



State of Wisconsin

Filed February 27, 1974
9:40 am Gary L. Nelson
DEPARTMENT OF ADMINISTRATION

Pers 1, 24

STATE BUREAU OF PERSONNEL
C. K. WETTENGEL, DIRECTOR
1 WEST WILSON STREET
MADISON, 53702

ORDER OF THE DIRECTOR, STATE BUREAU OF PERSONNEL

ADOPTING, AMENDING OR REPEALING RULES

Pursuant to authority vested in the Director of the State Bureau of Personnel by subsection 16.03(6) and Chapter 227, Wis. Stats., the Director of the State Bureau of Personnel hereby repeals, amends, recreates and adopts rules as follows:

Chapter Pers 24 of the Wisconsin Administrative Code, Rules of the Director, State Bureau of Personnel is repealed, recreated and adopted to read as stated on the material attached hereto.

Section Pers 1.02(6) of the Wisconsin Administrative Code, Rules of the Director, State Bureau of Personnel is amended and adopted to read as stated on the material attached hereto.

Section Pers 1.02(8) of the Wisconsin Administrative Code, Rules of the Director, State Bureau of Personnel is created and adopted to read as stated on the material attached hereto.

The rules contained herein shall take effect on April 1, 1974 in accordance with s.s. 227.026(1), Wis. Stats.

February 27, 1974

C. K. Wettengel
C. K. Wettengel, Director
State Bureau of Personnel

by Terence H. Knoll
Dep. Director



State of Wisconsin \ DEPARTMENT OF ADMINISTRATION

STATE BUREAU OF PERSONNEL
C. K. WETTENGEL, DIRECTOR
1 WEST WILSON STREET
MADISON, 53702

STATE OF WISCONSIN)
DEPARTMENT OF ADMINISTRATION) ss
STATE BUREAU OF PERSONNEL)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, C. K. Wettengel, Director of the State Bureau of Personnel, Department of Administration and custodian of the official records of said Bureau, do hereby certify that the Wisconsin Administrative Code Chapter Pers 24 promulgated to implement the provisions of the Code of Ethics directed by the enactment of Chapter 90, Laws of 1973, were duly approved and adopted by me on February 14, 1974, were reviewed and approved by the State Personnel Board on February 22, 1974 and approved by the Governor of the State of Wisconsin on Tuesday, February 26, 1974.

I further certify that said copy has been compared by me with the original on file with this office and that the same is a true copy thereof and of the whole of such original.

IN TESTIMONY WHEREOF,

I have set my hand at the State Office Building, in the City of Madison, Wisconsin, this 27th day of February, A. D. 1974.

C. K. Wettengel
C. K. Wettengel, Director

by Verne H. Knoll
Dep. Director



State of Wisconsin \ PERSONNEL BOARD

1 WEST WILSON STREET
MADISON, WISCONSIN 53702
(608) 266-8434

WILLIAM AHRENS, CHAIRMAN
MUSKEGO, WISCONSIN

PERCY L. JULIAN, JR., VICE-CHAIRMAN
MADISON, WISCONSIN

CHARLES BRECHER, MEMBER
JANESVILLE, WISCONSIN

JOHN SERPE, MEMBER
KENOSHA, WISCONSIN

SUSAN STEININGER, MEMBER
MILWAUKEE, WISCONSIN

February 22, 1974

Governor Patrick J. Lucey
Executive Department
115 East, Capitol
Madison, WI 53702

Re: Promulgation of Wisconsin Administrative Code,
Rules of the Director of the State Bureau of
Personnel to implement a Code of Ethics Program

Dear Governor Lucey:

Pursuant to s.s. 16.03(6), 16.05(1)(c), and Chapter 227, Wisconsin Statutes, I am submitting to you for your consideration the proposed Chapter Pers 24, Wisconsin Administrative Code, Rules of the Director, which is promulgated to implement the provisions of a Code of Ethics directed under s. 11.05(11)(a) of Chapter 90, Laws of 1973.

In accordance with the law and upon proper notice to interested parties and operating agencies, the Director, State Bureau of Personnel, held a public hearing on February 11, 1974 which provided an opportunity for persons to present their views and comments. I and two members of the State Personnel Board attended that hearing. On February 22, 1974, the proposed rules were reviewed by the State Personnel Board and approved.

If you determine that these rules should be approved, kindly endorse your approval hereon and have your office advise the Department of Administration, State Bureau of Personnel, so that it may promptly make the certifications and transmittals required to place the new rules into effect on April 1, 1974.

Respectfully submitted,

William Ahrens
WILLIAM AHRENS
CHAIRMAN

APPROVED

Patrick J. Lucey

DATE

February 26, 1974

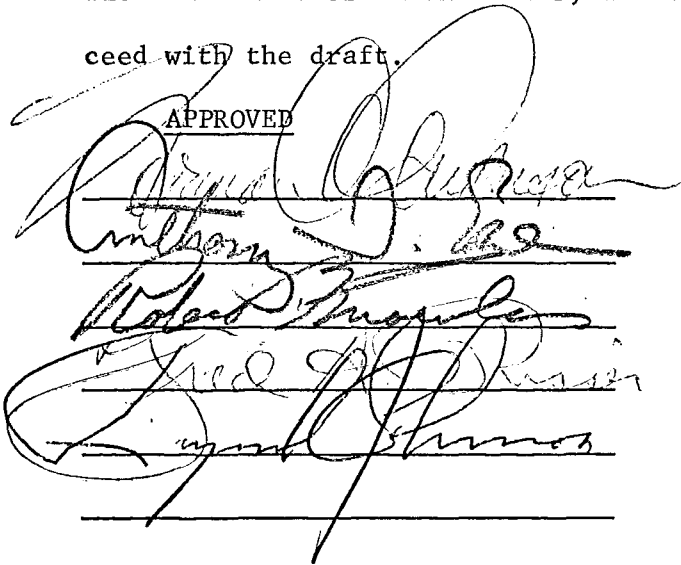
February 7, 1974

The following motion was authorized by the Chairman for consideration of the membership of the Joint Committee on Legislative Organization:

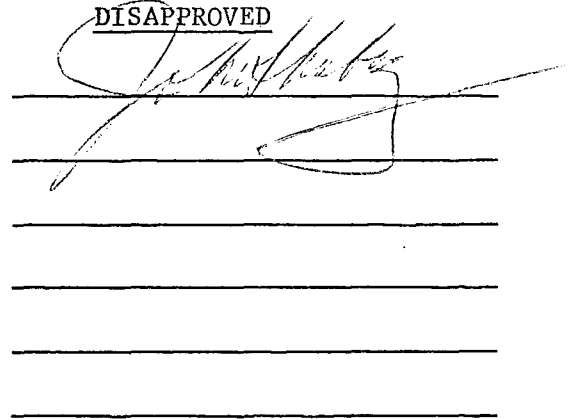
TO WHOM IT MAY CONCERN:

Pursuant to Section 4, Chapter 162, Laws of 1973, the State Director of Personnel has notified the Joint Committee on Legislative Organization of the proposed rules implementing a code of ethics program for state employes in the civil service (as required by Section 1e, Chapter 90, Laws of 1973). The members of the Joint Committee on Legislative Organization do not request a meeting with the Director on the rules, and hereby authorize him to proceed with the draft.

APPROVED



DISAPPROVED





State of Wisconsin \ DEPARTMENT OF ADMINISTRATION

Wayne F. McGown
Deputy Secretary

1 WEST WILSON STREET
MADISON, WISCONSIN 53702
(608) 266-1741

February 11, 1974

TO: Members, Joint Committee on Legislative Organization

FROM: Wayne F. McGown, Deputy Secretary
Department of Administration
W.F.M.

SUBJECT: Public Hearing on Rules Implementing
the Ethics Code for Classified Employees

1. For the past several weeks the Director of Personnel has worked on the preparation of rules implementing the Code of Ethics for classified employees, as required by Section 1e of Chapter 90, Laws of 1973.
2. The rules as developed have been printed by the Revisor of Statutes, prior to a public hearing scheduled for Monday, February 11, 1974, and presumed final implementation on April 1, 1974. Copies have been distributed to all members of the Legislature.
3. Since #2, Chapter 162, Laws of 1973, (dealing with administrative rules) has become effective. Section 4 of that act provides that:

"An agency shall notify members of appropriate standing committees of the legislature when rules and revisions or repeals thereof are in final draft form. The notice shall include a brief summary of the draft. Within 30 days of receiving the notice, a committee which received it may direct the agency to meet with it to review the draft. If a committee requests such meeting, the agency may not proceed with the draft until after the meeting. If no committee requests such meeting within 30 days or if the meeting is requested and not held within 30 days of the date of the request, the agency may then proceed with the draft. This subsection shall not apply to emergency rules."

4. The Joint Committee on Legislative Organization is the "appropriate standing committee" for Code of Ethics matters.
5. Since the Code of Ethics is already in effect for unclassified employes, it is desirable to proceed with implementation for the classified. Therefore, I recommend that the Committee endorse the attached motion, so the provisions of Chapter 162 will be technically met, but with the understanding that the Director will meet with the Joint Committee on Legislative Organization regarding the rules at any time it may desire such a meeting.

attachment

February 7, 1974

The following motion was authorized by the Chairman for consideration of the membership of the Joint Committee on Legislative Organization:

TO WHOM IT MAY CONCERN:

Pursuant to Section 4, Chapter 162, Laws of 1973, the State Director of Personnel has notified the Joint Committee on Legislative Organization of the proposed rules implementing a Code of Ethics program for state classified employes (as required by Section 1e, Chapter 90, Laws of 1973). The members of the Joint Committee on Legislative Organization do not request a meeting with the Director on the rules, and hereby authorize him to proceed with the draft.

APPROVED:

DISAPPROVED:

PROPOSED RULES OF THE DIRECTOR
STATE BUREAU OF PERSONNEL
FOR A CODE OF ETHICS
PROMULGATED UNDER s. 11.05(11)(a) WIS. STATS.

February 14, 1974

1. Section Pers 1.02(6) of the Wisconsin Administrative Code, Rules of the Director, Bureau of Personnel, is amended to read:

Pers 1.02(6) Except as provided in sub. (8)(a), "Employee" means any person holding a position in the classified civil service.

2. Section Pers 1.02(8) of the Wisconsin Administrative Code, Rules of the Director, Bureau of Personnel, is created to read:

(8) In Chapter Pers 24, Code of Ethics:

(a) "Employee" means a person holding any position in the classified service and in the unclassified service except persons identified under s. 20.923, Wis. Stats., officers of the judiciary, and University of Wisconsin System teaching personnel as defined by the State Ethics Board.

(b) "Immediate family" means the employee's spouse and legal dependents as defined by the State Ethics Board.

(c) "Anything of value" means a gift, favor, service or promise of future employment, but does not include the exchange of seasonal, anniversary or customary social gifts among relatives and friends.

(d) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual or any other legal entity which engages either in nonprofit or profit-making activities.

(e) "Significant fiduciary relationship" means owning or controlling, directly or indirectly, at least 10% or \$5,000 of the outstanding stock of or at least 10% or \$5,000 of any business.

(f) "Confidential information" means information obtained under government authority which has not become part of the body of public information.

(g) "State property" includes, but is not limited to, facilities, vehicles, supplies, equipment, stenographic assistance and reproduction services.

(2) It is recognized that:

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

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

(c) Standards of ethical conduct for employees 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) Employees may need to engage in employment, other than official duties, or may need to maintain investments, but no employee 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.

Pers 24.02 Outside employment. (1) This chapter shall not prevent an employee 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. Employees 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 employee or to the State of Wisconsin. Therefore, no employee 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.

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.

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.

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.

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.

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 sub.(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 sub. 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 memorandum 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.

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 sub.(b), but the director's statement of determination shall not be admissible 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 sub.(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.

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 is 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.