



State of Wisconsin
Ethics Commission

CAMPAIGN FINANCE, LOBBYING, AND THE CODE OF ETHICS FOR NEW LEGISLATORS

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Administrator



POLITICAL MARKET

Conscientious Railroad President to

Dealer: "Ah! Let me see. I think I'll take this bunch of Legislators at \$5000 a head. The Senators, at what price did you say?"

Dealer: "Can't afford 'em less than \$10,000 each."

R.R.P.: "Well, hand them over. I suppose I'll have to take the lot."

Dealer: "Anything else to-day? I have a lot of Editors, at various prices, from a Thousand down to Fifty Cents."

R.R.P.: "No, nothing in that way, to-day. But I want a Governor very much indeed, and will stand \$50,000 for him. Get me a Wisconsin one, if possible!"

Cartoon published in *Harper's Weekly* of June 12, 1858, at the time of the Land Grant Investigation

ABOUT THE ETHICS COMMISSION

- 6 members – Partisan Appointments
 - 2 former judges, 4 others
 - 5-year terms
- All actions require four votes
- Commission Administrator supervises all staff
- Assistant Administrator assists with supervision of Ethics Specialists and assists with advice and enforcement
- Other staff: Staff Counsel, Office Manager, Ethics Specialists
- Confidentiality: Advice & Investigations



RESPONSIBILITIES

- Administer Wisconsin Statutes
 - Chapter 11: Campaign Finance
 - Subchapter III, Chapter 13: Lobbying
 - Subchapter III, Chapter 19: Code of Ethics



JURISDICTION

- Co-Equal Jurisdiction with District Attorneys, but historically...

Ethics Commission	District Attorneys
<ul style="list-style-type: none">• Legislators, aides, service agencies• Governor, Lt. Governor, appointees, secretaries, deputies, executive assistants, administrators• Justices and judges• Lobbyists and Lobbying Principals (organizations)• Most campaign committees• Any individual holding a state public office	<ul style="list-style-type: none">• Code of Ethics for Local Officials• Local candidate and local referendum committees



IMPORTANT LAWS TO KNOW

- Campaign Finance
 - “50 Piece” Rule and exceptions
- Lobbying
 - 13.625 – prohibited practices and exceptions
- Code of Ethics
 - Use of office for financial gain
 - Influence and reward
 - Food, drink, transportation, lodging
 - Use of confidential information for private gain
 - Unlawful benefit
 - Conflicts of interest





CAMPAIGN FINANCE LAW

50-PIECE RULE

- WIS. STAT. § 11.1205: Use of government materials by candidates
 - No person elected to state or local office
 - Who becomes a candidate for national, state, or local office
 - May use public funds for the cost of materials or distribution for 50 or more pieces of substantially identical materials distributed after the first day to begin circulating nomination papers
- Except...



50-PIECE RULE - EXCEPTIONS

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



50-PIECE RULE GUIDANCE

- The Ethics Commission has provided further guidance on the 50-Piece Rule:
 - [Guideline ETH-1251](#)
 - [2018 ETH 03](#) (Application of 50-Piece Rule to Agency Materials)
 - Passive communication = 1 piece per publication
 - Active communication = 1 piece per recipient
 - [2020 ETH 01](#) (50-Piece Rule and Mixed-Use Social Media Accounts)
 - Requests to share a communication count against original sender
 - No newspaper ads or newsletters (direct mail or e-update) with public funds during campaign period in excess of 49 pieces
 - Radio ads permissible if no more than 49 spots
 - Paid promotion of social media only up to 49 people



50-PIECE RULE GUIDANCE, CONT.

- [2020 ETH 03](#) (Application of 50-Piece Rule to Communications with Petition Signatories and Newspaper Advertisements)
 - Responses to petition signatories are essentially answers to communications of constituents and are permitted
 - Newspaper ads are counted as one piece per newspaper that is published



CAMPAIGNING ON STATE TIME

- Legislative caucus scandal (2001)
- General rules for legislative staff ([Guideline 1247](#)):
 - Making campaign appointments prohibited
 - Recording hour and location of campaign appointments; incidental communications with campaign committee okay
 - Providing calendar information permitted
 - Refer campaign messages to candidate or campaign committee
- Do NOT use state resources for campaign activities
- Legislature may have additional rules you may need to follow. Check with Chief Clerk's Office for more information





LOBBYING LAW

LOBBYING: PROHIBITED PRACTICES

- WIS. STAT. § 13.625
- No lobbyist or lobbying principal may give to an agency official, legislative employee, any elective state official, or candidate for state elective office, or to the candidate committee of the official, employee or candidate:
 - Lodging
 - Transportation
 - Food, meals, beverages
 - Money or any other thing of pecuniary value
- Except...



NEW!! "LOBBY DAYS" EXCEPTION

- 2021 Act 266 (Effective April 17, 2022)
- Allows covered officials to attend meetings with clubs, conventions, special interest groups, political groups, school groups, and other gatherings to discuss government functions, operations, proposals, and issues
- Not required to pay the cost of admission
- However, for an official to accept food, beverages, or other items included in the cost of admission, the official must pay the actual cost of the food, beverage, or item(s)



OTHER EXCEPTIONS

- Items and services made available to the general public
- Providing or receiving any thing of pecuniary value involving a relative or an individual who resides in the same household
- Lobbyists may provide educational/informational materials
- Providing or receiving payment or reimbursement for actual and reasonable expenses allowed under WIS. STAT. § 19.56: Honorariums, Fees and Expenses
- Other very limited exceptions to the blanket prohibition on accepting anything of pecuniary value from a lobbyist or principal



CAMPAIGN CONTRIBUTIONS

- A lobbyist may deliver a contribution from another at any time (e.g., a PAC contribution)
- A lobbyist may only make a personal contribution to an official if the “window” is open:
 - Between the first day to circulate nomination papers and the date of the election
 - And a contribution to a candidate for legislative office can only be given by a lobbyist if the Legislature has concluded its final floor period and is not in special or extraordinary session
 - A lobbyist may contribute to their own campaign at any time
- The window for contributions opens for all officials, not just those up for election [2020 ETH 04](#)





CODE OF ETHICS

USE OF OFFICE FOR FINANCIAL GAIN

- WIS. STAT. § 19.45(2)
 - 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
 - “Organization” does **NOT** include bodies politic
 - “Associated” 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 at least 10% of the equity, or of which an individual or family member is an authorized representative or agent
- Special exceptions:
 - Campaign contributions
 - Candidates/officeholders may solicit for donations to nonprofits they are associated with



INFLUENCE AND REWARD

- WIS. STAT. § 19.45(3)
 - No person may offer or give to a state public official, directly or indirectly, and no state public official may accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the state public official's vote, official actions, or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the state public official
 - As a general rule, officials should not accept anything of more than nominal value from organizations that have a special or specific interest in an item or matter likely to be before the official



FOOD, DRINK, TRANSPORTATION, AND LODGING

- WIS. STAT. § 19.45(3m)
 - No state public official may accept or retain any transportation, lodging, meals, food or beverage, or reimbursement therefor, except in accordance with § 19.56(3)
- Exceptions (see [Guideline 1211](#)):
 - Official talk or meeting
 - Unrelated to holding public office
 - State benefit
 - Reported as an expense by a political committee
 - WEDC/Department of Tourism
- Remember that items from lobbying principals must also meet an exception of the lobbying law to be accepted



USE OF CONFIDENTIAL INFORMATION FOR PRIVATE GAIN

- WIS. STAT. § 19.45(4)
 - No state public official may intentionally use or disclose information gained in the course of or by reason of his or her official position or activities in any way that could result in the receipt of anything of value for himself or herself, for his or her immediate family, or for any other person, if the information has not been communicated to the public or is not public information



UNLAWFUL BENEFITS

- WIS. STAT. § 19.45(5)
 - No state public official may use or attempt to use the public position held by the public official to influence or gain unlawful benefits, advantages or privileges personally or for others



CONFLICTS OF INTEREST

- WIS. STAT. § 19.46(1): No state public official may:
 - Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest
 - Use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official's immediate family either separately or together, or an organization with which the official is associated
 - Except...



OFFICIAL MAY ACT IF...

- The official action affects a whole class of similarly-situated interests; and,
- Neither the interests of the official, a member of the official's immediate family, nor a business or organization with which the official is associated 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 their immediate family, or of an associated business or organization is neither significantly greater nor less than upon other members of the class

[Ethics Commission Guideline 1232](#)



STATEMENT OF ECONOMIC INTERESTS

- Annual requirement
- Must identify investments, real estate, businesses, and creditors as of the last day of the prior year
- All direct sources of family income from prior year of \$1,000 or more
- All sources of income from prior year of \$10,000 or more received from partnerships, sub S corporations, service corporations, and LLCs (including customers, clients, and tenants) in which your family has a 10% or greater interest



NEW!!! SEI CHANGES

- 2021 Act 267 (Effective April 17, 2022)
- No longer required to report certain securities:
 - Defined benefit retirement plans
 - Annuities
 - Money market funds or mutual funds
 - Exchange-traded funds/exchange-traded notes
- Final SEI Requirement- An official that is required to file an SEI that leaves state service and does not have another position required to file an SEI must file a final SEI no later than 21 days after he or she leaves office





HYPOTHETICALS: HOW WOULD YOU HANDLE THIS?

CAMPAIGNING

- Can a candidate take campaign pictures at the State Capitol?



CAMPAIGNING

- Don't use any state resource for campaigning (email, computers, photocopier, etc.)
- Staff may not engage in campaign activity on public time or in public offices
- May not solicit or receive contributions while engaged in official duties
- Do not use access to any non-public areas



USE OF OFFICE FOR FINANCIAL GAIN

- A nonprofit organization asked a Legislator if they could include as a raffle prize a “lunch with the legislator” as part of their efforts to fundraise
- Can the Legislator participate?
- What if “associated” with the organization?



USE OF OFFICE FOR FINANCIAL GAIN

- Candidates can solicit donations for a nonprofit organization with which they are associated
 - The candidate or an immediate family member:
 - Is a director, officer, or trustee
 - Owns or controls, directly, or indirectly, and severally or in the aggregate, at least 10 percent of the outstanding equity
 - Or a member of the candidate's immediate family is an authorized representative or agent
- State public officials who are not candidates do NOT have the same exception available and could only solicit donations for nonprofits they are not associated with



TICKETS/LUXURY BOXES

- Old friend from college invites you
- Premium seats/skybox
- May you accept the ticket?



ACCEPTING GIFTS

- Don't accept anything from a lobbyist or lobbying principal – even if you pay for it
- Don't accept items or services of more than trivial value that are offered to you because of your official position
- You may accept something if it's not from a lobbyist and not related to your public office
- You may accept something if it is available to the general public
- Must report on Statement of Economic Interests if over \$50 (face value may not be true value)



DISPOSITION OF GIFTS

- Treat the item as being given to the office
- 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

[2021 Act 267](#) (New WIS. STAT. § 19.45(14))



TEACHING A SEMINAR

- Invited by your alma mater to teach a seminar
- Can you teach the seminar?
- Can you be paid?



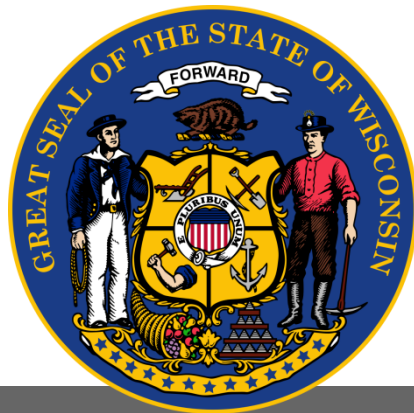
COMPENSATION FOR SERVICES

- Permitted to teach as a public official
 - Actually encouraged to go to meetings and gatherings to discuss processes, proposals, or issues affecting your office
- May receive and retain reasonable compensation
 - Must prepare/present without more than incidental reliance on state resources
 - Still cannot accept from a lobbyist or lobbying principal
- Compensation includes gifts, tickets, entertainment, reimbursement of travel, lodging, meals for spouse
- Must report compensation on Statement of Economic Interests if totals \$1,000 or more



WHERE TO FIND MORE INFORMATION

- **Wisconsin Statutes**
 - <https://docs.legis.wisconsin.gov>
- **Advisory Opinions**
 - Prompt, Confidential, Authoritative
- **Guidelines**
 - <https://ethics.wi.gov>



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