

Ethics Rules for Public Officials

- A Summary of Ethics Rules for Public Officials and Employees
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Public Ethics Codes

- Public officials and employees are subject to a number of codes governing ethics in government.
- Ethics codes generally regulate in three areas: conflicts of interest, influence peddling, and personal gain by public officials.
- Apply the “smell test.”

Legal Sources of Ethics Rules in Madison

- Sec. 3.35, Madison General Ordinances. (Madison Ethics Code)
- Sec. 19.59, Wisconsin Statutes
- Chapter 946, Wisconsin Statutes, Crimes Against Government

Purposes of Laws

- Fair treatment on the merits.
- Public as master of the public servant.
- “Clean” government.
- See policy stated in sec. 3.35(1), MGO

Policy Statement in 3.35

- “Independent, impartial, and responsible to the people.”
- “Decisions and policy be made in the proper channels of government.”
- “Public office not be used for personal gain.”
- “Public have confidence in the integrity of its government.”

Key Definitions

- “Incumbent”: Elected official, employee, or member of any committee or board.
- “Associated”: You or family member are an officer or director or have a 2% interest in the organization.
- “Immediate family”: Spousal equivalent, relative by marriage, adoption or lineally (if provide support).
- “Economic, financial or personal interest”: Anything more than nominal.

An Incumbent May Not:

- Use or attempt to use office for financial gain for self, family or associated organization.
- Accept, and no person may offer, anything of value if it could be considered as a reward or may influence action.
- Take action or use office on a matter in which they, family or associated organization has an interest, or which might produce a benefit for them.
- Sec. 3.35(5)(a)

An Incumbent May Not: (cont.)

- Use city property for advantage not available to the public. 3.35(5)(b)
- Have outside employment that appears to impair judgment. 3.35(5)(c)
- Receive anything of value, except as allowed under sub. (6). 3.35(5)(g).
- Represent private interests before the City (limited for Board members and employees). 3.35(5)(h).

Grassroots Lobbying

- New sec. 3.35(5)(b)3.
- No employee is to use City resources to solicit grassroots support of city residents for a matter before the City, unless approved by a resolution.
- Does not apply to elected officials.

Soliciting Funds

- Ruling by Ethics Board that generally not to solicit funds from those you deal with.
- Under limited circumstances, may solicit funds if approved by the Common Council. Sec. 3.35(5)(a)2., MGO

Post-Employment Limits

- Incumbents generally may not appear before City entities for 12 months following ending of position with the City (limited for Board members and employees).
- May appear on own behalf on a non-commercial matter, or on own behalf on a policy matter. Sec. 3.35(5)(i)

Receipt of Honoraria or Expenses: 3.35(6)

- May retain things of value if totally unrelated to City position.
- May not retain expenses or the like (from the City or others) on behalf of the City unless arises out of work for the City and is of primary benefit to the City.
- No honoraria unless nominal; actual expenses for honoraria may be reimbursed by outside entities. See Formal Opinion 2017-001.

Honoraria/Expenses (cont.)

- If receive anything of value related to City employment, allowed under this section, must report it to the Clerk and to Finance Director if a reimbursement of expenses.
- If receive anything of value not allowed under this section, give it back.

Disclosure & Recusal

- If a conflict of interest, must disclose “nature and extent”, unless recuse.
3.35(5)(f)
- If conflict rises to the level of a disqualification (“reasonably be expected to impair ... independence of judgment”), must recuse self and take no part in consideration or action. Consider leaving the room.
- Err on the side of disclosure.

Disclosure & Recusal (cont.)

- New sec. 33.01(9)(f), MGO, requires an agenda item on disclosures and recusals.
- Financial, family or personal interest requires recusal.
- More tangential relationship requires disclosure.

Statements of Interest

- Annual Statement of Interests to be filed with Clerk by candidates, elected or appointed officials, and some employees. 3.35(9)
- Please file timely !! Removal from office if do not respond.
- City employees may be subject to forfeiture action in Muni Court.

Fair Treatment: 3.35(7)

- Limitations on both applicants and incumbents in the hiring process, especially as it relates to family members.

Political Activity: 3.35(8)

- No employee while on duty may wear campaign material or do any campaigning.
- Employee may not use position or indicia thereof in campaigns.
- No campaign solicitations or retaliations.
- No use of city property or uniforms.

Ethics Board: 3.35(10)-(13)

- Citizens appointed by the Mayor and confirmed by the Council.
- May issue advisory opinions.
- May receive and hear complaints.
- May recommend sanctions, including removal from office or position.
- City may prosecute and seek fines.

State Ethics Law: Sec. 19.59

- Relates to local officials; other provisions govern state employees.
- Similar prohibitions as local ordinance, but not as encompassing. Does not cover most employees or committee members.
- Opinions issued by State Ethics Board.
- Enforced by District Attorney or Attorney General.

State Criminal Code: Ch. 946

- Sec. 946.10: Bribery.
- Sec. 946.12: Misconduct in public office; intentional failure to carry out duties.
- Sec. 946.13: Interest in public contract. May not bid or seek a public contract over \$15,000 if officer *has the authority* to participate in approval.
- Enforced by the District Attorney.

Examples

- May I use a city vehicle to move items for the Boy Scouts? What if I pay the City?
- At a trade show, companies doing business with the City offer me pens, magnetic clips, and letter openers. May I keep them?

Examples, cont.

- I serve on the Board of a local non-profit organization. We want to obtain city funds for a worthwhile project. May I testify in favor of it before City bodies?
- At a trade show, a company that wins low bids from the City wants to buy me dinner. May I accept?

Conclusion

- Read sec. 3.35, MGO.
- Seek advice from OCA or Ethics Board when needed.
- Keep your nose clean.
- Err on the side of safety.
- Apply the “smell test.”

Thank You!

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