Chapter ER–MRS 24

CODE OF ETHICS

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Note: Chapter Pers 24 was renumbered to chapter ER–Pers 24, effective March 1, 1983.Chapter ER–Pers 24 was renumbered chapter ER–MRS 24 under s. 13.93 (2m) (b) 1., Stats., Register, October, 1994, No. 466.

ER–MRS 24.01 Statutory authority and purpose. This code of ethics is promulgated under the directive of s. 19.45 (11) (a), Stats., for the guidance of employees to avoid activities which cause, or tend to cause, conflicts between their personal interests and their public responsibilities.

History: Cr. Register, March, 1974, No. 219, eff. 4–1–74; am. (intro.), renum. (1) to (3) to be ER–Pers 24.02, r. (4), Register, February, 1981, No. 302, eff. 3–1–81.

ER–MRS 24.02 Declaration of policy. (1) The observance of high moral and ethical standards by its employees is essential to the conduct of free government. The employee holds his or her position as a public trust, and any effort to realize personal gain through official conduct is a violation of that trust.

(2) It is the state's policy to recognize that:

(a) Employees have the same personal and economic interest in the decisions and policies of government as do other citizens.

(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) The ethical standards set forth in this chapter for employees in the performance of their official duties are intended to avoid conflicts of interest between their personal interests and their public responsibilities, improve standards of public service, and promote and strengthen the faith and confidence of the people of this state in their state civil service.

(4) In the enforcement of this chapter the director shall protect to the fullest extent possible the state's best interests and the rights of individuals affected.

(5) Nothing in this chapter shall interfere with the general rulemaking powers of agencies with respect to the implementation of their programs and operations unless the interpretation of any agency rule is in contradiction of this chapter, and in that case this chapter shall control.

History: Cr. Register, March, 1974, No. 219, eff. 7–1–74; (1) renum. from Pers 24.01 (1) (intro.) and am., (2) renum. from Pers 24.01 (2) and am., (3) renum. from Pers 24.01 (1) (a) and am., cr. (4), (5) renum. from Pers 24.01 (3) and am., r. (6), Register, February, 1981, No. 302, eff. 3–1–81; correction in (4) made under s. 13.92 (4) (b) 6., Stats., Register September 2015 No. 717.

ER–MRS 24.03 Definitions. The following are definitions for terms used in this chapter:

(1) "Anything of value" means any money or property, favor, service, payment, advance, forbearance, loan, or promise of future employment, but does not include compensation and expenses paid by the state, fees, honorariums and expenses which are permitted under this chapter, political contributions which are reported under ch. 11, Stats., or hospitality extended for a purpose unrelated to state business by a person other than an organization.

(2) "Hospitality" includes, but is not limited to, meals, beverages, and lodging which a host other than an organization offers a guest on premises owned or occupied by the host or his or her immediate family as the host's principal or seasonal residence.

(3) "Associated" when used with reference to an organization, includes any organization in which an employee or a member of the employee's immediate family is a director, officer or trustee or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity.

(4) "Employee" in this chapter means any person who receives remuneration for services rendered to the state under an employer–employe relationship in the classified service or in the unclassified service of the state of Wisconsin except state public officials and employees subject to subch. III of ch. 19, Stats., officials and employees of the judicial branch, and University of Wisconsin System unclassified personnel.

(5) "Immediate family" means:

(a) An employee's spouse; and

(b) An employee's relatives by marriage, consanguinity or adoption, and any other person who directly or indirectly receives more than one–half of their support from the employee, or from whom the employee directly or indirectly receives more than one–half of his or her support.

(6) "Organization" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, self–employed individual, trust or any other legal entity other than an individual or body politic which engages either in nonprofit or profit–making activities.

(7) "State property" includes, but is not limited to, facilities, vehicles, supplies, equipment, telecommunications equipment and services, information–technology equipment and services, stenographic assistance and reproduction services.

History: Renum. from Pers 1.02 (8), Register, September, 1975, No. 237, eff. 10–1–75; (4), (5), (1), (6) and (3) renum. from Pers 24.02 (1) to (5) and am., cr. (2), (7) renum. from Pers 24.02 (7) and am., Register, February, 1981, No. 302, eff. 3–1–81; cr. (intro.), Register, May, 1988, No. 389, eff. 6–1–88; CR 04–138: am. (7) Register June 2005 No. 594, eff. 7–1–05; 2015 Wis. Act 330 s. 20: am. (4) Register April 2016 No. 724, eff. 5–1–16.

ER–MRS 24.035 Hospitality; relation to state business. Hospitality may be accepted by an employee when it could be concluded that the hospitality would be extended if the guest or a member of the guest's immediate family was not a state employee.

History: Cr. Register, February, 1981, No. 302, eff. 3–1–81; am. Register, May, 1988, No. 389, eff. 6–1–88.

ER–MRS 24.04 Standards of conduct. 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 or her duties to this state, subject to the following:

(1) A conflict of interest on the part of a state employee exists whenever:

(a) The employee's action or failure to act propitiously could reasonably be expected to directly or indirectly produce or assist in producing a private benefit for the employee or the employee's immediate family or an organization with which the employee is associated; or

(b) The matter is one in which the employee in his or her private capacity or a member of the employee's immediate family or an organization with which the employee is associated, as defined in s. ER–MRS 24.03 (3), has a substantial interest.

(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:

(a) No employee may use or attempt to use his or her public position or state property, including property leased by this state, or use the prestige or influence of a state position to influence or gain financial or other benefits, advantages or privileges for the private benefit of the employee, the employee's immediate family or an organization with which the employee is associated.

1. Any salary or other compensation received by the employee from this state for his or her services does not constitute "financial gain" as the term is used in this rule.

2. Use of state telephones for essential personal local calls does not constitute "benefit" as the term is used in this rule.

(b) No employee may solicit or accept from any person or organization, directly or indirectly, money or anything of value if it could reasonably be expected to influence such employee's official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of such employee.

1. No employee 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 employee's employing agency.

2. Acceptance of fees and honoraria paid for papers, talks, demonstrations or appearances made by an employee on the employee's own time and not directly part of the employee's official duties, shall not be a violation of this rule. Employees shall notify their appointing authority prior to accepting fees and honoraria for papers, talks, demonstrations, or appearances to insure no conflict of interest exists.

3. When an employee is offered an unsolicited award or reward for an exceptional accomplishment or outstanding performance other than that specified in par. (a) 1., the director shall determine whether or not it may be accepted by the employee after considering whether acceptance of the award or reward would conflict with the purposes of this chapter. Employees shall notify their appointing authority prior to accepting unsolicited awards or rewards, who in turn shall request that the director make a determination regarding acceptance or refusal of the award or reward.

(c) No employee may intentionally use or disclose information gained in the course of or by reason of the employee's official position or activities in any way that could result in the receipt of anything of value for himself or herself, for his or her immediate family, or for any other person or organization, if the information has not been communicated to the public or is not public information. However, no reprisal may be taken against an employee for the lawful disclosure of information which the employee reasonably believes evidences:

1. A violation of any law, rule, or regulation, or

2. Mismanagement, a gross waste of funds, an abuse of authority, enforcement of unreasonable agency work rules, or a substantial and specific danger to public health or safety.

(d) No employee, member of an employee's immediate family, nor any organization with which the employee or a member of the employee's immediate family owns or controls at least 10% of the outstanding equity, voting rights, or outstanding indebtedness may enter into any contract or lease involving payment or payments of more than $3,000 within a 12–month period, in whole or in part derived from state funds unless the employee has first made written disclosure of the nature and extent of such relationship or interest to the appointing authority of the agency with which the employee is associated and obtained the appointing authority's written approval. The appointing authority shall approve an employee's interest in a lease or contract unless he or she determines that the employee's personal interest in the agreement will conflict substantially and materially with the employee's discharge of his or her public responsibilities. This paragraph does not effect the application of s. 946.13, Stats.

(e) An employee may recommend or decide to hire or promote another person for a permanent, seasonal or sessional position when the person affected is a member of the employee's immediate family, if that person has been certified from an open or competitive promotional register. No employee may recommend or make a limited term or project appointment when the person to be hired is a member of the employee's immediate family.

(f) No employee shall give preferential or favored treatment in the supervision or management of another employee who is a member of his or her immediate family.

(3) The director may waive this section whenever its literal application would be adverse to the state's best interest or would work an unreasonable hardship on the employee. If this section is waived, the director shall do so by setting forth in writing as a matter of public record an explanation of his or her finding that the waiver is in the state's interest.

(4) Nothing in this section prohibits an employee from making decisions concerning salaries, salary–related benefits or reimbursement of actual and necessary expenses when the action does not result in preferential or favored treatment of a member of the employee's immediate family.

History: Cr. Register, March, 1974, No. 219, eff. 4–1–74; renum. from 24.03, Register, December, 1976, No. 252, eff. 1–1–77; (intro.) renum. from Pers 24.03 (1) and am., r. and recr. (1), renum. (2) and (3) to be (2) (b) 1. and 2. and am., (2) (c) renum. from Pers 24.05 and am., cr. (2) (d) to (f), (3) and (4), Register, February, 1981, No. 302, eff. 3–1–81; reprinted to correct error in (2) (d), Register, April, 1982, No. 316; am. (intro.), (2) (b) 2. and (e), cr. (2) (b) 3., Register, May, 1988, No. 389, eff. 6–1–88; correction in (1) (b) made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1994, No. 466; correction in (2) (b) 3., (3) made under s. 13.92 (4) (b) 6., Stats., Register September 2015 No. 717.

ER–MRS 24.045 Guidelines for outside employment. Agencies shall establish guidelines regarding outside employment of employees which shall include identifying those activities which are likely to cause a conflict of interest and requiring employees to obtain prior approval before accepting outside employment. Agencies shall submit their proposed guidelines to the director for review and approval before implementation.

History: Cr. Register, February, 1983, No. 326, eff 3–1–83; correction made under s. 13.92 (4) (b) 6., Stats., Register September 2015 No. 717.

ER–MRS 24.05 Action to avoid possible conflict. **(1)** Any state employee who, in the discharge of his or her official duties, is involved or about to be involved in any matter that could result in a conflict of interest on his or her part, shall so notify his or her appointing authority by submitting 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.

(2) In those situations where a possible conflict of interest may occur, the appointing authority shall take action which may include:

(a) Relieving the employee of the assignment and assigning the matter to another qualified employee who does not have a conflict of interest.

(b) Preparing a memorandum of the particulars of the action taken under par. (a) and forwarding such memorandum, together with a copy of the employee's statement received under sub. (1)

to the director. In all cases, the appointing authority shall furnish to the employee a copy of such memorandum.

(3) An appointing authority, an employee, or any individual may request an advisory opinion from the director on the application of this chapter to a given set of circumstances to which the person or agency may become a party. The director may keep confidential the identity of the person requesting an advisory opinion or of persons mentioned in an opinion.

(4) The director may consult with the ethics commission on any matters relating to this chapter.

History: Cr. Register, March, 1974, No. 219, eff. 4–1–74; renum. from 24.07, Register, December, 1976, No. 252, eff. 1–1–77; (1) to (3) renum. from MRS 24.08, and am., cr. (4), (1), (3) and (4), Register, February, 1981, No. 302, eff. 3–1–81; correction in (4) made under s. 13.92 (4) (b) 6., Stats., Register February 2013 No. 686; correction in (2) (b), (3), (4) made under s. 13.92 (4) (b) 6., Stats., Register September 2015 No. 717; **correction in (4) made under s. 13.92 (4) (b) 6., Stats., Register May 2017 No. 737.**

ER–MRS 24.06 Violations. Notice of alleged violations of this chapter shall be directed to the director, who may then refer the allegations to the appropriate authority.

History: Cr. Register, February, 1981, No. 302, eff. 3–1–81; correction made under s. 13.92 (4) (b) 6., Stats., Register September 2015 No. 717.

ER–MRS 24.07 Criminal penalties. For penalties for violations of this chapter, see s. 19.58, Stats.

History: Cr. Register, February, 1981, No. 302, eff. 3–1–81.