

Wisconsin Ethics Commission

Standards of Conduct For State Public Officials, Lobbyists, And Lobbyists' Employers

A STATE PUBLIC OFFICIAL SHOULD NOT:

ACT OFFICIALLY IN A MATTER IN WHICH PRIVATELY INTERESTED.

Take any official action in a matter in which (a) the official's action could reasonably be expected to produce a substantial benefit for the official, a member of his or her immediate family, or an organization with which the official is associated or (b) the official or a member of his or her immediate family, or an organization with which the official is associated has a substantial interest. [§19.46, *Wisconsin Statutes*]

USE PUBLIC POSITION FOR PRIVATE BENEFIT.

Use his or her public position to obtain financial gain or anything of substantial value for the public official, a member of his or her immediate family, or an organization with which he or she is associated. [§19.45(2)]

ACCEPT TRANSPORTATION, LODGING, FOOD, OR BEVERAGE EXCEPT AS SPECIFICALLY AUTHORIZED.

Accept or retain transportation, lodging, meals, food or beverage except (a) payment of expenses for talks and meetings about state government, (b) items and services offered for reasons unrelated to public office, as long as not furnished by a lobbyist or by a lobbyist's employer, (c) items provided by or to the state and primarily for the state's benefit, or (d) items from a campaign committee under chapter 11. [§19.45(3m)]

SOLICIT OR ACCEPT REWARDS OR ITEMS OR SERVICES LIKELY TO INFLUENCE.

Solicit or accept, directly or indirectly, anything of value if it could reasonably be expected to influence an official's action or inaction or could reasonably be considered as a reward for any action or inaction. [§19.45(3)]

USE CONFIDENTIAL INFORMATION.

Intentionally use or disclose confidential information which could result in the receipt of anything of value. [§19.45(4)]

USE PUBLIC POSITION TO OBTAIN UNLAWFUL BENEFITS.

Use or attempt to use his or her public position to influence or gain, for anyone, unlawful benefits, advantages, or privileges. . [§19.45(5)]

ENTER INTO PUBLIC CONTRACTS WITHOUT NOTICE.

Enter into a contract or lease involving the payment of more than \$3,000 in a 12-month period, in whole or in part derived from state funds, unless written disclosure is made to the Wisconsin Ethics Commission and applicable state agency. This prohibition extends also to any organization in which the official has a 10% or greater interest. [§19.45(6)]

CHARGE A FEE TO REPRESENT A PERSON BEFORE A STATE AGENCY.

Generally, a state public official should not represent a person or organization for pay before a state agency. There are exceptions for nondiscretionary matters, for open hearings at which stenographic

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records are kept, for contested cases which involve parties other than the state with interests adverse to those represented by the state public official, and for matters before the Department of Revenue or the Tax Appeals Commission in connection with a client's tax matter. This restraint does not apply to unsalaried public officials. [§19.45(7)]

OFFER OR PROVIDE INFLUENCE IN EXCHANGE FOR CAMPAIGN CONTRIBUTIONS.

Give or offer or promise to give or withhold his or her vote or influence in consideration of, or upon condition that, any other person make or refrain from making a political contribution or service to or for the benefit of a candidate, political party, or any person making a communication that contains a reference to a clearly identified state elected official or candidate for state public office. [§19.45(13)]

AN ELECTIVE STATE OFFICIAL, AN AGENCY OFFICIAL, A LEGISLATIVE EMPLOYEE, OR CANDIDATE FOR ELECTIVE STATE OFFICE SHOULD NOT:

ACCEPT ANYTHING OF PECUNIARY VALUE FROM A LOBBYIST OR FROM A LOBBYING PRINCIPAL.

Normally solicit or accept anything of pecuniary value from a lobbyist or from an organization that employs a lobbyist. [§13.625(3)]

A LOBBYIST SHOULD NOT:

FURNISH ANYTHING OF PECUNIARY VALUE TO A STATE OFFICIAL.

Provide anything of pecuniary value to an elective state official, agency official, legislative employee, or candidate for elective office. [§13.625(1)(b)]

INSTIGATE LEGISLATION.

Instigate legislative or administrative action for the purpose of obtaining employment in support or opposition thereto. [§13.625(1)(a)]

MAKE COMPENSATION CONTINGENT ON LEGISLATIVE ACTION.

Contract to receive compensation dependent in any manner upon the success or failure of any legislative or administrative action. [§13.625(1)(d)]

MAKE CERTAIN CAMPAIGN CONTRIBUTIONS EXCEPT DURING PRESCRIBED PERIOD.

Contribute a personal contribution to the campaign of a partisan elected state official or candidate for partisan elective state office, except between the first day for circulating nomination papers and the day of the election in the year of a candidate's election. Even then, a contribution may be made to a legislator or a candidate for the legislature only if the legislature is not in session. [§13.625(1m)]

A LOBBYING PRINCIPAL SHOULD NOT:

FURNISH ANYTHING OF PECUNIARY VALUE TO A STATE OFFICIAL.

Provide anything of pecuniary value to an elective state official, agency official, legislative employee, or candidate for elective office unless it is also made available to the general public. [§13.625(1)(b) and (2)]

A FORMER STATE PUBLIC OFFICIAL (OTHER THAN A LEGISLATOR OR LEGISLATIVE EMPLOYEE) SHOULD NOT:

COMMUNICATE WITH FORMER AGENCY FOR 12 MONTHS AS PAID REPRESENTATIVE.

Represent, for compensation, any person other than a governmental entity before his or her former agency within 12 months after leaving the agency.

COMMUNICATE WITH ANY AGENCY FOR 12 MONTHS ON MATTERS RESPONSIBLE FOR.

Represent, for compensation, any person other than a governmental entity before any agency within 12 months after leaving public office on a matter under the former official's responsibility.

ACT ON BEHALF OF ANY PARTY OTHER THAN THE STATE.

Represent any person other than the state in connection with any proceeding, application, contract, claim, or charge in which the individual was personally and substantially involved as a state public official. [§19.45(8)]

Wisconsin Ethics Commission

Citizen's Guide

Standards Of Conduct For Local Government Officials

Wisconsin Statutes establish standards of conduct for all of our state's governmental officials, including local officials. These legal requirements apply to elected and key appointed officials of our state's counties, cities, villages, towns, school boards, and sewerage and other special districts.¹

Standards of conduct. In general, a local public official should not:

- **ACT OFFICIALLY IN A MATTER IN WHICH THE OFFICIAL IS PRIVATELY INTERESTED**
- **USE GOVERNMENT POSITION FOR PRIVATE FINANCIAL BENEFIT**
- **ACCEPT TRANSPORTATION, LODGING, FOOD, BEVERAGES, OR ANYTHING ELSE OF MORE THAN TOKEN VALUE OFFERED BECAUSE THE OFFICIAL HOLDS A GOVERNMENT POSITION**
- **SOLICIT OR ACCEPT REWARDS OR ITEMS OR SERVICES LIKELY TO INFLUENCE THE OFFICIAL**
- **OFFER OR PROVIDE INFLUENCE IN EXCHANGE FOR CAMPAIGN CONTRIBUTIONS**
- **BE FINANCIALLY INTERESTED IN A GOVERNMENT CONTRACT THE VALUE OF WHICH EXCEEDS \$15,000 AND FOR WHICH THE OFFICIAL IS AUTHORIZED TO TAKE SOME DISCRETIONARY ACTION (EVEN IF THE OFFICIAL ABSTAINS)²**

Financial disclosure. Some local governments make available a list of the employers and financial interests of their government's officials.³ Most do not. The decision to collect this information is one that the legislature has left to each unit of government. To learn if your county, municipality, or town provides this information, ask your county or municipal clerk.

Addressing issues before they become problems. To deal with a conflict between a private interest and governmental responsibilities before an official takes a vote or enters into discussions on a matter, the official can either resolve the matter by relinquishing the private interest or mitigate the problem by temporarily withdrawing from exercise of governmental responsibilities. By seeking advice beforehand, an official can determine whether statutory restrictions permit the official to participate in a matter or to accept items or services of value.

Ordinarily, the legal advisor for the unit of government of which the official's position is a part is in the best position to advise the government official about a matter involving ethical standards of conduct. Sometimes, a statewide association of local governments will advise an official.⁴

If, after studying the legal standards and gathering the pertinent facts, the legal counsel is uncertain about what advice to offer, the lawyer may direct a letter to the Wisconsin Ethics Commission stating the pertinent facts and law, tentative conclusion, and basis for it, and ask that the Wisconsin Ethics Commission issue an opinion concerning the interpretation of §19.59, the Code of Ethics for Local Government Officials, Employees and Candidates. Written requests for advice are confidential. No

¹ §19.59, *Wisconsin Statutes*.

² §946.13, *Wisconsin Statutes*. See text of statutes for exceptions to general rule.

³ Among the local governments requiring their officials to identify information about their sources of income and investments are the cities of Madison and Milwaukee and the counties of Dane, Milwaukee, and Wood.

⁴ Examples include Wisconsin Counties Association, League of Wisconsin Municipalities, Wisconsin Towns Association, Wisconsin Association of School Boards.

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member or employee of the Ethics Commission may make public the identity of anyone requesting an advisory opinion or of persons mentioned in an opinion. Periodically, the Commission publishes summaries of its opinions after making sufficient alterations to prevent the identification of the requestor and persons mentioned in the opinions. The *Statutes* do not authorize the Commission to issue an opinion to a citizen or to an official or representative of a local government other than the local government's legal counsel.

Complaints. If you believe that an official of a county, city, village, town, school board, or special purpose district has violated a standard of conduct that state law requires the official to observe, you may file a complaint with the Commission, or with the district attorney for the county in which the activity occurred.

Your complaint should describe the pertinent facts succinctly. State that you swear or affirm that the information you are providing is true to the best of your knowledge, information, and belief. Have a notary or other person authorized to administer an oath witness your signature to the complaint. Deliver the complaint to the Commission or district attorney, in person, or by mail, or other appropriate way you find convenient.

Allow the Commission or district attorney a reasonable length of time to look into the matter. It may take several weeks to look into the facts and law in order to make a good decision about how to proceed.

If the complaint about a local public official is filed with the Wisconsin Ethics Commission, the Commission's policy is to refer it to the local district attorney. If the district attorney has not responded to a complaint within 60 days of a referral, the Commission may refer the matter to the Attorney General.

Individuals may also file a complaint directly with the district attorney. If the district attorney has not filed a complaint or replied to you within 20 days of your filing a complaint with that office, you may send a copy of your complaint to the Attorney General's Office, explaining that the district attorney, after considering your complaint for 20 days or more, has not begun an action against the person you complained about, and ask the Attorney General to enforce the complaint. If the Attorney General also declines to prosecute the matter, you will at least have the satisfaction that two law enforcement agencies have had the opportunity to review your complaint and act upon it. The Wisconsin Ethics Commission cannot overturn the decisions of the district attorney or Attorney General or, independent of them, enforce standards of conduct for local government officials.

Wisconsin Ethics Commission

For state public officials

Officials' receipt of food, drink, favors, services, etc.

AN OFFICIAL MAY ACCEPT...

FROM ANY PERSON:

1. **ITEMS AND SERVICES MADE AVAILABLE TO THE GENERAL PUBLIC ON THE SAME TERMS.** Food, drink, transportation, lodging, items, and services at the same price, if any, charged others by a person other than a lobbyist, when each of the following applies:
 - A. It is available to anyone who wants it and who meets the criteria for eligibility;
 - B. The criteria are:
 - i. Established and readily identifiable; and
 - ii. Drawn without the purpose or effect of giving a preference to or conferring an advantage upon an agency official, legislative employee, or elective state official; and
 - C. There is no offer or notice of the event, item, or service directed to an official that would confer an advantage to the official.

WIS. STAT. §§ 13.625(2), 19.56(3)(b). 80 Op. Att'y Gen. 205, 212 (1992). *See e.g.*, 1991 Wis Eth Bd 3, 1991 Wis Eth Bd 9, 1997 Wis Eth Bd 12.
2. **EDUCATIONAL OR INFORMATIONAL MATERIALS OF UNEXCEPTIONAL VALUE.** Educational or informational materials of substantial value may only be accepted if some other exception applies, such as the state benefit exception. WIS. STAT. §§ 13.625(6t), 19.45(2); *see e.g.*, WIS. STAT. § 19.56(3)(c).

FROM A PERSON OTHER THAN A LOBBYIST/LOBBYING PRINCIPAL:

3. **ITEMS AND SERVICES UNRELATED TO PUBLIC POSITION.** Food, drink, transportation, lodging, items, and services which the recipient can clearly demonstrate are received for a reason unrelated to the recipient's holding or having held *any* public position. WIS. STAT. §§ 19.45(3m) and 19.56(3)(b).
4. **ITEMS AND SERVICES FOR WHICH THE RECIPIENT PAYS THE FULL COST.** Food, drink, transportation, lodging, items, and services if the official pays either (a) the price charged all others, if the event is open to the general public, or (b) the highest of: (i) the price charged others, (ii) the item's or service's true value, or (iii) the furnisher's cost; provided the opportunity to purchase the item itself is not a thing of value. WIS. STAT. §§ 19.45(3m) and 19.56(3)(b); 80 Op. Att'y Gen. 201, 202 (1992); 1997 Wis Eth Bd 12.
5. **EXPENSES PROVIDED BY OR TO THE STATE.** Food, drink, transportation, lodging, or payment or reimbursement of costs that the official can clearly demonstrate are provided by or on behalf of the state and primarily for the state's benefit, not for the private benefit of the official. WIS. STAT. § 19.56(3)(c). Although neither required nor conclusive, a certification of another official who can appropriately be seen as acting on the state's behalf is one possible way to support that the item received was for the state's benefit. *See e.g.*, 2007 Wis Eth Bd 1.

FROM CERTAIN PERSONS:

6. **EXPENSES FOR TALKS AND PROGRAMS.** Payment or reimbursement of actual and reasonable expenses an official incurs for presenting a talk or program about state issues if the payment or reimbursement is paid or arranged by the organizer of the event. WIS. STAT. §§ 13.625(7), 19.56(3)(a).
7. **REASONABLE COMPENSATION (ELECTED OFFICIALS ONLY).** An elected official may accept reasonable compensation for presenting a talk or program about state issues if the compensation is paid or

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arranged by the organizer of the event and the person paying or arranging for the compensation is not a lobbyist or lobbying principal. WIS. STAT. §§ 13.625(7), 19.56(3)(a).

8. **ITEMS, SERVICES, AND REIMBURSEMENTS FROM A POLITICAL COMMITTEE.** Services, items, and reimbursements from a political committee if permitted and reported under campaign finance law. WIS. STAT. § 19.56(3)(d).
9. **ANYTHING OF VALUE FROM EITHER THE DEPARTMENT OF TOURISM OR THE WISCONSIN ECONOMIC DEVELOPMENT CORPORATION WHEN AUTHORIZED TO PROVIDE.** WIS. STAT. § 13.625, 19.56(3)(f).
10. **ANYTHING OF VALUE FROM A LOBBYING PRINCIPAL WHO IS A LOCAL GOVERNMENTAL UNIT (LOCAL ELECTED OR APPOINTED OFFICIALS ONLY).** A legislative or agency official who is also a local elected official may accept from a principal that is also a local governmental unit an amount not exceeding that provided to other similarly situated officials of that local governmental unit. WIS. STAT. § 13.625(6g)(a). A legislative or agency official who is also a local appointed official may accept from a principal that is also a local governmental unit a per diem or payment of actual and reasonable expenses not exceeding that provided to other similarly situated officials of that local governmental unit. WIS. STAT. § 13.625(6g)(b).

EXCEPT AS PROVIDED, AN OFFICIAL MAY NOT ACCEPT...

1. **TRANSPORTATION, TRAVELING ACCOMMODATIONS, OR COMMUNICATION SERVICES.** Discounted transportation or traveling accommodation for which the supplier would usually charge. WIS. CONST. art. XIII, § 11; WIS. STAT. § 946.11.
2. **ITEMS OR SERVICES FROM LOBBYISTS OR LOBBYING PRINCIPALS.** Food, drink, transportation, lodging, employment, or any other thing of pecuniary value from a lobbyist or lobbying principal, either directly or through an agent. WIS. STAT. § 13.625(1)-(3). Except:
 - A. **CAMPAIGN CONTRIBUTIONS FROM A LOBBYIST (PARTISAN ELECTED OFFICIALS OR CANDIDATES FOR PARTISAN OFFICE ONLY).** A lobbyist may make a personal campaign contribution only between the first day authorized by law for the circulation of nomination papers as a candidate at a general or special election, and the day of that election, except that a contribution to a candidate for legislative office may be made during that period only if the legislature has concluded its final floor period and is not in special or extraordinary session. Incumbent partisan elected officials may not accept contributions from lobbyists while running for a different office during the spring election. Campaign contributions from other sources (e.g, a political action committee) may be delivered by a lobbyist at any time. WIS. STAT. § 13.625(1m).
 - B. **ANYTHING OF VALUE FROM A LOBBYIST OR LOBBYING PRINCIPAL WHO IS A RELATIVE OF THE OFFICIAL OR WHO RESIDES IN THE SAME HOUSEHOLD.** A "relative" means a parent, grandparent, child, grandchild, brother, sister, parent-in-law, grandparent-in-law, brother-in-law, sister-in-law, uncle, aunt, nephew, niece, spouse, fiancé or fiancée. WIS. STAT. §§ 13.62(12g), 13.625(6).
 - C. **ANYTHING OF VALUE FROM A LOBBYIST OR LOBBYING PRINCIPAL TO AN OFFICIAL WHO IS AN EMPLOYEE.** An individual who is a legislative or agency official solely because of membership on a state commission, board, council, committee, or similar body may accept anything of value from a lobbyist or a lobbying principal who employs the official, if not in excess of that customarily provided by the employer to similarly situated employees and the official receives no compensation for his or her services to the state other than a per diem or reimbursement of actual and necessary expenses incurred in the performance of his or her duties. WIS. STAT. § 13.625(6r).
 - D. **ANYTHING OF VALUE FROM A LOBBYING PRINCIPAL TO AN OFFICER OR EMPLOYEE OF THE UNIVERSITY OF WISCONSIN SYSTEM FOR SERVICE ON THE GOVERNING BODY**

OF THE PRINCIPAL. In an amount not exceeding the amount provided to other members of the governing body for the same service. WIS. STAT. § 13.625(6s).

3. **TRANSPORTATION, LODGING, MEALS, FOOD, OR BEVERAGE OFFERED FOR A REASON RELATED TO HOLDING OR HAVING HELD ANY PUBLIC POSITION.** WIS. STAT. §§ 19.45(3m), 19.56(3)(b).
4. **OTHER ITEMS OR SERVICES OFFERED BECAUSE OF STATE POSITION.** No state public official may use his or her public position to obtain anything of substantial value for himself or herself, or his or her immediate family, or for an organization with which he or she is associated. WIS. STAT. § 19.45(2).
5. **REWARDS FOR OFFICIAL ACTION.** Anything of value that could reasonably be considered as a reward for the official's action or inaction. WIS. STAT. § 19.45(3).
6. **ITEMS AND SERVICES THAT COULD INFLUENCE OFFICIAL ACTION.** Anything of value that could reasonably be expected to influence the state public official's vote, official actions, or judgment. This does not prohibit a state public official from engaging in outside employment. WIS. STAT. § 19.45(3).
7. **PAYMENT FOR OFFICIATING AT A COURTHOUSE WEDDING (JUDGES ONLY).** A payment, even if unsolicited, for officiating at a marriage at a courthouse during business hours or if using access or resources not available to any resident. WIS. STAT. §§ 19.45(2), 19.56(3)(b). 2 Op. Eth Bd 58 (1978), 4 Op. Eth Bd 85, 86 (1981).

Wisconsin Ethics Commission

For state employees involved in proposing or developing administrative rules but who are not subject to the statutory Ethics Code

Restraints on employees' receipt of food, drink, favors, services, etc.

STATUTORY RESTRAINTS

Consistent with the statutes administered by the Wisconsin Ethics Commission, a state employee involved in proposing or developing administrative rules but who is not subject to the statutory Ethics Code may accept and retain informational materials of unexceptional value [§§ 13.625(6t) and 19.45(2), *Wisconsin Statutes*]; but otherwise should not accept:

1. **ITEMS OR SERVICES FROM LOBBYISTS.** Food, drink, transportation, lodging, employment, or thing of pecuniary value from a lobbyist¹, either directly or through an agent [§ 13.625(1)-(3)] or
2. **ITEMS OR SERVICES FROM ORGANIZATIONS THAT EMPLOY LOBBYISTS.** Food, drink, transportation, lodging, employment, or thing of pecuniary value from an organization that employs a lobbyist unless also made available to the general public on like terms and conditions² [§ 13.625(2)].

An administrative rule promulgated by the Division of Personnel Management in the Department of Administration establishes a code of ethics for state employees who are not subject to the Code of Ethics for State Public Officials. Please consult the rule or Division of Personnel Management and the agency or office to which your state position pertains for further limitations on accepting items and services from others.

¹ Unless the lobbyist and recipient are married to each other, are engaged to be married, reside in the same household, or are close relatives. [§ 13.625(6)]

² *Individuals elected or appointed to local government position.* In the case of an individual *elected* to a position in a local government that employs a lobbyist, the local government may furnish the individual anything it normally furnishes to other similarly situated elected officials. [§ 13.625(6g)(a)] If an individual is *appointed* to a local government position compatible with the state position, the local government may furnish the individual a per diem or reimbursement of expenses up to the amount furnished to other similarly situated officials. [§ 13.625(6g)(b)]

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Wisconsin Ethics Commission

Local officials' receipt of food, drink, favors, services, etc.

Wisconsin law forbids a public official to use free or discounted transportation, traveling accommodation, or communication services for which the supplier would usually charge [§946.11, Wisconsin Statutes; Art. 13, §11, Wisconsin Constitution],¹ Otherwise – Consistent with the statutes administered by the Wisconsin Ethics Commission, *local public officials*² **may accept and retain:**

a. **ITEMS AND SERVICES UNRELATED TO PUBLIC POSITION.**

Food, drink, transportation, lodging, items, and services which are offered for a reason unrelated to the recipient's holding a public position [§ 19.59(1)(a)] and which could not reasonably be expected to influence an official's vote, official actions or judgment, nor reasonably be considered a reward for any official action or inaction;

b. **EXPENSES PROVIDED BY OR FOR THE BENEFIT OF THE LOCAL GOVERNMENTAL UNIT.**

Food, drink, transportation, lodging, or payment or reimbursement of costs that are provided by or for the benefit of the local governmental unit, not for a private benefit; and

c. **ITEMS OF INSUBSTANTIAL VALUE.**

Mere tokens and items or services of only nominal, insignificant, or trivial value.

STATUTORY RESTRAINTS

Except as noted on the other side of the page, *local public officials should not accept:*

1. **ITEMS OR SERVICES OFFERED BECAUSE OF PUBLIC POSITION.** Any item or service, including food, drink, and travel, of more than nominal value offered because of the person's holding a public office [§ 19.59(1)(a)];
2. **ITEMS THAT COULD INFLUENCE JUDGMENT.** Any item or service that could reasonably be expected to influence an official's vote, official actions or judgment [§19.59(1)(b)];
3. **REWARDS FOR OFFICIAL ACTION.** Any item or service that could reasonably be considered a reward for any official action or inaction [§19.59(1)(b)]; and
4. **TRANSPORTATION OR TRAVELING ACCOMMODATIONS.** Discounted transportation, traveling accommodations, or communication services for which the supplier would usually charge [§946.11; Art. 13, §11].

¹ Consult local ordinances and other state law not administered by the Wisconsin Ethics Commission for any additional restrictions.

² "Local public officials" include: (a) elected officers of political subdivisions and special purpose districts of the state; (b) county administrators or administrative coordinators; (c) city or village managers; (d) individuals appointed to a position in a political subdivision or special purpose district for a specified term; and (e) individuals appointed to a position by the governing body, executive, or administrative head of a political subdivision or special purpose district and serving at the pleasure of the appointing authority.

Wisconsin Ethics Commission

Local officials' receipt of food, drink, favors, services, etc.

To analyze a situation in which you are offered items or services, ask yourself these questions:

1. With respect to the item or service offered:
 - a. Is it being offered because of my public position?
 - b. Is it of more than nominal or insignificant value?
 - c. Is it primarily for my personal benefit rather than for the benefit of my local unit of government?

If you answer "yes" to all three questions, you may not accept the item or service.

2. Would it be reasonable for someone to believe that the item or service is likely to influence my judgment or actions or that it is a reward for past action? If you answer "yes," you may not accept the item or service.

If you have any doubts about a situation, seek advice from your local governmental attorney.

Wisconsin Ethics Commission

Tickets And Access To Skyboxes And Other Premium Areas

1. *For state and local government officials*

Neither a state public official nor a local public official should accept or purchase a ticket or admission to an event or access to a loge, skybox, or other premium area unless the official can clearly and convincingly demonstrate that:

- The transaction is not prohibited under sections 2, 3, or 4 below; AND
- The ticket, admission, or access cannot reasonably be expected to influence the official's vote, official actions or judgment, and can not reasonably be considered as a reward for any official action or inaction on the part of the official; AND EITHER
- The ticket, admission, or access is offered for a reason unrelated to the official's holding or having held a public office; OR
- The ticket, admission, or access is available to the general public on the same terms and conditions. [§§19.45(2); 19.59(1)(a)]

2. *Additional restriction in situation involving a state official and an organization that employs a lobbyist*

An organization that employs a lobbyist should not give, furnish, or even sell, or arrange for another to give, furnish, or sell to an elected state official, legislative employee, candidate for state office, or agency official a ticket or admission to an event or access to a loge, skybox, or other premium area unless the ticket, admission, or access is available to the general public on the same terms and conditions. [§13.625(2)]

An elected state official, legislative employee, candidate for state office, or agency official should not accept or even purchase from an organization that employs a lobbyist a ticket or admission to an event or access to a loge, skybox, or other premium area unless the ticket, admission, or access is available to the general public on the same terms and conditions. [§13.625(3)]

3. *Additional restriction in situation involving a state official and a lobbyist*

A lobbyist should not give, furnish, or even sell, or arrange for another to give, furnish, or sell to an elected state official, legislative employee, candidate for state office, or agency official a ticket, or admission to an event or access to a loge, skybox, or other premium area. [§13.625(1)(b)]

An elected state official, legislative employee, candidate for state office, or agency official should not accept or even purchase from a lobbyist a ticket or admission to an event or access to a loge, skybox, or other premium area. [§13.625(3)]

4. *Additional restriction for University of Wisconsin System athletic events*

A complimentary or reduced price ticket must be permitted by rules of intercollegiate athletic conferences of the institution participating in the event and approved by the chancellor.[§36.39]

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Limited exceptions to the preceding restrictions

Substantive or ceremonial governmental responsibilities. An individual or organization may provide admission to or accommodation at an event and a state or local public official may attend an event without payment or on terms not available to the general public to the extent that the official's participation in the event is clearly and convincingly for the benefit primarily of the state or a local government as demonstrated by the official's furtherance of a substantial, well-articulated governmental purpose or prominent, public ceremonial activity appropriate to the official's government office and any private benefit is merely incidental to the government purpose. [§19.56(3)(c)]

Ticket of no pecuniary value. In the unusual circumstance in which a ticket, admission, or access is without pecuniary value, a government official may accept it and a lobbyist and an organization that employs a lobbyist may furnish it.

Restriction concerning admission to certain stadiums

An individual serving in one of the following positions should not accept a discount (including a discount on the use of a skybox or private luxury box) on the price of admission or parking charged to members of the general public at Miller Park in Milwaukee or Lambeau Field in Green Bay: for the United States, the offices of president, vice president, senator, and representative in Congress; for the state of Wisconsin, the offices of governor, lieutenant governor, secretary of state, state treasurer, attorney general, justice of the supreme court, court of appeals judge, circuit court judge, state senator, state representative to the Assembly, and district attorney; for Wisconsin's local governments, any elected office.* [§19.451]

Reporting receipt of ticket or admission

An official, when filing a Statement of Economic Interests with the Wisconsin Ethics Commission, must identify in the Statement each organization or individual (other than a family member) that gave the official a ticket or admission valued at more than \$50 during the prior year. Unless the official returned the ticket or admission unused to the donor, the official should identify the donor on the Statement even if the official has redirected the ticket or admission to another person, organization, or office or agency or has applied it to the benefit of the state or a local government.

* This restraint applies to any professional sports stadium exempt from general property taxes under §70.11(36), *Wisconsin Statutes*.

Wisconsin Ethics Commission

For Elected State Public Officials & State Public Officials with Rulemaking Responsibilities

Attending conferences, seminars, and receptions when not a speaker

This guideline provides general advice about a state government official's¹ attending a conference, seminar, or reception at which the official is not a featured speaker or part of a formal program. The advice is applicable to events in the capital, elsewhere in Wisconsin, and beyond Wisconsin's borders. For situations in which the official is a featured speaker or program participant, see Wisconsin Ethics Commission Guidelines ETH-1211 and ETH-1212.

General rule. Except in accordance with this guideline, a state public official should not accept admission to an event, or transportation, lodging, food, meals, or beverage, offered in connection with an event, that is furnished by a lobbyist or by an organization that employs a lobbyist or that is offered because the official holds a state public office.

Attendance at educational conferences and seminars. If a conference or seminar is primarily an educational or informational presentation related to an official's duties, then the state official may attend (even at a reduced cost or at no cost) even if it is sponsored by an organization that employs a lobbyist and even if the official is invited because of holding a state position.

Food, drink, travel, and lodging in connection with a conference or seminar. A state official attending a conference or seminar on behalf of the State of Wisconsin and primarily for the benefit of state government may accept food, drink, travel, and lodging if, but only if (1) it is provided, arranged, or sanctioned by the event's organizer and (2) the recipient can clearly and convincingly demonstrate that the primary beneficiary is the State of Wisconsin, not the individual. The Wisconsin Ethics Commission recommends that the official obtain the authorization of the chief executive or governing body of the agency of which the official is a part that the costs of attendance would otherwise appropriately be paid by the state in furtherance of state business.²

Hospitality suites. Unless attendance is specifically authorized by the chief executive or governing body of the agency of which the official is a part, a state official attending a conference on state business should not accept food, drink, or entertainment offered at a privately hosted reception, hospitality suite, or the like that may be held in connection with or coincident with a conference but is not sanctioned by the event's organizer.

¹ This guide applies to elected state officials and to others holding a state public office identified under §20.923, *Wisconsin Statutes*. See §§13.62(3) and 19.42(13), *Wisconsin Statutes*. Other state officials and employees may also be subject to some of the restrictions.

² Ordinarily, an official may establish that the costs of attending a conference or seminar are appropriately paid by the state and the official's attendance is primarily for the state's benefit by obtaining the written authorization of:

- in the case of a representative, the Speaker of the Assembly;
- in the case of a senator, the Senate Committee on Organization; and
- in other cases, the head of the state agency, department, or governing body to which the official's office pertains.

[§19.56(3)(c)].

This is a guide. For authoritative information consult Wisconsin Statutes.

Food and drink at banquets, receptions and social events, not part of a conference or seminar.

Regardless of an event's sponsor, the official should pay the greatest of:

- The price of admission,³ food, and drink charged others;
- The sponsor's true per-person cost of admission³ and entertainment plus food and drink provided the official; or
- The true value of admission³ and entertainment, plus food and drink provided the official.

If the event's sponsor is an organization that employs a lobbyist, the official may partake of food and drink only if the event is intended for and conducive to the discussion of state governmental processes, proposals, or issues (but must pay for food, drink, and entertainment as outlined).

OTHER CIRCUMSTANCES: An official may accept:

- a. **Items offered for a reason unrelated to the official's holding a government office and not offered by a lobbyist or by an organization that employs a lobbyist.** Transportation, lodging, food, meals, or beverages, or reimbursement therefor; or free or discount that the official can show by clear and convincing evidence were offered for a reason unrelated to the official's holding a government office and were not furnished by a lobbyist or an organization that employs a lobbyist. [§19.56(3)(b)]
- b. **Items and services made available to the general public.** Admission, transportation, lodging, food, meals, or beverages when each of the following applies:
 1. The admission, items, or services are available to anyone who wants them;
 2. The official is not given a preference or advantage in obtaining admission, items, or service; and
 3. There is no offer or notice of the event, item, or service directed to an official that would confer an advantage to the official. [§13.625(2)]
- c. **Items and services from the State of Wisconsin.** Transportation, lodging, food, meals, or beverages, or reimbursement therefor, or payment or reimbursement of costs received from the State of Wisconsin and primarily for the benefit of the state and not primarily for the private benefit of the official or any other person. [§19.56(3)(c)]
- d. **Items and services provided by a campaign committee.** Transportation, lodging, food, meals, or beverages, or reimbursement therefor, or payment or reimbursement of costs permitted and reported in accordance with Wisconsin's campaign finance laws (Chapter 11, *Wisconsin Statutes*). [§19.56(3)(d)]
- e. **Items and services received from the Department of Tourism.** Anything of value that the Department of Tourism provides for the purpose of hosting individuals to promote tourism. [§19.56(3)(em) and (f)]
- f. **Items and services received from the Wisconsin Economic Development Corporation.** Anything of value that the WEDC provides for the purpose of:
 1. WEDC's sponsorship of a trip to a foreign country primarily to promote trade between that country and this state that the WEDC can demonstrate by clear and convincing evidence is primarily for the benefit of the state, or
 2. Hosting of individuals in order to promote business, economic development, tourism, or conferences sponsored by multistate, national, or international associations of governments or governmental officials. [§19.56(3)(e) and (f)]

³ If offered, an official may accept reduced-cost or free admission to that portion of an event that is an educational or informational seminar or talk.

Wisconsin Ethics Commission

For State Public Officials

Expenses and Compensation for Published Works, Presentation of Talks, or Participation in Meetings

Wisconsin Statutes encourage every state public official to meet with clubs, conventions, special interest groups, political groups, school groups, and other gatherings to discuss and to interpret:

1. Legislative, administrative, executive, or judicial processes and proposals, and
2. Issues initiated by or affecting a department¹ or the judicial branch.²

EXPENSES

A state public official may receive and retain reimbursement or payment of **actual and reasonable** expenses that are paid or arranged by the event's organizer for a published work or for the presentation of a talk or participation in a meeting about these processes, proposals, and issues.³

COMPENSATION

Compensation refers not only to cash but also to other things of value the official may receive for a published work, presentation of a talk, or participation in a meeting.

ELECTED OFFICIALS: An elected official may retain **reasonable** compensation that is paid or arranged by the event's organizer for a published work or for the presentation of a talk or participation in a meeting about these processes, proposals, and issues if:

1. The elected official does not rely upon the state's time, facilities, services, or supplies not generally available to everyone.⁴
2. The payment is provided neither by a lobbyist nor by a business, or organization, or local government that employs a lobbyist.⁵

The reasonableness of the compensation is determined by the totality of the circumstances. Factors the Commission may consider in assessing the reasonableness of the compensation include: the payer's relationship to the official's public position; the amount of preparation required for the presentation; the compensation the sponsoring organization provided to other participants who were not state officials; the relative importance of the presentation; and the official's history of commanding speaking fees prior to taking public office.⁶

¹ "Department" means the legislature, the University of Wisconsin system, any authority or public corporation created and regulated by an act of the legislature and any office, department, independent agency or legislative service agency created under ch. 13, 14, or 15, any technical college district or any constitutional office other than a judicial office. WIS. STAT. § 19.42(5)

² WIS. STAT. § 19.56(1)

³ WIS. STAT. §§ 13.625(7), 19.56 (3)(a)

⁴ 1996 Wis Eth Bd 04

⁵ WIS. STAT. § 13.625(1) and (2)

⁶ 2005 Wis Eth Bd 09, ¶ 4.

STATE PUBLIC OFFICIALS: A state public official, who is not an elected official, may not retain compensation. A state public official, who is not an elected official, may only retain payment for, or reimbursement of, actual and reasonable expenses.⁷

REPORTING

Every official required to file a Statement of Economic Interests (SEI)⁸ who receives anything with a combined value exceeding \$50 (excluding the value of food or beverage offered coincidentally with a talk or meeting) for a published work or for the presentation of a talk or participation in a meeting, must identify the payor, the circumstances for which the payment was made, and the approximate value on his or her annual Statement of Economic Interests.⁹

However, an official required to file an SEI is not required to report receipt of expenses or compensation if:

1. The official returns what was provided to the payor within 30 days of receipt;
2. The payor is identified on the official's SEI as a source of income;
3. The official can show by clear and convincing evidence that it was unrelated to and did not arise from the official's holding or having held a public office and was made for a purpose unrelated to the processes, proposals, or issues described above;
4. The official has previously reported the expenses or compensation to the Commission as a matter of public record;
5. The expenses or compensation are paid by the official's department;
6. The expenses or compensation are made available to the official by WEDC or the Department of Tourism.¹⁰

DISPOSING OF PAYMENTS

If a state public official receives a payment, in cash or otherwise, that the official may not keep, the official should deposit it with the official's department, or, in the case of a justice or judge, to the director of state courts. If this is not practical, the official shall:

- Return the item or its equivalent to the payor;
- Turn the item over to the official's agency (if the item is one the agency can use or sell);
- Turn the item over to another state agency or public institution (e.g., a school, library, or museum) that can use the item;
- Give it to a charitable organization with which the official is not associated.¹¹

See Guideline ETH-1235 for more information on the disposition and reporting of gifts.

⁷ WIS. STAT. § 19.56(3)(a)

⁸ WIS. STAT. § 19.42(10)

⁹ WIS. STAT. § 19.56(2)(a)

¹⁰ WIS. STAT. § 19.56(2)(b)

¹¹ WIS. STAT. § 19.56(4)

Wisconsin Ethics Commission

For State Public Officials

Solicitations

General Limitation on Solicitation

A state public official should not use his or her public position or office to solicit something of substantial value for himself or herself, his or her immediate family, or an organization with which he or she is associated. A state public official should not use his or her public position or office to solicit a thing of value from anyone for an organization with which the official or the official's spouse or legal dependent is an officer, director, employee or authorized representative or agent. WIS. STAT. § 19.45(2). "Associated," when used with reference to an organization, includes any organization in which an individual or a member of his or her immediate family is a director, officer, or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10 percent of the outstanding equity or of which an individual or a member of his or her immediate family is an authorized representative or agent. WIS. STAT. § 19.42(2).

However, there is a narrow exception that allows a "candidate," as that term is defined in WIS. STAT. § 11.0101(1), to engage in certain solicitations. Specifically, a candidate, including a state public official, may solicit a donation for a non-profit organization with which the candidate is "associated." WIS. STAT. § 11.0206.

Other Limitations on Solicitation

A state public official should not solicit a thing of value from any person if it could be reasonably expected to influence his or her vote, official actions or judgment, or it could be seen as a reward for officials actions the official has taken. WIS. STAT. § 19.45(3).

A candidate for state elective office or a state public official should not solicit a charitable or other contribution for any organization from a lobbyist or from an organization that employs a lobbyist. WIS. STAT. § 13.625(3).

A candidate for state elective office or a state public official should not solicit anything of pecuniary value for a state agency or state program from a lobbyist or from an organization that employs a lobbyist. WIS. STAT. § 13.625(3).

Solutions For Instances When Solicitation Is Not Permitted

GOVERNMENT-RELATED EVENTS. A state agency seeking private support for a government-related activity may request assistance from the Wisconsin Economic Development Corporation to solicit support for a multi-state or national association with which the agency is affiliated. WIS. STAT. 19.56(3)(e)2. An agency may also request the Wisconsin Economic Development Corporation to solicit support for events promoting economic development or tourism and for conferences of multistate, national, or international associations of government officials. *Id.* Additionally, an agency may request the Department of Tourism to solicit support for events promoting tourism. WIS. STAT. 19.56(3)(em).

LETTERHEAD AND LETTERS OF SUPPORT. An official affiliated with a private organization may permit the appearance of their name and title within the private organization, but not their public office, on the organization's letterhead in the same style and prominence in which others similarly affiliated with the organization are identified. An official may also write a letter of endorsement for an organization that the organization may include in a fundraising solicitation, even if it is sent to a lobbyist or lobbying principal, as long as the endorsement letter does not solicit, urge, or endorse contributing to the organization. *See 1991 Wis Eth Bd 06.*

Wisconsin Ethics Commission

For State and Local Public Officials

Mitigating Conflicting Interests: Private Interest Vs. Public Responsibility

In a representative democracy, the representatives are drawn from society and, therefore, cannot and should not be without all personal and economic interest in the decisions and policies of government. Citizens who serve as state public officials retain their rights as citizens to interests of a personal or economic nature. Standards of ethical conduct for state public officials need to distinguish between those minor and inconsequential conflicts that are unavoidable in a free society, and those conflicts which are substantial and material. State public officials may need to engage in employment, professional or business activities, other than official duties, in order to support themselves or their families and to maintain a continuity of professional or business activity, or may need to maintain investments. WIS. STAT. § 19.45(1).

ACTING IN AN OFFICIAL CAPACITY

MAKING POLICY. When a public official or a board, commission, or other body of which an official is a member is called upon to propose or to act on legislation, to promulgate a rule, or to issue a general policy, the official may participate in that action even though the action will affect the official, a member of the official's immediate family, or an organization with which the official is associated¹, as long as:

- The official's action affects a whole class of similarly situated interests;
- Neither the official's interest, the interest of a member of the official's immediate family, nor the interest of a business or organization with which the official is associated¹ is significant when compared to all affected interests in the class; AND
- The action's effect on the interests of the official, of a member of the official's immediate family, or of the related business or organization is neither significantly greater nor less than upon other members of the class.

See e.g., 2008 GAB 02; 11 Op. Eth Bd 9 (1989); 8 Op. Eth Bd 33 (1985); 5 Op. Eth Bd 89, 65, 59; 4 Op. Eth Bd 104 (1981).

APPLYING POLICY. A public official should not, in an official capacity, participate in or perform any discretionary action with respect to the making, grant, or imposition of an award, sanction, permit, license, grant, contract, offer of employment, or agreement in which the official or a member of the official's immediate family or a business or organization with which the official is associated has a substantial financial interest, direct or indirect. WIS. STAT. §§ 19.45(2), 19.46(1), 19.59(1)(a) and (c). In addition, a public official should not, in an official capacity, participate in a matter affecting a business or organization from which the official or a member of the official's immediate family receives substantial compensation or income. *See WIS. STAT. §§ 19.45(3), 19.59(1)(b); 2013 GAB 01, 1994 Wis Eth Bd 5.*

¹ "Associated" included any organization in which an individual or a member of his or her immediate family is a director, officer, or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity, or of which an individual or a member of his or her immediate family is an authorized representative or agent. WIS. STAT. § 19.42(2).

HOW TO WITHDRAW FROM OFFICIAL ACTION

When a matter in which a public official should not participate comes before the legislature, a board, commission, or other body of which the official is a member, the official should refrain from discussion, deliberations, or votes related to that matter and ask that the body's minutes reflect that the member has withdrawn. The body's remaining members may review the matter and take whatever action they find appropriate. 1992 Wis Eth Bd 22.

ACTING IN A PRIVATE CAPACITY

APPLICATIONS, BIDS, AND CONTRACTS. Usually, a public official should not, in a private capacity, apply, negotiate, bid for, or receive any award, sanction, permit, license, grant, contract, offer of employment, or agreement in which the official has a private financial interest, direct or indirect, if the official is *authorized* to perform in regard to it any governmental function requiring the exercise of discretion, even if the official does not participate in the governmental action or exert any influence on his or her own behalf. WIS. STAT. § 946.13

REPRESENTING CLIENTS. A public official should not, for compensation or on behalf of an employer, represent an individual, business, or organization before a board, commission, or other body of which an official is a member. The statutory code of ethics is not an obstacle to a local official's partner or business associate representing a client before such board, commission, or other body as long as the official is not financially interested in, and does not exercise control over, the representation. WIS. STAT. §§ 19.45(3), 19.45(7), 19.59(1)(b).

Wisconsin Ethics Commission

For public officials

Nepotism

Although the Wisconsin Ethics Commission believes it is improper for a person to be hired by the state or a local government because he or she is a relative of a public official, it also understands that a person, otherwise qualified, should not be denied employment with the state or a local government because he or she is related to a public official. A problem arises only when the official is involved, directly or indirectly, in the hiring or promotion or supervision of a relative.

A public official may not use his or her office to bring about the state's or a local government's employment of the official's spouse or a dependent relative. [19.45(2) and 19.59(1)(a), *Wisconsin Statutes*] On the other hand, if the official is not involved in any way in the hiring, promotion or conditions of employment, there is no good reason why a person, otherwise qualified, should be denied employment by the state or a local government, or promotion in a state or local position because he or she is related to an official. Other statutory sections neither part of the Ethics Code nor administered by the Commission may also prohibit the hiring of relatives by public officials.

Nepotism involving relatives other than a spouse or legal dependent, although not specifically prohibited by the Ethics Code, should be avoided. The Commission recommends that a public official neither (1) hire or promote as an employee of the state or of a local government, nor (2) advocate the state's or a local government's employment or promotion of, nor (3) exercise jurisdiction, supervision or direction over a person to whom he or she is related as a parent, grandparent, child, grandchild, brother, sister, parent-in-law, grandparent-in-law, brother-in-law, sister-in-law, uncle, aunt, niece, nephew or spouse.

This is a guide. For authoritative information consult Wisconsin Statutes.

Prepared by the Wisconsin Ethics Commission. 212 E. Washington Ave., 3rd Madison, WI 53703 (608) 266-8123
Website: <http://ethics.wi.gov> Visit the Commission's website to ensure you have the most current version of this Guideline.

ETH-1233

Wisconsin Ethics Commission

For State Public Officials

Telephone Calls

It is improper and illegal for a state public official to charge the State of Wisconsin for a telephone call if the call is not primarily related to the person's official responsibility – even if the official later reimburses the State for its costs. If a telephone call is related primarily to official business, it is appropriately paid by the State of Wisconsin. If a telephone call is primarily personal, the call should not be billed to the State of Wisconsin, even if some official activities are discussed in the course of the conversation. The identification of telephone calls properly paid by the State of Wisconsin requires the exercise of judgment – judgment most appropriately exercised and responsibility most appropriately borne by the official making or authorizing the telephone call.

CALL PROPERLY PAID BY THE STATE

Although a state public official's purpose determines whether his or her telephone call should be billed to the State of Wisconsin, telephone calls of the types described below are usually properly paid by the State:

1. A telephone call between a state public official and his or her government office (e.g., a vacationing official calls his or her government office; or a legislator's aide calls the legislator at the legislator's home or place of private employment).
2. A telephone call between a state public official and the official's home or place of private employment at which the official regularly receives messages related to his or her official duties (e.g., a state public official publishes his or her home telephone number on official stationery and uses the home as an extension of his or her government office).
3. A telephone call made by a state public official required being away from home on official business because the official's schedule is changed abruptly (e.g., an official at an out-of-state conference or a legislator at the Capitol calls home because his or her schedule has been changed abruptly).
4. A state public official's telephone call to a representative of the press.

CALLS USUALLY PAID BY INDIVIDUAL

Telephone calls described below are of types likely to be made to further a personal interest. If a state public official makes one of these calls, he or she should be certain that it arises because of official functions before billing it to Wisconsin's taxpayers:

1. A telephone call made to any political campaign headquarters or political committee.
2. A telephone call made by a state public official to a relative, business associate, or personal friend or to the official's place of private employment.
3. A telephone call made by a full-time, salaried, appointed state public official from his or her government office to his or her home.

Although an official receiving a message to return a telephone call is sometimes unable to know the call's purpose, the Wisconsin Ethics Commission's suggestions apply to calls returned as well as to calls initiated by a state public official.

THE TEST IS WHETHER THE TELEPHONE CALL ARISES INDEPENDENTLY OF OFFICIAL FUNCTIONS OR BECAUSE OF THEM.

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ETH-1234

Wisconsin Ethics Commission

For State And Local Public Officials

Disposition And Reporting Of Gifts

Occasionally an official receives a gift that the Ethics Code does not permit the official to retain. Appropriate disposition of an item depends on the circumstances.

The Wisconsin Ethics Commission generally recommends that a state or local public official:

- Turn the item over to the official's agency, if the item is one the agency can use or sell (but the agency may not sell the item to a government employee¹).
- Turn the item over to another state agency or to a public institution, such as a local school, library, or museum that can use the item.
- Donate the item to a charitable organization (other than one of which the official or a family member is an officer, director, or agent).
- Return the item to the donor.
- If the donor is neither a lobbyist nor an organization that employs a lobbyist, purchase the item (by paying the donor the full retail value), and retain it.

Reporting receipt of a gift

An official, when filing a Statement of Economic Interests with the Ethics Commission, must identify in the Statement each organization or individual (other than a family member) that gave the official a gift valued at more than \$50 during the prior year. Unless the official returned the gift to the donor, the official should identify the donor on the Statement even if the official has redirected the gift to another person, organization, or office or agency or has applied it to the benefit of the state or a local government.

¹ In an unpublished opinion dated November 16, 2004, Wisconsin's Attorney General stated:

"The Legislature has unambiguously and comprehensively prohibited government agencies from selling to "any employees...any article, material, product or merchandise of whatsoever nature" with three specified exceptions not applicable here. Wis. Stat. §175.10 (1) (2001-02). This statute makes no exception for articles of limited usefulness to an agency.

The plain language of Wis. Stat. §175.10 (1) prohibits a governmental agency from selling to an employee an article that has been turned over to the agency by an employee who was not authorized to receive it under state law, but which the agency cannot use.

If an agency cannot use an article turned over by an employee, the agency, should either give it to the state or to a charitable organization which can put it to good use either for its own purposes or in a resale shop."

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ETH-1235

Gift Disposition Resources

Books, Magazines, CDs, DVDs, Videos

Madison area:

- Madison Public Library, 201 W. Mifflin St. (608) 266-6300
- Memorial Library, 728 State St. (608) 262-3193

For locations of other libraries in Wisconsin and throughout the United States, visit www.publiclibraries.com.

Clothing and Merchandise

Madison area:

- American Red Cross, 4860 Sheboygan Avenue (608) 233-9300
- Goodwill Industries of South Central Wisconsin, 2127 E. Springs Dr. (608) 246-3147
- Salvation Army of Dane County, 3030 Darbo Dr. (608) 256-2321
- St. Vincent de Paul, 1309 Williamson St. (608) 257-0673
- YWCA, 101 E. Mifflin St. (608) 257-1436

For other donation information and locations, you may visit the national websites for the above organizations at: www.redcross.org; www.goodwill.org; www.svdpusa.org; www.ywca.org; www.salvationarmyusa.org.

Food/Perishables and Non-perishable Food Items

Madison area:

- Second Harvest Foodbank of Southern Wisconsin, 2802 Dairy Drive (608) 223-9121; www.secondharvestmadison.org.
- YWCA, 101 E. Mifflin St. (608) 257-1436
- Salvation Army, 630 E. Washington Ave. (608) 256-2321
- St. Vincent de Paul, 1309 Williamson St. (608) 257-0919

You may also contact a local food pantry or other charitable organization of your choosing. It is always a good idea to call ahead and see what is being accepted and/or what is in greatest need prior to your donation.

Flowers/Plants

Madison area:

- Madison Senior Center, 330 W. Mifflin St. (608) 266-6581
- Other suggested donation sites are churches and senior centers in the area of your choosing.

Many of the above items are welcomed by Porchlight, Inc., an organization in Madison that provides emergency shelter and assists with homelessness. 306 N. Brooks St. (608) 257-2534.

For other charitable organizations, you may visit the Partners in Giving website at <https://giving.wi.gov/>.

Please note that the resources listed are simply suggestions for your convenience, and the Wisconsin Ethics Commission does not endorse or recommend any particular charitable organization. If you would like to nominate additional organizations for inclusion on the list, please send an e-mail to Ethics@wi.gov.

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ETH-1235

Wisconsin Ethics Commission

For Elected And Salaried State Public Officials Official's Representing A Private Interest For Pay

An elected or salaried state public official¹ should not, for compensation or on behalf of an employer, represent an individual, business, or organization before a state department,² agency, public corporation, or employee thereof except:

1. In a contested case involving a party other than the state with interests adverse to those represented by the official; or
2. At an open, public hearing of which a record is maintained; or
3. In a matter that involves only ministerial action by the agency; or
4. In a matter before the department of revenue or tax appeals commission that involves the representation of a client in connection with a tax matter.³

The Ethics Code is not an obstacle to a state official's partner or business associate representing a client before a state agency if (a) the work, judgment, and compensation of the individual undertaking the representation is not subject to the official's direction, supervision, or control,⁴ or (b) the official will not benefit from the compensation derived from the representation.

¹ More precisely, an individual holding a state public office identified under § 20.923, *Wisconsin Statutes*.

² § 19.42(5), *Wisconsin Statutes*, provides:

"Department" means the legislature, the University of Wisconsin system, any authority or public corporation created and regulated by an act of the legislature and any office, department, independent agency or legislative service agency created under ch. 13, 14, or 15, any vocational, technical and adult education district or any constitutional office other than a judicial office. In the case of a district attorney, "department" means the department of administration unless the context otherwise requires.

³ See § 19.45(7), *Wisconsin Statutes*.

⁴ See 10 Op. Eth. Bd. 13 (1988).

Wisconsin Ethics Commission

*For State Agencies, Offices, Boards, Commissions, Councils
And The University Of Wisconsin System*

Inviting State Officials To Attend State-Sponsored Events

This guideline provides general advice about a state government official's¹ attending a seminar or reception sponsored by a state agency at which the official is not a featured speaker or part of a formal program. For situations in which the official is a featured speaker or program participant, see Wisconsin Ethics Commission Guidelines ETH-1211 and ETH-1212.

General Rules

1. **Public funds for a public purpose.** An agency or office of Wisconsin's government may spend money only for a public purpose, not for a private purpose, regardless of the fund's source.²
2. **Educational and informational material and seminars.** Statutes that the Wisconsin Ethics Commission administers are not an impediment to an agency's or office's providing an official of Wisconsin's government with educational or informational materials, conferences, or seminars at reduced cost or no cost, if the official's receipt, attendance, or participation is clearly primarily for a government purpose.
3. **Meals, drinks, receptions.** A state public official may accept a state agency's or office's offer of food, meals, beverages, and even transportation and lodging as long as the official can demonstrate *by clear and convincing evidence* EITHER:
 - a. that the food and drink or other items or services offered are received primarily for the benefit of the state of Wisconsin and not primarily for the private benefit of a state official or anyone else,
 - b. or, that the agency extended the offer to the recipient for reasons unrelated to the recipient's holding or having held *any* governmental position. [§19.45 (3m) and §19.56 (3) (c), *Wisconsin Statutes*].

Presumptions

The Wisconsin Ethics Commission presumes that a state agency's sponsorship of a business meeting, educational conference, seminar, or event intended for and conducive to the discussion of state government processes or issues is primarily for the state's benefit. The Wisconsin Ethics Commission presumes that a reception, athletic contest, concert, entertainment, or social event is not primarily for the state's benefit.

Attendance at University of Wisconsin athletic events, the State Fair, and other athletic, artistic and entertainment events. A state official should attend a state-sponsored athletic, artistic, or entertainment event at a state agency's invitation, only if the state makes the same or comparable tickets

¹ This guide applies to elected state officials and to others holding state public offices identified under §19.42 (13), *Wisconsin Statutes*.

² When an agency or office accepts money from an underwriter, sponsor, support group, or related foundation, the money becomes public funds and may be spent only in furtherance of a public purpose.

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Website: <http://ethics.wi.gov> Revised 10/16.

available to the general public and the official pays the same price as that charged to a member of the public.³ The official may not enter a skybox, luxury suite, or other premium area unless admission or access is available to the general public on the same terms and conditions as made available to the official.

Exception: A state or local public official may attend an event of the nature just described, without payment or on terms not available to the general public, to the extent that:

1. the official's attendance is clearly and convincingly for the benefit primarily of state government as demonstrated by the official's furtherance of a substantial, well-articulated governmental purpose or prominent, public ceremonial activity appropriate to the official's governmental office and
2. any private benefit is merely incidental to the governmental purpose [§19.56(3)(c)].

Examples of an appropriate governmental purpose include:

- specific fundraising, business development, or recruitment responsibilities;
- active participation in oversight responsibilities; and
- examination of government programs and operations related to the official's governmental duties.⁴

Attendance at receptions and social events. If a state agency sponsors a social event or reception, at which there is no formal program related to state issues, or that is predominantly of a social nature, then a state official should pay the greatest of:

- the price of entertainment, food, and drink charged others;
- the true per-person cost of entertainment, food, and drink provided the official; or
- the true per-person value of entertainment, food and drink provided the official.

Other circumstances in which acceptance of items is permitted. An official may accept:

1. **Items offered for a reason unrelated to the official's holding a government office.** Transportation, lodging, food, meals, or beverages that the official can show by clear and convincing evidence were offered for a reason unrelated to the official's holding or having held a government office. [§19.56(3)(b)]
2. **Items and services made available to the general public.** Admission, transportation, lodging, food, meals, or beverages when each of the following applies:
 - a. the admission, items, or services are available to anyone who wants them;
 - b. the official is not given a preference or advantage in obtaining admission, items, or service;

³ Section 36.39, Wisconsin Statutes, also provides that complimentary and reduced price tickets to University of Wisconsin system athletic events are generally prohibited.

⁴ A state agency's supplying a ticket to an official's spouse merits close scrutiny. It will be difficult for an agency or official to demonstrate that a spouse's attendance is primarily for the benefit of the state. The test is whether the free or reduced-cost admission for an official's spouse is in connection with the spouse's specific activities at the event in furtherance of substantial, well-articulated business purposes of the state.

- c. there is no offer or notice of the event, item, or service directed to an official that would confer an advantage to the official. [§19.56(3)(c)]
3. **Items and services from the Department of Tourism.** Anything of value that the Department of Tourism provides for the purpose of hosting individuals to promote tourism. [§19.56(3)(em) and (f)]
4. **Items and services from the Wisconsin Economic Development Corporation.** Anything of value that the WEDC provides for the purpose of:
 - a. sponsorship of a trip to a foreign country primarily to promote trade between that country and this state that WEDC can demonstrate by clear and convincing evidence is primarily for the benefit of the state, or
 - b. hosting of individuals in order to promote business, economic development, tourism, or conferences sponsored by multistate, national, or international associations of governments or governmental officials. [§19.56(3)(e) and (f)]

Reporting receipt of ticket or admission

An official, when filing a Statement of Economic Interests with the Wisconsin Economic Commission, must identify in the Statement each state office or agency that gave the official tickets or admissions valued at more than \$50 during the prior year unless, but for the agency's providing it, the agency of which the official's position is a part would reimburse the official for the ticket or admission. Unless the official returned the ticket or admission unused, the official should identify the office or agency even if the official has redirected the ticket or admission to another person, organization, or office or agency or has applied it to the benefit of the state or a local government.

Wisconsin Ethics Commission
For Former State Officials
Limitations On Former Officials' Actions

Wisconsin's law prohibits former state officials¹ from profiting from their former governmental positions to aid private interests. These limitations apply to former state officials, whether paid or unpaid, other than officers, members, and employees of the legislature and its service agencies.²

1. **APPEARANCE BEFORE FORMER AGENCY – 12 MONTH WAITING PERIOD.** For 12 months after leaving office, a former state official should not, as a paid representative of anyone other than a governmental entity, either appear before or try to settle or arrange a matter by calling, writing, or conferring with an officer or employee of the agency with which he or she was associated during the last 12 months of his or her service as a state official.
2. **APPEARANCE BEFORE OTHER AGENCIES – 12 MONTH WAITING PERIOD ON MATTERS FOR WHICH FORMERLY RESPONSIBLE.** For 12 months after leaving office a former state official should as a paid representative of anyone other than a governmental entity, neither appear before nor negotiate with a state officer or employee about a judicial or quasi-judicial proceeding of the kind for which the former official was responsible during the last 12 months of his or her service as a state official or about an application, contract, claim, or charge that might lead to such a proceeding.
3. **MATTER IN WHICH PERSONALLY AND SUBSTANTIALLY INVOLVED – MAY NEVER REPRESENT ANOTHER PERSON.** A former state official may never act as a paid representative of anyone other than the State of Wisconsin in a judicial or quasi-judicial proceeding or an application, contract, claim, or charge which might give rise to such a proceeding if the former official participated personally and substantially in the matter as a state official.

¹ A person ceases to be a state public official when the person relinquishes all responsibilities of state public office, even if the State of Wisconsin remains legally obligated to provide the former official with payments or benefits that the person earned while holding a state public office.

² Section 19.45(8), *Wisconsin Statutes*, provides:

19.45(8) Except in the case where the state public office formerly held was that of a legislator, legislative employee under s. 20.923(6)(f), (g) or (h), chief clerk of a house of the legislature, sergeant at arms of a house of the legislature or a permanent employee occupying the position of auditor for the legislative audit bureau:

(a) No former state public official, for 12 months following the date on which he or she ceases to be a state public official, may, for compensation, on behalf of any person other than a governmental entity, make any formal or informal appearance before, or negotiate with, any officer or employee of the department with which he or she was associated as a state public official within 12 months prior to the date on which he or she ceased to be a state public official.

(b) No former state public official, for 12 months following the date on which he or she ceases to be a state public official, may, for compensation, on behalf of any person other than a governmental entity, make any formal or informal appearance before, or negotiate with, any officer or employee of a department in connection with any judicial or quasi-judicial proceeding, application, contract, claim, or charge which might give rise to a judicial or quasi-judicial proceeding which was under the former official's responsibility as a state public official within 12 months prior to the date on which he or she ceased to be a state public official.

(c) No former state public official may, for compensation, act on behalf of any party other than the state in connection with any judicial or quasi-judicial proceeding, application, contract, claim, or charge which might give rise to a judicial or quasi-judicial proceeding in which the former official participated personally and substantially as a state public official.

Wisconsin Ethics Commission

For Legislators

Lame Duck Travel

State law limits out of state travel for legislators retiring from the legislature.

A legislator choosing not to seek reelection,

— *may not be reimbursed for out-of-state travel after the partisan primary.*

A legislator defeated in the primary election

— *may not be reimbursed for out-of-state travel after the partisan primary.*

A legislator defeated in the general election

— *may not be reimbursed for out-of-state travel after the general election.*

Questions about the application of this statutory limitation should be directed to the chief clerk of the appropriate house of the legislature.

Section 13.123 (3) (b) 1., *Wisconsin Statutes*, provides, in pertinent part:

13.123 (3)(b)1. . . . *no member of the legislature may be reimbursed for attendance at any meeting held outside this state, other than a meeting of the legislature, a legislative committee, committee of the joint legislative council or a statutory body of which the person is a duly constituted member, after the chief clerk of the member's house determines one of the following:*

- a. *After the day of the partisan primary, that the member either has not filed nomination papers for reelection or election to another legislative seat or has sought a party nomination for a legislative seat but it is generally acknowledged that the member has not won nomination.*
 - b. *After the day of the general election, that it is generally acknowledged that the member has not been elected to a legislative seat for the succeeding session.*
2. *In making the determination under subd. 1., the chief clerk is bound by the determination of the chairperson of the elections commission or the chairperson's designee if such determination has been issued.*

This is a guide. For authoritative information consult Wisconsin Statutes.

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ETH-1239

Wisconsin Ethics Commission

For State And Local Government Officials

Letters Of Reference

The Wisconsin Ethics Commission offers these suggestions to state and local government officials who write a letter of reference.

Stationery

The type of stationery to be used depends upon how the public official knows the person for whom the reference letter is being written.

- If the official knows the subject through state government business, then state government stationery is appropriate.
- If the subject of the letter is known to the official primarily in a social context, *e.g.*, a relative, friend, neighbor or a school or social acquaintance, personal stationery should be used.
- If the subject of the reference is known to the official primarily through a personal business relationship, (*e.g.*, as a client, customer, or employee), either private business letterhead or personal stationery is the appropriate choice.

Dissemination of references

For references sent to organizations that do not employ lobbyists and have no special interests in the official's government actions, no restraints will apply.

If the letter of reference is likely to be used in support of an application to a lobbyist or lobbying principal, then a "To whom it may concern" letter is a good choice. This approach is designed to relieve a lobbyist of a sense that a state official is pressuring the lobbyist to employ a specific person.

By writing a reference letter that the subject may convey to any number of schools, scholarship committees, potential employers, *et cetera*:

- The official demonstrates support for the person who has sought the reference.
- The person who has sought the reference may use the letter for multiple applications.
- The official is not in direct correspondence with (or solicitation of) anyone.

Wisconsin Ethics Commission

For legislators and legislative staff

Scheduling - Nongovernmental Events on Government Calendar

General Rules:

1. Wisconsin's Code of Ethics for State Public Officials and the Legislature's rules expressly forbid legislative staff to engage in campaign activities while they are on "state time".*
2. A legislator may not assign, authorize, or request an employee of the Legislature to engage in campaign activity during the hours of employment in government offices or by using government equipment or resources not available to anyone.*

Making Campaign Appointments Prohibited

A legislator should not ask a legislative employee to arrange, during hours of government employment, a legislator's appointments for campaign activities and events. A legislative employee should not, during regularly scheduled hours of employment, make campaign arrangements on a legislator's behalf unless the employee take leave, has given prior notice to the chief clerk that the employee is taking leave, and the employee's timesheet clearly reflects that. An employee, even outside hours of employment, should not use a state office, state email address, or a state telephone for campaign activities.

Recording Appointments and Incidental Communications with the Campaign Committee.

Because a legislator's staff has a legitimate need to know when the legislator is and is not available for state government business, a legislator may inform his or her employees of the legislator's appointments and activities. An employee may record appointments on an office calendar, including a legislator's medical appointments, social engagements, family and civic activities, vacations, and campaign activities. Although a legislator should discourage people from directing campaign related communications to the legislator's government office, the legislator may direct a representative of the legislator's campaign committee to convey the hour and location of scheduled campaign events directly to the person who records the legislator's appointments. The person charged with scheduling a legislator's appointments may:

1. return a call from a representative of the legislator's campaign committee in order to obtain scheduling information;
2. provide information about the legislator's calendar to a representative of the legislator's campaign; and
3. advise the committee that legislative business requires the cancellation or rescheduling of a campaign activity.

Providing calendar information permitted. The Wisconsin Ethics Commission recommends that a legislative employee not furnish others with information about the hour, location, or nature of

* Rule adopted by the Joint Committee on Legislative Organization, October 11, 2001.

campaign events recorded on a legislator's calendar, except in the unusual circumstance in which doing so would further an obvious governmental purpose or as part of providing records in response to an open records request. If asked about a legislator's availability at a time for which the legislator has scheduled a campaign activity, it will normally be sufficient and appropriate to respond merely that the legislator already has a prior conflicting engagement. In answer to a question about whether a legislator will participate in a campaign activity or event the employee should refer the requester to the legislator or to the legislator's campaign spokesperson or scheduler. A legislator's staff may provide a legislator's legislative calendar to a campaign committee and may contact a campaign committee if governmental business necessitates rescheduling a campaign event.

Campaign travel arrangements restricted. A legislator should not ask his or her legislative employees to, and legislative employees should not, during hours of employment or through use of governmental equipment or resources, make travel arrangements for the legislator's campaign activities. It is likely that there will be sporadic and infrequent occasions when a legislator's travels will include both governmental and campaign activities that will require a degree of consultation and cooperation between a legislative employee and a representative of the campaign. In these instances the employee must follow a rule of reasonableness that limits as much as feasible the legislative employee's involvement in campaign related activities while furthering the government's purpose.

Referring campaign messages to candidate or campaign committee. Except as previously mentioned about the recordation of the hour and location of a campaign event or activity, a legislative employee who receives at a government office a message about a campaign event or activity should redirect the caller or correspondent to the legislator or a representative of the legislator's campaign and ask the caller to direct future communications about campaign activities elsewhere.

Attention to and support of general rules. The Wisconsin Ethics Commission welcomes the goodwill and intentions of the people to whom this guideline pertains and asks their attention to and support of the general rules articulated at the outset of this guideline. The Commission intends to rigorously enforce legislative employees' separation of government responsibilities and campaign activities. Without inviting or authorizing any departure from the courses of conduct recommended, the Wisconsin Ethics Commission nevertheless recognizes that the law does not and should not address conduct that is of such small moment and so infrequent that a fair-minded person would say that the activity is inconsequential.

Campaign activity defined. The term *campaign activity* means activity that does not reasonably and primarily fulfill and arise from official duties and that contributes to, enhances, or furthers a person's ability to run for, or chance of election or reelection to public office. Illustrative activities include:

- a. Arranging a campaign-related event or the raising of campaign contributions
- b. Soliciting, receiving, or acknowledging campaign contributions
- c. Preparing or distributing campaign advertisements (television, radio, newspaper, etc.)
- d. Preparing or designing any type of campaign promotional materials

This is a guide. For authoritative information consult Wisconsin Statutes.

Prepared by the Wisconsin Ethics Commission 212 E. Washington Ave, 3rd Floor, Madison, WI 53703 (608) 266-8123.

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- e. Distributing or arranging for the distribution of campaign materials
- f. Directing, seeking or coordinating of campaign volunteers
- g. Preparing a campaign budget
- h. Directing or participating in “get out the vote” drives
- i. Creating, maintaining, editing, adding to, or deleting information from a list or database of campaign contributors or supporters
- j. Creating, maintaining, editing, adding to, or deleting information from a list or database designed or intended for a campaign purpose
- k. Preparing, coordinating, or conducting polling operations for a campaign purpose
- l. Transporting voters to polls or campaign rallies
- m. Preparing campaign finance reports required by law
- n. Directing or participating in candidate recruitment

Wisconsin Ethics Commission

For legislators and legislative candidates

Campaign Fundraising

This Guideline is provided as an information resource only. For authoritative advice, contact the Wisconsin Ethics Commission.

Times during which fundraising is permitted. State statutes do not limit the time period during which campaign fundraising may occur, once the individual has registered a campaign committee with the Board. Rules or policies of the Assembly or Senate may limit the time during which fundraising activities are permitted for an incumbent of either house; consult the Chief Clerk of each house for specific restrictions.

Soliciting a lobbyist or lobbying principal for a contribution.

For a personal contribution to a legislative candidate. State statutes limit when a member of, or candidate for, the Legislature may solicit a personal contribution from a lobbyist. A legislator or candidate for the Legislature may solicit a lobbyist for a personal contribution **only between the date when candidates can begin to circulate nomination papers (April 15 for the general election) and the date of the election in the year of the candidate's election.** This solicitation "window" may be delayed because it does not open for a legislative candidate or current legislator until after the Legislature concludes its final floor period (as determined by joint resolution of the Legislature). The "window" for a legislative candidate closes during any time that the Legislature is in a special or extraordinary session.

The restriction on soliciting applies whether a legislator or legislative candidate is soliciting a personal contribution for the candidate's own campaign committee or for another candidate or committee. The restriction also applies to soliciting using another individual who is acting for, in cooperation with, and at the behest of the candidate.

For a PAC, conduit, or other contribution to a legislative candidate. There is no limitation on when a legislator or legislative candidate may solicit a lobbyist for a PAC, conduit or other contribution.

Accepting a contribution from a lobbyist or principal. A legislator or legislative candidate may accept a contribution from a lobbyist or lobbying principal only during the time period permitted for soliciting a lobbyist or principal for that contribution. Moreover, a legislator or legislative candidate may accept a contribution from a lobbying principal only if it is an unincorporated organization – i.e., not a corporation. The restrictions apply to both monetary and in-kind contributions. This means:

- A legislator or legislative candidate may accept a PAC, conduit, or other non-personal contribution delivered by a lobbyist at any time and
- A legislator or legislative candidate may accept a personal contribution from a lobbyist only during the "window."

Accepting a contribution from a Political Action Committee (PAC). The restrictions under the lobbying law apply only to a lobbying principal itself – not to a PAC, even if it is a principal’s PAC. A legislator or legislative candidate may solicit and accept a PAC contribution at any time, except as otherwise restricted by a rule or policy of the Legislature.

Types of persons from whom a legislator or legislative candidate may accept a contribution. A legislator or legislative candidate may accept a contribution from any individual (either directly or through a conduit), a political party, or a political action committee (PAC). A legislator or legislative candidate may not accept a contribution from any association, corporation, union, or American Indian tribe but may accept a contribution from such an organization’s PAC.

What is a solicitation? A solicitation can be oral, written, or electronic. We recommend that a solicitation sent to a lobbyist outside the “window” should contain a disclaimer that it is not a solicitation for a personal contribution from the lobbyist.

Limitations on how much a legislator or legislative candidate may accept. A member of, or candidate for, the Assembly may accept up to \$1,000 from a single individual during any two-year period, beginning when the current officeholder began her or his term, and ending when the next officeholder is sworn in. A member of, or candidate for, the Senate may accept up to \$2,000 from a single individual during any four-year period beginning when the current officeholder began her or his term, and ending when the next officeholder is sworn in. The maximum aggregate contribution from a single PAC is also \$1,000 for Assembly candidates and \$2,000 for Senate candidates.

There is no limit on how much an individual may contribute to his or her own campaign committee.

Exceptions to these contribution limits or time periods may apply when a candidate is subject to a recount or recall election, or runs for election to another office.

Legal references: §§11.1101 and 13.625, *Wisconsin Statutes*; *Plumbers and Gas Fitters Local 75 Political Action fund, et al. v. State of Wisconsin Ethics Board*, Dane County Circuit Court, 93-CV-3984 (February 23, 1994), *aff’d*, District IV Court of Appeals, 94-0826 (May 19, 1995), *rev. den.*, Supreme Court, 94-0826 (September 27, 1995).

Wisconsin Ethics Commission

For lobbyists, lobbying principals, PACs

Contributions and Activities by Lobbyists and Lobbying Principals

PERSONAL CONTRIBUTIONS BY LOBBYISTS TO:

STATE PARTISAN OFFICIALS, CANDIDATES FOR PARTISAN OFFICE AND CANDIDATE COMMITTEES.

Lobbyists may make personal contributions to partisan elected state officials running for any office, candidates for election to a partisan state office, and their respective campaign committees only during the "window" between the first day authorized by law for the circulation of nomination papers and the day of that general or special election. WIS. STAT. § 13.625(1m)(b). Partisan elective state office refers only to the governor, lieutenant governor, secretary of state, state treasurer, attorney general, state senator, or state representative to the assembly. WIS. STAT. § 13.62(11p).

CURRENT LEGISLATORS AND CANDIDATES FOR STATE SENATE OR ASSEMBLY.

In addition to the above restriction, lobbyists may only make personal contributions to current legislators and candidates for the state senate or state representative to the assembly if the Legislature has concluded its final floor period as determined by Joint Resolution of the Legislature *and* is not in special or extraordinary session. WIS. STAT. § 13.625(1m)(b)1.

NON-PARTISAN, LOCAL, AND NATIONAL CANDIDATES AND CANDIDATE COMMITTEES.

There are no restrictions on when lobbyists may make personal contributions to the candidate and/or candidate committee of a candidate for local or state non-partisan office, county-level partisan office, District Attorney or national office *if and only if* the candidate is not a current partisan elected state office holder. WIS. STAT. §§ 5.02(9), 5.02(12), 13.62(11p), 13.625(1m)(b).

SELF OR FAMILY.

Lobbyists may make personal contributions at any time to the lobbyist's own campaign or to the campaign of the lobbyist's spouse, certain relatives, or individuals who reside in the same household as the lobbyist. WIS. STAT. §§ 13.62(12g), 13.625(1m)(b)2, 13.625(6).

OTHER COMMITTEE TYPES.

There are no restrictions on when lobbyists may make personal contributions to political action committees (PACs), political party committees, legislative campaign committees, independent expenditure committees (IECs), referendum committees, or recall committees.

CONDUITS.

Lobbyists may deposit money into a conduit account at any time, but may direct the release of a contribution to a state official, candidate, or their respective campaign committees through a conduit only during the allowable "window". WIS. STAT. §§ 11.0701(3), 13.625(1m)(b).

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CONTRIBUTIONS DELIVERED BY LOBBYISTS:

There are no restrictions on when lobbyists may deliver non-personal contributions to any committee type or conduit. See WIS. STAT. § 13.625(1)(b)3.

CAMPAIGN ACTIVITIES BY LOBBYISTS

PROFESSIONAL SERVICES.

Lobbyists may *not* provide services to a state official, candidate, or their respective campaign committees, for which the lobbyist is compensated by another or would normally charge a fee outside the allowable “window,” as such services have pecuniary value and would be in-kind contributions. WIS. STAT. § 13.625(1)(b)3.

UNCOMPENSATED PERSONAL SERVICES.

Lobbyists may provide personal services for which they are not compensated and would not normally charge a fee (e.g., distributing yard signs or stuffing envelopes) at any time, to a state official, candidate, or their respective campaign committees. Barker, et al. v. State of Wisconsin Ethics Board, 841 F. Supp. 255 (1993).

ATTENDING A FUNDRAISING EVENT.

There are no prohibitions on a lobbyist’s attendance at fundraising events for a state official, candidate, or their respective campaign committees; however, the purchase of a ticket for a fundraising event is a contribution, regardless of whether it is used to attend the event. WIS. STAT. § 11.0101(8)(a)4. Therefore, tickets to attend a fundraising event may only be purchased using the lobbyist’s personal funds during the allowable “window.” WIS. STAT. § 13.625(1m)(b).

CAMPAIGN CONTRIBUTIONS AND ACTIVITIES BY LOBBYING PRINCIPALS

CONTRIBUTIONS FROM A LOBBYING PRINCIPAL.

Lobbying principals that are corporations, associations, or tribes may not contribute to a state official, candidate, or their respective campaign committees at any time. WIS. STAT. §§ 11.1112. Lobbying principals that are *not* corporations, associations or tribes may contribute to a candidate’s campaign committee during only the same “window” that applies to lobbyists. WIS. STAT. §§ 11.1112, 13.625(2). Contributions include in-kind contributions such as services or transfers of tangible property. WIS. STAT. §§ 11.0101(8)(a)3, 11.1109.

PACs CONTROLLED BY LOBBYING PRINCIPALS.

PACs controlled by a lobbying principal may contribute to a candidate’s campaign committee at any time if the appropriate registration requirements and contribution limits are followed. WIS. STAT. §§ 11.0502, 11.1101.

FUNDRAISING EVENT SPONSORSHIP BY PACs CONTROLLED BY LOBBYING PRINCIPALS.

There are no restrictions in state law on the ability of a PAC controlled by a lobbying principal to sponsor a fundraising event for a state official, candidate, or their respective campaign committees.¹

¹ Rules of the Legislature may impose additional restrictions on when contributions may be accepted by legislators and when a legislator may hold a fundraising event. Check with the Chief Clerks of the Legislature for more information.

Wisconsin Ethics Commission

For persons elected to state or local office who become a candidate for national, state, or local office

50 Piece Rule

THE 50-PIECE RULE

Wisconsin's campaign finance law prohibits a person elected to state or local office who becomes a candidate for any office from using public funds for the cost of materials or distribution for 50 or more pieces of substantially identical material during the campaign season. WIS. STAT. § 11.1205 This rule is also sometimes referred to as the 49-piece rule, because it allows for the distribution of up to 49 pieces of substantially identical materials, with the 50th piece being a violation of the law. While the official's intent is not an express element of the rule, the rule has historically only been applied to communications with a political purpose.¹

COVERED TIME PERIOD - WIS. STAT. § 11.1205(1)

This prohibition begins after:

- The first day to circulate nomination papers, if nominated by nomination papers;
- The day the board of canvassers issues a determination that the person is nominated if nominated at a primary election by write-in votes;
- The date of the caucus, if nominated at a caucus; or
- The first day of the month preceding the month which includes the last day for filing a declaration of candidacy, if nominated solely by filing the declaration.

This prohibition ends:

- The day after the date of the primary election, if the candidate is unsuccessful in being nominated at the primary election, and is not running as a write-in candidate in the election; or
- The day after the date of the election.

EXCEPTIONS TO THE 50-PIECE RULE - WIS. STAT. § 11.1205(2)

The 50-piece rule does not apply to the following:

- Answers to communications from constituents;
- Actions taken by a state or local government administrative officer pursuant to a specific law, ordinance or resolution which authorizes or directs the actions to be taken;
- Communications between members of the legislature regarding the legislative or deliberative process while the legislature is in session; or
- Communications not exceeding 500 pieces by members of the legislature relating solely to the subject matter of a special session or extraordinary session, made during the period between the date that the session is called or scheduled and 14 days after adjournment of the session.

¹ See 69 Atty. Gen. 259; 1978 Op El Bd 12 (withdrawn December 6, 2016).

SUBSTANTIALLY IDENTICAL

“Substantially identical” is not defined by statute, but a common dictionary definition indicates that the prohibition would apply to material that is largely, if not wholly the same.² For example, pieces that contain the same message and simply address different recipients or have a different salutation would still be substantially identical pieces.

ADDITIONAL RESOURCES

For additional information, please visit the Ethics Commission website: <https://ethics.wi.gov>. If you have additional questions, please contact the Wisconsin Ethics Commission staff by email at CampaignFinance@wi.gov, or by phone at (608) 266-8123. Advice sought from the Ethics Commission is confidential. For authoritative information, refer to Wisconsin Statutes. You may also wish to consult with an attorney.

² <https://www.merriam-webster.com/dictionary/substantial>
<https://www.merriam-webster.com/dictionary/identical>

Wisconsin Ethics Commission

Legislative Staff

Legislative Employees' Campaign Activities

Legislative employees may participate in campaigns. Legislative employees may participate in campaign activities. You may, if you wish, support candidates of your choice and assist their campaigns.

If you want to campaign and decide to, then bear in mind:

- a. **Keep campaign activity outside the capitol.** Your campaign activity must be away from the capitol and other state offices.
- b. **EITHER confine campaign activity to evenings, weekends, and scheduled lunch hours OR, if during the normally scheduled business day, then only after notice to the chief clerk that you are taking time without pay or vacation.** EITHER your campaign activity must be outside of your regular work hours OR the chief clerk must have previously authorized you to take time off without pay, or as paid vacation to which the law entitles you.¹

Report hours of paid campaign work. If you accept for campaign work any payment, above and beyond the reimbursement of ordinary expenses you incur to campaign, then, you must report to the chief clerk the dates and hours you worked on campaign activities. Report the campaign time for which you will be compensated to the chief clerk during the week in which you participated in a campaign, even if you will not receive the payment until later.

No one may require you to participate in a campaign or to make a campaign contribution or affect your employment by the Legislature if you do not participate in campaign activities. To implement an agreement that legislative leaders reached with the Elections Board, the Joint Committee on Legislative Organization adopted this rule in 2001:

It shall be part of an employee's term of employment that no decision affecting an employee's continued employment, salary, benefits, or the terms, hours or other conditions of the individual's employment may be based, in any manner or to any degree on the employee's failure to participate in campaign activities or failing to make a political contribution.

¹ *You may not engage in campaign activities while you are on "comp time"*. How you spend your vacation time is your business. If you want to spend your vacation as an unpaid campaign volunteer for a candidate's election, you may. You do not have to tell the chief clerk or the Wisconsin Ethics Commission how you intend to spend or how you spent your vacation; but if you will campaign during your vacation you must tell the chief clerk in advance that you will be on vacation. The legislature established this policy for your protection and the protection of the Legislature as an institution. If someone sees you campaigning during normal office hours, the chief clerk of your house will have records to support your explanation that you were campaigning on vacation time or on your own time.

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Campaign activity defined. The term *campaign activity* means activity that does not reasonably and primarily fulfill and arise from official duties and that contributes to, enhances, or furthers a person's ability to run for, or chance of election or reelection to, public office.

Illustrative activities include:

- a. Arranging or assisting with campaign-related event or the raising of campaign contributions
- b. Soliciting, receiving, or acknowledging campaign contributions
- c. Preparing or distributing television, radio, newspaper, or other forms of campaign advertisements
- d. Preparing or designing brochures, literature, nomination papers, or other campaign materials
- e. Distributing or arranging for the distribution of campaign materials
- f. Directing, seeking or coordination of campaign volunteers
- g. Preparing a campaign budget
- h. Directing or participating in "get out the vote" drives
- i. Creating, maintaining, or managing information from a list or database of contributors, supporters, or for any other campaign purpose
- j. Preparing, coordinating, or conducting polling operations for a campaign purpose
- k. Transporting voters to polls or campaign rallies
- l. Preparing campaign finance reports required by law
- m. Directing or participating in candidate recruitment

Wisconsin Ethics Commission

For persons elected to state or local office who become a candidate for national, state, or local office

Social Media Use by Officials

GENERAL GUIDANCE

The Code of Ethics for State Public Officials prohibits the use of an official's public position for private benefit. WIS. STAT. § 19.45(2). As such, it is important for an official to be able to distinguish between a public purpose and a private purpose when considering the use of public resources. To avoid the appearance of misuse of public resources a public official should include some indication of whether a social media account is for their official position or is a campaign, business, or personal account in the profile, summary, or other description of the account.

Best Practices for Official Social Media Accounts

Official social media accounts are the most restricted. Officials should limit use of their official social media accounts to information related to an official's position, duties, and issues with a public purpose.

Examples of acceptable communications from an official social media account:

- Posts discussing how the state could address an issue through state laws or actions;
- General legislative activity like information about bills that the official has sponsored or co-sponsored;
- State budget information;
- Sharing newsletters from the official's office;
- Publicizing public events;
- Public service announcements and;
- Endorsements and messages of support when justified by having a state purpose. For example: "I support [candidate or organization] and their work to address [state policy issue] in Wisconsin."

Examples of communications that should NOT come from an official social media account:

- Solicitation of campaign contributions;
- Promotion of campaign-related events;
- Photos of campaign-related branding and events such as T-shirts, signs, or banners; and
- Any content that is strictly personal or commercial such as promoting the official's personally owned business or a business with which the official is associated.

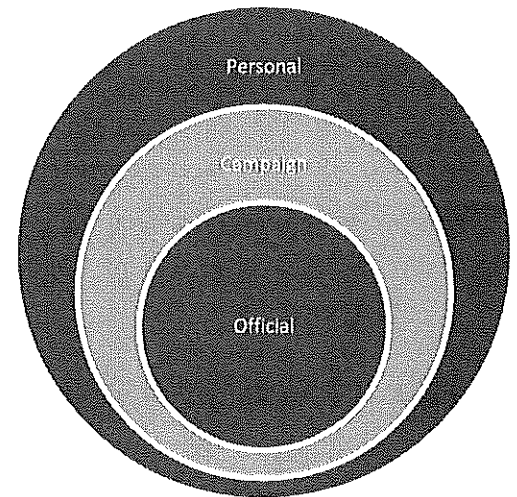
See WIS. STAT. §§ 11.1208(2)(a), 19.42(2), 19.45(2).

Best Practices for Campaign and Personal Social Media Accounts

A campaign may use a campaign social media account for all communications allowable for an official account, in addition to campaign-related activities including solicitation of contributions. Campaign social media accounts should not be used for strictly personal or commercial purposes. *See* WIS. STAT. § 11.1208(2)(a).

A personal account may contain both official and campaign-related information.

Please see the diagram to the right for an illustration of acceptable uses by type of account.



USE OF SOCIAL MEDIA ON “STATE TIME”

Elected officials will often switch between official and campaign activities throughout the day because an elected official is simultaneously an official and a candidate. WIS. STAT. § 11.0101(1). However, to avoid the appearance of misuse of public resources an elected official is advised not to create campaign-related social media communications or content while performing their official duties (i.e., while participating in an event in their official capacity – e.g., an event listed on their official calendar, a floor session, or committee hearing). WIS. STAT. § 19.45(2). Also, no person may enter or remain in any state building, office, or room for the purpose of requesting or collecting a contribution; therefore, elected officials should take special care as to the content of their social media communications while in a state building. WIS. STAT. § 11.1207(4).

An elected official is also advised to not use campaign committee resources for strictly personal benefit, or for commercial purposes. WIS. STAT. §§ 11.1208(2)(a), 19.45(2), 19.42(2). For example, the candidate should not use a campaign social media account or campaign website to advertise for a personal business.

50-PIECE RULE APPLICATION TO SOCIAL MEDIA

The “50-Piece Rule” prohibits the use of public funds for the distribution of 50 or more pieces of substantially identical material by a covered person during a specified time period. WIS. STAT. § 11.1205. The language of the “50-Piece Rule” does not distinguish between electronic pieces and printed pieces. Electronic communications almost always result in multiple copies being created even when sent to a single recipient. This is due to the nature of the technical systems that enable electronic communications. When calculating the number of pieces distributed under the “50-Piece Rule” the Commission will only count those instances of electronic communication intended by the sender. *See* 2018 ETH 03.

If a message is actively communicated to individually addressed recipients (e.g., via email, instant messages, or direct messages), each individual recipient is considered a single piece under the “50-Piece Rule.” However, a passive message such as a website, Facebook post, or tweet, where the sender has no direct control over the audience of his or her message, is only counted as a single piece under the “50-Piece Rule.”

Wisconsin Ethics Commission

For candidates for state public office

What candidates should know about Wisconsin's lobbying law

This Guideline is provided as an information resource only. For authoritative advice, contact the Wisconsin Ethics Commission.

Wisconsin's lobbying law applies to all candidates for elective state office. The lobbying law permits candidates to receive contributions from lobbyists but places restrictions on when a *partisan* elected state official or candidate for *partisan* elected state office may solicit or accept such a campaign contribution. The lobbying law also restricts a candidate's acceptance of other items or services from a lobbyist or an organization that employs a lobbyist.

"Candidate" means an individual about whom any of the following applies:

(a) The individual takes any of the following affirmative actions to seek nomination or election to a state or local office:

1. Files nomination papers with the appropriate filing officer.
2. Is nominated as a candidate for state or local office by a caucus under s. 8.05 (1) or by a political party and the nomination is certified to the appropriate filing officer.
3. Receives a contribution, makes a disbursement, or gives consent for another person to receive a contribution or make a disbursement in order to bring about the individual's nomination or election to a state or local office.

(b) The individual holds a state or local office and is the subject of a recall petition.

(c) The individual holds a state or local office.

[§§11.0101(1) and 13.62 (5g)].

Partisan state offices are those of governor, lieutenant governor, secretary of state, state treasurer, attorney general, state senator, and state representative to the assembly. [§13.62(11p)].

CAMPAIGN CONTRIBUTIONS

CONTRIBUTIONS FROM A LOBBYIST. A partisan state elected official running for any office, or a candidate for a partisan elected state office, may solicit and accept a campaign contribution from a lobbyist or an organization that employs a lobbyist **ONLY WHEN** the contribution is made between the first date to circulate nomination papers and the date of the election in the year of the candidate's election AND, in the case of a candidate for election to the Legislature or a current legislator; the Legislature has concluded its final floor period and is not in special or extraordinary session.

SERVICES FROM A LOBBYIST. A lobbyist may, at any time, furnish uncompensated personal services (e.g., distributing yard signs, stuffing envelopes, going door-to-door and bookkeeping *provided the lobbyist does not charge a fee to others for similar work*) to any candidate. A lobbyist may not, at any time, provide a candidate for any state office with professional services for which the lobbyist would normally charge a fee, such as legal, accounting, consulting, or computer services.

A lobbyist may host a fundraiser for any candidate at a private residence but may not, at any time, pay for invitations to the event, or provide food or beverages at such a fundraiser for a partisan state elected official running for any office, or a candidate for a partisan elected state office. Per *Wis. Stat.*

§11.0101, these expenses are not contributions, but since they do have pecuniary value, they would be banned under *Wis. Stat.* §13.625(1)(b) 3.

A lobbyist may endorse a candidate or be listed as a sponsor of a fundraising event at any time.

CONTRIBUTIONS FROM A PAC

A candidate may accept a PAC contribution at any time, even from a PAC controlled by an organization that employs a lobbyist

CANDIDATE'S SOLICITATION OF CONTRIBUTIONS

A partisan state elected official running for any office, or a candidate for a partisan elected state office, may solicit a lobbyist or an organization that employs a lobbyist to furnish a campaign contribution only during the period during which the candidate may accept a contribution from a lobbyist, but may solicit a lobbyist to arrange for a PAC or conduit to furnish a contribution at any time.

CANDIDATE'S BUSINESS RELATIONSHIP WITH ORGANIZATION THAT LOBBIES

EMPLOYEE DURING THE CAMPAIGN. In spite of the general rule that an organization that employs a lobbyist may not furnish anything of pecuniary value to a candidate for state office, an organization may pay salary, wages and employee benefits to a candidate for an elective state office who does not yet hold the office if (1) the employee is neither an official of a state agency nor a legislative employee, and (2) the organization or employee can demonstrate by clear and convincing evidence that the employment, compensation, and employee benefits are unrelated to the candidacy.*

EMPLOYEE AFTER ELECTION. Having been elected to a state government position, a successful candidate may not, after assuming office, continue to receive compensation (including commissions or fees for sale of goods or services) or employee benefits from an employer that employs a lobbyist.

BUSINESS RELATIONSHIPS WITH LOBBYISTS AND THE ORGANIZATIONS THAT EMPLOY THEM. LOBBYISTS: As a general rule, neither a candidate for election to a state public office nor an individual elected to state public office may purchase or otherwise accept from a lobbyist food, drink, transportation, lodging, compensation or other payment (even for goods or services purchased from the candidate or official), services of the type for which the lobbyist would normally charge (e.g., legal counsel or accounting), goods, or any other thing of pecuniary value.

LOBBYING PRINCIPAL. As a general rule, neither a candidate for election to a state public office nor an individual elected to state public office, may accept from an organization that employs a lobbyist food, drink, transportation, lodging, compensation or other payment (even for goods or services purchased from the candidate or official), goods, or any other thing of pecuniary value other than items or services which it makes available to the general public on the same terms and conditions.

Legal references: §13.625, *Wisconsin Statutes*; 1997 Wis Eth Bd 8; 2004 Wis Eth Bd 03; 2005 Wis Eth Bd 08

* If the organization employed the candidate prior to the first day of the 12th month commencing before the deadline for the filing of nomination papers for the office sought and the employment continues uninterrupted, without augmentation of compensation or employee benefits, except as provided by preexisting employment agreement, it is rebuttably presumed that the employment and compensation and benefits paid are unrelated to the candidacy.

Wisconsin Ethics Commission

For Elected State Officials, Candidates For Election To State Offices, Legislative Employees, And Agency Officials With Rulemaking Responsibilities

Attending Events At A Political Party's National Convention

This guideline provides general advice about an official's¹ attending an event held in conjunction with a political party's national convention.

IF EVENT'S SPONSOR EMPLOYS A LOBBYIST

A state elected official, candidate for election to state office, legislative employee, or appointed official whose responsibilities include rulemaking, may *not* attend an event sponsored by an organization that employs a lobbyist in Wisconsin, unless the event is open to the general public and, then, only under the same terms and conditions available to the public. [§13.625, *Wisconsin Statutes*].² An event is open to the general public if:

1. anyone who wants to attend the event may do so;
2. the organization can demonstrate its genuine attempt to attract the general public to the event; and
3. there is no offer or notice of the event directed to an official that would confer an advantage to the official.³

IF EVENT'S SPONSOR DOES NOT EMPLOY A LOBBYIST

A state official should not attend an event, or should pay the full value of an event, if the official is invited to the event because he or she is a state official, even if others are also invited. [§§19.45 (2) and (3m), 19.56 (3), *Wisconsin Statutes*].⁴

A state official may attend a reception, meal, hospitality suite, or the like sponsored by an organization that does not employ a lobbyist if the invitation is unrelated to the official's holding a government position – for example, an event:

1. for all delegates to the convention;
2. for all delegates from Wisconsin or from the Midwest; or
3. for all delegates pledged to a particular candidate.

¹ This guide applies to elected state officials, candidates for elective state offices, legislative employees, and to other state officials and employees who have rule-making responsibilities. See §§13.62(3) and 19.42(13), *Wisconsin Statutes*.

² Wisconsin's lobbying law prohibits a state official to accept anything of pecuniary value from a business or organization that employs a lobbyist unless the item is also made available to the general public. §13.625, *Wisconsin Statutes*.

³ 80 Op. Att'y Gen. 205 (1992); 97 Wis Eth Bd 12.

⁴ Wisconsin's Ethics Code for State Public Officials prohibits a state public official to accept food, beverages, or anything of more than inconsequential value for private benefit unless the official can clearly and convincingly demonstrate that the item is offered for reasons unrelated to the official holding a state public office. §§19.45 (2) and (3), 19.56 (3), *Wisconsin Statutes*.

This is a guide. For authoritative information consult Wisconsin Statutes.

Wisconsin Ethics Commission
For State Public Officials
Official's Seeking Private Employment

SEEKING PRIVATE EMPLOYMENT WITH A LOBBYIST OR A LOBBYING PRINCIPAL.¹

A lobbyist or a lobbying principal, may not furnish, directly or indirectly, anything of pecuniary value to an elected state official, legislative employee, or agency official; and the official or employee may neither solicit nor accept anything of pecuniary value from a lobbyist or a lobbying principal. Employment is something of pecuniary value. WIS. STAT. § 13.625(1), (2), and (3), 80 Op. Att'y Gen. 205 (1992); See e.g., 2006 Wis Eth Bd 07, 1993 Wis Eth Bd 04, 1992 Wis Eth Bd 26.

An elected state official, legislative employee, or agency official should not initiate discussions about prospective employment with a lobbyist or lobbying principal while the official holds a state government position. WIS. STAT. § 13.625(3). However, an elected state official, legislative employee, or agency official may respond to published advertisements for employment that are available to the general public. WIS. STAT. § 13.625(2).

An elected state official, legislative employee, or agency official may discuss the possibility of employment and circumstances of future employment but should not receive or accept a promise of future employment or enter into an agreement for future employment. WIS. STAT. § 13.625(3); See e.g., 1998 Wis Eth Bd 11.

SEEKING PRIVATE EMPLOYMENT FROM ANY PERSON.

Wisconsin's Code of Ethics² specifically recognizes that a state public official may need to engage in employment other than their official duties and does not prohibit a state public official from accepting outside employment or following any pursuit which in no way interferes with the full and faithful discharge of his or her duties to this state. WIS. STAT. § 19.45(1).

A state public official should not use their public position or office to obtain financial gain or anything of substantial value for their private benefit and a state official should not accept anything of value that could reasonably be expected to influence the official's judgment or could reasonably be considered as a reward for any official action. WIS. STAT. § 19.45(2) and (3). "Anything of value" includes a "promise of future employment." WIS. STAT. § 19.42(1).

A state public official should not use their title, prestige of office, or resources of their office to obtain private employment. This does not preclude a state public official from using their general political

¹ The prohibitions provided for in the lobbying law apply to the following:

- agency officials, whose official responsibilities include participating in any administrative action other than in a solely clerical, secretarial, or ministerial capacity;
- elective state officials; and
- legislative employees, including members and officers of the legislature and employees of a legislative service agency.

WIS. STAT. §§ 13.62(3), (6), and (8m).

² The Code of Ethics applies to individuals holding state public office. WIS. STAT. § 19.42(13) and (14).

skills and experience when seeking private employment. When accepting an offer for private employment a state public official should be able to clearly demonstrate that the offer did not arise due to holding public office. WIS. STAT. § 19.45(2); *See e.g., 2004 Wis Eth Bd 06.*

A state official should not accept an offer of or promise of employment if it could reasonably be expected to influence their official actions or judgment. WIS. STAT. § 19.45(3).

A state official should not participate in any official matter in which a potential future employer has an interest until the official either ends the discussions about employment or leaves state government. WIS. STAT. § 19.46(1)(b).

Wisconsin Ethics Commission
For Elected State Public Officials
Legal Defense Funds

General Rule

Except for the transfer of campaign contributions to a defense fund for the limited purposes permitted under Wisconsin's campaign finance laws, *Wisconsin Statutes* forbid a state government official to use his or her government position to seek or obtain contributions to a so-called defense fund to pay personal legal expenses. Use of government position to obtain financial gain and personal advantage for oneself is precisely what Wisconsin's Code of Ethics for Public Officials forbids.

The State of Wisconsin Ethics Commission administers statutes that prohibit a state governmental official to use his or her government position to obtain money or anything of substantial value for the private benefit of the official or the official's family. [§19.45(2), *Wisconsin Statutes*] The *Statutes* further prohibit an official's solicitation or acceptance of money that could reasonably be expected to influence the official's vote, actions, or judgment or could reasonably be considered a reward for the official's past action or inaction. [§19.45(3), *Wisconsin Statutes*] The *Statutes* also forbid an official to solicit or accept money from a lobbyist or from a business or organization that employs a lobbyist to affect Wisconsin's laws. [§13.625 (3), *Wisconsin Statutes*].

An official's use of the title or prestige or power of government office to obtain money from others in order to pay the official's private, personal expenses would be patently offensive and illegal.

The statutes that the Wisconsin Ethics Commission administers create no exception for a "legal defense fund." It is equally improper for a state government official to make use of his or her government position to obtain money for the official's vacation fund, please-pay-my-home-mortgage fund, who-will-pay-my-child's-tuition fund, or I-would-like-to-remodel-my-house fund.¹

Limited Exception: Legal Defense Fund Limited To Defense Of Violations Alleged Under Chapters 11 And 12, *Wisconsin Statutes*

Wisconsin Statutes permit a state government official who is being investigated for or charged with a violation of campaign finance laws [chapter 11, *Wisconsin Statutes*] or prohibited election practices [chapter 12, *Wisconsin Statutes*] to establish a "legal defense fund" for expenditures supporting or defending the candidate while that person is being investigated for, or charged with, or convicted of a violation of those chapters.

A candidate may transfer a contributor's campaign contribution to a legal defense fund to support or defend a candidate who is being investigated for, or is charged with, or has been convicted of

¹ The prohibition is on "use of office or position" for private advantage. An official may accept financial support from a parent, grandparent, other family members, or even a close friend if the support is unrelated to the recipient's holding or having held a government position.

violating campaign finance laws or prohibited election practices if, but only if, the contributor consents. [§11.64, *Wisconsin Statutes*]

Lobbyists

A lobbyist may not contribute to a legal defense fund. A lobbyist who has previously contributed to an official's campaign may not authorize the transfer of the lobbyist's campaign contribution to a legal defense fund. [§13.625, *Wisconsin Statutes*]

Reporting contributions to a legal defense fund

An official required to file a Statement of Economic Interests with the Wisconsin Ethics Commission must identify each person who, during the prior year, contributed more than fifty dollars to a "legal defense fund" established under §11.1301 to benefit the official.

Wisconsin Ethics Commission
For District Attorneys
Deferred Prosecution Agreements

A district attorney should not use his or her office to obtain money from defendants or others whose conduct is reviewed by the district attorney if the disposition of the money is in the district attorney's sole control, even if the district attorney directs the money to a charitable purpose.

Nor should a district attorney use his or her position to obtain money for a private organization of which the district attorney or the district attorney's spouse is an officer, director, or authorized representative or agent.

At section 19.45(2), Wisconsin's Code of Ethics for State Public Officials and Employees provides, in part:

No state public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated.

Using one's position as a district attorney to obtain money over which the district attorney exercises sole control can be a use of office for the private benefit of the district attorney that violates §19.45(2), even if the money is subsequently used for a charitable purpose.

A district attorney could also run afoul of the statute if the district attorney used his or her position to obtain money for a private organization of which the district attorney or his or her spouse is an officer, director, or authorized representative or agent.

Wisconsin Ethics Commission

For all committees

Attribution Statements

ATTRIBUTION STATEMENTS

Wisconsin campaign finance laws generally require an attribution statement, also known as a disclaimer, on materials containing express advocacy. WIS. STAT. § 11.1303. Express advocacy communications clearly identify a candidate and clearly advocate for the election or defeat of that candidate. WIS. STAT. § 11.0101(11).

Attribution statements must be included on any express advocacy communications that are paid for by any contribution or disbursement. WIS. STAT. § 11.1303(2). Materials or communications made for the purpose of influencing the recall or retention in office of a state or local elected official must also include an attribution statement. WIS. STAT. § 11.1303(2)(em). Express advocacy paid for or reimbursed by a person, other than a committee, must also include an attribution statement if the cost of the communication exceeds \$2,500. WIS. STAT. § 11.1303(2)(c).

CONTENTS OF AN ATTRIBUTION STATEMENT

An attribution statement must include the words, “Paid for by” followed by the name of the committee making the payment or reimbursement, or assuming responsibility for the communication. The name of the treasurer or other officers of the committee is no longer required. WIS. STAT. § 11.1303(2)(b).

INDEPENDENT EXPRESS ADVOCACY

Political action committees (PACs), independent expenditure committees, or other persons who make independent expenditures (express advocacy communications not coordinated with a candidate, candidate committee, candidate’s agent, legislative campaign committee, or political party) in excess of \$2,500 must include the words “Paid for by” followed by the name of the committee and the words “Not authorized by any candidate or candidate’s agent or committee.” WIS. STAT. §§ 11.0101(16), 11.1303(2)(d).

READABLE, LEGIBLE, AND READILY ACCESSIBLE

The attribution must be readable, legible, and readily accessible. WIS. STAT. § 11.1303(2)(g).

- “Readable” and “legible” are not defined by statute, but common dictionary definitions of these terms would indicate that the attribution should be clearly printed so it can be understood.¹
- “Readily accessible” is not defined by statute, but a common dictionary definition would indicate that the attribution should be capable of being seen without much difficulty.²

¹ <https://www.merriam-webster.com/dictionary/readable>
<https://www.merriam-webster.com/dictionary/legible>

² <https://www.merriam-webster.com/dictionary/readily>
<https://www.merriam-webster.com/dictionary/accessible>

TYPES OF COMMUNICATIONS REQUIRING AN ATTRIBUTION STATEMENT

All communications containing express advocacy or made for the purpose of influencing the recall from or retention in office of an individual holding a state or local office require an attribution statement. The following is a non-exclusive list of examples of communications where attributions would be required:

- Printed advertisements/direct mail;
- Billboards;
- Handbills;
- Sample ballots;
- Television or radio advertisements; and
- Other communications containing express advocacy (e.g., robo-calls, emails, or websites).

WIS. STAT. § 11.1303(2)(a), (em).

TYPES OF COMMUNICATIONS THAT DO NOT REQUIRE ATTRIBUTION STATEMENTS

Communications printed on small items on which the information required cannot be conveniently printed may not require an attribution statement. The following are examples of communications that are commonly limited in size where an attribution statement may not be required:

- Some text messages;
- Some social media communications; and
- Certain small advertisements on mobile devices.
- Other small items or communications that the Commission may adopt by rule.

WIS. STAT. § 11.1303(2)(f)

ADDITIONAL RESOURCES

For additional information, please visit the Ethics Commission website: <https://ethics.wi.gov>. If you have additional questions, please contact the Wisconsin Ethics Commission staff by email at CampaignFinance@wi.gov, or by phone at (608) 266-8123. Advice sought from the Ethics Commission is confidential. For authoritative information, refer to Wisconsin Statutes. You may also wish to consult with an attorney.