

State of Wisconsin  
Ethics Commission

# **LOBBYING AND THE CODE OF ETHICS FOR EMPLOYEE TRUST FUNDS AND RETIREMENT BOARD MEMBERS**

Daniel Carlton  
*Administrator*

David Buerger  
*Staff Counsel*



## 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."

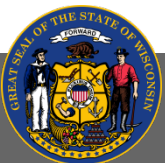
**Dealer:** "Anything else to-day? I have a lot of Editors, at various prices, from a Thousand down to Fifty Cents."

**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

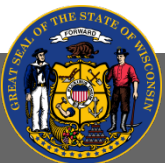
# ABOUT THE ETHICS COMMISSION

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



# RESPONSIBILITIES

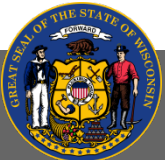
- Administer Wisconsin Statutes
  - Chapter 11: Campaign Finance
  - Subchapter III, Chapter 13: Lobbying
  - Subchapter III, Chapter 19: Code of Ethics



# JURISDICTION

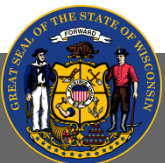
- Co-Equal Jurisdiction with District Attorneys, but historically...

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



# IMPORTANT LAWS TO KNOW

- Lobbying
  - Limits on soliciting or accepting something of value from lobbyists or lobbying principals
- 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

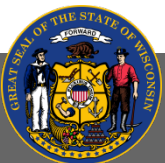




# LOBBYING LAW

# LOBBYING: PROHIBITED PRACTICES

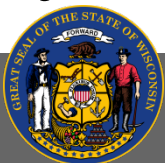
- WIS. STAT. §13.625
- No lobbyist or lobbying principal may give to an agency official, legislative employee, any elective state official, or candidate for state elective office, or to the candidate committee of the official, employee or candidate:
  - Lodging
  - Transportation
  - Food, meals, beverages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





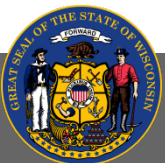
# CAMPAIGN CONTRIBUTIONS

- 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](#)



# 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

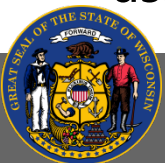




# CODE OF ETHICS

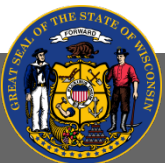
# USE OF OFFICE FOR FINANCIAL GAIN

- 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 may solicit for donations to nonprofits they are associated with



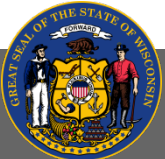
# INFLUENCE AND REWARD

- 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.



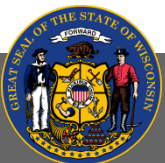
# FOOD, DRINK, TRANSPORTATION, AND LODGING

- 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



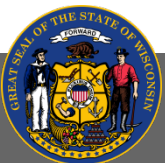
# USE OF CONFIDENTIAL INFORMATION FOR PRIVATE GAIN

- 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

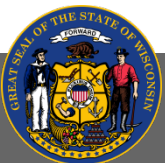
- WIS. STAT. § 19.45(5)
  - No state public official may use or attempt to use the public position held by the public official to influence or gain unlawful benefits, advantages or privileges personally or for others.





# CONFLICTS OF INTERESTS

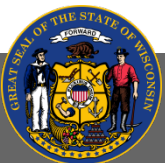
- WIS. STAT. § 19.46(1): No state public official may:
  - Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.
  - Use his or her office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



# OFFICIAL MAY ACT IF...

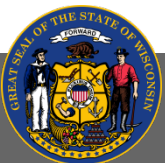
- The official action affects a whole class of similarly-situated interests; and,
- Neither the interests of the official, a member of the official's immediate family, nor a business or organization with which the official is associated is significant when compared to all affected interests in the class;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

- Only certain officials are required to file an SEI.
- 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.

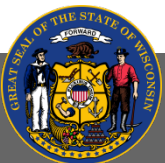




**HYPOTHETICALS:** HOW WOULD YOU HANDLE THIS?

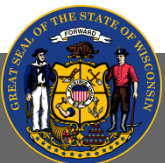
# TICKETS/LUXURY BOXES

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



# ACCEPTING GIFTS

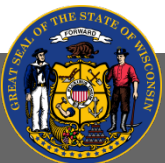
- Do NOT accept anything from a lobbyist or lobbying principal – even if you pay for it.
- Do NOT accept items or services of more than trivial value that are offered to you because of your official position.
- You may accept something if it is not from a lobbyist and not related to your public office.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



# DISPOSITION OF GIFTS

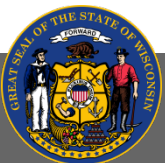
- Treat the item as being given to the office
- Turn the item over to another state agency or to a public institution, such as a local school, library, or museum, that can use the item
- Donate the item to a charitable organization (other than one of which the official or a family member is an officer, 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

[Ethics Commission Guideline 1235](#)



# TEACHING A SEMINAR

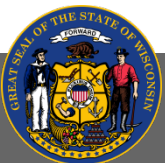
- Invited by your alma mater to teach a seminar
- Can you teach the seminar?
- Can you be paid?





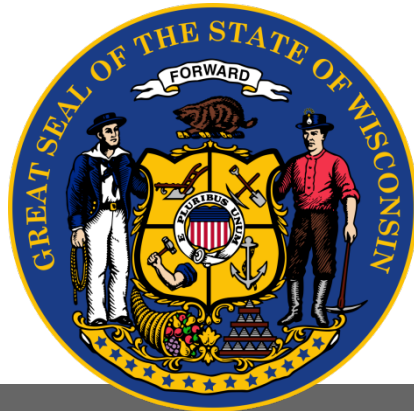
# COMPENSATION FOR SERVICES

- 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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