

**MINUTES OF THE LEGISLATIVE ETHICS BOARD**  
**January 11, 2001**

**Members Present:** Paul Aldinger; James A. Andersen, Chair; William F. Asbury, Vice-Chair; John Betrozoff; Senator Stephen Johnson; Senator Julia Patterson; Representative John Pennington; Representative Phil Rockefeller; Ruth Schroeder.

**Counsel and Ethics Advisers:** Mike O'Connell; Milt Doumit; Marty Lovinger.

The minutes from the December 14<sup>th</sup> meeting were approved.

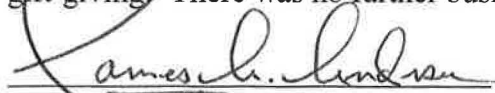
The Board began the meeting by continuing the discussion on the Advisory Opinion Request 2000 - No. 4 - legislative press releases. The members extensively reviewed Board precedent and indicated that the test for press releases should not be abandoned but that legislators and administrative staff would benefit from clarification and further analysis of that test. In addition, there was considerable support to restate the facts and the questions proposed in the request so that the Board's response would be more comprehensive and helpful to the entire Legislature, not just one house. The Board directed Counsel to prepare a draft opinion which would reflect the Board's discussion, and to include optional language for the Board's consideration, where appropriate.

Ms. Lea Mitchell, Washington State Director of PEER (Public Employees for Environmental Responsibility), discussed concerns held by members of PEER relative to agency relationships with legislators. Specifically, the questions were related to whether there were clear standards on proper and improper legislative involvement in agency decision-making and what the Board's role was in establishing and enforcing those standards. The Board chose not to accede to PEER's request for an advisory opinion but did agree that more education in this area appeared necessary. The Board recognized this topic as continuing in nature and directed that it be placed on a future agenda and at a meeting where it was probable that there would be full participation by both citizen and legislative members of the Board. Counsel was instructed to keep Ms. Mitchell informed so that she could be involved in the discussions on behalf of PEER.

The Chair called for public testimony but with the exception of Ms. Mitchell, all others in the audience had left. Specifically, the Chair noted the earlier attendance of Mr. Chuck Sauvage and Mr. Paul Telford.

The Board went to executive session at 2:45 p.m. to receive and discuss preliminary information on three pending complaints.

The Board then reconvened in public session at 3:40 p.m.. Counsel distributed the PDC financial disclosure forms and updated the Board on the continuing Oregon investigation related to lobbyist gift-giving. There was no further business and the Board adjourned at 3:55 p.m..

  
James A. Andersen, Chair.

## LEGISLATIVE ETHICS BOARD

### MINUTES

March 15, 2001

Members Present: Paul Aldinger; James A. Andersen; William F. Asbury; Senator Stephen Johnson; Representative Phil Rockefeller; Ruth Schroeder.

Staff Present: Counsel, Mike O'Connell; Designated Ethics Advisers, Milt Doumit and Marty Lovinger.

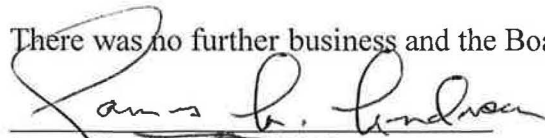
The minutes were approved as drafted. During the public comment portion of the meeting, Chair Andersen introduced Jose L. Gonzales and Rodney Bickel, graduate students from the University of Florida. The students advised they were working on advanced degrees in the public policy area and were visiting Washington and observing its executive and legislative ethics boards as part of that process.

Counsel reported on four examples of informal advice rendered since the last meeting. (1) A former legislator was advised that the post-employment restrictions found in the State Ethics Act (Act) would not apply to her role as a consultant for an employer who was bidding on a competitive state contract; (2) another legislator was advised that there was no per se conflict of interest involved if she were appointed to an elective office while retaining her legislative seat; (3) a legislator, after consulting with counsel, chose not to accept a position as the salaried executive director of a non-profit entity involved in lobbying elected officials, including the legislature, while retaining his legislative seat; and (4) a legislative assistant was advised that 40 proposed congratulatory letters to students who were being honored by an organization for meeting certain goals internal to that organization would not meet the "extraordinary" test as defined by the Board in its most recent advisory opinion, 2000 - No. 5.

Counsel reported that he would be taking part in preliminary discussions with the Executive Ethics Board, King County Board of Ethics, and the City of Seattle Board of Ethics, relative to a state conference on ethics. No date for the conference has been set.

The Board proceeded to executive session, at 12:20, to continue discussion on the preliminary stages of a pending complaint which alleged campaign use of state facilities. The Board directed counsel to prepare a proposed order and to circulate it to the members in accordance with Board operating policies. The public portion of the meeting was reconvened at 12:50.

There was no further business and the Board adjourned.

  
James A. Andersen, Chair

## LEGISLATIVE ETHICS BOARD MINUTES

April 19, 2001

**Members Present:** James A. Andersen, Chair; William F. Asbury, Vice-chair; John Betrozoff; Senator Stephen Johnson; Ruth Schroeder.

**Staff:** Counsel, Mike O'Connell; Designated Advisers, Milt Doumit and Marty Lovinger.

The March minutes were approved as submitted. Counsel presented examples of informal advice since the last meeting including questions about proper use of public facilities and receipt of honoraria. The advice was: (1) a legislative assistant could use office resources to assist a legislator's constituent-family member in a typical constituent request situation; (2) a legislator's proposed use of public facilities to assist a charity by using e-mail and a legislative assistant in that effort would not meet the narrow exceptions found in Advisory Opinion 2000 - No. 1, and would be contrary to the Ethics Act; (3) it would not be a proper use of public facilities to prepare meeting-notice and fund raising documents for the use of an in-district , interest group in its role as an advocate opposing a pending executive branch decision; (4) it would not be a proper use of public facilities for a legislator to include in a legislative newsletter an advertisement for an organization sponsoring a community event; and (5) although legislator's cannot receive honoraria for appearing in a legislative capacity, it is permissible for a legislator to suggest, at the request of the entity which had budgeted for such an honoraria, that it be given to a particular charity since the legislator never accepted the honoraria.

Counsel advised that House Bill 1103, making certain changes to the law concerning election-year, electronic communications, had passed both houses but in different forms and as a bill "in dispute" could be considered through the end of the regular session. This was an information-only item as the Board has taken no position on the legislation.

The Board approved Counsel's suggestion that a periodic ethics newsletter be published. Senator Johnson suggested that such a newsletter would be more helpful if it contained topical information tied to events such as the legislative session and elections. Examples could include a discussion of the mailing statute in election years and permissible use of public resources when legislative issues go to the ballot as an initiative or a referendum. Mr. Betrozoff said he agreed with this approach and thought it preferable to establishing a fixed newsletter schedule. It was agreed that a draft of the newsletter would be distributed to the Board members for a brief comment period before being published.

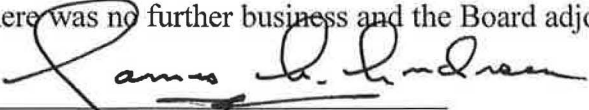
Chuck Sauvage was the only member of the public who spoke during the public comment portion of the meeting. He agreed that an ethics newsletter could be very helpful and encouraged Counsel to keep it limited to one page if possible.

The Board proceeded to executive session at 12:40, to hear Assistant Attorney General Nancy J. Krier present the results of the investigation of Complaint 2000 - No. 9, and her legal analysis.

Following discussion the Board directed Ms. Krier to prepare an Order in the case, subject to review by the Board members.

The public portion of the meeting was resumed at 1:25 p.m..

There was no further business and the Board adjourned.



---

James A. Andersen, Chair



## MINUTES

### LEGISLATIVE ETHICS BOARD

May 10, 2001

**Members Present:** Paul Aldinger; James A. Andersen, Chair; William F. Asbury, Vice-chair; John Betrozoff; Representative John Pennington; Representative Phil Rockefeller; Ruth Schroeder.

**Staff:** Counsel, Mike O'Connell; Designated Advisers, Milt Doumit, Marty Lovinger; and Tim Sekerak.

The April minutes were approved. Ken Wilson, recently retired from the investigative branch of the Office of the Attorney General, was in attendance and briefly addressed the Board and announced his availability to consult and conduct investigations if the need should arise. Five examples of informal advice given by counsel since the last meeting were presented to the Board. (1) Mailing restrictions found in RCW 42.52.185 are applicable to an election for public office, not just a legislative office. Representative Pennington inquired as to whether state law or federal law controlled fund raising during a legislative session when the election involved a federal office. Counsel advised that the Public Disclosure Commission defers to the Federal Elections Commission on this issue as the FEC has advised that federal law controls fund raising when the election is for a federal office. In response to a further question by the Representative, the ethics advisers noted that they have advised that the mailing restrictions found in .185 are applicable to legislators seeking federal office because the issue is the use of state facilities/public resources. (2) If a legislator is contemplating a contractual relationship with a state agency and is unaware whether the reporting requirements of RCW 42.52.120 are applicable, because of the uncertainty of whether the particular contract would be awarded as the result of an "open and competitive process," counsel has advised to file the appropriate notice with the Board. (3) The gift exemption for expenses paid for travel by a third party depends upon, in addition to other factors, a determination that the legislator is appearing in a legislative capacity. Counsel continues to advise, pursuant to Board precedent, that the appropriate Senate and House administrators first preview the proposed travel and determine whether it involves an appearance in a "legislative capacity." (4) Counsel advised that it would be inappropriate under the Ethics Act to install software on a legislative computer which contained demographic and voter information compiled by a political party for a recently completed legislative campaign. (5) When asked if a legislator could accept payment from a third party for foreign travel, counsel advised that the "trade mission" exemption from the gift laws had been discussed by the Board in an earlier opinion and that this particular trip did not meet the "trade mission" criteria. Counsel noted that this trip had been submitted to both the Secretary of State's Office and the Office of Trade and Economic Development, the two entities most often involved in trade matters, and had been viewed as something other than an official trade mission.

The Chair recognized John Betrozoff as the chair of the subcommittee on issues related to statutory changes and the rules and procedures of the Board. Mr. Betrozoff reported that the subcommittee had been studying the issues assigned to it by the full Board and would issue a report at a future

meeting.

The Board next considered two requests for Board action. In both cases, individuals had contacted Board members requesting that investigations and complaints be instituted on the Board's own motion. One request involved an alleged failure of a county prosecutor to pursue charges against Iowa Beef Processors (IBP) and the second request involved a claim by an executive branch employee that her supervisor had harassed her. The Board discussed the two requests and unanimously found that the Ethics Act did not confer jurisdiction over either issue. Counsel was directed to gather the many letters on the IBP situation and prepare a response for the Chair's signature, on behalf of all Board members, and to respond to the executive branch employee and advise her on the Board's conclusion.

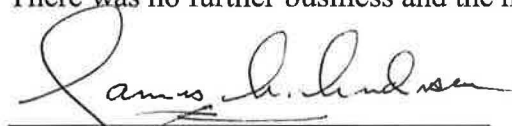
Counsel presented a legislative employee's notice of contract filing received since the last meeting. Counsel advised that in this case the employee's spouse had gained employment with a state agency after an open and competitive process and that filing that information with the Board satisfied the statute. No Board action was required.

During the public comment portion of the meeting, Chair Andersen recognized Mr. Paul Telford. Mr. Telford sought clarification as to whether his conflict-of-interest issues, previously presented to the Board for consideration, had been referred to Mr. Betrozoff's subcommittee. The Chair advised the answer was yes and that Mr. Telford should coordinate with Mr. Betrozoff.

The Board moved to executive session at 1:30 to discuss the preliminary stages of pending complaints. The Board approved an order dismissing Complaint 2000 - No. 9, and directed the order be published. During the executive session, Representative Pennington absented himself.

The public portion of the meeting resumed at 1:50. Members agreed to hold the June meeting in Olympia due to the possibility the legislature might still be in session.

There was no further business and the meeting was adjourned.

A handwritten signature in cursive script, appearing to read "James A. Andersen", written over a horizontal line.

James A. Andersen, Chair

## DRAFT MINUTES

### LEGISLATIVE ETHICS BOARD

June 14, 2001

**Members Present:** Paul Aldinger; James A. Andersen, Chair; William F. Asbury, Vice-Chair; John Betrozoff; Representative Phil Rockefeller; Ruth Schroeder.

**Staff:** Counsel, Mike O'Connell; Designated Advisers, Milt Doumit, Marty Lovinger and Tim Sekerak.

The May minutes were approved.

The latest draft of the Board's first ethics newsletter was discussed and approved as amended.

Chair Andersen requested the Board send a letter to Representative Pennington wishing him a speedy recovery from his illness. Mr. Aldinger suggested the Chair send the letter on behalf of the entire Board and by consensus Counsel was directed to prepare a draft for the Chair's consideration.

The Board received copies of an informal opinion from the Attorney General which concluded that because members of the Washington State Redistricting Commission were not legislative employees, but state officers serving on a commission, the Commission is subject to the jurisdiction of the Executive Ethics Board. The opinion had been sought by the Commission.

Mr. Betrozoff presented the subcommittee report on (1) undue influence on agencies and (2) government employment of legislators and Board jurisdiction. Counsel was directed to provide the report to the Board's mailing list and other interested parties in order to allow for a period of public comment. The report, and any comments, would be discussed at the next meeting.

The Chair called for public comment and Mr. Paul Telford spoke to the Board. He expressed his concern that the subcommittee report did not recommend that the Board seek or assert jurisdiction over complaints alleging a legislator's improper campaign use of non-legislative public resources during a campaign for a non-legislative office. The Chair requested Mr. Telford to submit his concerns in writing during the period of public comment previously approved.

Counsel reported on four examples of informal advice. (1) A legislator was advised to submit actual meal receipts for reimbursement, rather than accept a fixed daily amount while participating in an approved legislative seminar, when the payor would be a third party, non-government association which employed lobbyists. (2) A legislator was advised that his campaign computer could be linked to a legislative web site which could provide links to other government sites. (3) Staff was advised not to use public resources to advertise or promote a 3<sup>rd</sup> party fund raiser when it appeared the non-profit organization did not meet any of the exceptions identified by the Board which allow public uses for private purposes. (4) Counsel advised that legislative district recipients of the Washington

Award for Excellence in Education qualified for the "congratulatory letter" exception to the election year mailing restrictions found in RCW 42.52.185.

The Board moved to executive session to resume preliminary consideration of Complaint 2001 - No. 1. Fact-finding continues in that case.

The Board reconvened in public session at 2:27 p.m.. There was no further business and the meeting was adjourned.

---

James A. Andersen, Chair

## MINUTES

### LEGISLATIVE ETHICS BOARD

August 9, 2001


**Members Present:** Paul Aldinger; James A. Andersen, Chair; William F. Asbury, Vice-chair; John Betrozoff; Senator Stephen Johnson; Senator Debbie Regala; Representative Phil Rockefeller; Ruth Schroeder.

**Staff:** Counsel, Mike O'Connell; Designated Advisers, Milt Doumit, Marty Lovinger and Tim Sekerak.

The June minutes were approved as submitted. The Chair welcomed new Board member, Senator Debbie Regala.

The first order of business was the consideration of the subcommittee report authored by Mr. Betrozoff, Mr. Asbury and Representative Rockefeller. Mr. Betrozoff, chair of the subcommittee, reminded the Board that the report was discussed at the June meeting and following that meeting copies were sent to the Board's mailing list, approximately sixty recipients, for comment. The recommendations in the report were briefly summarized : (1) Adopt the suggestion of the Public Employees for Environmental Responsibility (PEER) that the issue of legislator relations with executive agency personnel be included in ethics training sessions; (2) the Board should decline to make a recommendation to the legislature that the Board's jurisdiction be expanded to include actions of legislators running for local elective offices; and (3) the law requiring certain employment contracts be filed with the Board is well-settled and if the type or number of contracts to be filed is to be increased, an amendment to the ethics act would have to be approved by the legislature. The Chair noted that Mr. Paul Telford, who was in attendance, was the only person to respond to the report during the comment period. Chair Andersen agreed with the recommendation of Mr. Asbury to call on Mr. Telford prior to any Board action on the report. Mr. Telford reiterated his concerns that without changes in the law, there would continue to be gaps in ethics jurisdiction as well as lack of public information about legislators who work for local government. Mr. Telford was advised by several Board members that his concerns should be directed to members of the legislature because only the legislature could effect a change in the law. The report of the subcommittee was adopted by the Board without dissent. There was no further public comment. Counsel advised that the annual COGEL conference would be held in Kentucky the first week in December and conference information was distributed to the Board members.

The Board proceeded to executive session at 11:50 a.m. to discuss Complaint 2001 - No. 1. An extensive discussion was held, during which all members were called upon by the Chair to express their points of view. Counsel was directed to draft an Order for the Board's consideration at the next meeting. The public portion of the meeting was reconvened at 2 p.m.. There was no further business and the meeting was adjourned.

  
James A. Andersen, Chair

**MINUTES**  
**LEGISLATIVE ETHICS BOARD**  
September 13, 2001


**Members Present:** Paul Aldinger; James A. Andersen, Chair; William F. Asbury, Vice-chair; John Betrozoff; Senator Stephen Johnson; Senator Debbie Regala; Representative Phil Rockefeller; Ruth Schroeder. **Staff:** Board Counsel, Mike O'Connell; Designated Advisers, Milt Doumit, Marty Lovinger, and Tim Sekerak.

The August minutes were approved as amended. Counsel reported that he had given informal advice to legislators who had been offered an expense-paid trip to Washington, D.C., including travel and lodging. The advice was to decline the offer due to an apparent lack of facts which would show that the trip was legislative in nature. House Counsel, Tim Sekerak, reported that he had been asked by legislators to explain the Ethics Act as it relates to legislator's employment opportunities. Senate Counsel, Marty Lovinger, informed the Board that the Office of Senate Counsel had recently sent information to legislators reminding them of the proper use of public facilities when addressing ballot measures.

Counsel provided a number of newspaper articles which reported that the University of Washington had paid for an expense-free trip for some legislators to the 2001 Rose Bowl in Pasadena, California. Mr. Asbury reminded the Board that he had asked for a discussion of the issue. Mr. Asbury stated it would be helpful for the Board to know if family members accompanied the legislators, the total dollar value involved, whether informal advice had been sought from the ethics advisers, and why one of the legislators decided to pay his own expenses. After a brief discussion, Counsel was directed to monitor a related investigation being conducted by the Executive Ethics Board on expenditure of funds by University officials and to seek the requested information. Chairman Andersen stated that the topic would be on the agenda for the Board's next meeting.

Counsel advised he had been notified that a legislator would be submitting a request to the Board for an advisory opinion as to whether the Ethics Act prohibited a legislator from sitting as a judge pro tempore. Further information will be provided to Board members at the next meeting.

Representative Pennington, Mr. Asbury and Ms. Schroeder were approved to attend the annual conference of the Council of Governmental Ethics Laws in Lexington, Kentucky. The members will make their own travel arrangements and submit expense vouchers to Counsel. The Board authorized the payment for printing and distributing brochures for the 2002 Washington State Ethics Conference, as it had done for the last conference some years before. The Chair next called for public comment. There was no public comment and the Board proceeded to executive session at approximately 11:45 a.m., to discuss Complaint 2001 - No.1. The Board approved the entry of an Order dismissing the complaint and authorized its publication. The public portion of the meeting was reconvened at 1 p.m. There was no further business and the meeting was adjourned.

  
James A. Andersen, Chair



**DRAFT MINUTES**  
**LEGISLATIVE ETHICS BOARD**  
October 11, 2001

**Members Present:** Paul Aldinger; James A. Andersen, Chair; William F. Asbury, Vice-chair; John Betrozoff; Representative John Pennington; Senator Debbie Regala; Representative Phil Rockefeller; Ruth Schroeder. **Staff:** Board Counsel, Mike O'Connell; Designated Advisers, Milt Doumit, and Tim Sekerak.

The September minutes were approved. Counsel presented three examples of informal advice: (1) the Board has previously determined that the Ethics Act prohibits the solicitation of lobbyists and lobbyist employers for any thing, by legislators or legislative staff, regardless of whether state facilities are used. Therefore, lobbyists should not be solicited for financial support for the oral history program absent a statutory change enacted by the legislature; (2) a staff person should not accept payment from a publisher, for an article based upon a research paper prepared as part of that individual's official role with the legislature, because of the law on honoraria; and (3) there is no precedent for denying the request of a legislator who sought to prepare a general letter of introduction describing an individual's reputation for honesty and integrity, without the use of state resources, when that individual would use the letter in his efforts to gain clients for a contemplated lobbying career.

The Board continued its discussion of the attendance of some legislators at the 2001 Rose Bowl. The Chair reminded the members that counsel had been instructed at the last meeting to gather further information about the trip and to monitor a related case before the Executive Ethics Board. Counsel reported as follows: According to documents provided by the University of Washington, it would appear that one family member accompanied the legislators; the cost per legislator was not clearly indicated in those documents but that it was probably over \$1,000 per person; the legislators stated they did not seek ethics advice on whether to accept the invitations from the University because University officials assured them that they could attend as guests, without being concerned about legal questions; and the one legislator who paid his own expenses has made a practice of paying his own way since before the enactment of the present day Ethics Act.

In response to questions from Mr. Asbury, counsel stated that the University had full time employees who lobbied the legislature at least part time and according to PDC records had hired contract lobbyists in the past. Mr. Asbury inquired if the same statutes would be involved in an analysis of the Rose Bowl trip as, for example the informal advice given on the Alaska Airlines question or any other trip, including trade missions. Counsel responded that basically the answer was "yes" - the statute in question, RCW 42.52.010(10)(d), permits the payment of travel and lodging expenses for legislators by third parties if the legislators are on a trade mission, giving a speech, or making a presentation or appearance in an official capacity. Mr. Asbury then asked what type of advice these legislators might have received had they asked whether they should accept the University's offer and counsel responded by saying that absent adequate background information which showed a legislative purpose to the trip he would have advised the gift exemption was not applicable and they should not accept the offer. This informal advice would be based on the statute and, in part, the Seafair advisory opinion.

Representative Pennington then posed a series of questions and urged the Board to consider them as the discussion on the Rose Bowl evolved. The Representative asked: (1) at what point does a legislator become an ambassador for the State; (2) are trips going to be viewed as acceptable, or not, based on the ability of a member to pay his or her own way when invited to travel; and (3) should the Board recognize a distinction between leadership and the rest of the legislators on invitations to travel?

Mr. Betrozoff commented that he felt Representative Pennington's questions needed to be addressed and that in his view public disclosure of the accounts of such travel are preferable to after-the fact enforcement actions by agencies.

Representative Rockefeller asked if the Board is concerned about the trip to the Rose Bowl, should it examine legislators as guests of the University at home games? Counsel responded by saying the Board has not issued an opinion on free attendance and brunch at University football games in Seattle but that over the years the informal advice has been that such attendance was probably acceptable under a different statute. RCW 42.52.150 presumes that free admission and food, at events sponsored by or in conjunction with a civic, charitable, governmental, or community organization are acceptable but travel and lodging are not. The Rose Bowl could be viewed as an event in conjunction with the University, a governmental organization, in which case free admission and food would be acceptable. However, apparently travel and lodging were provided and that is not acceptable under this statute. In order for that to be acceptable, the ethics law requires an appearance made in an official capacity (42.52.010(10)(d)). The University, in PDC records, maintains that the home game invitations are purely social and that members are not lobbied. Counsel pointed out that in light of that representation, and the Seafair opinion, the Board may wish to address the informal advice on free admission to home games. Representative Rockefeller stated that the Board may have to decide what is meant by "appearance" when analyzing the statute which permits payment of travel and lodging.

Mr. Asbury quoted RCW 42.52.140, which prohibits the receipt of any thing of economic value if it could reasonably be expected that this would influence a vote, action or judgment of the legislator and stated he felt this was the controlling statute. Mr. Aldinger disagreed and felt that this section had little to do with the questions before the Board because the Ethics Act allows some travel in specific situations and it is those sections on travel which must be analyzed. Senator Regala said she agreed that from what had been presented .140 should not apply. Mrs. Schroeder moved to continue the discussion at the next meeting and to instruct counsel to monitor the progress of the related case between the Executive Board and the University. The motion passed without objection.

The Board next discussed the request for Advisory Opinion 2001 - No. 1, and instructed counsel to draft a response consistent with that discussion and distribute the draft to the members prior to the next meeting.

After reviewing a copy of a fund-raising letter apparently written by Representative Van Luven, which had been forwarded to the Board, the members voted to institute a complaint against the Representative. Counsel was instructed to draft and mail the complaint, subject to the review of the chair, and to notify the Representative of the Board's action.



The chair called for public comment and there was none. The Board proceeded to executive session to discuss Complaints 2001 - No's 2 and 3. The Board dismissed both complaints on jurisdictional grounds. The public portion of the meeting reconvened and the Board established future meeting dates of November 29, in Olympia, and December 13, at a place to be determined. There was no further business and the meeting was adjourned.

**MINUTES**  
**LEGISLATIVE ETHICS BOARD**

November 29, 2001

Members Present: Paul Aldinger; James A. Andersen, Chair; William F. Asbury, Vice-chair; John Betrozoff; Ruth Schroeder. Staff: Counsel, Mike O'Connell; Designated Advisers; Milt Doumit, Marty Lovinger and Tim Sekerak.

The October minutes were approved. Counsel introduced Assistant Attorney General Jean Wilkinson and Darryl Roosendaal, investigator for the criminal justice division of the Office of the Attorney General. Ms. Wilkinson and Mr. Roosendaal have been assigned by the Attorney General to assist the Board with complaints alleging a violation of RCW 42.52.180 - the campaign use of public facilities. Also present and introduced were Mr. Brian Malarky, Executive Director of the Executive Ethics Board, and Mr. Brendon Wold, a senate employee. Counsel presented two examples of informal advice: (1) RCW 42.52.185, which establishes certain mailing restrictions, is applicable to legislators who become a candidate for any public office; and (2) RCW 42.52.185, limits a legislator to two mailings of identical newsletters during the last year of their term of office. The mailing of a government guide has been discussed by this Board and such guides have been found to be newsletters for the purpose of being permitted by this statute. However, government guides are inherently different in content and the requirement that they be identical, as newsletters must be, is not required by the statute. The reasoning is that many legislators represent all or parts of several different counties within their legislative districts and legislators who seek to mail the residents of one county a guide specific to that county could only mail one other county before reaching the limit of two mailings, if they were required to be identical. The result would be that a third county would either not receive a guide or a legislator would be forced to include numerous counties in a single guide. It was also discovered that it may not be physically possible to include multiple county information in a single document, given present printing press restrictions.

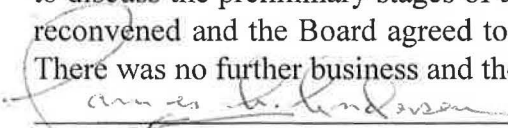
The Board considered a draft response to Advisory request 2001 - No.1, and approved the opinion as drafted. Counsel presented a proposed amendment to Board Rule 3, private use of state resources, and the Board approved the inclusion of Example 16, Rule 3, as amended.

The Board continued its discussion of legislative travel to the 2001 Rose Bowl. In response to questions raised at the last meeting, Counsel presented documents relative to the case between the Public Disclosure Commission and the University of Washington on the issue of gifts. Counsel advised that the documents stand for the proposition, among other things, that the University need not adhere to certain Commission reporting requirements when it expends non-public funds in hosting legislators when lobbying does not occur. Counsel advised that it appeared the University took the position that this decision meant it could provide certain gifts to legislators provided no lobbying occurred and public money wasn't involved. Newspaper articles, previously made available to the Board, indicated that the University advised legislators they could accept the Rose Bowl trip absent legal concerns. This advice was given even though further documentation showed that the Commission advised the University that the propriety of giving gifts to legislators was a subject not within the Commission's jurisdiction. Also discussed was an opinion of the Attorney General, provided to the University after the enactment of the gift provisions found in the ethics act,

which stressed that an analysis of the gift laws was necessary when providing gifts to legislators.

Mr. Asbury moved that the Board file a complaint against the three legislators who attended the Rose Bowl as guests of the University of Washington. Mrs. Schroeder seconded the motion. Extensive discussion followed. Mr. Asbury stated that some formal Board action was required, both by the literal terms of the gift law and as a matter of fairness to legislators who may be contemplating traveling to a bowl game in the near future. Mr. Betrozoff stated that he felt the University of Washington, Washington State University, and the legislators were probably very well aware of the Board's concern over these trips. Mr. Aldinger said that while he probably agreed with Mr. Asbury that the trips were improper, he was troubled by the University's representation to these legislators that the trips were legally acceptable and that a complaint would focus on these three legislators as opposed to all others who may have taken these trips in the past. Mr. Betrozoff expressed that he felt it was important that the Executive Board and the Legislative Board address these gift issues in a consistent manner and it might be appropriate to wait until the Executive Board completes its investigation of University officials. Mrs. Schroeder agreed with Mr. Aldinger that the Legislative Board should proceed as it sees fit and not tie its processes to Executive Board action. Chair Andersen asked if, in this case, the Board could issue an advisory opinion addressing future conduct, notwithstanding what it decides to do on the complaint proposal. Counsel answered "yes," the Board can issue an advisory opinion on its own motion at any time. Mrs. Schroeder said that she felt some sort of warning was fair and appropriate. Mr. Betrozoff stated that if the Board files a complaint, it should not limit the respondents to these three individuals. He said there are questions surrounding University home football games as well and other legislators and staff who may have attended these games, as well as bowl games, over the years. The chair inquired of the members whether the Board might consider directing counsel to send a letter expressing the Board's feeling that future trips of this nature may well be a violation of the ethics act. Mr. Aldinger agreed that the University and others should be made aware of the sense of the Board, that the Board has discussed this matter, and that it appears to the Board that future trips would be a violation. All members present agreed to send such a letter and directed counsel to do so, after review by the members. The Board resumed consideration of Mr. Asbury's motion. Mr. Asbury stated that he felt the Board should proceed so that a full investigation would take place and that his motion was not made as a statement that the Board had found a violation, but rather that the Board was taking a procedural step designed to gather all the facts for the Board's consideration. Mrs. Schroeder suggested that it may be appropriate to delay the vote on the motion for two weeks, until the next meeting, to allow the members time to review the documents presented by counsel at today's meeting and to allow another opportunity for the legislative members of the Board to participate in this decision. Mr. Betrozoff agreed with the idea of continuing the matter until the next meeting, December 13, and moved to amend the motion by moving the vote on Mr. Asbury's motion to the 13<sup>th</sup>. The motion to defer the vote on whether the Board will issue a complaint, to December 13, carried unanimously.

The chair called for public comment and there was none. The Board proceeded to executive session to discuss the preliminary stages of a pending complaint. The public portion of the meeting was reconvened and the Board agreed to meet at 12, noon, December 13, at the SeaTac Doubletree. There was no further business and the meeting was adjourned.

  
James A. Andersen, Chair

**MINUTES**  
**LEGISLATIVE ETHICS BOARD**

December 13, 2001

Members Present: Paul Aldinger; James A. Andersen, Chair; William F. Asbury, Vice-chair; John Betrozoff; Senator Stephen Johnson; Ruth Schroeder; Representative John Pennington; Staff: Mike O'Connell, Counsel; Milt Doumit, Marty Lovinger and Tim Sekerak, Designated Ethics Advisers.

Approval of the November minutes was deferred until the next meeting and the Board moved directly to the discussion of legislative travel. The Chair recognized the presence of Ms. Catherine Cowan, a paralegal from the law firm of Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim. Three questions had been raised by Board members at the last meeting, relative to the issue of legislator's attendance at bowl games. (1) Which staff attended the 2001 Rose Bowl as guests of the University of Washington? (2) In how many bowl games had the University and Washington State University participated since the enactment of the gift law? (3) Has this Board issued an opinion on whether legislators may, pursuant to the terms of the Ethics Act, accept free attendance and meals at home football games? Counsel responded that: (1) Co-Chief Clerk, Cindy Zehnder, attended the 2001 Rose Bowl as a Regent of the University of Washington and Co-Deputy Chief Clerk, Bill Wegeleben, attended as Ms. Zehnder's guest; (2) The Universities participated in a total of eight bowl games since enactment of the "modern" ethics code, which includes the gift limitations; and (3) The Board has not issued a formal opinion on gratis attendance at home football games but counsel's informal advice, based in part on the position taken by the Office of the Attorney General, has been and continues to be that legislators and staff may accept admission and food at these games. Travel and lodging are specifically excluded pursuant to the statute relied upon for this advice. The Chair requested Counsel to state the motion, pending from the last Board meeting. The motion, presented by Mr. Asbury, was that the Ethics Board institute a complaint against the legislators who attended the 2001 Rose Bowl as guests of the University of Washington. Mr. Asbury stated, that with the consent of Ms. Schroeder who had seconded his motion, he would withdraw the motion subject to a ruling by the chair that such action did not preclude any member of the Board from filing a complaint or renewing the motion. The Chair ruled that neither action would be prejudiced should the Board approve the withdrawal of the pending motion. Discussion followed. Mr. Asbury stated he remained convinced that this type of travel was prohibited by the Ethics Act and that he felt the Board's approval of the letter sent to the Universities, warning them of the Board's view on the subject, was recognition that such travel is prohibited by the Act. However, said Mr. Asbury, there is a question of fairness involved and he is concerned that many other legislators over the years have probably accepted these trips and the Board would have to expand the complaint and go back several years if all such trips were to be analyzed. Mr. Asbury said he did not feel this was a desirable path for the Board to follow. He said he was disappointed in the actions of these legislators and disappointed in the actions of the University of Washington which included representations by its lobbyist, a lawyer, that the legislators could accept these free trips. Ms. Schroeder agreed to withdraw her "second" and the Chair announced that with the consent of the Board, the motion would be withdrawn without prejudice to any future action or discussion. The Chair asked if any of the other Board members cared to speak to the issue. Mr. Aldinger said that he felt Mr. Asbury's comments were well taken and fairly reflected his point of view on the travel issue. He expressed concern that none of the legislators would think to ask for ethics advice.

Mrs. Schroeder agreed with Mr. Aldinger. Mr. Betrozoff thanked Mr. Asbury for his comments and said that perhaps the Board should continue to discuss these issues and see where that discussion took the Board. Chair Andersen stated that such a discussion could take the form of an advisory opinion and asked the members if they had any thoughts on that idea. Senator Johnson said that from a legislator's point of view, this issue can be a minefield and what he and his colleagues appreciate most is notice and predictability. If someone makes a mistake, said the Senator, not with malice but through a misunderstanding or getting advice from the wrong source, we have said henceforth this is the rule. The Senator feels this approach is sound and works well and it would be helpful if the Board cleared up these travel issues related to sporting events. Representative Pennington cautioned the Board about opening up the whole travel issue. He felt there were bigger issues than just sporting events and that the Board would have to ultimately define the proper role of legislators, which is a larger question in his mind than a bowl game. Mr. Asbury noted that even without a formal advisory opinion, the Board has sent a clear shot across the bow on the issue of travel and the letter should provide immediate guidance to everyone. Senator Johnson agreed that the message was clear on the December bowl games but that it seemed there was some feeling that bowl trips were viewed as exceptions to the general rules. He felt the area needs to be clarified and it would be helpful to hear all parties on this issue. After further discussion, the Board agreed to make this topic an ongoing agenda item and Counsel was instructed to prepare background materials for the January meeting. There was further discussion on the scope of the Board's future discussions on legislative travel. The consensus of the Board was that the travel issues be considered a part of future meeting agendas, the issue of bowl game travel should be combined with the issue of free attendance at home football games, and the Board's goal should be a formal advisory opinion.

The Chair called for public comment and recognized Ms. Barbara Baker, Policy Director for the House Democratic Caucus. Following some discussion, Ms. Baker said she was prepared to work with the Board in an effort to arrange some time with House members to discuss the overall philosophy and processes of the Legislative Ethics Board. Mrs. Schroeder briefly described her recent trip to Kentucky to attend the annual conference of the Council on Governmental Ethics Laws and thanked the Board for the opportunity to attend.

The Board recessed the public portion of the meeting and met in executive session to discuss preliminary matters relative to a pending complaint. Following the executive session, the Chair reconvened the public portion of the meeting and again requested public comment. There was none.

The Board expressed its collective and individual best wishes to Representative Pennington and thanked him for his service on the Board. Representative Pennington stated he was thankful for the experience and considered his time on the Board to be one of his fondest legislative experiences.

The Board agreed to meet January 17, and February 14, in Olympia. There was no further business and the meeting was adjourned.



James A. Andersen, Chair