



SPS 390 Pool Code Advisory Committee
Room 121B, 1400 East Washington Avenue, Madison
Contact: Greg DiMiceli (608) 266-2112
March 7, 2017

9:00 A.M.

The following agenda describes the issues that the committee plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the committee.

AGENDA

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1)

B. Approval of Minutes (2-3)

1. January 31, 2017

C. Department Updates

1. Future Committee Meeting Dates – Review

D. Legislative and Administrative Rule Matters – Discussion and Consideration (4-13)

1. Continue Review of Pool Code Recommendations
 - Department Pool Code Recommendations
 - Committee Pool Code Recommendations
2. Discuss and Consider Proposed Changes to SPS 390 and 390 Appendix – Public Swimming Pools and Water Attractions including:
 - Subchapter I – Administration
 - Subchapter II – The Design of Public Swimming Pool and Water Attractions
 - Subchapter III – Wading Pools, Whirlpools, Interactive Play Attractions and Cold Soak Pools – Special Requirements
 - Subchapter IV – Play Features and Slides
 - Subchapter V – Incorporation of Standards

E. Committee Training Review – Public Records and Ethics of Lobbying – Discussion and Consideration (14-19)

F. Public Comments

G. Adjournment

**SPS 390 POOLS CODE ADVISORY COMMITTEE
MEETING MINUTES
January 31, 2017**

PRESENT: Thomas Carrico (*arrived at 9:24 a.m.*), Jason Hammond, Robert Jelinek, Daryl Matzke, Douglas Voegeli

STAFF: Greg DiMiceli, Administrative Rules Coordinator; Tom Braun, Section Chief; Glen Jones, Plumbing Plan Reviewer; Nifty Lynn Dio, Bureau Assistant; and other Department staff

Jason Hammond, Chair, called the meeting to order at 9:03 a.m. A quorum of four (4) members was present.

ADOPTION OF AGENDA

MOTION: Robert Jelinek moved, seconded by Daryl Matzke, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Robert Jelinek moved, seconded by Douglas Voegeli, to approve the minutes of November 1, 2016 as published. Motion carried unanimously.

(*Thomas Carrico arrived at 9:24 a.m.*)

**LEGISLATIVE AND ADMINISTRATIVE RULE MATTERS – DISCUSSION AND
CONSIDERATION**

Continue Review of Pool Code Recommendations

MOTION: Daryl Matzke moved, seconded by Robert Jelinek, to change the maximum width in SPS 390.11(5)2 from 18 inches to 24 inches and to require the design to be slip resistant and doesn't allow for standing water. Motion carried unanimously.

MOTION: Daryl Matzke moved, seconded by Robert Jelinek, to change the minimum top landing in SPS 390.11 (5)4 from 20 inches to 12 inches. Motion carried unanimously.

MOTION: Daryl Matzke moved, seconded by Jason Hammond, to accept the changes to SPS 390.11(5)(b) & (c) as revised at the meeting today with the exception of defining "Island" at a later date. Motion carried.

MOTION: Jason Hammond moved, seconded by Robert Jelinek, to approve the changes to SPS 390.11(11) as revised at the meeting today. Motion carried unanimously.

MOTION: Daryl Matzke moved, seconded by Jason Hammond, to approve SPS 390.12(2)(c) as revised at the meeting today. Motion carried.

MOTION: Jason Hammond moved, seconded by Robert Jelinek, to approve proposed revision of SPS 390.12(3)(b)11. Motion carried unanimously.

MOTION: Jason Hammond moved, seconded by Thomas Carrico, to approve SPS 390.13(2) as revised at the meeting today. Motion carried unanimously.

MOTION: Robert Jelinek moved, seconded by Jason Hammond, to eliminate SPS 390.13(11). Motion carried unanimously.

ADJOURNMENT

MOTION: Daryl Matzke moved, seconded by Thomas Carrico, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 2:32 p.m.

DRAFT

Pool Code Issues Rev. 10-24-2016

New	Old	Code	Existing	Suggestions/Revisions	Comments	Status	Cost
1	1	390.02(1)	APPLICABILITY. This chapter applies to the design and construction of all public swimming pools, water attractions and associated slides, and to the reconstruction or alteration of all public swimming pools, water attractions and associated slides.	Document to the appendix. See document	Alterations defined		
2	2	390.02(1)	APPLICABILITY. This chapter applies to the design and construction of all public swimming pools, water attractions and associated slides, and to the reconstruction or alteration of all public swimming pools, water attractions and associated slides.	APPLICABILITY. This chapter applies to the design and construction of all public swimming pools, water attractions and associated slides, and to the reconstruction or alteration of all public swimming pools, water attractions and associated slides. <u>Note: Exclusions include sensory deprivation chambers, inflatable structures and mobile structures</u>	Inflatable structures/Mobile structures Define sensory deprivation & code		
3	3	390.02(4) Note (amended)	Note: Chapter SPS 303 requires the submittal of a petition for variance form (SBD-9890) and a fee, and that an equivalency is established in the petition for variance that meets the intent of the rule	Note: Chapter SPS 303 requires the submittal of a petition for variance form (SBD-9890) and a fee, and that an equivalency is established in the petition for variance that meets the intent of the rule being petitioned. <u>A</u>	On petitions on life safety issue concerns	Accepted 08/23/16	

New	Old	Code	Existing	Suggestions/Revisions	Comments	Status	Cost
			being petitioned. Form SBD-9890 is available at no charge from the department at the Safety and Buildings Division Web site at http://dsps.wi.gov/SB through links to forms.	<u>completed position statement on the petition for variance from the department of health services may be required where applicable.</u> Form SBD-9890 is available at no charge from the department. SPS 303.02(2)(c)			
4	20	390.03(12) (amended)	(12) "Deck" means the unobstructed walking surface immediately adjacent to the pool or water attraction.	Deck" means the unobstructed walking surface immediately adjacent to the pool or water attraction <u>discharging to a deck drain or perimeter areas.</u>	Define deck - deck obstructions - deck limits		
5	4	390.03 (new)	Not addressed	Pool Spectator: one who looks on or watches a swimming pool competition from a designated area or bleacher.	Define spectator	Definition accepted 08/23/2016	
6	6	390.10(1)(c) (new) Re: 390.31(2)(b)	(b) Pool slides, drop slides and waterslides shall be so designed that parts with external surfaces that may come in contact with a person using the slide are assembled, arranged and finished so that they are smooth and continuous with and will not cut, pinch, puncture or cause an abrasion to any person.	390.10(1)(c) Pools and water attractions shall be so designed that external surfaces that may come in contact with a pool patrons are assembled, arranged and finished so that they are smooth and continuous with and will not cut, pinch, puncture or cause an abrasion to any person.	Puncture abrasions	Motioned 08/23/2016	
7	7	390.10(1)(d) (new) Re: 390.31(2)(b)	Not addressed	390.10(1)(d) Pool patrons shall be protected from head trauma on decks to 80 inches above finished floor.	Prevent head trauma	Accepted 08/23/2016	
8	8	390.10(11) (amended)	(10) VANISHING EDGES. A single vanishing edge basin wall occupying a maximum of	(10) VANISHING EDGES. A single vanishing edge basin wall occupying a maximum of	Vanishing edge catch The catch ledge in the appendix need to be revised.	Accepted 08/23/2016	

New	Old	Code	Existing	Suggestions/Revisions	Comments	Status	Cost
			<p>50% of the basin perimeter may be included within a water attraction when all of the following are included in the design:</p> <p>(a) The vanishing edge is located adjacent to water that is at least 5 feet deep.</p> <p>(b) A catch ledge, a minimum of 3 feet in width or equivalent protection, is included on the dry side of the basin wall.</p> <p>(c) The catch ledge shall be located outside of the basin within 3 feet vertically from the top of the basin wall.</p> <p>(d) The catch ledge shall be designed to prevent a patron from rolling off the catch ledge.</p> <p>(e) The catch ledge surface shall be constructed of materials that will not cause injury from abrasions or lacerations.</p> <p>Note: See</p>	<p>50% of the basin perimeter may be included within a water attraction when all of the following are included in the design:</p> <p>(a) The vanishing edge is located adjacent to water that is at least 5 feet deep.</p> <p>(b) A catch ledge, a minimum of 3 feet in width or equivalent protection, is included on the dry side of the basin wall.</p> <p>(c) The catch ledge shall be located outside of the basin within 3 feet <u>6 inches</u> vertically from the top of the basin wall.</p> <p>(d) The catch ledge shall be designed to prevent a patron from rolling off the catch ledge.</p> <p>(e) The catch ledge surface shall be constructed of materials that will not cause injury from abrasions or lacerations.</p>			
9	11	390.11	Not addressed	Vinyl liners are to conform to the provisions of 390.11	Vinyl liners	Accepted 08/23/2016	
10	12	390.11(5)	Not addressed	<p>Elevated pool walls. 1. The maximum height of an elevated pool wall is 18 inches.</p> <p>2. The maximum width of an elevated pool wall 18 inches.</p> <p>3. The international sign of no walking or standing shall be</p>	<p>Elevated pool walls above deck</p> <ul style="list-style-type: none"> - line of vision - additional egress - require stair landing - transfer wall <p>1. Maximum height of wall 19 inches</p>	Accepted 01/31/2017	Minimal

New	Old	Code	Existing	Suggestions/Revisions	Comments	Status	Cost
				installed on the horizontal top of the elevated wall a maximum of 25 feet apart 4. Pool stairs shall include a minimum top landing of 20 inches.	2. MOTION: maximum width in SPS 390.11(5) from 18 inches to 24 inches and to require the design to be slip resistant and doesn't allow for standing water 4. Change to 12 inches		
11	16	390.11(5)	390.11(5) WALLS AND BULKHEADS. (a) <i>Basin walls.</i> 1. Basin walls shall be vertical. 2. Except for vanishing edge designs, basin walls shall extend above the highest water level at all times during operation.	WALLS AND BULKHEADS. (a) <i>Basin walls.</i> 1. Basin walls shall be vertical. 2. Except for vanishing edge designs, basin walls shall extend above the highest water level at all times during operation. 3. <u>Interior basin walls shall extend above the highest water level 1 inch at all times during operation</u>	A measurement is needed	Accepted 08/23/2016	
12	16	390.11(5)(c)	(c) <i>Bulkheads.</i> Bulkheads may be installed only in pools with a department of health services–approved lifeguard staffing plan that addresses supervision of the bulkhead.		Definition bulkhead No changes	Discussed 01/31/2017	
13	15	390.11(5)(b) & (c)	Not addressed	Underwater shelves. 1. The maximum water depth of a underwater shelves are 9 inches. 2. The leading horizontal and vertical plain shall be outlined with slip-resistant contrasting tile or other permanent marking of not less than one inch (25.4	Sunning shelves - submersible islands Note to define leading edge: See changes in left Will define and address “Islands” at a later time	Revised and accepted 01/31/2017 *Still need to define ‘Island’	

New	Old	Code	Existing	Suggestions/Revisions	Comments	Status	Cost
				<p>mm) and not greater than two inches (50.8 mm) within one inch of the vertical and horizontal face of an underwater shelf shall be distinguished by a color contrasting with the color of the pool floor.</p> <p>4. The water depth of a pool at the interface of an underwater shelf is a minimum 30 inches and a maximum of 42 inches.</p> <p>5. An underwater shelf shall be adjacent to a deck or an island.</p>			
14	9	390.11(11) (new)	Not addressed	<p>Basin compartments. Basins constructed for separate activities and access through bridges, tunnels and openings shall be at least 42 inches wide a minimum of 80 inches in height measured from the pool floor and a maximum water depth of 42 inches. Stepping stones for patron passage is prohibited</p>	Connected pools 1 recirc system (walkways, tunnels, stepping "stones", storm enclosures	Tabled 08/23/2016 Revised and accepted 01/31/2017	
15	10	390.12	Not addressed	<p>Ramps. 1. Recessed ramps shall not to protrude onto the basin floor.</p> <p>2. The sidewall edge of all open ramps shall be distinguished by a color contrasting with the color of the ramp and pool floor.</p> <p>3. All ramp corners shall be</p>	ADA ramps, transfer walls,	Accepted 08/23/2016 Definition motion made 08/23/16	

New	Old	Code	Existing	Suggestions/Revisions	Comments	Status	Cost
				rounded to a radius of 1/2 inch. 4. Ramps and transfer walls shall conform to ADAG.			
16	17	390.12(2)(c) (new)	Not addressed	A zero depth entry pool shall be equipped with a trench drain and a surge tank or the pool water level must be automatically controlled. 1. The trench shall extend to within 3 feet of the pool sidewalls. 2. The grate opening of a zero depth entry shall be ½ inch or less. 3. Areas designated as ADAAG entries are exempt from this provision	0 depth - trench location - autofill - grate opening size Addressing wading pools in a difference section Add 'Trench Drain' definition from MAC	Revised and accepted 01/31/2017	
17	19	390.12(3)(b) 11 (amended)	11. There shall be at least 3 inches but not more than 6 inches clearance between the pool wall and the handrail.	11. There shall be at least 3 inches but not more than 6 4 inches clearance between the pool wall and the handrail.	Remove/revise		
18	5	390.12(6)(b) (amended)	(b) A minimum unobstructed surface equal to that required for a stair under sub. (5) shall be provided in a swimout.	(b) A minimum unobstructed surface equal to that required for a stair under sub. (3) shall be provided in a swimout.	should be (3) not (5)	Accepted 08/23/2016	
19	14	390.13(2)(g) (amended)	(g) Deck areas that do not provide the minimum deck required in pars. (b) to (f) shall be installed so as to permanently prohibit public access from the deck.	(g) Wet deck areas that do not provide the minimum deck required in pars. (b) to (f) shall have . <u>the international sign of no walking or standing shall be installed on the horizontal top of the wall a maximum of 25</u>	Walls exceeding 18" 390.13: change title to "Wet Deck" Merge 19 and 20	Revised and accepted 01/31/2017	

New	Old	Code	Existing	Suggestions/Revisions	Comments	Status	Cost
				<p>feet apart</p> <p>See Motions</p>			
20	22	390.13(2)(h) (amended)	<p>(2) DECKWIDTH. (a) Except as required in pars. (b) to (e), deck shall extend for at least 6 feet from all basins.</p> <p>(g) Deck areas that do not provide the minimum deck required in pars. (b) to (f) shall be installed so as to permanently prohibit public access from the deck.</p>	<p>390.13(2)(g) Wet Deck areas that do not provide the a minimum deck required in pars. (b) to (f) shall be a maximum of 18 inches and installed so as to permanently prohibit public access from the deck. The areadeck width of 3 feet shall have a warning marker as listed in 390.18(£3)</p> <p>See Motions</p>	<p>Past practice did not allow pools to be greater than 20” from a wall which typically eliminated the use of a round pool in a “square “ corner. 390.13(5)(a)3 was previously used to restrict the distance from a wall to a pool to 20”. The specific code addresses drainage of areas less than 20”, not a distance to a wall. The proposed outdoor whirlpools need to comply with the code reference below, decks with less than the minimum width are to include provisions to permanently prohibit public access. If the width is greater than 20”, a deck drain would be required or the deck sloped to drain away from the whirlpool.</p>		
21	21	390.13(11) (new)		<p>Deck use. Pool decks are limited to pool patron activities.</p>	<p>deck use</p>	<p>Rejected 01/31/2017</p>	
22	23	390.14(13)(c)3	<p>(c) <i>Suction outlets.</i> 1. Suction system flow through main drains shall be designed to accommodate 100 percent of the circulation flow rate in accordance with all of the</p>	<p>(c) <i>Suction and gravity outlets.</i> 1. Suction system flow through main drains shall be designed to accommodate 100 percent of the circulation flow rate in accordance with all of the</p>	<p>Address gravity drains</p>		

New	Old	Code	Existing	Suggestions/Revisions	Comments	Status	Cost
			<p>following:</p> <p>a. All basins shall be provided with a suction outlet in the lowest point of the basin in the floor or the wall.</p> <p>Note: For main drains installed in diving wells, see Table 390.06-1</p> <p>b. Where 2 or more drains connect within the circulation system, all drains minus any one in the set shall be designed to collectively convey 100 percent of the circulation flow rate.</p> <p>c. The distance between the bottom of the suction outlet grate and the opening of the suction pipe shall equal or exceed at least 1.5 times the inside diameter of the suction pipe.</p> <p>2. Suction outlet grates shall comply with at least one of the following requirements:</p> <p>a. A single grate having at least one dimension of length, width, diagonal or diameter that is at least 36 inches.</p> <p>b. Two or more grates of any size separated from other suction outlets by at least 3 feet.</p> <p>3. Suction systems shall be designed so that the maximum</p>	<p>following:</p> <p>a. All basins shall be provided with a suction outlet in the lowest point of the basin in the floor or the wall.</p> <p>Note: For main drains installed in diving wells, see Table 390.06-1</p> <p>b. Where 2 or more drains connect within the circulation system, all drains minus any one in the set shall be designed to collectively convey 100 percent of the circulation flow rate.</p> <p>c. The distance between the bottom of the suction outlet grate and the opening of the suction <u>suction outlet</u> pipe shall equal or exceed at least 1.5 times the inside diameter of the suction pipe.</p> <p>2. Suction outlet grates shall comply with at least one of the following requirements:</p> <p>a. A single grate having at least one dimension of length, width, diagonal or diameter that is at least 36 inches.</p> <p>b. Two or more grates of any size separated from other suction outlets by at least 3 feet.</p> <p>3. Suction systems shall be designed so that the maximum flow rates are not exceeded</p>			

New	Old	Code	Existing	Suggestions/Revisions	Comments	Status	Cost
			flow rates are not exceeded under operating conditions. 4. Suction grates and covers shall be listed as conforming to ASME/ANSI A112.19.8. 5. The maximum opening of any suction grate shall prevent the passage of a ½-inch sphere.	under operating conditions. 4. Suction <u>Outlet</u> grates and covers shall be listed as conforming to ASME/ANSI A112.19.8. 5. The maximum opening of any suction grate shall prevent the passage of a ½-inch sphere.			
23	24	390.14(14) (new)	Not addressed	An exterior surge tank or similar device shall not be located within 5 feet of a building or any portion of a building or swimming pool; 10 feet of water service; 2 feet of a lot line and 10 feet of a clearwater cistern. An exterior surge tank or similar device shall not be located within 10 feet of the high water mark of a lake, stream, pond or flowage. Surge tanks shall comply with applicable provisions of SPS 384.25(2), (3), (4), (7)(h), and (8).	Surge tank label w/warning construction connections locations		
24	25	390.16(6)(a)	(6) EQUIPMENT ROOM. (a) An equipment room or equipment enclosure shall be provided to serve all public swimming pools and water attractions.	(6) EQUIPMENT ROOM. (a) An equipment room or equipment enclosure shall be provided to serve all public swimming pools and water attractions. <u>An equipment enclosure shall protect the pool equipment from environmental exposures and patron access.</u>	Define enclosure		

New	Old	Code	Existing	Suggestions/Revisions	Comments	Status	Cost
25	26	390.17(2)(d)	(d) The automatic controller shall be electrically interlocked with the circulation pump control circuit.	The automatic controller shall be electrically interlocked with the circulation pump control circuit <u>or equipped with a micro-processor that includes a flow meter sensor.</u>	Interlock w/new technology Sanitizer (acid, chlorine)		
26	28	390.18(f) (new)		(f) “No walking or standing” prohibition markers shall include the international symbol. (g) “No walking or standing” text and the “No walking or standing” symbol shall be clearly visible and of a contrasting color to that of the marker background.	Areas of less than required min deck need to be marked See 390.13(2)(h)		
27	27	390.18(4)(i) (new)	Not addressed	Interior barriers. Barriers intended to restrict pool patron access shall be permanent. The barrier shall be water resistant and easily cleanable. The barrier shall extend a minimum of 36 inches above the floor with a minimum of	Define interior barriers		
28	18	390.23 (new)	Not addressed	Therapy pools. Fiberglass exemptions 1. Handrails may be installed within the pool basin used for exercise for elderly and individuals with special needs. 2.	Exercise pools Non-therapy Hand rails at basin wall		
29		<u>NEW</u> <u>??</u> <u>Future Item –</u> <u>Definition of</u> <u>“Adjacent”</u>					

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Brittany Lewin, Executive Director		2) Date When Request Submitted: 03/01/2017	
Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting			
3) Name of Board, Committee, Council, Sections: All Boards, Committees, Councils and Sections			
4) Meeting Date: 03/07/2017	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Board Training Review – Public Records and Ethics and Lobbying – Discussion and Consideration	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Please review the materials previously emailed, and included herein, in preparation for discussion at the meeting. <ul style="list-style-type: none"> 1) Public Records and Ethics and Lobbying Training <ul style="list-style-type: none"> i. Email from 3/1/17 ii. Wisconsin Public Records Law Basics iii. DSPS Public Records Information iv. Ethics and Lobbying Law One Pager 			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

Wood, Kimberly - DSPS

From: Wood, Kimberly - DSPS
Sent: Wednesday, March 01, 2017 3:27 PM
To: Boullion, James - DSPS
Cc: Lewin, Brittany - DSPS; Ryan, Thomas - DSPS; Williams, Dan - DSPS; Zadrzil, Chad J - DSPS
Subject: Completion Reminder: Public Records and Ethics and Lobbying Training
Attachments: WisconsinPublicRecordsLawBasics_PPT.pdf; Ethics and Lobbying Law One Pager.pdf; DSPS Public Records Information.pdf

DSPS Board, Council or Committee member,

For those of you that have not already done so, this is a reminder to review the training materials we sent you a few weeks ago regarding what you need to know about Wisconsin's ethics and lobbying laws and how to handle public records. You will have a chance to raise any questions and discuss these topics at your next board, council or committee meeting.

We have also included an additional document called "DSPS Public Records Information.pdf" that identifies who you should talk to at DSPS about public records questions. Some people had difficulty opening the public records training file, therefore we have also attached a PDF version of the training called "WisconsinPublicRecordsLawBasics_PPT.pdf".

Hello,

Below you will find information about two requirements recently communicated to state agencies.

All Board, Council, Section and Committee members are required to receive training in two separate areas: 1) Public Records, and; 2) Ethics and Lobbying. **These required trainings must be completed at your earliest opportunity. Please complete the web-based public records training and review the attached ethics and lobbying guidance document by March 1st.** At your next meeting, you will have the opportunity to discuss the public records training and we will review the ethics and lobby law training.

Background information and instructions for both trainings is included below.

1) Public Records

On March 11, 2016, the Governor issued [Executive Order #189](#) reaffirming the importance of transparency in state government. Specifically, the Governor asked agencies to implement best practices to promote the public's access to the records of their government under Wisconsin's Public Records Law. The Governor also directed each state agency to provide public records resources and training for all employees and members of all boards, councils, commissions and committees attached to the agency.

This training has been developed and is available online at the following web link:

http://dsps.wi.gov/Documents/Board%20Services/Other%20Resources/RecordsTraining/Wisconsin_Public_Records_Law_Basics.pdf

*Please note that this link will require Adobe Flash Player which may not be available for your hand held device. *If you are unable to open the training, you may view the attached PDF titled "WisconsinPublicRecordsLawBasics_PPT" instead.*

If you have difficulty in accessing this information please contact Kimberly Wood at Kimberly.Wood@wisconsin.gov and she will assist you.

2) **Ethics and Lobbying**

Recently the Wisconsin Ethics Commission withdrew a formal opinion that had created a pathway for agency officials to remove themselves from the prohibitions of the lobbying law. A number of questions were received in response to the action by the Ethics Commission.

A guidance document is attached in an effort to clarify the current status of the law. The attachment is a one-page overview of specific provisions in the state ethics and lobbying laws that apply to persons appointed by Governor Walker throughout state government.

While the ethics law provisions apply to all appointees of the Governor, the lobbying law only applies to members of boards, councils, or commissions and committees that are involved with rule writing.

If you have any questions, please feel free to reach out to your Executive Director or the Wisconsin Ethics Commission at any time.

Thank you,

Jim Boullion

Administrator, Division of Policy Development
Department of Safety and Professional Services

james.boullion@wisconsin.gov

Phone: (608) 266-8419

What Is a Public Record?

Anything paper or electronic with information about government business, with a few exceptions

Public records can be paper or electronic.

Examples of electronic public records:


- Emails
- Videos
- Audio files
- Database content
- Instant messages



Record Location

The location of the record does not matter!

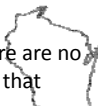
Emails, text messages, or files about government business on your personal device are public records. You must keep them and turn them over upon request.



Public Records Responsibility 3

When you have a public record, understand how to properly retain it.


- If it **is** a public record, follow your agency's record retention schedule.
- Check with your agency's records officer(s) or records coordinator(s) to learn:
 - How long to keep records.
 - Where to send records when time expires.
- Before you get rid of a record, make sure there are no pending records requests, audits, or lawsuits that require you to hold on to it.



Key Points


Key points to remember:

- Don't delete emails or any other records unless you know that you don't need to keep them.
- Organize hard copy documents so you know where to find them if a member of the public requests them.
- Know how long you are required to keep your records and what to do with them when that time is up.



Key Points, Continued

- Keep all your emails in a place where someone can search them when requests come in.
- Manage your own emails. Don't rely on disaster recovery backup systems. If you run out of storage in your mailbox, ask your agency's help desk for assistance with .pst files or similar solutions.
- Text messages on your personal cell phone are public records if they pertain to government business.
- Emails in your personal email are public records if they pertain to government business.

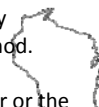


Public Records Responsibility 4

Recognize a public records request and handle the request appropriately.

A public records request:

- Is any request for government records.
- Does not require magic words or precise format.
- Can be submitted by email, by letter, by phone, in person, or by any other method.
- Can be written or verbal.
- Does not need to identify the requestor or the purpose of the request.



Department of Safety and Professional Services

Agency Specific Public Records Information

February 24, 2017

The purpose of this memo is to provide information on public records requests that is specific to the Department of Safety and Professional Services (DSPS).

DSPS receives public record requests in a number of ways. Most public record requests are received via US mail or by email. DSPS has a public records mailbox accessible from the DSPS website. In addition, the DSPS website contains a public records notice which sets out the procedure for making a request and information about fees. Here is the link to the public records notice: <http://dsps.wi.gov/other-services/open-records-notice-and-requests>

Records requests should always be considered a priority. If you are an employee of DSPS and you receive a request you should immediately notify your supervisor or a record custodian. Any records that may be covered by the request should be preserved. **If you are a member of a board or council and you receive a request you should immediately notify your primary contact at DSPS, normally the executive director of your board or council.** Again, any records that may be covered by the request should be preserved. The record request should be forwarded to the supervisor, custodian or executive director within one business day.

Deputy record custodians process the requests. The custodians will work in conjunction with the DSPS public information officer on requests involving media or legislative issues. The custodians will also work with the employees or board/council members if there is a need to search emails or other records in possession of the employee or board/council member. The goal is for the custodian to provide a response as soon as practicable. For this reason, cooperation with the custodians is essential.

The agency record custodian is Michael Berndt.

The following lists reflect deputy record custodians for each agency division:

DLSC

Meena Balasubramanian
Beth Cramton
Zach Hendrickson
Terri Rees

DPCP

Kris Hendrickson

DMS/Office of Sec.

Michael Berndt
Alicia Bork

DPD

Shawn Leatherwood

DIS/Field Offices

Peggy Thran

Public records are retained for periods of time set out in Record Destruction Authorizations, commonly called RDAs, or as required by the General Record Schedules. If you have questions about how long some record is supposed to be retained, please talk with you supervisor. Record officers update the agency RDAs and are familiar with the General Record Schedules. The agency record officers are Michael Berndt and Peggy Thran.

The guidance below provides a summary of the prohibitions on solicitation and acceptance of items of value under Wisconsin law. This guidance does not provide a comprehensive overview of the regulations that apply to state officials. For further information, please consult the Wisconsin Ethics Commission (<http://ethics.wi.gov/content/resources>) and Chapters 13 and 19 of the Wisconsin Statutes.

Lobbying law. Chapter 13, Wisconsin Statutes.

General Rule: Members of state agencies, boards, commissions, or councils that have rulemaking authority cannot **solicit** or **accept** anything of pecuniary value from a lobbyist or lobbying principal, even if they offer to pay for it. (§13.62, §13.625, 80 OAG 205). [Involvement in rulemaking is defined very broadly; you are likely considered to be involved in rulemaking just by virtue of the fact that you are appointed to a board, commission or council with rulemaking authority. §13.62(3)]. *Note that the Wisconsin Ethics Commission recently withdrew a formal opinion that allowed agency officials to remove themselves from the prohibitions of the lobbying law by refraining from engaging in rulemaking activities.*

Applies to members of boards with rule-making authority (“agency officials”). [Defined in §13.62(3)].

Exceptions:

- If the thing provided by a principal (not an individual lobbyist) is available to the general public on the same terms and conditions and is available to anyone who wants it and who meets the criteria for eligibility. [§13.625(2); 80 OAG 205]. For example, a member of the State Bar could attend a generally advertised continuing legal education conference put on by the State Bar (a lobbying principal) so long as it was available to anyone who wished to attend and met the criteria for eligibility, such as membership in the State Bar.
 - The criteria for eligibility must be:
 - Established and readily identifiable; and
 - Drawn without the purpose or effect of giving a preference to or conferring an advantage upon you.
 - There must be no offer or notice of availability directed to you that gives you an advantage.
- The lobbyist or principal is your employer and the thing provided does not exceed what the employer customarily provides to all employees (e.g., a paycheck). [§13.625(6r)]. *(Note that one’s status as a lobbyist does not prevent service as an agency official.)*
- The expense is provided as a benefit to the state, such as meals, transportation or lodging in connection with an event related to your state duties, which the state would otherwise pay. [§13.625(7); §19.56(3)(a)].
- Informational or educational materials. [§13.625(6t)].
- The lobbyist is a relative or resides in the same household [§13.625(6)].

*All lobbyists and lobbying principals are required to register here: <https://lobbying.wi.gov/Home/Welcome>.

Ethics Law. Chapter 19, Wisconsin Statutes.

General Rule: 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. [§19.45(2); §19.42(2)].

Applies to individuals appointed by the governor, and other positions defined in Wis. Stat. 19.42(13).

Exceptions: *(Note that these exceptions are to the ethics code only. They are not exceptions to prohibitions under the lobbying code.)*

- The thing offered is unrelated to your state position (e.g. a family member or long-time friend).
- The expense is provided as a benefit to the state, such as meals, transportation or lodging in connection with an event related to your state duties which the state would otherwise pay. [§19.56(3)(a)].

**IF YOU HAVE ANY DOUBT IF SOMETHING IS PERMITTED,
ASK YOUR LEGAL OFFICE OR THE ETHICS COMMISSION**