

ETHICS GUIDELINES FOR DANE COUNTY ELECTED OFFICIALS  
*Dane County Corporation Counsel*

Dane County's ethics code, chapter 9, D.C. Ords., imposes stringent requirements on elected officials' conduct. This ethics code should cause all elected officials to review their existing practices and relationships to determine the possible applicability of the code to their individual situations. This guide is designed to assist you in that effort by alerting you to potentially unlawful or unethical practices.

Before you begin using this guide, you need to be aware of the meaning of words as used in the guide. Whenever *yourself* appears, it includes not only you but also members of your immediate family and organizations in which you or a member of your immediate family is a director, officer or trustee, or owns or controls, directly or indirectly, (individually or all together), at least 10% of the outstanding equity. *Yourself* also includes an organization for which you or a member of your immediate family is an authorized representative or agent. *Yourself personally* does not carry this meaning; it means only you individually.

*Immediate family* includes your spouse and those relatives who receive, directly or indirectly, more than one-half of their support from you or from whom you receive, directly or indirectly, more than one-half of your support. *Substantial financial interest* means any interest required to be placed on a disclosure statement by s. 9.61(2)(b), (c), (d) or (e).

*Anything of value* means any money or property, favor, service, payment, advance, forbearance, loan or promise of future employment. The term does not include (1) compensation and expenses paid by the county; (2) fees and expenses which are permitted and reported under s. 9.32, D.C. Ords.; (3) hospitality extended for a purpose unrelated to county business by a person other than an organization; or (4) anything having a value of less than \$13 per occurrence or \$39 in total during a calendar year. The term also does not include political contributions reported under ch. 11, Stats.

*Organization* means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust or other legal entity other than an individual, municipality or body politic.<sup>1</sup>

The following table is a very simplified guide to the code of ethics. One consequence of the attempt to be as non-technical as possible is that absolute reliance cannot be placed on the guide. It is possible that there are situations which will not be discovered by the suggested questions. The reader is advised that more meaningful guidance can be obtained from the Dane

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<sup>1</sup>*Body politic* is undefined in the statutes. Generally, it is a public entity which acts independently of the body or officer that elected or appointed its members. Some examples are: the state historical society; a municipal electric company; a community development authority; a metropolitan transit authority; the state; a county, city village or town; the Wisconsin Health and Educational Facilities Authority; the Milwaukee Metropolitan Sewerage District; a VTAE district; a school district.

County Ethics board. Only the ethics board is authorized to give definitive interpretations of the code. The ethics board will consider only written questions accompanied by a full explanation of the relevant facts. Its advice is confidential but copies of its decisions are released after being carefully edited to eliminate names and other identifying information.

As you use this guide, bear in mind that the more questions you answer with a Yes, the more concerned you ought to be of the potential for a violation. By itself a Yes answer does not necessarily mean there has been a violation, but it certainly is a flag signaling the need for closer examination of the code and its application to your situation.

Also bear in mind that the penalty for a violation ranges from \$100 to \$1,000. The procedure for enforcement requires a notice and hearing before the ethics board. If the ethics board believes a violation has occurred, it will designate a suitable forfeiture amount which the offending party will have an opportunity to pay within 30 days. If not paid within that time, the board will advise the corporation counsel's office to institute a suit in circuit court to collect the forfeiture. For county board supervisors, there is potential for additional sanctions in the form of a sanction, censure or expulsion from the county board.

Finally, this document only addresses issues of conduct. Requirements for financial disclosures, procedures for advisory opinions, lobbying regulations, and restrictions on messages in tax bills are also found in chapter 9 of the Dane County Code of Ordinances. While these provisions are relatively straightforward, the Office of the Corporation Counsel is available to answer any questions that do come up.<sup>2</sup>

The new ethics code went into effect May 28, 1996.

It is inevitable that in the preparation of this document ambiguities, typos and errors may have occurred. Should the reader discover any, please contact Nancy Haack at 266-4427.

<i>Description of Ethics Code provision</i>	<i>ref.</i>	<i>Leading questions you might consider asking yourself</i>
1. You may not use your public position to obtain financial gain or anything of substantial value for the private benefit of yourself.	s. 9.21, DCO, incorporating s. 19.59	Are any of your relatives or your spouse employed by an entity with whom the county does business? OR Are you an officer, director, trustee or an

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<sup>2</sup>Besides the Dane County Code, elected officials should at all times remain cognizant of s. 946.13 of the Wisconsin Statutes. This section regulates your private interest in a public contract and prohibits you in your private capacity from negotiating or bidding for or entering into a contract in which you have a private financial interest, direct or indirect, if at the same time you are authorized or required by law to participate in your official capacity in the making of that contract or to perform in regard to that contract some official function requiring the exercise of discretion on your part. This law also prohibits you in your official capacity from participating in the making of a contract in which you have a private financial interest, direct or indirect, nor may you perform in regard to the contract some function requiring the exercise of discretion on your part. These prohibitions only apply to contracts that involve receipts and disbursements by the county which total \$15,000 or more in any year. Violation is a felony and you cannot escape prosecution by merely abstaining from voting.

	(1) (a), Stats.	<p>authorized representative of an organization having a relationship with the county?</p> <p>If so, do you ever take official action relating to that entity?</p> <p>If so, is or are your official act or actions discretionary in nature? Do you have latitude in your decision-making?</p> <p><i>This regulation does not apply to the receipt and retention, from a political committee, of transportation, lodging, meals, food or beverages, or reimbursement therefor or payment or reimbursement of costs permitted and reported in accordance with Ch. 11, Wis. Stats.</i></p>
<p>2. You may not solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence your official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on your part. This does not prohibit you from engaging in outside employment.</p>	<p>s. 9.21, DCO, incorporating s. 19.59 (1) (b), Stats.</p>	<p>Do you receive gifts or compensation from an entity with whom the county does business?</p> <p>If so, do you ever take official action relating to that entity?</p> <p>If so, is or are your official act or actions discretionary in nature? Do you have latitude in your decision-making?</p> <p><i>Caution: While this section does not prohibit you from accepting outside employment, care should be exercised that you not use your government position to benefit your private employer.</i></p> <p><i>This regulation does not apply to the receipt and retention, from a political committee, of transportation, lodging, meals, food or beverages, or reimbursement therefor or payment or reimbursement of costs permitted and reported in accordance with Ch. 11, Wis. Stats.</i></p>
<p>3. You may not take any official action substantially affecting a matter in which you, a member of your immediate family, or an</p>	<p>s. 9.21, DCO, incorporating s. 19.59</p>	<p>Do you have an interest in a matter which is subject to county review or regulation? OR Does an organization of which you are an officer, director, trustee or authorized</p>

<p>organization with which you are associated has a substantial financial interest.</p>	<p>(1) (c) 1., Stats.</p>	<p>representative have an issue or matter subject to county review?</p> <p>If so, are you authorized to take official action relating to that kind of matter or issue?</p> <p>If so, is the official action discretionary in nature? Do you have latitude in your decision-making?</p>
<p>4. You may not use your position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for yourself.</p>	<p>s. 9.21, DCO, incorporating s. 19.59 (1) (c) 2., Stats.</p>	<p>Do you have an interest in the outcome of a matter or an issue over which, in your official position, you have some influence or control?</p> <p>If so, is or are your official act or actions discretionary in nature? Do you have latitude in your decision-making?</p> <p><i>Caution: While this section does not prohibit you from accepting outside employment, care should be exercised that you not use your government position to benefit a private employer.</i></p>
<p>5. You may not claim a mileage reimbursement except for miles actually traveled.</p>	<p>s. 9.24, DCO</p>	<p>How many miles did you actually travel to attend meetings on a particular date?</p> <p>Have you claimed mileage reimbursement in excess of that number of miles?</p> <p><i>This regulation is designed to get at the situation where a supervisor attends more than one meeting on a given date and makes only one trip but claims separate mileage for each meeting. Only the miles actually traveled are reimbursable.</i></p> <p><i>This regulation does not mean that only a certain type of transportation mode can be reimbursable. Allowable travel, by any means including walking, is reimbursable at the fixed per mile rate.</i></p> <p><i>By its terms this section applies to county board supervisors only, however, corporation counsel is of the opinion that no</i></p>

		<i>elected or appointed official or employee is eligible for mileage reimbursement in excess of that actually traveled.</i>
6. You may not use or disclose information gained in the course of your official position or activities in any way that could result in the receipt of anything of value for yourself or any other person	s. 9.26, DCO	Do you possess information of this type?  If so, have you ever disclosed it to third parties?  If so, have you received something of value in exchange?  <i>The rule does not apply if the information has been communicated to the public or is a public record.</i>
7. You may not use your public office to influence or gain unlawful benefits, advantages or privileges personally or for others.	s. 9.27, DCO	see no. 4 above
8-A. You may not appear on behalf of private interests for compensation, before any county entity.	s. 9.28 (1), DCO	Are you making an appearance on behalf of another person or entity?  If so, is the appearance for compensation?  If so, is the appearance before a county commission, committee or board?  <i>This rule does not apply:</i> <b>1.</b> <i>In a contested case which involves a party other than the county; or</i> <b>2.</b> <i>At an open hearing before a body other than the county board or a committee of the county board, at which a stenographic or tape record is maintained; or</i> <b>3.</b> <i>In a matter that involves only ministerial action by a county department; or</i> <b>4.</b> <i>To you when representing the interests of third parties as an elected official, in your official capacity.</i> <i>This rule does not prohibit you from dealing directly with county employees on other than ministerial matters on behalf of private interests, for compensation, provided that you contemporaneously disclose to the affected department or agency, in writing, the fact of compensation.</i>

		<p><i>This rule does not limit in any fashion whatsoever your business or professional partner's or associate's right to practice or appear before a county entity, provided, however, you do not participate in any vote or in the decision-making process.</i></p> <p><i>This rule does not prevent you from representing yourself personally before any county entity, including one of which you are a member.</i></p>
<p>8-B. You may not represent private interests in any action or proceeding against the county.</p>	<p>s. 9.28(1), DCO</p>	<p>Are you making an appearance on behalf of a private party?</p> <p>If so, is the action or proceeding against the County of Dane?</p> <p><i>This rule does not apply:</i></p> <ol style="list-style-type: none"> <li><i>1. In a contested case which involves a party other than the county; or</i></li> <li><i>2. At an open hearing before a body other than the county board or a committee of the county board, at which a stenographic or tape record is maintained; or</i></li> <li><i>3. In a matter that involves only ministerial action by a county department; or</i></li> <li><i>4. To you when representing the interests of third parties as an elected official, in your official capacity.</i></li> </ol> <p><i>This rule does not prohibit you from dealing directly with county employees on other than ministerial matters on behalf of private interests, for compensation, provided that you contemporaneously disclose to the affected department or agency, in writing, the fact of compensation.</i></p> <p><i>This rule does not limit in any fashion whatsoever your business or professional partner's or associate's right to practice or appear before a county entity, provided, however, you do not participate in any vote or in the decision-making process.</i></p>

		<p><i>This rule does not prevent you from representing yourself personally before any county entity, including one of which you are a member.</i></p>
<p>9. You may not accept employment as an expert witness in any proceeding adverse to the county's interests.</p>	<p>s. 9.28(2), DCO</p>	<p>Are you retained as an expert witness?</p> <p>If so, is the action or proceeding adverse to the interests of the County of Dane?</p> <p><i>This rule does not prohibit you from dealing directly with county employees on other than ministerial matters on behalf of private interests, for compensation, provided that you contemporaneously disclose to the affected department or agency, in writing, the fact of compensation.</i></p> <p><i>This rule does not limit in any fashion whatsoever your business or professional partner's or associate's right to practice or appear before a county entity, provided, however, you do not participate in any vote or in the decision-making process.</i></p> <p><i>This rule does not prevent you from representing yourself personally before any county entity, including one of which you are a member.</i></p>
<p>10-A. You may not receive and retain anything of value unless the activity or occasion on or for which it is given did not arise from your use of the county's resources not generally available to all residents of the county.</p>	<p>s. 9.32 (1), DCO</p>	<p>Did you receive something of value (over \$13)?</p> <p>If so, did the activity giving rise to its receipt originate in or from county resources?</p> <p>If so, are those resources unavailable to the public?</p> <p><i>This rule does not prohibit you from accepting and retaining the cost of reimbursement of actual and reasonable expenses related to speaking engagements.</i></p> <p><i>This regulation would not apply to the situation where you can show by clear and convincing evidence that the receipt of the</i></p>

		<p><i>thing of value did not arise from your holding or having held your position <u>and</u> was paid for a purpose unrelated to legislation, policies or issues being considered by or affecting the county.</i></p> <p><i>This regulation does not apply to the receipt and retention, from a political committee, of transportation, lodging, meals, food or beverages, or reimbursement therefor or payment or reimbursement of costs permitted and reported in accordance with ch. 11, Wis. Stats.</i></p>
<p>10-B. You may not accept and retain anything of value which consists of transportation, lodging, meals, food or beverage, or reimbursement therefor.</p>	<p>s. 9.32(2), DCO</p>	<p>self-explanatory</p> <p><i>This regulation does not prohibit you from accepting these items if you can show by clear and convincing evidence that the same was incurred or received primarily for the benefit of the county and not primarily for your private benefit or that of any other person. The acceptance of anything of value consisting of the enumerated items or services is presumed to be primarily for the benefit of the county (a) when received in connection with a speech or other presentation being given by the county official; (b) when received when attending a government-related function where the same or similar items or services are provided free of direct charge to all attendees; or (c) when received in a situation where the county would have to assume the costs of the item or service if not otherwise provided.</i></p> <p><i>This regulation does not apply to the receipt and retention, from a political committee, of transportation, lodging, meals, food or beverages, or reimbursement therefor or payment or reimbursement of costs permitted and reported in accordance with Ch. 11, Wis. Stats.</i></p>
<p>11-A. You must deposit with the county treasurer a sum of money equivalent to an item's value if you are not</p>	<p>s. 9.36(1), DCO</p>	<p>Have you received anything of value from an entity having a relationship with Dane County?</p>

<p>otherwise prohibited from accepting the item and you have not returned it.</p>		<p>If so, have you retained it?</p> <p><i>This regulation does not apply to the receipt and retention of anything of value in circumstances where there is no relationship between the donor and the County of Dane.</i></p>
<p>11-B. Whenever you receive anything of value which it is permissible to retain under the ethics code, you must, within ten (10) days of receipt, file a report with the county clerk on forms provided by the clerk.</p>	<p>s. 9.36(2), DCO</p>	<p>Anything of value as used here includes any fee or expense waived or reduced by a person or entity other than the county in connection with activities described in this section.</p> <p><i>By way of example, you would have to file a report with the clerk if your fees for attendance at a conference were paid by someone other than you or the county.</i></p> <p><i>This regulation does not apply to the receipt and retention of anything of value in circumstances where there is no relationship between the donor and the County of Dane.</i></p>
<p>12. You must disclose a substantial financial interest in a matter pending before the body of which you are a member.</p>	<p>s. 9.38, DCO</p>	<p>Do you have a substantial financial interest in a pending matter?</p> <p>If so, have you failed to make the required disclosures?</p> <p><i>The disclosure shall be made on the record before the body, or if there is no formal record, in writing to the body.</i></p>

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