

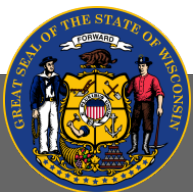
State of Wisconsin
Ethics Commission

DEFERRED COMPENSATION BOARD ETHICS AND LOBBYING OVERVIEW

David Buerger, *Staff Counsel*

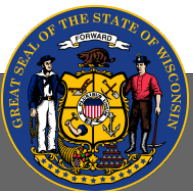
ABOUT THE ETHICS COMMISSION

- Created by 2015 Wisconsin Act 118
- 6 members – Partisan Appointments
 - Two former judges, four other appointees
 - 5-year terms
- Bipartisan Cooperation Required
 - All actions require four votes
- Nonpartisan Staff
- Strict Confidentiality – Advice & Complaints



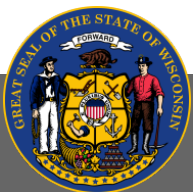
RESPONSIBILITIES

- Administer Wisconsin Statutes
 - Chapter 11: Campaign Finance
 - Subchapter III, Chapter 13: Lobbying
 - Subchapter III, Chapter 19: Code of Ethics
- Conduct programs to explain and interpret these laws.
- Compile and make the information provided to us available to the public!



IMPORTANT LAWS TO KNOW

- Lobbying
 - WIS. STAT. § 13.625 (Restrictions on Lobbyists/Principals)
- Code of Ethics
 - WIS. STAT. § 19.45 (Code of Ethics for State Public Officials)
 - WIS. STAT. § 19.46 (Conflict of Interest)
 - WIS. STAT. § 19.43-19.44 (Statement of Economic Interests)





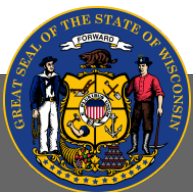
LOBBYING RESTRICTIONS



WHO IS A LOBBYIST/PRINCIPAL?

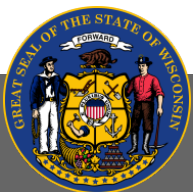
WI Lobbying

- Lobbying.wi.gov
- Search by name, type, or interest keywords.
- Download directories in PDF or Excel
- Tracks lobbying on rules, budget bills subjects, legislative proposals, etc.



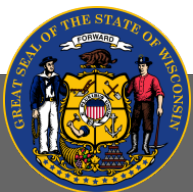
WHO IS AN AGENCY OFFICIAL?

- “Agency Official”
 - A member, officer, employee or consultant of any agency who **as part of such person's official responsibilities** participates in any administrative action in other than a solely clerical, secretarial or ministerial capacity.
- “Administrative Action”
 - The proposal, drafting, development, consideration, promulgation, amendment, repeal or rejection by any agency of any rule promulgated under ch. 227.



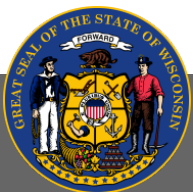
LOBBYING: PROHIBITED PRACTICES

- 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...



CAMPAIGN CONTRIBUTIONS

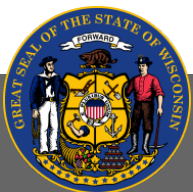
- A lobbyist may deliver a contribution from another at any time (e.g., a PAC contribution).
- A lobbyist may only make a personal contribution if the “window” is open:
 - Between the first day to circulate nomination papers and the date of the election
 - And a contribution to a candidate for legislative 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



OTHER EXCEPTIONS

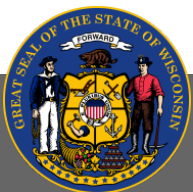
- Actual and reasonable expenses for presenting a talk or participating in a meeting. WIS. STAT. §§ 13.621(7)(a), 19.56(3)(a).
- Admission to events to discuss official business of agency. WIS. STAT. § 13.621(7)(b).
 - May not accept food, beverage, etc. included with admission without payment of actual cost.
- Items and services made available to the general public. WIS. STAT. § 13.625(4m)(a).
- Educational/informational materials. WIS. STAT. § 13.625(4m)(i).
- Compensation to employees of lobbying principals who are agency officials solely because of membership on a state commission, board, council, or committee, who receive no compensation other than a per diem or reimbursement of expenses for state service. WIS. STAT. § 13.625(4m)(g).
 - Compensation may not exceed that paid to those similarly-situated.

Other exceptions may apply!



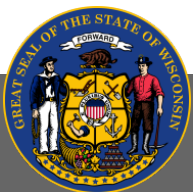
LEGISLATIVE LIAISON REPORTING

- WIS. STAT. § 13.695
- State agencies are required to file legislative liaison reports semi-annually, on January 31, for the preceding July – December and on July 31, for the preceding January – June.
- A legislative liaison is a paid officer or employee of a state agency whose regular duties include attempting to influence legislative action.
 - Not subject to licensing, registration, or most reporting requirements.
 - May not use state funds to engage in prohibited practices.



LEGISLATIVE LIAISON REPORTING

- Reports must contain the following:
 - Name of agency
 - Name, title, and salary of each officer or employee engaged in legislative activity
 - The proportionate amount of time spent on legislative activity and attempting to influence legislation
 - The general area of legislative action which the officer or employee has attempted to influence.
- Reports are filed using the Eye on Lobbying website (lobbying.wi.gov)
 - [User Manual for Legislative Liaisons](#)



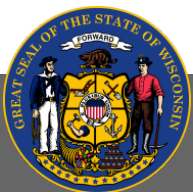


ETHICS RESTRICTIONS



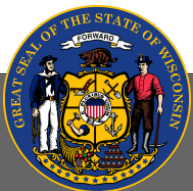
USE OF OFFICE FOR PRIVATE GAIN

- 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.
- Do NOT use governmental resources for a nongovernmental purpose.
- Do NOT ask staff to engage in nongovernmental activity on state time.
- Do NOT accept gifts given to you because of your public position.



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.

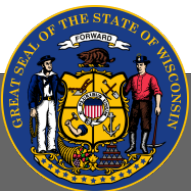


DISPOSAL OF IMPERMISSIBLE GIFTS

- Give the item to the official's agency to use or sell.
 - Agency may not sell the item to any government employee or official.
- Give the item to another state agency or to a public institution, such as a local school, library, or museum, that can use the item.
- Give the item to a charitable organization
 - Not including one with which the official or their immediate family is associated.
- 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.

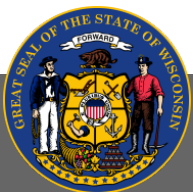


WIS. STAT. § 19.45(14)



FOOD, BEVERAGE, TRAVEL, AND LODGING

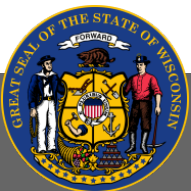
- WIS. STAT. § 19.45(3m)
 - No state public official may accept or retain any transportation, lodging, meals, food or beverage, or reimbursement therefor, except in accordance with § 19.56(3).
- Exceptions (see Guideline [ETH-1211](#)):
 - Official talk or meeting
 - Unrelated to holding public office
 - 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

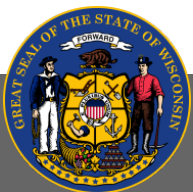
- WIS. STAT. § 19.45(4)
 - No state public official may intentionally use or disclose information gained in the course of or by reason of his or her official position or activities in any way that could result in the receipt of anything of value for himself or herself, for his or her immediate family,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

CONFIDENTIAL



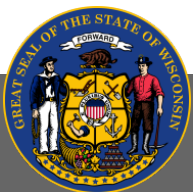
UNLAWFUL BENEFITS

- 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.



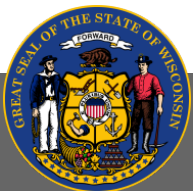
PRIVATE INTEREST IN PUBLIC CONTRACT

- WIS. STAT. § 19.45(6)
 - No state public official, member of a state public official's immediate family, nor any organization with which the state public official or member of the official's immediate family is associated with, may enter into any contract or lease involving payments of more than \$3,000 within a 12-month period from state funds unless the official discloses the association to both the Commission and the department acting for the state in regards to the contract or lease.
 - Does not affect WIS. STAT. § 946.13, which is a much broader restriction on officials acting in an official capacity regarding contracts they have a personal interest in an amount greater than \$15,000 per year.



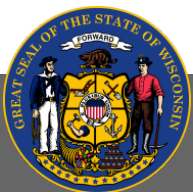
REVOLVING DOOR PROHIBITIONS

- WIS. STAT. § 19.45(8): With certain exceptions, no state public official may:
 - For 12 months following the date on which the individual ceases to be a public official, for compensation on behalf of a 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 the official was associated.
 - For 12 months following the date on which the individual ceases to be a public official, for compensation on behalf of a person other than a governmental entity, make any formal or informal appearance before, or negotiate with, any officer or employee regarding any proceeding, application, contract, claim or charge which was under the former official's responsibility.
 - For compensation, act on behalf of a person 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.



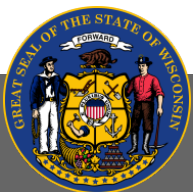
PAY TO PLAY

- WIS. STAT. § 19.45(13):
 - No state public official or candidate for state public office may, directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take or refrain from taking official action with respect to any proposed or pending matter in consideration of, or upon condition that, any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any committee registered under ch. 11, or any person making a communication that contains a reference to a clearly identified state public official holding an elective office or to a candidate for state public office.



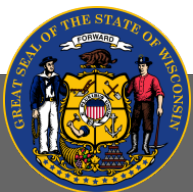
EXCEPTIONS

- For WIS. STAT. § 19.45(2) only:
 - Campaign contributions
 - Solicitation of donations to nonprofits
- Honorarium
 - Reasonable compensation for elected officials.
 - Actual and reasonable expenses for others.
- Unrelated to holding or having held public office
- State benefit
 - Limited to transportation, lodging, meals, food or beverage, or reimbursement for such expenses. May also accept payment or reimbursement of actual and reasonable costs incurred.



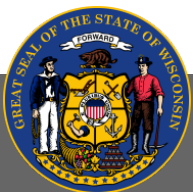
EXCEPTIONS, CONT.

- Items from a political committee, which are properly reported under ch. 11.
- WEDC
 - For trips to a foreign country to promote trade
 - For hosting individuals to promote business, economic development, tourism, or conferences sponsored by multi-state, national, or international associations of governments or government officials.
- Department of Tourism
 - For hosting individuals in order to promote tourism.
- For more information regarding the application of these exceptions, see [Guideline ETH 1211](#).



CONFLICT OF INTEREST

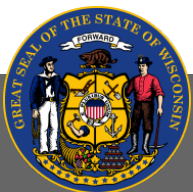
- WIS. STAT. § 19.46(1): No state public official may:
 - Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.
 - Use his or her office or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

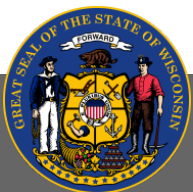
- The official action affects a whole class of similarly-situated interests; and,
- Neither the interests of the official, a member of the official's immediate family, nor a business or organization with which the official is associated is significant when compared to all affected interests in the class;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



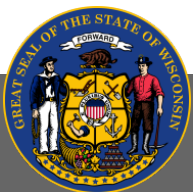
OFFICIAL MAY ACT IF...

- The official action is concerning: (1) the lawful payment of salaries or employee benefits or reimbursement of actual and necessary expenses, or (2) the modification of a county or municipal ordinance.
- The impact on the official's interests is remote or speculative.



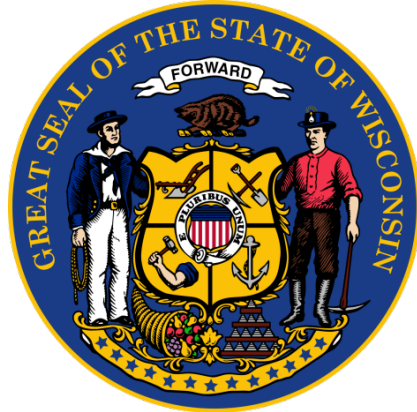
STATEMENT OF ECONOMIC INTEREST

- WIS. STAT. §§ 19.43, 19.44
- Annual requirement (April 30th) or within 21 days of leaving your position.
- 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.
- Final SEI due within 21 days of leaving your public position, unless moving to another public position that requires the filing of an SEI.



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
Fax: (608) 264-9319

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