

# WASHINGTON STATE CHARTER SCHOOL COMMISSION CONFLICTS OF INTEREST (COI) POLICY

## 1. Purpose

The Washington State Charter School Commission (Commission) believes a culture of ethics, integrity, and transparency strengthens our relationships with our contractors, partners, community, and each other. As such, it is the policy of the Commission that all employees and members shall act in a manner that reflects the highest standards of ethical conduct, in keeping with the Commission's role and responsibility to the people in Washington State; and comply with laws, regulations and Commission policy. The Commission further recognizes that statutorily and as a regulatory agency, these standards require avoidance of both real and perceived conflicts of interest.

This policy supplements but does not replace any applicable state and federal laws governing conflicts of interest applicable to the Commission. Information on issues related to state ethics, including interpretations and clarifying examples of the Revised Code of Washington (RCW) and the Washington Administrative Code (WAC), is available at www.ethics.wa.gov.

## 2. Conflicts of Interest

A conflict of interest is any activity that may conflict with the proper discharge of a Commissioner's or employee's official duties. A personal interest in the outcome of a decision made as a Commissioner or employee could represent a conflict situation. The interest could be an outside activity, relationship, business, or other interest that would or could impact the Commissioner's or employee's ability to make decisions on behalf of the State. Commissioners and employees may not have financial or other personal interests, or engage in business or professional activities, that conflict with the performance of their official duties.

No tangible outcome is needed for there to be a conflict of interest. Therefore, Commissioners and employees should avoid situations that may or could invite a conflict of interest or give the appearance of a conflict, or which undermines the public's confidence in the Commission's role. Commissioners and employees are responsible for disclosing any potential conflicts of interest, whether real or apparent. By disclosing any potential conflict of interest, whether real or apparent, the Commissioner or employee may recuse themselves or the Commission may take other steps to screen an individual from the transaction.

The following are types of conflicts that should be avoided and/or disclosed:

#### 2.a Activities Incompatible with Public Duties

Commissioners and employees are prohibited from engaging in activities and having interests that "conflict with the proper discharge" of their "official duties." RCW 42.52.020. These may include, but are not limited to, activities such as outside employment (including self-employment), volunteering, serving on boards or commissions, holding or running for political office, and lobbying (when those activities conflict with job duties).

An example of an activity incompatible with public duties would be a Commissioner or employee serving on the board of a Commission-authorized charter school. The Commission's core responsibilities are as a regulatory entity that oversees the schools that it authorizes. As such, all of the Commission's regulatory and most of its policy determinations either have the potential to, or will directly, impact the charter school. Thus, serving on, or working for, both the Commission and a Commission-authorized charter school board would create a real and apparent conflict of interest.

This type of conflict would not only violate the ethics act, but is explicitly prohibited by the Charter Schools Act, RCW 28A.710.100(6).

#### 2.b Financial Interests and Beneficial Interests

Commissioners and employees are prohibited from having a beneficial interest, directly or indirectly, in a contract, sale, lease, purchase, or grant that the Commission is involved in, supervises, or authorizes, in whole or in part. RCW 42.52.030. This provision not only prohibits acceptance of anything of economic value from someone who may benefit from a contract, sale, lease, purchase, or grant, but also prohibits Commissioners and employees from participating in Commission transactions with organizations in which the Commissioner or employee is an officer, agent, employee, or member. Transaction is broadly defined to include, among other things, applications, requests for rulings, contracts, and claims, which are currently or could in the future be subject to Commission action.

• An example of prohibited activity under these provisions would be a Commissioner or employee whose outside business engages in business transactions with a charter school authorized by the Commission (e.g. sells textbooks for the school). Similarly, Commissioners and employees are prohibited from consulting for or otherwise receiving compensation from an actual or potential applicant while they are serving as a Commissioner or employee. Notably, the individual Commissioner or employee need not personally receive financial or other beneficial interest; violation occurs if the entity with which they are associated received such a benefit.

#### 2.c Assisting in Transactions

Commissioners and employees are prohibited personally, and through their business entities, from assisting others, directly or indirectly, in a transaction involving the State. RCW 42.52.040. As noted above, transaction is broadly defined. This prohibition takes on particular import in the context of prospective charter school operators since the Charter Schools Act itself also requires the Commission to avoid apparent conflicts of interest. In order to preserve the integrity of the application process that assures a level playing field for all prospective charter school operators, individuals who are interested in starting a charter school should be directed to Commission staff whose official duties include provision of prospective applicant assistance. Commissioners and employees who are approached by prospective applicants seeking guidance or support should direct the individual to appropriate Commission staff.

#### 2.d Special Privileges

Commissioners and employees are prohibited from using their position to secure special privileges or exemptions for themselves, or other outside parties. RCW 42.52.070. Special privileges violations frequently align with some of the other prohibitions of the ethics laws. For example, if a Commissioner or employee were to personally participate in a transaction that the

Commission oversees, were to assist a third party with such a transaction, or failed to recuse themselves from a transaction involving a conflict of interest, then they may also be found to have secured special privileges to themselves or a third party.

• An example of a stand-alone special privileges violation would be the securing of a job for a family member, or exempting someone from a requirement that is otherwise applicable to other entities that the Commission regulates. In order to avoid the appearance of securing special privileges, Commissioners or employees who have been employed by an applicant within the last five years should recuse themselves from the vote for that applicant or participation in the application evaluation.

## 2.e Compensation for Official Duties or Nonperformance

Commissioners and employees are prohibited from receiving any compensation, gift, reward, or gratuity from a source for performing or omitting to perform any official duty, unless otherwise authorized by law. RCW 42.52.110.

 An example of this prohibited activity is when a Commissioner is offered to have a trip paid for by a charter school or charter school supporting agency/organization. On the other hand, compensation for voting or refraining to vote in a particular way would fall within the nonperformance component of this prohibition.

#### 2.f Gifts

Commissioners and employees are prohibited from soliciting or receiving, directly or indirectly, anything of economic value as a gift, gratuity, or favor if it could be reasonably expected to influence the vote, action, or judgment of the officer or employee, or be considered a reward for action or inaction. RCW 42.52.140-.150. The Commission is a regulatory agency; as such, the only items that Commissioners and employees may "receive, accept, take, or seek, directly or indirectly" from an individual or entity that it regulates or that seeks to provide goods or services to the Commission are:

- Unsolicited advertising or promotional items of nominal value, such as pens and note pads;
- Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
- Unsolicited items received by a state officer or state employee for the purpose of
  evaluation or review, if the officer or employee has no personal beneficial interest in
  the eventual use or acquisition of the item by the officer's or employee's agency;
- Informational material, publications, or subscriptions related to the recipient's performance of official duties;
- Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties; [and]
- Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization.

RCW 42.52.150(2). It is not unusual for Commissioners and employees to receive invitations to a variety of events or activities. In such circumstances it is necessary to determine whether participation in the event or activity is authorized or prohibited. This determination will be highly fact specific. For example, if food is being served it will be necessary to determine whether it

qualifies as a hosted reception. A hosted reception is a social event involving a diverse group of people. A diverse group of people means a group that includes individuals from a variety of sectors, not simply those that are regulated by the Commission or seek to provide goods or services to the Commission. In order to qualify as a hosted reception, any food served must be in the form of light refreshments or hors d'oeuvres, not a sit-down meal.

## 2.g Use of Public Resources for Political Campaigns

No Commissioner or employee can use public resources, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office. This includes campaigns for elective office as well as ballot propositions, regardless of whether the use is in support of, or in opposition to, the campaign. Commissioners and employees who witness public resources being used for a political campaign in violation of the law are required to report it. Not doing so may also be considered a violation. RCW 42.52.180.

Commissioners and employees may not engage in political activities and may not solicit or accept contributions for a political purpose during working hours or on state-owned or leased property. This prohibition is broad and precludes any use of public resources including, but 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).

 This provision does not preclude Commissioners and employees from assisting in a campaign during "nonworking" hours. WAC 292-110-020. The default definition of working hours is Monday through Friday from 8:00 a.m. to 5:00 p.m. or any other time when the Commissioner or employee is actually working. Working or not, the limitation on use of public resources remains.

## 3. Scenarios

The following scenarios are designed to assist Commissioners in applying this conflict of interest policy to situations they may face as they fulfill their duties:

## **Example 1: Assisting in transactions or securing special privileges**

You are at a reception unrelated to charter schools. Upon learning that you are a Commissioner, an individual approaches you and says that they would like to open a charter school. Even though you are at a reception unrelated to charter schools, the individual approaching you is doing so because you are a Commissioner. An appropriate response would be to direct them to the Commission's website or staff. Other action, such as referring them to resources or providing suggestions, could create a perceived, if not real, conflict of interest by assisting the individual in navigating the application process, securing special privileges, or both.

Similarly, a Commissioner who receives information from a prospective school could result in the Commissioner gaining knowledge or receiving information not properly submitted through the application process.

#### **Example 2: Gifts**

• You are invited to the ribbon cutting at one of the new, Commission-authorized charter schools. The charter school invites a number of people to view the facility including state officers and employees who participate in regulatory matters, customers, and officials from other governmental entities. In the evening, at the conclusion of the tour, the charter school provides food and beverages, including substantial hors d'oeuvres. There are some tables where guests may be seated but most people stand. This event is a hosted reception. It is a social event that involves a diverse group of people and does not involve a sit-down meal. Even though some tables and chairs are provided, it is not a regular meal where people sit down and eat. Accordingly, attendance at this event would not violate the gift prohibition. However, while attending the event, you should be careful not to engage in conversations or conduct that might create a real or perceived conflict, particularly relative to interactions with representatives of the new charter school.

## 4. Disclosure

Prior to the Commission taking action on a matter in which a Commission member has or may have a conflict of interest, the interested Commission member shall disclose such interest to the other Commission members and all material facts relating thereto. Any member of the Commission or the public can identify a potential conflict.

## 5. Determination of Potential Conflict of Interest

Commission members will complete a conflict of interest disclosure statement annually during their tenure on the Commission. The first conflict of interest disclosure statement shall be completed within one week of their appointment date.

If there is a disagreement about whether there is a conflict of interest or disagreement regarding how to handle the conflict, the matter shall be reconciled by Commission vote at a Commission meeting.

The Commission may seek an advisory opinion from the Executive Ethics Board regarding questions concerning ethical standards or potential conflicts of interest.

Upon the Commission's determination that a conflict of interest or the appearance of a conflict of interest exists, the Commissioner will:

- Recuse her/himself from discussing the subject matter;
- Recuse her/himself from voting on the subject matter; and
- Refrain from attempting to influence Commissioners in their discussion and vote on the subject matter.

The prohibition on discussion shall not prohibit the Commissioner from providing their general expertise on the subject matter.

## **Conflict of Interest Disclosure Statement**

I understand that as a member of the Washington State Charter School Commission, I have a responsibility to act in a manner that reflects the highest standard of ethical conduct and to avoid any activity or situation where my personal interest could conflict, or reasonably appear to conflict, with my responsibilities as a commissioner.

I have read and understand the Commission's Conflict of Interest Policy. I will disclose any conflict of interest and understand that upon doing so, will not be permitted to review, participate in discussions, or vote on the charter school application related to the conflict of interest.

Commissioner's Printed Name	
Commissioner's Signature Date	e
I am not aware of any conflict of interest:	
I have a conflict of interest or potential conflict of interest as described below:	
For Administrative Use	
Board Decision:	
Date:	
Comments:	