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DANE COUNTY ETHICS GUIDELINES FOR COUNTY EMPLOYEES

Dane's new ethics code imposes stringent requirements on employee conduct. This new ethics code should cause all employees 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 practices.

Before you begin using this guide, you need to be aware of the meaning of certain words as these are 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.

Organization means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust or other legal entity other than an individual, municipality or other government entity.

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 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. More meaningful guidance can be obtained from the ethics board. The ethics board will consider only written questions accompanied by a full explication of the relevant facts. Only the ethics board is authorized to give definitive interpretations of the ethics code. Its advice is confidential but copies of its decisions are released after being carefully redacted 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 the reader's situation.

Also bear in mind that in addition to disciplinary action, there is a penalty for a violation which 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 this office to institute a suit in circuit court to collect the forfeiture.¹

¹Besides the Dane County Code, employees 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

It is inevitable that in the preparation of this document ambiguities, typos and even outright errors may have found their way in. Should the reader discover any of these, please contact Nancy Haack at 266-4427. She will take delight in correcting the writer's work.

that involve receipts and disbursements by the county which total \$15,000 or more in any year. Violation is a felony.

Description of Ethics Code provision	ref.	Leading questions you might consider asking yourself
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 (1) (a), Stats.	<p>Are any of your relatives or your spouse employed by an entity with whom the county does business? OR Are you affiliated with an organization which does business with Dane?</p> <p>If either, in the course of your county duties, do you ever take official action relating to that entity?</p> <p>If so, do your actions result in a substantial benefit to yourself?</p> <p>If so, is or are your official act or actions discretionary in nature? Do you have latitude in your decision-making?</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.	s. 9.21, DCO, incorporating s. 19.59 (1) (b), Stats.	<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 employment to benefit your private employer.</i></p>
3. You may not take any official action substantially affecting a matter in which you, a member of your immediate family, or an organization with which you are associated has a substantial financial interest.	s. 9.21, DCO, incorporating s. 19.59 (1) (c) 1., Stats.	<p>Do you have an interest in a matter which is subject to county review or regulation?</p> <p>If so, do you ever take official action relating to that type of matter?</p> <p>If so, is or are your official act or actions discretionary in nature? Do you have latitude in your decision-making?</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.	s. 9.21, DCO, incorporating s. 19.59 (1) (c) 2., Stats.	<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 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.</p>	<p>s. 9.26, DCO</p>	<p>Do you possess information of this type?</p> <p>If so, is the information disclosed by you to third parties?</p> <p>If so, do you receive something of value in exchange?</p> <p><i>The rule does not apply if the information has been communicated to the public or is a public record.</i></p>
<p>6. You may not use your public employment to influence or gain unlawful benefits, advantages or privileges personally or for others.</p>	<p>s. 9.27, DCO</p>	<p>see no. 4 above</p>
<p>7-A. You may not appear on behalf of private interests, with or without pay, before any entity for or with which you work.</p>	<p>s. 9.29 (3), DCO</p>	<p>Do you make appearances before committees, boards or commissions?</p> <p>If so, do you ever make appearances other than for yourself personally or for the department for which you work?</p> <p><i>This regulation does not apply to your appearances before a county department, committee or board when your appearance is as a representative of a union or for a fellow employee represented by the same union.</i></p> <p><i>This regulation does not prohibit you from representing yourself personally before any county entity, including the one with which you are employed. s. 9.29 (7), DCO</i></p>
<p>7-B. You may not appear on behalf of private interests, with or without pay, in any action or proceeding against the county.</p>	<p>s. 9.29 (3), DCO</p>	<p>self-explanatory</p> <p><i>This regulation does not apply to your appearances before any county entity as a representative of a union or for a fellow employee represented by the union.</i></p> <p><i>This regulation does not prohibit you from representing yourself personally before any county entity, including the one of which you are employed. s. 9.29 (7), DCO.</i></p> <p><i>This regulation would not apply to the situation where you are subpoenaed to testify as a lay witness; however, it may apply to an appearance as an expert witness.</i></p>
<p>8. You may not accept employment as an expert witness in any proceeding adverse to the county's interests.</p>	<p>s. 9.29 (4), DCO</p>	<p>self-explanatory</p> <p><i>This regulation does not prohibit you from representing yourself personally before any county entity, including the one with which you are employed. s. 9.29 (7), DCO</i></p>

<p>9-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)</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 your use of 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 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>9-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)</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. It is prima facie evidence that the acceptance of anything of value consisting of the enumerated items or services is primarily for the benefit of the county (a) when received in connection with a speech or other presentation being given by the county employee; (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>10. You must deposit with the county treasurer an equivalent sum of money if you are not otherwise prohibited from accepting the thing of value <u>and</u> you have not returned it.</p>	<p>s. 9.36 (1), DCO</p>	<p>Have you received anything of value from an entity having a relationship with Dane?</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. 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><i>Anything of value</i> 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>

Remember that *yourself* includes you, your immediate family and certain organizations with which you have an affiliation.

Yourself personally, as used in this table, means only you and does not include your family or an organization with which you or a member of your family is affiliated or which you or anyone in your family represents. This term should not be confused with *yourself* as defined in the cover page; they are not the same.