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**2006 Wis Eth Bd 01**  
**LOCAL CODE**

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Whether a member of a school board may serve as an unpaid coach in the school district is primarily a question of compatibility of offices. Generally, the Ethics Code prohibits a member of a school board to use his or her position to obtain a position as an employee in, or a contract with, the school district.

¶1 You are legal counsel to a school district. You ask whether a member of a school board may also serve as an unpaid coach in the school district and, if so, what restrictions the Ethics Code imposes on the board member's participation in decisions about the coaching position or about individuals who evaluate the individual holding that position.

¶2 Key to the disposition of your question is the doctrine of incompatibility of offices. This court-created doctrine provides that an individual may not hold incompatible public positions. A fine discussion of the doctrine appears at 58 OAG 247 (1969). Subsequent to that publication, the Appeals Court, in *Otradovec v. City of Green Bay*, 118 Wis.2d 293 (Ct. App. 1984), extended the doctrine beyond its application to offices to positions of employment. This meant that a city council member could not also be an employee of the city. The rationale behind the doctrine is, at least in part, to avoid an individual simultaneously being his or her own superior and subordinate. You may want to seek an Attorney General's opinion on the application of the doctrine to an unpaid position. As a practical matter, it appears to be untenable to have an elected official supervising a government employee who then supervises the official acting in a subordinate capacity or to have an official voting on funding for the activity with which the official is involved.

¶3 Under the Ethics Code, §19.59, *Wisconsin Statutes*, provides that a school board member may not use his or her office or position to obtain anything of substantial value for private benefit. Generally, this means that a member of a school board may not use his or her position to obtain a position as an employee in, or a contract with, the school district.<sup>1</sup> However, if the position is unpaid, with no benefits, the position would not appear in itself to be something of substantial value.<sup>2</sup> Hence, the Ethics Code is unlikely to restrict the school board member's participation in decisions affecting the position or the individuals who evaluate the position.

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<sup>1</sup> The Ethics Board has interpreted "substantial value" to mean anything that is of more than token or inconsequential value.

<sup>2</sup> If the coaching position were a paid position, §946.13 (1) (a), *Wisconsin Statutes*, would likely prohibit a school board member to hold the position, unless the position paid no more than \$15,000 in any year. This would be true regardless whether the official participates in the hiring decision.