

Ethics Rules for Public Officials

- A Summary of Ethics Rules for Public Officials and Employees
- Prepared by: Michael P. May
City Attorney
Madison, Wisconsin
August, 2007

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.
- “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 business.
- 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 company 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).

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. 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.
- No honoraria unless nominal; actual expenses may be reimbursed by outside entities.

Honoraria/Expenses (cont.)

- If receive anything of value related to City employment, allowed under this section, must report it to the Clerk.
- If receive anything of value not allowed under this section, give it back.

Disclosure & Disqualification

- If a conflict of interest, must disclose it.
3.35(5)(f)
- If conflict rises to the level of a disqualification, must recuse self and take no part in consideration or action.
Consider leaving the room.
- Annual Statement of Interests to be filed with Clerk by candidates, elected or appointed officials, and some employees.
3.35(9)

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.

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.
- 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.

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!

- Michael P. May, City Attorney
266-4511

Assistant City Attorneys:

Larry O'Brien

Carolyn Hogg

Roger Allen