
2008 GAB 04
IMPROPER USE OF OFFICE

The Government Accountability Board advises that a state agency may not knowingly permit the use of confidential information by University of Wisconsin student interns for the benefit of the students' program, when the programs assets are held by a private entity for the program's benefit.

Facts

¶1 You write on behalf of a state agency. The agency is proposing to establish an internship program for students in a program at the University of Wisconsin. As part of the internship program, the agency's staff would discuss non-public information with the interns who might use that information for the program's monetary gain. Indeed, you have stated that it would be difficult, if not impossible, for an intern to isolate information and strategies developed and learned at the agency from those the intern develops as part of the internship program. The program's assets are held by a private foundation for the sole benefit of the program.

Question

¶2 You ask whether agency officials would violate §19.45 (4), *Wisconsin Statutes*, by participating in such an internship program.

Discussion

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

No state public official
may intentionally use or disclose
information gained in the course of official activities
in any way that could result in the receipt of anything of value
for any person
if the information has not been communicated to the public or
is not public information.¹

¶4 The agency staff about whom you have asked are state public officials subject to the Ethics Code.² Under the proposed internship program, these

¹ Section 19.45 (4), *Wisconsin Statutes*, provides:

19.45 Standards of conduct; state public officials. (4) No state public official may intentionally use or disclose information gained in the course of or by reason of his or her official position or activities in any way that could result in the receipt of anything of value for himself or herself, for his or her immediate family, or for any other person, if the information has not been communicated to the public or is not public information.

² Section 19.42 (13) (k), *Wisconsin Statutes*, provides:

19.42 (13) "State public office" means:

officials would disclose to student interns information that is not public and has not been communicated to the public. The confidential information would be used for the benefit of the program and could result in the program's monetary enrichment. The question, then, is whether the statute does not apply because the confidential information will be used to benefit a program of the University of Wisconsin.

¶5 In our view, the statute does not permit the agency's officials to make confidential information available to student interns for use by the students in their program. Although University students may be involved and the University may be the ultimate beneficiary of the program, the program's assets, as we understand it, are held by a private entity, which is not a state agency. The statute does not make any exceptions for a state official to share confidential information outside the official's agency.

Advice

¶6 The Government Accountability Board advises that the agency may not knowingly permit the use of confidential information by student interns for the benefit of the students' program.

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