
2003 Wis Eth Bd 01
IMPROPER USE OF OFFICE, MEALS, LODGING, TRAVEL AND
ENTERTAINMENT

The Ethics Board advises:

- 1) Consistent with laws it administers, a legislator may participate in a charitable fundraising event that includes golf and a lunch of which the primary beneficiaries are charities with which the legislator is not associated; and
- 2) A legislator should not accept the offer to bring guests or to attend the awards dinner without paying the same amount as members of the public for those activities.

Facts

- ¶1 This opinion is based upon these understandings:
- a. You are a member of the Legislature.
 - b. You have been invited to participate in a charity golf event sponsored by an organization.
 - c. The organization will receive 40% of the proceeds from admission charges. In addition, you may select a charity to be the beneficiary of any of your winnings.
 - d. The organization does not employ a lobbyist.
 - e. You have been invited to participate with other elected officials and media representatives from the area in which the event will be held.
 - f. The organization's expressed intent in inviting local officials and media is to increase paid attendance by members of the public and raise more funds for charity.
 - g. You have also received an invitation for a lunch that is available for all participants and for an awards dinner. You have also received two passes for guests.

Questions

¶2 The Ethics Board understands your question to be:

Consistent with laws administered by the Ethics Board, may you participate in the charitable golf event?

Discussion

¶3 Yes, you may participate in the event to try to win money for a charity you designate as long as you are not an officer or director of the charity you select or of the organization sponsoring the event. Apart from this, we recommend that you purchase any additional passes and pay the costs of the awards dinner which will be held a couple of days after the golf event. We are confident the charity will appreciate your covering those costs and it will be clear to all that you have not profited from your public position but are undertaking this as a charitable activity.

¶4 Section 19.45(2), *Wisconsin Statutes*, reduced to its elements, provides:

No state public official
May use his or her public position or office
To obtain financial gain or anything of substantial value
For private benefit
Or for the benefit of an organization with which you are
associated.¹

¶5 You are a state public official by virtue of being a member of the Legislature.² Accepting an invitation to participate in an event that is extended to you because of your public position is a use of office.³

¹ Section 19.45(2), *Wisconsin Statutes*, provides:

19.45(2) No state public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. This subsection does not prohibit a state public official from using the title or prestige of his or her office to obtain contributions permitted and reported as required by ch. 11.

² You are a state public official by virtue of §19.42(13)(c), *Wisconsin Statutes*. Section 19.42(13)(c) provides:

19.42(13) "State public office" means:

¶6 The remaining question is whether your acceptance of the invitation would be for private benefit. The test the Ethics Board has applied in addressing this issue is not whether there is *any* personal benefit. Being able to play golf free of charge is a private benefit of more than token or inconsequential value.⁴ Rather, the issue is whether the benefit from participating in the charitable event is *primarily* a personal benefit.⁵

¶7 In the present case, it appears that the primary beneficiary of elected officials' participation in the golf event is the charities that will receive monies raised by the event, in part through the participation of those public officials. As long as you are not an officer or director of any charity you select to receive any of your winnings or of the sponsoring organization, the Ethics Code does not prohibit your use of office to benefit them.⁶ Your participation can include attending the lunch that is part of the event. On the other hand, your bringing guests and attending the awards dinner at no cost appear primarily to be a personal benefit to you and do not advance the charitable fundraising aspect of the event.

Advice

¶8 The Ethics Board advises that:

- 1) Consistent with laws it administers, you may participate in a charitable fundraising event that includes golf and a lunch of which the primary beneficiaries are charities with which you are not associated; and
- 2) You should not accept the offer to bring guests or to attend the awards dinner without paying the same amount as members of the public for those activities.

WR1138

(c) All positions identified under s. 20.923(2), (4), (4g), (4m), (6)(f) to (h) and (8) to (10), except clerical positions.

The position of a member of the Legislature is identified in §20.923(2), *Wisconsin Statutes*.

³ See, e.g., 1998 Wis Eth Bd 9, ¶3; 1997 Wis Eth Bd 13, ¶4; 1997 Wis Eth Bd 4, ¶4; 1997 Wis Eth Bd 2, ¶5; 1996 Wis Eth Bd 15, ¶5.

⁴ 2001 Wis Eth Bd02, ¶12; 1998 Wis Eth Bd 10, n.7; 1997 Wis Eth Bd 13, ¶4.

⁵ See 1996 Wis Eth Bd 15, ¶5; 1996 Wis Eth Bd 02, ¶6.

⁶ 1998 Wis Eth Bd 8 (a company may use a legislator's name and likeness in advertising a tour in Madison that would include meeting with the legislator -- the primary beneficiary is the company and the public).