



UNIVERSITY OF WISCONSIN SYSTEM

# Ethics Training

Noah Brisbin and Wade Harrison

Office of General Counsel

UW System

# What rules apply?

Employee Classification	Code of Ethics
State public officials— chancellor, vice chancellors	<u><a href="#">Subch. III, Ch. 19, Wisconsin Statutes</a></u>
Unclassified employees— faculty, staff, limited appointees	<u><a href="#">Wis. Admin. Code Ch. UWS 8</a></u>
University Staff	<u><a href="#">Regent Policy Document 20-22</a></u>

# The catch with “ethics rules”

- Ethics are personal moral principles governing behavior
- Rules are explicit regulations governing behavior
- Gray areas abound—the goal is to stay reasonably far away from the line
- Think about perception, “the spirit of the law”

# State public officials— an overview

- State public officials are uniquely positioned with significant authority to make decisions that affect the citizens of the state
- Rationale for ethics rules: officials need to be objective, not subject to outside influences

# A preview of coming lobbyists

## Ethics Code—Ch. 19

- Generally prohibits using your position to gain a benefit to yourself, immediate family, or an organization with which you are associated
- Ask: is this being offered to me because of my position? If so, does my acceptance benefit me or the state of WI?

## Lobbying Code—Ch. 13

- Generally prohibits these officials from accepting anything of value from lobbyists or lobbying principals
- Ask: is this being offered by a lobbyist or lobbying principal? If yes, does it fall within an exception?

# Unclassified staff— declaration of policy

- [Wis.Admin. Code s. UWS 8.01](#) states:
- (I) Every member of the unclassified staff at the time of appointment makes a personal commitment to professional honesty and integrity, to seek knowledge and to share that knowledge freely with others. Such a commitment is essential for the university to perform its proper function in our society and to ensure continued confidence of the people of this state in the University of Wisconsin System and its personnel. It is a violation of this commitment for unclassified staff members to seek financial gain for themselves, their immediate families or organizations with which they are associated through activities that conflict with the interests of the University of Wisconsin System.

# Unclassified staff— declaration of policy

- (2) The Board of Regents, as a matter of policy, recognizes that:
  - Members of the unclassified staff have personal and economic interests in the decisions and policies of national, state and local government.
  - Members of the unclassified staff retain their rights as citizens to interests of a personal or economic nature.
  - The code of ethics must distinguish between those minor and inconsequential conflicts which are unavoidable in a free society and those conflicts which are substantial and material.

# Unclassified staff— declaration of policy

- (3) In adopting the standards of conduct set forth in this chapter, it is the board's purpose to prohibit only those activities which will result in a conflict between the personal interests of an unclassified staff member and that staff member's public responsibilities to the University of Wisconsin System. It is not the board's purpose to prohibit an unclassified staff member from freely pursuing those teaching, research, professional and public service activities which will not result in such a conflict, nor to prohibit a staff member from accepting any compensation, fees, honoraria or reimbursement of expenses which may be offered in connection therewith.

# Conflicts of interest

- Acceptance of items of value
- Use of public position
- Use of university resources
- Outside activities/reporting
- Using or disclosing confidential information
- Awarding contracts
- Partiality/nepotism

# Conflicts of interest

- A state public official should not have any involvement in an official matter in which he or she has a personal interest. For example, a UW official who is married to a member of the board of Chase Bank should not be involved in campus decisions that directly affect Chase Bank. An exception may apply if the decision is of a general nature that will affect Chase Bank in the same way as any other bank in the state.

(§ 19.46(1))

# General rules

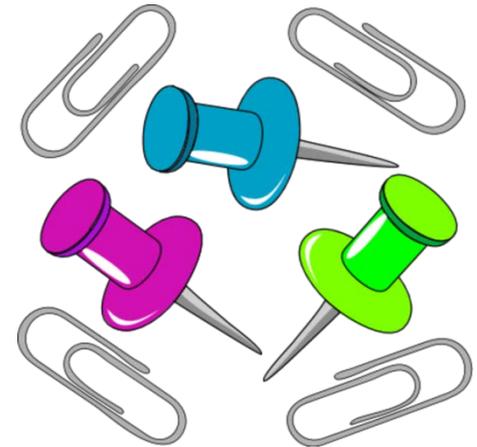
- Do not use your office for private gain.
- Do not solicit or accept anything if it could reasonably be expected to influence judgment.
- Do not accept anything of value from a lobbyist or lobbying principal—few exceptions
- Do not keep gifts unless an exception applies.

# Acceptance of items of value—gifts\*

- State public officials may not accept gifts personally that have been given to them because of their position. (§ 19.45(2))
- Terms of interest:
  - “Gifts”
  - “Personally”
  - “Because of”
  - “Position”

# Acceptance of items of value—gifts\*

- A state public official who is offered a gift must either refuse to accept the gift, donate the gift to an outside organization, or make the gift available for consumption by the general public. If the gift is made available for public consumption, it must be placed in an area that is visible and accessible to the general public.
- In addition, gifts may be utilized in the office if the item is something that the state would otherwise provide. For example, a box of paper clips could be used in the office if the state would otherwise purchase paper clips.



# Acceptance of items of value—gifts\*

- Employees should not accept items of value from a person or organization that might lead to an express or implied understanding or perception that their conduct of university business could be influenced.
  - Employees should not accept gifts from vendors or prospective vendors, including birthday or holiday gifts, gift baskets, lunch, other meals, entertainment, or vendor-paid travel.
  - Employees may accept items of minimal value, e.g., pens, mugs, etc.

# Acceptance of items of value—gifts\*

- The same rule regarding acceptance of items of value applies to members of employees' immediate family or household.
- When an employee is acting as an official representative of the institution, fees, honoraria and expenses reimbursed by non-institutional sources must be deposited into university accounts.
  - Employees are allowed to keep compensation (fees, honoraria and expenses) from permitted/approved outside activities.

- Chancellor receives a box of donuts from a board member of a corporation.
- What should s/he do with it?



[Donuts](#) by Unknown Author is licensed under [CC BY-SA](#)

# Gifts from lobbyists, lobbying principals

- UW officials are prohibited from accepting anything of value from lobbyists or lobbying principals, regardless of the reason for the gift.
- For example, a state public official who has a long-time family friend that is currently employed as a lobbyist is prohibited from accepting anything from that friend, including sports tickets, dinner, or drinks.

# Gifts from lobbyists, lobbying principals

- This prohibition does not apply if:
  - Available to the general public
  - Informational materials, related to the official's job, and of unexceptional value (e.g. an economic policy advisor may accept a book on job creation)
  - Actual and reasonable expenses that qualify under [§ 19.56\(3\)\(a\)](#), such as a meal during an event where the official is giving a talk or presentation
  - Employer can choose to pay for you to attend and eat
- All lobbyists and lobbying principals are required to register on a [searchable database](#)



- Wisconsin Farm Bureau holds an open house day for legislators and government officials to come learn about the organization, and has a breakfast bar available.
- Can you attend and eat?
- What if you are a speaker on the agenda?

# Meetings, conferences, and seminars—accepting meals

- The state, as your employer, will pay certain travel expenses when you travel for work as long as it meets certain guidelines.
- If a third party offers to pay these expenses in place of the state, you can accept them.

# Meetings, conferences, and seminars—accepting meals

- You can accept a meal from a third party as long as:
  - You have approval from your supervisor to attend the event as part of your job duties (this approval could be in the form of an email); and
  - You meet the [travel guidelines](#) for the meal you are accepting
  - Note: if the host is a lobbying organization, make sure it qualifies under [§ 19.56\(3\)\(a\)](#)—“presentation of a talk” or “participation in a meeting” related to a specified topic. Generally something more than mere attendance is required.

## Meetings, conferences, and seminars— accepting transportation and lodging

- The same rule applies for lodging and transportation.
- If you are attending because of your job duties and the state would otherwise pay, you may accept payment of these expenses from a third party.
- To determine whether the state would pay an expense, check the [state reimbursement guidelines](#)

- Kroger hosts an all-day event on “regulatory issues facing grocery stores” in Superior and your supervisor asks you to attend.
- Can you accept lunch from Kroger?





# **Non-reimbursable meals at official events**

- If you attend an event in your official capacity that does not meet the required timeframes for state reimbursement:
  - If the host is a lobbying principal, you should not accept food or drink.

# Non-reimbursable meals at official events

- If you attend an event in your official capacity that does not meet the required timeframes for state reimbursement:
  - If the host is not a lobbying principal, you may only accept food and drink if you pay the host organization the highest of:
    - The price charged to others,
    - The food and drink's true value, or
    - The sponsor's cost.
  - You may be able to have your campus pay for you to attend and eat if permissible under UW policies.

# Social events

- Social events are not for the benefit of the state where no official business is conducted (e.g. networking events, happy hours).  
If you attend a purely social event in connection with your work, you should reimburse the host organization for any food or drink you consume during the meeting by paying the highest of:
  - The price charged to others,
  - The food and drink's true value, or
  - The sponsor's cost.



# **Social events hosted by a lobbyist or lobbying principal**

- You should not accept anything at a social event hosted by a lobbyist or lobbying principal, unless that event is open to the general public and you attend on the same terms as members of the general public.

# Social events hosted by a lobbyist or lobbying principal

- “Open to the general public” (80 Op. Atty. Gen. 205):
  - Available to anyone who wants it and meets the criteria for eligibility;
  - No preference or special discounts for state officials; and
  - There is no advance notice for state officials.

# **Social events hosted by a lobbyist or lobbying principal**

- Remember, if there is an official component to the event, your employer can pay for you to attend.
- If the event is not open to the general public, the best practice is to either purchase your own food or drink directly from the establishment or refrain from consuming any food or drink.



- Children's Hospital of Wisconsin is hosting a fundraiser dinner event. You and your spouse have contributed in the past and are invited to attend at no cost.
- Can you accept?
- Should you accept?

- You attend a networking reception hosted by Wisconsin Counties Association where food and drink is offered. There is a sign posted that says “Cost for state public officials is \$20.”
- Should you pay \$20 out of pocket to eat and drink?



# Tickets to events, access to skyboxes

- You should never accept a ticket to a sporting or entertainment event or access to a skybox or other premium area from a lobbyist, regardless of whether you plan to pay the lobbyist for the ticket.



# Tickets to events, access to skyboxes

- You may accept a ticket from a non-lobbyist with whom you have a longstanding personal relationship as long as it would not appear to influence you in any way at your job. This would be reported on your Statement of Economic Interests if valued at \$50 or more.
- You may also purchase tickets from someone who is not a lobbyist as long as you pay the same amount as a member of the general public would pay for the ticket. This means fair market value, not face value. A good way to find out fair market value is to research prices for comparable tickets on sites like StubHub or Craigslist.



- A longtime friend, who is now employed as a lobbyist, finds a great deal on Badger tickets. He purchases the tickets and tells you to pay him back.
- Is that permissible?

# **Use of public position—**

## **UWS 8.03(1)**

- Employees may not use or attempt to use their public positions to gain anything of value for private benefit to themselves, their families, or organizations in which they have a significant financial interest.

# Employment offers from a lobbyist/lobbying organization

- Do not use your government position to initiate employment discussions while in government service.
  - You can participate in employment discussions if the discussions are initiated by the outside employer, including responding to job postings that are open to the public.
  - While discussions are pending, you must recuse yourself from any official actions that directly or indirectly involve the outside employer.
- Do not accept an employment offer from a lobbyist or lobbying organization prior to leaving state service.
  - Discussions about employment with a lobbying firm may be acceptable, but there can be no actual offer or agreement.

# After accepting a position with a lobbying firm

- You cannot lobby anyone from the agency or represent for compensation a third party interacting with the agency for the 12 months following departure from the agency.
- You cannot lobby an agency that was previously under the staffer's duties of responsibility.
- You can lobby other government officials such as the legislature or other state agencies.
- You cannot lobby any party or person from state government on an issue that they personally and substantially participated in.

# **Use of university resources—UWS 8.03(1)**

- University resources such as computers, e-mail accounts, office supplies, cell phones, meeting rooms, and work time should be used only for university purposes.
- Lobbying, legislative advocacy, and other political activities must never be done on state time or with state resources.

# Personal activities during the workday

- Personal activities during the work day should be accomplished during your lunch hour, during a break, or outside of those times in limited circumstances.
- State resources are provided by taxpayers for state business. Thus, state resources such as work phones and computers should not be used for purposes unrelated to state business.

# **Outside activities—UWS 8.025**

- Unclassified employees must:
  - Report, in writing, their involvement in outside activities every April 30.
  - Discuss with their dean, director, or the chancellor any activities that may present carryover questions of conflict with job responsibilities during their contract period.

# Outside activities

- Employees should follow standards on absence from university duties in relation to outside activities:
  - Seek approval from their dean or director.
  - Report activities that may result in a conflict of interest.
  - Ensure that activities do not interfere with job performance.

# Confidentiality—UWS 8.03(1)(c)

- Many UW records are covered by laws or policies requiring confidentiality.
  - Student records: Family Educational Rights and Privacy Act (FERPA)
  - Medical records: Health Insurance Portability and Accountability Act (HIPAA)
  - Other federal and state laws protect social security numbers, financial information, etc.
- Employees may not use or disclose university records or information outside of the exercise of their job responsibilities.

# Awarding contracts— UWS 8.03(2)

- Only certain designated individuals have the authority to legally bind the institution in contracts.
- A university employee may not negotiate or enter into a contract in which the employee has a personal interest on behalf of the university.

## **Partiality—UWS 8.03(3)**

- Nepotism: employees may not formally or informally participate in the decision to hire or promote a member of their immediate family.
- Personal relationships: employees should disclose personal relationships, if needed, so that actions can be taken to minimize or remove any potential conflict of interest.

- What if I have questions or think someone is violating UWO's ethics rules?

# Questions?

- Contact:
  - UWSA OGC
  - Wisconsin Ethics Commission



# Resources

- Please visit the **University of Wisconsin System** website for **more information about Ethics**
- Check our website – **Administrative Affairs:**
  - **Audit, Risk, Compliance & Ethics Program**
  - **Institutional Policy and Compliance**