
2004 Wis Eth Bd 04
IMPROPER USE OF OFFICE; LOBBYING LAW

The Ethics Board advises that:

Neither the lobbying law nor Ethics Code will be an obstacle to state officials taking advantage of the terms of the State of Wisconsin's agreement with Microsoft that provides state employees with discounts on the purchase of computer products for home and personal use.

Question

¶1 You have asked whether laws administered by the Ethics Board restrict a state official's taking advantage of a discount to purchase Microsoft Corporation's products for personal use.

Facts

¶2 You have written on behalf of a state agency seeking the Ethics Board's advice.

Advice

¶3 They do not.

¶4 The Department of Administration has entered into a licensing agreement and master contract with Microsoft Corporation. Under the contract, if a state agency opts to become a part of the master contract, Microsoft will provide the agency's employees with significant discounts on the purchase of Microsoft consumer products for home and personal use. The agency on whose behalf you write has opted to apply the Microsoft master contract to the agency.

¶5 The Ethics Code generally prohibits a state public official to use his or her position to obtain anything of substantial value for private benefit of the official or the official's immediate family. The Ethics Code does not prohibit an official to accept monetary compensation or other benefits provided or arranged by the State of Wisconsin. The Legislature has defined "anything of value" to exclude compensation and expenses paid by the state." §19.42 (2), *Wisconsin Statutes*.^{*} In the circumstances about which you have asked, the state of Wisconsin has negotiated a contract that provides a benefit to its

^{*} Section 19.42 (2), *Wisconsin Statutes*, provides:

(1) "Anything of value" means any money or property, favor, service, payment, advance, forbearance, loan, or promise of future employment, but does not include compensation and expenses paid by the state, fees and expenses which are permitted and reported under s. 19.56, political contributions which are reported under ch. 11, or hospitality extended for a purpose unrelated to state business by a person other than an organization.

employees. That is within the State's prerogative. It is not improper for an employee to take advantage of a benefit that the employer provides.

¶6 Apart from the Ethics Code, Wisconsin's lobbying law generally forbids an agency official to accept anything of pecuniary value from a business that employs a lobbyist. Microsoft Corporation authorized three lobbyists to try to affect legislation and administrative rules during the 2003 legislative session.

¶7 It is fair to say that Microsoft is not offering anything to our state's employees; it is offering the state of Wisconsin a benefit that the state, as an employer, may extend to its employees or not. If the state of Wisconsin accepts this provision, then employees may accept the benefit that their employer confers. In formulating this reply, the Ethics Board's members note their understanding that Microsoft as part of its volume licensing contracts with both private and government employers, ordinarily and routinely offers employee discounts of the type about which you have asked and the Board believes these discounts to be widely available.

¶8 Neither the lobbying law nor Ethics Code will be an obstacle to state officials taking advantage of the terms of the State of Wisconsin's agreement with Microsoft.

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