

# NOTICE OF OPEN AND CLOSED MEETING

## Wisconsin Ethics Commission

212 East Washington Avenue, Third Floor Board Room, Madison, Wisconsin  
Tuesday, December 6, 2016, 9:00 a.m.

### Open Session Agenda

- A. Call to Order
- B. Report of Appropriate Meeting Notice
- C. Minutes of October 10, 2016 Meeting Page 3
- D. Personal Appearances
- E. Complaint and Investigation Procedures Page 13
- F. Review of Formal Opinions Page 21
- G. Reconsideration of 2005 Ethics Board Opinion 06 Page 41
- H. Potential Legislation Page 47
- I. Confidentiality of Commission Actions Related to Campaign Finance Page 51
- J. Administrative Rules Update – ETH Chapters 6, 21, 25, and 26 Page 53
- K. Delegation of Authority to Administrator – Informal Opinions
- L. Nonpartisan Staff Policy Page 55
- M. Administrator’s Report Page 65
- N. Closed Session
  - 1. Request for Advice
  - 2. Complaints and Investigations
  - 3. Confer with Legal Counsel Regarding Potential Litigation
  - 4. Consideration of employment, promotion, compensation, or performance evaluation data
- O. Adjourn

*The Ethics Commission will convene in open session but may move to closed session under WIS. STAT. § 19.85(1)(c), (g), and (h). This notice is to inform the public that the Commission intends to convene in open session, but may move to closed session. The Commission plans to return to open session to adjourn following that closed session. WIS. STAT. § 19.85(2).*

Ethics Commission Meeting

December 6, 2016

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WIS. STATS. §§19.50 & 19.55(3) No employee of the Commission may disclose information related to an investigation or prosecution under ch. 11, subchapter III of ch. 13, or ch. 19.

WIS. STAT. §19.85(1)(c) Considering employment, promotion, compensation, or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.

WIS. STAT. §19.85(1)(g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.

WIS. STAT. §19.85(1)(h) The Commission's deliberations on requests for advice under the ethics code, lobbying law, and campaign finance law shall be in closed session.



# Wisconsin Ethics Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984  
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## Wisconsin Ethics Commission

Board Room  
212 East Washington Avenue  
Madison, Wisconsin  
October 10, 2016  
9:00 a.m.

### Open Session Minutes

Present: Peg Lautenschlager, Katie McCallum, Mac Davis, David Halbrooks, Robert Kinney, and Pat Strachota

Staff present: Brian Bell, David Buerger, Richard Bohringer, Adam Harvell, Kyle Kundert, Molly Nagappala and Reid Magney

#### **A. Call to Order**

Commission Chair Peg Lautenschlager called the meeting to order at 9:03 a.m.

#### **B. Report of Appropriate Meeting Notice**

Administrator Brian Bell reported that appropriate notice of the Commission meeting had been given to the public and news media.

#### **C. Personal Appearances**

There were four personal appearances by members of the public:

1. **Attorney Michael Wittenwyler of Godfrey & Kahn in Madison** appeared on his own behalf and that of his clients to comment on advisory opinions of the Ethics Commission and its predecessor agencies. Attorney Wittenwyler, Commissioners and staff discussed the process for reviewing advisory opinions and whether they are consistent or inconsistent with recent changes to statutes.
2. **Attorney Jodi Jensen of Godfrey & Kahn in Madison** appeared on her own behalf to comment on the staff memorandum regarding the complaint process. Chair Lautenschlager asked Attorney Jensen to put her concerns in writing to the Commission.

*Wisconsin Ethics Commissioners*

Mac Davis | David R. Halbrooks | Robert Kinney | Peg Lautenschlager | Katie McCallum | Pat Strachota

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*Administrator*  
Brian M. Bell, MPA

3. **Matt Rothschild of the Wisconsin Democracy Campaign in Madison** appeared regarding a campaign finance complaint his organization filed against Representative Dean Knudson.
4. **Dean Knudson of Hudson** appeared on his own behalf to respond to the Wisconsin Democracy Campaign's complaint and ask the Commission to handle it in open session.

**D. Minutes of the August 23, 2016 Meeting**

Commission Chair Lautenschlager directed Commissioners to the draft meeting minutes in the meeting materials.

**MOTION:** Approve the August 23, 2016 Wisconsin Ethics Commission minutes. Moved by Commissioner Strachota, seconded by Commissioner Kinney.

Discussion of how votes were recorded. Staff Counsel Buerger recommended that when a voice vote is not unanimous that a roll call vote be performed.

**MOTION:** Amend the August 23, 2016 Wisconsin Ethics Commission minutes to reflect the correct date of the meeting. Moved by Commissioner Kinney, seconded by Commissioner McCallum. Motion carried unanimously.

**MOTION:** Amend the August 23, 2016 Wisconsin Ethics Commission minutes to insert "is to" on page 5, line 3 of the minutes between the words Commission and have. Moved by Commissioner McCallum, seconded by Commissioner Kinney. Motion carried unanimously.

**MOTION:** Amend the August 23, 2016 Wisconsin Ethics Commission minutes on page 6 to remove all language after "Commissioners discussed" and insert "Agenda Item E – Campaign Contributions by Commissioners". Moved by Commissioner Davis, seconded by Commissioner Halbrooks.

Roll call vote:

Davis – Aye	Lautenschlager – Aye
Halbrooks – Aye	McCallum – Aye
Kinney – Nay	Strachota – Aye

Motion carried 5-1.

Hearing no further amendments, Chair Lautenschlager called the question on approval of the minutes as amended.

Roll call vote:

Davis – Aye	Lautenschlager – Aye
Halbrooks – Aye	McCallum – Aye
Kinney – Nay	Strachota – Aye

Motion carried 5-1.

## **E. LAB Presentation on GAB Audits**

State Auditor Joe Chrisman and Performance Evaluation Director Dean Swenson of the Legislative Audit Bureau (LAB) appeared to discuss LAB reports 14-14 and 15-13 regarding the former Government Accountability Board. There are no outstanding obligations to report to the LAB regarding these reports.

## **F. Settlement Schedules Review**

Administrator Bell presented the following settlement schedules and templates for review by the Commission.

1. Campaign Finance
2. Lobbying
3. Statements of Economic Interest

**MOTION:** Approve the proposed settlement schedules en mass, including all of the settlement schedules plus the notice template and the settlement offer template. Moved by Commissioner Kinney, seconded by Commissioner Lautenschlager.

Discussion regarding extensions of time to file Statements of Economic Interests.

**MOTION:** On page 18, insert “in addition” before the sentence beginning “If an official or nominee fails to file a statement within 30 days”. Moved by Commissioner Davis, seconded by Commissioner Strachota. Motion carried unanimously.

4. Notice Template

**MOTION:** Amend the notice template on pages 23 and 24 that says “NOTE: DO NOT SUBMIT ANY PAYMENT AT THIS TIME. PLEASE WAIT TO RECEIVE A SETTLEMENT OFFER FROM THE COMMISSION BEFORE SUBMITTING PAYMENT” to say “wait for a decision from the Commission ...” Moved by Commissioner Halbrooks, seconded by Commissioner Davis.

Discussion. Commissioner Halbrooks withdrew his motion with the consent of Commissioner Davis.

**MOTION:** On page 24, delete “to receive a settlement offer from the commission” from the sentence beginning with Note. Moved by Commissioner Halbrooks, seconded by Commission Davis. Motion withdrawn.

**MOTION:** On page 24, replace “to receive a settlement offer” from the sentence beginning with Note with “for final action”. Moved by Commission Chairperson Lautenschlager, seconded by Commission Halbrooks. Motion carried unanimously.

## 5. Settlement Offer Template

Chair Lautenschlager called the question on the original motion to approve the proposed settlement schedules en mass, including all of the settlement schedules plus the notice template and the settlement offer template, as amended. Motion carried unanimously.

Chair Lautenschlager called a recess at 10:34 a.m. The Commission reconvened at 10:42 a.m.

## **G. Proposed Auditing Schedule**

Administrator Bell presented the proposed auditing schedule for review by the Commission.

**MOTION:** Approve the audit schedules as described in the materials. Moved by Commissioner Kinney, seconded by Commissioner Strachota. Motion carried unanimously.

## **H. Administrative Rules Update – ETH 6, ETH 21, ETH 26**

Staff Counsel David Buerger made an oral presentation based on a memorandum starting on page 37 of the meeting materials regarding the status of amendments to Chapters ETH 6 and ETH 21 and a proposed Chapter ETH 26.

**MOTION:** Direct staff to draft rules consistent with the statements of scope of ETH 6 and ETH 21; and approve the statement of scope of ETH 26. Moved by Commissioner Kinney, seconded by Commissioner Strachota. Motion carried unanimously.

## **I. Complaint Process and Procedures**

Administrator Bell presented proposed complaint processes and procedures for the Commission's review. General consensus by Commission to take no action until staff has had an opportunity to review and incorporate Atty. Jensen's written comments.

Commissioner Davis suggested staff to delete "the Public Information Officer or other" from section A.1.

## **J. Advisory Opinion Review**

Administrator Bell and Staff Counsel Buerger presented the staff memo regarding the Commission's review of advisory opinions.

**MOTION:** Find that all of the opinions in Part I of the memorandum are inconsistent with current law but continue, consistent with current practice, to make the opinions available to the public with a designation of inconsistent and a disclaimer as to the legal effect of the opinion. Moved by Commissioner Davis, seconded by Commissioner Halbrooks.

Discussion.

Chair Lautenschlager called the question. Motion carried unanimously.

Commissioners and staff discussed plans to take public testimony at a future Commission meeting on whether the remaining opinions are consistent or inconsistent with existing statutes. General consensus by the Commission to not act on opinions listed in Part II, but direct staff to invite public comment on those opinions and any other opinions not included for further consideration at a future meeting.

## **K. Statement of Economic Interests (SEI) System Development**

Administrator Bell directed Commissioners to the staff memorandum on page 61 of the meeting materials regarding efforts to develop a new online system for officials to submit SEI forms. He said a cost-benefit analysis indicates it will pay for itself by saving staff time spent preparing and scanning paper forms. The presentation was for information, and the Commission took no action.

## **L. Potential Legislation**

Administrator Bell directed Commissioners to a memorandum starting on page 71 of the meeting materials regarding 34 potential changes to the statutes the Commission administers. These recommended changes were collected from staff experience, comments from legislators and others in the regulated community, and from public comments at agency and legislative hearings.

Commissioners and staff discussed the Commission's role in recommending technical changes to statutes and whether it should also make policy recommendations.

**MOTION:** Include all items in the proposed legislative agenda memo on the Ethics Commission's legislative agenda. Moved by Commissioner Kinney, seconded by Commission Chairperson Lautenschlager.

**POINT OF ORDER:** Division of the question. Raised by Commissioner Davis. Commission Chairperson Lautenschlager determined division was appropriate.

Chair Lautenschlager asked that recommendation 1 be held until later.

**MOTION:** Accept recommendation 2, to revise § 13.625 to eliminate meandering language. Moved by Commissioner Kinney, seconded by Commissioner Davis. Motion carried unanimously.

**MOTION:** Accept recommendation 3 to revise § 13.68(6) regarding mailing written notices. Moved by Commissioner Davis, seconded by Commissioner Kinney. Motion carried unanimously.

Commissioner Davis asked that recommendation 4 be held until later.

**MOTION:** Accept recommendation 5 to revise § 13.685(7) regarding the requirement to provide lobbying information to legislative clerks. Moved by Commissioner Davis, seconded by Commissioner McCallum. Motion carried unanimously.

**MOTION:** Accept recommendation 6 regarding Contract Sunshine. Moved by Commissioner Davis, seconded by Commissioner Kinney. Motion carried unanimously.

**MOTION:** Accept recommendation 7 regarding the definition of a security in § 19.42(12). Moved by Commissioner Davis, seconded by Commissioner Strachota. Motion carried unanimously.

Commissioner Davis asked that recommendation 8 be held until later.

Commissioner Strachota asked that recommendation 9 be held until later.

Commissioner Davis asked that recommendations 10 and 11 be held until later.

**MOTION:** Accept recommendation 12 regarding the repeal of § 19.45(12), which a U.S. District Court found unconstitutional. Moved by Commissioner Davis, seconded by Commissioner Kinney. Motion carried unanimously.

Commissioner Davis asked that recommendation 13 be held until later.

Commissioner Lautenschlager asked that recommendation 14 be held until later.

**MOTION:** Accept recommendation 15 to revise unclear language in § 11.0101(7) regarding conduits. Moved by Commissioner Strachota, seconded by Commissioner Kinney. Motion carried unanimously.

**MOTION:** Accept recommendation 16 regarding filing fees in § 11.0102(2)(a). Moved by Commissioner Davis, seconded by Commissioner Kinney. Motion carried unanimously.

**MOTION:** Accept recommendation 17 regarding the yearly expiration and renewal of exempt status in § 11.0104. Moved by Commissioner Davis, seconded by Commissioner Kinney. Motion carried unanimously.

**MOTION:** Accept recommendation 18 regarding the exemption of committees from filing campaign finance reports if they have under \$2,000 in activity in a calendar year in § 11.0104(1). Moved by Commissioner Davis, seconded by Commissioner Kinney. Motion carried unanimously.

**MOTION:** Accept recommendation 19 regarding committees on exempt status that should not be required to file any reports in § 11.0104(2). Moved by Commissioner Strachota, seconded by Commissioner Kinney. Motion carried unanimously.

**MOTION:** Accept recommendation 20 regarding committees exempt from reporting requirements filing termination reports in § 11.0104(4). Moved by Commissioner Davis, seconded by Commissioner Kinney. Motion carried unanimously.

**MOTION:** Accept recommendation 21 to revise § 11.0201(4) regarding periods for contribution limits and record-keeping by the committee treasurer. Moved by Commissioner Kinney, seconded by Commissioner Lautenschlager. Motion carried unanimously.

**MOTION:** Accept recommendation 22 to clarify §§ 11.0204(4)(d) and (5)(c), 11.0204(6)(b), 11.0304(4)(d) and (5)(c), 11.0404(2)(d) and (3)(c), 11.0504(4)(d) and (5)(c), 11.0604(4)(d) and (5)(c), 11.0704(4)(b) and (5)(b), 11.0804(4)(d) and (5)(c), and 11.0904(4)(d) and (5)(c) regarding which committees are required to file a September continuing report. Moved by Commissioner Kinney, seconded by Commissioner Lautenschlager. Motion carried unanimously.

**MOTION:** Accept recommendation 23 regarding provisions in §§ 11.0204(1)(a) 7, 11.0304(1)(a) 7, 11.0404(1)(a) 7, 11.0504(1)(a) 7, 11.0604(1)(a) 7, 11.0804(1)(a) 6, 11.0904(1)(a) 7 exempting certain loans made to committees. Moved by Commissioner Kinney, seconded by Commissioner Lautenschlager. Motion carried unanimously.

**MOTION:** Accept recommendation 24 regarding §§ 11.0204(7), 11.0304(7), 11.0404(7), which establish a start date to begin late reporting, but no date to end them. Moved by Commissioner Strachota, seconded by Commissioner Davis. Motion carried unanimously.

**MOTION:** Accept recommendation 25 regarding § 11.0505 (1) (a) and §11.0605 (1) (a) which do not define starting and ending points for determining the aggregate spending on express advocacy. Moved by Commissioner Davis, seconded by Commissioner Kinney. Motion carried unanimously.

Commissioner Davis asked that recommendation 26 be held until later.

**MOTION:** Accept recommendation 27 regarding a possible drafting oversight in § 11.1103. Moved by Commissioner Strachota, seconded by Commissioner Davis. Motion carried unanimously.

**MOTION:** Accept recommendation 28 regarding § 11.1103 and the dates that campaign periods end. Moved by Commissioner Kinney, seconded by Commissioner Lautenschlager. Motion carried unanimously.

Commissioner Davis asked that recommendation 29 be held until later.

**MOTION:** Accept recommendation 30 regarding § 11.1208(2) and a definition for the term “strictly personal use,” which is not defined by statute. Moved by Commissioner Strachota, seconded by Commissioner Kinney.

Discussion.

Motion carried unanimously.

**MOTION:** Accept recommendation 31 to remove the requirement in § 11.1302 for any committee that makes a donation to a charity or the common school fund to report that activity within five days to their filing officer. Moved by Commissioner Davis, seconded by Commissioner Kinney. Motion carried unanimously.

**MOTION:** Accept recommendation 32 regarding § 11.1303(2)(a) and whether or not to require referenda committees to provide a disclaimer. Moved by Commissioner Davis, seconded by Commissioner Kinney.

Discussion.

**MOTION:** Amend the motion to say the Legislature should extend the disclaimer requirement to referendum committees and remove the words “or not.” Moved by Commissioner Davis, accepted by Commissioner Kinney. The motion was amended.

Motion carried unanimously.

**MOTION:** Accept recommendation 33 regarding § 11.1304(6)(b) and allowing certain committees to file paper reports. Moved by Commissioner Kinney, seconded by Commissioner Lautenschlager. Motion carried unanimously.

Discussion. Commissioner Davis asked that recommendation 33 be held until later. Commissioner Kinney withdrew his motion.

**MOTION:** Accept recommendation 34 regarding §§ 11.1400(5) and 11.1401(2) which imply that the Ethics Commission must act and make a probable cause determination prior to a district attorney acting on a complaint under the Commission’s jurisdiction, which is contradicted by an Attorney General opinion and § 978.05. Moved by Commissioner Davis, seconded by Commissioner Kinney. Motion carried unanimously.

Commissioner Halbrooks suggested adding a recommendation 35 regarding confidentiality of campaign finance matters. Commissioners agreed to have that discussion later.

## **M. Annual Report**

Administrator Bell presented the draft annual report to be submitted to the Governor and the Legislature on October 15, 2016. Commissioners discussed the relation of staff counsel to the Commission in legal matters as well as the mission statement of the agency.

**MOTION:** Amend the draft mission statement on page 83 to read, “The mission of the Ethics Commission is to administer Wisconsin’s campaign finance, lobbying, and ethics laws; and disseminate information to the public.” Moved by Commissioner Davis, seconded by Commissioner Halbrooks.

Roll call vote:

Davis – Aye	Lautenschlager – Nay
Halbrooks – Aye	McCallum – Aye
Kinney – Nay	Strachota – Nay

Motion failed 3-3. The Wisconsin Ethics Commission’s Annual Report will be submitted as drafted.

Administrator Bell reviewed the statutory duties of the Commission. Commissioner Strachota requested the delegation of authority to the Administrator to issue informal opinions be placed on the December agenda. Commissioner Strachota also requested the nonpartisan requirement of staff be placed on the December agenda.

**N. Administrator’s Report**

Administrator Bell presented a report regarding the activities of the agency since the last meeting. The report is provided for information, and the Commission took no action.

**O. COGEL Membership and Conference Attendance**

Administrator Bell presented a verbal report on staff plans to join COGEL and attend the organization’s annual conference.

**P. Closed Session**

**MOTION:** Move into closed session pursuant to § 19.50 and 19.55(3) to consider complaints and investigations, pursuant to § 19.85(1)(g) to confer with legal counsel with respect to likely litigation, and pursuant to § 19.85(1)(h) to consider requests for advice under the ethics code, lobbying law and campaign finance law. Moved by Commissioner Strachota, seconded by Commissioner Kinney. Motion carried unanimously.

Commission returned to open session at 3:25 p.m.

**L. Potential Legislation, continued**

Commission deferred discussion of the remainder of the items for the legislative agenda until the December meeting.

**Q. Adjourn**

**MOTION:** To adjourn. Moved by Commissioner Halbrooks, seconded by Commissioner Kinney. Motion carried unanimously.

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October 10, 2016 Wisconsin Ethics Commission meeting minutes prepared by:

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David Buerger, Staff Counsel

December 6, 2016

October 10, 2016 Wisconsin Ethics Commission meeting minutes certified by:

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Katie McCallum, Vice Chair

December 6, 2016



# Wisconsin Ethics Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984  
(608) 266-8123 | ethics@wi.gov | ethics.wi.gov

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**DATE:** For the December 6, 2016 Meeting

**TO:** Members, Wisconsin Ethics Commission

**FROM:** Commission Staff

**SUBJECT:** Revised Ethics Commission Complaint Procedures

The procedures outlined below are intended to comply with and implement the statutes and administrative rules governing the processing and resolution of complaints filed with the Ethics Commission. Staff originally presented to the Commission an outline of proposed complaint procedures at its October 10, 2016 meeting, following the advice and recommendations of the public and the Commission members staff has revised the below procedures to better track statute and Commission recommendations. These procedures make use of the Complaint Tracking Database created in SharePoint, which contains separate tracking mechanisms for complaints and audits handled by Commission staff.

## **A. Complaint Intake**

1. A complaint may be received by paper, or electronically. When received as a paper (mailed or in-person) Front Desk staff shall forward the complaint to the Commission Administrator (“Administrator”) and Staff Counsel (“Counsel”) if it relates to laws governing campaign finance, lobbying, or the code of ethics for public officials. Any other member of the staff that receives a complaint shall forward those to the Administrator and Counsel.
2. Regardless of the form of the submission, the Administrator or Counsel shall determine whether it constitutes a sworn complaint. Complaints will be entered into the Complaint Tracking Database. The Ethics Commission portal of the Database is intended to track complaints under the Commission’s jurisdiction as well as submissions relating to matters outside of its jurisdiction.
3. If the submission constitutes a sworn complaint to be included in the Database, the Administrator or staff, at the direction of the Administrator, shall open a record in the database using the proper naming convention. Paper complaints shall be scanned and attached to the complaint record, and complaints submitted electronically shall be saved and attached to the complaint file in the Database.

*Wisconsin Ethics Commissioners*

Mac Davis | David R. Halbrooks | Robert Kinney | Peg Lautenschlager | Katie McCallum | Pat Strachota

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*Administrator*  
Brian M. Bell, MPA

4. When the record is created, the Database will automatically generate a complaint identification number and the date on which the record was created. The ID number will include a designation for the year in which the complaint was opened. The Database will also create a folder to store documents related to the complaint, which will be linked to the complaint record.

## **B. Complaint Processing**

1. Any person may file a complaint if he or she believes a violation of [Ch. 11](#), [Ch. 13 Subch. III.](#), or [Ch. 19 Subch. III](#) of the Wisconsin Statutes has occurred or is occurring.<sup>1</sup> Neither the Commission nor any member or employee of the Commission, including the Commission administrator, may file a sworn complaint.<sup>2</sup>
  - a. A complaint must comply with certain requirements. It **must**:
    - i. Provide the full name and address of the person filing the complaint (called the complainant); and
    - ii. Be signed and sworn.
  - b. in order for a complaint to be considered complete and proper, it **should**:
    - i. Clearly recite the facts that show specific violations under the Commission's jurisdiction (citations to the law and/or regulations are valuable);
    - ii. Clearly identify each person, committee or group that is alleged to have committed a violation (called the respondent[s]);
    - iii. Include any documentation supporting the allegations, if available; and
    - iv. Differentiate between statements based on the complainant's (the person who files the complaint) personal knowledge and those based on information and belief. Statements not based on personal knowledge should identify the source of the information.
2. The Administrator reviews each complaint to determine whether it states a violation within the jurisdiction of the Commission and satisfies the above criteria for a proper complaint. If the complaint does not meet these requirements, the Administrator notifies the complainant of the deficiencies.
  - a. Non-jurisdictional & Local Complaints
    - i. Within five (5) days of receiving a complaint, the Administrator or Staff Counsel shall determine whether the complaint involves a matter outside of the agency's jurisdiction or pertains to a local matter. In either case, the Administrator will assign a staff member to generate an email or letter advising the complainant: (1) that the agency does not have jurisdiction regarding the matter, and informing the complainant of any other governmental agency that may be able to assist with the matter, if that information is known; or (2) that the matter should be addressed to a District Attorney. Standardized communications may be

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<sup>1</sup> WIS. STAT. § 19.49(2)(b).

<sup>2</sup> WIS. STAT. § 19.49(2)(a).

utilized to resolve matters outside of the Commission's jurisdiction. Staff assigned to the matter shall attach the complaint and may attach the closing correspondence to the complaint record in the database.

b. Jurisdictional Complaints

- i. Within five (5) days of receipt of a complaint that is within the jurisdiction of the Ethics Commission, staff will verify the receipt of the sworn complaint to the complainant and responding party. Before voting on whether to take any action regarding the complaint, other than to dismiss, the Commission (via the Administrator) shall give the responding party(s) 15 days to respond in writing after receiving the notice, that the Commission should take no action against the person based on the complaint.<sup>3</sup>
- ii. A respondent who is or intends to be represented by legal counsel should inform the Commission by sending a statement regarding the designation of counsel, including the name and address of the individual(s).

3. Initial Vote to Proceed (Reasonable Suspicion Inquiry)

- a. Each complaint that is assigned to Counsel or other staff will be submitted to the Commission with recommendations on whether or not there is "reasonable suspicion" that the respondent has committed or is committing a violation of the law.<sup>456</sup> The Commission makes the final decision by voting for or against a "reasonable suspicion" determination or otherwise terminating the complaint. (Four affirmative votes are required to go forward with any enforcement action). In making this determination, the Commissioners may consider the complaint, the respondent's reply, available information on the public record and the staff's analysis and recommendations.
- b. If the Commission determines there is "no reasonable suspicion" that a violation has occurred or is occurring with respect to all of the allegations, or if the Commission dismisses the matter for other reasons, the case is closed, and the parties involved are notified.<sup>7</sup> If, on the other hand, the Commission finds that there is "reasonable suspicion" that the respondent has violated or is

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<sup>3</sup> WIS. STAT. § 19.49(2)(b).

<sup>4</sup> The assigned staff member or Staff Counsel shall analyze the facts and relevant law, and determine the proper outcome or resolution, consulting with the Administrator as necessary, and present those findings to the Commission.

<sup>5</sup> "Reasonable suspicion" has been defined as "specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion." *Terry v. Ohio*, 392 U.S. 1 at 21.

<sup>6</sup> Reasonable suspicion findings indicate only that the Commission either found or failed to find sufficient legal justification to open an investigation to determine whether a violation of the law has occurred, and not a definitive determination that a respondent violated any provision of the law.

<sup>7</sup> WIS. STAT. § 19.50(2)(c) specifically allows for the release of "communications made to the attorney of an investigator, prosecutor, employee, or member of the Commission or to a person or the attorney of a person who is investigated or prosecuted by the Commission ."

violating the law, the Commission may either authorize an investigation via resolution or enter directly into settlement negotiations by the same.<sup>8</sup>

- i. When a complaint is designated for settlement, the Administrator shall assign it to a staff member and/or Counsel for processing and resolution.
- ii. If the complaint is designated for an investigation by resolution, the resolution shall specifically set forth any matter that is authorized to be investigated.<sup>9</sup>
- iii. To assist in the investigation, the Commission may elect to retain a special investigator. If the Commission elects to retain a special investigator, the Administrator shall submit to the Commission the names of three (3) qualified individuals to serve as a special investigator.<sup>10</sup>
- iv. If the Commission retains a special investigator to investigate a complaint against a person who is a resident of this state, the Commission shall provide to the district attorney for the county in which the person resides a copy of the complaint and shall notify the district attorney that it has retained a special investigator to investigate the complaint.<sup>11</sup>

### **C. Formal Investigation Procedures**

1. The goal of the formal investigation stage is to determine whether the Commission can make a finding that probable cause exists to believe that one or more violations under have occurred or are occurring, together with a recommended course of action.
2. Reports to Commission<sup>12</sup>
  - a. Special Investigators
    - i. Each special investigator who is retained by the Commission shall make periodic reports to the Commission, as directed by the Commission, but in no case may the interval for reporting exceed 30 days.
  - b. Administrator
    - i. If the Commission authorizes the Administrator to investigate any matter without retaining a special investigator, the Administrator shall make periodic reports to the Commission, as directed by the Commission, but in no case may the reporting interval exceed 30 days.

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<sup>8</sup> WIS. STAT. § 19.49(1)(b) The Commission may compromise and settle any civil action or potential action brought or authorized to be brought by it which, in the opinion of the Commission, constitutes a minor violation, a violation caused by excusable neglect, or which for other good cause shown, should not in the public interest be prosecuted under such chapter.

<sup>9</sup> WIS. STAT. § 19.49(2)(b) 3.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> WIS. STAT. § 19.49(2)(b) 4

3. Investigation Review<sup>13</sup>

- a. During the pendency of any investigation, the Commission shall meet for the purpose of reviewing the progress of the investigation at least once every 90 days. The special investigator or the Administrator shall report in person to the commission at that meeting concerning the progress of the investigation. If, after receiving a report, the Commission does not vote to continue an investigation for an additional period not exceeding 90 days, the investigation is terminated at the end of the reporting interval.
- b. The Commission shall not expend more than \$25,000 to finance the cost of an investigation before receiving a report on the progress of the investigation and a recommendation to commit additional resources.
- c. The Commission may vote to terminate an investigation at any time. If an investigation is terminated, any complaint from which the investigation arose is deemed to be dismissed by the Commission.

4. Probable Cause Determination<sup>14</sup>

- a. Unless an investigation is terminated by the Commission, at the conclusion of each investigation, the Administrator shall present to the Commission one of the following:
  - i. A recommendation to make a finding that probable cause exists to believe that one or more violations have occurred or are occurring, together with a recommended course of action.
  - ii. A recommendation for further investigation of the matter together with facts supporting that course of action.
  - iii. A recommendation to terminate the investigation due to lack of sufficient evidence to indicate that a violation has occurred or is occurring.
- b. At the conclusion of its investigation, the Commission shall, in preliminary written findings of fact and conclusions based thereon, make a determination of whether or not probable cause exists to believe that a violation has occurred or is occurring. If the Commission determines that no probable cause exists, it shall dismiss the complaint.<sup>15</sup>
  - i. Whenever the Commission dismisses a complaint or a complaint is deemed to be dismissed for other reasons, the Commission shall immediately send written notice of the dismissal to the accused and to the party who made the complaint.
  - ii. The Commission shall inform the accused or his or her counsel of exculpatory evidence in its possession.

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<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> WIS. STAT. §§ 19.49(2)(b) 7 & 8.

5. Post-Probable Cause Finding

- a. If the Commission finds that there is probable cause to believe that a violation has occurred or is occurring, the Commission may authorize the Administrator to do one of the following:<sup>16</sup>
  - i. File a civil complaint against the alleged violator.
  - ii. Request the assistance of special counsel to file a civil complaint and prosecute the action brought by the Commission.
    1. If the Administrator requests the assistance of special counsel with respect to any matter, the Administrator shall submit to the commission the names of three (3) qualified individuals to serve as special counsel. The Commission may retain one of the individuals to act as special counsel.
  - iii. Refer the matter to an appropriate district attorney or Attorney General.<sup>17</sup>
- b. If a special investigator or the Administrator, in the course of an investigation authorized by the Commission, discovers evidence outside the scope of the original investigation or jurisdiction of the Commission, the Commission may thereupon authorize the investigation of the additional conduct or if outside the jurisdiction of the Commission, refer the matter to an appropriate district attorney or the Attorney General.<sup>18</sup>

**D. Post Complaint Action**

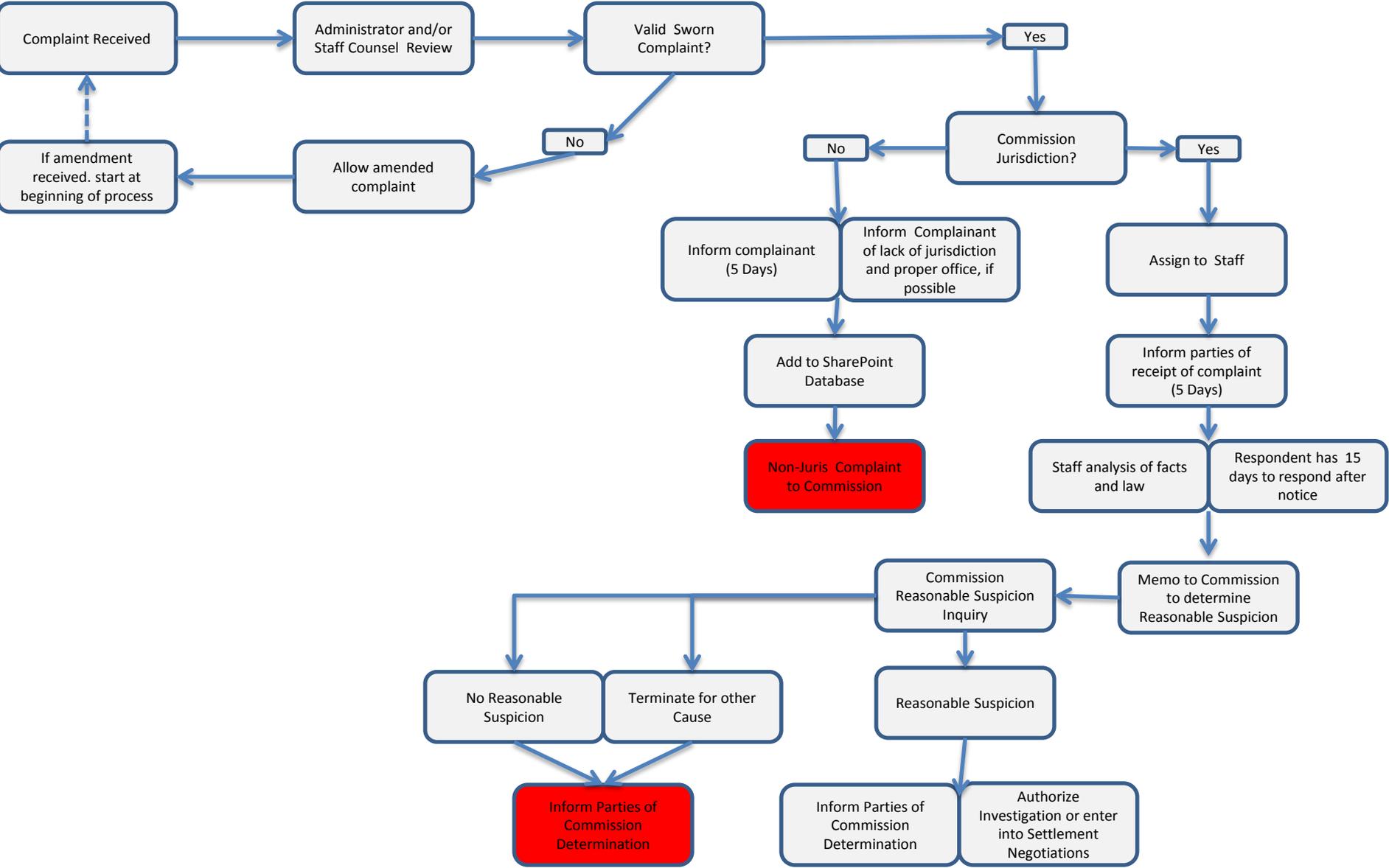
1. Throughout the processing of the complaint, the assigned staff member or Staff Counsel shall document the status and significant information regarding the complaint in the Complaint Tracking Database. This shall include completing the data fields indicating the status of the complaint, the source of the complaint, the subject category, and subcategory of the complaint, forfeiture and resolution information, and any additional comments. The dismissal letter, settlement agreement, or other communication resolving the matter may be attached to the complaint record in the Database. Assigned staff or Staff Counsel shall also be responsible for maintaining the electronic and paper files for said complaints.
2. The Administrator shall review the status of open complaints on at least a bi-weekly basis to monitor the progress of complaint resolution. The Administrator or designated staff member shall also prepare a summary report for each Commission meeting regarding the status of complaint files that are open or that have been closed since the previous Commission meeting.

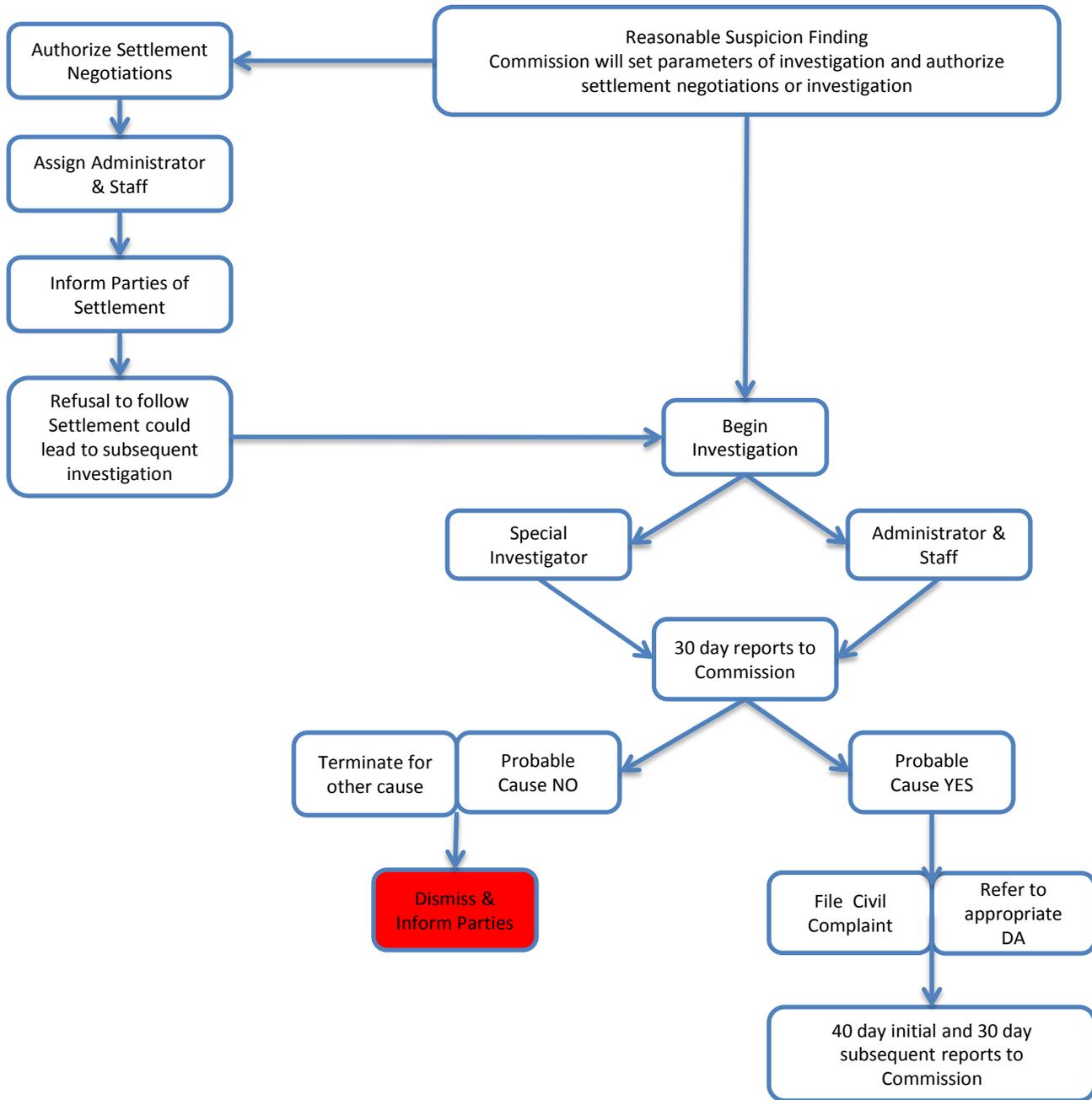
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<sup>16</sup> WIS. STAT. §§ 19.49(2)(b) 5 & 9.

<sup>17</sup> WIS. STAT. § 19.49(2)(b) 13 & 14 provide special procedures should a district attorney decline to prosecute a potential violation.

<sup>18</sup> WIS. STAT. §§ 19.49(2)(b) 11 & 12 provide the procedures for amending and authorizing the review of matters outside the original investigation and the referral of matters outside the Commissions jurisdiction respectively.







# Wisconsin Ethics Commission

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**DATE:** For the December 6, 2016 Commission Meeting

**TO:** Members, Wisconsin Ethics Commission

**FROM:** Ethics Staff

**SUBJECT:** Advisory Opinion Review

## Introduction

The Commission, at its October 10, 2016 meeting, directed staff to conduct further analysis and offer for public review advisory opinions with campaign finance implications. The Commission directed staff, as part of that review, to present opinions that had previously been determined to be consistent to the public for comment and review.

## Staff Review of Advisory Opinions with Campaign Finance Implications

In conducting the review of the opinions previously marked consistent and based on comments made by members of the public and several of the Commissioners at the October 10, 2016 meeting, staff has determined that the best option going forward would be to withdraw all opinions with campaign finance implications currently in effect because they rely on references to the old Chapter 11. While many of the conclusions reached in these opinions would likely be the same under the new Chapter 11, the repeal and recreation of Chapter 11 by 2015 Wisconsin Act 117 renders these old advisory opinions obsolete.

## Next Steps

Commission staff would still recommend that the above-mentioned opinions still be made available for viewing with a clear disclaimer that those opinions are withdrawn and have no legal effect.<sup>1</sup> Staff believes that even if the statutes have changed, the reasoning behind many opinions may apply to the new statutes, and are still of value to the public.

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<sup>1</sup> See Addendum of Advisory Opinions with Disclaimers for Website Display

*Wisconsin Ethics Commissioners*

Mac Davis | David R. Halbrooks | Robert Kinney | Peg Lautenschlager | Katie McCallum | Pat Strachota

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*Administrator*  
Brian M. Bell, MPA

### **Commission Options**

1. The Commission makes a determination to withdraw all of the advisory opinions listed in the foregoing document, and directs staff to refrain from reposting the withdrawn opinions on the Commission's public website
2. The Commission makes a determination to withdraw all of the advisory opinions listed in the foregoing document, and directs staff to make available the withdrawn opinions with a clear disclaimer as to the lack of legal effect of all listed opinions.
3. The Commission makes a determination to withdraw all of the advisory opinions listed in the foregoing document, and directs staff to make available the withdrawn opinions with a clear disclaimer as to the lack of legal effect of all listed opinions. In addition, the Commission directs staff to inform the regulated community of the withdrawal of advisory opinion that referenced the previous campaign finance statutes, and include information on how to request a new advisory opinion, if interested.
4. The Commission directs staff to pursue another alternative.

Subject	Year	Opinion Number	Summary of opinion
Conduits	1998-01	<a href="#">El. Bd. Op. 98-1</a>	A registered conduit may transfer funds from members' accounts to political committees (PAC's) and those transfers will be treated as the contributions from the individual members who authorized the transfers to the PAC in the amount authorized by each member.
Conduits	2006-01	<a href="#">El. Bd. Op. 06-1</a>	Ancillary events, like a golf outing, held in conjunction with a political fundraiser are treated as part of the fundraiser unless the registrant/beneficiary of the fundraiser is able to show that the fundraiser was a separate and independent event. In determining whether ancillary events are separate and independent from a political fundraising event, PAC/Conduit events to raise money for the PAC are evaluated differently from events held to raise money for a candidate. Compensation for time and travel for persons paid to attend fundraising events is not considered a contribution to the beneficiary of the fundraising event unless the compensated attendee performs, in the course of the fundraiser, services for the beneficiary of the fundraiser. (Issued to Peter C. Christianson, January 18, 2006)
Conduits	1976-15	<a href="#">El. Bd. Op. 76-15</a>	Corporate conduits: A corporation which acts solely as a conduit in collecting and transferring predetermined contributions of its members to a state organization does not violate the prohibition on contributions by corporations. §11.38, Stats., Ops. El.Bd. 74-1, 75-6, 76-3, 76-6. (Issued to Robert H. Friebert, December 17, 1976)
Conduits	1989-01	<a href="#">El. Bd. Op. 89-1</a>	Interest income from conduit and PAC depository accounts, properly invested under §11.25(3) Stats., may be used in the same manner as other funds in the account, including payment of administration and solicitation expenses of a conduit if the conduit agreement so provides.
Conduits	1986-01	<a href="#">El. Bd. Op. 86-1</a>	JOINT FUNDRAISERS; a political action committee and a conduit may not conduct a joint fundraiser where the contributions are deposited in a single check in an escrow account and an allocation formula is used to divide the contributions. §§11.05(9) and 11.14(1) and (2), Stats. (Issued to Mr. James Buchen, April 30, 1986.)
Conduits	1974-01	<a href="#">El. Bd. Op. 74-1</a>	Local union affiliate which acts solely as a conduit in collecting and transferring pre-determined contribution to state organization need not register as a political committee. (Issued to Alfred G. Goldberg, July 30, 1974)
Conduits	1978-01	<a href="#">El. Bd. Op. 78-1</a>	Subcommittees of political committees: Local unions may terminate separate registrations and become subcommittees of political action committee operated by a regional affiliate, so long as subcommittees do not engage in financial activity independent of the parent committee and a single depository and treasurer are used. Such subcommittees may act as fund-raising agents for the regional committee, provided they exercise no discretion in transfer of funds to the committee and meet the statutory time deadlines for reporting and transmittal of collected funds to the committee treasurer. §§11.10, 11.26 (2)(c), Stats. (Issued to Lee Cullen, March 16, 1978)
Conduits	2003-01	<a href="#">El. Bd. Op. 03-1</a>	The filing, with the State Elections Board, of a challenge to a candidate's nomination, is an act for political purposes and the spending of more than \$25 in the submitting of that challenge requires that the person challenging file a registration statement with the Board. The spending by an individual of more than \$100 of his or her own money to submit a challenge to a candidate's nomination precludes the individual from exempt status and requires the individual to file a campaign finance report. Whether or not nomination challenge expenditures are an in-kind contribution or an independent expenditure, or are neither, they are permissible political expenditures and should be reported. (Issued to Don M. Millis, March 28, 2003)
Conduits	2014-03	<a href="#">GAB Op. 14-3</a>	The Government Accountability Board advises that a conduit may redirect contributions to a PAC or other committee under Wis. Stat. §11.185 (1) if it has established or paid the administrative expenses of the conduit, whether or not it has registered as a sponsoring committee, or (2) if the committee was established by the same organization that established the conduit. The Board further advises that a mere confluence of interests or the fact that a depositor has previously directed the conduit to make a contribution to a PAC is not enough to consider the two entities as "associated" within the meaning of the statute.

Subject	Year	Opinion Number	Summary of opinion
Contribution Limits	2011-01	<a href="#">GAB Op. 11-1</a>	<p>1. Contributions exempt from campaign finance limits pursuant to §11.26(13m)(b), Wis. Stats., may be used only for qualifying legal fees and other recall-related expenses incurred before a recall election is ordered, unless the expenses are incurred specifically for contesting or defending the order for a recall election. Qualifying expenses include legal fees and other expenses incurred “in connection with” or “with the response to” the circulation, offer to file or filing, of a petition to recall an officer, or if incurred in contesting or defending the order for a recall primary or election</p> <p>2. Qualifying expenses under §11.26(13m)(b) may include public advocacy and persuasion after recall petitions are offered for filing, if such expenses are incurred in connection with the circulation, offer to file or filing, of a petition to recall an officer, or in connection with the response to the circulation, offer to file or filing, of a recall petition . The statute is clear that the exemption does not end when a recall petition is offered for filing, but rather ends only when a recall primary or election is ordered.</p> <p>3. The Board confirms that there is a broad spectrum of qualifying recall-related expenses, which includes expenses incurred for public advocacy and persuasion. However, for any qualifying recall-related expenses, but especially public advocacy and persuasion, there must be a reasonable nexus between the incurred expense and the circulation, offer to file or filing, of a petition to recall an officer, or in connection with the response to the circulation, offer to file or filing, of a recall petition. This is a factual determination.</p>
Contribution Limits	1974-02	<a href="#">El. Bd. Op. 74-2</a>	A committee may make maximum contributions to a candidate in a primary calculated from his total disbursement limitation in both the primary and election, provided that no further contributions are made after the primary. (Issued to Alfred G. Goldberg, July 24, 1974)
Contribution Limits	1977-03	<a href="#">El. Bd. Op. 77-3</a>	A national political party committee's payment of compensation to another specifically in exchange for full-time political services performed on behalf of a Wisconsin committee is a contribution, which subjects the national committee to registration and applicable reporting requirements. Such committee's payment of compensation to an employee or employees performing occasional services for a Wisconsin committee, when such services are merely incidental to the work of the employee or employees on behalf of the national committee, is not a contribution. §11.01 (5), Stats. (Issued to George Innes, July 21, 1977)
Contribution Limits	1978-15	<a href="#">El. Bd. Op. 78-15</a>	Application of contribution limits to affiliated committees: Where affiliated committees are prohibited by the terms of their affiliation with a parent organization from supporting statewide or state legislative office candidates other than those chosen through an endorsement procedure controlled by the parent, the contributions of the affiliated organizations to statewide or state legislative candidates must be charged to the contribution limits of the parent. §11.26, Stats. The Board concludes that, for contributions to candidates for statewide office or state legislative office, the various PACS heremust be treated as a single committee subject to a single limit. Because the regional and localunits PACS are free to make their own choices among local candidates, the PACS will not be treated as a single committee for purposes of applying the contribution limits in local races; each PAC may contribute up to the applicable per-candidate limit to a candidate for local office.
Contribution Limits	1974-05	<a href="#">El. Bd. Op. 74-5</a>	Contributions by a candidate to his own campaign must be given to the candidate’s treasurer like other campaigns. Contributions from a candidate’s family members must be made from the family member’s funds. (Issued to Richard C. Kelly, August 28, 1974)
Contribution Limits	1978-04	<a href="#">El. Bd. Op. 78-4</a>	Limits on Contributions to political Party Committees and Retirement of Debts: El.Bd. 1.04, Wis. Adm. Code, does not apply to political party committees; a political party committee may not accept a contribution in excess of the limits in §11.26 (8), Stats., in any calendar year, even if part of such contribution is used for retirement of debts outstanding from a previous calendar year. §11.26 (8), Stats. (Issued to David M. Travis, May 18, 1978)
Contribution Limits	1975-07	<a href="#">El. Bd. Op. 75-7</a>	The contribution limitations of §11.26 (1) and (10), Stats., apply per campaign and not per calendar year. (Issued to Eunice Niemi, December 17, 1975)

Subject	Year	Opinion Number	Summary of opinion
Contribution Limits	2014-02	<a href="#">GAB Op. 14-2</a>	The Government Accountability Board agrees that contributions from a candidate's own personal campaign committee do not count toward that same candidate's annual aggregate limit. The statutory language is clear that the annual aggregate limit applies only to individuals. Wis. Stat. §11.26 (4). This is so even if a candidate has made personal contributions in excess of \$10,000 in any given calendar year to the candidate's own personal campaign committee.
Coordination	2000-02	<a href="#">El. Bd. Op. 00-2</a>	Non-registrants, including corporations, may communicate to the general public their views about issues and/or about a clearly identified candidate, without subjecting themselves to a registration requirement, if the communication does not expressly advocate the election or defeat of a clearly identified candidate; expenditures which are "coordinated" with a candidate or candidate's agent will be treated as a contribution to that candidate; intra-association communications that are restricted to "a candidate endorsement, a position on a referendum or an explanation of the association's views and interests" distributed to the association's members, shareholders and subscribers to the exclusion of all others, are exempt from ch. 11, Stats., regulation; and a non-partisan, candidate-non-specific voter registration or voter participation drive is not subject to the registration and reporting requirements of ch.11, Stats.
Corps and PACs	1982-01	<a href="#">El. Bd. Op. 82-1</a>	A corporation sponsoring a nonresident separate segregated fund must register with the Elections Board pursuant to §11.38(1)(a)2., Wis. Stats., and file semi-annual reports disclosing its administrative and solicitation expenses with respect to Wisconsin related campaign finance activities of the separate segregated fund. A corporation may not spend more than \$500 annually for solicitation of contributions to its separate segregated fund for Wisconsin related campaign finance activity. (Issued to Mr. James R. Klauser, September 23, 1982)
Corps and PACs	1991-01	<a href="#">El. Bd. Op. 91-1</a>	A corporation which acts solely in the nature of a conduit in collecting and transferring the contributions of its employee-agents to the political action committee of the employeeagents' statewide trade association does not make a contribution to that trade association PAC, if none of the expenses of administration or solicitation of those contributions are borne by the corporation and if a list of the contributors and the amounts of their contributions is maintained at each stage of the transfer. (Issued to Brady Williamson, August 12, 1991)
Corps and PACs	1979-05	<a href="#">El. Bd. Op. 79-5</a>	A corporation which establishes and administers a separate segregated fund under §11.38 (l)(a)2., Stats., may purchase and pay premiums on officers' and directors' liability insurance, general liability insurance and fidelity bonds for the fund (Issued to Thomas J. Sobota, December 13, 1979)
Corps and PACs	1975-03	<a href="#">El. Bd. Op. 75-3</a>	A non-resident political committee is subject to the same registration and reporting requirements as a resident committee but may maintain its campaign depository outside of this state. The term "solicitation" as used in §11.38 (2), Stats., includes those activities which have as their sole purpose and which by their nature or manner result solely in the raising of funds. (Issued to M. Scott Cisney, November 19, 1975)
Corps and PACs	1998-01	<a href="#">El. Bd. Op. 98-1</a>	A registered conduit may transfer funds from members' accounts to political committees (PAC's) and those transfers will be treated as the contributions from the individual members who authorized the transfers to the PAC in the amount authorized by each member.
Corps and PACs	2006-01	<a href="#">El. Bd. Op. 06-1</a>	Ancillary events, like a golf outing, held in conjunction with a political fundraiser are treated as part of the fundraiser unless the registrant/beneficiary of the fundraiser is able to show that the fundraiser was a separate and independent event. In determining whether ancillary events are separate and independent from a political fundraising event, PAC/Conduit events to raise money for the PAC are evaluated differently from events held to raise money for a candidate. Compensation for time and travel for persons paid to attend fundraising events is not considered a contribution to the beneficiary of the fundraising event unless the compensated attendee performs, in the course of the fundraiser, services for the beneficiary of the fundraiser. (Issued to Peter C. Christianson, January 18, 2006)

Subject	Year	Opinion Number	Summary of opinion
Corps and PACs	1975-05	<a href="#">El. Bd. Op. 75-5</a>	Contributions of \$100 or less received in the form of a check drawn on a joint checking account may be assumed to be from the signer of the check absent evidence to the contrary. Contributions over \$100 received in the form of a check drawn on a joint checking account may not be assumed to be from the signer of the check absent evidence to the contrary; instead, the treasurer must affirmatively inquire as to whom the contribution is from. Contributions received in the form of a check drawn on a partnership checking account may not be assumed to be from the signer of the check. The treasurer has a duty to ascertain the identity of the contributor in such instance. Reproduction of personal correspondence by means of a magnetic card typewriter constitutes reproduction by machine. An organization may, pursuant to §11.29 (1), Stats., send nomination papers to its members without reporting such activity. (Issued to Keith R. Clifford, December 19, 1975)
Corps and PACs	1976-15	<a href="#">El. Bd. Op. 76-15</a>	Corporate conduits: A corporation which acts solely as a conduit in collecting and transferring predetermined contributions of its members to a state organization does not violate the prohibition on contributions by corporations. §11.38, Stats., Ops. El.Bd. 74-1, 75-6, 76-3, 76-6. (Issued to Robert H. Frieber, December 17, 1976)
Corps and PACs	1978-13	<a href="#">El. Bd. Op. 78-13</a>	Corporate subsidies of candidate appearances: A corporation's provision of facilities, materials, services and beverages in connection with a candidate's political appearance before members of the corporation's separate segregated fund and "other interested persons" is an impermissible corporate contribution or disbursement, rather than a permissible cost of administering the fund. A corporation may characterize its expenses in subsidizing such candidate appearances as permissible costs of administering the fund if the audience for the appearances is limited to those directly involved in determining how the fund is used. §§11.38, 11.01 (5), 11.01 (6), Stats. (Issued to Quinn W. Martin, August 17, 1978)
Corps and PACs	1975-08	<a href="#">El. Bd. Op. 75-8</a>	Discussion of separate segregated funds established pursuant to §11.38 (l)(a) 2., Stats., and their incorporation for purposes of liability. (Issued to Richard S. Gallagher, December 19, 1975)
Corps and PACs	1975-06	<a href="#">El. Bd. Op. 75-6</a>	Establishment and administration of separate segregated funds under §11.38 (l)(a) 2., Stats., discussed. (Issued to Richard S. Gallagher, December 19, 1975)
Corps and PACs	1978-11	<a href="#">El. Bd. Op. 78-11</a>	Establishment of separate segregated fund by affiliated corporations: Where two corporations are independently incorporated but affiliated for certain purposes, they may each establish a separate segregated fund if (1) neither corporation provides money or other assets for the operation of the other's fund, and (2) neither corporation exercises a significant degree of control over the management of the other's fund. §11.38 (l)(a)2., Stats. (Issued to W. Pharis Horton, July 20, 1978)
Corps and PACs	1988-03	<a href="#">El. Bd. Op. 88-3</a>	Independent insurance agents can establish a commission withholding system that will enable participating insurance companies to forward agents' contributions to an agents' PAC, without attributing any of those contributions, or the expenses of maintaining the system to the participating insurance companies. Separate bookkeeping of each individual agent's contributions and pro-rata expenses must be maintained and reported. (Issued to Mr. Steven A. Reidich, October 5, 1988)
Corps and PACs	1989-01	<a href="#">El. Bd. Op. 89-1</a>	Interest income from conduit and PAC depository accounts, properly invested under §11.25(3) Stats., may be used in the same manner as other funds in the account, including payment of administration and solicitation expenses of a conduit if the conduit agreement so provides.
Corps and PACs	1986-01	<a href="#">El. Bd. Op. 86-1</a>	JOINT FUNDRAISERS; a political action committee and a conduit may not conduct a joint fundraiser where the contributions are deposited in a single check in an escrow account and an allocation formula is used to divide the contributions. §§11.05(9) and 11.14(1) and (2), Stats. (Issued to Mr. James Buchen, April 30, 1986.)

Subject	Year	Opinion Number	Summary of opinion
Corps and PACs	1977-07	<a href="#">El. Bd. Op. 77-7</a>	Joint solicitation by federal and state committees: Under a joint solicitation plan, in which collected contributions are allocated by an escrow agent according to a predetermined formula between a state political committee and a committee whose activity is directed exclusively toward federal campaigns, and contributors are advised of such allocation at the time of contribution, (1) the federal committee is not subject to the regulatory and reporting requirements of chapter 11, Stats., (2) the funds allocated to the federal committee are not subject to the regulatory and reporting requirements of chapter 11, and (3) the escrow agent is not subject to the registration and reporting requirements of chapter 11. §11.03, Stats., El. Bd. Op. 74-1. (Issued to Darwin Scoon, September 22, 1977)
Corps and PACs	1976-06	<a href="#">El. Bd. Op. 76-6</a>	Labor organizations which have incorporated are prohibited by §11.38, Stats., from making political contributions or engaging in political activities other than as expressly permitted therein. (Issued to John A. Lawton, March 17, 1976)
Corps and PACs	1978-10	<a href="#">El. Bd. Op. 78-10</a>	Limit on corporate solicitations for separate segregated fund: The \$500 annual limit on a corporation's solicitation expenditures for its separate segregated fund may be applied to any period of 12 consecutive months, including the corporation's fiscal year. § 11.38 (1)(a)2., Stats. (Issued to Floyd S. Keene, July 20, 1978)
Corps and PACs	2000-02	<a href="#">El. Bd. Op. 00-2</a>	Non-registrants, including corporations, may communicate to the general public their views about issues and/or about a clearly identified candidate, without subjecting themselves to a registration requirement, if the communication does not expressly advocate the election or defeat of a clearly identified candidate; expenditures which are "coordinated" with a candidate or candidate's agent will be treated as a contribution to that candidate; intra-association communications that are restricted to "a candidate endorsement, a position on a referendum or an explanation of the association's views and interests" distributed to the association's members, shareholders and subscribers to the exclusion of all others, are exempt from ch. 11, Stats., regulation; and a non-partisan, candidate-non-specific voter registration or voter participation drive is not subject to the registration and reporting requirements of ch.11, Stats.
Corps and PACs	1986-03	<a href="#">El. Bd. Op. 86-3</a>	Organization or PAC that sponsors a partisan "get out the vote" drive must register with the appropriate filing officer and meet the applicable requirements of the campaign finance law. §11.05(1), Stats. Disbursements used in the drive are not allocable as in-kind expenditures. (Issued to Brady C. Williamson, January 14, 1987.)
Corps and PACs	1976-05	<a href="#">El. Bd. Op. 76-5</a>	Section 11.16 (2), Stats., is not violated by payroll deduction plan if corporation supplies fund with list of contributors and amounts contributed. Corporation may transmit total payroll deduction in the form of a corporate check if list of names of contributors and amounts contributed is provided to fund. (Issued to Richard S. Gallagher, February 18, 1976)
Corps and PACs	1978-01	<a href="#">El. Bd. Op. 78-1</a>	Subcommittees of political committees: Local unions may terminate separate registrations and become subcommittees of political action committee operated by a regional affiliate, so long as subcommittees do not engage in financial activity independent of the parent committee and a single depository and treasurer are used. Such subcommittees may act as fund-raising agents for the regional committee, provided they exercise no discretion in transfer of funds to the committee and meet the statutory time deadlines for reporting and transmittal of collected funds to the committee treasurer. §§11.10, 11.26 (2)(c), Stats. (Issued to Lee Cullen, March 16, 1978)
Corps and PACs	1988-04	<a href="#">El. Bd. Op. 88-4</a>	The exclusion set out in §11.29(1), Stats., and the application of Wisconsin's campaign finance disclosure law is limited to communications from an organization to its members to the exclusion of all others for the purpose of communicating endorsements of candidates, positions on referenda or an explanation of the organization's views and interests. The funding of such communications must be paid for by the organization.
Corps and PACs	2003-01	<a href="#">El. Bd. Op. 03-1</a>	The filing, with the State Elections Board, of a challenge to a candidate's nomination, is an act for political purposes and the spending of more than \$25 in the submitting of that challenge requires that the person challenging file a registration statement with the Board. The spending by an individual of more than \$100 of his or her own money to submit a challenge to a candidate's nomination precludes the individual from exempt status and requires the individual to file a campaign finance report. Whether or not nomination challenge expenditures are an in-kind contribution or an independent expenditure, or are neither, they are permissible political expenditures and should be reported. (Issued to Don M. Millis, March 28, 2003)

Subject	Year	Opinion Number	Summary of opinion
Corps and PACs	2014-03	<a href="#">2014 GAB 03</a>	The Government Accountability Board advises that a conduit may redirect contributions to a PAC or other committee under Wis. Stat. §11.185 (1) if it has established or paid the administrative expenses of the conduit, whether or not it has registered as a sponsoring committee, or (2) if the committee was established by the same organization that established the conduit. The Board further advises that a mere confluence of interests or the fact that a depositor has previously directed the conduit to make a contribution to a PAC is not enough to consider the two entities as “associated” within the meaning of the statute.
Corps and PACs	2008-08	<a href="#">2008 GAB 08</a>	The Government Accountability Board advises: 1) A limited liability company may not give office space to a candidate’s legislative campaign committee, even if the candidate is a principal, or the sole, owner of the company. 2) A candidate’s legislative campaign committee may rent office space from a company owned by the candidate at a fair market value.
Corps and PACs	1979-04	<a href="#">El. Bd. Op. 79-4</a>	The registration, recordkeeping and reporting requirements of the campaign finance law, Chapter 11, Stats., do not apply to a corporation which communicates its views on a general issue which may later become the subject of a referendum question. (Issued to Robert M. Whitney, October 18, 1979)
Corps and PACs	1980-03	<a href="#">El. Bd. Op. 80-3</a>	The separate segregated fund of a corporation or association established pursuant to §11.38(l)(a)2., Stats., may not accept contributions from other corporations to be used solely for the administrative expenses of the separate segregated fund. (Issued to Mr. Peter Coe Christianson, September 18, 1980)
Disclaimers	1974-06	<a href="#">El. Bd. Op. 74-6</a>	A candidate-incumbent who distributes business cards to members of the public who are without normal cause to have business with him would be required to include statutory identification. If such a person places newspaper ads identifying himself, the information may also be required, absent a non-political rationale for such placement. (Issued to Richard C. Kelly, August 28, 1974)
Disclaimers	1976-14	<a href="#">El. Bd. Op. 76-14</a>	Disclaimers; Political Advertising: Roadside billboards carrying political advertisements must carry disclaimers readable from the road; the party designing, printing and erecting such billboard and the source of the advertisement are each subject to the disclaimer requirement. §11.30 (2), Stats. (Issued to Sandra Hafendraedl, September 16, 1976)
Disclaimers	1976-12	<a href="#">El. Bd. Op. 76-12</a>	Distribution of printed materials; "political purposes": Questions of whether officeholder's purchase and distribution of printed materials to constituents are subject to reporting and identification requirements and violative of election bribery statute depends on whether intentions of distributor as to political office, content of materials, time and manner of distribution, pattern and frequency of distribution, and value of materials indicate purchase and distribution are for "political purposes." §§11.01 (16), 11.06, 11.30 (2), 12.11, Stats. (Issued to Richard A. Soletski, August 25, 1976)
Disclaimers	1977-10	<a href="#">El. Bd. Op. 77-10</a>	Scope of disclaimer requirements. The statutory identification of political material required in §11.30 (2), Stats., applies to material which is not produced by mechanical means. (Issued to Eldon J. Broehm, December 15, 1977)
Earmarking	1975-03	<a href="#">El. Bd. Op. 75-3</a>	A non-resident political committee is subject to the same registration and reporting requirements as a resident committee but may maintain its campaign depository outside of this state. The term "solicitation" as used in §11.38 (2), Stats., includes those activities which have as their sole purpose and which by their nature or manner result solely in the raising of funds. (Issued to M. Scott Cisney, November 19, 1975)
Earmarking	1976-03	<a href="#">El. Bd. Op. 76-3</a>	A separate, segregated fund may not agree with prospective contributors that their contributions will be given to the party or candidate of their choice. (Issued to M. Scott Cisney, February 18, 1976)
Earmarking	1977-06	<a href="#">El. Bd. Op. 77-6</a>	Labor organizations which have incorporated are prohibited by §11.38, Stats., from making political contributions or engaging in political activities other than as expressly permitted therein. (Issued to John A. Lawton, March 17, 1976)

Subject	Year	Opinion Number	Summary of opinion
Federal Campaigns	1977-03	<a href="#">El. Bd. Op. 77-3</a>	A national political party committee's payment of compensation to another specifically in exchange for full-time political services performed on behalf of a Wisconsin committee is a contribution, which subjects the national committee to registration and applicable reporting requirements. Such committee's payment of compensation to an employee or employees performing occasional services for a Wisconsin committee, when such services are merely incidental to the work of the employee or employees on behalf of the national committee, is not a contribution. §11.01 (S), Stats. (Issued to George Innes, July 21, 1977)
Govt Resources	1976-07	<a href="#">El. Bd. Op. 76-7</a>	Campaign funds may be utilized only for political purposes as defined in §11.01 (16), Stats. (Issued to Tim Cullen, March 17, 1976)
Govt Resources	1976-12	<a href="#">El. Bd. Op. 76-12</a>	Distribution of printed materials; "political purposes": Questions of whether officeholder's purchase and distribution of printed materials to constituents are subject to reporting and identification requirements and violative of election bribery statute depends on whether intentions of distributor as to political office, content of materials, time and manner of distribution, pattern and frequency of distribution, and value of materials indicate purchase and distribution are for "political purposes." §§11.01 (16), 11.06, 11.30 (2), 12.11, Stats. (Issued to Richard A. Soletski, August 25, 1976)
Govt Resources	1976-16	<a href="#">El. Bd. Op. 76-16</a>	Legislative newsletters and campaign finance laws: Campaign funds cannot be used to pay any part of the cost incurred for newsletters funded in any part by state funds; Use of state employees on state time to prepare newsletters intended primarily for political purposes is unlawful; Test established for determining whether a state-funded newsletter is primarily for political purposes. §§11.36, Stats., 11.33, Stats., El. Bd. Op. 76-2. (Issued to David E. Clarenbach, December 18, 1976)
Govt Resources	1978-12	<a href="#">El. Bd. Op. 78-12</a>	Prohibition on mass mailings after filing of nomination papers: Secretary of State's office may use state funds for regular mass mailings necessary to carry out duties of office after filing nomination papers and before election, provided that mailings are not directed toward political purposes. §11.33, Stats. (Issued to Terrence S. Waitrovich, July 20, 1978)
Govt Resources	1975-02	<a href="#">El. Bd. Op. 75-2</a>	The state does not occupy University of Wisconsin owned and operated student residences, dormitories and the facilities incidental thereto which are the subject of a housing lease or agreement entered into by the university with its students. Other University of Wisconsin owned or operated facilities are occupied by the state except when the University of Wisconsin enters into an agreement with individuals or groups, to allow those individuals or groups to use the facilities for non-academic purposes. (Issued to Richard A. Hyde, September 16, 1975)
Ind. Expenditures	1978-08	<a href="#">El. Bd. Op. 78-8</a>	Voluntary committees; public financing: Establishment and operation of voluntary committees; guidelines for distinguishing between contributions and independent expenditures of voluntary committees; prohibition on candidate contributions to voluntary committees acting on his or her behalf; permissibility of such contributions to nonvoluntary committees acting in support of the candidate; use of public grant. §§11.12 (1), 11.16 (1), 11.10, 11.06 (7), 11.31, 11.26, Stats.; GAB 1.42, Wis. Adm. Code. (Issued to Cloyd Porter, June 22, 1978)
Joint Fundraisers	1986-01	<a href="#">El. Bd. Op. 86-1</a>	JOINT FUNDRAISERS; a political action committee and a conduit may not conduct a joint fundraiser where the contributions are deposited in a single check in an escrow account and an allocation formula is used to divide the contributions. §§11.05(9) and 11.14(1) and (2), Stats. (Issued to Mr. James Buchen, April 30, 1986.)
Lobbying	1992-14	<a href="#">1992 Wis Eth Bd 14</a>	A candidate for elective state office may not accept anything of pecuniary value, including salary or wages, from a business or organization that employs a lobbyist. An individual employed by a principal may, consistent with statutes administered by the Ethics Board, take a leave of absence from his or her employment during the candidacy as long as the employer does not furnish the candidate with any salary or other benefits that had not already vested in the candidate prior to the candidacy. [1991 Act 269 amended §13.625, Wisconsin Statutes, to permit a principal that employs an individual who becomes a candidate for election to a state office to continue to pay, and the individual to receive, the individual's salary or wages and employee benefits during the candidacy provided the employer or candidate can clearly and convincingly demonstrate that the employment is independent of the candidacy.] OEB 92-14

Subject	Year	Opinion Number	Summary of opinion
Lobbying	1992-30	<a href="#">1992 Wis Eth Bd 30</a>	A lobbying principal may, consistent with the lobbying law, send a letter to its members urging their support of a partisan elected state official running for reelection: 1. at any time if the communication is not a campaign contribution under laws administered by the Elections Board and the principal undertakes the communication independent of and without consultation, understanding, or agreement with the candidate; or 2. only during periods of time permitted under the lobbying law if the communication is a campaign contribution under laws administered by the Elections Board. OEB 92-30 (November 20, 1992)
Lobbying	1992-13	<a href="#">1992 Wis Eth Bd 13</a>	A lobbying principal may, without violating laws administered by the Ethics Board, operate a conduit on behalf of campaign contributors for making contributions to partisan elective state officials or candidates for partisan elective state office. A lobbyist may administer a conduit. The Ethics Board recommends that someone other than a lobbyist sign and convey the check provided to the candidate. OEB 92-13
Lobbying	1992-25	<a href="#">1992 Wis Eth Bd 25</a>	A lobbyist may make a campaign contribution to a legislator for the purpose of promoting the legislator's candidacy for Congress during the year of the election between June 1 and the date of the general election as long as the Legislature is not in session. OEB 92-25
Lobbying	1993-03	<a href="#">1993 Wis Eth Bd 03</a>	A lobbyist may not furnish personal services to the campaign of an individual running for partisan elective state office if those services are not reportable as a campaign contribution under the campaign finance law and if such services consist of labor for which a campaign would have to pay individuals if they did not volunteer. OEB 93-3 (January 27, 1993)
Lobbying	1992-27	<a href="#">1992 Wis Eth Bd 27</a>	A political action committee [PAC] that is not controlled by an organization employing a lobbyist, either in law or in fact, may, consistent with laws administered by the Board, make a campaign contribution at any time. A political action committee controlled, either in law or in fact, by an organization employing a lobbyist may make a campaign contribution only when Wisconsin's lobbying laws permit a lobbying principal to contribute directly. Thus, a PAC controlled by a lobbying principal may contribute to a partisan elective state official or to a candidate for election to a partisan state office or to the personal campaign committee of either only in the year of the candidate's election between June 1 and the the day of the general election (and, in the case of a candidate for legislative office, only if the legislature has concluded its final floorperiod, and is not in special or extraordinary session). Because the Ethics Board has not previously had an opportunity to address this point, the Board does not intend to prosecute a complaint against any principal which may, in the past, have made, via a PAC, a campaign contribution during a period in which the principal could not contribute. OEB 92-27
Lobbying	1993-09	<a href="#">1993 Wis Eth Bd 09</a>	A state legislator may accept a campaign contribution from a lobbyist or lobbying organization for the purpose of promoting his or her candidacy for federal office only during the year of the election between June 1 and the date of the general election. OEB 93-9 (November 3, 1993)
Lobbying	2007-06	<a href="#">2007 Wis Eth Bd 06</a>	The Ethics Board advises that a legislator may not ask a lobbyist to pass along information to others about the legislator's desire for a campaign contribution except during the time that the legislator may accept a campaign contribution from a lobbyist. A legislative campaign committee may solicit a campaign contribution from a lobbyist at any time. A legislative campaign committee's employee, not employed by the Legislature, may solicit a campaign contribution from a lobbyist for a legislative candidate at any time if the committee is acting independent of the legislator for whose campaign the contribution is sought. A lobbyist may arrange a fundraising event for a legislative campaign committee at any time.
Lobbying	2004-03	<a href="#">2004 Wis Eth Bd 03</a>	The Ethics Board advises that: A legislator may not solicit a lobbyist for a personal or PAC campaign contribution for a legislative candidate or a legislative campaign committee except during the time that the legislator may accept a campaign contribution. A solicitation can include an invitation to a fundraiser even if the invitation has a disclaimer on it that it is not a solicitation to a lobbyist. A legislator may solicit a campaign contribution from a non-lobbyist employee of an organization that employs a lobbyist at any time. A legislator may accept a campaign contribution from a lobbyist's spouse at any time

Subject	Year	Opinion Number	Summary of opinion
Lobbying	2008-06	<a href="#">2008 GAB 06</a>	The Government Accountability Board advises: 1) A PAC may purchase public opinion research from a vendor if the research is for a political purpose, a vendor sells research at a price calculated, at a minimum, to recoup the vendor's costs, and the price at which the vendor sells research to each purchaser is comparable for a comparable product. Such sale would not result in an in-kind contribution to the PAC from the vendor under these circumstances 2) Absent collusion among purchasers, we do not consider other purchasers of the research to be subsidizing an individual PAC's purchase even though it may fairly be said that, without other purchasers, the price of the product may be greater. 3) Public opinion research that a PAC uses in determining who to support, how much support to give a candidate, the message the PAC wants to convey about a candidate, and the like is a political purpose.
Lobbying and Lobbyists	1992-14	<a href="#">1992 Wis Eth Bd 14</a>	A candidate for elective state office may not accept anything of pecuniary value, including salary or wages, from a business or organization that employs a lobbyist. An individual employed by a principal may, consistent with statutes administered by the Ethics Board, take a leave of absence from his or her employment during the candidacy as long as the employer does not furnish the candidate with any salary or other benefits that had not already vested in the candidate prior to the candidacy. [1991 Act 269 amended §13.625, Wisconsin Statutes, to permit a principal that employs an individual who becomes a candidate for election to a state office to continue to pay, and the individual to receive, the individual's salary or wages and employee benefits during the candidacy provided the employer or candidate can clearly and convincingly demonstrate that the employment is independent of the candidacy.] OEB 92-14
Lobbying and Lobbyists	1992-30	<a href="#">1992 Wis Eth Bd 30</a>	A lobbying principal may, consistent with the lobbying law, send a letter to its members urging their support of a partisan elected state official running for reelection: 1. at any time if the communication is not a campaign contribution under laws administered by the Elections Board and the principal undertakes the communication independent of and without consultation, understanding, or agreement with the candidate; or 2. only during periods of time permitted under the lobbying law if the communication is a campaign contribution under laws administered by the Elections Board. OEB 92-30 (November 20, 1992)
Lobbying and Lobbyists	1992-13	<a href="#">1992 Wis Eth Bd 13</a>	A lobbying principal may, without violating laws administered by the Ethics Board, operate a conduit on behalf of campaign contributors for making contributions to partisan elective state officials or candidates for partisan elective state office. A lobbyist may administer a conduit. The Ethics Board recommends that someone other than a lobbyist sign and convey the check provided to the candidate. OEB 92-13
Lobbying and Lobbyists	1992-25	<a href="#">1992 Wis Eth Bd 25</a>	A lobbyist may make a campaign contribution to a legislator for the purpose of promoting the legislator's candidacy for Congress during the year of the election between June 1 and the date of the general election as long as the Legislature is not in session. OEB 92-25
Lobbying and Lobbyists	1993-03	<a href="#">1993 Wis Eth Bd 03</a>	A lobbyist may not furnish personal services to the campaign of an individual running for partisan elective state office if those services are not reportable as a campaign contribution under the campaign finance law and if such services consist of labor for which a campaign would have to pay individuals if they did not volunteer. OEB 93-3 (January 27, 1993)

Subject	Year	Opinion Number	Summary of opinion
Lobbying and Lobbyists	1992-27	<a href="#">1992 Wis Eth Bd 27</a>	A political action committee [PAC] that is not controlled by an organization employing a lobbyist, either in law or in fact, may, consistent with laws administered by the Board, make a campaign contribution at any time. A political action committee controlled, either in law or in fact, by an organization employing a lobbyist may make a campaign contribution only when Wisconsin's lobbying laws permit a lobbying principal to contribute directly. Thus, a PAC controlled by a lobbying principal may contribute to a partisan elective state official or to a candidate for election to a partisan state office or to the personal campaign committee of either only in the year of the candidate's election between June 1 and the the day of the general election (and, in the case of a candidate for legislative office, only if the legislature has concluded its final floorperiod, and is not in special or extraordinary session). Because the Ethics Board has not previously had an opportunity to address this point, the Board does not intend to prosecute a complaint against any principal which may, in the past, have made, via a PAC, a campaign contribution during a period in which the principal could not contribute. OEB 92-27
Lobbying and Lobbyists	1993-09	<a href="#">1993 Wis Eth Bd 09</a>	A state legislator may accept a campaign contribution from a lobbyist or lobbying organization for the purpose of promoting his or her candidacy for federal office only during the year of the election between June 1 and the date of the general election. OEB 93-9 (November 3, 1993)
Lobbying and Lobbyists	2007-06	<a href="#">2007 Wis Eth Bd 06</a>	The Ethics Board advises that a legislator may not ask a lobbyist to pass along information to others about the legislator's desire for a campaign contribution except during the time that the legislator may accept a campaign contribution from a lobbyist. A legislative campaign committee may solicit a campaign contribution from a lobbyist at any time. A legislative campaign committee's employee, not employed by the Legislature, may solicit a campaign contribution from a lobbyist for a legislative candidate at any time if the committee is acting independent of the legislator for whose campaign the contribution is sought. A lobbyist may arrange a fundraising event for a legislative campaign committee at any time.
Lobbying and Lobbyists	2004-03	<a href="#">2004 Wis Eth Bd 03</a>	The Ethics Board advises that: A legislator may not solicit a lobbyist for a personal or PAC campaign contribution for a legislative candidate or a legislative campaign committee except during the time that the legislator may accept a campaign contribution. A solicitation can include an invitation to a fundraiser even if the invitation has a disclaimer on it that it is not a solicitation to a lobbyist. A legislator may solicit a campaign contribution from a non-lobbyist employee of an organization that employs a lobbyist at any time. A legislator may accept a campaign contribution from a lobbyist's spouse at any time
Lobbying and Lobbyists	2008-06	<a href="#">2008 GAB 06</a>	The Government Accountability Board advises: 1) A PAC may purchase public opinion research from a vendor if the research is for a political purpose, a vendor sells research at a price calculated, at a minimum, to recoup the vendor's costs, and the price at which the vendor sells research to each purchaser is comparable for a comparable product. Such sale would not result in an in-kind contribution to the PAC from the vendor under these circumstances 2) Absent collusion among purchasers, we do not consider other purchasers of the research to be subsidizing an individual PAC's purchase even though it may fairly be said that, without other purchasers, the price of the product may be greater. 3) Public opinion research that a PAC uses in determining who to support, how much support to give a candidate, the message the PAC wants to convey about a candidate, and the like is a political purpose.
Non-res Committees	1982-01	<a href="#">El. Bd. Op. 82-1</a>	A corporation sponsoring a nonresident separate segregated fund must register with the Elections Board pursuant to §11.38(1)(a)2., Wis. Stats., and file semi-annual reports disclosing its administrative and solicitation expenses with respect to Wisconsin related campaign finance activities of the separate segregated fund. A corporation may not spend more than \$500 annually for solicitation of contributions to its separate segregated fund for Wisconsin related campaign finance activity. (Issued to Mr. James R. Klauser, September 23, 1982)
Non-res Committees	1975-03	<a href="#">El. Bd. Op. 75-3</a>	A non-resident political committee is subject to the same registration and reporting requirements as a resident committee but may maintain its campaign depository outside of this state. The term "solicitation" as used in §11.38 (2), Stats., includes those activities which have as their sole purpose and which by their nature or manner result solely in the raising of funds. (Issued to M. Scott Cisney, November 19, 1975)

Subject	Year	Opinion Number	Summary of opinion
Non-res Committees	1975-08	<a href="#">El. Bd. Op. 75-8</a>	Discussion of separate segregated funds established pursuant to §11.38 (l)(a) 2., Stats., and their incorporation for purposes of liability. (Issued to Richard S. Gallagher, December 19, 1975)
Non-res Committees	1974-07	<a href="#">El. Bd. Op. 74-7</a>	Nonresidents designating an agent in Wisconsin are not exempted from political registration and reporting. Certain transactions by nonresident committees and groups are not reportable if they can be segregated. Section 11.07 (5), Stats., does not prevent the acceptance of a contribution from any unregistered individual under §11.07 (1), Stats. (Issued to Raymond Majerus, August 28, 1974)
Record and Reporting	1974-15	<a href="#">El. Bd. Op. 74-15</a>	A campaign treasurer holds the power to return residual contributions to donors, in whole or in part, after a campaign has been completed. (Issued to Ervin C. Marquardt, September 25, 1974)
Record and Reporting	1974-09	<a href="#">El. Bd. Op. 74-9</a>	A campaign worker may make an authorized disbursement exceeding \$25 in support of a candidate and receive subsequent reimbursement from the campaign fund by negotiable instrument if the disbursement is verified by a receipt. (Issued to James W. Mohr, Jr., September 19, 1974)
Record and Reporting	1974-17	<a href="#">El. Bd. Op. 74-17</a>	A candidate's personal traveling expenses or the personal expenses of his campaign workers are not reportable. If a candidate or worker is reimbursed for or provided with transportation by his committee or by another party, the actual cost is reportable. A gift of car tops is valued at the replacement cost at time of transfer. (Issued to William P. Vogel, October 31, 1974)
Record and Reporting	1991-01	<a href="#">El. Bd. Op. 91-1</a>	A corporation which acts solely in the nature of a conduit in collecting and transferring the contributions of its employee-agents to the political action committee of the employeeagents' statewide trade association does not make a contribution to that trade association PAC, if none of the expenses of administration or solicitation of those contributions are borne by the corporation and if a list of the contributors and the amounts of their contributions is maintained at each stage of the transfer. (Issued to Brady Williamson, August 12, 1991)
Record and Reporting	1979-05	<a href="#">El. Bd. Op. 79-5</a>	A corporation which establishes and administers a separate segregated fund under §11.38 (l)(a)2., Stats., may purchase and pay premiums on officers' and directors' liability insurance, general liability insurance and fidelity bonds for the fund (Issued to Thomas J. Sobota, December 13, 1979)
Record and Reporting	1977-03	<a href="#">El. Bd. Op. 77-3</a>	A national political party committee's payment of compensation to another specifically in exchange for full-time political services performed on behalf of a Wisconsin committee is a contribution, which subjects the national committee to registration and applicable reporting requirements. Such committee's payment of compensation to an employee or employees performing occasional services for a Wisconsin committee, when such services are merely incidental to the work of the employee or employees on behalf of the national committee, is not a contribution. §11.01 (S), Stats. (Issued to George Innes, July 21, 1977)
Record and Reporting	1975-03	<a href="#">El. Bd. Op. 75-3</a>	A non-resident political committee is subject to the same registration and reporting requirements as a resident committee but may maintain its campaign depository outside of this state. The term "solicitation" as used in §11.38 (2), Stats., includes those activities which have as their sole purpose and which by their nature or manner result solely in the raising of funds. (Issued to M. Scott Cisney, November 19, 1975)
Record and Reporting	1974-11	<a href="#">El. Bd. Op. 74-11</a>	A political party treasurer may be appointed by a candidate as his campaign treasurer. Separate bank accounts must be maintained so that a candidate's funds are not intermingled with the party treasury. (Issued to Thomas S. Sliak, August 23, 1974)
Record and Reporting	1998-01	<a href="#">El. Bd. Op. 98-1</a>	A registered conduit may transfer funds from members' accounts to political committees (PAC's) and those transfers will be treated as the contributions from the individual members who authorized the transfers to the PAC in the amount authorized by each member.

Subject	Year	Opinion Number	Summary of opinion
Record and Reporting	2000-01	<a href="#">El. Bd. Op. 00-1</a>	A registrant may use a commercial vendor to collect contributions from visitors to the registrant's web site. The vendor may not exercise any discretion or control over the amount of the contribution or who receives the contribution. The registrant must obtain the information about the contributor to enable the registrant to comply with the disclosure requirements of the campaign finance law. (Issued to R.J. Pirlot, June 21, 2000)
Record and Reporting	1976-04	<a href="#">El. Bd. Op. 76-4</a>	All statements and reports required by ch. 11, Stats., to be verified may be sworn to before a town, village, city or county clerk or their respective deputies, if any. (Issued to John C. Oestreicher, February 18, 1976)
Record and Reporting	2006-01	<a href="#">El. Bd. Op. 06-1</a>	Ancillary events, like a golf outing, held in conjunction with a political fundraiser are treated as part of the fundraiser unless the registrant/beneficiary of the fundraiser is able to show that the fundraiser was a separate and independent event. In determining whether ancillary events are separate and independent from a political fundraising event, PAC/Conduit events to raise money for the PAC are evaluated differently from events held to raise money for a candidate. Compensation for time and travel for persons paid to attend fundraising events is not considered a contribution to the beneficiary of the fundraising event unless the compensated attendee performs, in the course of the fundraiser, services for the beneficiary of the fundraiser. (Issued to Peter C. Christianson, January 18, 2006)
Record and Reporting	2011-01	<a href="#">2011 GAB 01</a>	As outlined above, the Board offers the following summary of its advice. 1. Contributions exempt from campaign finance limits pursuant to §11.26(13m)(b), Wis. Stats., may be used only for qualifying legal fees and other recall-related expenses incurred before a recall election is ordered, unless the expenses are incurred specifically for contesting or defending the order for a recall election. Qualifying expenses include legal fees and other expenses incurred "in connection with" or "with the response to" the circulation, offer to file or filing, of a petition to recall an officer, or if incurred in contesting or defending the order for a recall primary or election 2. Qualifying expenses under §11.26(13m)(b) may include public advocacy and persuasion after recall petitions are offered for filing, if such expenses are incurred in connection with the circulation, offer to file or filing, of a petition to recall an officer, or in connection with the response to the circulation, offer to file or filing, of a recall petition. The statute is clear that the exemption does not end when a recall petition is offered for filing, but rather ends only when a recall primary or election is ordered. 3. The Board confirms that there is a broad spectrum of qualifying recall-related expenses, which includes expenses incurred for public advocacy and persuasion. However, for any qualifying recall-related expenses, but especially public advocacy and persuasion, there must be a reasonable nexus between the incurred expense and the circulation, offer to file or filing, of a petition to recall an officer, or in connection with the response to the circulation, offer to file or filing, of a recall petition. This is a factual determination.
Record and Reporting	1975-05	<a href="#">El. Bd. Op. 75-5</a>	Contributions of \$100 or less received in the form of a check drawn on a joint checking account may be assumed to be from the signer of the check absent evidence to the contrary. Contributions over \$100 received in the form of a check drawn on a joint checking account may not be assumed to be from the signer of the check absent evidence to the contrary; instead, the treasurer must affirmatively inquire as to whom the contribution is from. Contributions received in the form of a check drawn on a partnership checking account may not be assumed to be from the signer of the check. The treasurer has a duty to ascertain the identity of the contributor in such instance. Reproduction of personal correspondence by means of a magnetic card typewriter constitutes reproduction by machine. An organization may, pursuant to §11.29 (1), Stats., send nomination papers to its members without reporting such activity. (Issued to Keith R. Clifford, December 19, 1975)
Record and Reporting	1976-13	<a href="#">El. Bd. Op. 76-13</a>	Contributions: Use of charge card for contributions over \$50 is permissible where such use produces a document identifying the contributor's name and the amount contributed. §11.16 (2). (Issued to Michael D. Regenfuss, August 25, 1976)
Record and Reporting	1975-06	<a href="#">El. Bd. Op. 75-6</a>	Establishment and administration of separate segregated funds under §11.38 (l)(a) 2., Stats., discussed. (Issued to Richard S. Gallagher, December 19, 1975)

Subject	Year	Opinion Number	Summary of opinion
Record and Reporting	1977-09	<a href="#">El. Bd. Op. 77-9</a>	Fund-raising by committee agents: Where circumstances indicate that one is collecting contributions as agent of a committee, he or she must inform the committee of each collected contribution within fifteen days of its collection and transmit the contribution to the committee's treasurer within fifteen days of its collection. §11.06(4)(c), Stats. (Issued to Wm. Pharis Horton, November 17, 1977)
Record and Reporting	1988-03	<a href="#">El. Bd. Op. 88-3</a>	Independent insurance agents can establish a commission withholding system that will enable participating insurance companies to forward agents' contributions to an agents' PAC, without attributing any of those contributions, or the expenses of maintaining the system to the participating insurance companies. Separate bookkeeping of each individual agent's contributions and pro-rata expenses must be maintained and reported. (Issued to Mr. Steven A. Reidich, October 5, 1988)
Record and Reporting	1989-01	<a href="#">El. Bd. Op. 89-1</a>	Interest income from conduit and PAC depository accounts, properly invested under §11.25(3) Stats., may be used in the same manner as other funds in the account, including payment of administration and solicitation expenses of a conduit if the conduit agreement so provides.
Record and Reporting	1986-01	<a href="#">El. Bd. Op. 86-1</a>	JOINT FUNDRAISERS; a political action committee and a conduit may not conduct a joint fundraiser where the contributions are deposited in a single check in an escrow account and an allocation formula is used to divide the contributions. §§11.05(9) and 11.14(1) and (2), Stats. (Issued to Mr. James Buchen, April 30, 1986.)
Record and Reporting	1977-07	<a href="#">El. Bd. Op. 77-2</a>	Joint solicitation by federal and state committees: Under a joint solicitation plan, in which collected contributions are allocated by an escrow agent according to a predetermined formula between a state political committee and a committee whose activity is directed exclusively toward federal campaigns, and contributors are advised of such allocation at the time of contribution, (1) the federal committee is not subject to the regulatory and reporting requirements of chapter 11, Stats., (2) the funds allocated to the federal committee are not subject to the regulatory and reporting requirements of chapter 11, and (3) the escrow agent is not subject to the registration and reporting requirements of chapter 11. §11.03, Stats., El. Bd. Op. 74-1. (Issued to Darwin Scoon, September 22, 1977)
Record and Reporting	1978-10	<a href="#">El. Bd. Op. 78-10</a>	Limit on corporate solicitations for separate segregated fund: The \$500 annual limit on a corporation's solicitation expenditures for its separate segregated fund may be applied to any period of 12 consecutive months, including the corporation's fiscal year. § 11.38 (1)(a)2., Stats. (Issued to Floyd S. Keene, July 20, 1978)
Record and Reporting	1978-02	<a href="#">El. Bd. Op. 78-2</a>	Multiple Candidate Committees. The personal campaign committee of a candidate seeking more than one office may ensure compliance with contribution limits by either (a) separate bookkeeping and reporting or (b) adherence to the lowest applicable contribution limit. Such committee may not claim the \$250 reporting exemption if its total activity, attributable to all offices sought, is over \$250. GAB 1.02, Wis. Adm. Code, Sec. 11.05 (2r), Stats. (Issued to Mary Alice Sullivan, March 16, 1978)
Record and Reporting	1974-16	<a href="#">El. Bd. Op. 74-16</a>	Out-of-pocket costs assumed by the host of a party held for political purposes are reportable if funds are raised at the party with the knowledge of the host. Such contributions may be made "in-kind" with the consent of a candidate's treasurer. Certain costs of fund-raising events, although reportable, are excludable from disbursement limitations. An item donated for resale is reportable and the gross proceeds of the sale need be reported after the item is sold. (Issued to Kate Barbash, October 31, 1974)
Record and Reporting	2001-01	<a href="#">El. Bd. Op. 01-1</a>	Registrants may use drawings as part of a solicitation to a fundraising event, but must report all contributions raised in connection with the solicitation and the event, including the fair market value of any donated prize that is to be awarded as part of the drawing. (Issued to Brady C. Williamson, March 21, 2001)

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Record and Reporting	2003-01	<a href="#">El. Bd. Op. 03-1</a>	The filing, with the State Elections Board, of a challenge to a candidate's nomination, is an act for political purposes and the spending of more than \$25 in the submitting of that challenge requires that the person challenging file a registration statement with the Board. The spending by an individual of more than \$100 of his or her own money to submit a challenge to a candidate's nomination precludes the individual from exempt status and requires the individual to file a campaign finance report. Whether or not nomination challenge expenditures are an in-kind contribution or an independent expenditure, or are neither, they are permissible political expenditures and should be reported. (Issued to Don M. Millis, March 28, 2003)
Record and Reporting	2013-02	<a href="#">2013 GAB 02</a>	The Government Accountability Board advises: 1. A personal campaign committee or a legal defense fund may pay a law firm for representation in an investigation potentially involving both civil and criminal charges. 2. The defense of a committee in a criminal matter can be paid for by a defense fund established by a candidate. A committee may pay a law firm and other related expenses in a civil matter. Payment to a law firm from either a personal campaign committee directly or from a candidate's legal defense fund can be made in reasonable proportion to the types of claims being investigated, and subject to changing circumstances identifying specific civil versus criminal conduct. 3. A personal campaign committee or a legal defense fund may also pay a law firm to represent the committee's agents during an investigation subject to any constraints under the Attorney's Code of Professional Responsibility. 4. If criminal charges are brought against a committee's agents, a legal defense fund may pay for their defense. A personal campaign committee may pay the costs of defending its agents in connection with civil complaints only if it can establish a political purpose for doing so.
Record and Reporting	2013-02	<a href="#">GAB Op. 13-2</a>	The Government Accountability Board advises: 1. A personal campaign committee or a legal defense fund may pay a law firm for representation in an investigation potentially involving both civil and criminal charges. 2. The defense of a committee in a criminal matter can be paid for by a defense fund established by a candidate. A committee may pay a law firm and other related expenses in a civil matter. Payment to a law firm from either a personal campaign committee directly or from a candidate's legal defense fund can be made in reasonable proportion to the types of claims being investigated, and subject to changing circumstances identifying specific civil versus criminal conduct. 3. A personal campaign committee or a legal defense fund may also pay a law firm to represent the committee's agents during an investigation subject to any constraints under the Attorney's Code of Professional Responsibility. 4. If criminal charges are brought against a committee's agents, a legal defense fund may pay for their defense. A personal campaign committee may pay the costs of defending its agents in connection with civil complaints only if it can establish a political purpose for doing so.
Record and Reporting	2014-01	<a href="#">GAB Op. 14-1</a>	The Government Accountability Board advises: 1. A personal campaign committee or a legal defense fund may pay a law firm for representation in an investigation potentially involving both civil and criminal charges. 2. The defense of a committee in a criminal matter can be paid for by a defense fund established by a candidate. A committee may pay a law firm and other related expenses in a civil matter. Payment to a law firm from either a personal campaign committee directly or from a candidate's legal defense fund can be made in reasonable proportion to the types of claims being investigated, and subject to changing circumstances identifying specific civil versus criminal conduct. 3. A personal campaign committee or a legal defense fund may also pay a law firm to represent the committee's agents during an investigation subject to any constraints under the Attorney's Code of Professional Responsibility. 4. If criminal charges are brought against a committee's agents, a legal defense fund may pay for their defense. A personal campaign committee may pay the costs of defending its agents in connection with civil complaints only if it can establish a political purpose for doing so.

Subject	Year	Opinion Number	Summary of opinion
Record and Reporting	2009-01	<a href="#">2009 GAB 01</a>	The Government Accountability Board advises: A campaign committee can legally pay court-ordered costs awarded to the defendant in litigation initiated by the committee and for which it was the named plaintiff, when the lawsuit was related to a political purpose, specifically, attempting to enjoin communications which expressly advocated the defeat of a candidate.
Record and Reporting	2014-01	<a href="#">2014 GAB 01</a>	The Government Accountability Board advises: 1. A personal campaign committee or a legal defense fund may pay a law firm for representation in an investigation potentially involving both civil and criminal charges. 2. The defense of a committee in a criminal matter can be paid for by a defense fund established by a candidate. A committee may pay a law firm and other related expenses in a civil matter. Payment to a law firm from either a personal campaign committee directly or from a candidate's legal defense fund can be made in reasonable proportion to the types of claims being investigated, and subject to changing circumstances identifying specific civil versus criminal conduct. 3. A personal campaign committee or a legal defense fund may also pay a law firm to represent the committee's agents during an investigation subject to any constraints under the Attorney's Code of Professional Responsibility. 4. If criminal charges are brought against a committee's agents, a legal defense fund may pay for their defense. A personal campaign committee may pay the costs of defending its agents in connection with civil complaints only if it can establish a political purpose for doing so.
Record and Reporting	2014-02	<a href="#">2014 GAB 02</a>	The Government Accountability Board agrees that contributions from a candidate's own personal campaign committee do not count toward that same candidate's annual aggregate limit. The statutory language is clear that the annual aggregate limit applies only to individuals. Wis. Stat. §11.26 (4). This is so even if a candidate has made personal contributions in excess of \$10,000 in any given calendar year to the candidate's own personal campaign committee.
Record and Reporting	1974-10	<a href="#">El. Bd. Op. 74-10</a>	The name and address of each contributor making a single contribution of \$10 or less need not be recorded by a campaign treasurer, but the treasurer is under a statutory duty to exercise a "good faith" effort to seek to obtain such information if he knows or has reasonable cause to believe that a contributor's aggregate contribution has or will exceed \$10. (Issued to James W. Mohr, Jr., September 19, 1974)
Record and Reporting	1980-03	<a href="#">El. Bd. Op. 80-3</a>	The separate segregated fund of a corporation or association established pursuant to §11.38(l)(a)2., Stats., may not accept contributions from other corporations to be used solely for the administrative expenses of the separate segregated fund. (Issued to Mr. Peter Coe Christianson. September 18, 1980)
Record and Reporting	1976-01	<a href="#">El. Bd. Op. 76-1</a>	Use of a hall or room without charge need not be reported as an in-kind contribution if the hall or room is also provided without charge to non-political organizations. (Issued to David M. Travis, February 18, 1976)
Scope of Regulation	1977-03	<a href="#">El. Bd. Op. 77-3</a>	A national political party committee's payment of compensation to another specifically in exchange for full-time political services performed on behalf of a Wisconsin committee is a contribution, which subjects the national committee to registration and applicable reporting requirements. Such committee's payment of compensation to an employee or employees performing occasional services for a Wisconsin committee, when such services are merely incidental to the work of the employee or employees on behalf of the national committee, is not a contribution. §11.01 (S), Stats. (Issued to George Innes, July 21, 1977)
Scope of Regulation	2006-01	<a href="#">El. Bd. Op. 06-1</a>	Ancillary events, like a golf outing, held in conjunction with a political fundraiser are treated as part of the fundraiser unless the registrant/beneficiary of the fundraiser is able to show that the fundraiser was a separate and independent event. In determining whether ancillary events are separate and independent from a political fundraising event, PAC/Conduit events to raise money for the PAC are evaluated differently from events held to raise money for a candidate. Compensation for time and travel for persons paid to attend fundraising events is not considered a contribution to the beneficiary of the fundraising event unless the compensated attendee performs, in the course of the fundraiser, services for the beneficiary of the fundraiser. (Issued to Peter C. Christianson, January 18, 2006)

Subject	Year	Opinion Number	Summary of opinion
Scope of Regulation	1979-02	<a href="#">El. Bd. Op. 79-2</a>	Applicability of ch. 11, Stats., to Lawyers' Judicial Endorsement Poll: A poll conducted for the purpose of endorsing candidates in which the only information disseminated to those polled is biographical information on the candidates is not political activity and, therefore, not subject to regulation under ch. 11, Stats. The same is true of a press release indicating the results of the poll. (Issued to Richard S. Gallagher, April 19, 1979)
Scope of Regulation	1976-07	<a href="#">El. Bd. Op. 76-7</a>	Campaign funds may be utilized only for political purposes as defined in §11.01 (16), Stats. (Issued to Tim Cullen, March 17, 1976)
Scope of Regulation	1974-04	<a href="#">El. Bd. Op. 74-4</a>	Communications medium offering space to incumbent candidate for newsletter without printing statutory identification does not fall within regulation of campaign finance law. (Issued to James C. Coxe, August 6, 1974)
Scope of Regulation	1976-12	<a href="#">El. Bd. Op. 76-12</a>	Distribution of printed materials; "political purposes": Questions of whether officeholder's purchase and distribution of printed materials to constituents are subject to reporting and identification requirements and violative of election bribery statute depends on whether intentions of distributor as to political office, content of materials, time and manner of distribution, pattern and frequency of distribution, and value of materials indicate purchase and distribution are for "political purposes." §§11.01 (16), 11.06, 11.30 (2), 12.11, Stats. (Issued to Richard A. Soletski, August 25, 1976)
Scope of Regulation	2000-02	<a href="#">El. Bd. Op. 00-2</a>	Non-registrants, including corporations, may communicate to the general public their views about issues and/or about a clearly identified candidate, without subjecting themselves to a registration requirement, if the communication does not expressly advocate the election or defeat of a clearly identified candidate; expenditures which are "coordinated" with a candidate or candidate's agent will be treated as a contribution to that candidate; intra-association communications that are restricted to "a candidate endorsement, a position on a referendum or an explanation of the association's views and interests" distributed to the association's members, shareholders and subscribers to the exclusion of all others, are exempt from ch. 11, Stats., regulation; and a non-partisan, candidate-non-specific voter registration or voter participation drive is not subject to the registration and reporting requirements of ch.11, Stats.
Scope of Regulation	1986-03	<a href="#">El. Bd. Op. 86-3</a>	Organization or PAC that sponsors a partisan "get out the vote" drive must register with the appropriate filing officer and meet the applicable requirements of the campaign finance law. §11.05(1), Stats. Disbursements used in the drive are not allocable as in-kind expenditures. (Issued to Brady C. Williamson, January 14, 1987.)
Scope of Regulation	1979-03	<a href="#">El. Bd. Op. 79-3</a>	School District Annual Meetings. The registration and reporting requirements of the campaign finance law do not apply to school district annual meetings. (Issued to Orvin R. Clark and Cindy Schultz, September 20, 1979)
Scope of Regulation	2010-02	<a href="#">2010 GAB 02</a>	See: <a href="http://www.gab.wi.gov/about/opinions/gab/2010-gab-02">http://www.gab.wi.gov/about/opinions/gab/2010-gab-02</a>
Scope of Regulation	1988-04	<a href="#">El. Bd. Op. 88-4</a>	The exclusion set out in §11.29(1), Stats., and the application of Wisconsin's campaign finance disclosure law is limited to communications from an organization to its members to the exclusion of all others for the purpose of communicating endorsements of candidates, positions on referenda or an explanation of the organization's views and interests. The funding of such communications must be paid for by the organization.
Scope of Regulation	2003-01	<a href="#">El. Bd. Op. 03-1</a>	The filing, with the State Elections Board, of a challenge to a candidate's nomination, is an act for political purposes and the spending of more than \$25 in the submitting of that challenge requires that the person challenging file a registration statement with the Board. The spending by an individual of more than \$100 of his or her own money to submit a challenge to a candidate's nomination precludes the individual from exempt status and requires the individual to file a campaign finance report. Whether or not nomination challenge expenditures are an in-kind contribution or an independent expenditure, or are neither, they are permissible political expenditures and should be reported. (Issued to Don M. Millis, March 28, 2003)

Subject	Year	Opinion Number	Summary of opinion
Scope of Regulation	2009-03	<a href="#">2009 GAB 03</a>	The Government Accountability Board advises: The candidate committee may organize as a non-stock corporation under Ch. 181, Wis. Stats., and is exempt from §11.38(1)(a)1., Wis. Stats., but only so long as the committee is formed for the express purpose of and is limited to political activities that may be undertaken by candidates and candidate committees under Chapter 11, Wis. Stats., and the rationale for so incorporating is to limit the committee's liability consistent with Wisconsin law. Despite its incorporation, the committee, the candidate and the treasurer are not exempt from liability specifically prescribed by ch. 11, Wis. Stats
Scope of Regulation	1979-04	<a href="#">El. Bd. Op. 79-4</a>	The registration, recordkeeping and reporting requirements of the campaign finance law, Chapter 11, Stats., do not apply to a corporation which communicates its views on a general issue which may later become the subject of a referendum question. (Issued to Robert M. Whitney, October 18, 1979)
Solicitation	1977-07	<a href="#">El. Bd. Op. 77-7</a>	Joint solicitation by federal and state committees: Under a joint solicitation plan, in which collected contributions are allocated by an escrow agent according to a predetermined formula between a state political committee and a committee whose activity is directed exclusively toward federal campaigns, and contributors are advised of such allocation at the time of contribution, (1) the federal committee is not subject to the regulatory and reporting requirements of chapter 11, Stats., (2) the funds allocated to the federal committee are not subject to the regulatory and reporting requirements of chapter 11, and (3) the escrow agent is not subject to the registration and reporting requirements of chapter 11. §11.03, Stats., El. Bd. Op. 74-1. (Issued to Darwin Scoon, September 22, 1977)
Solicitation	1978-06	<a href="#">El. Bd. Op. 78-6</a>	Prohibition on use of filed campaign finance reports and statements. The ban on use of filed reports and statements for solicitation of contributions does not prohibit a candidate from using information gained from reports or statements to inform persons of his or her candidacy and inviting questions on political issues. (Issued to James Mueller, June 11, 1978)
Solicitation	1975-02	<a href="#">El. Bd. Op. 75-2</a>	The state does not occupy University of Wisconsin owned and operated student residences, dormitories and the facilities incidental thereto which are the subject of a housing lease or agreement entered into by the university with its students. Other University of Wisconsin owned or operated facilities are occupied by the state except when the University of Wisconsin enters into an agreement with individuals or groups, to allow those individuals or groups to use the facilities for non-academic purposes. (Issued to Richard A. Hyde, September 16, 1975)
Spending	1976-07	<a href="#">El. Bd. Op. 76-7</a>	Campaign funds may be utilized only for political purposes as defined in §11.01 (16), Stats. (Issued to Tim Cullen, March 17, 1976)
State Employee Activity	1976-16	<a href="#">El. Bd. Op. 76-16</a>	Legislative newsletters and campaign finance laws: Campaign funds cannot be used to pay any part of the cost incurred for newsletters funded in any part by state funds; Use of state employees on state time to prepare newsletters intended primarily for political purposes is unlawful; Test established for determining whether a state-funded newsletter is primarily for political purposes. §§11.36, Stats., 11.33, Stats., El. Bd. Op. 76-2. (Issued to David E. Clarenbach, December 18, 1976)
State Employee Activity	1978-12	<a href="#">El. Bd. Op. 78-12</a>	Prohibition on mass mailings after filing of nomination papers: Secretary of State's office may use state funds for regular mass mailings necessary to carry out duties of office after filing nomination papers and before election, provided that mailings are not directed toward political purposes. §11.33, Stats. (Issued to Terrence S. Waitrovich, July 20, 1978)
State Employee Activity	1975-02	<a href="#">El. Bd. Op. 75-2</a>	The state does not occupy University of Wisconsin owned and operated student residences, dormitories and the facilities incidental thereto which are the subject of a housing lease or agreement entered into by the university with its students. Other University of Wisconsin owned or operated facilities are occupied by the state except when the University of Wisconsin enters into an agreement with individuals or groups, to allow those individuals or groups to use the facilities for non-academic purposes. (Issued to Richard A. Hyde, September 16, 1975)

Subject	Year	Opinion Number	Summary of opinion
Treasurer	1974-15	<a href="#">El. Bd. Op. 74-15</a>	A campaign treasurer holds the power to return residual contributions to donors, in whole or in part, after a campaign has been completed. (Issued to Ervin C. Marquardt, September 25, 1974)
Treasurer	1974-11	<a href="#">El. Bd. Op. 74-11</a>	A political party treasurer may be appointed by a candidate as his campaign treasurer. Separate bank accounts must be maintained so that a candidate's funds are not intermingled with the party treasury. (Issued to Thomas S. Sliak, August 23, 1974)
WECF	1978-09	<a href="#">El. Bd. Op. 78-9</a>	Application for and uses of public finance grants: A candidate's own contributions count toward the threshold of individual seed money required for public financing eligibility. Grants may not be used to purchase services directly from a person or business who or which does not meet the statutory definitions of "printer" or "communications medium." Withdrawal of an application for a grant prior to the acceptance of a grant is permissible. Disbursements of a public financing applicant must be allocated between the primary and election according to the ultimate purpose of the disbursement. §§11.50, 11.01 (4) and (17), Stats. (Issued to Edward Jackamonis, June 22, 1978)
WECF	1978-03	<a href="#">El. Bd. Op. 78-3</a>	Disbursement Limits For Public Financing Applicants: Application of disbursement limits on public financing applicants to pre-campaign and post-campaign disbursements clarified. §11.31 (7), Stats. (Issued to David M. Travis, May 18, 1978)
WECF	1984-01	<a href="#">El. Bd. Op. 84-1</a>	Effect of Exceeding Contribution and Spending Limits on Eligibility for Public Financing: a candidate who accepts contributions that exceed the applicable limits is ineligible to receive a public financing grant, even if the candidate's committee reimburses the excess contributions; a candidate who exceeds the applicable spending limits also is ineligible to receive such a grant; in-kind contributions are limited to things of value; loans if timely forgiven may be used as qualifying contributions. §§11.50(2)(b), 11.26(1), 11.31 (1), (2), (9), and 11.01(6) (a)1., Stats. (Issued to David M. Travis, November 29, 1984)
WECF	1978-05	<a href="#">El. Bd. Op. 78-5</a>	Effect of Exceeding Personal Contribution Limit on Eligibility for Public Financing: A candidate who has exceeded the limit on contributions to his own campaign after October 21, 1978 is ineligible to receive a public financing grant, even if the candidate's committee reimburses him for the excess amount. §§11.50 (2)(b), 11.26 (10), Stats. (Issued to David M. Travis, May 18, 1978)



# Wisconsin Ethics Commission

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**DATE:** For the December 6, 2016 Commission Meeting

**TO:** Members, Wisconsin Ethics Commission

**FROM:** David Buerger, Staff Counsel

**SUBJECT:** Reconsideration of 2005 Eth. Bd. 06

## I. Background

At the Commission's October 10, 2016 meeting, the Commission discussed a request for advice in closed session. As part of that discussion, the Commission considered a prior Ethics Board opinion, [2005 Eth. Bd. 06](#) (see attached), and disagreed with it. While the Commission's deliberations and actions on a request for advice under [WIS. STAT. § 19.46\(2\)](#) are confidential, if the Commission wishes to reconsider a previously issued formal opinion, it should be done in open session so as to provide notice to the public and allow members of the public to comment.

## II. Analysis

[2005 Eth. Bd. 06](#) was issued to a member of a state board who asked whether [WIS. STAT. § 13.625](#) would prohibit that member from representing and receiving remuneration from a business or organization that employs a lobbyist. The Ethics Board concluded that the lobbying law's restrictions would apply to an "agency official," but that the member could avoid falling into that definition if the member did not participate in rulemaking.

This opinion was reaffirmed by the Government Accountability Board. Pursuant to [2015 Wisconsin Act 118, Section 266\(6\)](#), "all formal opinions ... issued by the government accountability board that are in effect on the effective date of this subsection are transferred to the elections commission and ethics commission and shall remain in effect until the commission to which they are transferred changes or withdraws a formal opinion."

The prohibition of [WIS. STAT. § 13.625\(3\)](#) is clear. An agency official may not receive anything of pecuniary value from a lobbyist or lobbying principal except as otherwise permitted. While there are statutory exceptions to this prohibition, [2005 Eth. Bd. 06](#) provides an alternative solution by allowing the individual to remove themselves from the regulated class of "agency official".

*Wisconsin Ethics Commissioners*

Mac Davis | David R. Halbrooks | Robert Kinney | Peg Lautenschlager | Katie McCallum | Pat Strachota

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*Administrator*  
Brian M. Bell, MPA

“Agency official” is defined by statute as “a member, officer, employee or consultant of any agency who as part of such person’s official duties participates in any administrative action in other than a solely clerical, secretarial, or ministerial capacity.” [WIS. STAT. § 13.62\(3\)](#). “Administrative action” is further defined as “the proposal, drafting, development, consideration, promulgation, amendment, repeal, or rejection by any agency of any rule promulgated under ch. 227.” [WIS. STAT. § 13.62\(1\)](#).

The question before the Commission is one of statutory interpretation and whether the Commission will continue the interpretation of its predecessor agencies. The purpose of statutory interpretation is to determine what the statute means so that it may be given its full, proper, and intended effect. *State ex rel. Kalal v. Circuit Court for Dane Cty.*, 2004 WI 58, ¶44. Statutory interpretation begins with the language of the statute. *Id.* at ¶45. Statutory language is given its common, ordinary, and accepted meaning. *Id.* Statutory language should also be interpreted in the context in which it is used; not in isolation, but as part of a whole; in relation to the language of surrounding or closely-related statutes; and reasonably, to avoid absurd or unreasonable results. *Id.* at ¶46. If the meaning of the statute is plain, the inquiry ordinarily ends there. *Id.* at ¶45. However, a literal reading of a statute may be rejected if it would lead to an absurd or unreasonable result that does not reflect the legislature’s intent. *State v. Jennings*, 2003 WI 10, ¶11.

The other classes of individuals regulated in [WIS. STAT. § 13.625\(3\)](#) are defined by membership, not the individual’s actions while a member. See WIS. STAT. §§ [11.0101\(1\)](#), [13.62\(6\)](#), [13.62\(8m\)](#). None of the individuals within these classes can opt-out of coverage by the lobbying law short of removing themselves from the covered class (i.e., resignation). It seems unlikely that the Legislature intended the “agency official” class to require an examination of the actions of the individual member when no other class is so defined.

Following the example of the other classes, the definition of “agency official” should follow membership, not action. The Legislature clearly did not intend to include every member of an agency in the regulated class as it limited the class to those “who as part of such person’s official responsibilities participates in any administrative action.” Thus, the wider class of agency members is narrowed to this smaller subset, but it is still defined by membership, not action. This subset only includes those who as part of their official responsibilities participate in administrative action. To put the emphasis on the actual participation in rulemaking instead of the membership in the rulemaking subset of agency members is to put the decision on whether or not the official should be covered by the lobbying law in the hands of the official and not the Legislature.

Furthermore, an interpretation where an individual could remove themselves from the regulated class could also lead to questions of whether the individual could reclaim their rulemaking authority at some point later in time. There is no clear timeline for when it would be acceptable for the official to reclaim rulemaking authority after receiving something of pecuniary value. Can an official move in and out of the regulated class at will or is the withdrawal from rulemaking irrevocable?

Finally, permitting officials to withdraw from their rulemaking responsibilities could have negative consequences for the official's agency or matters under the agency's purview. While an official has a First Amendment right not to vote on an issue that comes before them, there is also an obligation to faithfully discharge the duties of his or her office. *Wrzeski v. City of Madison*, 558 F. Supp. 664 (W.D. Wis. 1983), *but see* [WIS. STAT. § 19.01\(1\)](#). Allowing officials to continue to serve as long as they do not exercise rulemaking authority could lead to situations where boards or commissions could lack a quorum to engage in rulemaking at all.

### **III. Potential Action**

Pursuant to [WIS. STAT. § 19.46\(2\)\(a\)4.](#), if the Commission disagrees with a previously issued opinion the Commission may:

1. Withdraw the opinion.
2. Issue a revised formal or informal opinion.
3. Request an opinion from the Attorney General.

### **IV. Additional Documents**

1. [2005 Eth. Bd. 06](#)

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**2005 Wis Eth Bd 06**  
**LOBBYING LAW**

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The Ethics Board advises that a member of a state board should either (1) not accept employment by a business or organization that employs a lobbyist or (2) notify the board of which the official is a member that the official is withdrawing from any participation in the modification of the board's rules.

¶1 You asked whether laws administered by the Ethics Board restrict your simultaneously being a member of a state board and representing and receiving remuneration from a business or organization that employs a lobbyist. You also indicated that your representation could include lobbying on behalf of those clients.

¶2 Wisconsin Statutes provide that you not simultaneously derive income or receive reimbursement of expenses from a lobbyist or an organization that employs a lobbyist and, as a state official, exercise responsibility for the adoption, modification, or repeal of administrative rules. §13.625, *Wisconsin Statutes*; 80 Op. Att'y Gen. 205 (1992).

¶3 The lobbying law's restrictions apply to an agency official. An "agency official" includes a member of a state board "who as part of such person's official responsibilities *participates* in any administrative action." [Emphasis added]. §13.62(3), *Wisconsin Statutes*. "Administrative action" means the "proposal, drafting, development, consideration, promulgation, amendment, repeal or rejection by any agency of any rule promulgated under ch.227." The language of the statute defining an "agency official" does not refer to a person who holds rulemaking responsibilities, but rather one who participates in rulemaking. If you do not participate in rulemaking, you are not an agency official.\*

¶4 You should either (1) not accept employment by a business or organization that employs a lobbyist or (2) notify the board of which you are a member that you are withdrawing from any participation in the modification of the board's rules. If you elect the latter course, please provide a copy of your letter withdrawing from rulemaking to the Ethics Board.

¶5 In deciding whether or not to withdraw from rulemaking responsibilities, bear in mind that a public official has an obligation to faithfully discharge the duties of his or her office. §19.01 (1), *Wisconsin Statutes*. If withdrawing from rulemaking materially impedes your ability to fulfill your responsibilities as a public official, you should consider withdrawing from the position so that another appointee may participate fully in the activities of the board. Even so, the court,

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\* A board member withdrawing from participation in rulemaking is not an agency official subject to the lobbying law. Minutes, Wisconsin Ethics Board, meeting of July 18, 2002.

in *Wrzeski v. City of Madison, Wisconsin*, 558 F. Supp. 664 (W.D. Wis. 1983) held that a public official has a First Amendment right not to vote on an issue.

¶6 The Board advises that you not represent or work for, or take compensation from, any lobbying principal that (1) attempts to influence your board's administrative rulemaking or legislative matters affecting your board, or (2) that does business with or has a demonstrated interest in the affairs of your board.

WR1207





# Wisconsin Ethics Commission

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**DATE:** For the December 6, 2016 Commission Meeting

**TO:** Members, Wisconsin Ethics Commission

**FROM:** Brian M. Bell, MPA  
Commission Administrator

**SUBJECT:** Potential Legislation for Consideration by the Wisconsin State Legislature

## Introduction

This memorandum presents to the Wisconsin State Legislature a collection of potential changes to the statutes the Commission administers. These suggestions have been collected from staff experiences through administering the laws; comments from legislators, committees, lobbyists, principals, and state officials; and from public testimony at agency and legislative hearings. The Ethics Commission asks that the Legislature consider addressing the issues outlined below through legislation. The Ethics Commission asked to revisit these recommendations at its October 10, 2016 meeting.

## Campaign Finance (Chapter 11, Wisconsin Statutes)

1. The campaign finance chapter makes several references to a “continuing report,” mostly in regards to whether or not a post-special election report is required, however, the term is never defined in this chapter. The Legislature should consider defining this term as “a report that shall be filed by every registered committee, except as provided for in 11.0104, which includes all contributions, disbursements, and incurred obligations over the six month period of either January 1 – June 30 or July 1 – December 31, and must be filed within 15 days of the end of the reporting period with the appropriate filing officer.” *Source: Legislators and Legislative Staff.*
2. §§11.0601(3)(b) and 11.1203(2)(a) and (b). The registration statute for independent expenditure committees directly prohibits any contributions to candidates, including, presumably, coordinated in-kind contributions. However, the coordination statute mentions independent expenditure committees as entities that can coordinate with candidates. This is a statutory conflict. The Legislature should consider changing §11.1203(2) (a) and (b) to remove the references to independent expenditure committees. *Source: staff.*
3. §11.1103(2). This provision does not address limits that would apply to an active committee of a losing candidate from the day the term of office of the position sought. This would

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impact committees who cannot or do not terminate their committee, and particularly those with outstanding debts. The legislature could revise this provision to state that the limits of the office sought apply until the committee terminates, or a new declaration of candidacy is filed, at which time the limits of the office sought would apply. *Source: staff.*

4. *§11.1304(6)(b)*. This provision allows committees with activity of less than \$1,000 over a campaign period (at least two years) to file paper reports. However, §11.0104 allows any committee with less than \$2,000 of activity in a single year to claim exempt status and file no reports at all. Deleting this subsection would eliminate all paper reports filed with the Commission, without reducing the number of committees that are legally required to file reports. The Legislature should remove this provision or change it to require that all committees that file with the commission to file electronic reports, or claim the exemption from filing any reports. *Source: staff.*

### **Lobbying (Subchapter III, Chapter 13, Wisconsin Statutes)**

5. *§13.62(10)*. The current definition of *lobbying* in the statutes does not include gubernatorial nominations or executive orders. As both of these actions could have significant influence on the administration of State Statutes and Administrative Code, the legislature could add gubernatorial nominations and executive orders to the types of actions that lobbyists attempt to influence, and require principals to report on this activity. In practice, many principals already report on gubernatorial nominations and executive orders as topics, roughly 100 times per session. Information on executive nominations subject to Senate confirmation is already available on the legislature's website and could be incorporated into the lobbying website just as bills are now automatically populated. The legislature could create a definition for executive action that would include nominations subject to confirmation and executive orders, and include executive action in the definition of lobbying. *Source: staff.*
6. *§13.685(4)*. This provision requires the Commission to provide a definition for lobbying topics by administrative rule. The Legislature could strike this provision and add the definition provided in [ETH 16.03](#) into the statute. *Source: staff.*

### **Code of Ethics (Subchapter III, Chapter 19, Wisconsin Statutes)**

7. *§19.42(14)*. This provision of the statutes defines "state public official" for determining who is subject to the state code of ethics. The current definition applies to elected officials only upon assuming office, and would not apply during the period between winning an election and taking the oath of office. For the purposes of clarity and simplification, the State Legislature could expand the definition of state public official to include officers-elect; this definition should match the definition of elective state official in Wis. Stat. §13.62(6). The Legislature could create a definition for officers-elect as *having been issued a certificate of election as stated in §7.70(5)*. It is significant to note that this suggested change would not require any additional SEI filing. The major effect of this potential change would subject officers-elect to the same conflict of interest and gift provisions applicable to serving elected officials. *Source: questions from officers-elect.*

8. §19.44(1)(g). This section of the statutes outlines the required contents of the statement of economic interests (SEI form). The State Legislature may wish to consider changing the dollar amount thresholds for identifying each individual from whom the filer receives gifts in aggregate of \$50 or more to \$100. This might exclude things like gifts related to birthdays, weddings, baby showers, etc. *Source: Legislators.*
9. §§19.45(6) and 19.59(1)(c). These statutory provisions prohibit public officials from taking certain actions that would benefit them or their immediate family members. The State Legislature could consider expanding this prohibition to forbid state and local officials from acting in quasi-judicial matters affecting the employer of the official or the employer of any of their immediate family members. This addresses situations not currently covered by statute's conflict of interest provisions that potentially present a conflict. *Source: local officials.*
10. §19.45(7)(a)4. This statutory provision allows a state public official, including a lawyer-legislator, to represent a client for compensation before the Department of Revenue on tax matters. The State Legislature may wish to consider repealing this provision to prevent the potential perception that a state public official is using their position to exert undue influence. *Source: staff.*
11. §§19.49(2)(c)(2) and (2)(d). Section (2)(c)(2) prohibits an employee of the Commission from being a candidate for state or partisan local office. Section (2)(d) prohibits an employee of the Commission from making a contribution to a candidate for state or local office. Together these two provisions are inconsistent. If employees are allowed to be candidates for non-partisan local office, then the prohibition from contributing to their own campaign like other candidates are allowed is likely unconstitutional. The current statutes would not prohibit employees of the Commission from making contribution to non-partisan state office, which are required to register and file reports with the Commission. In order to prevent employees from partisan activity and to prevent potential conflicts of interest, the Legislature should amend these provisions to limit the candidate and contribution provisions to any state office and partisan local offices. *Source: staff.*
12. §19.55(3)(e). The State Legislature could create a new provision, which requires the Commission to make public the record of a final disposition of a complaint. Depending on what conclusion the Commission arrives at, current statutes limit what information can be released to the public. *Source: staff; requests from Legislators, members of the regulated community, the media, etc.*





# Wisconsin Ethics Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984  
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**DATE:** For the December 6, 2016 Commission Meeting

**TO:** Members, Wisconsin Ethics Commission

**FROM:** David Buerger, Staff Counsel

**SUBJECT:** Confidentiality of Campaign Finance Issues

## Introduction

Commissioner Halbrooks requested that staff prepare a memo outlining the confidentiality provisions that apply to the actions of the Commission regarding campaign finance issues. The goal of this memo is to outline the relevant statutory provisions for each area so the Commission can decide what if any areas it would like to ask the Legislature to make public.

## Complaints and Investigations

Campaign finance complaints and investigations follow the same procedure as all other complaints filed with the Commission. The controlling statutory provision is [WIS. STAT. § 19.49](#). While the complainant and the respondent may make their complaint and response public, complaints must be handled confidentially. WIS. STAT. §§ [19.50](#), [19.55](#), [19.851](#). Pursuant to [WIS. STAT. § 19.55\(3\)\(e\)](#) only a handful of records may be released to the public regarding complaints:

1. Any record of the action of the Commission authorizing the filing of a civil complaint.
2. Any record of the action of the Commission referring a matter to a district attorney or other prosecutor for investigation or prosecution.
3. Any record containing a finding that a complaint does not raise a reasonable suspicion that a violation of the law has occurred.
4. Any record containing a finding, following an investigation, that no probable cause exists to believe that a violation of the law has occurred.

Unauthorized release of any other record by staff or the members of the Commission carries a penalty of a fine not to exceed \$10,000 or imprisonment for not more than 9 months, or both. [WIS. STAT. § 19.58\(4\)](#).

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*Administrator*  
Brian M. Bell, MPA

## **Litigation**

If the Commission proceeds to initiate a civil enforcement action as the result of a campaign finance violation, those proceedings are open to the public unless otherwise ordered by the court. However, the Commission may move into closed session to confer with legal counsel concerning strategy with respect to any litigation in which it is or is likely to become involved. [WIS. STAT. § 19.85\(1\)\(g\)](#).

## **Requests for Advice**

Requests for advice follow the same procedure regardless of subject matter area. [WIS. STAT. § 19.46\(2\)](#). Requests for advice are generally handled confidentially, but formal requests for advice may be handled publicly at the discretion of the requesting party. WIS. STAT. §§ [19.46\(2\)](#), [19.55\(4\)\(b\)](#). Furthermore, if the recipient of the Commission's advice makes the substance of or any portion of the advice public, the confidentiality of that request is deemed to have been waived. [WIS. STAT. § 19.55\(4\)\(b\)](#).

Unauthorized release of records obtained as part of a request for advice by staff or the members of the Commission carries a penalty of a fine not to exceed \$5,000 or imprisonment for not more than one year, or both. [WIS. STAT. § 19.58\(1\)](#).



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**DATE:** For the December 6, 2016 Commission Meeting

**TO:** Members, Wisconsin Ethics Commission

**FROM:** David Buerger, Staff Counsel

**SUBJECT:** Administrative Rule Update

## **I. Chapter ETH 6 & ETH 21 (Procedure)**

Staff has completed drafting the revised rules. The proposed rules are enclosed with this memorandum and staff requests the Commission's approval of the proposed rules so that they can be submitted to the Legislative Council Rules Clearinghouse.

## **II. Chapter ETH 25 (Forms)**

Staff has been reviewing administrative rules and believes this chapter is not required and can be eliminated. The Commission retains the authority to prescribe forms under Wis. Stat. §§ 11.1304(1), 19.48(2), and 227.11(2)(b), but there is no need to prescribe forms via administrative rule. Staff requests permission to begin the repeal process.

## **III. Chapter ETH 26 (Settlement Schedule)**

On October 31, 2016, the Commission received approval of the Statement of Scope for ETH 26 from the Office of the Governor. The Statement of Scope was published in the Administrative Register on November 7, 2016. The required 10-day publishing requirement has been met, and the Commission staff requests permission to draft a rule consistent with the approved Statement of Scope. The Statement of Scope and approval for ETH 26 is enclosed with this memorandum.

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**DATE:** For the December 6, 2016 Commission Meeting

**TO:** Members, Wisconsin Ethics Commission

**FROM:** Brian M. Bell, MPA  
Commission Administrator

Legal Research by:  
Amaidani Boncenor, Legal Intern

**SUBJECT:** Nonpartisan Staff Policy

## Background

Ethics Commission staff completed a review of the Commission's statutory requirements as part of preparing the annual report. In that effort, staff identified issues for the Commission to consider when deciding how to comply with its statutory obligations. At its October 10, 2016 meeting, the Ethics Commission asked staff to prepare a memo for review that outlines considerations to assist the Commissioners in defining and establishing its own policy for ensuring staff is nonpartisan.

The requirement for all Ethics Commission staff to be nonpartisan is established in Wisconsin Statutes, and was created as a part of 2015 Wisconsin Act 118, which created the Ethics Commission. [WIS. STAT. § 19.47\(10\)](#) states: *EMPLOYEES. All employees of the commission shall be nonpartisan.* However, the term nonpartisan is not defined anywhere in Wisconsin law.

## Relevant Legal Authority

### Federal Regulation: The Hatch Act

Enacted in 1939, the Hatch Act regulated the permissible political activities of government employees. Since then, the Supreme Court has officially recognized five governmental interests supporting the restrictions imposed under the Hatch Act. [U. S. Civil Serv. Comm'n v. Nat'l Ass'n of Letter Carriers, AFL-CIO](#), 413 U.S. 548, 565–67, 93 S. Ct. 2880, 2891, 37 L. Ed. 2d 796 (1973). The court has recognized the validity of the government's interests in efficiency and neutrality as well as the protection of employees from being forced into voting or taking part in

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political activities.<sup>1</sup> The court has also recognized the government's interest in maintaining the appearance of impartial administration of the law, and in avoiding the possibility that public service could be turned into a powerful political machine<sup>2</sup>. As initially drafted, the Act only applied to federal employees. Scott J. Bloch, The Judgment of History: Faction, Political Machines, and the Hatch Act, 7 U. PA. J. LAB. & EMP. L. 225, 231-33 (2005). However, the Act was later amended to apply to employees of state and local governments. Id.

The Hatch Act's constitutionality has been challenged in several important cases. The first case to reach the Supreme Court was United Public Workers of America v. Mitchell, 330 U.S. 75 (1947). Mitchell involved the termination of a public employee, Poole, because of his participation as a poll watcher on election day, and as paymaster for other party workers. Id. at 94. Members of Poole's union brought an action to prevent enforcement of a portion of Section 9(a) of the Hatch Act which states, "no officer or employee in the executive branch of the Federal Government...shall take any active part in political management or in political campaigns." Id. at 82.

Poole argued that the Hatch Act violated his First Amendment right to free speech and Fifth Amendment right to due process, and that the Ninth and Tenth Amendments reserved a right to political activity. Id. at 89-90. Writing for the majority, Justice Reed proclaimed that First Amendment rights are "subject to the elemental need for order without which the guarantees of civil rights to others would be a mockery." Id. at 95. Justice Reed weighed the First and Fifth Amendment rights against a "congressional enactment to protect a democratic society against the supposed evil of political partisanship by classified employees of government." Id. at 96. Regarding the Ninth and Tenth Amendments, Justice Reed found that these amendments were reserved, rather than enumerated powers and so carried less weight than enumerated powers. Id. at 95-96. He wrote:

"The powers granted by the Constitution to the Federal Government are subtracted from the totality of sovereignty originally in the states and the people. Therefore, when objection is made that the exercise of a federal power infringes upon rights reserved by the Ninth and Tenth Amendments, the inquiry must be directed toward the granted power under which the action of the Union was taken. If granted power is found, necessarily the objection of invasion of those rights, reserved by the Ninth and Tenth Amendments, must fail."

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<sup>1</sup> See Id. at 566-567. "A related concern, and this remains as important as any other, was to further serve the goal that employment and advancement in the Government service not depend on political performance, and at the same time to make sure that Government employees would be free from pressure and from express or tacit invitation to vote in a certain way or perform political chores in order to curry favor with their superiors rather than to act out their own beliefs. .... prohibitions against active participation in partisan political management and partisan political campaigns constitute the most significant safeguards against coercion."

<sup>2</sup> See Id. at 565. "A major thesis of the Hatch Act is that to serve this great end of Government—the impartial execution of the laws—it is essential that federal employees, for example, not take formal positions in political parties, not undertake to play substantial roles in partisan political campaigns, and not run for office on partisan political tickets. Forbidding activities like these will reduce the hazards to fair and effective government."

The court's holding established a deferential standard of review, trusting Congress and the President with the management of government employees. Justice Reed wrote, "Congress and the President are responsible for an efficient public service. If, in their judgment, efficiency may be best obtained by prohibiting active participation by classified employees in politics as party officers or workers, we see no constitutional objection." Id. at 99. This deferential standard has continued. The Supreme Court's history of the Hatch Act is steeped in deference.

In Pickering v. Board of Education, the Supreme Court addressed the government's ability to restrict public employees' freedom of speech. 391 U.S. 563 (1968). Pickering involved a high school teacher who had been fired for his comments in a local newspaper criticizing the Board of Education and a district superintendent's handling of certain finances. Id. at 564, 566. The school board terminated the teacher alleging that the teacher's statements would "foment controversy, conflict, and dissension among the teachers..." Id. at 566-67.

The Supreme Court considered four factors in deciding whether the government may restrict a public employee's speech. Id. at 569-73. First, whether the speech disturbs the government's ability to maintain control by superiors or harmony among coworkers. Id. at 569-70. Second, whether the employment relationship between a speaker and her employer contains "the kind of close working relationships for which it can persuasively be claimed that personal loyalty and confidence are necessary to their proper functioning." Id. at 570. Third, whether the speech impedes an employee's ability to perform his job. Id. at 572-73. And finally, whether the speech disturbs an employer's ability to provide government services in an efficient manner. Id. at 571-573. The Supreme Court found that the teacher's right to speak on an issue of public concern outweighed the school board's interest in maintaining the efficient operation of its school system. Id. at 574-575.

In United States Civil Service Commission v. National Association of Letter Carriers, the Court again confronted a challenge to the Hatch Act. 413 U.S. 548 (1973). The Supreme Court upheld Mitchell in Letter Carriers, and held that the First Amendment does not invalidate a law barring partisan political conduct by federal employees. Id. at 556. The court asserted that the government maintains an interest in the speech of its employees that is stronger than that of citizens in general.<sup>3</sup> Id. at 564.

The Pickering, Mitchell, and Letter Carriers decisions demonstrate that government employees' speech can be restricted based on government's interest in efficiently providing public services. In Mitchell, the court concluded that congress could constitutionally restrict active partisan political activity by federal employees if providing an efficient public service requires such restrictions. 330 U.S. 75 at 99. In Pickering, the court developed a balancing test that allowed the government to set restrictions on an employee's speech only if the government's efficiency losses are greater than the encroachment on the right of speech. 391 U.S. 568. Finally, in Letter

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<sup>3</sup> The Court cited Pickering v. Bd. Of Educ., 391 U.S. 563, 568 (1968) holding that the government has an interest in regulating the conduct and speech of its employees that differs from its interest in citizen speech, and that there must be a balance between the employee's interests as citizens in commenting on matters of public concern and the interest of the government in promoting efficient services to the public.

Carriers, the court reaffirmed that if Congress decided that providing efficient government services required prohibiting federal employees from engaging in active partisan politics, then such prohibitions are constitutional. 413 U.S. 548 at 555-56. The government's interest in efficiency is the focus of restrictions on public employees' political activities.

Congress passed the Hatch Act Modernization Act (HAMA) in 2012. It came after failed attempts at changes proved to inadequately address concerns about the Hatch Act's disparate effect on state and local employees and its federal employee penalty provisions. HAMA limited the scope of the original Hatch Act's provisions, returning most of the responsibility for regulating the political activities of state and local government employees back to the states.

State employee political activities are subject to the limitations and restrictions of the federal Hatch Act if their agencies are funded by federal dollars; however, as the Ethics Commission is not funded by federal dollars, it is not applicable to the employees of this agency. *See* 5 USC § 1501(4).

#### Wisconsin's Little Hatch Act (WIS. STAT. § 230.40)

Wisconsin has adopted its own "Little Hatch Act" which provides for political activity leaves of absence and restricts political activities of state employees while on state time or engaged in official duties or while off-duty if such activities impair efficiency during working hours. Shown below is WIS. STAT. § 230.40.

#### **WIS. STAT. § 230.40. Political activities; public office**

(1) No person holding a position in the classified civil service may directly or indirectly solicit or receive subscriptions or contributions for any partisan political party or any political purpose while on state time or engaged in official duties as an employee. No person may orally solicit or by letter transmit any solicitation to a state office or be in any manner concerned in soliciting any assistance, subscription, or support for any partisan political party or purpose from any person holding any position in the classified civil service while on state time or engaged in official duties as an employee. No person holding any position in the classified civil service may during the hours when on duty engage in any form of political activity calculated to favor or improve the chances of any political party or any person seeking or attempting to hold partisan political office, nor engage in any political activity when not on duty to such an extent that the person's efficiency during working hours will be impaired or that he or she will be tardy or absent from work. Any violation of this section is adequate grounds for dismissal.

(2) If a person in the classified service declares an intention to run for partisan political office the person shall be placed on a leave of absence for the duration of the election campaign and if elected shall separate from the classified service on assuming the duties and responsibilities of such office.

(4) A person in the classified service may be granted upon concurrence by the person's appointing authority a leave of absence to participate in partisan political campaigning.

(5) Persons on leave from the classified service under subs. (2) and (4) shall not be subject to the restrictions of sub. (1), except as they apply to the solicitation of assistance, subscription or support from any person holding any position in the classified service.

(6) The director shall administer this section.  
WIS. STAT. ANN. § 230.40 (West) (2016)

WIS. STAT. § 230.40(1) is clear; it prohibits a person covered by the statute from engaging in any political activity “when not on duty to such an extent that the person's efficiency during working hours will be impaired or that he or she will be tardy or absent from work.” The statute does not provide that a supervisor or agency can prohibit all off-duty political activity on the belief that the activity will impair the employee's job performance. 80 Wis. Op. Att'y Gen. 68 (1991). On the contrary, the statute permits political activity when not on duty, unless the person's competence during working hours is impaired or he or she is tardy or absent from work. *Id.* The statute is a simple declaration that off-duty political activity, like any other off-duty activity, will not be accepted as an excuse for poor job performance. *Id.* The statute permits personnel actions against an employee if the employee's efficiency is impaired or he or she is tardy or absent from work. *Id.* It does not permit the agency to determine this in advance of any facts to support the determination. *Id.*

Wisconsin's laws do not prohibit all partisan political activity; rather, the laws encourage government employees to participate in political activities, including partisan political activities. 63 Op. Att'y Gen. 217, 218-19 (1974). The law's clear and unambiguous language requires that classified state employees who run for partisan political office must take a leave of absence for the duration of the election campaign. WIS. STAT. § 230.40(2). Neither WIS. STAT. § 230.40 nor any other state law prohibits a government employee from being a candidate for nonpartisan political office or requires a government employee to take a leave of absence to run for nonpartisan political office. 80 Wis. Op. Att'y Gen. 68 (1991).

### **Examples of Nonpartisanship in Wisconsin**

While the term “nonpartisan” may not be defined in Wisconsin law, there are several examples of institutions and agencies that require their members to be nonpartisan.

#### Wisconsin's Judiciary

Wisconsin adheres to the concept of a nonpartisan judiciary. Members of the judiciary are required to adhere to a separate judicial code of ethics that is in addition to the state code of ethics. This judicial code of ethics requires judges and judicial candidates to avoid impropriety and refrain from inappropriate political activity. [SCR 60.03](#), [60.06](#). The list of partisan activities directly prohibited includes:

1. Be a member of any political party.
2. Participate in the affairs, caucuses, promotions, platforms, endorsements, conventions, or activities of a political party or of a candidate for partisan office.

3. Make or solicit financial or other contributions in support of a political party's causes or candidates.
4. Publicly endorse or speak on behalf of its candidates or platforms. [SCR 60.06\(2\)\(b\)](#)

Wisconsin judges are also prohibited from becoming a candidate for a federal, state, or local non-judicial elective office without first resigning as a judge. [Wis. Const. Art. VII, § 10\(1\)](#), [SCR 60.06\(1m\)](#).

However, judges are permitted to engage in some partisan political activity with caution. For example, a judge may attend a public event sponsored by a political party or candidate for partisan office as long as attendance does not require payment of money exceeding the amount necessary to defray the sponsor's cost of the judge's attendance. [SCR 60.06\(2\)\(d\)](#). A judge may also sign the nomination papers of a candidate for partisan office. [Supreme Court of Wisconsin, Judicial Conduct Advisory Committee, Op. 00-2 \(2001\)](#).

### Wisconsin Legislative Services Agencies

Wisconsin statutes require that all employees of the legislative service agencies (LSAs) be strictly nonpartisan, but again do not define the term *nonpartisan*. Staff reached out to each of the legislative service agencies (LAB, LFB, LRB, LTSB, and Legislative Council) to inquire how they administer the nonpartisan requirement. This section of the memo outlines the major findings from that research.

#### *Consistent Reinforcement*

Each LSA mentioned that they believed that one of the keys to meeting the nonpartisan requirement was consistent enforcement. The nonpartisan requirement is discussed at every stage in the employment cycle:

- Every position description and recruitment announce include a reference to the nonpartisan requirement;
- Every interview begins with asking the applicant to verify that they are aware of and understand the nonpartisan requirement;
- Every offer of employment includes asking the applicant to confirm they understand the nonpartisan requirement;
- Every employee is required to review the agency's employee handbook, which includes information about the nonpartisan requirement, and periodically sign a document that states they have read and understood the entire employee handbook, including the nonpartisan requirement.
- During every exit interview leaving employees are reminded that future employment with the same or similar agency would reinstitute the nonpartisan requirement.

### *Factual Versus Perceived Objectivity*

Each LSA discussed to varying degrees the difference between factual and perceived objectivity, and how the objectivity of staff impacts their ability to administer their responsibilities as an agency. All of the LSAs prohibit their employees from engaging activities that would violate the employee's factual objectivity. Examples of activities considered partisan in fact include:

- being a member or joining a political party;
- being a candidate for any partisan elective office;
- soliciting or making contributions to a partisan political committee;
- signing nomination papers or petitions for or against a partisan candidate; and
- showing support or opposition to a partisan candidate or cause.

However, the LSAs vary in how they apply the nonpartisan requirement in dealing with perceived objectivity. Certain activities may not be factually partisan, but may be perceived as partisan by a reasonable person. This approach takes into consideration factions and interests that may exist within and across political parties (e.g., conservative, moderate, liberal). Some LSAs extend the restrictions listed above regarding factually partisan activities to those activities which may be perceived as partisan. Other LSAs do not prohibit staff in engaging in activities unless they are factually partisan activities.

### *Business Purpose*

There may also be activities where the agency has a legitimate business interests in having an employee participate. In the past, some of the LSAs have not only allowed, but even encouraged staff to attend events that could be perceived as partisan activity. For example, a few legislators hosted a panel discussion on a particular topic. Because that topic was likely to become the subject of future legislation, the LSAs had an interest in the information discussed as it might help inform their required efforts (e.g., drafting legislation, determining the legislative intent in writing the analysis of legislation, or conducting a fiscal estimate for a bill).

### *Historic or Collateral Events*

Finally, the other major point of discussion that came up with the LSAs was historical or collateral events. The example that was brought up several times happens to be both. A few years ago, there was an event where the President of the United States spoke near the State Capitol and Bruce Springsteen played. The LSAs had different perspectives on whether or not their employees could attend such an event. Some advised their employees should not attend because the President is a partisan official. Other LSAs allowed staff to attend with the justification that it was a rare opportunity to hear and see a President of the United States speak in person, regardless of the party of the President. Some would only allow staff to attend the portion where Bruce Springsteen was playing. In either of the last two cases, staff that was allowed to attend was not allowed to hold any signs, wear buttons, or do anything else that would display overt partisanship.

## **Draft Nonpartisan Policy**

The staff of the Wisconsin Ethics Commission must be nonpartisan pursuant to WIS. STAT § 19.47(10). Political neutrality is imperative so staff can maintain the confidence of the Commission, the individuals and organizations that the Ethics Commission regulates, and the public. Therefore, all staff members are prohibited from participating in any political activity that compromises the ability of that person to discharge with neutrality, efficiency, and integrity his or her duties and obligations to the Commission.

Employees who wish to participate in any political activities shall disclose their intentions to the Administrator. If the Administrator decides an employee's involvement may reasonably compromise the employee or the Commission, the Administrator will review the situation and make a determination as to whether the involvement in the political activity is appropriate. The Administrator may also authorize employees to participate in certain activities that have a business purpose consistent with the agency's mission, that have historical significance, or are merely collateral to a prohibited political activity.

Employees are strongly encouraged to consult with the Administrator prior to any activity that may be perceived as compromising the employee's ability to objectively perform their official responsibilities.

In addition to the provisions of WIS. STAT. § 230.40, prohibited activities include, but are not limited to the following:

1. Being a candidate for any partisan office (national, state, or local).
2. Being a member of any national, state, or local political party.
3. Directly or indirectly soliciting, receiving, or making contributions to any political party or partisan candidate for public office.
4. Soliciting votes in support of or in opposition to any party or partisan candidate for public office.
5. Circulating or signing nomination papers or petitions, including recall petitions, for partisan political office.
6. Serving as an agent of any political party or partisan candidate in any capacity (e.g., polling place observer, delegate, partisan poll worker, or get out the vote activities).
7. Publicly supporting or opposing a partisan candidate for public office or political party office in a political advertisement, broadcast, campaign literature, or similar material.

### Seeking Elective Office

Any employee who wishes to run for partisan elective office must take an unpaid leave of absence effective from the time nomination papers can first be circulated, and must resign (or be terminated) if and when such nomination papers are filed.

Any employee who files a campaign registration statement to register as a candidate for partisan elective office prior to the time that nomination papers can first be circulated shall report that

filing to the Administrator, who shall place the employee on unpaid leave until the nomination papers are filed or until the employee is no longer a candidate for partisan office.

In addition to avoiding partisan activities, staff should also avoid running for nonpartisan office if the Commission is the filing officer for that contest. This would put the staff member in the position of enforcing campaign finance regulations upon her or his own committee, or against potential opponents. Any employee seeking a nonpartisan office where the Commission is the filing officer is required to take an unpaid leave of absence from the time the employee files a campaign registration statement until the employee is no longer a candidate. If the employee is elected, the employee shall resign or be terminated.





# Wisconsin Ethics Commission

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DATE: For the December 6, 2016 Meeting

TO: Members, Ethics Commission

FROM: Brian M. Bell, MPA  
Commission Administrator

SUBJECT: Ethics Commission Administrator's Report

## **Commission Administration**

### Personnel Management

Commission staff continues to work with the Division of Personnel Management, Department of Administration (DOA) on several personnel matters. First, we have submitted revised position descriptions (PDs) for each staff position for review and approval. These revised PDs more accurately reflect the major efforts and allocation of time spent by staff on those efforts.

Second, we have requested to make all staff positions exempt from the Fair Labor Standards Act (FLSA). Currently only Election Specialist positions are non-exempt. Ethics Specialists must be exempt, but Elections Specialists can have either status. Because the staff members in both classifications meet the criteria for exempt and the work responsibilities are so similar, making all staff exempt provides greater equity and consistency.

Third, we have requested to reclassify the position held by Molly Nagappala from an Elections Specialist to an Ethics Specialist because the vast majority of her time is spent on the Lobbying program, which falls under the Ethics Specialist Classification. That would also give the Commission two employees classified as Ethics Specialist, while having three positions classified as Elections Specialists.

Fourth, we have requested to begin the recruitment for both vacant positions – one Campaign Finance Elections Specialist, and one Office Management Specialist. We are awaiting further assistance from DOA to continue that process, but hope that we can get both positions filled expeditiously, and have the new staff members start as close to the beginning of the calendar year as possible.

*Wisconsin Ethics Commissioners*  
Mac Davis | David R. Halbrooks | Robert Kinney | Peg Lautenschlager | Katie McCallum | Pat Strachota

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*Administrator*  
Brian M. Bell, MPA

### Commission Public Website and Social Media

Commission staff continues to work with the Department of Administration, Division of Enterprise Technology to explore solutions that leverage available technologies and services, while also reducing costs.

Staff is working with Wisconsin Interactive Network (WIN) under an available state contract to develop an improved public website with enhanced content management features. As part of the terms of the contract to offer application development, WIN offers a template-based content management public site development and hosting to state agencies at no cost. Several other agencies are already taking advantage of this service. Hosting of the current site costs the agency approximately \$1,110 annually. Additional information on the agencies participating and the services provided is available here: <https://webmasters.wi.gov>.

The website project was approved by the oversight committee and staff has begun working with WIN. A template for the website design was selected, along with basic menu navigation. Staff is working on developing the content library for the new site that includes the text that will appear and the attached files for each webpage. Staff and WIN conducted content management training on November 10<sup>th</sup> and began adding content to the site.

All of the initial content pages are created, and staff is working with WIN to complete the events calendars for the site and the resources searching tools. The events calendars will create filtered lists of events, customized for various pages (e.g., Commission meetings, campaign finance deadlines, etc.). The resources searching tools will allow website users to select criteria to get a filtered list of related documents. Users will be able to select a subject, a document type, and an audience to see a filter list of available resources (e.g., campaign finance – forms – state candidates).

Staff has also updated the current website with all of the content planned for the future website. The estimated completion date for this project is February 1, 2017.

### Report to the Wisconsin Legislature Regarding GAB Audit Recommendations

At previous meetings, the Ethics Commission received a report from the LAB regarding the 2014 and 2015 audits of the Government Accountability Board (GAB), and also discussed the 2015 Wisconsin Act 118 requirement to report to the Legislature on the Commission's efforts to implement the applicable recommendations. The administrator has drafted a memorandum that summarizes these activities of the Commission, as well as referencing the letter the Commission received from the State Auditor, Joe Chrisman, which stated that there are no outstanding follow-up items required of the Ethics Commission. The memorandum also states that Commission staff will continue to implement the recommendation responses submitted by the GAB to Joint Legislative Audit Committee. A copy of the draft memorandum will be included with the supplemental materials for Commissioners to review. Pending any feedback from the Commission, the Administrator will submit the memorandum to the Legislature after the December 6<sup>th</sup> meeting.

### Accepting Credit Card Payments

Staff continues to work with DOA on accepting credit card payments. Implementing credit card payments for lobbying fees was set a first priority, with licensing registration, and authorizations for the 2017-2018 legislative session beginning December 1, 2016. Once the credit card process for the lobbying program is complete, staff plan to next begin working on accepting credit cards for campaign finance filing fees, and then for settlement offers and general petty cash transactions (e.g., public records requests). The Department of Administration has been delayed in working on this project for us due to efforts to complete the statewide year end close in the new financial system. The staff is still optimistic that we could implement credit card payments before the beginning of the new legislative session.

### **Campaign Finance**

#### CFIS Maintenance and Support Contract

The last contract for maintenance and support of the Campaign Finance Information System expired at the end of the last fiscal year, June 30. The contract was with PCC Technology, Inc. (PCC), which was awarded the initial contract following a 2007 Request for Proposals. They developed CFIS using proprietary software. In order to execute a new contract to ensure continued maintenance, support, and to finish implementation of required changes under 2015 Wisconsin Acts 117 and 118, we must follow the State of Wisconsin procurement laws and policies. Because the foreseeable life of the services rendered exceed \$50,000 (the initial contract for development, maintain and support for four years was over \$2.5 million), and because the site is maintained using proprietary software, we must request a sole-source justification waiver from the Office of the Governor.

On October 20<sup>th</sup>, the Commission received an approved Request for Purchasing Authority from the Office of the Governor. This approval will allow the Commission to negotiate a contract with PCC for the licensing, support, maintenance, fixes and enhancements related to the CFIS website for one year, not to exceed \$50,000. The approval also directs the Ethics Commission to use the Governor's general waiver to contract for support and maintenance beginning in fiscal year 2017, and use a separate procurement effort to obtain any fixes or enhancements to the site. Staff is currently working with DOA to draft the new contract, and anticipates execution of that contract before the end of the year.

Once the Commission has a signed contract in place, PCC can begin addressing tasks to bring the CFIS site into full compliance with the requirement of 2015 Wisconsin Act 117. PCC has provided an estimate of 101 hours required for those fixes.

#### July Continuing Reports

The deadline for filing the July Continuing Report was July 15, 2016. As of November 21, 2016, 13 committees out of 1,171 required to file have not filed their 2016 July Continuing Report. Most of these committees have extenuating circumstances and will be discussed in the closed session.

### 2016 Fall Pre-Primary Reports

The 2016 fall pre-primary reports were due by August 1<sup>st</sup>. This report covers activity from July 1, 2016, through July 25, 2016. As of November 21, 2016, 288 candidate committees had filed the pre-primary report, and only one candidate committee was still outstanding.

### September Continuing Reporting Requirements

The deadline for filing the September continuing report was September 27, 2016. This report covers activity through August 31, 2016. As of November 21, 2016, 735 committees have filed the September continuing report, and 4 candidates have not yet filed.

### 2016 Fall Pre-Election Reports

The 2016 fall pre-election reports were due by October 31<sup>st</sup>. This report covers activity from September 1, 2016, or the date of the last filed report, through October 24, 2016. As of November 21, 2016, 286 candidate committees have filed the 2016 fall pre-election report, and three candidates have not yet filed. The requirements for pre-elections reports are addressed in [Wis. Stat. § 11.0103\(4\)](#).

### 2017 January Continuing Reports

The next campaign finance report due will be the 2017 January Continuing Report, which will be due by January 16, 2017, and including all activity of each registered committee since their previous report through December 31, 2016.

## **Lobbying**

### Legislative Liaison Reports, July - December 2016

State Agency Legislative Liaison reports covering July 1<sup>st</sup> to December 31<sup>st</sup> will be due by January 31, 2017.

### Statements of Lobbying Activities and Expenditures (SLAE), July-December 2016

The next lobbying reports due will be the Statements of Lobbying Activities and Expenditures for the final six-month period of the 2015-2016 Legislative Session, covering July 1 through December 31, 2016. The deadline for completing the report, along with the lobbyist time reports is January 31, 2017.

### Principal Registration, Lobbyist Licensing, and Authorizations for the 2017-2018 Session

Consistent with past practices, on December 1, 2016, Ethics Commission staff opened lobbying principal registration, lobbyist licensing, and lobbyist authorizations for the 2017-2018 Legislative Session within the Eye on Lobbying website: <http://lobbying.wi.gov>. Website users

can also sign up for the FOCUS subscription service, which provides email notifications regarding bills, administrative rules, budget bill subjects, lobbying topics, and the activities of lobbying principals. We hope to have the ability to accept credit card payments for the lobbying program implemented prior to the beginning of registration, licensing, and authorizations for the 2017-2018 session.

#### 2017-2018 Legislative Session Lobbying Training

On October 18, staff sent an email to all lobbyists and principals informing them of upcoming training opportunities being offered by the Commission. Sessions geared toward inexperienced lobbyists are scheduled for December 8 and January 4; sessions intended for veteran lobbyists are scheduled for December 15 and January 3. A fifth *Eye On Lobbying: Tips and Tricks* session is scheduled for January 10. The December 8, December 15, and January 10 trainings are already filled to capacity; staff will consider adding more dates if interest continues.

#### **Code of Ethics / Statements of Economic Interest / Financial Disclosure**

##### Statements of Economic Interests

On a regular basis, staff continues to process SEIs for newly nominated and appointed officials, and responds to requests to view statements.

##### State of Wisconsin Investment Board Quarterly Reports

The quarterly reports due by November 1, 2016, covering July 1 through September 30, 2016 have all been received and copies have been delivered to the Legislative Audit Bureau, as required by statute. The next quarterly reports will be due by January 31, 2017, covering October 1, 2016 through December 31, 2016.

##### Design of a new SEI system

Staff continues to work on the development of the new application for statements of economic interest reporting. No further significant updates are available at this time.

