	RCW 42.52.070 RCW 42.52.160	Reasonable cause found - \$500 fine imposed - \$250 suspended pending no further ethics violations until 10/28. Refresher ethics training required.