Workplace Ethics at the UW Capital Projects Office

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Training Objectives

- Understand the Ethics in Public Service Act
- What is allowable
- What is prohibited
- Identify common rationalizations and intervention techniques

Ethical Culture

"Culture is a risk factor – people know what the rules are. It's the environment that dictates whether unethical practices are permitted to flourish."

- David Gebler
Good Ethical People – Ethics Law - Choices

- The action is in the individual's or organization's best interest
- Lack of resources, human or otherwise
- Deadlines or performance goals
- Pressures to produce and get the job done
- The action will never be discovered
- Fear of authority or retaliation

Organizational Culture

- Establish workplace expectations
- Brief common Ethics problems
- Publicize good Ethics Law examples
- Routinely praise potential Ethics issues
- Review commitment to Ethics annually

Ethical Habits

"A Long Habit of Not Thinking a Thing Wrong Gives It the Superficial Appearance of Being Right."

- Thomas Paine
Why This Deserves Your Attention

• 1. Washington’s Ethics Act is long & complicated
  o (30 pages of law on the internet)
• Having a good “internal compass” and common sense is not enough
• Ethics compliance is important to UW’s success
• If you violate the Act, you can be:
  • fined
  • embarrassed
  • fired or otherwise disciplined

Ethics Board Sanctions

• Civil penalty of up to $5,000 per violation
• Corrective Action within employment
• Payment of damages
• Payment of investigative costs

• Disclose, disclose, disclose – forgiveness rather than permission doesn’t work.

Why Ethics Law?

• An ethics law establishes minimum standards of conduct while performing public duties and seeks to remove doubts concerning violations of public trust and confidence.....

• RCW
• WAC
• UW APS
Additional Considerations for Managers

- Ethics violations are a basis for employee discipline
- Allowing subordinates to violate ethics laws can subject a manager to charges
- A manager who violates ethics laws can (1) empower a problem employee and (2) set up a retaliation claim

Special Challenges for UW Employees

- The Ethics Act was written with general, traditional government agencies in mind
- The Act doesn't neatly fit the UW's education-research mission and culture
- Medicine, sports, and other activities operate more like businesses than government agencies

Major Subject Area of the Ethics Act

- Conflicts of Interest – preventing official decisions that have a personal stake and avoiding improper influences
- Gifts – keeping others from buying favor
- Outside work – preventing conflicting activities
- Use of Resources – avoid diversion and improper use of state money and property
Conflict of Interest

- No conflicts of interest for State employees
  - Employees should get paid only by the State for performing their official duties
  - Employees should make official decisions that serve the State, not themselves or other private interests
  - Employees must place the public's interest before any private interest or outside obligation - Choices Made on Merit!
  - RCW 42.52.020, Activities incompatible with public duties
  - RCW 42.52.030, Financial interests in transactions
  - RCW 42.52.040, Assisting in transactions

Conflicts of Interest – Incompatible Activity

- Incompatible Activity – concepts of benefit and bias. It could be outside employment, a volunteer activity, ownership of a private business, and relationships.

- Questions to Ask Yourself:
  - Will your interests benefit as a result of your official action?
  - Would a reasonable person conclude that a private or personal interest impairs your judgment in the exercise of your official duties?
  - Interest need not be financial – or a tangible outcome. Perception is enough.

Workplace Expectations: Zones

- **Green Zone** – when ethical standards are not in dispute.

- **Yellow Zone** – Potential or appearance of a conflict of interest, or a situation in which ethical standards appear ambiguous

- **Red Zone** – Ethical conduct that clearly crosses the line or involves prohibited conduct
Example

- **Question:** While reviewing a potential contract with a vendor, the vendor offers you a position with his company. Can you continue to work on the review?

Answer

- **Answer:** The offer of employment could create an interest that is incompatible with the performance of your public duties. Expediting the review might also lead a reasonable person to conclude that the offer influenced your official actions. If you are considering the offer, the best thing to do is to disclose the offer to your supervisor and have the review assigned to another employee. Even if you think you can't be influenced, others might disagree. Avoiding the appearance of conflict is as important as avoiding an actual conflict of interest.

Financial Interest - Conflict

- When you have an interest in a contract that is made by you, through you, or by an employee you supervise; OR
- When you receive compensation from any other person beneficially interested in a contract made by you, through you, or by an employee you supervise.
- If a decision YOU are about to make puts money into your pocket or those of friends, family or other persons including a business entity for which you are a partner, a board member, managing officer or employee, that constitutes a private benefit and you cannot do it.
- You are also prohibited from accepting - directly or indirectly - any compensation, gift or reward from any person who gets a benefit.
Conflicts of Interest – Example

Question: I am a Construction Manager. We are in need of some last minute supplies for a project. My spouse is a partner in a local supply company. I know they have a good reputation and charge reasonable prices. Can I call her company at the last minute and use their products?

Conflicts of Interest – Answer

Answer: No.
- You cannot participate in an agency decision in which you have a financial interest.
- You would be deemed to have a financial interest in your spouse's business.

Conflicts of Interest – Example

- You work in Capitol Projects at the UW. You are in the process of needing to hire a Project Manager. Your roommate's friend is a Project Manager at UW Tacoma, and would really like to work at the Seattle campus.
- Green – You hire a Project Manager based on experience and merit.
- Yellow – You hire your roommate's friend who happens to be a Project Manager.
- Red – You hire your roommate so they can pay rent.
  - What might change this scenario? Family member? Reporting structure?
Gifts – A Particularly Complex Area

An Over-Simplified Summary:
- A gift is anything of value that you get for free (but awards, things from family, etc., may be exempt under Act)
- Generally, employees can accept small gifts (under $50/year) and a few specific types of things (unsolicited flowers, plaques, etc... even >$50)
- But the limits are much stricter for employees involved in contract decisions or regulation (so called “Section 4” employees)
- Special rules apply to free food & beverages

Gifts – Example

Question: My department recently hosted a group of visitors from Japanese builder. They later sent us a thank you gift for hosting their employees. Can we keep it?

Gifts - Answer

Answer: It depends.
- If the gift is for official UW use, no problem.
- If the gift was for individuals, they may accept it if the value is under $50.
- There are some gray areas there.
- Note that for a Section 4 employee, only a few kinds of small gifts may be accepted.
Gifts - Example

- Question: I am confused about when I can accept free food or beverages. Could you sort this out?
- Answer: The rules about free food and beverage are complex, but here are a few basic principles:
  - All employee's (even Section 4) can generally accept free food & beverage at hosted receptions related to an employee's official duties at civic, charitable, governmental, and community events. But that wouldn't cover a "sit-down meal". Non-section 4 employees can usually accept a "sit-down meal" if it is related to an employee's official duties.

Gifts - Example

- Question: Usually a few times a year, one of our vendors sends us all a new notepads for our use. The value of each notepad is approximately $15. Can we keep these?

Gifts - Answer

- As long as you are not a Section 4 employee....and the total value over the year is less than $50, it would be okay to keep.
Gifts - Example

• Recently, a vendor offered me two tickets in a suite to the sold out MLS Cup Finals. Can I accept the tickets? What if I pay face value for the tickets to the vendor?

Gifts - Answer

• Short answer is, no.
  - A sold out show
  - A suite
  - Ethics Board assumes, it's over $50 in value when it is a special showing or seat that is not available to the general public at that time.

Outside Work for Pay

• Must be real "good faith" arrangement
  (not a disguised gift)
• Must not overlap with your official duties
• Must not give someone improper assistance with a State transaction
• Pay cannot come from someone you regulate or buy from (in other words, "Section 4" restrictions apply)
• Work must not have originated through your State job
  Note: Advance approval required by UW policy
Outside Work for State Agency

- If the outside work is for another state agency, all the "Outside Work for Pay" limits apply, plus:
  - It must result from an open competition or receive advance approval from the Ethics Board
  - A copy of the contract is to be filed with the Ethics Board

Use of State Resources

- State resources should only be used for official business
  - State property and funds, etc., should not be used for private benefit
  - State property and funds must not be used for electoral campaigns or commercial business

- Use of Resources - avoiding diversion and improper use of state money and property. We must be good STEWARDS regardless of the funding.

Use of Resources

- Generally, State resources are to be used only for State purposes
  - Some small ("de minimis") personal use is allowed if brief and no cost to the agency
  - No guarantee of privacy
  - RCW 42.52.160, 180
  - WAC 292-110-010
Use of Resources

- Zero Tolerance
  - Conducting an outside business or private employment or other activities conducted for private financial gain.
  - Assisting an election campaign, promoting or opposing a ballot proposition or initiative or lobbying the state legislature.
  - Advertising and selling for commercial purposes.
  - Equipment removed from the workplace

- One exception: research faculty can make
  minimal support of related businesses

"De Minimis"

Incidental personal use of resources is permitted if:
- use is brief in duration and infrequent
- little or no cost for the state
- is not disruptive to state work, or interfere with the performance of other University employees and;
- the use does not compromise the security or integrity of University property, information or software.

State Resources – Example

- Question: Can I use my office phone or email to make appointments or take care of a few personal matters?
State Resources - Answer

Answer: Generally, yes. GREEN to YELLOW
- UW telephones and computers are provided primarily for UW business
- But they may be used for a small amount of personal communication.
- Personal use must be limited and occasional and must not cost the UW money or interfere with work.

State Resources - Example

• Question: Can I send greetings, or announcements (e.g., birthday, birth announcements, carpool solicitations) to my colleagues using UW resources?

State Resources - Answer

Answer: Yes, as long as falls under de minimis use.


State Resources - Example

- Question: Can I sell magazine subscriptions in my office department to help raise funds for my child's charitable organization? Can I tell others on campus to stop by and check them out at my desk?

State Resources - Answer

- Answer: Technically, maybe.
- The Ethics Act generally prohibits use of state facilities to support private organizations - even charities.
- But agencies may permit such activities where they promote "organizational effectiveness."
- So, if the UW has approved the activity (it serves a UW mission or a collegial work environment), it is permitted.
- Note: (1) Charitable activities must not interfere with official work and (2) Supervisors must not pressure subordinates to participate.

State Resources - Example

- Question: I won a door prize at a conference I attended. Can I keep it?
State Resources - Answer

Answer: That depends.
- You may not keep a door prize if UW Advancement paid for the conference and you are attending the conference on state time. If so, you must give it to UW Advancement.
- If you paid for the conference and attend it on your own time (including using vacation time to attend), then you may retain the door prize.

Resources - Example

- The AVP asked if I could draw up some plans for a remodel of her home. They intend to pay me out of their own funds, and I have my own outside business, that I have disclosed. I use the departments contacts, vendors, and a bit of my time to plan the event. There are some items in the office here at the UW, that I can use for the design as well. Green, Yellow, or Red?

Use of Resources - Example

- You make numerous personal calls and send personal emails on your UW issued Blackberry. You are not concerned, as you know that you haven’t gone over your minute allotment.

- Is this appropriate Stewardship of state resources?
Use of Resources - Example

2. You access the internet during a lunch break to check on your stock portfolio, and transfer assets to a different fund.

• Green, Yellow or Red?

Use of Resources - Example

2. Your daughter is hosting a group for homecoming at your house, before the dance. You would like to have light appetizers available for the gathering. You call a vendor that you work with here at the UW, and ask them to give you a quote for the service and food. They give you the same rates that you receive when you use them through the UW?

• Green, Yellow or Red?

Use of Resources - Example

2. Your nephew is getting married at your home. You are all working hard to have the house and grounds look their best. Your friend who is a groundskeeper here on campus, brings a blower, mower, and paint sprayer home from their work to help with your work party one weekend?

• Green, Yellow or Red?
Other Restrictions

- You must not share any UW confidential information with outside people.
- You must not use your job to give anyone special privileges.
- Leaving your UW job for an outside position that has connections with the UW may be subject to certain time limits.
Confidential Information - Example

- You are a building coordinator for the UW. You are the coordinator in a newly purchased UW building, which also has outside businesses located in the building. You understand that Ellen DeGeneres is expected to move into the building in one month. You call your friend who owns a moving company, and give them Ellen's information so that he can contact her for business. Violation?

Wrap Up

- Ethics in Public Service Act
  - Conflict of interest
  - Gifts
  - Outside work
  - Use of resources

Review EEB's web site: http://ethics.wa.gov where you'll find:
  Training Materials
  FAQ's
  Newsletter

Remember

- Disclose, Ask, Disclose
- UW HR is available as a resource
  - Internal Audit, AG's Office
- We are held to a higher level of accountability at the University of Washington.