

BEFORE THE STATE OF WISCONSIN ETHICS COMMISSION

In re: ROBIN VOS

DISMISSAL OF COMPLAINT

Case No. 2022-ETH-01

The Wisconsin Ethics Commission reviewed the complaint and response in this matter in Closed Session at its meeting on June 15, 2022. Having duly considered the complaint and response, the Commission dismisses the complaint based upon the following:

COMPLAINT AND RESPONSE

1. The Wisconsin Ethics Commission received this complaint on January 25, 2022.
2. The Complainant alleged that Speaker Robin Vos (“Respondent”) used his position to remove the Complainant’s staff position from a Representative’s office. The Complainant alleged that this official action resulted in personal gain for the Respondent as the Representative had been critical of the Respondent in a series of press releases. He also alleged that the Respondent influenced Assembly leadership to put out a statement justifying his actions.
3. On February 9, 2022, the Respondent provided the following in response to the complaint:
 - a. Even if the conduct complained of is true, the complaint fails as a matter of law. The Complainant failed to show how the Respondent obtained a financial gain or anything of substantial value from the transfer of his position. The complaint merely alleged the transfer of the benefit of the Complainant’s position from one member of the Legislature to another.
 - b. As to the press release issued by Assembly leadership, the Respondent did not issue that statement and the Complainant failed to present anything showing that the

Respondent improperly gained as a result. Further, the press release is protected political speech.

- c. The Respondent cannot violate WIS. STAT. § 19.46(1)(b) when acting within his authority as Speaker concerning the lawful payment of salaries and employee benefits pursuant to WIS. STAT. § 19.46(3).

CONCLUSIONS OF LAW

4. The Wisconsin Ethics Commission has jurisdiction of this matter pursuant to WIS. STAT. § 19.49(2)(a).
5. As a Representative to the Assembly, the Respondent was a “state public official” at all times pertinent to this complaint. WIS. STAT. § 19.42(13)(c), (14).
6. WIS. STAT. §§ 19.45(2) & 19.46(1) and (3) are implicated by the allegations.
 - a. WIS. STAT. § 19.45(2) prohibits a Representative from using his public position or office to obtain financial gain or anything of substantial value for his private benefit, the private benefit of his immediate family, or the private benefit of an organization with which the Representative is associated. Obtaining something of value may include an avoidance of financial loss. 2002 Wis Eth Bd 02, ¶ 9; 1995 Wis Eth Bd 3, ¶9. However, it does not prohibit a Representative from using the title or prestige of his office to obtain campaign contributions permitted and reported under Ch. 11 of the Wisconsin Statutes.
 - b. WIS. STAT. § 19.46(1) contains two separate prohibitions. First, it prohibits a Representative from taking any official action substantially affecting a matter in which the Representative, a member of his immediate family, or an organization with which the Representative is associated has a substantial financial interest.

Second, like WIS. STAT. § 19.45(2), this section prohibits a Representative from using his office or position in a way that produces or assists in producing a direct or indirect substantial benefit for the Representative, one or more members of the Representative's immediate family, or an organization with which the Representative is associated. For the purposes of both WIS. STAT. § 19.45(2) and WIS. STAT. § 19.46(1)(b), a "substantial benefit" is not defined in the state code of ethics, but the term "substantial value" has been held to be anything of more than token or inconsequential value. 1998 Wis Eth Bd 06 ¶ 3, 2008 GAB 02, ¶ 4. Similarly, a "substantial benefit" is anything of more than token or inconsequential benefit. Furthermore, both the Commission and the Commission's predecessor agencies have found that measurable and demonstrable, not speculative benefits or financial interests or gain, are to be considered when determining if conflicts of interest exist and if a state public official may take official action or engage in a use of office. 2002 Wis Eth Bd 01, ¶ 6; 2005 Wis Eth Bd 05, ¶¶ 8, 13; 2021 ETH 05.

- c. WIS. STAT. § 19.46(3) provides that WIS. STAT. § 19.46 does not prohibit a Representative from taking any action concerning the lawful payment of salaries or employee benefits or reimbursement of actual and necessary expenses. It also provides that this section does not prohibit a Representative from taking official action with respect to any proposal to modify state law or administrative code.
7. While the Complainant alleged that he was moved to another office for the Respondent's personal gain, there is no indication what specific personal gain, thing of value, or benefit was obtained personally by the Respondent or a member of the Respondent's immediate family. Further, while the Complainant alleged that it was a

substantial benefit to remove a contributing source that was revealing the Respondent's implication into the illegal election activities surrounding the 2020 election, any such benefit gained (or loss avoided) by the Respondent via the official actions alleged appears to be speculative in nature. Essentially, this argument is that impeding or silencing a political critic is a substantial benefit. However, there is no support offered for this assertion. Even assuming that there was reduced criticism of the Respondent, there is no way to know how political criticism is going to be received or impact the Respondent politically. Further, the Respondent indicated that the reason for the transfer was to work on projects requiring attention. The implication of this response is that the benefit was received by the Assembly and/or the office of the Representative to whom the Complainant was reassigned. Therefore, Respondent's receipt of possible financial gain, anything of substantial value, or any substantial benefit is, at best, mere speculation.

8. Therefore, the complaint does not present reasonable suspicion that the Respondent violated WIS. STAT. §§ 19.45(2) & 19.46(1).
9. The Commission, having duly considered the complaint and response thereto, finds there is no reasonable suspicion to believe a violation of the laws within its jurisdiction has occurred or is occurring.

DISMISSAL

10. Pursuant to WIS. STAT. § 19.49(2)(b)3., this complaint is dismissed.

ENTERED by the Wisconsin Ethics Commission at its meeting in Madison, Wisconsin on
Wednesday, June 15, 2022.

Pat Strachota, Chair

Shauntay Nelson, Vice Chair