

NOTICE OF OPEN AND CLOSED MEETING

Wisconsin Ethics Commission

212 East Washington Avenue, Third Floor Board Room
Madison, Wisconsin
Tuesday, February 27, 2018, 9:00 a.m.

Open Session Agenda

- A. Call to Order
- B. Report of Appropriate Meeting Notice – Staff Counsel
- C. Approval of Minutes of Prior Meetings
 - 1. Minutes of January 11, 2018 Open Session Meeting Page 3
 - 2. Minutes of January 22, 2018 Open Session Meeting Page 9
 - 3. Minutes of January 25, 2018 Open Session Meeting Page 11
- D. Personal Appearances
- E. Appointment of Interim Administrator
- F. Administrative Rule Update Page 13
- G. Review of Lobbying-Related Opinions of Previous Boards Page 31
- H. Guideline Update Page 49
 - 1. 50 Piece Rule Guideline Page 51
 - 2. Attribution Statements Guideline Page 53
- I. Standard Settlement Schedules for Lobbying Violations Page 57
- J. Staff Report Page 61
- K. Consideration of Future Agenda Items
- L. Closed Session
 - 1. Complaints and Investigations
 - 2. Requests for Advice
 - 3. Personnel Matters
 - 4. Litigation Update
- M. Adjourn

Future Ethics Commission Meetings Scheduled:

- Tuesday, April 24, 2018 at 9:00 AM
- Tuesday, June 19, 2018 at 9:00 AM
- Tuesday August 21, 2018 at 9:00 AM
- Tuesday, December 4, 2018 at 9:00 AM

The Ethics Commission will convene in open session but may move to closed session under WIS. STAT. § 19.85(1)(c), (g), (h), or WIS. STAT. § 19.851. 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 following that closed session, as outlined in the above agenda. WIS. STAT. § 19.85(2).

WIS. STAT. §§ 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) Any meeting of a governmental body, upon motion duly made and carried, may be convened in closed session under one or more of the exemptions provided in this section. The motion shall be carried by a majority vote in such manner that the vote of each member is ascertained and recorded in the minutes. No motion to convene in closed session may be adopted unless the chief presiding officer announces to those present at the meeting at which such motion is made, the nature of the business to be considered at such closed session, and the specific exemption or exemptions under this subsection by which such closed session is claimed to be authorized. Such announcement shall become part of the record of the meeting. No business may be taken up at any closed session except that which relates to matters contained in the chief presiding officer's announcement of the closed session. A closed session may be held for any of the following purposes:

- (c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.
- (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.
- (h) The Commission's deliberations on requests for advice under the ethics code, lobbying law, and campaign finance law shall be in closed session.

WIS. STAT. § 19.851(2) The commission shall hold each meeting of the commission for the purpose of deliberating concerning an investigation of any violation of the law under the jurisdiction of the commission in closed session under this section.



Wisconsin Ethics Commission

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Wisconsin Ethics Commission

Wisconsin State Capitol
Room 300 Southeast
2 E. Main Street
Madison, Wisconsin
January 11, 2018
9:30 a.m.

Open Session Minutes

Present: David Halbrooks, Katie McCallum, Mac Davis, Pat Strachota,
Timothy Van Akkeren, and Jeralyn Wendelberger

Staff present: Brian Bell, David Buerger, Colette Reinke, and Caroline Russell

A. Call to Order

Commission Chair David Halbrooks called the meeting to order at 9:38 a.m.

B. Report of Appropriate Meeting Notice

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

C. Minutes of the December 5, 2017 Meeting

MOTION: Approve the minutes. Moved by Commissioner Strachota, seconded by Commissioner Wendelberger. Motion carried unanimously.

D. Minutes of the December 8, 2017 Meeting

MOTION: Approve the minutes. Moved by Commissioner Davis, seconded by Commissioner Van Akkeren. Motion carried unanimously.

E. Minutes of the December 22, 2017 Meeting

MOTION: Approve the minutes. Moved by Commissioner Wendelberger.

Clarification of the motion to adjourn, Commissioner Van Akkeren moved to adjourn the meeting, and Commissioner Strachota seconded the motion.

Seconded by Commissioner Davis.

Motion carried unanimously.

F. Personal Appearances

There was two personal appearance by a member of the public:

Mike Wittenwyler appeared representing himself on Item I and on behalf of the Association of Wisconsin Lobbyists on Item M. Mr. Wittenwyler first discussed the draft guidelines as presented in the meeting materials (Item I). Mr. Wittenwyler supports efforts to revisit the current guidelines as he uses them regularly to advise clients; however, he was concerned with how the Commission could proceed with changing the guidelines after the passage of 2011 Act 21. Mr. Wittenwyler expressed his belief that changes to guidelines should be done through the rulemaking process (Chapter 227). He also expressed concern that those who rely on the current guidelines could get into legal trouble.

Mr. Wittenwyler also spoke on behalf of the Association of Wisconsin Lobbyists, in regard to agenda item K, the unauthorized lobbying audit. Mr. Wittenwyler acknowledged the connection between principals and lobbyists in the lobbying system, and agrees that the public should be aware that lobbyists are authorized by a principal. He suggested the Commission continue to educate the lobbying community about their requirements, and to improve the process. He also expressed that he believes lobbying prior to authorization is not intentional, that it is likely errors in paperwork and the administrative process, but that doesn't excuse the fact that the public has not been on notice that the lobbyist is authorized by the principal.

Matt Rothschild, representing the Wisconsin Democracy Campaign, appeared regarding Administrator Bell's performance. Mr. Rothschild presented an open letter from the Wisconsin Democracy Campaign regarding Senator Fitzgerald. Mr. Rothschild has worked with Administrator Bell on many occasions, and has always found him to be exceptionally professional and nonpartisan. He also applauded the Commissioners for their support of Administrator Bell. Mr. Rothschild also supports a hearing for Administrator Bell to defend his work and for members of the public to comment on his work.

G. Commission Determination Regarding Confidence in the Performance of Administrator Bell

H. Discussion on Confirmation Hearing for Administrator Bell

Items G and H taken up together.

Discussion on holding a public hearing for Administrator Bell.

Discussion on the Attorney General report, GAB records, and transition from GAB to Ethics Commission. The Commission and Administrator Bell also discussed work experience prior to GAB and at GAB.

MOTION: To hold a public hearing for Administrator Bell prior to January 23, 2018 to share their views on Administrator Bell’s performance, and comment on whether he has acted in a partisan matter. Moved by Commissioner Wendelberger. Motion does not proceed for lack of second.

Commission determines the letters from the public indicating support of the Commission and Administrator Bell should be distributed to the Senate members.

MOTION: To express the full Commission’s public confidence in Administrator Bell. Moved by Commissioner Wendelberger, seconded by Commissioner Van Akkeren. Motion carried unanimously.

I. Draft Guidelines

Administrator Bell presented the memo starting on page 13 of the meeting materials.

1. Joint Fundraisers

The Commission discussed the drafted guideline, and determine it should be part of a rule.

2. Strictly Personal Use Under Campaign Finance Law

The Commission discussed the drafted guideline, and determine it should be part of a rule, and a guideline could be drafted after the rule to provide further clarification.

3. The 50-Piece Rule

The Commission discussed the drafted guideline, and determine it should be part of a rule, and a guideline could be drafted after the rule to provide further clarification.

4. Attribution Statements (Political Disclaimers)

The Commission discussed the drafted guideline, and requested a clearer definition of “readable with the naked eye”, especially regarding yard signs.

5. Social Media and Other Electronic Communications

The Commission discussed the drafted guideline, and requested clarification of officials and candidates to solicit for non-profit organizations.

6. Segregated Funds

The Commission discussed the drafted guideline, and decided to delay publishing until a rule has been drafted regarding the application of contribution limits to segregated funds.

7. 1258 – Referenda (Revised)

No comment on the drafted guideline.

J. Review of Lobbying-Related Opinions of Previous Boards

The Commission decided to hold over the review of Lobbying-related opinions of previous Boards, and requested staff review the “inconsistent” opinions to see if any could be fixed by updating the citations. The Commissioners also requested to review these at future meetings in smaller portions, possibly one topic at a time.

K. Closed Session

MOTION: The Commission went into closed session pursuant to WIS. STAT. §§ 19.50, 19.55(3), 19.85(1)(g), (h). Moved by Commissioner Wendelberger, seconded by Commissioner Strachota. Motion carried unanimously.

1. Complaints and Investigations
2. Requests for Advice
3. Litigation Update

L. Standard Settlement Schedules for Lobbying Without Authorization

Administrator Bell presented the memo provided in the supplemental materials.

The Commission directed staff to compile a settlement schedule based on the feedback received to be presented at the February meeting. The settlement schedule should be standard, and will allow for lobbyists to appeal specific circumstances. Settlements for lobbyists should start at \$100, and \$200 for principals, increasing with the number of days late. Repeat offenders would increase by \$100 for each instance of lobbying prior to authorization.

M. Audit of Lobbying Without Authorization

Administrator Bell presented the memo provided in the supplemental materials.

The Commission discussed the information provided in the memo, with no additional action.

N. Staff Report

Administrator Bell presented the memo starting on page 57 of the meeting materials.

No action was taken.

O. Consideration of Future Agenda Items (Open Session)

Future agenda items were discussed throughout the meeting.

MOTION: The Commission went into closed session pursuant to WIS. STAT. §§ 19.50, 19.55(3), 19.85(1)(g), (h). Moved by Commissioner Van Akkeren, seconded by Commissioner McCallum. Motion carried unanimously.

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January 11, 2018 Wisconsin Ethics Commission meeting minutes prepared by:

Julie Nischik, Office Management Specialist

February 27, 2018

January 11, 2018 Wisconsin Ethics Commission meeting minutes certified by:

Katie McCallum, Vice Chair

February 27, 2018



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Wisconsin Ethics Commission

212 E. Washington Avenue, 3rd Floor
Large Conference Room
Madison, Wisconsin
January 22, 2018
1:30 p.m.

Open Session Minutes

Present (telephone): David Halbrooks, Katie McCallum, Mac Davis, Pat Strachota,
Timothy Van Akkeren, Jeralyn Wendelberger

Staff present: Brian Bell, David Buerger, Julie Nischik

A. Call to Order

Commission Chair David Halbrooks called the meeting to order at 1:32 p.m.

B. Report of Appropriate Meeting Notice – Administrator

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

C. Close Session

MOTION: To go into closed session pursuant to WIS. STAT. § 19.851(2). Moved by Commissioner Strachota, seconded by Commissioner McCallum. Motion carried unanimously.

D. Future Agenda Items

1. Potential meeting to appoint interim administrator after Senate vote on January 23, 2018.

MOTION: To adjourn. Moved by Commissioner Van Akkeren, seconded by Commissioner Strachota. Motion carried unanimously.

The meeting adjourned at 3:10 p.m.

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January 22, 2018 Wisconsin Ethics Commission meeting minutes prepared by:

Julie Nischik, Office Management Specialist

February 27, 2018

January 22, 2018 Wisconsin Ethics Commission meeting minutes certified by:

Katie McCallum, Vice Chair

February 27, 2018



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Wisconsin Ethics Commission

212 E. Washington Avenue, 3rd Floor
Board Room
Madison, Wisconsin
January 25, 2018
4:30 p.m.

Open Session Minutes

Present (phone): David Halbrooks (in person), Katie McCallum, Mac Davis, Pat Strachota, Timothy Van Akkeren, Jeralyn Wendelberger

Staff present: David Buerger, David Divine, Adam Harvell, Julie Nischik, Colette Reinke, Caroline Russell

A. Call to Order

Commission Chair David Halbrooks called the meeting to order at 4:30 p.m.

B. Report of Appropriate Meeting Notice

Staff Counsel David Buerger reported that appropriate notice of the Commission meeting had been given to the public and news media.

C. Appointment of Interim Administrator

Commission Chair Halbrooks passed the gavel to Commissioner McCallum. Commission Chair Halbrooks made a statement regarding the Senate vote to not confirm Administrator Brian Bell.

MOTION: To leave the administrator position open through the next scheduled Commission meeting, waiting to see results of the Elections Commission potential litigation. Appointment of an interim administrator will be added to the February 27, 2018 meeting agenda. Moved by Commission Chair Halbrooks, seconded by Commissioner Davis.

Discussion of the motion.

Roll call vote

Davis:	Aye	Wendelberger:	Aye
Strachota:	No	McCallum:	Aye
Van Akkeren:	Aye	Halbrooks:	Aye

D. Adjourn

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

Meeting adjourned at 5:06 p.m.

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January 25, 2018 Wisconsin Ethics Commission meeting minutes prepared by:

Julie Nischik, Office Management Specialist

February 27, 2018

January 25, 2018 Wisconsin Ethics Commission meeting minutes certified by:

Katie McCallum, Vice Chair

February 27, 2018



Wisconsin Ethics Commission

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DATE: For the February 27, 2018 Commission Meeting
TO: Members, Wisconsin Ethics Commission
FROM: David Buerger, Staff Counsel
SUBJECT: Administrative Rules Update

FOR COMMISSION ACTION

1. For ETH 16, does the Commission approve submission of the attached documents to the Rules Clearinghouse and direct staff to schedule a public hearing on this rule for the Commission's next meeting on April 24, 2018?
2. For ETH 1, does the Commission approve sending the attached scope statement to the Department of Administration for review and approval?

I. Chapter ETH 6 (Procedure) & ETH 25 (Forms)

The final certified copies of Chapters ETH 6 & 25 were delivered to the Legislative Reference Bureau for final proofing on December 5, 2017. The final draft rules were published in the Administrative Register on January 29, 2018. These rules became effective on February 1, 2018.

II. Chapter ETH 26 (Settlement Schedule)

The final certified copy of Chapter ETH 26 was delivered to the Legislative Reference Bureau for final proofing on December 18, 2017. The final draft rule was published in the Administrative Register on January 29, 2018. This rule became effective on February 1, 2018.

III. Chapter ETH 21 (Advisory Opinions)

On December 12, 2017, the Joint Committee for Review of Administrative Rules (JCRAR) requested modification of this rule from a complete repeal to an amendment incorporating the Commission's internal policy on delegation of commission authority for staff to issue informal opinions. The Commission agreed to JCRAR's request to make such modifications on December 22, 2017 and submitted a modification to JCRAR on January 5, 2018. JCRAR declined to take further action on the rule as modified and staff has prepared the final draft rule for submission to the Legislative Reference Bureau for final proofing and publication in the Administrative Register (see attached). The rule is expected to be effective April 1, 2018.

Wisconsin Ethics Commissioners

Mac Davis | David R. Halbrooks | Katie McCallum | Pat Strachota | Timothy Van Akkeren | Jeralyn Wendelberger

Administrator
Vacant

IV. Chapter ETH 16 (Lobbying)

The Commission directed staff at its December 5, 2017 meeting to proceed with drafting the proposed rule and associated documents (see attached) for submission to the Legislative Council's Rules Clearinghouse. If the Commission approves, staff will submit these documents to the Rules Clearinghouse and schedule a public hearing on this rule for the Commission's next meeting on April 24, 2018.

V. Chapter ETH 1 (Campaign Finance)

The Commission directed staff at its December 5, 2017 meeting to proceed with drafting a scope statement (see attached) to repeal the parts of ETH 1 that have been ruled unconstitutional or are inconsistent with the new campaign finance law created by 2015 Act 117. If the Commission approves, staff will submit the scope statement to the Department of Administration for review and approval.

WISCONSIN ETHICS COMMISSION
Proposed Rule Making Order

INTRODUCTORY CLAUSE

The Wisconsin Ethics Commission proposes an order to repeal ETH 16.03(3) and 16.04(2); to consolidate 16.04 (intro) and (1), renumber as 16.04 and amend; to amend 16.03(1); and to create 16.03(4) and 16.05, relating to reporting of lobbying activity.

RULE SUMMARY

A. **Statutes interpreted:** ss. 13.67, 13.68 (1) (bn), Stats.

B. **Statutory authority:**

s. 13.685(4), Stats.:

13.685 Duties of the ethics commission.

(4) The commission shall, by rule, define what constitutes a “topic” for purposes of ss. 13.67 and 13.68 (1) (bn).

s. 19.48(1), Stats.:

19.48 Duties of the ethics commission. The commission shall:

(1) Promulgate rules necessary to carry out ch. 11, subch. III of ch. 13, and this subchapter.

s. 227.11(2)(a), Stats.:

227.11 Extent to which chapter confers rule-making authority.

(2) Rule-making authority is expressly conferred on an agency as follows:

(a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.

C. **Explanation of agency authority:** The Ethics Commission administers the reporting of lobbying activity required by Subchapter III of Chapter 13.

Section 13.67, Stats. requires lobbying principals to report within 15 days of a lobbying communication, the topic of the communication. Section 13.685 (4), Stats., provides that the commission shall, by rule, define what constitutes a “topic”.

Section 13.67, Stats. also requires lobbying principals to report within 15 days of a lobbying communication, the proposed administrative rule number in connection with which the principal has made a lobbying communication.

Section 13.68 (1) (bn), Stats. requires lobbying principals to report for each legislative proposal, proposed administrative rule, budget bill subject or other topic that accounts for 10 percent or more of the principal's time spent in lobbying during the reporting period, the principal's reasonable estimate of the proportion of its time spent in lobbying associated with that legislative proposal, proposed administrative rule, budget bill subject or other topic.

Section 19.48, Stats. provides general authority for the commission to promulgate rules to carry out Subchapter III of Chapter 13.

D. **Related statute(s) or rule(s):** s. 13.625, Stats.

E. **Plain language analysis:** The current ETH 16 requires a lobbying principal to provide all of the following information: (1) A succinct written statement sufficient to put the reader on notice of the communication's subject matter. (2) Whether the communication is an attempt to influence legislative or administrative action, or both. (3) With respect to an attempt to influence administrative action, if the lobbying communication relates to the subject of a scope statement published in the Wisconsin Administrative Register, the scope statement summary, together with the date of the register, and page number on which the scope statement occurs. Alternatively, if the proposed administrative rule has been assigned a clearinghouse rule number, the principal may provide that number.

The proposed rule seeks to promote consistency in reporting by requiring a lobbying principal to provide the specific subject matter of their communication and choose a general category for its lobbying communication from a list prescribed by the Commission. This would allow members of the public to easily identify lobbying principals operating within a general subject area without relying on all lobbying principals using the same keywords in their brief description of the lobbying communication.

The proposed rule will also reduce the amount of information required to be provided by lobbying principals by removing the requirement to provide the scope statement summary, the date of the register, and the page number on which the scope statement occurs. Current technology allows the Commission to sufficiently identify a proposed administrative rule with only the agency name and a scope statement number.

Finally, s. 13.625, Stats. prohibits a lobbyist from making a personal campaign contribution except after the legislature is no longer in session. In order to audit for such prohibited contributions, the Commission reviews the list of contributors provided by each candidate committee and attempts to match those names against a list of licensed lobbyists. Matching by name alone does not always result in a strong match as many individuals have the same or similar names. Allowing the Commission to request a lobbyist voluntarily provide their home address to facilitate this matching process would reduce the number of false positives identified in the audit.

F. Summary of, and comparison with, existing or proposed federal regulations: At the federal level, the Lobbying Disclosure Act (LDA) requires that quarterly reports of lobbyists and registrants (lobbying organizations) must contain: to the maximum extent practicable, a list of specific issues, bill numbers and executive branch actions on which the registrant (lobbying firm) had lobbying activity. 2 U.S.C § 1604(b). The federal regulation is more extensive than the proposed changes to 16.03(1) and (4) due to the “maximum extent practicable” requirement. There is no existing or proposed federal regulation which discusses disclosure of the home address of a lobbyist.

G. Comparison with similar rules in adjacent states:

Illinois: The Illinois Lobbying Registration Act requires lobbyists and lobbying organizations to choose from a list of categories that indicate the nature of the client’s business upon registration and must report any changes to that information when filing regular expenditure reports. 25 ILL. COMP. STAT. §§ 170/5 (c-6), 170/6 (b-1). The Act also requires that lobbyists provide a “permanent address” as a part of lobbyist registration but does not state what constitutes a “permanent address.” 25 ILL. COMP. STAT. § 170/5 (a).

Iowa: Lobbyists must file a registration statement with the Iowa General Assembly. Statute does not state if address is required, but the Iowa Lobbyist Database shows lobbyist addresses which seem to be both business and personal. IOWA CODE § 68B.36.

Michigan: The Michigan Department of State Bureau of Elections requires that lobbyists provide a residential address on the registration form if the lobbyist is an individual. MICH. COMP. LAWS § 4.417 (2b).

Minnesota: The Campaign Finance and Public Disclosure Board requires lobbyists to submit yearly a general description of the topics lobbied on, and have a published list of suggested lobbying subjects. MINN. STAT. § 10A.04 Subd. 4(e). Lobbyists are also required to include an address, but does not specify residential or business. MINN. STAT. § 10A.03 Subd. 2(1).

H. Summary of factual data and analytical methodologies: N/A

I. Analysis and supporting documentation used to determine effect on small businesses:
N/A

J. Effect on small business: N/A

K. Agency contact person:

David P. Buerger
David.Buerger@wisconsin.gov
(608) 267-0951

L. Place where comments are to be submitted and deadline for submission:

Written comments on the proposed rule will be accepted and receive consideration if they are received by April 23, 2018. Written comments should be addressed by mail to: David Buerger, P.O. Box 7984, Madison, WI 53707-7984; or by email to: eth.rulecomments@wi.gov.

Fiscal Estimate: The creation of this rule does not affect business.

Initial Regulatory Flexibility Analysis: The creation of this rule has no fiscal effect.

TEXT OF RULE

SECTION 1. ETH 16.03 (1) is amended to read:

ETH 16.03 (1) A succinct written statement sufficient to put the reader on notice of the communication's specific subject matter.

SECTION 2. ETH 16.03 (3) is repealed.

SECTION 3. ETH 16.03 (4) is created to read:

(4) A single category designation, chosen from the following list:

- (a) Administrative Law
- (am) Agriculture and Forestry
- (b) Alcohol Beverage Regulation
- (bm) Buildings and Safety
- (c) Campaign Finance
- (cg) Children
- (cr) Claims
- (d) Collective Bargaining
- (dm) Commerce and Consumer Protection
- (e) Constitutional Amendments
- (em) Correctional System
- (f) Courts
- (fg) Criminal Law
- (fr) DCF Public Assistance
- (g) Discrimination
- (gm) Domestic Relations
- (h) Drunk Driving
- (hm) Economic Development
- (i) Education K-12
- (ig) Elderly and Aging
- (ir) Election Law
- (j) Eminent Domain
- (jm) Energy and Utilities

(k) Environment and Natural Resources
(km) Ethics and Lobby Law
(L) Family Law
(Lg) Federal/State Relations
(Lr) Financial Institutions and Business Associations
(m) Gambling
(mm) Health
(n) Education (Higher Ed and Technical Colleges)
(nm) Housing
(o) Indian Affairs
(og) Individual Income Taxation
(or) Investment Board
(p) Insurance
(pm) Judiciary
(q) Juvenile Justice and Children's Code
(qm) Labor and Employment
(r) Land Use Use and Zoning
(rg) Legislative Procedure
(rr) Local Government
(s) Medical Assistance and DHA Public Assistance
(sm) Mental Health
(t) Natural Resources
(tm) Occupational Regulation
(u) Privacy
(ug) Probate
(ur) Public Records and Open Meetings
(v) Public Sector Employment and Benefits
(vm) Public Utilities
(w) Real Estate and Housing
(wm) Retirement
(x) Shared Revenue
(xg) State Government and Finance
(xr) Taxation
(y) Trade Regulation
(ym) Transportation
(z) Unemployment Insurance
(zm) Veterans and Military Affairs

SECTION 4. ETH 16.04 (intro.) and (1) are consolidated, renumbered ETH 16.04 and amended to read:

ETH 16.04 Proposed administrative rule number. A person reports a proposed administrative rule number as provided by s. 13.67, Stats., if the person provides the ~~board~~ commission ~~any of the following: (1) The the related scope statement summary published in the Wisconsin Administrative Register, together with the date of the register and page number on which the scope statement appears~~ state agency name and scope statement number.

SECTION 5. ETH 16.04 (2) is repealed.

SECTION 6. ETH 16.05 is created to read:

ETH 16.05 Voluntary lobbyist home address disclosure. The Commission may request a lobbyist to voluntarily provide his or her home address to the commission upon application for licensure. An address provided under this section may be retained and utilized by the commission only for the purpose of auditing for contributions prohibited by s. 13.625, Stats.

SECTION 7. EFFECTIVE DATE: This rule shall take effect on the first day of the first lobbying reporting period following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date January 26, 2018
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) ETH 16 - Lobbying	
4. Subject Reporting of lobbying activity	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected N/A
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule The current ETH 16 requires a lobbying principal to provide all of the following information: (1) A succinct written statement sufficient to put the reader on notice of the communication's subject matter. (2) Whether the communication is an attempt to influence legislative or administrative action, or both. (3) With respect to an attempt to influence administrative action, if the lobbying communication relates to the subject of a scope statement published in the Wisconsin Administrative Register, the scope statement summary, together with the date of the register, and page number on which the scope statement occurs. Alternatively, if the proposed administrative rule has been assigned a clearinghouse rule number, the principal may provide that number. s. 13.625, Stats. prohibits a lobbyist from making a personal campaign contribution except after the legislature is no longer in session. In order to audit for such prohibited contributions, the Commission reviews the list of contributors provided by each candidate committee and attempts to match those names against a list of licensed lobbyists. Matching by name alone does not always result in a strong match as many individuals have the same or similar names.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. N/A	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. N/A	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) The Commission finds that the proposed rule will have no economic impact on small businesses.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

The proposed rule seeks to promote consistency in reporting by requiring a lobbying principal to provide the specific subject matter of their communication and choose a general category for its lobbying communication from a list prescribed by the Commission. This would allow members of the public to easily identify lobbying principals operating within a general subject area without relying on all lobbying principals using the same keywords in their brief description of the lobbying communication. The alternative would be to continue to rely on lobbying principals to describe their communications and asking the public to continue to use a keyword search to identify lobbying principals communicating on a specific topic.

The proposed rule will also reduce the amount of information required to be provided by lobbying principals by removing the requirement to provide the scope statement summary, the date of the register, and the page number on which the scope statement occurs. Current technology allows the Commission to sufficiently identify a proposed administrative rule with only the agency name and a scope statement number. The alternative would be to continue to require lobbying principals to provide all of the currently required information.

Finally, allowing the Commission to request a lobbyist voluntarily provide their home address to facilitate the matching process would reduce the number of false positives identified in the audit.

16. Long Range Implications of Implementing the Rule

17. Compare With Approaches Being Used by Federal Government

At the federal level, the Lobbying Disclosure Act (LDA) requires that quarterly reports of lobbyists and registrants (lobbying organizations) must contain: to the maximum extent practicable, a list of specific issues, bill numbers and executive branch actions on which the registrant (lobbying firm) had lobbying activity. 2 U.S.C § 1604(b). The federal regulation is more extensive than the proposed changes to 16.03(1) and (4) due to the “maximum extent practicable” requirement. There is no existing or proposed federal regulation which discusses disclosure of the home address of a lobbyist.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: The Illinois Lobbying Registration Act requires lobbyists and lobbying organizations to choose from a list of categories that indicate the nature of the client’s business upon registration and must report any changes to that information when filing regular expenditure reports. 25 ILL. COMP. STAT. §§ 170/5 (c-6), 170/6 (b-1). The Act also requires that lobbyists provide a “permanent address” as a part of lobbyist registration but does not state what constitutes a “permanent address.” 25 ILL. COMP. STAT. § 170/5 (a).

Iowa: Lobbyists must file a registration statement with the Iowa General Assembly. Statute does not state if address is required, but the Iowa Lobbyist Database shows lobbyist addresses which seem to be both business and personal. IOWA CODE § 68B.36.

Michigan: The Michigan Department of State Bureau of Elections requires that lobbyists provide a residential address on the registration form if the lobbyist is an individual. MICH. COMP. LAWS § 4.417 (2b).

Minnesota: The Campaign Finance and Public Disclosure Board requires lobbyists to submit yearly a general description of the topics lobbied on, and have a published list of suggested lobbying subjects. MINN. STAT. § 10A.04 Subd. 4(e). Lobbyists are also required to include an address, but does not specify residential or business. MINN. STAT. § 10A.03 Subd. 2(1).

19. Contact Name

David P. Buerger

20. Contact Phone Number

(608) 267-0951

This document can be made available in alternate formats to individuals with disabilities upon request.

Notice of Hearing

The Wisconsin Ethics Commission announces that it will hold a public hearing on a permanent rule to repeal ETH 16.03(3) and 16.04(2); to consolidate 16.04 (intro) and (1), renumber as 16.04 and amend; to amend 16.03(1); and to create 16.03(4) and 16.05, relating to reporting of lobbying activity, at the time and place shown below.

Hearing Information

Date: April 24, 2018

Time: 9:00 A.M.

Location: 212 East Washington Avenue, 3rd Floor, Madison, WI 53703

Appearances at the Hearing and Submittal of Written Comments

The proposed rule may be reviewed and comments made at <http://docs.legis.wisconsin.gov/code> and <https://ethics.wi.gov/Pages/Resources/StatutesAndRules.aspx>.

Written comments may be submitted to David Buerger, Staff Counsel, Wisconsin Ethics Commission, P.O. Box 7984, Madison, WI 53707-7984, or by email to eth.rulecomments@wi.gov. Written comments must be received no later than April 23, 2018 to be included in the record of rulemaking proceedings.

Individuals who wish to provide their comments in person at the hearing are encouraged to also submit a written copy of their testimony for inclusion in the record.

Initial Regulatory Flexibility Analysis

The proposed rule will not have an effect on small businesses, as defined under s. 227.114 (1).

**Notice of Submittal of Proposed Rule to
Legislative Council Rules Clearinghouse**

On February 27, 2018, the Ethics Commission submitted a proposed rule to the Wisconsin Legislative Council Clearinghouse pursuant to s. 227.15 (1), Stats.

Analysis

The proposed rule affects Chapter ETH 16, relating to reporting of lobbying activity.

Statement of Scope

The scope statement for this rule, SS 103-17 was approved by the Governor on September 18, 2017, published in Register No. 741B, on September 25, 2017, and approved by the Ethics Commission on December 5, 2017.

Agency Procedure for Promulgation

A public hearing is required and will be held on a April 24, 2018.

Agency Organizational Unit Primarily Responsible for Promulgating Rule

Ethics Commission

Agency Contact Person

David P. Buerger
P.O. Box 7984
Madison, WI 53707-7984
David.Buerger@wisconsin.gov
(608) 267-0951

State of Wisconsin)	
)	CERTIFICATE
Wisconsin Ethics Commission)	
)	Clearinghouse Rule 17-038
)	
)	

I, David Halbrooks, Chairperson of the Wisconsin Ethics Commission, do hereby certify that the enclosed rule to amend ch. ETH 21, related to requests for written advice issued on behalf of the Ethics Commission; was duly approved and adopted by this Commission on December 22, 2017.

I further certify that this copy has been compared by me with the original on file at our office and that the same is a true copy thereof and of the whole of such original.

IN TESTIMONY WHEREOF, I have
hereunto set my hand at 212 E. Washington
Ave., in the City of Madison, on

February 27, 2018

David Halbrooks
Chairperson
Wisconsin Ethics Commission

WISCONSIN ETHICS COMMISSION
Amended Proposed Rule Making Order

INTRODUCTORY CLAUSE

The Wisconsin Ethics Commission proposes an order to amend ETH 21, related to requests for written advice issued on behalf of the Ethics Commission.

RULE SUMMARY

A. **Statutes interpreted:** s. 19.46 (2) (b), Stats.

B. **Statutory authority:**

The Ethics Commission has general authority for the promulgation of rules to carry out the requirements of Chapters 11, 13, and 19.

s. 11.1304 (17), Stats.:

11.1304 Duties of the ethics commission. The commission shall:
(17) Promulgate rules to administer this chapter.

s. 19.48 (1), Stats.:

19.48 Duties of the ethics commission. The commission shall:
(1) Promulgate rules necessary to carry out ch. 11, subch. III of ch. 13, and this subchapter.

s. 227.11 (2) (a), Stats.:

227.11 Extent to which chapter confers rule-making authority.
(2) Rule-making authority is expressly conferred on an agency as follows:
(a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.

C. **Explanation of agency authority:** The Ethics Commission may authorize the commission administrator, or his or her designee, to issue informal opinions on its behalf.

D. **Related statute(s) or rule(s):** N/A.

E. **Plain language analysis:** This rule updates the conditions under which the staff of the Commission may respond to a request for advice on behalf of the Commission. These changes make the rule consistent with the internal policy adopted by the Commission on

March 7, 2017, allowing the Administrator of the Commission (or the Staff Counsel upon delegation by the Administrator) to issue informal opinions on behalf of the Commission if: (1) the request is received in writing, (2) the advice is provided in writing, and (3) the advice is consistent with all applicable formal advisory opinions issued by the Commission, statute or other law, and case law as required by s. 19.46 (2) (b) 1., Stats.; as well as United States and Wisconsin constitutional law.

F. Summary of, and comparison with, existing or proposed federal regulations:

The Federal Election Commission (FEC) issues advisory opinions to any entity that is unclear about the application of FECA to its prospective activities. If the activity had been prescribed previously, the FEC will advise within the relevant advisory opinion. 52 U.S.C. § 30108; 11 CFR § 112. Informal advice is given for procedural matters such as which reports to file, or how to register a committee, but not in regards to the application of opinions or statutes.

G. Comparison with similar rules in adjacent states:

Illinois: The Illinois State Board of Elections issues formal advice only within a narrow scope of campaign finance law. All other advice is given on an informal basis by staff. ILL. ADMIN. CODE tit. 26 § 125.710.

Iowa: In practice the Ethics and Disclosure Board director and staff issue informal advice which does not hold the same force as advice requested and given through the declaratory order process. Advice is only binding when it is given as a declaratory order in response to a petition regarding the applicability of statutes, policies decisions, or orders. IOWA ADMIN. CODE r. 351—12.7(1).

Michigan: Permits staff to issue advice within the parameters of declaratory rulings and interpretive statements already issued at the discretion of the Secretary of State. For matters outside of declaratory rulings, interested persons must submit a request for a new ruling. MICH. COMP. LAWS § 169.215(2).

Minnesota: Permits staff to issue nonbinding informal advice. Formal advisory opinions are issued only to parties covered by the request and are binding on the board and subsequent proceedings regarding only the party or parties involved. MINN. STAT. § 10A.02 subd. 12 (2016).

H. Summary of factual data and analytical methodologies: N/A

I. Analysis and supporting documentation used to determine effect on small businesses: N/A

J. Effect on small business: N/A

K. Agency contact person:

David P. Buerger
David.Buerger@wisconsin.gov
(608) 267-0951

L. Place where comments are to be submitted and deadline for submission:

Written comments on the proposed rule will be accepted and receive consideration if they are received by June 6, 2017. Written comments should be addressed by mail to: David Buerger, P.O. Box 7984, Madison, WI 53707-7984; or by email to: eth.rulecomments@wi.gov.

Fiscal Estimate: The creation of this rule does not affect business.

Initial Regulatory Flexibility Analysis: The creation of this rule has no fiscal effect.

TEXT OF RULE

SECTION 1. ETH 21.30 is amended to read:

ETH 21.30 Requests for written advice. ~~When delay is of substantial inconvenience or detriment to~~ If a person requesting requests in writing the ethics commission's written advice regarding the propriety of a matter to which the person is or may become a party, the ethics commission's ~~director~~ administrator, or staff counsel upon delegation by the administrator, may, ~~with the advice and consent of the chair, or if the chair is unavailable, with the advice and consent of the vice chair, or if the vice chair is unavailable, with the advice and consent of any member of the ethics commission,~~ advise the state public official person in writing. The written advice shall be consistent with all applicable formal advisory opinions issued by the commission, statute or other law, and case law as required by s. 19.46 (2) (b) 1., Stats. as well as the United States and Wisconsin constitutional law. Written advice prepared by the ~~director~~ administrator or staff counsel pursuant to this rule has the full force and effect of written advice given by the ethics commission.

SECTION 2. EFFECTIVE DATE.

This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2), Stats.

**STATEMENT OF SCOPE
PURSUANT TO WIS. STAT. § 227.135
WISCONSIN ETHICS COMMISSION**

Rule No.: ETH Ch. 1

Relating to: Campaign Finance

Rule Type: Permanent

1. Detailed description of the objective of the proposed rule:

The Commission proposes a rule to repeal the parts of Chapter ETH 1 that have been ruled unconstitutional or have been deemed inconsistent with the new campaign finance law created by 2015 Act 117.

2. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The Commission proposes no new policy in the proposed rule.

3. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

The Commission has general authority for the promulgation of rules to carry out the requirements of Chapter 11.

s. 11.1304(17), Stats.:

11.1304 Duties of the ethics commission. The commission shall:
(17) Promulgate rules to administer this chapter.

s. 19.48(1), Stats.:

19.48 Duties of the ethics commission. The commission shall:
(1) Promulgate rules necessary to carry out ch. 11, subch. III of ch. 13, and this subchapter.

s. 227.11(2)(a), Stats.:

227.11 Extent to which chapter confers rule-making authority.
(2) Rule-making authority is expressly conferred on an agency as follows:
(a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.

4. Estimate of the amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The Commission estimates that it will use approximately 0.05 FTE staff to develop this rule. This includes time required for research, rule drafting, preparing related documents, coordinating stakeholder meetings, holding public hearings, legislative review and adoption, and communicating the final rule with affected persons and groups. The Commission will use existing staff resources to develop this rule.

5. List with description of all entities that may be affected by the proposed rule:

Candidates, candidate committees, political parties, legislative campaign committees, political action committees, independent expenditure committees, conduits, referendum committees, recall committees, and the general public may be affected by the proposed rule.

6. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

The Wisconsin Ethics Commission is unaware of any existing or proposed federal regulation that is applicable to this rule.

7. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The Wisconsin Ethics Commission anticipates the rule having no economic impact. This proposed rule includes no significant economic impact on small businesses.

Contact person: David P. Buerger
david.buerger@wisconsin.gov (608) 267-0951

David Buerger
Staff Counsel
Wisconsin Ethics Commission

Date Submitted



Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics
212 East Washington Avenue | Third Floor | P.O. Box 7125 | Madison, WI 53707-7984
(608) 266-8123 | ethics@wi.gov | <https://ethics.wi.gov>

DATE: For the February 27, 2018 Meeting
TO: Members, Wisconsin Ethics Commission
FROM: Colette Reinke, Ethics Specialist
SUBJECT: Review of Lobbying-Related Opinions of Previous Boards

FOR COMMISSION ACTION

1. The Commission may decide to
 - a. Approve of the schedule for review of the opinions, or
 - b. Approve of a modified schedule consistent with today's discussion.

2. The Commission may decide to
 - a. Withdraw, modify, and reaffirm opinions as recommended by staff,
 - b. Withdraw, modify, and reaffirm opinions as amended by today's discussion,
or
 - c. Direct staff to continue review of the opinions.

Background

Staff recently reviewed eighty-eight formal opinions from the previous boards (Ethics Board and Government Accountability Board) related to lobbying. The goal of reviewing these opinions is to withdraw or update opinions to ensure consistency with current statutes and Commission opinions and interpretation.

At the January 11, 2018 Commission meeting, the Commissioners directed staff to categorize the opinions and present them to the Commission in smaller groups. Staff has taken the eighty-eight opinions and grouped them into smaller subject groups consisting of thirteen to twenty-four opinions, and has provided a suggested schedule for taking these up for review at future meetings. This will allow for a more thorough review from the commission, and a schedule will allow for public notice of the review allowing the regulated community to review and provide comment if they wish.

Wisconsin Ethics Commissioners

Mac Davis | David R. Halbrooks | Katie McCallum | Pat Strachota | Timothy Van Akkeren | Jeralyn Wendelberger

Administrator
Vacant

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Schedule for Review of Lobbying Opinions

- February 27, 2018 – Lobbyist Campaign Contributions, Campaign Activity, and Solicitation (17 opinions)
- April 24, 2018 – Lobbyist and Principal Registration and Reporting (13 opinions)
- June 19, 2018 – Receipt of Items or Services by State Officials, Reimbursement of Expenses (24 opinions)
- August 21, 2018 – Employment and Compensation (16 opinions)
- December 4, 2018 – State Official Conduct, State Agency Conduct, and Conflicts (18 Opinions)

Explanation of Staff Recommendations

The attached spreadsheet provides a link to each opinion, a summary, whether the opinion is consistent or inconsistent, and some additional notes related to why opinions have been recommended for withdrawal. The opinions are listed in order of the schedule provided above.

Opinions that are consistent with current law and Commission interpretation, advice, and guidelines are recommended to be reaffirmed. Some opinions that are recommended to be reaffirmed will require minor revisions to correct citations. Staff recommended withdrawal of opinions for two reasons, either they are inconsistent with current statutes or with the current Commission’s interpretation, advice, and guidelines, or the opinions are vague and provide no substantive analysis.

In total, staff is recommending that fifty opinions be reaffirmed, thirty opinions be withdrawn as they are inconsistent with current law, and eight opinions be withdrawn as they provide no substantive analysis.

Lobbyist Campaign Contributions, Campaign Activity, and Solicitation Opinions

The first subject group contains opinions related to lobbyist campaign contributions, campaign activity, and solicitation. Staff has recommended that ten be withdrawn and four be modified. The remaining three opinions are consistent and require no modifications.

Relevant Statutes and Amending Acts

[WIS. STAT. § 13.625](#) provides prohibitions for lobbyists, as well as exceptions to these prohibitions. This section was amended in 2013 and 2015 by [2013 Wisconsin Act 153](#) and [2015 Wisconsin Act 117](#).

Act 153 added that a lobbyist is prohibited from personally making a campaign contribution and changed the time frame in which a lobbyist may make a personal campaign contribution. Act 117 amended the section to change its wording, specifically replacing “furnish” with “give”, and amended the law to provide that a lobbyist may deliver a contribution.

Opinions Recommended for Withdrawal

The opinions that are being recommended for withdrawal are opinions based on statutory language prior to the 2013 and 2015 amendments. These opinions would require more than just minor revisions to modify them to be consistent with the current statutes.

1. [Eth. Bd. Op. 91-08](#) – Analysis and substance of opinion relates entirely to the previous time frame in which lobbyists may give campaign contributions.
2. [Eth. Bd. Op. 92-29](#) – Contains references to repealed Wisconsin Statutes Chapter 11.
3. [Eth. Bd. Op. 96-05](#) – Question and analysis relate to the definition of furnish. This is no longer necessary to interpret, because Act 117 amended the language from “furnish” to “give.”
4. [Eth. Bd. Op. 96-17](#) – Contains citations to opinions that have been recommended for withdrawal, as well as references to the Elections Board and repealed Wisconsin Statutes Chapter 11.
5. [Eth. Bd. Op. 97-08](#) – Contains citations to opinions that have been recommended for withdrawal, and question and analysis references the previous time frame in which lobbyists may give campaign contributions.
6. [Eth. Bd. Op. 97-09](#) – The analysis and substance of opinion relates entirely to the previous time frame in which lobbyists could provide campaign contributions. Two questions presented in the opinion raised issues under the jurisdiction of the Federal Elections Commission and the Elections Board. Also, contains references to repealed Wisconsin Statutes Chapter 11, incorrect definitions of candidate and contribution.
7. [Eth. Bd. Op. 97-18](#) – Question and analysis relate to the definition of furnish and previous time frame in which lobbyist may give campaign contributions. This is no longer necessary to interpret, because Act 117 amended the language from “furnish” to “give.”
8. [Eth. Bd. Op. 96-05](#) – Question and analysis relates to the definition of furnish. This is no longer necessary to interpret, because Act 117 amended the language from “furnish” to “give.”
9. [Eth. Bd. Op. 03-06](#) – Contains a citation to an old Ethics Board opinion and lacks substantive facts and analysis.
10. [Eth. Bd. Op. 06-02](#) – Contains citations to opinions that have been recommended for withdrawal, as well as references advice of the Elections Board related to campaign finance.

Opinions recommended for modification

The following opinions have good analysis and answers, but require minor revisions.

1. [Eth. Bd. Op. 93-06](#) – Staff believes that the reasoning and answer in this opinion are consistent with how the current Commission would answer. In the “Discussion” section, paragraph 3 will need to be amended to include new statutory language. The citations and reference to Opinions 92-29 and 92-27 will be taken out of paragraph 4.
2. [Eth. Bd. Op. 93-04](#) – This opinion was marked as consistent, but needs some revision. It contains a footnote citation to [WIS. STAT. § 13.625 \(1\)\(b\)](#), which was amended by Act 117. This citation needs to be amended to the current statutory language and correct numerical citations.
3. [Eth. Bd. Op. 98-02](#) – This opinion contains citations to [WIS. STAT. § 13.625 \(9\)](#), referencing the Department of Commerce, which is now the Wisconsin Economic Development Corporation. The citation needs to be revised to the current statutory language.
4. [Eth. Bd. Op. 98-06](#) – This opinion contains a footnote citing to a repealed portion of Wisconsin Statutes Chapter 11. This footnote is not substantive to the rest of the analysis and opinion, and should be deleted from the opinion.

Enclosure: Lobbying Opinions Spreadsheet Feb 27 Meeting

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer
Campaign Contributions, Campaign Activity, Solicitations				
Campaign Contributions	Eth. Bd. Op. 97-09	While serving as a member of Wisconsin's legislature, a candidate for Congress may accept a campaign contribution from a lobbyist or lobbying organization for the purpose of promoting the legislator's candidacy for election to Congress only during the year of the Congressional election between June 1 and the date of the general election and only if the Wisconsin Legislature has concluded its final floorperiod and is not in special or extraordinary session.	Inconsistent	2013 Act 153 and 2015 Act 117 amended and renumbered 13.625 (1)(c) to (1m). Time frame that lobbyists may contribute amended from between June 1 and day of general election to the 1st day authorized by law for circulation of nomination papers and the day of the election.
Campaign Contributions, Campaign Activity	Eth. Bd. Op. 93-06	The Ethics Board advises that a political action committee that is a separate legal entity not acting subject to the control of a lobbying principal is not subject to the restrictions of the lobbying law. OEB 93-6	Inconsistent	13.625 (1m). 2013 Act 153 and 2015 Act 117 amended and renumbered 13.625 (c) to (1m). Time frame that lobbyists may contribute amended from between June 1 and day of general election to the 1st day authorized by law for circulation of nomination papers and the day of the election.
Campaign Contributions	Eth. Bd. Op. 92-29	The Ethics Board advises that the lobbying law's restrictions on the timing of campaign contributions applies to a lobbying principal whether the principal is a corporation or an unincorporated association. A principal is subject to the lobbying law's restrictions on campaign contributions whether it makes a contribution directly or through its alter ego or agent, such as a PAC. Corporate lobbying principals that have created and registered PACs under §11.38, Wisconsin Statutes, may utilize those PACs to make campaign contributions to the full extent permitted under campaign finance laws and within the time periods permitted under Wisconsin's lobbying statute. Businesses, organizations, and individuals that are not lobbying principals are free to make campaign contributions through their PACs without restraint from laws administered by the Ethics Board. OEB 92-29 November 18, 1992	Inconsistent	Inconsistent with current statutes regarding campaign contributions under Wis. Stat. §13.625
Campaign Contributions	Eth. Bd. Op. 91-08	The lobbying law prohibits a lobbyist from making a campaign contribution during a prohibited time period if it is from a personal campaign committee account over which the lobbyist exerts control or which acts at the direction or as an agent of the lobbyist. Eth. Bd. 682	Inconsistent	2013 Act 153- Wis. Stat. Sec. 13.625 (1m) Provides new time periods during which a lobbyist can make a personal contribution.

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer
Campaign Activity, Campaign Contributions	Eth. Bd. Op. 06-02	A lobbying principal may, consistent with the lobbying law, urge its members to contribute to a candidate, as long as the organization is not acting in concert with the candidate. A lobbying principal may not bundle and furnish contributions from its members to legislators except between June 1 and the general election in the year of the member's election and, then, only if the Legislature has concluded its final floorperiod and is not in special or extraordinary session.	Inconsistent	2015 Act 117 replaced the word "furnish" with "give," and replaced "campaign contribution" with "personal contribution." (13.625 (1) and (1m)). Lobbyists are now restricted from making personal contributions, but may convey contributions from a committee. 2013 Act 153 and 2015 Act 117 amended and renumbered 13.625 (c) to (1m). Time frame that lobbyists may contribute amended from between June 1 and day of general election to the 1st day authorized by law for circulation of nomination papers and the day of the election.
Campaign Activity, Campaign Contributions	Eth. Bd. Op. 97-18	The Ethics Board advises: (1) that a lobbyist may administer a conduit and sign conduit checks and transmittal letters; and (2) that a lobbyist may sign a conduit check and transmittal letter conveying a campaign contribution to a partisan elective state official or candidate for a partisan elective state office only between June 1 and the date of the general election in the year of a candidate's election and to a legislative candidate during that period only if the legislature has concluded its final floorperiod and is not in special or extraordinary session.	Inconsistent	2015 Act 117 replaced the word "furnish" with "give," and replaced "campaign contribution" with "personal contribution." (13.625 (1) and (1m)). Lobbyists are now restricted from making personal contributions, but may convey contributions from a committee.
Campaign Activity, Campaign Contributions	Eth. Bd. Op. 97-08	The Ethics Board advises that, consistent with the lobbying law: (1) a legislator may direct a letter to a lobbyist asking the lobbyist to ask others to endorse the legislator's candidacy or to provide volunteer personal services to the legislator's campaign such as erecting yard signs, delivering campaign literature, and stuffing envelopes (but not business or professional services); and (2) a legislator not direct a letter to a lobbyist asking the lobbyist to ask others to make a campaign contribution to the legislator's campaign, except between June 1 and the day of the general election in the year of the election and then, if the legislator is running for reelection to the legislature, only if the legislature has concluded its final floorperiod and is not in special or extraordinary session.	Inconsistent	Paragraph 7 refers to amended statutory section-13.625 (1m). 2013 Act 153 and 2015 Act 117 amended and renumbered 13.625 (c) to (1m). Time frame that lobbyists may contribute amended from between June 1 and day of general election to the 1st day authorized by law for circulation of nomination papers and the day of the election.
Registration and Reporting	Eth. Bd. Op. 96-17	An association is a lobbying principal subject to Wisconsin's lobbying law if (1) it reimburses a member for lost wages in connection with lobbying on the association's behalf and (2) the member communicates with state officials other than the legislators from the member's own district, on more than 4 days in a 6-month reporting period. A lobbying principal may not, consistent with the lobbying law, reimburse its members' campaign contributions that are furnished at a time not permitted to the principal.	Inconsistent	Paragraph 7 refers to amended statutory section-13.625 (1m). 2013 Act 153 and 2015 Act 117 amended and renumbered 13.625 (c) to (1m). Time frame that lobbyists may contribute amended from between June 1 and day of general election to the 1st day authorized by law for circulation of nomination papers and the day of the election.

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer
Campaign Contributions, Campaign Activity	Eth. Bd. Op. 96-05	1. A lobbyist may, without restriction from the lobbying law, advise a lobbying organization's members, or their employees, about making campaign contributions as long as the lobbyist is acting independent of any candidate or candidate's campaign committee. 2. Campaign contributions collected from members of a lobbying organization, a circumstance popularly known as "bundling", are best delivered by one of the contributors on behalf of the contributors without reference to the organization. Neither a lobbyist (nor anyone acting at a lobbyist's behest) nor anyone representing himself or herself as acting on behalf of the lobbying organization should physically convey campaign contributions to partisan elected state officials, or candidates for partisan state elective office, except during the statutorily authorized period. OEB 96-5	Inconsistent	Question 1: Consistent. Question 2: Inconsistent. Wis. Stat. 13.625 (1) (b) was amended by WI 2015 Act 117 and "furnish" was replaced by "give." The time period had been amended by 2013 Act 153 (see comments for 93-06). Lobbyists may give personal contributions during the time period provided for in the statutes. Issue raised in the questions was limited to what it means to furnish a contribution.
Lobbyist Campaign Activity, PACs	Eth. Bd. Op. 97-21	The Ethics Board advises that Wisconsin's lobbying law does not prohibit the appearance of a lobbyist's name as the treasurer of a political action committee on letterhead transmitting a campaign contribution to a member of the legislature.	Inconsistent	2015 Act 117 replaced the word "furnish" with "give," and replaced "campaign contribution" with "personal contribution." (13.625 (1) and (1m)). Lobbyists are now restricted from making personal contributions, but may convey contributions from a committee. 2013 Act 153 and 2015 Act 117 amended and renumbered 13.625 (c) to (1m). Time frame that lobbyists may contribute amended from between June 1 and day of general election to the 1st day authorized by law for circulation of nomination papers and the day of the election.
Solicitation, State Public Official Conduct	Eth. Bd. Op. 03-06	The Ethics Board advises: An employee of the Legislature should not solicit lobbyists or lobbying organizations for contributions to a community organization on whose board the employee sits. Nor should the employee use the status or prestige of office to solicit contributions to the organization.	Consistent	Withdraw for lack of substantive analysis
Solicitation, State Public Official Conduct	Eth. Bd. Op. 91-06	You may solicit contributions for a foundation if: (1) you do not invoke the title or prestige of your office to solicit; (2) you do not rely upon the state's time, facilities, supplies or services not generally available to all Wisconsin citizens; (3) any response to your solicitations could not reasonably be expected to influence your official judgement or be considered a reward for past actions; and (4) you do not solicit any lobbyist or lobbyist's employer. Eth. Bd. 640.	Consistent	
Receipt of Items/Services by State Public Official, State Public Official Conduct, Campaign Activity	Eth. Bd. Op. 93-04	A legislator may not accept anything of pecuniary value from a lobbying principal. To the extent that a referendum committee is an intermediary, agent, or alter ego for a lobbying principal, a legislator should treat the referendum committee as if it were a lobbying principal and be guided by the advice given in 1992 Wis Eth Bd 26. A legislator should not bid or negotiate for, nor should anyone offer him or her, work on behalf of a referendum committee if it involves a matter on which the legislator is authorized to take any discretionary action unless the Legislature has completed its final action on that matter. Because referenda are part of the work of the Legislature, we recommend that a legislator not take pay to work on a referendum unless the legislator is confident that he or she can demonstrate that the employment is unrelated to being a member of the Legislature and is unlikely to influence the judgment the legislator exercises as a state official. OEB 93-4	Consistent	Requires minor modification to correct citations

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer
Solicitation, State Agency Conduct	Eth. Bd. Op. 96-14	A state agency may solicit donations for the agency's gifts and grants account as long as the agency solicits donations only from individuals, businesses, and organizations that do not do business with the agency, are not regulated by the agency, and are neither lobbyists nor lobbying principals. The agency should not use solicited funds for rewarding state public officials. Consistent with statutes administered by the Ethics Board, the agency may use solicited funds to reward other employees for exceptional accomplishment or outstanding performance as long as the use of such funds does not conflict with applicable collective bargaining agreements or with statutes or rules administered by the Department of Employment Relations. OEB 96-14	Consistent	
Solicitation, State Agency Conduct	Eth. Bd. Op. 98-02	The Ethics Board advises, consistent with laws it administers, that: (1) a division of a state Department may use state resources in connection with its sponsorship of the annual conference of an association of state regulatory agencies; (2) the Department's employees may not solicit contributions to help host the conference from a lobbyist or a lobbying principal or from individuals or entities that are likely to be materially affected by laws or rules which the Department is called upon to interpret or apply or that do business with the Department; (3) the Department's employees may solicit attendance at the conference by any person other than a lobbyist or a lobbying principal; and (4) the Department's employees may prepare and send written notices of the conference to lobbyists and lobbying principals.	Consistent	Requires minor modification to correct citations
Solicitation, State Agency Conduct	Eth. Bd. Op. 98-05	The Ethics Board advises, consistent with laws it administers, that: (1) a state agency may use state resources in connection with its hosting of a convention of a national organization in Wisconsin; and (2) state public officials associated with the agency, and the agency's employees may not, either orally or in writing, personally solicit contributions from a lobbyist, an employee of a lobbying organization, or an employee of a business or organization that is regulated by or does business with the agency.	Consistent	
Solicitation, State Public Official Conduct	Eth. Bd. Op. 98-06	The Ethics Board advises that a legislator should not authorize an organization to draw on the title and prestige of the legislator's state government office to solicit financial contributions if the organization [1] is a lobbying principal that tries to influence legislation and spends money in support of or in opposition to candidates for election to state offices, or [2] is an organization with which the legislator is associated.	Consistent	Requires minor modification to correct citations
Registration and Reporting				
Registration and Reporting	Eth. Bd. Op. 91-07	Non-lobbyists need not maintain an individual daily log of activities. A principal need only maintain a log for the time of its employees and individuals engaged in lobbying activities under the supervision or control of the organization. Costs incurred by a principal for research must be reported only if the cost would not have been incurred but for lobbying. Eth. Bd. 641	Inconsistent	1997 law change. Wis. Stat. Sec. 13,68(1)(c), non-lobbyist employees participating in lobbying activity must track time.
Registration and Reporting	Eth. Bd. Op. 93-10	A. Regardless of whether a lobbyist is acting on behalf of the organization that employs the lobbyist or independent of it, the lobbyist need not account to the Ethics Board: 1. For time the lobbyist spends participating as a member in the deliberations either of a rule-making advisory committee established by a state agency under §227.13 or of a committee of the Legislature or 2. For time the lobbyist spends providing information to a state agency official in response to the official's request. B. Otherwise the lobbyist should account for all the time he or she is engaged in attempting to influence state legislation ¹ or an administrative rule ² on his or her employer's behalf, even if the information the lobbyist provides was requested by a legislator. C. A lobbyist is not obliged to account to the Ethics Board for activities: 1. That are unrelated to influencing state legislation or administrative rules or 2. That the lobbyist undertakes independent of his or her employer's interests and not as its representative. OEB 93-10	Inconsistent	1997 law change. Wis. Stat. Sec. 13,68(1)(c), non-lobbyist employees participating in lobbying activity must track time.

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer
Reporting	Eth. Bd. Op. 97-10	The Ethics Board advises that a lobbying principal include in its semiannual report to the Ethics Board the time an individual, who is not a lobbyist, spends on the principal's behalf participating, and preparing to participate, on a committee established by a state agency to formulate recommended changes to state statutes.	Inconsistent	1997 law change. Wis. Stat. Sec. 13,68(1)(c), non-lobbyist employees participating in lobbying activity must track time.
Registration and Reporting	Eth. Bd. Op. 03-14	The Ethics Board advises that the lobbying law does not exempt elected leaders of Wisconsin's Native American tribes from its registration and reporting requirements.	Inconsistent	2005 Act 463 created 13.62 (14) and extends the same exemptions, relating to obtaining a lobbyist's license, provided to public offices to tribal officials.
Registration and Reporting	Eth. Bd. Op. 92-16	The time and expenses related to the lobbying activities of individuals employed by companies that are members of a trade association that is a principal should be recorded as follows: (1) If the individuals are lobbying on the trade association's behalf, and under its supervision or control, the trade association should account for their time and the lobbying expenses that the association incurs; (2) If the individuals are lobbying on their employer's behalf, then if the employer otherwise meets the definition of "principal," the employer should account for the employees' time and the lobbying expenses that the employer incurs; and (3) If the individuals are lobbying on behalf of both the trade association and the employer, then both the trade association and the employer should undertake the accounting described in (1) and (2). The exemption for participating in the deliberations of an agency's advisory committee on rulemaking established under §227.13 or of a legislative committee of which the individual is a member extends to preparation and communication with committee members and staff, outside a meeting, that is directly related to committee deliberations. OEB 92-16	Inconsistent	Except those devoting less than 10 hours, clerical EEs, and unpaid volunteers.
Registration and Reporting	Eth. Bd. Op. 99-02	The Ethics Board advises that each chapter that contributes payments for your lobbying effort and which makes expenditures or incurs obligations exceeding \$500 in a calendar year must separately register as a lobbying principal if you make lobbying communications on each of at least five days in a six-month reporting period unless the network (1) has articles or other written agreement of association; and (2) has officers, directors, or others who jointly direct the association's activities; and (3) you do not take direction from any one chapter or combination of chapters other than the association.	Inconsistent	Inconsistent with the Commission's interpretation of the definition of principal
Registration and Reporting	Eth. Bd. Op. 92-11	Two organizations jointly lobbying under a different name should continue to report separately the time and resources expended in lobbying by each organization. OEB 92-11	Inconsistent	Inconsistent with the definition of a principal
Registration and Reporting	Eth. Bd. Op. 06-09	The Ethics Board advises that consistent with the statutes that the Ethics Board administers: 1. As long as a business that employs a lobbyist accords the privilege of serving clients on its premises and using its facilities to all members of a legislator's profession living in the area of the business, and the legislator remains a member of that profession, the business may continue to extend that privilege to the legislator. 2. For a lobbying principal's sibling corporation, the members of whose board of directors are identical to the principal's board of directors, to furnish salary, compensation, or payment to a legislator, these two conditions must be present: a. Any salary, compensation, or payment that a sibling corporation provides or arranges for the legislator is independent of any services he provides for, at the behest of, or for the benefit of the lobbying principal. b. The principal's sibling corporation must arrive at its decisions about whether to employ the legislator, and to determine his salary and compensation, and the nature, scope and hours of his employment, independent of the principal. As long as both organizations are under the direction and control of boards of directors comprising the same people, the Ethics Board thinks it likely that as a matter of law, the sibling corporation cannot meet this condition.	Inconsistent	This opinion is poorly written and may lead readers to a false conclusion regarding restrictions on legislator employment

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer
Registration and Reporting	Eth. Bd. Op. 97-05	A lobbying principal should not report in its Statement of Lobbying Activities and Expenditures the time and money it has spent on developing and airing television commercials that do not urge members of the general public to try to influence legislation or administrative rulemaking.	Inconsistent	This opinion incorrectly categorizes activity as not being grassroots lobbying
Registration and Reporting	Eth. Bd. Op. 92-02	Both organizations may be principals when one organization contracts with another for the latter's employee to lobby on the former's behalf. OEB 92-2	Inconsistent	This opinion is poorly written, contradicts itself and current law
Registration and Reporting	Eth. Bd. Op. 97-19	The Ethics Board advises: (1) If an individual contracts for or receives economic consideration (including stock or an option to acquire stock) from a company, attempts to influence legislation or rules on its behalf, and communicates with state officials, either orally or in writing, on five or more days in a reporting period in attempting to influence those officials, then Wisconsin's lobbying law will require the company to register as a lobbying principal and to authorize the individual to lobby on its behalf; and (2) An individual should not agree to lobby on behalf of a company if the individual's compensation is stock or a stock option, unless the individual is prepared to clearly and convincingly demonstrate that the value of the stock or the stock option is not in any manner dependent on the success or failure of legislative or administrative action.	Consistent	
Registration and Reporting	Eth. Bd. Op. 99-04	The Ethics Board advises that an organization that employs a lobbyist may (1) neither directly pay reimbursement of expenses to a member of its board of directors who is an agency official under the lobbying law (2) nor arrange for another organization to pay expenses arising from the official's activities as a member of the organization's board.	Consistent	
Registration and Reporting	Eth. Bd. Op. 99-07	The Ethics Board advises that: (1) Wisconsin law requires an officer or member of a union who makes a lobbying communication on the union's behalf on more than four days in a reporting period to be licensed and authorized as a lobbyist if the union reimburses the member's employer for the individual's wages for the time spent in lobbying activities; and (2) the union should include, in its semi-annual report of lobbying expenditures, the union's salary reimbursement for an individual's time spent in lobbying activities, whether or not the individual is a lobbyist.	Consistent	
Receipt of Item/Services by State Officials, Reimbursement of Expenses				
Gifts, Receipt of Items/Services by State Public Official, Events Open to the General Public	Eth. Bd. Op. 97-12	The Ethics Board advises: A lobbying organization may, consistent with the Ethics Code and lobbying law, furnish food and drink to state officials at a reception if: (1) the organization can demonstrate its genuine attempt to attract the general public to the reception; (2) the reception is open to the public on the same terms it is available to state officials without the purpose or effect of the manner of invitation conferring an advantage on a state official greater than that available to the general public; and (3) either: (a) the organization sets and collects from each state official the greater of: [i] the established charge or ticket price, if any, charged others for the same or comparable benefit, [ii] the organization's cost of acquiring the goods or services the organization provides, or [iii] the market price of the recipient's independently acquiring like benefits; or (b) the reception is unrelated to state officials' discussion of state government processes or issues initiated by or affecting state government.	Inconsistent	Allowing officials to receive things of value if unrelated to the state official's discussion of state government processes or issues initiated by or affecting state government is inconsistent with Wis. Stat. §13.625

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Gifts, Receipt of Items/Services by State Public Official	Eth. Bd. Op. 97-16	The Ethics Board advises that: (1) Both state and local officials may participate in a round-trip train excursion that celebrates a lobbying organization's 10th anniversary; (2) The lobbying organization should not furnish refreshments to elected state officials or to state agency officials whose responsibilities relate to rulemaking; and (3) Local public officials and non-elected state officials whose responsibilities do not involve state rule-making may pay for and partake of the food and drink that is offered in connection with the proposed event. The official should pay the greater of [i] the established charge to others for the refreshments, [ii] the organization's cost of providing the refreshments, or [iii] the fair market value of the recipient's independently acquiring like items at a comparable event.	Inconsistent	Officials would receive preferential notice of the event and exclusive access, which in itself can be something of value
Receipt of Items or Services by State Public Official	Eth. Bd. Op. 05-07	The Ethics Board advises that a legislative employee not rent an apartment or a house with a lobbyist unless (1) the lobbyist is the employee's relative or (2) the employee and the lobbyist are part of the same domestic unit.	Inconsistent	This opinion conflicts with the exception provided for members of the same household
Receipt of Items/Services by State Public Official, Reporting	Eth. Bd. Op. 03-10	The Ethics Board advises that neither a state public official's acceptance of cards for distribution to the public that provide health care information nor the company's furnishing them to the state of Wisconsin will violate Wisconsin's Ethics Code for state officials. This transaction will not subject the company to Wisconsin's lobbying law or otherwise be considered a lobbying expense.	Consistent	Withdraw for lack of substantive analysis
Gifts/Honorarium, Receipt of Items/Services by State Public Official	Eth. Bd. Op. 06-06	Wisconsin law [§19.56 (1), Wisconsin Statutes] encourages you to address groups about legislative, administrative, executive or judicial processes and proposals and issues initiated by or affecting a department or the judicial branch and to accept reasonable compensation from the sponsor when you do. The bookends offered are well within the ambit of reasonable compensation. If your address can be appropriately characterized as meeting the subject matter criteria, you may surely retain them	Consistent	Withdraw for lack of substantive analysis
Gifts, Receipt of Items/Services by State Public Official	Eth. Bd. Op. 07-08	The Ethics Board advises that a state official may accept food, drink, and entertainment from anyone as long as the person extending the invitation is not a lobbyist or a lobbying principal and the official can demonstrate that the person made the offer for a reason unrelated to the official's holding or having held a government position.	Consistent	Withdraw for lack of substantive analysis

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer
Receipt of Items/Services by State Public Official, Reimbursement of Expenses	Eth Bd. Op. 01-02	The Ethics Board advises: For state and local government officials Neither a state public official nor a local public official should accept or purchase a ticket or admission to an event or access to a loge, skybox, or other premium area unless the official can clearly and convincingly demonstrate that at least one of these conditions obtains: • The ticket, admission, or access is offered for a reason unrelated to the official's holding or having held a public office; • The ticket, admission, or access is available to the general public on the same terms and conditions as available to the official; or • The ticket, admission, or access is without pecuniary value. In addition, for state officials and organizations that employ lobbyists A lobbying principal should not give, sell, or furnish or arrange for another to give, sell, or furnish to an elected state official, legislative employee, candidate for state office, or agency official a ticket or admission to an event or access to a loge, skybox, or other premium area unless the ticket, admission, or access is available to the general public on the same terms and conditions or the ticket, admission, or access is without pecuniary value. An elected state official, legislative employee, candidate for state office, or agency official should not accept or purchase from a lobbying principal a ticket or admission to an event or access to a loge, skybox, or other premium area unless the ticket, admission, or access is available to the general public on the same terms and conditions or the ticket, admission, or access is without pecuniary value. In addition, for state officials and lobbyists A lobbyist should not give, sell, or furnish or arrange for another to give, sell, or furnish to an elected state official, legislative employee, candidate for state office, or agency official a ticket or admission to an event or access to a loge, skybox, or other premium area unless the ticket, admission, or access is without pecuniary value. An elected state official, legislative employee, candidate for state office, or agency official should not accept or purchase from a lobbyist a ticket or admission to an event or access to a loge, skybox, or other premium area unless the ticket, admission, or access is without pecuniary value. Limited exception To the extent that an official's participation in an event is in furtherance of substantive or ceremonial governmental responsibilities appropriate to the official's government office so as to be clearly and convincingly for the benefit primarily of the state or a local government and any private benefit is merely incidental, then an individual or organization may provide admission to or accommodation at the event and a state or local public official may attend the event without payment or on terms not available to the general public.	Consistent	
Reimbursement and Expenses	Eth. Bd. Op. 02-03	The Ethics Board advises that §13.625, Wisconsin Statutes, prohibits a lobbying principal to reimburse expenses of a member of its board of directors who is an agency official.	Consistent	
Receipt of Items/Services by State Public Official, Conflicts	Eth. Bd. Op. 04-04	The Ethics Board advises that: Neither the lobbying law nor Ethics Code will be an obstacle to state officials taking advantage of the terms of the State of Wisconsin's agreement with Microsoft that provides state employees with discounts on the purchase of computer products for home and personal use.	Consistent	
State Agency Conduct, Expenses and Reimbursement	Eth. Bd. Op. 04-07	The Ethics Board advises that an agency official should pay a lobbying organization on whose board of directors the official serves for any food, lodging, or transportation the organization furnishes the official in connection with serving on its board of directors. Because the official's state agency encourages its employees to participate in the organization's activities, routinely permits employees to participate in those activities without the need to take leave time, and reimburses employees' expenses for those activities when it can, it appears appropriate for the agency to reimburse the official for those costs. The lobbying law is not an obstacle to the organization's reimbursing the state agency for those expenses.	Consistent	

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Gifts, Receipt of Items/Services by State Public Official	Eth. Bd. Op. 08-05	The Government Accountability Board advises that a judge may not accept, for participating in a program, an award that is a glass plate on an inscribed base, valued at \$400, which is furnished by an organization that is a lobbying principal. An appropriate disposition of the award would be donating it to the court system, through the director of state courts.	Consistent	
Receipt of Items/Services by State Public Official	Eth. Bd. Op. 08-07	The Government Accountability Board advises that the company may not provide a discount to state or local government officials covered by the Ethics Code or lobbying law, even if the discount is made available to employees of the company's other customers, but may provide a discount if the state or a local government has negotiated discounts for its employees as part of a contract with the company.	Consistent	
Receipt of Items/Services by State Public Official, Conferences/Conventions	Eth. Bd. Op. 06-04	The Ethics Board advises that: 1. A state public official attending a conference or convention may accept educational or informational material or other item for the purpose of conveying it to the State of Wisconsin for the use or benefit of a state office or agency. 2. Except as just noted, a state public official should not accept from a lobbying principal or lobbyist anything of pecuniary value or from anyone else any item of more than token value. This is so, regardless of whether the official was to retain it or furnish it to another for other than governmental use. 3. A state official should not accept, without full payment, a meal or drink offered at a conference or convention unless it is provided, arranged, or sanctioned by the event's sponsor.	Consistent	
State Public Official Conduct, Investments	Eth. Bd. Op. 91-03	An elected state official may not accept a lobbyist's offer to buy stock in a non-publicly held corporation in which the lobbyist is a major investor. Eth. Bd. 626	Consistent	
Gifts/Honorarium, Receipt of Items/Services by State Public Official	Eth. Bd. Op. 91-04	A judge may not accept an honorarium from a principal for presenting a talk but may accept reimbursement of expenses. Eth. Bd. 635	Consistent	
State Public Official Conduct, Investments	Eth. Bd. Op. 92-05	The lobbying law prohibits a legislator from selling shares of stocks of a closely-held corporation to an organization that employs a lobbyist but not to a corporation owned by an individual who owns other corporations that employ lobbyists. OEB 92-5	Consistent	
Conflicts, State Public Officials Other Employment/Business	Eth. Bd. Op. 96-01	With respect to a legislator whose company has already entered into a contract with a lobbying organization: (1) The better course would have been that the company not have entered into the contract; (2) In the future, the legislator should not simultaneously serve in the Legislature and enter into a financial relationship with a business or organization that pays lobbyists to try to influence state government; and (3) Although public policy normally favors a legislator's voting on all matters properly addressed by the Legislature, for the remainder of the legislative session the legislator should not participate in discussions or votes on proposals that would specifically affect the lobbying organization. OEB 96-1	Consistent	
State Public Officials Other Employment/Business, Conflicts	Eth. Bd. Op. 96-07	A lobbying organization may, consistent with Wisconsin's lobbying law, purchase services from a business wholly owned by a state legislator only if the organization's offer to purchase can reasonably be said to be available to the general public. This means that the organization should be able to demonstrate clearly and convincingly that its purchase of services is the result of an orderly, established competitive bidding process open to a substantial number of similar businesses, not unduly limited geographically, that gives no special advantage to a business owned by a state official. Even if the organization can demonstrate that its offer to purchase is available to the general public, the better course would be for the organization not to engage in business with a company wholly owned by a state legislator unless the organization is satisfied that its doing so would not undermine the public's confidence in the legislator's financial independence from the organization. OEB 96-7	Consistent	

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State Public Officials Other Employment/Business,	Eth. Bd. Op. 96-07	A lobbying organization may, consistent with Wisconsin's lobbying law, purchase services from a business wholly owned by a state legislator only if the organization's offer to purchase can reasonably be said to be available to the general public. Even if the organization can demonstrate that its offer to purchase is available to the general public, the better course would be for the organization not to engage in business with a company wholly owned by a state legislator unless the organization is satisfied that its doing so would not undermine the public's confidence in the legislator's financial independence from the organization. OEB 96-7	Consistent	
Receipt of Items/Services of Value by State Public Official	Eth. Bd. Op. 96-08	A lobbying principal may not furnish a legislator transportation to visit a facility in another state. A principal may make transportation available to the state under either of the following circumstances: (1) the State pays the full cost of the transportation; or (2) the State procures the transportation, at any or no cost, for a governmental purpose neither at the behest of a specific governmental official-beneficiary nor with the intention of a specific governmental official's benefiting from the procurement. OEB 96-8	Consistent	
Receipt of Items/Services of Value by State Public Official	Eth. Bd. Op. 97-13	The Ethics Board advises: A legislator should not accept a lobbying principal's offer of a commercial quantity of informational brochures.	Consistent	
Receipt of Items/Services by State Public Official	Eth. Bd. Op. 97-20	The Ethics Board advises that a legislator not accept from a local government that is a lobbying principal reimbursement of expenses the legislator incurred in traveling to Washington, D.C. on the local government's behalf to meet with the state's Congressional representatives to lobby for federal money for a local project.	Consistent	
Receipt of Items or Services by State Public Official	Eth. Bd. Op. 98-07	The Ethics Board advises that a lobbying principal not give or sell its sports stadium luxury box tickets to an elective state official, candidate for elective state office, state agency official, or legislative employee.	Consistent	
Receipt of Items or Services by State Public Official	Eth. Bd. Op. 98-10	The Ethics Board advises: [1] A state public official may accept for the official and for the official's spouse transportation, lodging, meals, food, and beverages, or reimbursement of actual and reasonable costs, from a national association of which the official's state agency is a member, for attendance at the association's meetings to the extent that the official can clearly and convincingly demonstrate that the association's payments are received on behalf of, and primarily for the benefit of, the state and not primarily for private benefit. [2] In the normal course of business and in the absence of evidence to the contrary, the Ethics Board will defer to a state agency's determination of whether the provision of travel costs for an official or an official's spouse by a national association of which the state agency is a member is primarily of benefit to and on behalf of the state.	Consistent	
Employment and Compensation				
Employment and Compensation	Eth. Bd. Op. 92-03	A candidate for elective state office may not receive a salary from an organization that employs a lobbyist but may continue to receive a pension and may participate in a group health plan if the candidate pays the premiums. OEB 92-3	Inconsistent	Wis. Stat. Sec. 13.625 (4) Adds an exception that a candidate for elective state office may accept salaried employment and related benefits from a principal.
Employment and Compensation	Eth. Bd. Op. 91-01	A candidate for elective state office may not accept salaried employment from a principal. Eth. Bd. 621	Inconsistent	Wis. Stat. Sec. 13.625 (4) Adds an exception that a candidate for elective state office may accept salaried employment from a principal.
Public Official Conduct, Employment and Compensation	Eth. Bd. Op. 02-08	The Ethics Board advises: Neither the Ethics Code nor lobbying law appears to restrict a legislator's working as a consultant to a company that is a broker-dealer that assists institutional money managers in identifying investment opportunities	Consistent	Withdraw for lack of substantive analysis

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Public Official Conduct, Reimbursement, Compensation	Eth. Bd. Op. 03-05	The Ethics Board advises that a state public official may serve as the honorary chair of a charitable event sponsored by a lobbying principal for which the official will receive no compensation and will pay the cost of dinner and golf.	Consistent	Withdraw for lack of substantive analysis
Employment and Compensation	Eth. Bd. Op. 03-15	The Ethics Board advises that in general, neither the Ethics Code nor lobbying law restricts your employment in the circumstances you have described. The only restrictions are (1) that you not receive any payment from a lobbyist or from an organization that employs a lobbyist (including the local governmental unit if it is a lobbying principal) (§13.625, Wisconsin Statutes); (2) that you be able to demonstrate that you have not used the prestige or resources of your office to obtain or to perform consulting work (§19.45 (2), Wisconsin Statutes,); and (3) that you not represent the local government or consultant before a state agency unless it is a ministerial matter or a contested case which involves a party other than the state (§19.45 (7), Wisconsin Statutes).	Consistent	Withdraw for lack of substantive analysis
Employment and Compensation	Eth. Bd. Op. 03-02	The Ethics Board advises: A legislator should not accept compensation from an organization that employs a lobbyist even for services the legislator has provided to the organization; and In the case of two affiliated organizations, one employing a lobbyist and the other not, a legislator may accept compensation for services from the latter only if the organization can demonstrate that it acts independently of its affiliate.	Consistent	
Employment and Compensation, Conflicts	Eth. Bd. Op. 04-08	A member of a state board should not participate in the consideration of issues on which the member lobbies on his or her employer's behalf or on matters, which affect those issues. If conflicts arise only occasionally, they may be satisfactorily addressed by abstaining, but when a conflict is regularly occurring and substantial, the conflict's cure can come only from the board member divesting himself or herself of public position or of the private interest that conflicts with public responsibilities. ¹ We also advise that a member of a state board not, on behalf of his or her employer, lobby state government on issues before, or affecting the state board.	Consistent	
Employment and Compensation	Eth. Bd. Op. 05-08	The Ethics Board advises that a candidate for the Legislature may, consistent with Wisconsin's lobbying law: (1) remain employed as a lobbyist by the candidate's employer while a candidate for election to the Legislature; (2) engage in campaign activities while on paid vacation time, holidays, and compensatory time in accordance, and consistent with, the employer's treatment of other employees' use of leave time; and (3) continue, while a candidate and prior to taking office, to receive benefits paid in part by the employer consistent with the organization's policy for other employees. The Ethics Board also advises that upon assuming office, a legislator may no longer accept compensation or anything else of pecuniary value from the organization except to the extent that the legislator, as a former employee, may be contractually entitled to continue to receive benefits from an employment or union contract that predates the candidacy.	Consistent	
Employment and Compensation	Eth. Bd. Op. 06-07	The Ethics Board advises: 1) An elected state official may accept compensation from a joint venture if the official is providing professional services to the joint venture for its use; and 2) An elected state official may not accept compensation for professional services the official provides directly to a lobbying principal regardless of whether the lobbying principal pays the official directly or the joint venture pays the official .	Consistent	
Employment and Compensation	Eth. Bd. Op. 06-08	The Ethics Board advises: 1) That the lobbying law does not prohibit an elected state official's acceptance of a salary as president of a union paid to the official by a business on the union's behalf, even if the business employs a lobbyist; 2) That the lobbying law does not prohibit the business to pay an official's salary related to the official's union duties; and 3) That the business may not pay the official, and the official may not accept, a salary for work performed for the business while the business employs a lobbyist in Wisconsin.	Consistent	

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Employment and Compensation	Eth. Bd. Op. 07-11	The Ethics Board advises that an individual employed by an organization that lobbies in Wisconsin may, consistent with Wisconsin's lobbying law: (1) remain employed as a lobbyist by the organization while the individual is a candidate for election to the Legislature; (2) engage in campaign activities for others that are consistent with the lobbying law while the individual is a lobbyist for the organization and a candidate for elective state office. The Ethics Board also advises that upon assuming office in January 2009, the individual may no longer accept compensation or anything else of pecuniary value from the organization except to the extent that the individual may be contractually entitled to continue to receive benefits from an employment contract that predates your candidacy.	Consistent	
Employment and Compensation	Eth. Bd. Op. 92-26	The lobbying law is not an impediment to a business' continuing to pay an elected official a regular salary or wage even if the employer derives a portion of its income from the provision of professional services to a principal, as long as the business can clearly and convincingly demonstrate that (1) the official's level of compensation is unrelated to the employer's having one or more principals as clients; (2) the principal's purchase of services is unrelated to the official's hiring or continued employment; and (3) in the case of the official's provision of professional or technical services of a type customarily charged on an hourly or project basis, the official does not perform any work or services specifically for a principal. OEB 92-26	Consistent	
Employment and Compensation	Eth. Bd. Op. 10-01	Based upon the facts as you presented them, you may be employed as an attorney, while also serving as a Representative to the Wisconsin Assembly, provided you comply with applicable laws and adhere to the advice set forth herein. You may also request an opinion from the Attorney General regarding issues of concern with respect to the Open Records Law. As an attorney licensed to practice law in Wisconsin, you may also seek an opinion from the Office of Lawyer Regulation regarding other legal-based ethical considerations.	Consistent	
Receipt of Items/Services of Value, Compensation, State Public Official Conduct	Eth. Bd. Op. 94-09	An elected state official may accept compensation for participating as a commentator on state government issues on a weekly television program as long as the company that owns the television station operates independent of its corporate parent, which is a lobbying principal. Unless an official has evidence to the contrary, he or she may rely on the television stations's representation that in asking the official to appear on the television program it has not acted in consultation or cooperation with, or at the request or suggestion of, the parent company that is a principal. (OEB94-9) October 24, 1994	Consistent	
Employment and Compensation	Eth. Bd. Op. 98-11	The Ethics Board advises that an agency official not, while the individual continues to serve, enter into an agreement for employment with a lobbyist or with an organization that employs a lobbyist. An official may, however, short of receiving or accepting a promise of future employment, explore possibilities for and circumstances of future employment or business relationships.	Consistent	
Employment and Compensation, Receipt of Items or Services by State Public Official	Eth. Bd. Op. 99-06	The Ethics Board advises that an agency official may not accept compensation, or any other thing of pecuniary value, for serving on the board of directors of a business corporation that is a wholly-owned subsidiary of another corporation that is a lobbying principal if the corporate parent controls the official's selection to the subsidiary's board.	Consistent	
State Official Conduct, State Agency Conduct, and Conflicts				

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer
State Public Official Conduct	Eth. Bd. Op. 07-07	An organization that employs a lobbyist in Wisconsin may furnish an elected state official the opportunity to narrate a public service announcement and purchase airtime for its dissemination, when the dissemination is not proximate to an election at which the official is or is likely to be a candidate.	Inconsistent	Statutory definition of candidate has been amended.
State Public Official Conduct	Eth. Bd. Op. 07-14	A legislator may appear in a lobbying principal's video for employees and directors of the organization's members on the importance of talking about how the member institutions serve members and communities but the lobbying organization should not disseminate the video proximate to an election in which the legislator is or is likely to be a candidate.	Inconsistent	Statutory definition of candidate has been amended.
Conflicts, Legal Services	Eth. Bd. Op. 93-01	An individual is a lobbyist if he or she engages in activities that constitute lobbying under the lobbying law, even if the activities are merely an outgrowth of legal representation. Lobbying includes attempting to influence or affect legislation or administrative rules, but does not include attempting to influence other kinds of agency decisions. Discussions with state agencies concerning the use of conventional construction bidding as opposed to privatization for prisons, attempts to get a state agency to make payments due your client, a conversation with a state agency regarding the effect of a highway project on your client, contacts regarding a client's proposal to design buildings for the State of Wisconsin, and discussions with a state agency concerning possible investment in a client do not appear to constitute lobbying and an individual's pursuit of these activities would not require the individual to obtain a lobbying license or require the individual's client to register as a lobbying principal with the Ethics Board. OEB 93-1	Inconsistent	While the activities described in this opinion do not represent ongoing legislative or administrative action, they do fit the definition of a lobbying topic
Local Officials, Ethics	Eth. Bd. Op. 92-12	Members of local landfill negotiating committees or other local officials, whose financial interests are likely to be affected by negotiations concerning a landfill expansion, should not participate in those negotiations or any decisions to ratify an agreement reached through those negotiations. OEB 92-12	Inconsistent	Wis. Stat. Sec. 144.445 does not exist now.
State Agency Conduct, Grants	Eth. Bd. Op. 04-02	The Ethics Board advises that a state agency may accept a grant from a company that employs a lobbyist for an agency program initiative.	Inconsistent	Withdraw for lack of substantive analysis
Non-profit Status, Lobbying Principal	Eth. Bd. Op. 05-01	This is in response to your letter in which you have asked a number of general questions concerning application of laws administered by the Ethics Board to a 501 (c) (3) or 501 (c) (4) organization. The answers pertain equally to a 501 (c) (3) or 501 (c) (4) organization.	Consistent	Withdraw for lack of substantive analysis
State Public Official Conduct Union Activity, Contract	Eth. Bd. Op. 00-03	The Ethics Board advises that: (1) Consistent with statutes that the Ethics Board administers, a company that employs a lobbyist in Wisconsin and its employee may honor a union contract pre-dating the employee's candidacy for election to state government office, that provides for the company to credit an employee for up to two years of seniority during an unpaid leave of absence permitted under the contract. (2) The company should not credit the employee with and the employee should not accept credit for more than two years of seniority in connection with a leave of absence granted or taken in connection with the employee's service as a state government official.	Consistent	
State Public Official Conduct, Conflicts, Legal Services	Eth. Bd. Op. 02-06	The Ethics Board advises: A legislator is free to commence a lawsuit to challenge the constitutionality of a law and to seek and retain legal counsel to represent himself or herself. If a legislator wants to join an existing lawsuit, the Ethics Board recommends that the legislator direct a letter to the Court asking that he or she be permitted to join the plaintiffs as a party or as amicus curiae, representing himself or herself. The Board further advises that a legislator not permit a lobbying organization to pay or arrange for legal services for the legislator.	Consistent	
State Agency Conduct	Eth. Bd. Op. 08-04	The Government Accountability Board advises that a state agency may not knowingly permit the use of confidential information by University of Wisconsin student interns for the benefit of the students' program, when the programs assets are held by a private entity for the program's benefit.	Consistent	

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer
Conflicts, Receipt of Items or Services by State Public Official	Eth. Bd. Op. 91-09	The lobbying law does not prohibit a lobbying principal from awarding a scholarship to the child of an elected state official as long as the scholarship is available to the general public. The scholarship should be reported as a gift on the official's Statement of Economic Interests. Eth. Bd. 684	Consistent	
Lobbying, Union Activity	Eth. Bd. Op. 92-01	An employee does not violate the so-called "gag" law if he or she communicates with the legislature in his or her capacity as a union officer. OEB 92-1	Consistent	
State Agency Conduct	Eth. Bd. Op. 92-06	The exemption in § 13.621(1)(c) applies only to service on ad hoc advisory committees established by state agencies to advise with respect to rule making. Moreover, service on a state board or committee may not be lobbying if the individual exercises independent judgement and is not a representative of his or her employer. OEB 92-6	Consistent	
Conflicts	Eth. Bd. Op. 92-21	Wisconsin's lobbying law poses no restriction on a lobbyist representing clients in negotiating a purchase of land to a state agency on a contingency fee basis unless the matter is associated with adoption, modification, or repeal of a rule or the Legislature's consideration of an appropriation earmarked for the purchase of the land at issue, or an agency's development of such a legislative proposal. OEB 92-21	Consistent	
Conflicts	Eth. Bd. Op. 94-03	The Ethics Board advises that the lobbying law does not pose an obstacle to an official's spouse's employment as a lobbyist. However, an official should avoid placing himself or herself in a position in which a conflict of interest may arise. In instances of occasional and infrequent conflicts, an official can avoid a violation of the Ethics Code by refraining from any official discussions or votes on matters on which the spouse's employer lobbies or has a demonstrated interest before the official's agency. An official should also refrain from extending any special access or assistance to his or her spouse or spouse's employer in agency matters. If conflicts are frequent and continuing, public policy may best be served by divesting either the private interest or the public responsibilities. OEB94-3	Consistent	
Conflicts	Eth. Bd. Op. 96-06	1. The lobbying law does not proscribe an agency official's membership on a lobbying organization's Board of Directors, or the official's participation in its affairs; and 2. The lobbying law forbids an agency official elected to a lobbying organization's board of directors to accept reimbursement from the organization for expenses incurred in attending meetings of the organization's directors because the organization does not reimburse the general public for those expenses. OEB 96-6	Consistent	
State Public Official Conduct	Eth. Bd. Op. 97-04	A legislator may use a library service offered to legislators by several public libraries only in connection with his or her legislative duties and responsibilities.	Consistent	
State Public Official Conduct	Eth. Bd. Op. 99-09	The Ethics Board advises that legislative employees and agency officials not form an investment club with a lobbyist. State official's request.	Consistent	
State Public Official Conduct	Eth. Bd. Op. 99-10	The Ethics Board advises that a lobbyist not form an investment club with legislative employees or agency officials. Lobbyist's request.	Consistent	



Wisconsin Ethics Commission

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(608) 266-8123 | ethics@wi.gov | <https://ethics.wi.gov>

DATE: For the February 27, 2018 Meeting
TO: Members, Ethics Commission
FROM: Ethics Commission Staff
SUBJECT: Draft Guidelines

FOR COMMISSION ACTION

For each draft guideline the Commission may choose to:

1. Adopt the guideline as presented.
2. Adopt the guideline with modifications consistent with today's discussion.
3. Direct staff to continue revising the guideline consistent with today's discussion and bring it back for further consideration at a future meeting.
4. Table the guideline.

At its January 11, 2018 meeting the Commission directed staff to review the draft guidelines proposed at that meeting and revise them to indicate the authority in case law, state statute, administrative rule, or formal opinion for each guideline. Where guidance could not be so supported, it was removed until the Commission decides to promulgate an administrative rule that would support such guidance.

As discussed at the last meeting, these draft guidelines do not represent a final staff recommendation on these issues. Instead, staff intends for these guidance documents to serve as a starting point of discussion for the Commission, and to prompt a discussion between the Commission and the regulated community on these issues.



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The 50-Piece Rule

Wisconsin's campaign finance law prohibits a person elected to state or local office who becomes a candidate for any office from using public funds for the cost of materials or distribution for 50 or more pieces of substantially identical material during the campaign season.¹ This rule is also sometimes referred to as the 49-piece rule, because it allows for the distribution of up to 49 pieces of substantially identical materials, with the 50th piece being a violation of the law. While the official's intent is not an express element of the rule, the rule has historically only been applied to communications with a political purpose.²

Covered Time Period³

This prohibition begins after:

- The first day to circulate nomination papers, if nominated by nomination papers
- The day the board of canvassers issues a determination that the person is nominated if nominated at a primary election by write-in votes
- The date of the caucus, if nominated at a caucus
- The first day of the month preceding the month which includes the last day to for filing a declaration of candidacy, if nominated solely by filing the declaration

This prohibition ends:

- The day after the date of the primary election, if the candidate is unsuccessful in being nominated at the primary election, and is not running as a write-in candidate in the election
- The day after the date of the election

Exceptions to the 50-Piece Rule⁴

The 50-piece rule does not apply to the following:

- Answers to communications from constituents
- Actions taken by a state or local government administrative officer pursuant to a specific law, ordinance or resolution which authorizes or directs the actions to be taken
- Communications between members of the legislature regarding the legislative or deliberative process while the legislature is in session
- Communications not exceeding 500 pieces by members of the legislature relating solely to the subject matter of a special session or extraordinary session, made during the period between the date that the session is called or scheduled and 14 days after adjournment of the session

¹ [WIS. STAT. § 11.1205](#)

² [1978 Op El Bd 12](#) (withdrawn December 6, 2016); 66 Atty. Gen. 259.

³ [WIS. STAT. § 11.1205\(1\)](#)

⁴ [WIS. STAT. § 11.1205\(2\)](#)

Substantially Identical

“Substantially identical” is not defined by statute, but a common dictionary definition indicates that the prohibition would apply to material that is largely, if not wholly the same.⁵ For example, pieces that contain the same message and simply address different recipients or have a different salutation would still be substantially identical pieces.

Additional Resources

For additional information, please visit the Ethics Commission website: <https://ethics.wi.gov>. If you have additional questions, please contact the Wisconsin Ethics Commission staff by email at CampaignFinance@wi.gov, or by phone at (608) 266-8123. Advice sought from the Ethics Commission is confidential. For authoritative information, refer to Wisconsin Statutes. You may also wish to consult with an attorney.

This document is only a guideline, and does not constitute an informal or formal opinion of Wisconsin Ethics Commission. If you wish to obtain an informal or formal opinion of the Commission, you may make a written request pursuant to [WIS. STAT. § 19.46\(2\)](#). Your request is confidential and any response is as well; however, if the Commission acts formally then statutes require the Ethics Commission to purge identifying information from the opinion and then publish it. An informal or formal opinion issued by the commission will provide some protection to the requestor against an enforcement action pursuant to [WIS. STAT. § 19.49](#), providing the material facts are as stated in the request and the individual or committee is following the advice. No such protection attaches to informal opinions of Commission staff.

⁵ <https://www.merriam-webster.com/dictionary/substantial>
<https://www.merriam-webster.com/dictionary/identical>



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Attribution Statements

Wisconsin campaign finance laws require an attribution statement, also known as a disclaimer, on materials containing express advocacy that are paid for by any contribution or disbursement.¹ Materials or communications made for the purpose of influencing the recall or retention in office of a state or local elected official must also include an attribution statement.² Express advocacy paid for or reimbursed by a person, other than a committee, must also include an attribution statement if the cost of the communication exceeds \$2,500.³

Contents of an Attribution Statement

An attribution statement must include the words, “Paid for by” followed by the name of the committee making the payment or reimbursement, or assuming responsibility for the communication.⁴ The attribution statement may also include the name of the treasurer or other authorized agents of the committee (NOTE: name(s) of the treasurer or other officers of the committee is not required).⁵

Independent Express Advocacy

Political action committees (PACs), independent expenditure committees, or other persons who make independent expenditures (express advocacy communications not coordinated with a candidate, candidate committee, candidate’s agent, legislative campaign committee, or political party)⁶ must include the words “Paid for by” followed by the name of the committee and the words “Not authorized by any candidate or candidate’s agent or committee.”⁷

Readable, Legible, and Readily Accessible

The attribution must be readable, legible, and readily accessible.⁸

- “Readable” and “legible” are not defined by statute, but a common dictionary definitions of these terms would indicate that the attribution should be clearly printed so it can be understood.⁹

¹ [WIS. STAT. § 11.1303\(2\)](#)

² [WIS. STAT. § 11.1303\(2\)\(em\)](#)

³ [WIS. STAT. § 11.1303\(2\)\(c\)](#)

⁴ [WIS. STAT. § 11.1303\(2\)\(b\)](#)

⁵ [WIS. STAT. § 11.1303\(2\)\(b\)](#)

⁶ [WIS. STAT. § 11.0101\(16\)](#)

⁷ [WIS. STAT. § 11.1303\(2\)\(d\)](#)

⁸ [WIS. STAT. § 11.1303\(2\)\(g\)](#)

⁹ <https://www.merriam-webster.com/dictionary/readable>

<https://www.merriam-webster.com/dictionary/legible>

- The distance at which an attribution must be readable is not defined by statute, but a previous Elections Board opinion, since withdrawn as it was based on the old campaign law, held that a billboard’s attribution statement should be readable from the road.¹⁰
- “Readily accessible” is not defined by statute, but a common dictionary definition would indicate that the attribution should be capable of being seen without much difficulty.¹¹

Types of Communications and Materials Requiring an Attribution Statement¹²

Communications containing express advocacy, or made for the purpose of influencing the recall from or retention in office of an individual holding a state or local office such as:

- Printed advertisements/direct mail
- Phone calls that include express advocacy (e.g. robo-calls)
- Billboards
- Handbills
- Sample ballots
- Television or radio advertisements

* this is not an all-inclusive list

Types of Communications That Do Not Require Attribution Statements¹³

Communications printed on small items on which the information required cannot be conveniently printed such as:

- Text messages
- Social media communications
- Certain small advertisements on mobile devices

* this is not an all-inclusive list

Additional Resources

For additional information, please visit the Ethics Commission website: <https://ethics.wi.gov>. If you have additional questions, please contact the Wisconsin Ethics Commission staff by email at CampaignFinance@wi.gov, or by phone at (608) 266-8123. Advice sought from the Ethics Commission is confidential. For authoritative information, refer to Wisconsin Statutes. You may also wish to consult with an attorney.

This document is only a guideline and does not constitute an informal or formal opinion of Wisconsin Ethics Commission. If you wish to obtain an informal or formal opinion of the Commission, you may make a written request pursuant to [WIS. STAT. § 19.46\(2\)](#). Your request is confidential, and any response is as well; however, if the Commission acts formally then statutes require the Ethics Commission to purge identifying information from the opinion and then publish it. An informal or formal opinion issued by the commission will provide some protection to the

¹⁰ See [El. Bd. 76-14](#) (withdrawn)

¹¹ <https://www.merriam-webster.com/dictionary/readily>
<https://www.merriam-webster.com/dictionary/accessible>

¹² [WIS. STAT. § 11.1303\(2\)\(a\)](#), (em).

¹³ [WIS. STAT. § 11.1303\(2\)\(f\)](#)

requestor against an enforcement action pursuant to [WIS. STAT. § 19.49](#), providing the material facts are as stated in the request and the individual or committee is following the advice. No such protection attaches to informal opinions of Commission staff.



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DATE: For the February 27, 2018 Meeting
TO: Members, Ethics Commission
FROM: Caroline Russell, Ethics Specialist
SUBJECT: Standard Settlement Schedule for Unauthorized Lobbying

FOR COMMISSION ACTION

1. Move to approve the standard settlement schedule listed in this memo in its current state.
2. Move to approve the standard settlement schedule as modified consistent with today's discussion.
3. Give feedback and refer the standard settlement schedule back to staff for further drafting.

Unauthorized Lobbying Potential Settlement Schedule *Violation of Wis. STAT. § 13.65*

Staff recommends that both the lobbyist and the principal should separately be found in violation and receive separate settlements: the principal for not authorizing the lobbyist to lobby on their behalf, and the lobbyist for lobbying on behalf of a principal without receiving authorization. This recommendation is grounded in the statutory language: “Before engaging in lobbying on behalf of a principal, a lobbyist or the principal who employs a lobbyist shall file with the commission a written authorization...” [WIS. STAT. § 13.65](#).

Consistent with the discussions from the last meeting staff proposes that \$100 per excess communication should be the minimum settlement amount for lobbyists for lobbying without authorization, with principals who fail to properly authorize their lobbyist having to pay double the amount at \$200 per excess communication. Also consistent with discussions from the last meeting staff has preliminarily set the second and subsequent offense amounts at double the initial offense amount to deter repeat offenses with aggregate caps of \$1,000 for a lobbyist and \$2,000 for a principal, which should prevent any single point of failure from excessively compounding. Additionally, if the Commission wishes to delegate authority to the Administrator to settle violations of this type the Commission should be mindful of the \$2,500 aggregate limit on such settlements. [WIS. STAT. § 19.49\(2\)\(b\)10](#). The statutory maximums per violation are \$5,000 for a principal, and \$1,000 for a lobbyist. WIS. STAT. § [13.69\(1\)](#), [\(2\)](#).

As this is the first time the Commission has conducted this audit, the Commission could also approve a standard settlement schedule to be used for subsequent audits, but handle violations discovered in this initial audit differently due to the concerns expressed by the lobbying community.

Wisconsin Ethics Commissioners

Mac Davis | David R. Halbrooks | Katie McCallum | Pat Strachota | Timothy Van Akkeren | Jeralyn Wendelberger

Administrator
Vacant

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Standard Settlement Schedule for Unauthorized Lobbying
For the February 27, 2018 Meeting
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Violator	First Instance of Unauthorized Lobbying	Second Instance of Unauthorized Lobbying	Aggregate Total Maximum
Lobbyist	\$100 per excess communication	\$200 per excess communication	\$1,000
Principal	\$200 per excess communication	\$400 per excess communication	\$2,000



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DATE: For the February 27, 2018 Meeting
TO: Members, Ethics Commission
FROM: Caroline Russell, Ethics Specialist
SUBJECT: Standard Settlement Schedule for Late Payment of Lobbying Fees

- | |
|---|
| <p>FOR COMMISSION ACTION</p> <ol style="list-style-type: none"> 1. Move to approve the standard settlement schedule listed in this memo in its current state. 2. Move to approve the standard settlement schedule as modified consistent with today's discussion. 3. Give feedback and refer the standard settlement schedule back to staff for further drafting. |
|---|

Late Payment of Lobbying Fees Potential Settlement Schedule *Violation of WIS. STAT. § 13.75*

The lobbyist is responsible for the payment of their lobbyist license fee and the principal for the fees associated with the principal registration and lobbyist authorization. WIS. STAT. §§ [13.63](#), [13.75](#).

Option 1: Based loosely off the structure of the campaign finance late payment of filing fees standard settlement schedule. There is a difference in the amount for each violator because the lobbyist license fee costs less than the principal registration fee.

Days Late	Violator	
	Lobbyist	Principal
1-15	Warning	Warning
16-30	\$100	\$200
31-45	\$200	\$400
46+	\$300	\$600

Standard Settlement Schedule for Late Payment of Lobbying Fees

For the February 27, 2018 Meeting

Page 2 of 2

Option 2: Settlements for each fee that was submitted late. Settlement amounts differ generally based off the cost of the fee: lobbyist license \$250 or \$400, principal registration \$375 full and \$20 limited, lobbyist authorization \$125.

Days Late	Lobbyist License		Principal Registration		
	Single Principal	Multiple Principal	Full Lobbying	Limited Lobbying	Lobbyist Authorization
1-15	Warning	Warning	Warning	Warning	Warning
16-30	\$100	\$150	\$200	Warning	\$25
31-45	\$200	\$300	\$400	\$10	\$50
46+	\$300	\$450	\$600	\$20	\$75



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DATE: For the February 27, 2018 Meeting
TO: Members, Ethics Commission
FROM: Ethics Commission Staff
SUBJECT: Ethics Commission Staff Report

Attorney General Opinion Requests

Staff have not yet received any further update from the Department of Justice on the two pending requests for Attorney General Opinions. The Department of Justice management is currently evaluating the request regarding the ability of a candidate committee to claim exemption from campaign finance reporting in the year the candidate appears on the ballot. The second opinion request was in regards to the constitutionality of [WIS. STAT. § 13.68\(6\)](#) and the ability of the Commission to suspend a lobbyist's ability to lobby on behalf of a principal as a result of the principal failing to file reports in a timely fashion.

Commission Administration

IT Systems Update

Due to the current vacancy of the Administrator position, replacement efforts for the electronic campaign finance reporting system are on hold. Staff continue the effort to hire an intern to modernize the Lobbying website. The Statements of Economic Interests system is going ahead as planned.

System Updates:

- Campaign Finance – Staff continue to weigh options for replacing the CFIS system. Those options include customizing software provided by the State of Massachusetts, custom development, or utilizing off-the-shelf software to be customized to suit the business requirements of the system.
- Lobbying – Efforts to recruitment an intern to modernize the lobbying website to be mobile responsive are ongoing. Staff are reviewing alternative options if the recruitment is not successful, including contracting services from Web and Mobile Solutions (WaMS) at UW-Madison.
- Statements of Economic Interests – Staff continue to work with the developer to make necessary updates to the website, ensuring filers are able to complete their reports.
- Customer Relationship Management (CRM) software – Staff is working with the Innovation Center within the Division of Enterprise Technology to determine the best-fit CRM platform for our business needs. Once a platform has been selected, staff will seek quotes from vendors for development and implementation services.

Records Management and Records Disposition Authorizations (RDAs)

Staff completed an inventory of records in storage and will submit a request to archive appropriate records with the Wisconsin Historical Society. We will keep other paper records that have not yet reached their retention period on site in storage. Upon moving to a new office location, staff will request storing those paper records that have not yet reached their retention period at the State Records Center, as it is substantially less expensive than paying rent for onsite storage space. Staff could request to retrieve those records at any time, should a business need to do so arise. Staff will also begin to scan documents to a shared drive for archiving.

Agency Office Space Request

The Commission's current office space lease runs through December of 2018. Staff received notice of a potential future office location from the Department of Administration (DOA). The proposed location would be on the first floor of the state office building located at 101 East Wilson Street, in Madison. Staff is working with DOA to draft a floor plan for the proposed location. DOA will address any needed construction, but the Ethics Commission will be responsible for any furniture needed beyond what currently exists in that space and what we already have in our current office. However, DOA may have some surplus furniture available at no additional cost. We are still waiting on confirmation of the new location and a lease which will include start and end dates. December of 2018 is the most likely date for the office location move for the agency. DOA has stated that there is some flexibility in the start date, but it would certainly be available prior to the end of our current lease. By moving the agency towards paperless operations and utilizing shared conference rooms in the building, the lease for the proposed new office location will be approximately \$27,000 less each year compared to the current lease, or nearly 40 percent lower.

Campaign Finance

Updating Campaign Finance Forms and Compliance Materials

All campaign finance forms except for the full disclosure report have been updated and published on the agency website. A redesign for the full disclosure report is currently in draft and should be published shortly.

Staff is also developing a comprehensive compliance guide to help all filers better understand their obligations under chapter 11. The new guide will include guidelines, best practices, and an overview of common reporting errors.

Committees and Conduits on Administrative Suspension

Sixty-nine registrants are currently on administrative suspension due to the registrant's failure to respond to communications regarding a late report, an audit finding, or a late filing fee. Registrants are placed on administrative suspension after several unsuccessful attempts are made to contact the registrant. See Appendix A for a full listing of registrants on administrative suspension.

Lobbying

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

As of February 12, 2018, there were 770 lobbying principals registered, 623 lobbyists licensed, and 1,680 lobbyist authorizations completed for the 2017-2018 Legislative Session.

Statements of Lobbying Activities and Expenditures

Statutes require each lobbying principal to submit a Statement of Lobbying Activities and Expenditures (SLAE) twice a year. The July-December 2017 SLAE reports were all submitted on time for the second consecutive reporting period. The next deadline is July 31, 2018 which will cover activity from January 1 – June 30, 2018. After principals and lobbyists file their reports, staff will conduct audits for late SLAEs, late 15-Day Reports, and Lobbying without Authorization.

Legislative Liaison Reporting

Statutes require each state agency to certify their agency legislative liaison report twice a year. The most recent reporting deadline was January 31, 2018. All but 4 agencies had filed by 2/7. Staff will continue to follow up until all agencies have filed.

Code of Ethics and Financial Disclosure

Design of a new SEI system

As of 1/1/2018, the new SEI system has replaced the old database for everything but tracking SWIB Quarterly reports. Ethics staff is using the system to add new filers, and all state public officials have been sent notices with directions on how to file in the system. A few officials are still requesting paper SEIs, with staff entering SEIs from 2017 and 2018 paper filers. The next steps in development will be administrative functions like filer tracking and reminder notices.

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. A few annual filers began filing their SEIs on 12/1/2017, and the SEIs must be filed by April 30, 2018. All SEI filers were sent email notices by February 5th, and over 500 had filed as of February 7th. Approximately 1900 officials still must file before April 30th.

State of Wisconsin Investment Board Quarterly Reports

The most recent quarterly reports were due by January 31st, covering October 1st through December 31st. All reports were filed by February 6th, and copies were delivered to the Legislative Audit Bureau. The next quarterly reports will be due by April 30, 2018, covering January 1st through March 31st.

Appendix A: Registrants on Administrative Suspension

State Candidate Committees					
ID	Committee Name	Candidate Name	Treasurer Name	Office Sought	Election
0101160	Hansen for D.A.	John G. Hansen		Langlade County District Attorney	2006 Fall Election
0102541	Jones for Northeast Wisconsin	Robert M. II Jones	Sandra Pukall	State Assembly, District No. 36	2006 Fall Election
0102909	Citizens to Elect Don Lechner	Don Lechner	Don Lechner	State Assembly, District No. 39	2012 Fall Election
0103304	Lew A. Wasserman for DA	Lew A. Wasserman	Anthony R. Pipito	Milwaukee County District Attorney	2006 Fall Election
0103323	Tatarowicz for Assembly 98	Dave Tatarowicz		State Assembly, District No. 22	2008 Fall Election
0103970	Friends of Mamalakis	Emmanuel Mamalakis	Emmanuel Mamalakis	State Assembly, District No. 09	2002 Fall Election
0104042	Scott Judson for Assembly	Scott Judson		State Assembly, District No. 97	2008 Fall Election
0104270	Friends of Dan Aude	Dan Aude		State Assembly, District No. 88	2006 Fall Election
0104358	Jones for the People	Damien Jones		State Assembly, District No. 10	2006 Fall Election
0104360	Friends of Chad Murry	Chad Murry		State Assembly, District No. 45	2008 Fall Election
0104362	Bigboy for Assembly	Eugene Bigboy	Myron Burns	State Assembly, District No. 74	2006 Fall Election
0104483	Parrson for 36th Assembly	Kelly S. Parrson	DeAnna Parrson	State Assembly, District No. 36	2006 Fall Election
0104539	Andrew M Parker for Assembly	Andrew Matthew Parker	John A Dombeck	State Assembly, District No. 18	2012 Fall Election
0104632	Friends of Tara Johnson	Tara Johnson	Timothy Padesky	State Senate, District No. 32	2008 Fall Election
0104719	Friends of Phil Landowski	Philip Landowski	Philip Landowski	State Assembly, District No. 20	2008 Fall Election
0104783	Peter Rotter for Judge	Peter Charles Rotter	Peter Rotter	Marathon County Circuit Court, Branch 05	2011 Spring Election
0104841	Check for Matichek	Kevin Matichek	Kevin Matichek	State Assembly, District No. 26	2010 Fall Election
0104866	Campaign to Elect Judge Letteney	Scott Robert Letteney	Daniel Michalove	Walworth County Circuit Court, Branch 04	2010 Spring Election
0104892	Dustin Klein for Assembly	Dustin James Klein	Angela Min Zeng	State Assembly, District No. 24	2010 Fall Election
0104899	Friends of Bob Scovill for State Assembly	Robert Hallett Scovill	Robert Hallett Scovill	State Assembly, District No. 71	2010 Fall Election
0104900	ERick Scoglio for Wisconsin	ERick Scoglio	ERick Scoglio	Governor	2010 Fall Election
0104919	Friends for Helland	Eric C Helland	Joe Gussel	State Assembly, District No. 42	2010 Fall Election
0104974	Peterson for Assembly	Craig Alan Peterson	Sally Ann Peterson	State Assembly, District No. 31	2010 Fall Election

State Candidate Committees					
ID	Committee Name	Candidate Name	Treasurer Name	Office Sought	Election
0104992	Friends of Molly McGartland	Molly M McGartland	Molly M McGartland	State Assembly, District No. 20	2014 Fall Election
0105061	ELECT ROY KORTE JUDGE	Roy Korte	Roy Korte	Milwaukee County Circuit Court, Branch 18	2011 Spring Election
0105089	ANDREW BERG	ANDREW ALLEN BERG	ANDREW ALLEN BERG	State Assembly, District No. 83	2011 Special Election
0105246	Kristan T. Harris Campaign For Freedom	Kristan T Harris	Kristan Harris	State Assembly, District No. 20	2012 Fall Election
0105255	Dayvin for Assembly	Dayvin M.A. Hallmon	Dayvin V Hallmon	State Assembly, District No. 65	2012 Fall Election
0105292	Dan Graupner for Wisconsin 47th District	Robert Daniel Graupner	William D Fetty	State Assembly, District No. 47	2012 Fall Election
0105330	Paula Cooper for Assembly	Paula J. Cooper	Paula Jenel Cooper	State Assembly, District No. 42	2012 Fall Election
0105347	Friends of Delta Triplett for Senator	Delta Lamar DeLon Triplett	Shanese McClendon	State Senate, District No. 06	2012 Fall Election
0105361	Friends of Laura for Assembly	Laura Hauser-Menting	Serena Landowski	State Assembly, District No. 71	2012 Fall Election
0105397	Friends of Harriet Callier	HARRIET CALLIER	Ervin Weatherby Jr.	State Assembly, District No. 10	2012 Fall Election
0105443	Nichols For Wisconsin	Charles Allen Nichols	Annette Crow	State Assembly, District No. 51	2014 Fall Election
0105458	Friends of Elizabeth Coppola	Elizabeth Coppola	Tom Michalski	State Assembly, District No. 21	2013 Special Election
0105571	Elect Alan Kupsik	Alan Kupsik	Alan Kupsik	State Assembly, District No. 32	2014 Fall Election
0105586	Henneman for Assembly	Chad Benjamin Henneman	Jessica Ann Esser	State Assembly, District No. 49	2014 Fall Election

Other Registrants			
ID	Committee Name	Treasurer Name	Registrant Type
0300164	Langlade County Republican Party		Political Party
0300437	The Wisconsin Party	Dwight S. Brass	Political Party
0300466	Alverno College Republicans	Adrianna Cordova	Political Party
0500154	Sheboygan Education Assn PAC	Gail Boerger	Political Action Committee
0501236	West Allis Prof Police Asn-PAC	Philip LaSpisa	Political Action Committee

Other Registrants

ID	Committee Name	Treasurer Name	Registrant Type
0501277	WI Center for Economic Prosperity	Hafeezah Ahmad	Political Action Committee
0501361	Wisconsin Leadership PAC	Timothy D Russell	Political Action Committee
0501368	Change Milwaukee Now.org	Lydia Whitney	Political Action Committee
0501408	Wisconsin Future Fund PAC	Timothy D Russell	Political Action Committee
0501463	Wisconsin Recall Task Force	Tim Stachowiak	Political Action Committee
0501468	Recalls United Wisconsin PAC	Sara Johann	Political Action Committee
0501483	Friends of the Committee to Recall Lazich	Thomas Joseph Spehert	Political Action Committee
0501493	Waukesha County Tea Party	Noelle Lorraine	Political Action Committee
0501497	Progressive 28th	Thomas Joseph Spehert	Political Action Committee
0501552	Racine TEA Party PAC	Lora Lynn Halberstadt	Political Action Committee
0501587	Wisconsin Liberty Movement	Shimpach Eric	Political Action Committee
0501597	American AIDSPAC	Thomas F Sheridan	Political Action Committee
0501619	Future for Wisconsin	Eric Prudent	Political Action Committee
0501677	Progressive Action Coalition Campaign Fund	Leon Todd	Political Action Committee
0501696	Responsible Citizens of St. Croix	Jackie Johnson	Political Action Committee
0600008	American Recall Coalition	Dan Baltes	Recall Committee
0700102	1st Unitarian Society-Madison	Sue Radtke	Referendum Committee
0900097	Citz Concern for Human Rights	J. Gerth/ Dhaliwal D.	Conduit
0900126	Women's Choice Conduit	Kristen Rogers	Conduit
0900221	BlueWisconsin	Russell Wallace	Conduit
0900241	Americans Against Immigration Amnesty, LLC	Dan Baltes	Conduit
0900247	Empower Milwaukee	Chris Layden	Conduit
1100018	Kenoshans for Quality Education	Anne F. Knapp	Independent Expenditure Committee
1100030	Patriot Advisors, LLC	Jonathan Martin	Independent Expenditure Committee
1100043	We Are Milwaukee Incorporated	Paul Sickel	Independent Expenditure Committee
1100057	Midwest Victory Team	Mary Jean Knutson Lewis	Independent Expenditure Committee
1100084	We Are St. Croix	Rodney Kongshaug	Independent Expenditure Committee