

State of Wisconsin  
Ethics Commission

# **ETHICS AND LOBBYING LAW FOR WISCONSIN DEFERRED COMPENSATION BOARD MEMBERS**

Dan Carlton  
*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."

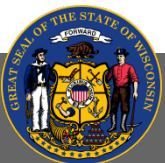
**Dealer:** "Anything else to-day? I have a lot of Editors, at various prices, from a Thousand down to Fifty Cents."

**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

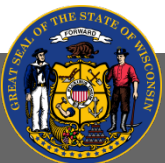
# ABOUT THE ETHICS COMMISSION

- Created by 2015 Wisconsin Act 118
- 6 members – Partisan Appointments
  - 2 former judges, 4 others
  - 5-year terms
- All actions require four votes
- Staff Headed by Commission Administrator
- Small agency- Asst. Administrator, Staff Counsel; Five Other Staff Positions
- Confidentiality: Advice & Investigations



# RESPONSIBILITIES

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

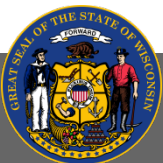




# IMPORTANT LAWS TO KNOW

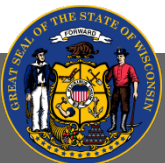
# IMPORTANT LAWS TO KNOW

- 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
  - Statements of Economic Interest (SEI)



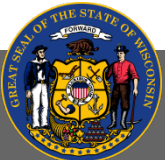
# LOBBYING: PROHIBITED PRACTICES

- 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...



# EXCEPTIONS

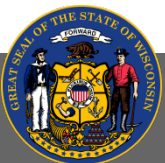
- Items and services made available to the general public
- Providing or receiving any thing of pecuniary value involving a relative or an individual who resides in the same household
- Lobbyists may provide educational/informational materials
- Providing or receiving payment or reimbursement for actual and reasonable expenses allowed under WIS. STAT. § 19.56: Honorariums, Fees and Expenses
- **NEW!** Meetings with groups to discuss governmental processes, proposals, and issues...Can accept admission, but must pay for food, beverages, or other items included in the cost of admission





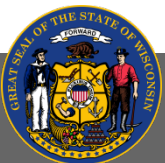
# USE OF OFFICE FOR FINANCIAL GAIN

- 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.
- Exceptions:
  - Campaign contributions
  - Candidates/officeholders may solicit for donations to nonprofits



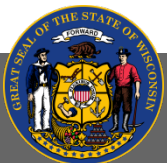
# INFLUENCE AND REWARD

- 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.



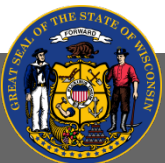
# FOOD, DRINK, TRANSPORTATION, AND LODGING

- 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:
  - Official talk or meeting
  - Unrelated to holding public office
  - State benefit
  - Reported as an expense by a political committee
  - WEDC/Department of Tourism



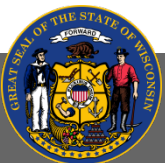
# USE OF CONFIDENTIAL INFORMATION FOR PRIVATE GAIN

- 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.



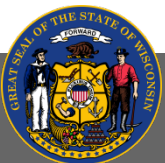
# UNLAWFUL BENEFITS

- 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

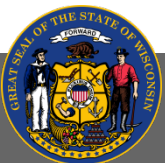
- WIS. STAT. § 19.46(1): No state public official may:
  - Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.
  - Use his or her office 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...

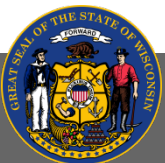
- The official action affects a whole class of similarly-situated interests; and,
- Neither the interests of the official, a member of the official's immediate family, nor a business or organization with which the official is associated is significant when compared to all affected interests in the class; 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

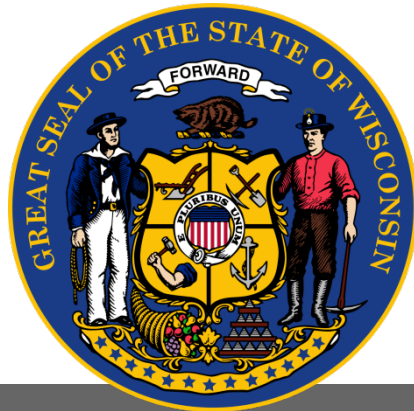
- Annual requirement
- Must identify investments, real estate, businesses, and creditors as of the last day of the prior year.
- All direct sources of family income from prior year of \$1,000 or more.
- All sources of income from prior year of \$10,000 or more received from partnerships, sub S corporations,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





# WHERE TO FIND MORE INFORMATION

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



Ethics@wi.gov  
<https://ethics.wi.gov>  
Phone: (608) 266-8123  
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State of Wisconsin  
Ethics Commission

# 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

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 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 associated<sup>1</sup>, 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 associated<sup>1</sup> 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](#).

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<sup>1</sup> "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\(1\)\(b\)](#).