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223 SID SNYDER AVE. SW, ROOM 215
OLYMPIA, WA 98501

PO BOX 40500
OLYMPIA, WA 98504-0500
360-786-7343
www.leg.wa.gov/leb

JENNIFER STRUS - COUNSEL
jennifer.strus@leg.wa.gov

ADVISORY OPINION 2025– NO. 2

Ability of Legislative Staff to “Like” Posts on Official Caucus Social Media May 2025

The Board received a request for an Advisory Opinion on February 20, 2025 from John Handy, Communications Director for the House Republican Caucus, and Kimberly Wirtz, Communications Director for the Senate Republican Caucus, both of whom waive confidentiality.

I. CONTENTS OF OPINION REQUEST

All four caucuses in the legislature use social media with which to communicate. The types of social media platforms vary depending on the caucus. Each caucus posts frequently to these platforms, especially during legislative session. The themes of these posts often include support or opposition to legislation.

Many legislative staff “follow” these social media platforms from their personal social media accounts and want to engage with the content. This engagement is generally defined as sharing the content, commenting on the content, or “liking” the content. Others viewing these posts are able to see who is commenting, sharing or “liking” the post.

The requesters of this opinion acknowledge that legislative staff are prohibited from sharing or commenting on caucus social media posts that support or oppose legislation.

II. QUESTIONS

1. Is it considered lobbying and therefore a violation of RCW 42.52.020 (conflict of interest) for a legislative employee to “like” a post regarding legislation on caucus social media?
2. Can legislative caucus staff freely engage with caucus social media posts that do not support or oppose legislation?

III. OPINION

It is a violation of RCW 42.52.020 for legislative employees to “like,” share or comment on a post on official caucus social media.

IV. ANALYSIS

RCW 42.52.020 provides as follows: “No state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer’s or state

employee's official duties." Legislative employees are prohibited from lobbying; to do so would conflict with their official duties. See HOUSE RULE 7 & SENATE RULE 6.

In *In re House & Senate Staff*, 2022 – No. 11, the Board adopted the following definition of "lobbying": "attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington . . ." In this opinion, the Board held that legislative staff taking sick leave to protest the non-passage of a bill constituted lobbying and was a violation of RCW 42.52.020.

The Board further held that "whether staff post their opinions about legislation on their personal social media; take personal leave to testify on a bill in committee or attend a rally on the campus during their lunch hour, it is all considered lobbying because they are, by their actions, attempting to influence the passage or defeat of legislation. Such actions constitute a violation of .020 because those actions conflict with their official duties as staff." *Advisory Opinion* 2022 – No. 1.

To "like" a post on social media means one is showing their approval or support for the content of the post. If the social media post is about legislation, "liking" a post constitutes lobbying if done by any legislative staff and would violate RCW 42.52.020.

Any content posted on an official legislative website, including official social media, must have a tangible legislative nexus under RCW 42.52.160.¹ Having a legislative nexus means the content is in some way related to legislation. Therefore, any legislative staff who "likes," comments or shares a caucus social media post would be considered to be lobbying in violation of RCW 42.52.020.

ON BEHALF OF THE LEGISLATIVE ETHICS BOARD, this opinion is signed this ____ day of May 2025.


Larry Hoff, Chair

¹ RCW 42.52.160 provides in pertinent part as follows: "(1) No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another."