

1993 Wis Eth Bd 11
GIFTS; IMPROPER USE OF OFFICE

A state public official may not use his or her office or position to obtain anything of substantial value for private benefit. The connection between an official's receipt of a prize at a conference and holding public office is too remote to conclude that public office was used to obtain the prize because (1) the prize was awarded by chance, (2) the prize was available to anyone attending the conference, and (3) the great majority of conference attendees were not Wisconsin public officials. An official must comply with any state policy to make available to the state items received at events attended on the state's behalf. OEB 93-11 (December 15, 1993)

Facts

- [1] This opinion is based upon these understandings:
- a. You are an administrator of a state agency and a state public official subject to the provisions of the Ethics Code.
 - b. You recently attended the annual meeting of an organization of administrators of like state agencies.
 - c. You attended the conference on behalf of your state agency and, we assume, not at your expense.
 - d. The great majority of individuals attending the conference were not Wisconsin public officials.
 - e. While at the conference you won a set of golf clubs in a random drawing in which all conference attendees were entered.
 - f. The prize was sponsored by one of the vendor sponsors of the conference.

Question

- [2] The Ethics Board understands your question to be:

Do laws administered by the Ethics Board restrict your ability to keep the set of golf clubs?

Discussion

[3] Your question is governed by §19.45 (2), *Wisconsin Statutes*.¹ That section provides:

19.45 Standards of conduct; state public officials. (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.

[3] Reduced to its elements, this means that

No state public official
May use his or her office or position
To obtain anything of substantial value
For private benefit.

[4] You are a state public official. The golf clubs you have been awarded are of substantial value and would be for your private benefit if kept. Thus, the question is whether you have used your state position to obtain the prize.

[5] Under §19.45(2), *Wisconsin Statutes*, you may not accept items of substantial value for personal benefit that are offered or made available to you because you are a public official.² You attended the conference on behalf of your state agency and as a result of your holding your public position. You did not personally incur the costs of attendance; these costs were paid either by or on behalf of the state. However, the drawing for the prize you won was available to all conference attendees, most of whom were from other states and not Wisconsin public officials. Because the prize was available to anyone attending the conference, and the great majority of conference attendees were not Wisconsin public officials, we believe the connection between your receipt of the golf clubs and your holding public office is too remote to conclude that you used your office to obtain the prize.³ Therefore, you may keep the golf clubs without restriction from §19.45(2). Of course, because you attended the conference on your agency's behalf, if the agency's policy or practice is to require officials who receive items at events paid for by the agency to make those items available to it, you should comply with that requirement.

¹ Neither the conference sponsor nor the sponsor of the prize is a lobbying principal in Wisconsin; therefore, the lobbying law's restrictions are not a consideration.

² See, e.g., 9 Op. Eth. Bd. 17 (1986); 5 Op. Eth. Bd. 71 (1981).

³ See 9 Op. Eth. Bd. 43 (1987) (sponsors of an event should not provide door prizes for which only state officials are eligible); 7 Op. Eth. Bd. 33 (1984) (an organization may provide a video recording service to state public officials as long as state officials represent only a small number of the people to whom the organization extends its offer).

Advice

[6] The Ethics Board advises that, under the Ethics Code, a state public official may not use his or her office or position to obtain anything of substantial value for private benefit. Because (1) the prize was awarded by chance, (2) the prize was available to anyone attending the conference, and (3) the great majority of conference attendees were not Wisconsin public officials, the connection between the receipt of the prize and holding public office is too remote to conclude that public office was used to obtain the prize. An official must comply with any state policy to make available to the state items received at events attended on the state's behalf.