

NOTICE OF PROPOSED GUIDANCE DOCUMENT

ETHICS GUIDELINE ETH-1270

Pursuant to s. 227.112, Wis. Stats., the Wisconsin Ethics Commission is hereby seeking comment on ETH-1270, a proposed guidance document. This guideline replaces the earlier guideline of the same number.

PUBLIC COMMENTS AND DEADLINE FOR SUBMISSION

Comments may be submitted to the Wisconsin Ethics Commission until June 3, 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

Official's Seeking Private Employment

SEEKING PRIVATE EMPLOYMENT WITH A LOBBYIST OR A LOBBYING PRINCIPAL.¹

A lobbyist or a lobbying principal, may not furnish, directly or indirectly, anything of pecuniary value to an elected state official, legislative employee, or agency official; and the official or employee may neither solicit nor accept anything of pecuniary value from a lobbyist or a lobbying principal. Employment is something of pecuniary value. [WIS. STAT. § 13.625\(1\)](#), [\(2\)](#), and [\(3\)](#), [80 Op. Att'y Gen. 205 \(1992\)](#); *See e.g.*, [2006 Wis Eth Bd 07](#), [1993 Wis Eth Bd 04](#), [1992 Wis Eth Bd 26](#).

An elected state official, legislative employee, or agency official should not initiate discussions about prospective employment with a lobbyist or lobbying principal while the official holds a state government position. [WIS. STAT. § 13.625\(3\)](#). However, an elected state official, legislative employee, or agency official may respond to published advertisements for employment that are available to the general public. [WIS. STAT. § 13.625\(2\)](#).

An elected state official, legislative employee, or agency official may discuss the possibility of employment and circumstances of future employment but should not receive or accept a promise of future employment or enter into an agreement for future employment. [WIS. STAT. § 13.625\(3\)](#); *See e.g.*, [1998 Wis Eth Bd 11](#).

SEEKING PRIVATE EMPLOYMENT FROM ANY PERSON.

Wisconsin's Code of Ethics² specifically recognizes that a state public official may need to engage in employment other than their official duties and does not prohibit a state public official from accepting outside employment or following any pursuit which in no way interferes with the full and faithful discharge of his or her duties to this state. [WIS. STAT. § 19.45\(1\)](#).

A state public official should not use their public position or office to obtain financial gain or anything of substantial value for their private benefit and a state official should not accept anything of value that could reasonably be expected to influence the official's judgment or could reasonably be considered as a reward for any official action. [WIS. STAT. § 19.45\(2\)](#) and [\(3\)](#). "Anything of value" includes a "promise of future employment." [WIS. STAT. § 19.42\(1\)](#).

A state public official should not use their title, prestige of office, or resources of their office to obtain private employment. This does not preclude a state public official from using their general political

¹ The prohibitions provided for in the lobbying law apply to the following:

- agency officials, whose official responsibilities include participating in any administrative action other than in a solely clerical, secretarial, or ministerial capacity;
- elective state officials; and
- legislative employees, including members and officers of the legislature and employees of a legislative service agency.

WIS. STAT. §§ [13.62\(3\)](#), [\(6\)](#), and [\(8m\)](#).

² The Code of Ethics applies to individuals holding state public office. WIS. STAT. § [19.42\(13\)](#) and [\(14\)](#).

skills and experience when seeking private employment. When accepting an offer for private employment a state public official should be able to clearly demonstrate that the offer did not arise due to holding public office. [WIS. STAT. § 19.45\(2\)](#); *See e.g.*, [2004 Wis Eth Bd 06](#).

A state official should not accept an offer of or promise of employment if it could reasonably be expected to influence their official actions or judgment. [WIS. STAT. § 19.45\(3\)](#).

A state official should not participate in any official matter in which a potential future employer has an interest until the official either ends the discussions about employment or leaves state government. [WIS. STAT. § 19.46\(1\)\(b\)](#).



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, Jr.' with a stylized flourish at the end.

Daniel Carlton, Jr.
Commission Administrator
Wisconsin Ethics Commission

Wisconsin Ethics Commissioners

Mac Davis | David R. Halbrooks | Katie McCallum | Tamara Packard | Pat Strachota | Timothy Van Akkeren

Administrator

Daniel A. Carlton, Jr.