



Milwaukee County

Legislation Text

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Amending Chapter 9, Code of Ethics, of the Milwaukee County Code of General Ordinances as it relates to confidential information, privileged communications and information acquired in meetings convened in closed session

SECTION 1. Section 9.02 (14) of the General Ordinances of Milwaukee County is amended as follows:

9.02 Definitions

- (14) "Privileged information" means information obtained under government authority which has not become a part of the body of public information., [including but not limited to information that has been acquired in a meeting convened in closed session under the provisions of Wis. Stats. 19.85, or information contained in a communication labeled as privileged or confidential.](#)

SECTION 2. Section 9.05 of the General Ordinances of Milwaukee County is amended as follows:

9.05. Standards of conduct.

- (1) No personal or economic interest in decisions and policies: The county board hereby reaffirms that a county elected official, appointed official or employee holds his/her position as a public trust, and any effort to realize personal gain through official conduct is a violation of that trust. This chapter shall not prevent any county elected official, appointed official or employee from accepting other employment or from following any pursuit which does not interfere with the full and faithful discharge of his/her duties to the county. The county board further recognizes that in a representative democracy, the representatives are drawn from society and, therefore, cannot and should not be without all personal and economic interest in the decisions and policies of government; that citizens who serve as public officials or public employees retain their rights as citizens to interests of a personal or economic nature; that standards of ethical conduct for public employees and public elected and appointed officials need to distinguish between those minor and inconsequential conflicts which are unavoidable in a free society and those conflicts which are substantial and material; and that county elected officials, appointed officials or employees may need to engage in employment and/or professional or business activities, other than official duties, in order to support their families and to maintain a continuity of professional or business activity or may need to maintain investments. However, the code maintains that such activities or investments must not conflict with the specific provisions of this chapter.
- (2)(a) No financial gain or anything of substantial value: Except as otherwise provided or approved by the county board, no county public official or employee shall use his/her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself/herself or his/her immediate family, or for an organization with which he/she is associated. This paragraph does not prohibit a county elected official from using

the title or prestige of his/her office to obtain campaign contributions that are permitted by and reported as required by ch. 11, Wis. Stats.

- (b) No person may offer anything of value: No person shall offer or give to any public official or employee, directly or indirectly, and no public official or employee shall solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the public official's or employee's vote, official actions or judgment, or could reasonably be considered as a reward for any official action or inaction or omission by of the public official or employee. This section does not prohibit a public official or an employee from engaging in outside employment.
- (c) No substantial interest or benefit: Except as otherwise provided in paragraph (1.), no public official or employee shall:
 - 1. Take any official action substantially affecting a matter in which the public official, employee, a member of his/her immediate family, or an organization with which the public official or employee is associated has a substantial financial interest.
 - 2. Use his/her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the public official, employee, members of the public official's or employee's immediate family either separately or together, or an organization with which the public official or employee is associated.
- (d) No disclosure of privileged information: No county public official or employee shall use or disclose privileged information gained in the course of, or by reason of, his/her position or activities which in any way could result in financial gain for himself/herself or for any other person.
- (e) No use of public position to influence or gain unlawful benefits, advantages or privileges: No county public official or employee shall use or attempt to use his/her public position to influence or gain unlawful benefits, advantages, or privileges for himself/herself or others.
- (f) No offer of gifts or anything of value: No county public official shall offer or give anything of value to a member or employee of a county department or entity, while that member or employee is associated with the county department or entity, and no member or employee of a department shall solicit or accept from any such person anything of value from a county official or employee.
- (g) Limits on contracts with county: No county public official or employee and no business with which he/she or his/her spouse has a significant fiduciary relationship or any organization with which he/she or his/her spouse is associated shall enter into any contract with the county unless that contract has been awarded through a process of public notice and competitive bidding in conformity with applicable federal and state statutes and county ordinances.
- (h) Limits on lease of real estate with county: No county public official or employee and no business in which that county public official or employee has a ten (10) percent or greater interest shall enter into a lease of real property with the county, except that the county board, upon a publicly filed and considered request, shall waive this subsection when it is in the best interests of the county.
- (i) No limits on lawful payments: Paragraph (c) does not prohibit an elected official from taking any action concerning lawful payment of salaries or employee benefits or reimbursement of actual and necessary expenses, or prohibit an elected official from taking official action with respect to any proposal to modify a county ordinance.
- (j) No solicitation of at-will employees: No elected county official shall knowingly solicit a campaign contribution from any "at-will employee" defined as an employee who is not

under union or labor contract with the county, who is hired for an indefinite term or who is under an independent contract with the county or its subparts or who can be discharged or terminated at any time for any nondiscriminatory reason.

- (k) No campaign contributions to county officials with approval authority: No person(s) with a personal financial interest in the approval or denial of a contract or proposal being considered by a county department or with an agency funded and regulated by a county department, shall make a campaign contribution to any county elected official who has approval authority over that contract or proposal during its consideration. Contract or proposal consideration shall begin when a contract or proposal is submitted directly to a county department or to an agency funded or regulated by a county department until the contract or proposal has reached final disposition, including adoption, county executive action, proceedings on veto (if necessary) or departmental approval. This provision does not apply to those items covered by section 9.14 unless an acceptance by an elected official would conflict with this section. The language in subsection 9.05(2)(k) shall be included in all Requests for Proposals and bid documents.
- (l) (l) Limits on honorarium fees or expense reimbursements: No county public official or employee shall accept or solicit any honorariums, fees or expense reimbursements except in accordance with section 9.14.
- (m) Closed Session, Confidential Information and Privileged Communications.

(1) No county public official or employee may disclose privileged information, as defined in Section 9.02, to any individual who was not authorized to receive such information as defined below, except as provided in subsection (4) below.

(2) For purposes of this section, an individual is authorized to receive privileged information if:

- a. that individual is a public official as defined in Section 9.02 of this chapter or a member of the governmental body as defined in Wis. Stats. 19.89; or
- b. that individual was authorized to attend a closed session by the County Board Chairman or presiding Committee Chair; or
- c. that individual was authorized to receive privileged information presented in a closed session after the fact with the authorization of the County Board Chairman or the presiding Committee Chair; or
- d. that individual is specified as an addressee or copied recipient of a privileged communication, or otherwise authorized as a recipient by the author of such communication.

(3) Violation of this section may be addressed by the use of such remedies as are currently available by law, including but not limited to the following actions:

- a. Corporation Counsel is authorized to seek injunctive relief to prevent disclosure or further disclosure of privileged information obtained in closed session;
- b. An investigation request or verified complaint may be filed as provided in Section 9.09(4) of this chapter, and shall be processed and disposed in accordance with the procedures contained herein.

(4) No action authorized under subsection (3) above may be taken against a person, nor shall it be deemed a violation of this section, if:

- a. The disclosure of privileged information is part of a confidential inquiry or complaint

to a district attorney concerning a perceived violation of law, including the disclosure of facts to a district attorney that are necessary to establish the illegality of an action taken by a public official or the potential illegality of an action if that action were to be taken by a public official;

- b. The County Board adopts a resolution authorizing the release of privileged information.

(5) Nothing in this section shall be construed to prohibit disclosures permitted under Subchapters III and IV of Wis. Stats. 230 ("Whistleblower" laws).

(6) The Ethics Board shall include the requirements of closed session confidentiality and notice of the requirements of this section as part of Ethics training conducted under 9.08 (10).

(3) *Limits on contact:*

- (a) *Limits on contact with former county associates:* No former county public official or employee, for twelve (12) months following the date on which he/she ceases to be a county public official or employee, shall, for compensation, on behalf of any person other than a governmental entity, make any formal or informal appearance before or try to settle or arrange a matter by calling, writing, or conferring with, any county public official, officer or employee of the department with which he/she was associated as a county public official or employee.
- (b) *Limits on contact with judicial or quasi-judicial proceedings:* No former county public official or employee for twelve (12) months following the date on which he/she ceases to be a county public official or employee, shall for compensation on behalf of himself/herself or any person other than a governmental entity, make any formal or informal appearance before, or try to settle or arrange a matter by calling, writing, or conferring with, any county public official, officer or employee of a department in connection with any judicial or quasi-judicial proceeding, application, contract, claim, or charge which was under the former public official's or employee's responsibility as a county public official or employee.
- (c) *Limits on contacts with judicial or quasi-judicial proceedings where personally participated:* No former county public official or employee shall, whether for compensation or not, act on behalf of any party other than the county in connection with any judicial or quasi-judicial proceeding, application, contract, claim, or charge in which the former public official or employee participated substantially as a public official or employee.
- (d) *Consideration of exemptions:* The ethics board shall accept and review written requests by former appointed officials for an exemption from the prohibitions of (3). Such exemption requests must be heard and deliberated during a properly convened open session of an ethics board meeting and must be included in a written ethics board opinion stating the reason(s) that the former appointed official should be exempt from the otherwise prohibited conduct.

chapter 9.05.rice.closed session