

NOTICE OF PROPOSED GUIDANCE DOCUMENT

ETHICS GUIDELINE ETH-1211

Pursuant to s. 227.112, Wis. Stats., the Wisconsin Ethics Commission is hereby seeking comment on Ethics Guideline ETH-1211, a proposed guidance document. This guideline revises and replaces the earlier consolidated guideline, ETH 1211-14.

PUBLIC COMMENTS AND DEADLINE FOR SUBMISSION

Comments may be submitted to the Wisconsin Ethics Commission until April 8, 2019, by:

1. Emailing ethics@wi.gov, or
2. Mailing written comments to:
P.O. Box 7125
Madison, WI 53707-7125

WEBSITE LOCATION OF FINAL GUIDANCE DOCUMENT

The final version of this guidance document will be posted at <https://ethics.wi.gov/Pages/Resources/ResourcesOverview.aspx> to allow for ongoing comment.

AGENCY CONTACT PERSON

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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); 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

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CERTIFICATION OF AGENCY HEAD

I have reviewed this guidance document or proposed guidance document and I certify that it complies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

A handwritten signature in black ink, appearing to read 'D. Carlton'.

Daniel Carlton, Jr.
Commission Administrator
Wisconsin Ethics Commission

Wisconsin Ethics Commissioners

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