

EXECUTIVE ORDER 80-16

CONFLICTS OF INTEREST

WHEREAS, it does not appear ear that such standards have heretofore been proposed although most all of the state agencies have adopted inhouse regulations pursuant to RCW 42.18.250; and

WHEREAS, it would be to the best interests of the state of Washington and its employees that the provisions of Chapter 48.18 RCW be implemented by the adoption of executive standards of conduct.

NOW, THEREFORE, I, Dixy Lee Ray, Governor of the state of Washington, by virtue of the power vested in me direct that the following standards be followed as a base of conduct for all state agencies and their employees.

I

AUTHORITY.

These regulations are promulgated pursuant to the authority granted to the Governor of the state of Washington by Chapter 42.18 RCW the "Executive Conflict of Interest Act."

II

STATEMENT OF POLICY.

1. The proper operation of state government requires that state employees be independent and impartial; that government decisions be made in the proper channels of the governmental structure; that public office or employment not be used for personal gain; and that the public have confidence in the integrity of its government. The attainment of one or more of these ends is impaired whenever there exists an actual or potential conflict between the private interests and public duties of a state employee. The public interest **THEREFORE** requires that appropriate ethical standards be established with respect to employee conduct in situations where actual or potential conflict exists.
2. It is also fundamental that, to the maximum extent possible, the most qualified individuals in the society serve its government. Accordingly, the standards of conduct prescribed in these regulations are to be construed so as to not unnecessarily or unreasonably impede the recruitment and retention by the state of those men and women who are most qualified to serve it. An essential principle underlying the staffing of state agencies is that its employees should not be denied the opportunity, available to all other citizens to acquire and to retain private economic and other interests, except where actual or potential conflicts with the responsibility of such employees to the public cannot be avoided.

III

DEFINITIONS.

All terms used herein which are defined in RCW 42.18.030 through RCW 42.18.150 shall have the same meaning here as there.

IV

"SUBSTANTIAL ECONOMIC INTEREST."

The term "substantial economic interest" as used in Chapter 42.18 RCW and in these regulations shall mean:

1. A direct and significant economic interest and shall not include remote or theoretical interests shared with the public generally, or a specific segment of the public; or
2. Economic holdings or business transactions with profit-making entities including any kind of contract, whether it be of debt, employment, loan, lease, option, purchase, sale, mortgage, insurance or other contracts that can squarely raise the conflict of interest issue; or
3. Economic interests in the form of stock, land, partnership interest, or inheritance which should require a state employee to be disqualified in transactions involving the state.

The most important principle to be applied in interpreting "substantial economic interest" is that a state employee's judgment in official matters may be affected by circumstances of personal interest.

In a particular situation, identification of the disqualifying interest shall hinge on all the facts, including the agency, the position, the government action, the impact of that action, the kind and amount of the employee's personal interest, its relation to the employee's job and in some instances the kind and amount of the employee's other interests.

V

OUTSIDE EMPLOYMENT.

Outside employment may be appropriate when it will not (1) adversely affect performance of a state employee's official duties, (2) discredit the state or the employing agency, and (3) result in a conflict of interest. Such work may include civic, charitable, religious and community undertakings. It may include paid outside work, provided that any compensation paid shall bear a reasonable relationship to the services performed. Agency heads should develop and publish criteria on outside employment pertinent to each individual agency.

VI

EXCEPTIONS TO RCW 42.18.190.

Exceptions to RCW 42.18.190 are as follows:

1. Anything of economic value received by a regular state employee prior to or subsequent to employment by the state shall be presumed, in the absence of a showing to the contrary by a clear preponderance of evidence, not to be for or in consideration of, personal services rendered or to be rendered to or for the state.
2. A regular state employee's continuation in a bona fide pension, retirement, group life, health or accident insurance, or other employee welfare or benefit plan maintained by a former employer but to which such former employer makes no contributions on behalf of such employee in respect of the period of his state employment.
3. A regular state employee's continuation in a bona fide plan maintained by a former employer and to which the former employer makes contribution on behalf of such employee in cases of:
 - a. A pension or retirement plan qualified under provision of the Internal Revenue Code, or
 - b. a group life, health, or accident insurance plan: PROVIDED, that the contributions by such employer are not made for a period longer than five consecutive years of state employment (or an aggregate of five years out of the preceding ten).
4. A regular state employee's rights acquired under a bona fide profit-sharing or stock bonus plan maintained by a former employer and qualified under the provisions of the Internal Revenue Code: PROVIDED, that no contributions are made by such former employer on behalf of the employee based on profits attributable to any portions of the period of state employment.

VII

EXCEPTIONS TO RCW 42.18.200.

Exceptions to the provisions of RCW 42.18.200 are as follows:

1. Where obvious family or personal relationships (such as those between the parents, children or spouse of the employee) and circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors.
2. Acceptance of food and refreshment in the ordinary course of a luncheon or dinner meeting or other meeting where an employee may properly be in attendance.
3. Negotiation and acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans.
4. Acceptance of unsolicited advertising or promotional material such as pens, pencils, note pads, calendars, and other items of nominal value.

5. Acceptance of bona fide reimbursement for expenses of travel and such other necessary subsistence as is compatible with this part for which no state payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed or payment to be made on his or her behalf, for excessive personal living expenses, gifts, entertainment or other personal benefits.

VIII

REGULATIONS ISSUED BY AGENCY.

1. Each agency head may issue regulations implementing the provisions of Chapter 42.18 RCW and these regulations may provide for such further exceptions or restrictions therein as may be necessary and appropriate in view of the nature of the agency's work and the duties and responsibilities of its employees. Such regulations may also provide for a procedure for waiver or exemption with respect to conflict of interest situations involving employees of the agency where such waiver or exemption is deemed to be appropriate. Copies of all such regulations and amendments thereto shall be filed with the Office of the Governor.

2. Each agency head shall be responsible for the administration and enforcement within the agency of the Executive Conflict of Interest Act, the regulations herein and any regulations adopted by the agency head.

IN WITNESS WHEREOF, I have hereunto
set my hand and caused the seal of the State
of Washington to be affixed at Olympia
this 8th day of October A.D., Nineteen hundred and eighty.

Additional

By:

DIXY LEE RAY
Governor of Washington

BY THE GOVERNOR:
Secretary of State