Chapter Pers 24

CODE OF ETHICS

Pers 24.01	Policy statement	Pers 24.06	Conflict of interest
Pers 24.02	Outside employment	Pers 24.07	Action to avoid possible conflict
Pers 24.03	Acceptance of gifts or favors	Pers 24.08	Report of violation
Pers 24.04	Use of confidential information	Pers 24.09	Action by appointing authorities
Pers 24.05	Use of state property		

History: Chapter Pers 24 as it existed on March 31, 1974 was repealed and a new chapter Pers 24 was created, Register, March, 1974, effective April 1, 1974.

Pers 24.01 Policy statement. This code of ethics is promulgated under the directive of section 11.05 (11) (a), Wis. Stats., to prevent activities which cause, or tend to cause, a conflict of interest to employes of this state.

(1) The observance of high moral and ethical standards by its employes is essential to the conduct of free government. The employe holds his position as a public trust, and any effort to realize personal gain through official conduct is a violation of that trust.

(a) The ethical standards set forth in this chapter for employes in the performance of their official duties are intended to eliminate conflicts of interest, improve standards of public service and promote and strengthen the faith and confidence of the people of this state in their state civil service.

(b) Nothing in this chapter shall deny the rights of an employe under the constitutions of the United States of America and of this state, the Wisconsin statutes or any other laws of this state, or under any labor agreement negotiated pursuant to Wisconsin statutes.

(2) It is recognized that:

(a) Employes should not be without all personal and economic interest in the decisions and policies of government.

(b) Employes retain their rights as citizens to interests of a personal or economic nature.

(c) Standards of ethical conduct for employes need to distinguish between those minor and inconsequential conflicts which are unavoidable in a free society, and those conflicts which are substantial and material.

(d) Employes may need to engage in employment, other than official duties, or may need to maintain investments, but no employe shall engage in any employment or maintain any investment if the employment or investment conflicts with the specific provisions of this chapter.

(3) Nothing in this chapter shall interfere with the general rule-making powers of departments with respect to the implementation of their programs and operations unless the interpretation of any departmental rule is in contradiction of this chapter, and in that case this chapter shall control.

(4) The director shall cooperate and coordinate with the state ethics board in the administration of this chapter.

History: Cr. Register, March, 1974, No. 219, eff. 4–1–74.

Pers 24.02 Outside employment. (1) This chapter shall not prevent an employe from accepting outside employment or following a pursuit which in no way interferes or conflicts with the full and faithful discharge of his duties to this state. Employes shall notify their appointing authority prior to accepting outside employment to insure no conflict of interest exists.

(2) The state must, by necessity, specifically prohibit those activities that will cause a conflict of interest to the employe or to the state of Wisconsin. Therefore, no employe shall:

(a) Use the state's time, facilities, equipment or supplies, or use a state badge, or uniform, or use the prestige or influence of a state position for his private gain or advantage.

(b) Accept for his private gain or advantage money or anything of value from a business for the performance of an act required as part of his official duties.

(c) Accept employment with a business which is subject to direct or indirect control, review, audit or enforcement by the department or independent agency of which he is an employe unless approved by his appointing authority.

History: Cr. Register, March, 1974, No. 219, eff. 4–1–74.

Pers 24.03 Acceptance of gifts or favors. (1) No person may offer or give to an employe or his immediate family, and no employe or his immediate family may solicit or receive anything of value from any person pursuant to an understanding that such employe's official actions or judgment would be influenced thereby, or appear to influence the manner in which he performs his work, makes his decisions or otherwise performs his duties.

(2) No employe who is assigned or acts as an official representative of the state in the presentation of papers, talks, demonstrations or making appearances shall solicit or accept fees, honoraria or reimbursement of expenses for personal gain. Any fees, honoraria or reimbursement of expenses which may be offered in connection therewith shall be paid to the employe's state employing department.

(3) Fees and honoraria paid for papers, talks, demonstrations or appearances made by an employe on his own time and not directly part of his official duties, shall not be a violation of this rule. Employes shall notify their appointing authority prior to accepting fees and honoraria for papers, talks, demonstrations, or appearances to insure no conflict of interest exists.

History: Cr. Register, March, 1974, No. 219, eff. 4–1–74.

Pers 24.04 Use of confidential information. No employe may use confidential information gained in the course of or by reason of his public position or official activities other than in the discharge of his official duties.

History: Cr. Register, March, 1974, No. 219, eff. 4–1–74.

Pers 24.05 Use of state property. No state employe shall use, or allow the use of, state property, including property leased by this

state, for his private activities, except as provided by law, or for any use other than that which serves the public interest.

History: Cr. Register, March, 1974, No. 219, eff. 4–1–74.

Pers 24.06 Conflict of interest. (1) No employe may use his public position to obtain financial gain for himself or his immediate family, or for any business with which he has a significant fiduciary relationship. Any salary or other compensation received by the employe from this state for his services does not constitute "financial gain" as the term is used in this rule.

(2) No employe may use his public position or influence to gain unlawful benefits, advantages or privileges for himself, for the members of his immediate family, or for any other person.

(3) No employe and no business with which he has a significant fiduciary relationship may enter into any contract with a department which is to be paid in whole or in part out of state funds unless the contract has been awarded through public notice, competitive bidding or any other process as provided for by law.

(4) No employe and no business in which an employe owns or controls, directly or indirectly, at least 10% interest may enter into a lease of real property with this state, except that the director upon request may waive this rule where it is in the best interest of this state.

History: Cr. Register, March, 1974, No. 219, eff. 4–1–74.

Pers 24.07 Action to avoid possible conflict. (1) If, in the discharge of his official duties, an employe is required to take an action that is prohibited by this chapter, and would result in a conflict of interest, such employe shall:

(a) Not take such action.

(b) Prepare a written statement describing the matter requiring action or decision, and the nature of the possible conflict of interest with respect to such action or decision.

(c) Deliver copies of such statement to his appointing authority.

(2) If the employe has no immediate superior, he may seek advice from the director to remove himself from influence over actions and decisions on the matter in which the possible conflict exists.

(3) The appointing authority shall:

(a) Relieve the employe of the assignment and shall assign the matter to another qualified employe who does not have a conflict of interest.

(b) Prepare a memorandum of disqualification and forward such memorandum, together with a copy of the employe's statement received under subsection (1) (c) to the director. In all cases, the appointing authority shall furnish to the employe a copy of such memorandum.

(4) An appointing authority may, on his own motion or at the request of an employe, request an advisory opinion from the director on the application of this chapter to a given set of circumstances, real or probable.

(5) The director may or, if requested to do so under subsection (2) shall, review the employe's statement describing the matter requiring action or decision and the nature of his possible conflict of interest, and similarly review the appointing authority's memoran-

dum of disqualification and advise the appointing authority. The director may, in the manner provided in section 11.06 (2), Wis. Stats., request the ethics board to furnish written advice regarding the propriety of any matter brought to his attention under this chapter. Written advice issued by the director to the appointing authority, or to the employe, shall be confidential, except that it may be included in materials referred to the ethics board or the state personnel board or as may be subpoenaed by any court of record. No person except the employe who initially prepared the statement of his possible conflict of interest may make public the records pertaining thereto.

(6) The director may request an advisory opinion from the attorney general on the application of this chapter to a given set of circumstances, real or hypothetical.

History: Cr. Register, March, 1974, No. 219, eff. 4–1–74.

Pers 24.08 Report of violation. (1) The director shall accept from any person a signed verified complaint in writing which shall state the name of the employe alleged to have committed a violation of this chapter and which shall set forth the particulars thereof.

(2) The director may make upon his own motion a verified complaint in writing.

(3) The director shall forward within 10 days a copy of the complaint to the employe who is accused and to the employe's appointing authority. Following the receipt of a verified complaint, the director may make preliminary investigations with respect to alleged violations of this chapter, or he may forward the verified complaint to the appointing authority for resolution. No preliminary investigation of the activities of an employe may be initiated unless such employe is notified in writing. The notice shall state the exact nature and purpose of the investigation, the individual's specific actions or activities to be investigated and a statement of such person's due process rights. Complaints where there are alleged criminal violations may be exempt from the procedures of this section and shall be subject to the normal investigatory procedures of the agency having jurisdiction.

(a) The director in connection with investigations and hearings conducted by him may issue subpoenas, administer oaths, take testimony and examine such public records as are required. All officers and other persons under civil service shall attend and testify when requested to do so by the director.

(b) If, after preliminary investigation, the director determines that no probable cause exists, he shall immediately send written notice of such determination to the accused, to the party who made the complaint and to the employe's appointing authority.

(c) If, after preliminary investigation, the director believes that probable cause exists for believing the allegations of the complaint, he shall conduct a hearing on the matter which shall be held not more than 30 days after such finding. The director shall give the accused at least 20 days' notice of the hearing date. Such hearings shall be at closed session unless the accused petitions for a hearing open to the public. The rules of criminal evidence shall apply to such hearings. All evidence, including certified copies of records and documents which the director considers, shall be fully offered and made part of the record in the case. Every party shall be afforded adequate opportunity to rebut or offer countervailing evidence.

(4) During all stages of any investigation or proceedings conducted under this chapter, the accused or any person whose activities are under investigation may be represented by counsel of his own choosing. Prior to any proceeding, the accused shall be permitted to challenge the sufficiency of any complaint brought against him. Exculpatory evidence of any nature discovered through any investigation or by any other means shall immediately be forwarded to the accused or his counsel. The accused or his representative shall have an adequate opportunity to examine all documents and records to be used at any proceeding at a reasonable time before the proceeding as well as during the proceeding, to bring witnesses, to establish all pertinent facts and circumstances, and to question or refute any testimony or evidence, including opportunity to confront and cross-examine adverse witnesses.

(5) After the hearing the director shall, in written findings of fact and conclusions based thereon, make a determination whether or not probable cause exists concerning any misconduct by the accused constituting a violation of this chapter.

(a) If the director determines that no probable cause exists, he shall immediately send written notice of such determination to the accused and to the party who made the complaint.

(b) If the director finds probable cause of misconduct by the employe constituting a violation of this chapter, he shall submit such determination and copies of any records, reports and transcripts in his possession, together with any other relevant evidence to the appointing authority for disciplinary action as authorized by section 11.10 (2), Wis. Stats.

(c) If the director finds probable cause exists for court action against an employe based on a violation of this chapter, he shall refer the matter for appropriate prosecution to the district attorney in whose jurisdiction the alleged violation occurred. In making such referral, the director shall supply the district attorney with a written statement of his determination, as well as such documents he decides to release under subsection (5) (b), but the director's statement of determination shall not be admissable as evidence in any court.

(6) The appointing authority may, upon receipt of the findings from the director, discipline the employe.

(a) If the employe is in the classified service, and not in a certified bargaining unit, the discipline shall be pursuant to section 16.28 (1) (a), Wis. Stats., for removal, suspension without pay, discharge or reduction in pay or position, or by written reprimand.

(b) If the employe is in the unclassified service the appointing authority shall censure, suspend or remove him from office or employment.

(c) Disciplinary actions affecting an employe who is in a certified bargaining unit shall be pursuant to the provisions of the labor agreement applicable to the employe.

(d) The appointing authority shall notify the director in writing of any disciplinary action taken under the provisions of this chapter.

(7) The director may issue enforceable orders to appointing authorities on all matters relating to the administration, enforcement and effect of this chapter. Any action brought against the appointing authority for failure to comply with the order of the director shall be brought and served within 60 days after the date on which the

director's order was issued. Such orders may be appealed to the state personnel board.

(8) The director shall maintain a record of his investigations, inquiries and proceedings. Except for the determination provided in subsection (4), all records, transcripts of any investigations or inquiries of the director under this chapter shall be confidential.

(a) If the director finds probable cause for misconduct, he shall authorize the release to the district attorney or the attorney general of any information, records, complaints, documents, reports and transcripts in his possession if such release is material to any matter being investigated or prosecuted by the district attorney or the attorney general. The accused employe cited by the declaration of probable cause may request the director to withhold any information, records, documents, reports and transcripts that were placed before the director on behalf of the accused or as a part of his defense. The director shall grant such a request.

(b) No employe designated to assist the director and no prosecuting officer or employe may divulge any matter deemed confidential by this subsection.

(9) A permanent classified employe, not included in a certified bargaining unit, affected by an action taken under the provisions of this chapter shall have the right of appeal in accordance with chapter 16.05, Wis. Stats.

(10) An employe in the unclassified service, or in a limited term employment status, or who is serving a probationary or equivalent test of fitness period affected by an action taken under the provisions of this chapter shall have the right of appeal under chapter 227, Wis. Stats.

(11) An employe who is in a certified bargaining unit shall have the right of appeal under the provisions of the labor agreement applicable to him.

History: Cr. Register, March, 1974, No. 219, eff. 4–1–74.

Pers 24.09 Action by appointing authorities. (1) With the prior approval of the director, an appointing authority may modify this chapter to permit the development of provisions unique to a particular department, office or position in conformity with chapter 11, Wis. Stats., and this chapter. Appointing authorities may, within 90 days from the effective date of this chapter, submit requested modifications to the director for his approval. Present department policies will remain in effect until approval in received from the director providing such policies are not in conflict with this chapter.

(2) Appointing authorities shall:

(a) Establish procedures for the review and disposition of cases received from the director.

(b) Establish and provide counseling services for employes who seek advice and guidance on questions involving conflict of interests.

(c) Direct the attention of all employes to their rights and obligations under this chapter.

(3) Appointing authorities may privately request, on forms prescribed by the director, from an employe a statement of economic information which is related to the position in which the employe is functioning, to carry out the provisions of these rules.

(4) Appointing authorities may, at the time of the appointment of any employe, require such employe to supply, on forms prescribed by the director, such financial information as may be relevant to the position in which the employe is to serve.

(5) All information furnished by the employe to his appointing authority under this rule shall be treated as confidential.

History: Cr. Register, March, 1974, No. 219, eff. 4–1–74.