

NOTICE OF OPEN AND CLOSED MEETING

Wisconsin Ethics Commission

101 E Wilson Street, St. Croix Room
Madison, Wisconsin

Tuesday, August 30, 2022, 9:00 a.m.

Open Session Agenda

- A. Call to Order
- B. Report of Appropriate Meeting Notice – Administrator
- C. Approval of Minutes of Prior Meetings
 - 1. Open Session Minutes for Meeting on June 15, 2022 Page 3
- D. Personal Appearances
- E. 2023 and 2024 Meeting Schedules Page 7
- F. Administrative Rule Matters Page 13
 - 1. Public Hearing for ETH 21 - Draft Complaint and Advice Rule
 - 2. Initial Review of Scope Statement ETH 26 - Settlement Schedule
- G. 2023-2025 Budget Request Page Supp. - 3
- H. 2021-2022 Annual Report Page Supp. - 15
- I. Staff Report Page 53
- J. Consideration of Future Agenda Items
- K. Closed Session
 - 1. Requests for Advice
 - 2. Complaints and Investigations
 - 3. Personnel Matters
- L. Adjourn

Future Ethics Commission Meetings Scheduled:

- Tuesday, October 18, 2022, at 9:00 AM
- Tuesday, December 13, 2022, 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) Consideration of requests for confidential written advice from the elections commission under s. 5.05 (6a) or the ethics commission under s. 19.46 (2), or from any county or municipal ethics board under s. 19.59 (5).

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

Campaign Finance | Lobbying | Ethics
101 East Wilson Street | Suite 127 | P.O. Box 7125 | Madison, WI 53707-7125
(608) 266-8123 | ethics@wi.gov | <https://ethics.wi.gov>

Wisconsin Ethics Commission
101 East Wilson Street, St. Croix Room
Madison, Wisconsin
June 15, 2022
9:00 a.m.

Open Session Minutes

Present: Pat Strachota, David Wambach (Teams/Virtual), Maryann Sumi, Shauntay Nelson, Timothy Van Akkeren, and Andrew D. Weininger

Staff Present: Daniel A. Carlton, Jr., Colette Greve, David Buerger, Sathya Sivaji, Richard Bohringer, and Harry Broderick

A. Call to Order

Vice Chair Pat Strachota called the meeting to order at 9:00 a.m. A quorum was present.

Vice Chair Strachota welcomed Commissioner Maryann Sumi. Commissioner Sumi introduced herself.

B. Report of Appropriate Meeting Notice – Administrator

Administrator Daniel Carlton notified the Commission that appropriate meeting notice had been provided to the public and news media.

C. Approval of Minutes of Prior Meetings

1. Open Session Minutes for Meeting on February 16, 2022

MOTION: To approve the minutes. Moved by Commissioner Van Akkeren, seconded by Commissioner Weininger.

Commissioner Nelson: Aye Commissioner Van Akkeren: Aye Commissioner Wambach: Aye

Vice Chair Strachota: Aye Commissioner Weininger: Aye Commissioner Sumi: Abstain

Motion carried 5-0.

D. Personal Appearances

There were no personal appearances.

E. Election of New Chair and Vice Chair

MOTION: Vice Chair Strachota to serve as Chair from 7/1/2022 – 6/30/2024.

Moved by Commissioner Weininger, seconded by Commissioner Van Akkeren.

Motion carried unanimously.

MOTION: Commissioner Nelson to serve as Vice Chair from 7/1/2022 – 6/30/2024.

Moved by Commissioner Van Akkeren, seconded by Commissioner Weininger.

Motion carried unanimously.

F. Administrative Rules Update

Staff Counsel Buerger presented the memo on page 5 of the meeting materials.

MOTION: To approve of the draft rule.

Moved by Commissioner Van Akkeren, seconded by Commissioner Nelson.

Motion carried unanimously.

G. Ethics Commission Staff Report

Administrator Daniel Carlton presented the report on page 35 of the meeting materials.

H. Consideration of Future Agenda Items

The Commission requested that staff bring a proposed meeting schedule for 2023 meetings in August.

I. Closed Session

MOTION: To go into closed session to discuss requests for advice, complaints, investigations, and litigation.

Moved by Commissioner Van Akkeren, seconded by Commissioner Sumi.

Motion carried unanimously.

1. Requests for Advice

2. Complaints and Investigations

J. Adjourn

MOTION: To adjourn the meeting. Moved by Commissioner Van Akkeren, seconded by Commissioner Weininger.

Motion carried unanimously.

Meeting adjourned at 3:38 P.M.

Wisconsin Ethics Commission meeting minutes for the Commission meeting on June 15, 2022, prepared by:

Sathya Sivaji, Office Management Specialist August 30, 2022

Wisconsin Ethics Commission meeting minutes for the Commission meeting on June 15, 2022, certified by:

Shauntay Nelson, Vice Chair August 30, 2022



Wisconsin Ethics Commission

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

DATE: For the Commission Meeting on August 30, 2022

TO: Members, Wisconsin Ethics Commission

FROM: Daniel A. Carlton, Jr., Administrator

SUBJECT: 2023 and 2024 Commission Meeting Dates

FOR COMMISSION ACTION

The Commission may:

1. Adopt the schedule discussed herein; or
2. Adopt a different schedule in accordance with today's discussion.

Introduction

Pursuant to [WIS. STAT. § 15.06\(5\)](#), the Wisconsin Ethics Commission is required to meet at least 4 times each year. Between 2017 until 2020, the Commission met at least 7 times per year. In 2021, the Commission met 5 times. In 2022, the Commission has met twice and has three more meetings scheduled (including this one) for a total of 5 meetings. An additional meeting may be needed to address the Commission's budget request and/or annual report.

Over the last few years, the Commission has adopted practices and policies that make meetings much more efficient. As it has done so, the need for meetings has reduced. Additionally, over the past few years, staff has noticed that even-numbered years tend to generate more complaints and requests for advice than typically happens in odd-numbered years. There are also fewer campaign finance related deadlines in odd-numbered years. Staff believes that fewer meetings will be required in 2023. In light of this, staff has prepared two potential meeting schedules for 2023, one with four meetings and one with 5 meetings.

Finally, there are two important notes. First, the Commission is not bound to these proposed dates and can select alternative dates. Additionally, the Commission can add additional meetings if necessary.

Methodology

Ideally, the meetings will be scheduled at equal intervals. This will have a couple of benefits: First, it will maintain a relatively consistent workload. Second, it will create a more structured routine. So, staff sought to evenly space the meetings in 2023. Staff then calculated the amount of time between meetings for both a 4-meeting schedule (13 weeks) and a 5-meeting schedule (10-11 weeks). Starting with the meeting on December 13, 2022, staff calculated the date of the next

Wisconsin Ethics Commissioners

Shauntay Nelson | Pat Strachota | Maryann Sumi | Timothy Van Akkeren | David Wambach | Andrew Weininger

Administrator

Daniel A. Carlton, Jr.

meeting using the intervals in the parenthesis above and subsequent meetings with the same intervals between each. Staff considered known election dates, filing deadlines, and other important dates for that year. Finally, staff excluded any dates that any Commissioner indicated he/she was unavailable.

2023 Proposed Schedules

If the Commission would like to have a four-meeting schedule, staff proposes the following dates for the year 2023:¹

Commission Meeting Date	Materials Deadline
February 21, 2023	February 9, 2023
June 20, 2023	June 8, 2023
September 12, 2023	August 31, 2023
December 12, 2023	November 30, 2023

If the Commission would like to have a five-meeting schedule, staff proposes the following meeting dates for the year 2023:

Commission Meeting Date	Materials Deadline
February 21, 2023	February 9, 2023
June 20, 2023	June 8, 2023
July 11, 2023	June 29, 2023
September 19, 2023	September 7, 2023
December 12, 2023	November 30, 2023

2024 Proposed Schedule

In addition to setting the meeting schedule for 2023, the Commission may also want to consider adopting a schedule for 2024. Setting the schedule for 2024 this far in advance may be desirable because it will allow the Commissioners to plan for that year as well. If members do not have any plans yet for 2024, it will allow a more evenly spaced meeting schedule. This will make it easier for staff to prepare for the meetings as well as plan for any other matters. However, the Commission may not want to set the calendar for 2024 yet because the terms for three of the Commissioners expire May 1, 2024. Obviously, we do not know whether each member will continue to serve after that. Of course, if there is a new member, we can always move dates to accommodate their schedule if needed.

For calendar year 2024, staff suggests that the Commission meet 5 times. There are a number of reasons for this including, increased complaint and advice activity in even-numbered years, the addition of the biennial budget request, and more filing deadlines occur in an even-numbered year. In trying to set as consistent of a schedule as possible, to calculate an appropriate interval staff divided

¹ While there is no statutory requirement to provide materials to the Commissioners by a particular time, staff practice has been to send meeting materials to the Commission members approximately two weeks prior to the next meeting. These dates are subject to change and are provided for reference only. If an alternate meeting date is suggested, it is important to also consider any events occurring two weeks prior to the alternate date.

the 52 weeks of the year by 5 (the number of meetings). The result was 10.4 weeks between meetings. This number was rounded up to 11 weeks between meetings. This 11-week interval begins to run after the December 12, 2023, meeting date. From there, the other considerations discussed above were also considered. As a result, the proposed meeting schedule for 2024 would be:

Commission Meeting Date	Materials Deadline
February 27, 2024	February 15, 2024
May 14, 2024	May 2, 2024
July 23, 2024	July 11, 2024
October 15, 2024	October 3, 2024
December 17, 2024	December 5, 2024

Attachments: Attachment A – 2023 Agency Calendar
Attachment B – 2024 Agency Calendar

2023 Ethics Commission Calendar

Calendar for year 2023 (United States)



January

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

February

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March

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April

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May

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Jan 16 ● Dr. Martin Luther King, Jr. Day
Jan 17 ● Jan. Continuing 2023 Filing Deadline
Jan 31 ● SLAE Deadline

Feb 13 ● Spring Pre-Primary Filing Deadline
Feb 21 ● Spring Primary Election
Mar 27 ● Spring Pre-Election 2023 Filing Deadline

Apr 4 ● Spring Election
Apr 9 ● Easter
May 1 ● SEI Deadline
May 29 ● Memorial Day
Jul 4 ● Independence Day

Jul 17 ● July Continuing 2023 Filing Deadline
Jul 31 ● SLAE Deadline
Sep 4 ● Labor Day
Oct 9 ● Columbus Day

Nov 23 ● Thanksgiving
Dec 25 ● Christmas

2024 Ethics Commission Calendar

Calendar for year 2024 (United States)



January

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February

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March

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April

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May

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June

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July

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August

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September

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October

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November

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December

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Jan 15 • Dr. Martin Luther King, Jr. Day
Jan 16 • Jan. Continuing 2024 Filing Deadline
Jan 31 • SLAE Deadline
Feb 12 • Spring Pre-Primary Filing Deadline

Mar 25 • Spring Pre-Election 2024 Filing Deadline
Mar 31 • Easter
Apr 30 • SEI Deadline
May 27 • Memorial Day
Jul 4 • Independence Day

Jul 15 • July Continuing 2024 Filing Deadline
Jul 31 • SLAE Deadline
Aug 5 • Fall Pre-Primary Report Deadline
Sep 2 • Labor Day
Sep 30 • September Report Deadline

Oct 14 • Columbus Day
Oct 28 • Fall Pre-Election Report Deadline
Nov 28 • Thanksgiving
Dec 25 • Christmas
Dec 31 • New Year's Eve



Wisconsin Ethics Commission

101 East Wilson Street | Room 127 | P.O. Box 7125 | Madison, WI 53707-7125
(608) 266-8123 | ethics@wi.gov | ethics.wi.gov

DATE: For the Commission Meeting on August 30, 2022

TO: Members, Wisconsin Ethics Commission

FROM: David Buerger, Staff Counsel

SUBJECT: Administrative Rules Update and Hearing

FOR COMMISSION ACTION

1. For ETH 21 – Practice and Procedure, following the public hearing and consideration of any public comments:
 - a. Does the Commission approve the revised draft rule?
 - b. Does the Commission wish to further revise the rule?
 - c. Does the Commission direct staff to submit the final draft rule to the Governor for final approval before it is transmitted to the Legislature?
2. For ETH 26 – Settlement Offer Schedule, does the Commission approve the draft scope statement and direct staff to submit the scope statement to the Governor for initial approval?

I. Chapter ETH 21 – Practice and Procedure

This draft rule is scheduled for a public hearing at the Commission’s meeting on August 30, 2022. The chairperson shall convene the hearing by initially explaining the purpose of the hearing and describing how testimony will be received. Prior to receiving testimony, Commission staff will briefly present a summary of the factual information on which the proposed rule is based. After each interested person or their representative has been afforded an opportunity to present any facts, opinions, or arguments in writing or orally, the hearing shall be closed.

This rulemaking was originally proposed to clarify the Commission’s procedures for requests for advice and complaints. The Commission held a preliminary public hearing on the scope statement for this proposed rule on August 18, 2020, but no members of the public appeared to comment on the scope statement at that meeting, and no public comments were received. The Commission then formally approved the scope statement and directed staff to begin drafting the proposed rule and associated documents for submission to the Legislative Council Rules Clearinghouse. The draft rule and associated documents were presented to the Commission at its meeting on June 15, 2022. At that meeting, the Commission initially approved of the draft rule and associated documents and directed staff to submit them to the Legislative Council Rules Clearinghouse.

Wisconsin Ethics Commissioners

Shauntay Nelson | Pat Strachota | Maryann Sumi | Timothy Van Akkeren | David Wambach | Andrew Weininger

Administrator

Daniel A. Carlton, Jr.

Commission staff submitted the draft rule and associated documents to the Legislative Council Rules Clearinghouse on June 15, 2022.

The Legislative Council Rules Clearinghouse submitted a report to the Commission regarding this draft rule on June 24, 2022. The report made fourteen comments and Commission staff adopted and incorporated each comment except for one. Upon consultation with Legislative Council staff, comment 4.d. was determined to have been included out-of-context and no changes were needed in response.

No public comments were received prior to the drafting of this memo. If any public comments are received before the Commission meeting, they will be included in the supplemental materials for this meeting.

If the Commission approves the revised draft rule, Commission staff will submit the revised draft rule and associated documents to the Governor for final approval before the rule is transmitted to the Legislature.

II. Chapter ETH 26 – Settlement Offer Schedule

At its meeting on February 23, 2021, the Commission directed staff to begin the rulemaking process to revise ETH 26 to codify its practice of making a reduced settlement offer to committees whose late reports reflected no activity during the reporting period or who requested termination. The existing rule already permits the Commission to consider mitigating circumstances in determining the terms of any settlement offer that may be extended. Commission staff anticipated working this rule into a broader rulemaking that would revise ETH 26 more comprehensively later that year. However, no comprehensive revision of ETH 26 was conducted in 2021.

At its meeting on June 15, 2022, the Commission directed staff to bring this matter back for a broader review of the Commission's settlement schedule along with a proposed scope statement. A copy of the current version of ETH 26 is attached for the Commission to review.

Commission staff has prepared the attached draft scope statement to begin the process of making the following changes to ETH 26:

1. Reduce the amounts sought for late reports by 50% if there was no activity during the applicable reporting period or the committee requested termination.
2. Treat late September reports similarly to late pre-primary or pre-election reports.
3. Create a new settlement schedule for late post-election reports.
4. Create a new settlement schedule for violations of the attribution requirement.

Another change that the Commission may wish to consider that is not incorporated in the current draft scope statement is whether the final SEI required by [Wis. STAT. § 19.43\(2m\)](#) merits a different treatment than other SEIs. The current settlement schedule would provide for a warning if a final SEI was filed within 15 calendar days of the due date.

[Wis. ADMIN. CODE ETH 26.04\(1\)\(a\)](#). If a final SEI was filed 16 or more calendar days after the due date, the current rule prescribes a settlement offer of \$100, plus \$100 for every additional 15 calendar days after the 16th calendar day following the due date. [Wis. ADMIN. CODE ETH 26.04\(1\)\(b\)](#). Arguably, a final SEI may merit a different schedule that escalates more quickly as a departing official may be harder to reach the further removed they are from state service. However, a countervailing argument may be that there is less harm in a late final SEI as the official is no longer holding a public position. Even if the Commission does not wish to treat the final SEI differently, it may be worth specifically mentioning the final SEI in the definition of an SEI in the rule so that no future official required to file can argue that the rule does not cover the final SEI. See [Wis. ADMIN. CODE ETH 26.01\(22\)](#).

If the Commission wishes to consider this or any other changes to ETH 26, Commission staff can amend the draft scope statement accordingly. If the Commission approves of the draft scope statement, the next step would be to send the scope statement to the Governor for initial approval. If the Governor approves the scope statement, Commission staff will send the scope statement to the Legislative Reference Bureau for publication in the Administrative Register, as well as to the Chief Clerks of each house of the Legislature. The co-chairs of the Joint Committee for the Review of Administrative Rules then have ten days to direct the Commission to hold a preliminary public hearing and comment period on the scope statement. If a preliminary public hearing on the scope statement is required, Commission staff will plan to hold that hearing at the Commission's next available meeting.

III. Attachments

- A. ETH 21 – Legislative Council Report on Rule 22-052
- B. ETH 21 – Revised Draft Rulemaking Order
- C. ETH 21 – Fiscal Estimate and Economic Impact Analysis
- D. ETH 21 – Notice of Hearing
- E. ETH 21 – Notice of Submittal of Proposed Rule to Rules Clearinghouse
- F. ETH 26 – Current Version
- G. ETH 26 – Draft Scope Statement



Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Margit Kelley
Clearinghouse Assistant Director

Anne Sappenfield
Legislative Council Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **22-052**

AN ORDER to repeal and recreate ETH 21.30; and to create ETH 21.02, 21.03, 21.04, 21.05, 21.06, 21.07, 21.08, 21.09, and 21.10, relating to the processes for complaints and requests for advice.

Submitted by **ETHICS COMMISSION**

06-15-2022 RECEIVED BY LEGISLATIVE COUNCIL.

06-23-2022 REPORT SENT TO AGENCY.

MSK:KBO

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES ☐ NO ☒

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES ☒ NO ☐

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES ☐ NO ☒

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES ☒ NO ☐

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES ☒ NO ☐

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES ☐ NO ☒

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES ☐ NO ☒



Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Margit Kelley
Clearinghouse Assistant Director

Anne Sappenfield
Legislative Council Director

CLEARINGHOUSE RULE 22-052

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

2. Form, Style and Placement in Administrative Code

a. In s. ETH 21.03 (1), the section requires a complaint to contain certain content, including a concise statement of facts supporting each alleged violation that differentiates between personal knowledge and other information and belief under par. (c). However, the subsection does directly require a complaint to allege a violation of ch. 11, subch. III of ch. 13, or subch. III of ch. 19, Stats., or to identify a particular statute that was violated. If the intent is to require complainants to clearly identify the violation at issue, this should be enumerated as a separate requirement under par. (c), and the requirement for “a concise statement of facts” should be renumbered as par. (d).

b. In s. ETH 21.03 (2) (intro.), a phrase indicating the applicability and relationship of the subunits should be added. For example, depending on the commission’s intent, the phrase “any of the following applies” could be inserted before the colon. [s. 1.11 (2), Manual.]

c. In s. ETH 21.03 (3), a subsection title should be inserted, for consistency with subs. (1) and (2). [s. 1.10 (2) (a) 2., Manual.]

d. In s. ETH 21.04 (1) (intro.) and (2) (intro.), it appears that the phrase “all of” should be inserted in both instances before the phrase “the following”. Also, in sub. (1) (b) (intro.), an introductory statement should be added to specify that the notice shall inform the complainant of any (or all?) of the following applicable information. The introductory statement should end with a colon. [s. 1.11 (2) and (3), Manual.]

e. In s. ETH 21.06 (intro.), the phrase “any of the following” should be added.

f. In s. ETH 21.30 (2) (a) (intro.) and 2. (intro.), introductory statements should be added, and each statement should end with a colon.

4. Adequacy of References to Related Statutes, Rules and Forms

a. In s. ETH 21.02 (2) (c), the section requires the administrator to conduct a preliminary review of a complaint and dismiss the complaint if it fails to meet certain requirements, including that it “does not contain sufficient allegations”. Presumably, par. (c) refers to insufficient

allegations to establish that a violation of ch. 11, subch. III of ch. 13, or subch. III of ch. 19, Stats., has potentially occurred. However, this could be stated explicitly.

b. In s. ETH 21.02 (5), the rule creates a definition of “formal opinion” that refers to an opinion issued under s. 19.46 (2) (c), Stats. The statutory language in par. (a) of that provision also allows for an individual to request formal advisory opinion. Should the definition of “formal opinion” refer to an opinion issued under s. 19.46 (2) (a) **and** those issued under par. (c)?

c. In s. ETH 21.02 (10), the rule creates a definition of respondent that means a “person” alleged to have committed a violation of campaign finance, lobbying, or ethics laws. Is this use of “person” intended to include committees, political parties, and conduits, which would allow complaints to be filed against these entities? Does the rule assume that the general definition of “person” under s. 990.01 (26), Stats., incorporates these entities and would permit complaints to be filed against them? Regardless, it may be helpful to a reader to create a separate definition of “person” within s. ETH 21.02 and to explicitly include a reference to these entities.

d. In s. ETH 21.30 (1) (b), the section requires any written advice issued by the administrator to be consistent with prior commission opinions, statutes, and case law “as required by s. 19.46 (2) (b) 1., Stats.”, in addition to constitutional law. The cited section does not require consistency with prior opinions, statutes, or case law. Instead, the cited section permits the administrator to issue informal written advice if authorized to do so by the commission. If the purpose of the citation is to indicate that the administrator may only issue written advice if authorized to do so by the commission, then this idea should be referenced earlier in the subsection.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. ETH 21.04, the introductory language and language of sub. (1) are inconsistent. The introductory language refers to events that must occur “after preliminary review of a complaint”, while subs. (1) and (2) require written notice within five days “of receipt of the complaint”. Is the intent that notice be sent within five days after the *preliminary review* is completed? Or, is the intent that the notice be sent within five days after the complaint is *received* (regardless of when the preliminary review occurs)? This should be clarified.

b. In s. ETH 21.06 (intro.), the rule provides that the administrator may request certain items “before a determination of reasonable suspicion”. Does this refer to the administrator making a determination of reasonable suspicion? Or, alternatively, does it simply allow the administrator to request certain information before the commission makes the reasonable suspicion determination? This should be clarified.

c. In s. ETH 21.06 (intro.), the rule permits the administrator to request certain information. Is the administrator requesting that the complainant provide this information? Is the administrator themselves obtaining the enumerated documents, e.g., requesting documents from a state agency or local government official? Does the rule intend to allow for either? This could be clarified.

d. In s. ETH 21.30, the section addresses requests for formal and informal opinions, but a reader may have difficulty determining the difference between the two. It may be helpful to state within the “General Provisions” section that a person may request either a formal or an informal opinion and potentially address the differences, such as the ability in the formal opinion process to request a hearing, and reiterating that the administrator issues some informal opinions while the commission itself issues formal opinions.

SS# 041-20, Wisconsin Administrative Register No. 773A4, 06/22/2020

WISCONSIN ETHICS COMMISSION
Proposed Rule Making Order

INTRODUCTORY CLAUSE

The Wisconsin Ethics Commission proposes an order to repeal and recreate ETH 21.30; and to create ETH 21.02, 21.03, 21.04, 21.05, 21.06, 21.07, 21.08, 21.09, and 21.10, relating to the processes for complaints and requests for advice.

RULE SUMMARY

- A. **Statutes interpreted:** ss. 19.46(2) and 19.49(2), Stats.
- B. **Statutory authority:** The 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 Wisconsin Ethics Commission is charged with investigating violations of the laws it administers under s. 19.49(2)(a), Stats. It is also required to review requests for an advisory opinion under s. 19.46(2)(a)1., Stats. Pursuant to the above grants of authority, the Commission is empowered to promulgate rules to promote the orderly administration of these processes.

- D. **Related statute(s) or rule(s):** ss. ETH 1.96 and ETH 6.03.

- E. **Plain language analysis:** The proposed rule would clarify and further establish the procedures to be followed to submit a complaint to the Wisconsin Ethics Commission under s. 19.49 (2) (b), Stats. It would also clarify the procedures to be followed to request either a formal or informal opinion of the Commission pursuant to s. 19.46 (2), Stats.
- F. **Summary of, and comparison with, existing or proposed federal regulations:** There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule.
- G. **Comparison with similar rules in adjacent states:**

Illinois

Complaints regarding campaign finance shall be filed in writing [10 ILCS5/9-20(1)]. Minimum requirements for a verified complaint include the name of the candidate or chairman or treasurer of a political committee against whom the complaint is directed [10 ILCS5/9-20(2)], the statutory provisions which are alleged to have been violated [10 ILCS5/9-20(3)], and the time, place, and nature of the alleged offense [10 ILCS5/9-20(4)]. The complaint shall be verified, dated, and signed by the person filing the complaint [10 ILCS5/9-20(4)]. Verified complaints received by the Secretary of State are processed in the following manner: a copy of the complaint is served by the Board of Elections to the complainant and respondent, and a closed preliminary hearing, with reasonable notice, is held to provide an opportunity for the complainant and respondent to testify at the hearing, and the Board determines if the complaint appears to have been filed on justifiable grounds [10 ILCS5/9-21]. The Board may dismiss the complaint if the Board fails to determine that the complaint was filed on justifiable grounds [10 ILCS5/9-21]. The parties to the complaint may dispose of the complaint by written stipulation, agreed settlement, or consent order [10 ILCS5/9-21]. The Board shall render its final judgement within 60 days of the date the complaint is filed, except that during the 60 days preceding the date of the election in reference in which the complaint is filed, the Board shall render its final judgement within 7 days of the date the complaint is filed, and during the 7 days preceding such election, the Board shall render such judgement before the date of such election, if possible [10 ILCS5/9-21]. The Board of Elections shall establish and maintain on its official website a searchable database, accessible to the public, of each complaint filed with the Board with respect to which Board action was taken, and the database must be updated within 5 business days after an action is taken or penalty is imposed [10 ILCS5/9-23.5].

Complaints regarding suspected violations of the Illinois Governmental Ethics Act (5 ILCS 420) are authorized under 5 ILCS 420/25-45, 5 ILCS 420/25-50, and the Operational Rules of the Illinois Legislative Ethics Commission R1-1 et. seq. A standard case initiation form is authorized under R17-5 and available to the public on the Illinois Office of the Legislative Inspector General webpage. Complainants shall file complaints with the Office of the Legislative Inspector. Minimum requirements for a complete case initiation form include the name of the employee or officer who is alleged to have committed a violation [R17-10(a)], the identity of the state agency that employs the employee or officer [R17-10(b)], the name, address, and telephone number of the complainant [R17-10(c)], the date and time of the

alleged violation [R17-10(d)], a description of the facts and circumstances that surrounded the alleged violation [R17-10(e)], the names of any other person who witnessed or participated in the alleged violation [R17-10(f)], an address to which the completed case initiation form may be mailed [R17-10(g)], a statement of the confidentiality of the identity of the complainant [R17-10(h)], a statement that the Legislative Inspector General's investigatory files and reports are confidential and exempt from disclosure under the Freedom of Information Act [R17-10(i)], a statement that allegations, pleadings, and related documents are exempt from disclosure under the Freedom of Information Act so long as the Commission does not make a finding of a violation [R17-10(j)], a statement that penalties may be imposed for intentionally making a false report alleging a violation [R17-10(k)], and any other information that the Legislative Inspector General reasonably requires [R17-10(l)]. Upon receipt of a completed case initiation form, the Legislative Inspector General shall create an investigation file [R17-15(a)] and commence an investigation with advance notice to the Commission [R17-25]. Only the Legislative Inspector General may bring actions before the Legislative Ethics Commission [5 ILCS 420/25-45(a)]. Cases before the Commission are commenced by the filing of a petition for leave to file a complaint with the Commission [R20-15(a)], with the Legislative Inspector General designated as the petitioner and the person alleged to have violated the act designated as the respondent [R20-15(b)]. Complaints must be filed with the Commission within 18 months after the most recent act of the alleged violation except where there is reasonable cause to believe that fraudulent concealment has occurred [5 ILCS 420/25-50(c)]. A respondent may file objections to the petition within 30 days after notice of the petition has been served on the respondent [5 ILCS 420/25-50(c-10)(e)] [R20-30]. Within 60 days after the time for a respondent to file an objection to the petition has expired, the Commission shall meet to review the sufficiency of the petition [R20-35(a)]. If the petition is sufficient, the Commission shall notify the parties by certified mail and schedule a hearing within 4 weeks after the date of the notice [5 ILCS 420/25-50(f)] [R20-35(b)]. All hearings are closed to the public [5 ILCS 420/25-50(g)] [R20-55(b)]. Within 60 days after the hearing, the Commission shall enter a decision [5 ILCS 420/25-50(h)] [R20-60(a)]. The decision shall include a description of the alleged misconduct, the decision of the Commission, including any fines levied and any recommendations of discipline, and the reasoning for that decision [R20-60(b)]. All decisions shall be sent to the parties, including the Legislative Inspector General, the ultimate jurisdictional authority, the head of the appropriate state agency, and the Attorney General [R20-60(d)]. Within 30 days after the issuance of a final decision that concludes that a violation occurred, the Commission shall make public the entire record of proceedings before the Commission, the decision, any recommendation, any discipline imposed, and the response from the agency head or ultimate jurisdictional authority to the Legislative Ethics Commission [5 ILCS 420/25-50(l)].

Iowa

Complaints regarding suspected violations of the Iowa Campaign Disclosure Act (Iowa Code § 68A) and the Iowa Government Ethics and Lobbying Act (Iowa Code § 68B) are authorized under Iowa Code § 68B.32B and Iowa Administrative Code 351-9.1 et seq. A standard complaint form is authorized under Iowa Code § 68B.32B(1) and Iowa Administrative Code 351-9.1(1), and available to the public on the Iowa Ethics and

Campaign Disclosure Board webpage. Minimum requirements for a valid complaint include name and address of the complainant, a statement of the facts believed to be true that form the basis of the complaint, including the sources of information and approximate dates of the acts alleged, and a certification by the complainant under penalty of perjury that the facts stated to be true are true to the best of the complainant's knowledge [Iowa Code § 68B.32B(1)]. Submitted complaints received by Board are processed in the following manner. Board staff shall determine if the complaint is sufficient and refer the complaint for legal review [Iowa Code § 68B.32B(2)]. If Board staff determine that the complaint is insufficient, then the complaint is returned to the complainant with a statement of deficiency and description of cure [Iowa Code § 68B.32B(2)]. If legal counsel determines that the complaint contains a legally sufficient allegation, then the complaint is deemed accepted [Iowa Administrative Code 351-9.1(2)]. If legal counsel and the Board determine that the complaint does not contain a legally sufficient allegation, then the complaint is dismissed [Iowa Code § 68B.32B(6)] [Iowa Administrative Code 351-9.1(2)]. Legal sufficiency of a complaint is determined by facts that would establish a violation of a provision of statute or rule [Iowa Code § 68B.32B(4)(a)], facts that would establish that the conduct providing the basis for the complaint occurred within 3 years of the complaint [Iowa Code § 68B.32B(4)(b)], and facts that would establish that the subject of the complaint is a party subject to the jurisdiction of the board [Iowa Code § 68B.32B(4)(c)]. The Board provides a copy of the accepted complaint to the respondent within 3 working days of the acceptance determination [Iowa Code § 68B.32B(3)]. Legally sufficient complaints are referred to Board staff for investigation of probable cause [Iowa Code § 68B.32B(6)] [Iowa Administrative Code 351-9.2(1)]. Complete investigations with probable cause determination are reported to the Board for action [Iowa Code § 68B.32B(8)] [Iowa Administrative Code 351-9.2(4)]. The Board may redirect the matter for further investigation [Iowa Administrative Code 351-9.2(5)(a)], dismiss the matter for lack of probable cause to believe a violation has occurred [Iowa Administrative Code 351-9.2(5)(b)], dismiss the matter without determination regarding probable cause as an exercise of administrative discretion [Iowa Administrative Code 351-9.2(5)(c)], make a determination that probable cause exists to believe a violation has occurred and direct administrative resolution of the matter [Iowa Administrative Code 351-9.2(5)(d)], or make a determination that probable cause exists to believe a violation has occurred and direct the issuance of a statement of charges to initiate a contested case proceeding [Iowa Administrative Code 351-9.2(5)(e)]. If the Board determines that probable cause exists to believe that a violation of any statute or rule under its jurisdiction has occurred, except for a late-filed disclosure report, the Board may order administrative resolution of the violation by imposing a civil penalty not to exceed \$500 [Iowa Administrative Code 351-9.4(7)]. At any stage during the investigation or after the initiation of a contested case proceeding, the Board may approve a settlement regarding an alleged violation [Iowa Administrative Code 351-9.2(10)]. The entire record of any contested case proceeding initiated by the Board shall be a public record [Iowa Code § 68B.32B(11)].

Michigan

Complaints regarding suspected violations of the Michigan Campaign Finance Act (Act 388 of 1976) are authorized under MCL § 169.215 Section 15 and the Michigan Department of State Elections Division Campaign Financing Administrative Rules R169.51, R169.52,

R169.53, R169.54, R169.55, and R169.56. A standard complaint form is authorized under MCL § 169.215 Section 15(7) and available to the public on the Elections Division Campaign Finance webpage. Complainants may file typewritten or handwritten complaints [R169.52(1)] with the Secretary of State in person or by mail [R169.51]. Minimum requirements for a valid complaint include the complainant's signature [MCL § 169.215 Section 15(6)(a)], the complainant's name, address, and telephone number [MCL § 169.215 Section 15(6)(b)], the complainant's certification that any factual contention is or is not supported by evidence [MCL § 169.215 Section 15(6)(c)], the name and address of the alleged violator, a description in reasonable detail of the alleged violation, and an identification of all available evidentiary material [R169.52(2)]. Complainants who file a complaint with a false certification are responsible for a civil violation [MCL § 169.215 Section 15(8)] and may incur penalties that include payment to the Secretary of State some or all of the expenses incurred as a result of the complaint filing [MCL § 169.215 Section 15(16)(a)] or payment to the respondent some or all of the expenses, including reasonable attorney fees, incurred as a result of the complaint filing [MCL § 169.215 Section 15(16)(b)]. Incomplete, illegible, indefinite, or unsigned complaints may be summarily dismissed, and the complainant notified of dismissal in writing as to the reason for dismissal [R169.53]. Valid complaints received by the Secretary of State are processed in the following manner. Respondents are given notice of the complaint, including a copy of the complaint, within 5 business days. Respondents are given 15 business days to submit a response to the complaint, with an additional 15 business days extension granted for good cause. Complainants are provided the respondent's complaint response and provided 10 business days from the date of response mailing to submit a rebuttal statement, with an additional 10 business days extension granted for good cause. Respondents are provided with the complainant's rebuttal statement [MCL § 169.215 Section 15(5)]. The Secretary of State is obliged to communicate to a respondent that a complaint has been made alleging possible violation of the act or rules [R169.54(a)], the specifics of the alleged violation [R169.54(b)], the identity of the complainant [R169.54(c)], and the provision of rules relative to complaints and investigations [R169.54(d)]. No later than 45 business days following receipt of a rebuttal statement, or if no rebuttal statement is received, the Secretary of State shall post on the Secretary's website whether there may be reason to believe that a violation of the act or rule occurred [MCL § 169.215 Section 15(10)]. The Secretary of State may conduct a preliminary review of an alleged violation to determine if there may be reason to believe that a violation of the act or rule has occurred [R169.55(1)]. The Secretary of State may commence, with notice given, a hearing to determine whether a violation of the act or rule has occurred [MCL § 169.215 Section 15(10)] [R169.55(3)(a)], attempt to correct the violation by conference, conciliation, or persuasion [MCL § 169.215 Section 15(10)] [R169.55(3)(b)] [R169.56(2)], or dismiss the allegation with notice given to complainant and respondent [R169.55(2)] [R169.56(1)]. If a conciliation agreement is signed, the Secretary of State is obliged to post the agreement on the Secretary's website within 30 days [MCL § 169.215 Section 15(10)]. Within 30 days of determination that a violation of the act or rule has occurred, the Secretary of State shall post on the Secretary's website any complaint, response, rebuttal statement, and any correspondence between the Secretary of State and the complainant or respondent [MCL § 169.215 Section 15(10)]. If the Secretary of State determines that a violation of the act or rule has occurred, the respondent may be assessed a civil fine not more than triple the amount of the improper contribution or expenditure plus not more than \$1,000.00 for each violation

[MCL § 169.215 Section 15(11)]. The Secretary of State may refer the matter to the attorney general for enforcement of a criminal penalty [MCL § 169.215 Section 15(13)] [R169.56(3)].

Complaints regarding suspected violations of the Michigan Standards of Conduct for Public Officers and Employees Act (Act 196 of 1973) are authorized under MCL § 15.345 Section 5 and the Michigan State Board of Ethics Administrative Rules R15.1, R15.1a, R15.2, R15.3, R15.4, R15.5, R15.6, R15.7, R15.8, R15.9, R15.10. A standard complaint form is authorized under MCL § 15.346 Section 6, R15.1a, and R15.5 and available to the public on the State Board of Ethics webpage. Complainants shall file complaints in writing [R15.5(2)(a)] with the Executive Secretary at the Board of Ethics office [R15.5(2)(f)]. Minimum requirements for a valid complaint include the specification of one or more standards of prohibited conduct outlined in section 2 of the Act [MCL § 15.342 Section 2], include evidentiary facts supporting the complaint allegations [R15.5(2)(c)], contain a statement that the complainant or designee has read the complaint and believes the alleged violations to be true [R15.5(2)(d)], and contain the signature of the complainant or designee before a notary [R15.5(2)(e)]. Complaints may be dismissed if the Board of Ethics lacks jurisdiction over the person subject to the complaint [R15.5(11)(a)], if the Board lacks jurisdiction over the subject matter [R15.5(11)(b)], if the complainant lacks the legal capacity to file the complaint [R15.5(11)(c)], if the complainant is barred because of release, prior judgement, or other disposition of the claim before the complaint was filed [R15.5(11)(d)], if the complaint on its face fails to state a claim of unethical conduct [R15.5(11)(e)], if one or more complaints regarding the same matter are pending [R15.5(4)(a)], or if the Board previously addressed the subject matter [R15.5(4)(b)]. Valid complaints received by the Board of Ethics are processed in the following manner. Respondents are promptly served a copy of the complaint [R15.5(5)]. Respondents are given 21 calendar days to file an answer to the complaint with the Executive Secretary, with additional time granted for good cause [R15.5(6)]. A copy of the respondent's answer is served to the complainant [R15.5(6)]. Complainants and respondents are given 21 calendar days before the date of the Board meeting scheduled to address the complaint to file any additional written information [R15.5(8)]. Opposing parties are given 14 days before the date of the Board meeting to file responses to the additional written material [R15.5(8)]. Upon expiration of the time provided for all submissions, the Board is presented with all materials for its consideration [R15.5(9)]. The Board may schedule a hearing [R15.5(13)] [R15.8] and the complainant and respondent shall have an opportunity to address the Board to address the complaint [R15.5(10)]. The complainant and respondent have the right to be represented at the hearing by legal counsel [R15.5(10)]. The Board shall issue a complaint decision and transmit copies of the decision to the complainant, respondent, and other persons as the Board directs [R15.5(14)]. The Board shall publish its decisions and opinions, including dissents, and make them available for the public at its office, on its website, and in the appropriate state agencies [R15.5(19)(1)].

Advisory opinions relating to matters affecting the ethical conduct of a public officer or employee are authorized under MCL § 15.345 Section 5(1)(e) and R15.6. Requests for advisory opinion must be made in writing and filed at the Board of Ethics office with the Executive Secretary [R15.6(1)]. The Board may dismiss a request for an advisory opinion if one or more requests regarding the same matter are pending [R15.6(3)(a)] or if the Board previously addressed the subject matter [R15.6(3)(b)]. The Board shall schedule a meeting to

address the advisory opinion and shall afford the person requesting the opinion or the person subject to the request to speak at the meeting [R15.6(5)]. The Board may schedule a hearing to resolve the request for advisory opinion [R15.6(8)] or may issue an opinion without a hearing [R15.6(7)]. The Board may issue an advisory opinion decision if the Board lacks the jurisdiction over the person subject to the advisory opinion [R15.6(6)(a)], the Board lacks jurisdiction over the subject matter [R15.6(6)(b)], the person asserting the claim lacks the legal capacity to file the request for an advisory opinion [R15.6(6)(c)], the request for advisory opinion is barred because of release, prior judgement, or other disposition of the claim [R15.6(6)(d)], or if the request for advisory opinion on its face fails to delineate any unethical conduct [R15.6(6)(e)]. The Executive Secretary shall transmit copies of the Board's order to the party filing the request, the person subject to the request, and other persons as the board directs [R15.6(9)].

Minnesota

Complaints regarding suspected violations of the Minnesota Campaign Finance and Public Disclosure law (Minnesota Statute § 10A) and Minnesota Fair Campaign Practices law (Minnesota Statute § 211B) are authorized under Minnesota Statute § 10A.022(3), Minnesota Statute § 211B.32(1), and Minnesota Campaign Finance and Public Disclosure Board Administrative Rule R4525.0200. A standard complaint form is authorized under R4525.0200(2) and available to the public on the Minnesota Campaign Finance and Public Disclosure Board webpage. Complaints must be submitted in writing [R4525.0200(2)] to the Board [R4525.0200(1)]. Complaints regarding a violation of Minnesota Fair Campaign Practices law must be filed within one year after the occurrence of the act or failure to act unless the act or failure to act involves fraud, concealment, or misrepresentation that could not be discovered during the one-year period [Minnesota Statute § 211B.32(2)]. Minimum requirements for a complete complaint include the name and address of the person making the complaint, the name and address of the alleged violator, a description of the complainant's knowledge of the violation, any evidentiary material supporting the complaint, and the signature of the complainant or an individual authorized to act on behalf of the complainant [R4525.0200(2)]. Complaints alleging a violation of Minnesota Statute § 211B.32 must be made under oath [Minnesota Statute § 211B.32(3)]. Complaints alleging a violation of Minnesota Statute § 211B.32 must be accompanied by a \$50 filing fee [Minnesota Statute § 211B.32(5)] which may be refunded to a complainant who prevails on the merits of the complaint [Minnesota Statute § 211B.32(5)(c)]. Valid complaints received by the Board are processed in the following manner. Upon receipt of a written complaint, the Board promptly makes a determination whether the complaint alleges a prima facie violation [Minnesota Statute § 10A.022(3)(3)(c)] [Minnesota Statute § 211B.33(2)]. A complaint is dismissed if it does not allege a prima facie violation and the complainant is notified and given opportunity to cure [Minnesota Statute § 10A.022(3)(3)(c)]. The Board determines within 45 days whether probable cause exists to believe the alleged prima facie violation warrants a formal investigation [Minnesota Statute § 10A.022(3)(3)(d)]. The respondent is given an opportunity to answer the complaint allegations and appear, with sufficient notice [Minnesota Statute § 10A.022(3)(3)(4)], before the Board to address the complaint [Minnesota Statute § 10A.022(3)(3)(e)][R4525.0200(6)]. Complaints under staff review may result in a determination of no violation [Minnesota Statute § 10A.022(3)(3)(3b)] or resolved

by conciliation agreement [Minnesota Statute § 10A.022(3)(3)(3a)]. Complaints not dismissed or resolved by conciliation agreement are submitted to the Board for final determination [Minnesota Statute § 10A.022(3)(3)(3d)]. The Board's final determination must be issued at the conclusion of the investigation or within 60 days after the probable cause determination if the complaint alleges a violation of Minnesota Statute § 10A.25 or Minnesota Statute § 10A.27 [Minnesota Statute § 10A.022(3)(3)(e)]. Complaints alleging a violation of Minnesota Statute § 211B.33 may require an expedited probable cause hearing if the complaint was filed within 60 days before the primary or special election or within 90 days before the general election to which the complaint relates [Minnesota Statute § 211B.33(2)(b)]. A hearing before the Board or action concerning a complaint or investigation other than findings, conclusions, and orders or a conciliation agreement is confidential [Minnesota Statute § 10A.022(5)] [R.425.0200(5)]. Complaint matters before the Board may result in a criminal offense and may be prosecuted by a city or county attorney [Minnesota Statute § 10A.022(7)].

Advisory opinions may be requested from the Minnesota Campaign Finance and Public Disclosure Board by or on behalf of an individual or association who wish to use the opinion to guide the individual's or the association's own conduct. Requests for an advisory opinion must be made in writing and must be received at least 3 weeks before a Board meeting. Unless the requester consents to the publication of the requester's identity, the request and the opinion are non-public data.

H. Summary of factual data and analytical methodologies: Commission staff reviewed the complaint processes of other state agencies and other states' agencies that administer and enforce campaign finance, lobbying, and ethics laws. Commission staff also reviewed the processes by which an individual could request an advisory opinion of other states' agencies that provide for such a process.

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 August 29, 2022. Written comments should be addressed by mail to: David Buerger, P.O. Box 7125, Madison, WI 53707-7125; 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 21.02 is created to read:

ETH 21.02 Definitions. As used in this chapter:

- (1) “Administrator” means an individual appointed by the commission pursuant to s. 15.62 (1) (b), Stats. or, upon delegation by the administrator, the assistant administrator or staff counsel.
- (2) “Assistant administrator” means an individual appointed by the administrator to serve as assistant administrator pursuant to s. 19.47 (2), Stats.
- (3) “Commission” means the Wisconsin Ethics Commission.
- (4) “Complainant” means a person filing a complaint with the commission under s. 19.49 (2) (b), Stats.
- (5) “Formal opinion” means a formal advisory opinion issued by the commission under s. 19.46 (2) (a) or (c), Stats.
- (6) “Informal opinion” means an advisory opinion issued by the commission, or by the administrator, assistant administrator, or staff counsel, as authorized by the commission, pursuant to s. 19.46 (2) (a) and (b), Stats.
- (7) “Local registrant” means an individual or organization registered with a filing officer other than the commission.
- (8) “Person” includes any of the following:
 - (a) An individual.
 - (b) A candidate as defined by s. 11.0101(1), Stats.
 - (c) A candidate committee as defined by s. 11.0101 (2), Stats.
 - (d) A conduit as defined by s. 11.0101 (7), Stats.
 - (e) An independent expenditure committee as defined by s. 11.0101 (17), Stats.
 - (f) A legislative campaign committee as defined by s. 11.0101 (19), Stats.
 - (g) A political action committee as defined by s. 11.0101 (25), Stats.
 - (h) A political party as defined by s. 11.0101 (26), Stats.
 - (i) A recall committee as defined by s. 11.0101 (27), Stats.
 - (j) A referendum committee as defined by s. 11.0101 (28), Stats.
 - (k) An agency official as defined by s. 13.62 (3), Stats.
 - (L) An elective state official as defined by s. 13.62 (6), Stats.
 - (m) A legislative employee as defined by s. 13.62 (8m), Stats.
 - (n) A lobbyist as defined by s. 13.62 (11), Stats.
 - (o) A lobbying principal as defined by s. 13.62 (12), Stats.
 - (p) A local public official as defined by s. 19.42 (7x), Stats.
 - (q) An official required to file as defined by s. 19.42 (10), Stats.
 - (r) A state public official as defined by s. 19.42 (14), Stats.
 - (s) Any other person as defined by s. 990.01 (26), Stats.
- (9) “Probable cause” means the facts, circumstances, and reasonable inferences that together are sufficient to justify a reasonable, prudent person, acting with caution, to believe that the matter asserted is probably true.

- (10) “Reasonable suspicion” means specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant further investigation.
- (11) “Respondent” means a person alleged to have committed a violation of ch. 11, subch. III of ch. 13, or subch. III of ch. 19, by a complainant.
- (12) “Staff counsel” means an employee of the commission designated by the administrator to serve as legal counsel of the commission pursuant to s. 19.47 (2), Stats.
- (13) “Sufficient allegations” means allegations of fact and reasonable inferences drawn from those allegations that, if proven, would satisfy each element of the applicable law.

SECTION 2. ETH 21.03 is created to read:

ETH 21.03 Receipt and preliminary review of complaints.

- (1) COMPLAINT FORM AND CONTENTS. A complaint shall be filed in writing. The complaint, together with all attachments shall not exceed 10 pages without prior approval of the administrator. A complaint shall include all of the following:
- (a) The full name and address of the complainant.
 - (b) The full name and address of the respondent against whom the complaint is filed. If multiple persons are alleged to have committed a violation, a complainant shall file a separate complaint for each respondent.
 - (c) An allegation of a violation of ch. 11, subch. III of ch. 13, or subch. III of ch. 19, Stats.
 - (d) A concise statement of the facts supporting each alleged violation that differentiates between statements based on personal knowledge and those based on information and belief. Statements not based on personal knowledge shall identify the source of the information.
 - (e) Citation to any legal authority which the complainant relies on in support of their complaint. Citations to cases shall include a public domain cite, if available. Citations shall also include page or paragraph numbers, if appropriate.
 - (f) Any relevant documentation supporting the allegations, if available.
 - (g) The notarized signature of the complainant, the complainant’s attorney, or other authorized person filing the complaint on behalf of the complainant.
 - (h) If a complaint is filed by an attorney or other authorized person on behalf of the complainant, the attorney or other authorized person shall include a notice of representation that includes the name and address of the attorney or other authorized person.
- (2) PRELIMINARY REVIEW. The administrator shall conduct a preliminary review of each complaint filed with the commission and shall dismiss a complaint or the relevant portion of a complaint if it does not comply with sub. (1) or if any of the following applies:
- (a) The complainant does not file the complaint within the time period specified by s. 19.49 (2) (f), Stats.
 - (b) The commission does not have jurisdiction over the violation alleged.
 - (c) The complaint does not contain sufficient allegations to establish that a violation of ch. 11, subch. III of ch. 13, or subch. III of ch. 19, Stats., has potentially occurred.
- (3) NOTICE OF DISMISSALS. The administrator shall inform the commission of each complaint that was dismissed under sub. (2) since its last meeting.

SECTION 3. ETH 21.04 is created to read:

ETH 21.04 Acknowledgement and notice of complaints. After preliminary review of a complaint under s. ETH 21.03 (2), but within 5 calendar days of receipt of the complaint, the administrator shall:

- (1) Send a written notice to the complainant that provides all of the following:
 - (a) An acknowledgement that the commission received the complaint.
 - (b) A notice if the complaint or any portion of the complaint was dismissed under s. ETH 21.03 (2).
 1. If the complaint or any portion of the complaint was dismissed for failure to comply with the requirements of s. ETH 21.03 (1), the notice shall include an explanation of the relevant requirements and inform the complainant that the complainant may re-file the complaint once it conforms to the requirements of s. ETH 21.03 (1).
 2. If the complaint or any portion of the complaint was dismissed pursuant to s. ETH 21.03 (2) (a), the notice shall indicate the relevant deadline to file the complaint, if known.
 3. If the complaint or any portion of the complaint was dismissed pursuant to s. ETH 21.03 (2) (b), the notice shall inform the complainant of the governmental agency with jurisdiction over the matter, if known.
 4. If the complaint or any portion of the complaint was dismissed pursuant to s. ETH 21.03 (2) (c), the notice shall specify what additional allegations would be required to satisfy each element of the applicable law, if known.
- (2) If the complaint was not dismissed, send a written notice to the respondent that provides all of the following:
 - (a) A statement that the respondent has 15 calendar days from receipt of the notice to submit a written response demonstrating to the commission that the commission should take no action against the respondent on the basis of the complaint.
 - (b) A notice that an extension of the deadline to file a written response may be granted by the administrator for good cause shown.
 - (c) If any portion of the complaint was dismissed upon preliminary review under s. ETH 21.03 (2), a statement describing which allegations have been dismissed.
 - (d) A copy of the complaint.

SECTION 4. ETH 21.05 is created to read:

ETH 21.05 Response form and contents. A response to a complaint, if any, shall be filed in writing. The response, together with all attachments shall not exceed 10 pages without prior approval of the administrator. A response, if any, shall include all of the following:

- (1) The case number assigned to the case.
- (2) A concise statement of the facts supporting the respondent's response to each alleged violation that differentiates between statements based on personal knowledge and those based on information and belief. Statements not based on personal knowledge shall identify the source of the information.
- (3) Citation to any legal authority which the respondent relies on in support of their response. Citations to cases shall include a public domain cite, if available. Citations shall also include page or paragraph numbers, if appropriate.

- (4) Any relevant documentation supporting the response, if available.
- (5) If a response is filed by an attorney or other authorized person on behalf of the respondent, the attorney or other authorized person shall include a notice of representation that includes the name and address of the attorney or other authorized person.

SECTION 5. ETH 21.06 is created to read:

ETH 21.06 Preliminary requests for information. Before the commission makes a determination of reasonable suspicion, the administrator may request from any person any of the following:

- (1) If the complaint alleges a violation by any local registrant, a copy of the campaign registration statement and any campaign finance reports filed by the local registrant.
- (2) If the complaint alleges a violation of s. 11.1303, Stats., any information or documentation related to the specifications provided in s. ETH 1.96.
- (3) Any public records or other publicly available information.

SECTION 6. ETH 21.07 is created to read:

ETH 21.07 Determination of reasonable suspicion.

- (1) In making its determination as to whether reasonable suspicion of a violation exists, the commission may consider the complaint, the response, information provided upon request under s. ETH 21.06, publicly available information, and the analysis and recommendations of commission staff.
- (2) If the commission finds no reasonable suspicion or fails to find there is reasonable suspicion that a violation has occurred or is occurring, the commission shall dismiss the complaint and the parties shall be notified pursuant to s. ETH 21.10.
- (3) If the commission finds reasonable suspicion that a violation has occurred or is occurring, the commission may do any of the following:
 - (a) Authorize an investigation by resolution. The resolution shall specifically set forth any matter that is authorized to be investigated.
 - (b) Issue a written warning.
 - (c) Extend a settlement offer.

SECTION 7. ETH 21.08 is created to read:

ETH 21.08 Determination of probable cause.

- (1) At the conclusion of its investigation, the commission shall, in preliminary written findings of fact and conclusions based thereon, make a determination of whether or not probable cause exists to believe that a violation has occurred or is occurring.
- (2) In making its determination as to whether probable cause of a violation exists, the commission may consider the complaint, the response, information provided upon request pursuant to s. ETH 21.06, publicly available information, information obtained pursuant to an investigation, and the analysis and recommendations of commission staff.
- (3) If the commission finds that no probable cause exists, it shall dismiss the complaint and the parties shall be notified pursuant to s. ETH 21.10.

(4) If the commission finds that there is probable cause to believe that a violation has occurred or is occurring, the commission may do any of the following:

- (a) Authorize the administrator to file a civil complaint against the alleged violator.
- (b) Issue a written warning.
- (c) Extend a settlement offer.
- (d) Refer the matter to one of the following:
 - 1. To the district attorney for the county in which the alleged violator resides.
 - 2. If the alleged violator is a nonresident, to the district attorney for the county where the matter arises.
 - 3. If the alleged violator is a district attorney, a circuit court judge, or a candidate for either such office, to the attorney general.

SECTION 8. ETH 21.09 is created to read:

ETH 21.09 Exercises of prosecutorial discretion. Pursuant to the authority granted in s. 19.49

(2) (b) 4., Stats., the commission may vote to terminate a complaint or investigation at any time notwithstanding a finding of reasonable suspicion or probable cause that a violation has occurred or is occurring. If a complaint or investigation is terminated, it is deemed to be dismissed by the commission and the parties shall be notified pursuant to s. ETH 21.10.

SECTION 9. ETH 21.10 is created to read:

ETH 21.10 Notification of dismissal. After a determination that either no reasonable suspicion or no probable cause of a violation exists, or where any complaint is deemed to be dismissed by the commission, the administrator shall send a written notice to the complainant and respondent within 5 calendar days.

SECTION 10. ETH 21.30 is repealed and recreated to read:

ETH 21.30 Requests for written advice.

(1) GENERAL PROVISIONS.

- (a) A person may request either a formal or an informal advisory opinion of the commission. An informal opinion may be issued by the administrator and is issued only to the person requesting the opinion. A formal opinion is issued by the commission itself, allows an opportunity for a hearing, and the request and opinion are anonymized and published on the commission's Internet site.
- (b) If a person requests in writing the commission's written advice regarding the propriety of a matter to which the person is or may become a party, the administrator may advise the person in writing.
- (c) 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.
- (d) Written advice prepared by the administrator has the full force and effect of written advice given by the ethics commission.

(2) REQUESTS FOR INFORMAL OPINIONS.

(a) If a person requests an informal opinion, the administrator shall determine if any of the following applies:

1. If the request cannot be answered by existing statute, opinion precedent, or case law, the request shall be considered by the commission at its next regular meeting.

2. If the request can be answered by existing statute, opinion precedent, or case law, the administrator may issue an informal opinion on behalf of the commission. If the administrator issues an informal opinion on behalf of the commission, all of the following applies:

a. Any such opinion shall include a notice to the requestor that the opinion shall be reported to the commission at its next regular meeting pursuant to s. 19.46 (2) (a) 4., Stats. The notice shall advise the requestor that if the commission disagrees with the opinion, the commission may withdraw the opinion, issue a revised opinion, or request an opinion from the attorney general. The notice shall also state that, if the opinion is withdrawn or revised, no person relying upon the withdrawn or revised opinion is exempted from prosecution under s. 19.46 (2) (a) 3., Stats. after withdrawal or revision. If the commission issues a revised opinion, the revised opinion provides exemption from civil or criminal prosecution under s. 19.46 (2) (a) 3., Stats.

b. Any such opinion shall be reported to the commission at its next regular meeting pursuant to s. 19.46 (2) (a) 4., Stats.

(b) The administrator, assistant administrator, or staff counsel may request any additional information from the requestor that is necessary to issue the opinion.

(3) REQUESTS FOR FORMAL OPINIONS.

(a) If a person requests a formal opinion or requests a review or modification of a previously issued formal opinion, the commission shall review the request and may issue a formal opinion.

(b) The administrator, assistant administrator, or staff counsel may request any additional information from the requestor that is necessary to issue the opinion.

(c) Any person requesting a formal opinion may request a public or private hearing before the commission to discuss the opinion pursuant to s. 19.46 (2) (b), Stats. Any such request for a hearing must be received no later than 21 calendar days prior to the requested hearing date. The commission shall grant any such request for a public or private hearing.

(4) VOLUNTARY WAIVER OF CONFIDENTIALITY. In addition to waiver by making an opinion public or purporting to make an opinion public as provided in s. 19.55 (4) (b), Stats., a person who receives an informal or formal opinion may voluntarily waive confidentiality of the request and any records obtained or prepared by the commission in connection with the request for an informal or formal opinion by submitting a statement in writing to the administrator that the person is waiving confidentiality. Any records obtained or prepared by the commission includes the opinion.

SECTION 11. 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.

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1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected											
2. Administrative Rule Chapter, Title and Number ETH 21 – Practice and Procedure											
3. Subject Procedure for requests for advice and complaints.											
4. 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	5. Chapter 20, Stats. Appropriations Affected N/A										
6. Fiscal Effect of Implementing the Rule <table style="width: 100%;"><tr><td><input checked="" type="checkbox"/> No Fiscal Effect</td><td><input type="checkbox"/> Increase Existing Revenues</td><td><input type="checkbox"/> Increase Costs</td></tr><tr><td><input type="checkbox"/> Indeterminate</td><td><input type="checkbox"/> Decrease Existing Revenues</td><td><input type="checkbox"/> Could Absorb Within Agency's Budget</td></tr><tr><td colspan="2"></td><td><input type="checkbox"/> Decrease Cost</td></tr></table>			<input checked="" type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs	<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Could Absorb Within Agency's Budget			<input type="checkbox"/> Decrease Cost
<input checked="" type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs									
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Could Absorb Within Agency's Budget									
		<input type="checkbox"/> Decrease Cost									
7. The Rule Will Impact the Following (Check All That Apply) <table style="width: 100%;"><tr><td><input type="checkbox"/> State's Economy</td><td><input type="checkbox"/> Specific Businesses/Sectors</td></tr><tr><td><input type="checkbox"/> Local Government Units</td><td><input type="checkbox"/> Public Utility Rate Payers</td></tr><tr><td colspan="2"><input type="checkbox"/> Small Businesses (if checked, complete Attachment A)</td></tr></table>			<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)				
<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)											
8. Would Implementation and Compliance Costs Be Greater Than \$20 million? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No											
9. Policy Problem Addressed by the Rule The Commission proposes a rule to clarify the complaint and request for advisory opinion processes of WIS. STAT. §§ 19.46(2) and 19.49. These clarifications should reduce the number of unnecessary investigations and provide better information to the Commission when deciding complaints. This rule will also codify some existing practices regarding the handling of requests for advice that should streamline the process and allow for more transparency.											
10. 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											
11. Identify the local governmental units that participated in the development of this EIA. N/A											
12. 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.											
13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule Promulgating the rule would provide clarity as to the existing complaint and advisory opinion request processes. The proposed rule would also codify existing Commission practices and provide better transparency to the individuals involved. Finally, the proposed rule would likely reduce the number of unnecessary investigations. The alternative would be to not create such a rule, but instead continue to rely on the Commission's established complaint and advisory opinion policies. Such inaction could lead to confusion among the individuals involved in these processes as to the process to be used as well as proper procedure. Lack of a rule may also result in more investigations being authorized, which may be time-consuming for both the persons investigated as well as Commission staff.											
14. Long Range Implications of Implementing the Rule Promulgating the rule would permit the Commission to increase the transparency and efficiency of its complaint and advisory opinion processes.											

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15. Compare With Approaches Being Used by Federal Government

Any person may file a complaint with the Federal Election Commission ("FEC") if that person believes a violation of the federal election campaign laws or FEC regulations has occurred or is about to occur. The FEC reviews every complaint filed. If the FEC finds that a violation occurred, possible outcomes can range from a letter reiterating compliance obligations to a conciliation agreement, which may include a monetary civil penalty. All FEC enforcement matters are kept confidential until they are resolved.

Anyone may request an advisory opinion of the FEC, as long as the requestor is affected by the question he or she presents. A requestor cannot ask for an advisory opinion about someone else's activities, hypothetical situations, or general questions of law. Advisory opinion requests must be in writing. The request must include a complete description of all facts relevant to the specific transaction or activity. Within ten days of receiving the request, the FEC's Office of General Counsel must determine whether it qualifies as a complete advisory opinion request. A request does not qualify as a complete advisory opinion request if it:

- Asks a general question of interpretation.
- Asks about a hypothetical situation.
- Asks about the activities of someone other than the requestor.
- Asks about past activities that the requestor does not plan to continue in the future.
- Does not contain all of the factual information relevant to the activity that is the subject of the request.

If the request does not qualify as an advisory opinion request, the Office of General Counsel notifies the requestor of the specific deficiencies in the request. If the request qualifies as an advisory opinion request, it is assigned an AOR number and made public. The FEC accepts public comment on its pending advisory opinion requests. Before the meeting where the FEC is scheduled to consider an advisory opinion, the FEC will make public any draft answers to the advisory opinion request. Copies of these drafts are emailed to the requestor and made public. Draft advisory opinions are usually considered at FEC meetings, which are open to the public. Requestors or their counsel may appear before the FEC to answer questions at this open meeting. Requestors or their counsel unable to appear physically at a public meeting may participate by telephone, subject to the FEC's technical capabilities. The law generally requires the FEC to issue an advisory opinion within 60 days of receiving a complete advisory opinion request. But if the request is submitted by a federal candidate within 60 days before an election, and the request asks about a specific transaction or activity related to that election, then the FEC must respond within 20 days. In addition, the FEC has an informal practice through which it tries to respond to certain significant, time-sensitive requests within 30 days. The FEC issues an advisory opinion when four or more Commissioners vote to approve the draft advisory opinion before it. These votes almost always occur during an open meeting of the FEC. A requestor has the option to appear before the FEC at the open session where the FEC considers his or her advisory opinion request. A requestor can withdraw an advisory opinion request by submitting a written statement of withdrawal before the FEC votes to approve the advisory opinion. If at least four Commissioners do not vote to approve a draft advisory opinion in response to a request, the FEC's Office of General Counsel will send the requestor a letter stating that the FEC was unable to approve an advisory opinion. This letter is also included in the public record.

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

Illinois

Complaints regarding campaign finance shall be filed in writing [10 ILCS5/9-20(1)]. Minimum requirements for a verified complaint include the name of the candidate or chairman or treasurer of a political committee against whom the complaint is directed [10 ILCS5/9-20(2)], the statutory provisions which are alleged to have been violated [10 ILCS5/9-20(3)], and the time, place, and nature of the alleged offense [10 ILCS5/9-20(4)]. The complaint shall be verified, dated, and signed by the person filing the complaint [10 ILCS5/9-20(4)]. Verified complaints received by the Secretary of State are processed in the following manner: a copy of the complaint is served by the Board of Elections to the complainant and respondent, and a closed preliminary hearing, with reasonable notice, is held to provide an opportunity for the

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complainant and respondent to testify at the hearing, and the Board determines if the complaint appears to have been filed on justifiable grounds [10 ILCS5/9-21]. The Board may dismiss the complaint if the Board fails to determine that the complaint was filed on justifiable grounds [10 ILCS5/9-21]. The parties to the complaint may dispose of the complaint by written stipulation, agreed settlement, or consent order [10 ILCS5/9-21]. The Board shall render its final judgement within 60 days of the date the complaint is filed, except that during the 60 days preceding the date of the election in reference in which the complaint is filed, the Board shall render its final judgement within 7 days of the date the complaint is filed, and during the 7 days preceding such election, the Board shall render such judgement before the date of such election, if possible [10 ILCS5/9-21]. The Board of Elections shall establish and maintain on its official website a searchable database, accessible to the public, of each complaint filed with the Board with respect to which Board action was taken, and the database must be updated within 5 business days after an action is taken or penalty is imposed [10 ILCS5/9-23.5].

Complaints regarding suspected violations of the Illinois Governmental Ethics Act (5 ILCS 420) are authorized under 5 ILCS 420/25-45, 5 ILCS 420/25-50, and the Operational Rules of the Illinois Legislative Ethics Commission R1-1 et. seq. A standard case initiation form is authorized under R17-5 and available to the public on the Illinois Office of the Legislative Inspector General webpage. Complainants shall file complaints with the Office of the Legislative Inspector. Minimum requirements for a complete case initiation form include the name of the employee or officer who is alleged to have committed a violation [R17-10(a)], the identity of the state agency that employs the employee or officer [R17-10(b)], the name, address, and telephone number of the complainant [R17-10(c)], the date and time of the alleged violation [R17-10(d)], a description of the facts and circumstances that surrounded the alleged violation [R17-10(e)], the names of any other person who witnessed or participated in the alleged violation [R17-10(f)], an address to which the completed case initiation form may be mailed [R17-10(g)], a statement of the confidentiality of the identity of the complainant [R17-10(h)], a statement that the Legislative Inspector General's investigatory files and reports are confidential and exempt from disclosure under the Freedom of Information Act [R17-10(i)], a statement that allegations, pleadings, and related documents are exempt from disclosure under the Freedom of Information Act so long as the Commission does not make a finding of a violation [R17-10(j)], a statement that penalties may be imposed for intentionally making a false report alleging a violation [R17-10(k)], and any other information that the Legislative Inspector General reasonably requires [R17-10(l)]. Upon receipt of a completed case initiation form, the Legislative Inspector General shall create an investigation file [R17-15(a)] and commence an investigation with advance notice to the Commission [R17-25]. Only the Legislative Inspector General may bring actions before the Legislative Ethics Commission [5 ILCS 420/25-45(a)]. Cases before the Commission are commenced by the filing of a petition for leave to file a complaint with the Commission [R20-15(a)], with the Legislative Inspector General designated as the petitioner and the person alleged to have violated the act designated as the respondent [R20-15(b)]. Complaints must be filed with the Commission within 18 months after the most recent act of the alleged violation except where there is reasonable cause to believe that fraudulent concealment has occurred [5 ILCS 420/25-50(c)]. A respondent may file objections to the petition within 30 days after notice of the petition has been served on the respondent [5 ILCS 420/25-50(c-10)(e)] [R20-30]. Within 60 days after the time for a respondent to file an objection to the petition has expired, the Commission shall meet to review the sufficiency of the petition [R20-35(a)]. If the petition is sufficient, the Commission shall notify the parties by certified mail and schedule a hearing within 4 weeks after the date of the notice [5 ILCS 420/25-50(f)] [R20-35(b)]. All hearings are closed to the public [5 ILCS 420/25-50(g)] [R20-55(b)]. Within 60 days after the hearing, the Commission shall enter a decision [5 ILCS 420/25-50(h)] [R20-60(a)]. The decision shall include a description of the alleged misconduct, the decision of the Commission, including any fines levied and any recommendations of discipline, and the reasoning for that decision [R20-60(b)]. All decisions shall be sent to the parties, including the Legislative Inspector General, the ultimate jurisdictional authority, the head of the appropriate state agency, and the Attorney General [R20-60(d)]. Within 30 days after the issuance of a final decision that concludes that a violation occurred, the Commission shall make public the entire record of proceedings before the Commission, the decision, any recommendation, any discipline imposed, and the response from the agency head or ultimate jurisdictional authority to

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the Legislative Ethics Commission [5 ILCS 420/25-50(1)].

Iowa

Complaints regarding suspected violations of the Iowa Campaign Disclosure Act (Iowa Code § 68A) and the Iowa Government Ethics and Lobbying Act (Iowa Code § 68B) are authorized under Iowa Code § 68B.32B and Iowa Administrative Code 351-9.1 et seq. A standard complaint form is authorized under Iowa Code § 68B.32B(1) and Iowa Administrative Code 351-9.1(1), and available to the public on the Iowa Ethics and Campaign Disclosure Board webpage. Minimum requirements for a valid complaint include name and address of the complainant, a statement of the facts believed to be true that form the basis of the complaint, including the sources of information and approximate dates of the acts alleged, and a certification by the complainant under penalty of perjury that the facts stated to be true are true to the best of the complainant's knowledge [Iowa Code § 68B.32B(1)]. Submitted complaints received by Board are processed in the following manner. Board staff shall determine if the complaint is sufficient and refer the complaint for legal review [Iowa Code § 68B.32B(2)]. If Board staff determine that the complaint is insufficient, then the complaint is returned to the complainant with a statement of deficiency and description of cure [Iowa Code § 68B.32B(2)]. If legal counsel determines that the complaint contains a legally sufficient allegation, then the complaint is deemed accepted [Iowa Administrative Code 351-9.1(2)]. If legal counsel and the Board determine that the complaint does not contain a legally sufficient allegation, then the complaint is dismissed [Iowa Code § 68B.32B(6)] [Iowa Administrative Code 351-9.1(2)]. Legal sufficiency of a complaint is determined by facts that would establish a violation of a provision of statute or rule [Iowa Code § 68B.32B(4)(a)], facts that would establish that the conduct providing the basis for the complaint occurred within 3 years of the complaint [Iowa Code § 68B.32B(4)(b)], and facts that would establish that the subject of the complaint is a party subject to the jurisdiction of the board [Iowa Code § 68B.32B(4)(c)]. The Board provides a copy of the accepted complaint to the respondent within 3 working days of the acceptance determination [Iowa Code § 68B.32B(3)]. Legally sufficient complaints are referred to Board staff for investigation of probable cause [Iowa Code § 68B.32B(6)] [Iowa Administrative Code 351-9.2(1)]. Complete investigations with probable cause determination are reported to the Board for action [Iowa Code § 68B.32B(8)] [Iowa Administrative Code 351-9.2(4)]. The Board may redirect the matter for further investigation [Iowa Administrative Code 351-9.2(5)(a)], dismiss the matter for lack of probable cause to believe a violation has occurred [Iowa Administrative Code 351-9.2(5)(b)], dismiss the matter without determination regarding probable cause as an exercise of administrative discretion [Iowa Administrative Code 351-9.2(5)(c)], make a determination that probable cause exists to believe a violation has occurred and direct administrative resolution of the matter [Iowa Administrative Code 351-9.2(5)(d)], or make a determination that probable cause exists to believe a violation has occurred and direct the issuance of a statement of charges to initiate a contested case proceeding [Iowa Administrative Code 351-9.2(5)(e)]. If the Board determines that probable cause exists to believe that a violation of any statute or rule under its jurisdiction has occurred, except for a late-filed disclosure report, the Board may order administrative resolution of the violation by imposing a civil penalty not to exceed \$500 [Iowa Administrative Code 351-9.4(7)]. At any stage during the investigation or after the initiation of a contested case proceeding, the Board may approve a settlement regarding an alleged violation [Iowa Administrative Code 351-9.2(10)]. The entire record of any contested case proceeding initiated by the Board shall be a public record [Iowa Code § 68B.32B(11)].

Michigan

Complaints regarding suspected violations of the Michigan Campaign Finance Act (Act 388 of 1976) are authorized under MCL § 169.215 Section 15 and the Michigan Department of State Elections Division Campaign Financing Administrative Rules R169.51, R169.52, R169.53, R169.54, R169.55, and R169.56. A standard complaint form is authorized under MCL § 169.215 Section 15(7) and available to the public on the Elections Division Campaign Finance webpage. Complainants may file typewritten or handwritten complaints [R169.52(1)] with the Secretary of State in person or by mail [R169.51]. Minimum requirements for a valid complaint include the complainant's signature [MCL §

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169.215 Section 15(6)(a)], the complainant's name, address, and telephone number [MCL § 169.215 Section 15(6)(b)], the complainant's certification that any factual contention is or is not supported by evidence [MCL § 169.215 Section 15(6)(c)], the name and address of the alleged violator, a description in reasonable detail of the alleged violation, and an identification of all available evidentiary material [R169.52(2)]. Complainants who file a complaint with a false certification are responsible for a civil violation [MCL § 169.215 Section 15(8)] and may incur penalties that include payment to the Secretary of State some or all of the expenses incurred as a result of the complaint filing [MCL § 169.215 Section 15(16)(a)] or payment to the respondent some or all of the expenses, including reasonable attorney fees, incurred as a result of the complaint filing [MCL § 169.215 Section 15(16)(b)]. Incomplete, illegible, indefinite, or unsigned complaints may be summarily dismissed, and the complainant notified of dismissal in writing as to the reason for dismissal [R169.53]. Valid complaints received by the Secretary of State are processed in the following manner. Respondents are given notice of the complaint, including a copy of the complaint, within 5 business days. Respondents are given 15 business days to submit a response to the complaint, with an additional 15 business days extension granted for good cause. Complainants are provided the respondent's complaint response and provided 10 business days from the date of response mailing to submit a rebuttal statement, with an additional 10 business days extension granted for good cause. Respondents are provided with the complainant's rebuttal statement [MCL § 169.215 Section 15(5)]. The Secretary of State is obliged to communicate to a respondent that a complaint has been made alleging possible violation of the act or rules [R169.54(a)], the specifics of the alleged violation [R169.54(b)], the identity of the complainant [R169.54(c)], and the provision of rules relative to complaints and investigations [R169.54(d)]. No later than 45 business days following receipt of a rebuttal statement, or if no rebuttal statement is received, the Secretary of State shall post on the Secretary's website whether there may be reason to believe that a violation of the act or rule occurred [MCL § 169.215 Section 15(10)]. The Secretary of State may conduct a preliminary review of an alleged violation to determine if there may be reason to believe that a violation of the act or rule has occurred [R169.55(1)]. The Secretary of State may commence, with notice given, a hearing to determine whether a violation of the act or rule has occurred [MCL § 169.215 Section 15(10)] [R169.55(3)(a)], attempt to correct the violation by conference, conciliation, or persuasion [MCL § 169.215 Section 15(10)] [R169.55(3)(b)] [R169.56(2)], or dismiss the allegation with notice given to complainant and respondent [R169.55(2)] [R169.56(1)]. If a conciliation agreement is signed, the Secretary of State is obliged to post the agreement on the Secretary's website within 30 days [MCL § 169.215 Section 15(10)]. Within 30 days of determination that a violation of the act or rule has occurred, the Secretary of State shall post on the Secretary's website any complaint, response, rebuttal statement, and any correspondence between the Secretary of State and the complainant or respondent [MCL § 169.215 Section 15(10)]. If the Secretary of State determines that a violation of the act or rule has occurred, the respondent may be assessed a civil fine not more than triple the amount of the improper contribution or expenditure plus not more than \$1,000.00 for each violation [MCL § 169.215 Section 15(11)]. The Secretary of State may refer the matter to the attorney general for enforcement of a criminal penalty [MCL § 169.215 Section 15(13)] [R169.56(3)].

Complaints regarding suspected violations of the Michigan Standards of Conduct for Public Officers and Employees Act (Act 196 of 1973) are authorized under MCL § 15.345 Section 5 and the Michigan State Board of Ethics Administrative Rules R15.1, R15.1a, R15.2, R15.3, R15.4, R15.5, R15.6, R15.7, R15.8, R15.9, R15.10. A standard complaint form is authorized under MCL § 15.346 Section 6, R15.1a, and R15.5 and available to the public on the State Board of Ethics webpage. Complainants shall file complaints in writing [R15.5(2)(a)] with the Executive Secretary at the Board of Ethics office [R15.5(2)(f)]. Minimum requirements for a valid complaint include the specification of one or more standards of prohibited conduct outlined in section 2 of the Act [MCL § 15.342 Section 2], include evidentiary facts supporting the complaint allegations [R15.5(2)(c)], contain a statement that the complainant or designee has read the complaint and believes the alleged violations to be true [R15.5(2)(d)], and contain the signature of the complainant or designee before a notary [R15.5(2)(e)]. Complaints may be dismissed if the Board of Ethics lacks jurisdiction over the person subject to the complaint [R15.5(11)(a)], if the Board lacks jurisdiction over the subject matter [R15.5(11)(b)], if the complainant lacks the legal capacity to file the complaint [R15.5(11)(c)], if the complainant is barred because of release, prior judgement, or other disposition of the claim before the complaint was filed [R15.5(11)(d)], if the complaint on its face

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fails to state a claim of unethical conduct [R15.5(11)(e)], if one or more complaints regarding the same matter are pending [R15.5(4)(a)], or if the Board previously addressed the subject matter [R15.5(4)(b)]. Valid complaints received by the Board of Ethics are processed in the following manner. Respondents are promptly served a copy of the complaint [R15.5(5)]. Respondents are given 21 calendar days to file an answer to the complaint with the Executive Secretary, with additional time granted for good cause [R15.5(6)]. A copy of the respondent's answer is served to the complainant [R15.5(6)]. Complainants and respondents are given 21 calendar days before the date of the Board meeting scheduled to address the complaint to file any additional written information [R15.5(8)]. Opposing parties are given 14 days before the date of the Board meeting to file responses to the additional written material [R15.5(8)]. Upon expiration of the time provided for all submissions, the Board is presented with all materials for its consideration [R15.5(9)]. The Board may schedule a hearing [R15.5(13)] [R15.8] and the complainant and respondent shall have an opportunity to address the Board to address the complaint [R15.5(10)]. The complainant and respondent have the right to be represented at the hearing by legal counsel [R15.5(10)]. The Board shall issue a complaint decision and transmit copies of the decision to the complainant, respondent, and other persons as the Board directs [R15.5(14)]. The Board shall publish its decisions and opinions, including dissents, and make them available for the public at its office, on its website, and in the appropriate state agencies [R15.5(19)(1)].

Advisory opinions relating to matters affecting the ethical conduct of a public officer or employee are authorized under MCL § 15.345 Section 5(1)(e) and R15.6. Requests for advisory opinion must be made in writing and filed at the Board of Ethics office with the Executive Secretary [R15.6(1)]. The Board may dismiss a request for an advisory opinion if one or more requests regarding the same matter are pending [R15.6(3)(a)] or if the Board previously addressed the subject matter [R15.6(3)(b)]. The Board shall schedule a meeting to address the advisory opinion and shall afford the person requesting the opinion or the person subject to the request to speak at the meeting [R15.6(5)]. The Board may schedule a hearing to resolve the request for advisory opinion [R15.6(8)] or may issue an opinion without a hearing [R15.6(7)]. The Board may issue an advisory opinion decision if the Board lacks the jurisdiction over the person subject to the advisory opinion [R15.6(6)(a)], the Board lacks jurisdiction over the subject matter [R15.6(6)(b)], the person asserting the claim lacks the legal capacity to file the request for an advisory opinion [R15.6(6)(c)], the request for advisory opinion is barred because of release, prior judgement, or other disposition of the claim [R15.6(6)(d)], or if the request for advisory opinion on its face fails to delineate any unethical conduct [R15.6(6)(e)]. The Executive Secretary shall transmit copies of the Board's order to the party filing the request, the person subject to the request, and other persons as the board directs [R15.6(9)].

Minnesota

Complaints regarding suspected violations of the Minnesota Campaign Finance and Public Disclosure law (Minnesota Statute § 10A) and Minnesota Fair Campaign Practices law (Minnesota Statute § 211B) are authorized under Minnesota Statute § 10A.022(3), Minnesota Statute § 211B.32(1), and Minnesota Campaign Finance and Public Disclosure Board Administrative Rule R4525.0200. A standard complaint form is authorized under R4525.0200(2) and available to the public on the Minnesota Campaign Finance and Public Disclosure Board webpage. Complaints must be submitted in writing [R4525.0200(2)] to the Board [R4525.0200(1)]. Complaints regarding a violation of Minnesota Fair Campaign Practices law must be filed within one year after the occurrence of the act or failure to act unless the act or failure to act involves fraud, concealment, or misrepresentation that could not be discovered during the one-year period [Minnesota Statute § 211B.32(2)]. Minimum requirements for a complete complaint include the name and address of the person making the complaint, the name and address of the alleged violator, a description of the complainant's knowledge of the violation, any evidentiary material supporting the complaint, and the signature of the complainant or an individual authorized to act on behalf of the complainant [R4525.0200(2)]. Complaints alleging a violation of Minnesota Statute § 211B.32 must be made under oath [Minnesota Statute § 211B.32(3)]. Complaints alleging a violation of Minnesota Statute § 211B.32 must be accompanied by a \$50 filing fee [Minnesota Statute § 211B.32(5)] which may be refunded to

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a complainant who prevails on the merits of the complaint [Minnesota Statute § 211B.32(5)(c)]. Valid complaints received by the Board are processed in the following manner. Upon receipt of a written complaint, the Board promptly makes a determination whether the complaint alleges a prima facie violation [Minnesota Statute § 10A.022(3)(3)(c)] [Minnesota Statute § 211B.33(2)]. A complaint is dismissed if it does not allege a prima facie violation and the complainant is notified and given opportunity to cure [Minnesota Statute § 10A.022(3)(3)(c)]. The Board determines within 45 days whether probable cause exists to believe the alleged prima facie violation warrants a formal investigation [Minnesota Statute § 10A.022(3)(3)(d)]. The respondent is given an opportunity to answer the complaint allegations and appear, with sufficient notice [Minnesota Statute § 10A.022(3)(3)(4)], before the Board to address the complaint [Minnesota Statute § 10A.022(3)(3)(e)][R4525.0200(6)]. Complaints under staff review may result in a determination of no violation [Minnesota Statute § 10A.022(3)(3)(3b)] or resolved by conciliation agreement [Minnesota Statute § 10A.022(3)(3)(3a)]. Complaints not dismissed or resolved by conciliation agreement are submitted to the Board for final determination [Minnesota Statute § 10A.022(3)(3)(3d)]. The Board's final determination must be issued at the conclusion of the investigation or within 60 days after the probable cause determination if the complaint alleges a violation of Minnesota Statute § 10A.25 or Minnesota Statute § 10A.27 [Minnesota Statute § 10A.022(3)(3)(e)]. Complaints alleging a violation of Minnesota Statute § 211B.33 may require an expedited probable cause hearing if the complaint was filed within 60 days before the primary or special election or within 90 days before the general election to which the complaint relates [Minnesota Statute § 211B.33(2)(b)]. A hearing before the Board or action concerning a complaint or investigation other than findings, conclusions, and orders or a conciliation agreement is confidential [Minnesota Statute § 10A.022(5)] [R.425.0200(5)]. Complaint matters before the Board may result in a criminal offense and may be prosecuted by a city or county attorney [Minnesota Statute § 10A.022(7)].

Advisory opinions may be requested from the Minnesota Campaign Finance and Public Disclosure Board by or on behalf of an individual or association who wish to use the opinion to guide the individual's or the association's own conduct. Requests for an advisory opinion must be made in writing and must be received at least 3 weeks before a Board meeting. Unless the requester consents to the publication of the requester's identity, the request and the opinion are non-public data.

17. Contact Name David P. Buerger	18. Contact Phone Number (608) 267-0951
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This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- ☐ Less Stringent Compliance or Reporting Requirements
☐ Less Stringent Schedules or Deadlines for Compliance or Reporting
☐ Consolidation or Simplification of Reporting Requirements
☐ Establishment of performance standards in lieu of Design or Operational Standards
☐ Exemption of Small Businesses from some or all requirements
☐ Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

☐ Yes ☐ No

Notice of Hearing

The Wisconsin Ethics Commission proposes a rule to repeal and recreate ETH 21.30; and to create ETH 21.02, 21.03, 21.04, 21.05, 21.06, 21.07, 21.08, 21.09, and 21.10, relating to the processes for complaints and requests for advice.

Hearing Information

Date: August 30, 2022

Time: 9:00 A.M.

Location: 101 East Wilson Street, St. Croix Room, Madison, WI 53703

Appearances at the Hearing and Submittal of Written Comments

The proposed rule may be reviewed 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 7125, Madison, WI 53707-7125, or by email to eth.rulecomments@wi.gov. Written comments must be received no later than August 29, 2022 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 June 15, 2022, the Ethics Commission submitted a proposed rule to the Wisconsin Legislative Council Clearinghouse pursuant to s. 227.15 (1), Wis. Stats.

Analysis

The proposed rule would clarify and further establish the procedures to be followed to submit a complaint to the Wisconsin Ethics Commission under s. 19.49 (2) (b), Stats. It would also clarify the procedures to be followed to request either a formal or informal opinion of the Commission pursuant to s. 19.46 (2), Stats.

Statement of Scope

The scope statement for this rule, SS# 041-20, was approved by the Governor on May 7, 2020, published in Register No. 773A4, on June 22, 2020. A preliminary public comment period and hearing was noticed and held as directed on August 18, 2020, and the scope statement was approved by the Ethics Commission after the preliminary public hearing on the scope statement on August 18, 2020.

Agency Procedure for Promulgation

A public hearing is required and will be held on August 30, 2022.

Agency Organizational Unit Primarily Responsible for Promulgating Rule

Ethics Commission

Agency Contact Person

David P. Buerger
P.O. Box 7125
Madison, WI 53707-7125
David.Buerger@wisconsin.gov
(608) 267-0951

Chapter ETH 26

SETTLEMENT OFFER SCHEDULE

ETH 26.01 Definitions.
ETH 26.02 Settlement of campaign finance violations.

ETH 26.03 Settlement of lobbying violations.
ETH 26.04 Settlement of ethics violations.

ETH 26.01 Definitions. In this chapter:

(1) “15 day report” means the report referred to in s. 13.67, Stats.

(1m) “Business day” means any day Monday to Friday, excluding Wisconsin legal holidays as defined in s. 995.20, Stats.

(2) “Commission” means the Wisconsin Ethics Commission.

(3) “Continuing report” includes the campaign finance reports due in January and July referred to in ss. 11.0204 (2) (c), (3) (b), (4) (c) and (d), (5) (b) and (c), and (6) (a) and (b), 11.0304 (2) (c), (3) (b), (4) (c) and (d), and (5) (b) and (c), 11.0404 (2) (c) and (d) and (3) (b) and (c), 11.0504 (2) (c), (3) (b), (4) (c) and (d), and (5) (b) and (c), 11.0604 (2) (c), (3) (b), (4) (c) and (d), and (5) (b) and (c), 11.0704 (2), (3) (a), (4) (a) and (b), and (5) (a) and (b), 11.0804 (2) (c), (3) (b), (4) (c) and (d), and (5) (b) and (c), and 11.0904 (2) (c), (3) (b), (4) (c) and (d), and (5) (b) and (c), Stats.

(4) “Contribution” has the meaning given in s. 11.0101 (8), Stats.

(5) “Contributor” means a person or committee who makes a contribution.

(6) “Contributor information” includes the information required by ss. 11.0204 (1) (a) 1. and 3., 11.0304 (1) (a) 1. and 3., 11.0404 (1) (a) 1. and 3., 11.0504 (1) (a) 1. and 3., 11.0604 (1) (a) 1. and 3., 11.0704 (1) (a) 1. and 2., 11.0804 (1) (a) 1. and 2., and 11.0904 (1) (a) 1. and 3., Stats.

(7) “Disbursement” has the meaning given in s. 11.0101 (10), Stats.

(8) “Disbursement information” includes the information required by ss. 11.0204 (1) (a) 8., 11.0304 (1) (a) 8., 11.0404 (1) (a) 8., 11.0504 (1) (a) 8., 11.0604 (1) (a) 8., 11.0804 (1) (a) 7., and 11.0904 (1) (a) 8., Stats., regarding disbursements greater than \$20.

(9) “Excess contribution” means a contribution that exceeds any of the limits set in ss. 11.1101, 11.1104, 11.1107, and 11.1108, Stats.

(10) “Filing fee” means the fee required by s. 11.0102 (2), Stats.

(11) “Late contribution” means a contribution or contributions of \$1,000 or more cumulatively from a single contributor made later than 15 days prior to a primary or election as described in ss. 11.0204 (7), 11.0304 (7), and 11.0404 (4), Stats.

(12) “Late contribution report” includes the campaign finance reports referred to in ss. 11.0204 (7), 11.0304 (7), and 11.0404 (4), Stats., that are due no later than 72 hours after receiving a late contribution if the late contribution was not previously included in the registrant’s preprimary or preelection report.

(12m) “Lobbying communication” has the meaning given in s. 13.62 (10g), Stats.

(13) “Lobbyist” has the meaning given in s. 13.62 (11), Stats.

(14) “Post-election campaign finance report” includes the campaign finance reports referred to in ss. 11.0204 (3) (c) and (5) (d), 11.0304 (3) (c) and (5) (d), 11.0404 (3) (d), 11.0504 (3) (c) and (5) (d), 11.0604 (3) (c) and (5) (d), and 11.0704 (3) (b) and (5) (c), Stats., that are due no earlier than 23 days and no later than 45 days after a special election.

(15) “Preelection campaign finance report” includes the campaign finance reports referred to in ss. 11.0204 (2) (b), (3) (a), (4) (b), and (5) (a), 11.0304 (2) (b), (3) (a), (4) (b), and (5) (a), 11.0404 (2) (b) and (3) (a), 11.0504 (2) (b), (3) (a), (4) (b), and (5) (a), 11.0604 (2) (b), (3) (a), (4) (b), and (5) (a), 11.0804 (2) (b), (3) (a), (4) (b), and (5) (a), and 11.0904 (2) (b), (3) (a), (4) (b), and (5) (a), Stats., that are due no earlier than 14 days and no later than 8 days before an election.

(16) “Preprimary campaign finance report” includes the campaign finance reports referred to in ss. 11.0204 (2) (a) and (4) (a), 11.0304 (2) (a) and (4) (a), 11.0404 (2) (a), 11.0504 (2) (a) and (4) (a), 11.0604 (2) (a) and (4) (a), 11.0804 (2) (a) and (4) (a), and 11.0904 (2) (a) and (4) (a), Stats., that are due no earlier than 14 days and no later than 8 days before a primary.

(17) “Principal” has the meaning given in s. 13.62 (12), Stats.

(18) “Prior offense” means a previous violation of the same provision within the past 3 years.

(19) “Registrant” means an individual or organization registered with the ethics commission.

(20) “September report” includes the campaign finance reports due in September referred to in ss. 11.0204 (4) (d), (5) (c), and (6) (b), 11.0304 (4) (d) and (5) (c), 11.0404 (2) (d) and (3) (c), 11.0504 (4) (d) and (5) (c), 11.0604 (4) (d) and (5) (c), 11.0704 (4) (b) and (5) (b), 11.0804 (4) (d) and (5) (c), and 11.0904 (4) (d) and (5) (c), Stats.

(21) “Specific express advocacy report” includes the campaign finance reports referred to in ss. 11.0505, 11.0605, and 11.1001, Stats., that are due no later than 72 hours after making a disbursement on express advocacy during the period beginning on the day that is 60 days prior to the day of the primary or election and ending on the day of the primary or election.

(22) “Statement of economic interests” means a statement of economic interests that an individual is required to file under s. 19.43, Stats.

(23) “Statement of lobbying activity and expenditures” means the statement referred to in s. 13.68, Stats.

History: CR 17-035: cr., Register January 2018 No. 745 eff. 2-1-18; correction in (3), (6), (14), (15), (16), (20), made under s. 35.17, Stats., Register January 2018 No. 745; CR 20-019: cr. (1m), (12m) Register June 2021 No. 786, eff. 7-1-21.

ETH 26.02 Settlement of campaign finance violations. (1) FAILURE TO TIMELY FILE A CONTINUING REPORT OR SEPTEMBER REPORT. (a) If the commission receives a continuing or September report within 30 calendar days after the due date for that report, the commission may issue a written warning to the registrant.

(b) If the commission receives a continuing or September report within 31 to 60 calendar days after the due date for that report, the commission may extend a settlement offer to the registrant as follows:

1. If the registrant has committed no prior offenses, a settlement offer of \$100 may be extended.

2. If the registrant has committed a prior offense, a settlement offer of \$200 may be extended.

(c) If the commission receives a continuing or September report within 61 to 90 calendar days after the due date for that

report, the commission may extend a settlement offer to the registrant as follows:

1. If the registrant has committed no prior offenses, a settlement offer of \$200 may be extended.

2. If the registrant has committed a prior offense, a settlement offer of \$300 may be extended.

(d) If the commission receives a continuing or September report within 91 to 120 calendar days after the due date for that report, the commission may extend a settlement offer to the registrant as follows:

1. If the registrant has committed no prior offenses, a settlement offer of \$300 may be extended.

2. If the registrant has committed a prior offense, a settlement offer of \$400 may be extended.

(e) If the commission receives a continuing or September report more than 120 calendar days after the due date for that report, the commission may extend a settlement offer of \$500.

(2) FAILURE TO TIMELY FILE A PREPRIMARY, PREELECTION, OR POST-ELECTION REPORT. (a) If the commission receives a preprimary, preelection, or post-election report one calendar day after the due date for that report, the commission may extend a settlement offer of \$100.

(b) If the commission receives a preprimary, preelection, or post-election report 2 calendar days after the due date for that report, the commission may extend a settlement offer of \$150.

(c) If the commission receives a preprimary, preelection, or post-election report 3 calendar days after the due date for that report, the commission may extend a settlement offer of \$200.

(d) If the commission receives a preprimary, preelection, or post-election report 4 calendar days after the due date for that report, the commission may extend a settlement offer of \$250.

(e) If the commission receives a preprimary, preelection, or post-election report 5 calendar days after the due date for that report, the commission may extend a settlement offer of \$300.

(f) If the commission receives a preprimary, preelection, or post-election report 6 calendar days after the due date for that report, the commission may extend a settlement offer of \$350.

(g) If the commission receives a preprimary, preelection, or post-election report 7 calendar days after the due date for that report, the commission may extend a settlement offer of \$400.

(h) If the commission receives a preprimary, preelection, or post-election report 8 calendar days after the due date for that report, the commission may extend a settlement offer of \$450.

(i) If the commission receives a preprimary, preelection, or post-election report 9 or more calendar days after the due date for that report, the commission may extend a settlement offer of \$500.

(3) FAILURE TO TIMELY PAY A FILING FEE. (a) If the commission receives a filing fee within one to 15 calendar days after the due date, the commission may issue a written warning to the registrant.

(b) If the commission receives a filing fee within 16 to 45 calendar days after the due date, the commission may extend a settlement offer of \$300.

(c) If the commission receives a filing fee within 46 to 90 calendar days after the due date, the commission may extend a settlement offer of \$500.

(d) If the commission receives a filing fee more than 90 calendar days after the due date, the commission may extend a settlement offer of \$800.

(4) FAILURE TO TIMELY FILE A LATE CONTRIBUTION REPORT. If a registrant fails to timely file a late contribution report, the commission may extend a settlement offer of 5 percent of the total amount of the late contribution.

(5) FAILURE TO TIMELY FILE A SPECIFIC EXPRESS ADVOCACY REPORT. If a person fails to timely file a specific express advocacy

report, the commission may extend a settlement offer of 5 percent of the disbursement not timely reported.

(6) FAILURE TO PROVIDE CONTRIBUTOR INFORMATION. (a) If contributor information is not included on a campaign finance report, but is received within 30 calendar days after notification from the commission, the commission may issue a written warning to the registrant.

(b) If contributor information is not included on a campaign finance report, but is received more than 30 calendar days after notification from the commission, the commission may extend a settlement offer of \$100 plus 10 percent of the total amount of contributions with incomplete contributor information.

(7) FAILURE TO PROVIDE DISBURSEMENT INFORMATION. (a) If disbursement information is not included on a campaign finance report, but is received within 30 calendar days after notification from the commission, the commission may issue a written warning to the registrant.

(b) If disbursement information is not included on a campaign finance report, but is received more than 30 calendar days after notification from the commission, the commission may extend a settlement offer of \$100 plus 10 percent of the total amount of disbursements with incomplete disbursement information.

(8) CASH BALANCE DISCREPANCIES. If a registrant's cash balance at the beginning of a reporting period does not match the registrant's cash balance reported at the end of the prior reporting period; or the reported beginning balance of a report, plus all receipts, minus all expenditures, does not equal the reported ending balance of that report; and the cash balance is corrected:

(a) Within 30 calendar days after notification from the commission, the commission may issue a written warning to the registrant.

(b) More than 30 calendar days after notification from the commission, the commission may extend a settlement offer of \$100 plus 10 percent of the cash balance discrepancy.

(9) EXCEEDING CONTRIBUTION LIMITS. If a registrant receives an excess contribution, the commission may extend a settlement offer in the amount by which the contribution exceeded the applicable limit.

(10) PROHIBITED CORPORATE, UNION, ASSOCIATION, OR TRIBAL CONTRIBUTIONS. (a) If a registrant receives a contribution contrary to s. 11.1112, Stats., the commission may extend a settlement offer in the amount of 1.5 times the amount of the contribution, up to a maximum of \$500, plus surrendering the amount of the unlawful contribution.

(b) If a person makes a contribution contrary to s. 11.1112, Stats., the commission may extend a settlement offer in the amount of 1.5 times the amount of the contribution.

(11) PROHIBITED LOBBYIST CONTRIBUTIONS.

(a) If a candidate committee receives a contribution in violation of s. 13.625, Stats., the commission may extend a settlement offer requiring the return of the contribution to the lobbyist.

(b) If a lobbyist makes a contribution in violation of s. 13.625, Stats., the commission may extend a settlement offer in the amount of 1.5 times the amount of the contribution, up to a maximum of \$1,000.

(12) AGGRAVATING OR MITIGATING CIRCUMSTANCES. Notwithstanding the settlement offer amounts specified in this section, the commission may consider aggravating or mitigating circumstances in determining the terms of any settlement offer that may be extended.

History: CR 17-035: cr., Register January 2018 No. 745 eff. 2-1-18; CR 20-019: am. (1) (a), (b) (intro.), (c) (intro.), (d) (intro.), (e), (2) (a) to (i), (3) (a) to (d), (6), (7), (8) (a), (b) Register June 2021 No. 786, eff. 7-1-21.

ETH 26.03 Settlement of lobbying violations.

(1) FAILURE TO TIMELY FILE A STATEMENT OF LOBBYING ACTIVITY AND EXPENDITURES. (a) If the commission receives a statement of

lobbying activity and expenditures within 2 business days after the due date for that report:

1. If the principal has committed no prior offenses, no penalty may be imposed.

2. If the principal has committed a prior offense, the commission may issue a written warning to the principal.

(b) If the commission receives a statement of lobbying activity and expenditures within 3 to 5 business days after the due date for that report:

1. If the principal has committed no prior offenses, the commission may issue a written warning to the principal.

2. If the principal has committed a prior offense, the commission may extend a settlement offer of \$50.

(c) If the commission receives a statement of lobbying activity and expenditures within 6 to 15 business days after the due date for that report:

1. If the principal has committed no prior offenses, the commission may issue a written warning to the principal.

2. If the principal has committed a prior offense, the commission may extend a settlement offer of \$100.

(d) If the commission receives a statement of lobbying activity and expenditures within 16 to 29 business days after the due date for that report:

1. If the principal has committed no prior offenses, the commission may extend a settlement offer of \$50.

2. If the principal has committed a prior offense, the commission may extend a settlement offer of \$250.

(e) If the commission receives a statement of lobbying activity and expenditures 30 business days or more after the due date for that report:

1. If the principal has committed no prior offenses, the commission may extend a settlement offer of \$100.

2. If the principal has committed a prior offense, the commission may extend a settlement offer of \$500.

(2) **FAILURE TO TIMELY FILE A 15 DAY REPORT.** (a) If the commission does not timely receive a 15 day report and the principal has no prior offenses:

1. If the unreported interest is less than 10 percent of the principal's total effort, the commission may issue a written warning to the principal.

2. If the unreported interest is 10 percent or more of the principal's total effort, the commission may extend a settlement offer of \$25 per late reported interest.

(b) If the commission does not timely receive a 15 day report and the principal has one prior offense:

1. If the unreported interest is less than 10 percent of the principal's total effort, the commission may extend a settlement offer of \$50 per late reported interest.

2. If the unreported interest is 10 percent or more of the principal's total effort, the commission may extend a settlement offer of \$100 per late reported interest.

(c) If the commission does not timely receive a 15 day report and the principal has 2 or more prior offenses, the commission may extend a settlement offer of \$100 per late reported interest.

(3a) **UNAUTHORIZED LOBBYING.** If a lobbyist makes a lobbying communication on behalf of a lobbying principal prior to authorization as required by s. 13.65, Stats.:

(a) If the lobbyist has committed no prior offenses, the commission may extend a settlement offer of \$100 per unauthorized lobbying communication that occurred that reporting period on behalf of the principal, up to an aggregate total maximum of \$1,000 per principal per session.

(b) If the lobbyist has committed a prior offense, the commission may extend a settlement offer of \$200 per unauthorized lobbying communication that occurred that reporting period on

behalf of the principal, up to an aggregate total maximum of \$1,000 per principal per session.

(c) If the principal has committed no prior offenses, the commission may extend a settlement offer of \$200 per unauthorized lobbying communication that occurred that reporting period on behalf of the principal, up to an aggregate total maximum of \$2,000 per lobbyist per session.

(d) If the principal has committed a prior offense, the commission may extend a settlement offer of \$400 per unauthorized lobbying communication that occurred that reporting period on behalf of the principal, up to an aggregate total maximum of \$2,000 per lobbyist per session.

(4) **FAILURE TO TIMELY PAY LOBBYING FEES.** (a) *Lobbyist license fees.* 1. If the commission receives a lobbyist license fee within one to 30 calendar days after notification from the commission that fees are outstanding, the commission may issue a written warning to the lobbyist.

2. If the commission receives a lobbyist license fee within 31 to 45 calendar days after notification from the commission that fees are outstanding, the commission may extend a settlement offer of \$100.

3. If the commission receives a lobbyist license fee within 46 to 60 calendar days after notification from the commission that fees are outstanding, the commission may extend a settlement offer of \$200.

4. If the commission receives a lobbyist license fee more than 60 calendar days after notification from the commission that fees are outstanding, the commission may extend a settlement offer of \$300.

(b) *Lobbying principal registration fees or lobbying principal authorization fees.* 1. If the commission receives a lobbying principal registration fee or lobbying principal authorization fee within one to 30 calendar days after notification from the commission that fees are outstanding, the commission may issue a written warning to the principal.

2. If the commission receives a lobbying principal registration fee or lobbying principal authorization fee within 31 to 45 calendar days after notification from the commission that fees are outstanding, the commission may extend a settlement offer of \$200.

3. If the commission receives a lobbying principal registration fee or lobbying principal authorization fee within 46 to 60 calendar days after notification from the commission that fees are outstanding, the commission may extend a settlement offer of \$400.

4. If the commission receives a lobbying principal registration fee or lobbying principal authorization fee more than 60 calendar days after notification from the commission that fees are outstanding, the commission may extend a settlement offer of \$600.

(5) **AGGRAVATING OR MITIGATING CIRCUMSTANCES.** Notwithstanding the settlement terms provided in this section, the commission may consider aggravating or mitigating circumstances in determining the terms of any settlement offer that may be extended.

History: CR 17-035; cr., Register January 2018 No. 745 eff. 2-1-18; CR 20-019; am. (1) (b) (intro.), (c) (intro.), (d) (intro.), (e) (intro.), renum. (3) to (5), cr. (3a), (4) Register June 2021 No. 786, eff. 7-1-21.

ETH 26.04 Settlement of ethics violations. (1) FAILURE TO TIMELY FILE A STATEMENT OF ECONOMIC INTERESTS. (a) If the commission receives a statement of economic interests within 15 calendar days after the due date for the statement of economic interests, the commission may issue a written warning to the individual.

(b) If the commission receives a statement of economic interests 16 or more calendar days after the due date for the statement of economic interests, the commission may extend a settlement

offer of \$100, plus \$100 for every additional 15 calendar days after the 16th calendar day following the due date.

(2) AGGRAVATING OR MITIGATING CIRCUMSTANCES. Notwithstanding the settlement terms provided in this section, the commission may consider aggravating or mitigating circumstances in determining the terms of any settlement offer that may be extended.

History: CR 17-035: cr., Register January 2018 No. 745 eff. 2-1-18; CR 20-019: am. (1) Register June 2021 No. 786, eff. 7-1-21.

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

Rule No.: ETH Ch. 26

Relating to: Ethics Commission Settlement Schedule

Rule Type: Permanent

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

The Commission proposes a rule to amend Wis. Admin. Code ETH 26 to further its compliance with the requirement of Wis. Stat. § 19.49(2)(b)10. This statute requires the Commission to prescribe, by rule, categories of civil offenses which the Commission will agree to compromise and settle without a formal investigation upon payment of specified amounts by the alleged offender. The Commission may only settle alleged offenses, which in the opinion of the Commission, constitute a minor violation, a violation caused by excusable neglect, or which for other good cause shown is not in the public interest to prosecute. The Commission proposes to amend its existing settlement schedules for late reports to reduce the amounts sought by 50% if there was no activity during the applicable reporting period or where the committee has requested termination. The Commission also proposes to amend its existing settlement schedule for late reports to include treat a late September report similarly to a late pre-primary or pre-election report. Finally, the Commission proposes to create new settlement schedules for late post-election reports and violations of the attribution requirement.

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:

Reductions for Committees with No-Activity or Committees Requesting Termination

Currently, the standard settlement schedule provides that notwithstanding the settlement offer amounts specified, the Commission may consider aggravating or mitigating circumstances in determining the terms of any settlement offer. Two of the most common mitigating factors are that the committee had no activity during the reporting period or is requesting termination.

If a committee has no activity during the reporting period, the lack of timely disclosure presents much less harm than if there were contributions, disbursements, or obligations during the reporting period that were not timely reported.

Termination is only available to a committee once it has no further outstanding obligations and has reduced its cash balance to zero. Committees seeking termination commonly have little funds remaining and the only activity ultimately reported are the transactions necessary to reduce the committee's cash balance to zero. A common way to

reduce a committee's cash balance to zero is to issue refunds of contributions to contributors. The reporting of such refunds has limited public value as the identities of these contributors have already been reported when they originally contributed to the committee and no new information is provided.

Late September Reports

Under the current settlement schedule, September reports are treated similarly to continuing reports. However, the September report is only due in even-numbered years to cover the period between the Pre-primary and Pre-election reports. The fact that it is only due in even-numbered years during this specific period makes it more akin to an election-specific report than the January and July Continuing reports, which are due every year from every registrant. The September report is also more time sensitive. For example, in 2022, the September report is due on September 27th and the Pre-election report is due on October 31st. If a registrant filed its September report on October 27th (30 days late), the current settlement schedule would only result in a warning. If a registrant filed its September report the day after the general election, the current settlement schedule would only seek a \$100 penalty. If the September report is intended to provide timely disclosure of transactions between the Pre-primary and Pre-election reports, the settlement schedule should escalate more quickly to deter delayed disclosure. As such, the Commission seeks to amend the rule to treat late September reports similarly to late Pre-primary and Pre-election reports.

Late Special Post-election Reports

Special post-election reports cover the period beginning 14 days prior to a special election and ending 22 days after a special election. These reports are due 45 days after the special election if no continuing report is due in that same window. Under the current settlement schedule post-election reports are treated similarly to Pre-primary and Pre-election reports. However, as the report is not due until 45 days after the election, this report appears to fill the same role as the January Continuing report does after a General Election by disclosing the activity two weeks prior to the election, and any activity after the election, several weeks later. As such the Commission proposes to create a new schedule for Special post-election reports that would more accurately reflect the amounts appropriate to a late filing of this type.

Violations of the Attribution Requirement

Wisconsin law requires that every communication containing express advocacy which is paid for by any contribution or disbursement, clearly identify its source by including the words "Paid for by" followed by the name of the committee making the payment or reimbursement or assuming responsibility for the communication. It also requires every communication for express advocacy the cost of which exceeds \$2,500 and is paid for or reimbursed by any person, other than a registrant, to similarly identify its source. This language is required to be readable, legible, and readily accessible. This required language is referred to as an attribution. The current settlement schedule does not address violations of the attribution requirement. Complaints regarding missing or noncompliant

attributions have grown to be one of the most common types of complaint the Commission receives. Committees that fail to include an attribution or include a noncompliant attribution are commonly first-time registrants and local candidates. Upon receiving notice that their material is noncompliant, most offenders have promptly taken remedial action to correct their error or omission. The Commission proposes to create a settlement schedule that would address these common violations and encourage prompt remedial action where appropriate.

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

The Wisconsin Ethics Commission is specifically directed to promulgate this rule pursuant to Wis. Stat. § 19.49(2)(b)10.

10. The commission shall, by rule, prescribe categories of civil offenses which the commission will agree to compromise and settle without a formal investigation upon payment of specified amounts by the alleged offender.

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

Wis. Stat. § 11.1304(17):

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

Wis. Stat. § 19.48(1):

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.

Wis. Stat. § 227.11(2)(a):

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, political parties, and other registered committees, as well as 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 beyond the specified amounts proposed to be forfeited in the event of a violation. The settlement schedule is designed to deprive the alleged violator of any benefit and serve as a deterrent to violations. This proposed rule includes no significant economic impact on small businesses.

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

Daniel A. Carlton, Jr.
Administrator
Wisconsin Ethics Commission

Date Submitted



Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics
101 E. Wilson Street | Suite 127 | P.O. Box 7125 | Madison, WI 53707-7125
(608) 266-8123 | ethics@wi.gov | <https://ethics.wi.gov>

DATE: For the Commission Meeting on August 30, 2022

TO: Members, Wisconsin Ethics Commission

FROM: Ethics Commission Staff

SUBJECT: Ethics Commission Staff Report

Commission Administration

Lobbying Website

So far, most of the feedback on the new website has been positive. As with any website changes, some users may prefer the old ways of inputting certain information. Staff has received some feedback along those lines regarding how lobbyists input their time into the system. We are looking into a way to accommodate those wishes before the January 2023 SLAE is due. Staff plans on surveying users later this month and again after the January 2023 SLAEs are filed. This will enable staff to incorporate any user feedback. In the meantime, if anything occurs, staff will monitor and fix as appropriate.

Trainings

Since the last Commission meeting, staff has conducted two campaign finance related trainings. The first was on June 22, 2022. The target audience of that training were treasurers and administrators of PACs, IECs, and conduits. Additionally, staff conducted a training on June 30, 2022, for County Clerks and Local Fall Candidates. Staff also conducted training on the new lobbying website on July 12, 2022.

Staff has several more trainings scheduled for September 2022.

Campaign Finance

The July Continuing 2022 report was due July 15, 2022. This is a mandatory report for all committee registered with our office, that have not claimed the exemption from filing campaign finance reports (under \$2,000 per year). We had 1121 committees required to file the July Continuing 2022 report. There were 89%, or 1002 reports file on time, with 63 filing late and 56 (5%) still outstanding. Staff has sent multiple email reminders and has been attempting to contact candidates and treasurers by phone to get the reports filed.

All candidates and committees active in the 2022 Fall Primary were required to file the Fall Pre-Primary report by August 1, 2022. There were 296 candidates required to file, with 96% (285) filing on time. The remaining 11 candidates have since filed their report and received the standard settlements for filing late.

Future filings are the September 2022 report, which is required of all committees supporting or opposing a candidate for the Fall 2022 elections. This report covers all activity through August 31, 2022. This report is due September 27, 2022.

Lobbying

2021-2022 Legislative Session

The Statement of Lobbying Activity and Expenditures (SLAE) covering January-June 2022 was due on August 1, 2022. A total of 823 principals were required to file the report, with 807 (98%) filing on time. An additional 13 principals filed late and 3 SLAEs are still outstanding. Staff has made multiple attempts to contact non-filers by phone and email.

The next SLAE covering July-December 2022 will be due on January 31, 2023.

As of August 17, 2022, there are 660 lobbyists licensed, 837 principals registered, and 1,677 lobbyist authorizations.

Legislative Liaison Reporting

The last 6-month legislative liaison report was due August 1, 2022. Out of 90 agencies, 77 filed by the due date. As of August 16th, four agencies have yet to file. Staff will continue to follow up until all reports are filed.

Code of Ethics and Financial Disclosure

Statements of Economic Interests (SEIs)

Annual Statements of Economic Interests were due by May 2, 2022. 5 settlements have been issues, and a few appeals will be handled in closed session. Two annual SEIs are still outstanding.

Candidates on the November 2022 ballot had to file an SEI by June 6, 2022. All candidates who turned in nomination papers with the Elections Commission turned in the SEI by the deadline.

In April 2022, a new law was passed that requires any SEI filer who leaves office to file a “final” SEI within 21 days. Staff have made temporary modifications to the SEI website to inform filers of the new requirements and allow them to file final SEIs. As of August 16th, 81 filers have filed a final SEI and seven final SEIs are pending.

State of Wisconsin Investment Board Quarterly Reports

The 2022 second quarter reports were due by August 1, 2022. All SWIB filers filed within the grace period and staff referred the Quarterly Reports to the Legislative Audit Bureau on August 16, 2022. The next Quarterly Reports are due October 31, 2022.

Open Session Supplemental Materials

Commission Meeting
August 30, 2022



Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics
101 E. Wilson Street | Suite 127 | P.O. Box 7125 | Madison, WI 53707-7125
(608) 266-8123 | ethics@wi.gov | <https://ethics.wi.gov>

DATE: For the Commission Meeting on August 30, 2022

TO: Members, Wisconsin Ethics Commission

FROM: Daniel A. Carlton, Jr., Administrator, and
Sathya Sivaji, Office Management Specialist

SUBJECT: Biennial Budget Request FY 2023 – 25

FOR COMMISSION ACTION

For the draft budget, the Commission may:

1. Authorize staff to draft the budget request documents, including any approved decision items; or
2. Schedule a time for the Commission to meet to review the budget prior to submission.

The Ethics Commission is required to submit a biennial budget request on September 15, 2022. This budget will cover fiscal years 2024 and 2025, starting July 1, 2023, and ending June 30, 2025.

Agencies received communications from the Governor's office in June on expectations for the biennial budget request. Agencies were advised not to request any additional GPR-funded expenditures in either year of the upcoming biennium. However, the Major Budget Policies do appear to allow the Commission to request funds for IT projects.

Agencies were directed to assume that there will be zero growth in overall GPR appropriations during the biennium. Agencies were told to make their requests based upon 100 percent of the fiscal year 2022 – 23 adjusted base. Essentially, the Ethics Commission can plan to receive the same amount of GPR from the state in the upcoming biennium, as was received in the current fiscal year (2023). There are standard adjustments for salary, fringe, and rent that will make minor increases to the adjusted base.

There are several documents that are required to be included in the budget submission. Many of these documents overlap with the documents submitted as part of the annual report. They include: an agency description, mission statement, program goals and objectives, performance measures, and an organizational chart. Any changes that are made to those documents in review of the annual report will be modified to match for the budget submission.

Wisconsin Ethics Commissioners

Shauntay Nelson | Pat Strachota | Maryann Sumi | Timothy Van Akkeren | David Wambach | Andrew Weininger

Administrator

Daniel A. Carlton, Jr.

Other items that will be included in the final submission are generated by the budget system. We are currently awaiting those items from the DOA State Budget Office. The budget system will create fund source total documents of the current and upcoming biennium. The system will also generate program revenue statements.

There are three standard budget adjustments that will be calculated by the DOA State Budget Office (SBO). The standard budget adjustments are the adjusted base (decision item 2000), full funding of continuing position salaries and fringe benefits (decision item 3003), and full funding of lease and directed moves costs (3010). Agency staff are awaiting details on those standard budget adjustments. The adjusted base is the first step in establishing the budget for the upcoming biennium. The adjusted base is calculated from the budget of the last fiscal year of the prior biennium (in this case, fiscal year 2023). Any modifications to the budget throughout the biennium, such as changes due to a request that was approved by the legislature, would be factored into the adjusted base. The Ethics Commission did not have any modifications to the budget, so we can expect the adjusted base to look very similar to the approved budget for the current biennium. Staff expect minor adjustments for salary and fringe due to the general wage adjustments that have occurred. Staff also expect a minor adjustment for the lease cost for the upcoming biennium, as the space rental rate has decreased slightly.

The Ethics Commission will also have an opportunity to include any agency-specific decision items for consideration. Decision items are agency specific requests to changes in the budget.

Lastly, 2015 Wisconsin Act 201 requires an agency to include certain documents in its biennial budget request. Act 201 has two major requirements: First, it requires an agency to demonstrate how it would budget if it were required to meet a zero-growth target. Second, the agency would have to demonstrate how it would budget if the agency was required to reduce its operations budget by 5%. It is important to note that this legal requirement does not mean that the Commission is requesting a budget that has zero growth or a reduction. It is an exercise to demonstrate what would happen in either of those two scenarios. It is expected to be merely a hypothetical exercise. For the budget request for the upcoming biennium, the Commission's request will essentially be the zero-growth part model. The exception is whether the Commission decides to include any agency-specific decision items.

Staff are awaiting many documents from the State Budget Office that are necessary to pull together the budget submission. Typically, this information has been received near the end of the month of August. In 2018, it was not received until September 12, 2018, when the budget was due on September 17, 2018. This year, the State Budget Office is in the midst of launching new budget software. As of the drafting of this memo, staff expects the necessary documents and information to be provided before the Labor Day holiday. However, with the new system, it could be delayed further. Staff has discussed the budget request process with the State Budget Office analyst assigned to the Commission. He advised that it is permissible for the Commission to give instructions to staff on how it wants staff to handle decisions to be made and can direct staff to

submit the budget request with those decisions included. He said that the Commission would not be required to meet again to approve the actual documents to be submitted.

With permission of the Commission, staff would like to proceed that way. This will avoid the need to call an additional special meeting. As always, we will post the budget request on our website and can send the finalized version to the Commissioners. If the Commission approve proceeding this way, staff would prepare a Zero Growth biennial budget request with the normal decision items for maintaining full funding of staff salaries and rent. From there, there are a few additional items the Commission must decide. The following are the decisions that the Commission will need to make to give staff the information it needs to submit the budget request.

Act 201 5% Reduction Plan

As noted above, every agency is required to include in its budget request documentation about how it would budget if there were a 5% reduction. Unfortunately, the State Budget Office has not yet provided us the exact dollar figure for that 5% reduction. Even though we do not have the exact numbers, the Commission can go ahead and direct staff to submit the required information consistent with how it has done it in the past.

During the last two budget cycles, the Commission's primary goal was to maintain as much of the Commission's investigation fund as possible. So, for the 2019-2021 biennial budget request, the Commission voted to reach the 5% goal (\$67,300) by: 1) reducing the Investigation Fund appropriation by \$25,000, and 2) by reducing the Lobbying Program Revenue appropriation by \$42,300. For the 2021-2023 biennial budget request, the target was \$72,600. The Commission voted to: 1) reduce the Investigation Fund appropriation by \$25,000, 2) reduce the Lobbying Program Revenue appropriation by \$45,100, and 3) reduce the Supplies and Services appropriation by \$2,500.

While we do not have the precise figure yet, we know it will be very similar to years past. The Commission has historically been consistent in its approach to this portion of the request. So, based upon the past actions of the Commission, staff recommends that the Commission direct staff to prepare the Act 201 5% reduction document as follows:

- 1) Reduce the Investigation Fund appropriation by \$25,000;
- 2) Reduce the Supplies and Services line by \$2,500; and
- 3) Reduce the Lobbying Program Revenue appropriation by the remaining amount.

If the target reduction is higher than the last biennium, staff is concerned that taking additional expenditure authority from the Lobbying Program Revenue appropriation may inhibit the Commission's operation. So, staff would request the authority to increase the Investigation Fund appropriation reduction to \$30,000, if necessary.

New CFIS Project

Prior to the Administrator joining the Commission's staff, the Commission decided to upgrade both the lobbying website and CFIS, the Campaign Finance Information System. Both systems were built before 2010. In IT world, they are essentially dinosaurs. The lobbying website update has been completed. So, now it is time to turn our attention to upgrading CFIS. Staff has already investigated alternative ways of approaching this project. Obviously, there is the potential to contract with a vendor that makes campaign finance software. Another alternative that staff explored was using the code from a different state. Specifically, staff contacted staff of the Massachusetts Office of Campaign and Political Finance ("OCPF"). Under Massachusetts law, the code itself is a public record. OCPF staff was extremely helpful in allowing us to explore their code to determine how feasible it would be for us to use, in whole or in part, their code. Staff spent several hours working with OCPF staff to learn about how their system works. Ultimately, while there are elements that are the same, there are enough differences that using their code would require substantial work. Staff has also considered the idea of partnering again with the University of Wisconsin DoIT staff. Finally, staff has considered undertaking the task of creating a new version in-house.

There are a couple of important considerations relating to the new campaign finance website. First, obviously, is cost. The first set of costs associated with a website include the development, creation, and launching phases of the website. The second set of costs that could potentially be incurred are ongoing maintenance costs. Finally, there could be additional incurred costs to accommodate new/different legal requirements if the campaign finance reporting laws are rewritten. Second, and arguably more important, is ownership of the product. If the Commission owns the website, it is able to make quick changes and conduct maintenance without the need to pay additional under a support/maintenance contract. This is true whether there is a system issue or simply a change in reporting law. We would not have to contact a vendor and be subject to their schedule and billing should fixes be needed. The final consideration is the amount of time it would take to build and launch the website.

While staff had a great experience working with the University of Wisconsin DoIT Project on the lobbying website, the new campaign finance website project will be much more intensive than the lobbying website was. Staff would like to move forward on this project and get it completed before the next election year (2024). It is not clear whether they have the bandwidth to be able to handle University-related projects and a project of this magnitude.

That leaves the possibility of contracting with a vendor to create a new website or, alternatively, undertaking the project in house. Staff has not yet put out a request for proposals. However, staff has had preliminary discussions with the current vendor. While they stated that there was room for negotiation, the numbers provided verbally include \$500,000 for the new website itself and an additional \$100,000 per year in maintenance. It is important to know that the maintenance portion would not necessarily include changes required as a result of statutory revision. For reference, the

Commission's annual appropriations total approximately \$1,600,000. Through a vendor, it appears that the new website would cost about 1/3 of the Commission's normal annual budget (exclusive of maintenance costs). The maintenance cost is about 6% of the Commission's annual budget. It also is approximately double the current maintenance cost.

Commission staff has also explored the possibility of undertaking the project internally. The biggest obstacle to this is that the Commission currently has only one IT contractor. Our current contractor built and maintains the Commission's SEI website. She also built the first lobbying website, was heavily involved in building the new lobbying website, and has taken over full maintenance of the new lobbying website. She also works with DET to make sure our servers are working properly and does other IT-related work for the Commission. Clearly, she would not be able to undertake this project alone. To do the project internally, it became readily apparent that we would be required to hire additional IT contractors. Staff has talked with our IT contractor to seek recommendations regarding what kind of contractors we would need to retain to do the job. She indicated that we would need two Application Developers.

If the Commission went that route, we would anticipate contracting with two Application Developers for the entire biennium. That should provide us ample time to create, test, and launch the new website. After that, we would evaluate whether it is necessary to keep them on staff as part of the next biennial budget request. The anticipated cost of hiring two Application Developers via independent contract is no more than \$648,960.

Doing the project in house has substantial benefits. First, it is likely that the Commission could hire the two contractors at the same or less cost of acquiring the new website through a vendor. Second, there would be minimal, if any, additional annual maintenance costs. The only potential additional cost would occur if we determined that we needed to retain a developer. It is possible that that could be done at the same or less cost than the anticipated vendor maintenance contract. Third, the Commission would own the website. We would easily be able to make any changes (as opposed to going through a process with a vendor). We could potentially be more responsive if issues arise. We also could more quickly adapt to changes in the law without going to the vendor for changes at an additional cost.

We could either start from scratch or there is the possibility that we could purchase the current website from the vendor. There may be some benefits to that. One benefit is that we could maintain it in house while we're building the new website. This could save approximately \$50,000 per year. However, we are not certain whether the vendor is willing to do that or, if so, at what cost. Staff has inquired with the vendor whether they would entertain that idea.

Because of the flexibility owning our own site affords, staff is recommending that the Commission direct staff to proceed with creating the new website. To that end, staff is requesting that the Commission approve including in its budget request a sum sufficient to cover the costs of hiring two application developers and, if necessary/appropriate, the cost of acquiring ownership of the

current version of CFIS. If necessary, the Commission has reserves in the Campaign Finance Program Revenue line available. These reserves could be used towards the cost of this project if the Legislature will authorize additional expenditure authority from that line.

Attachments:

- A. Governor's Budget Letter to Agencies 6/7/2022
- B. Major Budget Policies



Tony Evers

Office of the Governor | State of Wisconsin

June 7, 2022

By Electronic Mail Only

Dear Secretaries and Agency Heads:

Throughout our administration we have all met many resilient Wisconsinites from one end of the state to another who have taken the time to share their ideas with us on what we can do to make our great state an even better place to live, work, play and raise a family. As we continue to actively listen to our fellow residents, let us continue doing the right thing for those we represent by focusing on our shared values that bring us together as a people, many of whom are less concerned about who gets credit for what in Madison than they are about what gets done.

While we look forward to our 2023-25 biennial budget and all that is ahead of us, it is also essential to recognize what we have done by working together and listening to the people of Wisconsin. And I want to start by extending my thanks to you and to the state workforce at each of your agencies for their efforts to serve the people of Wisconsin during these unprecedented times. Your flexibility, responsiveness, and dedication to serving the people of Wisconsin in the face of constant change and many challenges is greatly appreciated by me and by the people of our great state.

We have continued to demonstrate our ability to get things done as I have signed hundreds of separate pieces of legislation into law this legislative session, including a state biennial budget that, when combined with my tax cuts from last session, fulfilled our promise to reduce state income taxes for the middle class by roughly 15%. By the end of the 2022-23 fiscal year our cumulative total of individual income tax cuts will reach roughly \$4.1 billion, with ongoing annual relief for Wisconsin taxpayers of approximately \$1.5 billion each year going forward. We also updated our income tax withholding tables for the first time since 2014 to reflect the multiple income tax cuts I have signed into law over the past three years to provide Wisconsinites with more money in their paychecks throughout this year.

The budget I signed last summer included many recommendations we made that we had heard time and again from people across the state. We significantly increased nursing home reimbursement rates, expanded broadband access across the state, provided another round of increased general transportation aids to continue maintaining and fixing our roads, fulfilled our two-thirds funding goal for our schools, increased sparsity aid for students in our small, rural school districts, and invested in our farmers by providing funding to promote and increase exports of our agricultural products.

We have also managed the state's finances well during these unprecedented times. After 30 consecutive years of running a Generally Accepted Accounting Principles (GAAP) deficit, we have had two consecutive years with a GAAP surplus, including a \$1.18 billion surplus at the end of the 2020-21 fiscal year. Since we took office, we have also increased the state's budget stabilization fund (our "rainy day" fund) by over five times as we currently have a record high balance of roughly \$1.73 billion.

We have also positioned our state soundly to meet the needs of Wisconsinites, as the Legislative Fiscal Bureau's most recent general fund projection estimates we will have a \$3.8 billion surplus at the end of the current 2021-23 biennium. While I am disappointed that the Legislature has failed to act on my requests to use a portion of these funds to provide relief to Wisconsinites now, this significant fund balance puts the state in a strong position to meet the needs of our state in the next biennial budget.

Our stellar financial management has also literally paid off in other ways. Last summer, we saw the State receive upgrades from two rating agencies, with one rating upgraded to a AAA level, which is our first AAA rating since 1982. The upgrades reflect the rating agencies recognition of significantly improved reserves, elimination of the negative fund balance (on a GAAP basis), and strong fiscal management. We have reduced the amount of the State's long-term obligations by an average of \$316 million per year over the past three years. In addition, the amount of State transportation revenue bonds has been reduced by \$203 million since the end of calendar year 2018.

Overall, we have reduced the state's general purpose revenue debt service as a percentage of tax revenues in the 2022-23 fiscal year to 2.28%, which is down from 3.40% at the end of the 2017-18 fiscal year, the last full fiscal year before we took office. Finally, over the past three plus years we have completed numerous debt refinancing transactions that have provided present value debt service savings for all borrowing programs of roughly \$383 million. Our debt management record is evident as we have done, and will continue to do, whatever it takes to save Wisconsin taxpayers every dollar we can.

However, as we all know, there is some economic uncertainty now amidst an ever-changing and unrelenting pandemic, an international crisis, and ongoing economic challenges around the globe. While I am optimistic our global and national economy will steady itself, it is appropriate that we exercise caution going forward in our current economic environment right now.

Therefore, our 2023-25 Major Budget Policies will again require most state agencies to not seek any additional GPR-funded expenditures in either year of the upcoming biennium in their budget requests that are due on September 15, 2022. These requirements also extend to SEG-funded administrative operations for the Departments of Natural Resources and Transportation and the Lottery at the Department of Revenue.

Let me be clear, there is much more for us to do, and I plan to redouble our efforts to address issues that we hear about every day from our fellow citizens. Some, but far from all, of these items include appropriately funding a quality education for our children and young adults, expanding Medicaid and reducing the costs of prescription drugs, ending the far too long freeze on shared revenues by providing our local governments with the necessary fiscal resources to keep their communities safe, building upon our current successes in fixing our roads and providing tax credits to those that need them most to continue our economy recovery, including family caregivers, first-time homebuyers, veterans and those incurring child and dependent care expenses.

Your leadership of your respective agencies continues to be exemplary throughout these challenging times and I remain steadfast in my sincere appreciation for all that you do to move this state that we love so much forward each day.

Sincerely,



Tony Evers
Governor

cc: Agency budget directors

MAJOR BUDGET POLICIES 2023-25

BUDGET TARGETS

- Agencies should prepare their 2023-25 biennial budget requests based on 100 percent of their fiscal year 2022-23 adjusted base.
 - All agencies should assume there will be zero growth in overall GPR appropriations in each fiscal year during the 2023-25 biennium, and specific program needs should be managed within this general constraint.
 - Exceptions will occur only for K-12 school aids; required basic cost-to-continue needs for the state's institutions, i.e., the Department of Corrections and the Department of Health Services institutions; entitlement and related assistance programs in the Department of Health Services (e.g., Medical Assistance), the Department of Children and Families' Division of Safety and Permanence, and the Department of Workforce Development's Division of Vocational Rehabilitation; and housekeeping adjustments like standard budget adjustments, fuel and utilities, and debt service.
- The zero growth policy will also apply to the SEG-funded administrative operations appropriations in all agencies that are supported by the transportation fund, the conservation fund, the environmental fund and the lottery fund.
- Funding requests for other types of appropriations and other funding sources in both years should be limited to revenue availability and only the highest priority programmatic needs.
- Except for standard budget adjustments, routine budget items should be handled in agencies' base budgets regardless of fund source.
- Agencies should not submit requests related to changes or charges that result from the State Transforming Agency Resources (STAR) project.
- In developing biennial budget requests, agencies should fundamentally review missions and priorities, exploring opportunities to reallocate resources, integrate programs and consolidate functions.

Note: All agencies should ensure both existing and newly proposed programs align with the agency mission and core work. Existing programs that are not core to the agency mission should be communicated to the State Budget Office during base budget review.

- Any areas needing additional staff must be met through base reallocations.
 - Exceptions will occur only for the Department of Safety and Professional Services.

Note: Agencies must receive approval from the State Budget Office before proposing to use funding sources in another agency to stay within budget targets, to absorb operations' reductions or to fund any new initiatives.

- Proposals that transfer functions or programs, including related costs and staff, between agencies should result in zero growth in overall state appropriations (i.e., the transferring agency should have lower overall appropriations to offset the increase at the receiving agency). All agencies involved in the transfer should notify the State Budget Office during the initial stages of considering any such proposal to facilitate review of the request and allocation of any projected savings between the agencies.

ACT 201 REQUIREMENTS

- All agencies, excluding the Legislature and the Courts, are required to include proposals for a state operations budget for their agency under each of the following scenarios:
 1. Meet a zero growth target in each fiscal year of the 2023-25 biennium.
 2. Reduce the agency's state operations budget by 5 percent from its fiscal year 2022-23 adjusted base in each fiscal year of the 2023-25 biennium.
- The budget proposal targets do not include federal appropriations or debt service appropriations.
- The targets do not allow for the exceptions listed in the Budget Targets Section above, other than standard budget adjustments.
- The targets must be achieved within the state operations portion of the agency's budget. Any proposed changes to local assistance or aids to individuals and organizations appropriations are not included in the calculation of whether an agency meets the targets.
- Agencies will be provided with agency-specific targets and a template for the proposal upon completion of the base reconciliation process, which sets the adjusted base.

BASE BUDGET REVIEW REPORTS

- Pursuant to s. 16.423, Wis. Stats, all state agencies, meaning any office, department or independent agency in the Executive Branch, the Legislature and the Courts, were required to submit a base budget review report no later than May 16, 2022.
- These reports will be summarized in the November 20 report and in the Governor's biennial state budget report to the Legislature.

PERFORMANCE MEASUREMENTS IN BUDGETING

- Agencies must report on the performance measures they identified for previous biennial budgets. These measures should relate to agencies' broad Chapter 20 budget programs. If needed to capture significant shifts in agency function, additional measures could be added; however, only a few measures should be presented so there is a clear focus on results.
- For the 2023-25 budget, agencies must report actual outcome measures through fiscal year 2020-21 and fiscal year 2021-22. Planned outcome measures should be listed for

fiscal year 2022-23, fiscal year 2023-24 and fiscal year 2024-25. Agencies should track and maintain data going forward to present actual performance data for a fiscal year compared to planned performance. A calendar year may be used if data are collected on that basis (please note where calendar years are used).

- The State Budget Office will include performance measures developed by an agency in the Executive Budget Book, and agencies should reference measures in decision items, where relevant.
- Agency descriptions and performance measures will be included in the state budget system and must be updated in that system. It is important for agencies to follow the prescribed format to ensure consistency and compatibility.

BUDGETING FOR INFORMATION TECHNOLOGY

Requests for funding of information technology projects should identify the link between the project and the state's business goals, conformity to the Department of Administration's Policies and Procedures for Information Technology Management, and provide specific information about each project, including executive sponsorship. Consistent with information technology strategic planning, project definitions must include a standard return on investment (ROI) calculation.

BUDGETING FOR DEPARTMENT OF ADMINISTRATION RATE CHANGES

Agencies should not reflect anticipated rate changes from the various divisions within the Department of Administration in their 2023-25 budget requests. Forecasting of rates and impacts on individual agency budgets will be addressed by the Department of Administration in developing the Governor's 2023-25 budget.

FEDERAL FUNDS

The state has a goal of increasing the ongoing receipt of federal funds where the use of federal funding is consistent with state program goals. In order to increase the amount of federal funds received, agencies should conduct the following review:

- Examine existing grant awards to ensure that they are fully utilized and consistent with agency priorities. If unexpended grant authority is available, the agency should reallocate the funds to other activities to the extent possible under state and federal rules.
- Agencies may also identify, in the form of a policy paper submitted on September 15, additional federal grant opportunities that were not included in the agency's request. Such opportunities may be considered for funding by the State Budget Office during budget deliberations.

STATUTORY LANGUAGE GUIDELINES

- Agencies should seek to limit policy items unrelated to appropriation changes for inclusion in the Governor's budget.

Note: Please contact your State Budget Office analyst to discuss whether a particular initiative is appropriate for submission as a budget request.

- Agencies should not submit extensive lists of technical or housekeeping changes for inclusion in the Governor's budget. Proposed changes for separate nonbudget legislation can be submitted to the State Budget Office for review and approval, separate from the budget request.

Note: Please contact your State Budget Office analyst if these types of changes are sought.

- Prior to September 15, agencies may work directly with the Legislative Reference Bureau in preparing statutory language items related to items which fit within the parameters of the budget instructions. After September 15, all drafting and redrafting requests related to the budget must come from the State Budget Office.
- When requesting drafts related to the budget from the Legislative Reference Bureau, agencies should submit memoranda identifying what they are seeking to accomplish.
- The detailed budget instructions will provide more information on statutory language submittal requirements.

BUDGET SUBMITTAL DUE DATES AND PROCEDURES

- Formal budget requests are due Thursday, September 15, 2022. Send four (4) copies to the State Budget Office and two (2) copies directly to the Legislative Fiscal Bureau.
- State Budget Office staff will be available to meet with individual agencies to explain budget policies and procedures, and discuss any agency concerns.

INFORMATION ON THE WEB

- The Budget Instructions will be available on the State Budget Office Web site at <https://doa.wi.gov/Pages/StateFinances/CurrentBiennialBudget.aspx>.
 - Periodic information updates will be posted to this Web site and the State Budget Office SharePoint site, so agencies should check these sites regularly.



Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics
101 E. Wilson Street | Suite 127 | P.O. Box 7125 | Madison, WI 53707-7125
(608) 266-8123 | ethics@wi.gov | <https://ethics.wi.gov>

DATE: For the Commission Meeting on August 30, 2022

TO: Members, Wisconsin Ethics Commission

FROM: Daniel A. Carlton, Jr., Administrator

SUBJECT: 2022 Annual Agency Report

FOR COMMISSION ACTION

For the 2022 Annual Agency Report, the Commission should:

1. Adopt the policies contained in the draft 2022 Annual Report; and
2. Approve the 2022 Annual Report.

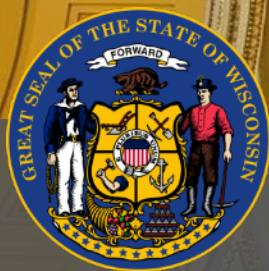
Each year, the Commission is required to submit an annual report containing certain information to the Governor and Chief Clerk of each house of the Legislature no later than October 15. Attached to this memo is the draft of the 2022 Annual Agency Report. The substance of the report is largely unchanged from previous years' versions. However, the following changes have been made:

- The Recommendations for Potential Legislation has been updated to reflect that most of the prior recommendations were addressed through new laws. Any prior recommendations that were not acted on remain in this section. It also notes that the Commission will consider legislative recommendations for the next session at the October meeting.
- The performance data table on page 7 has been updated to include FY 2022 performance statistics and the goals for the next couple of years have been revised.
- The summaries of opinions section was updated to provide brief summaries of all opinions issued in the last fiscal year.
- The investigations section was updated to advise of completed investigations in the last fiscal year.

The policies in the appendices remain the same as they have been for the last several years.

This agenda item requires two steps. First, it requires a motion to readopt the policies contained therein. Second, assuming the Commission approves of the draft, it requires a motion to approve the 2022 Annual Agency Report. Prior to submission, staff will perform one additional review for formatting issues or typographical errors. Any such errata will be fixed. However, no substantive changes will be made after approval by the Commission.

Attachment: 2022 Annual Agency Report Draft



State of Wisconsin
Ethics Commission

2022 Annual Agency Report

October 15, 2022

Ethics@wi.gov
<https://ethics.wi.gov>

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Introduction

The Wisconsin Ethics Commission is pleased to submit its annual report to the Governor and the Chief Clerk of each house of the Legislature, in accordance with WIS. STAT. §§ 15.04(1)(d), 19.47(5), and 11.1304(14).

This report provides information on the performance and operations of the Commission and projects, goals, and objectives as developed for the agency budget.

This report also includes information required specifically of the Ethics Commission, as well as information provided at the Commission's discretion.

Finally, the report also includes information on matters within the Commission's jurisdiction and recommendations for legislation.

Information Required of All Agencies under WIS. STAT. § 15.04(1)(d)

Mission

The mission of the Ethics Commission is to promote and strengthen the faith and confidence of the people of Wisconsin in their government, support the operation of open and responsible government, preserve the integrity of the governmental decision-making process, and protect the rights of individuals through the administration of Wisconsin's campaign finance, lobbying, and ethics laws, and through readily available and understandable disclosure of information.

Agency Description

The Commission is comprised of six members, who serve for 5-year terms. One member is appointed by the Senate Majority Leader; one appointed by the Senate Minority Leader; one appointed by the Speaker of the Assembly; one appointed by the Assembly Minority Leader; and two are individuals who formerly served as judges for a court of record in this state, who were elected to the positions in which they served, and who are nominated by the Governor with the advice and consent of a majority of the members of the Senate confirmed. A detailed description of the appointment of Commissioners is provided in WIS. STAT. § 15.62. The transition plan from the Government Accountability Board to the Ethics Commission put forth by the Department of Administration established a rotational term schedule of the Commissioners. The Commission elects a chair and vice-chair from its members by a majority vote.

The Administrator serves as the agency head and is responsible for the daily operations of the Commission. The Commission Administrator and staff are non-partisan. The agency has a staff of 4.70 GPR and 3.30 PR full-time employees. The Commission administers and enforces Wisconsin law pertaining to campaign finance (Wisconsin Chapter 11), lobbying (Wisconsin Chapter 13, Subchapter III), and the Code of Ethics (Wisconsin Chapter 19, Subchapter III). The duties of the Ethics Commission are codified in WIS. STAT. §§ 11.1304, 13.685, and 19.48.

Additional information about the Commission, its members and staff, meetings, and resources provided to the public is available on the Ethics Commission's website at <https://ethics.wi.gov>.

Commission activities are arranged by five general functions:

1. General administration;
2. Assistance to state public officials, candidates, lobbyists, principals, political committees and officeholders;
3. Assistance to local governments;
4. Education and training; and
5. Enforcement.

Within these functional areas, the Commission develops policy, issues formal and informal opinions, promulgates administrative rules, prescribes procedures and forms, audits disclosure reports, carries out investigations, conducts hearings and reviews appeals, brings civil actions to assess forfeitures, and performs related activities.

The Commission has four general program areas which are described below:

Campaign Finance

Wisconsin campaign finance law requires candidates for state public office, party committees, political action committees, referenda committees, and independent expenditure committees to register with the Commission, disclose campaign receipts and disbursements, and abide by certain contribution limits and prohibitions. The Commission is responsible for auditing campaign finance reports, enforcing registration and reporting requirements, and enforcing source restrictions and contribution limits. Information is available to the public on the Commission's website: <https://ethics.wi.gov/campaign-finance>, and through <https://cfis.wi.gov>.

Lobbying

Wisconsin lobbying law regulates registration of businesses, organizations, and individuals that attempt to influence government decisions. Registrants must identify who lobbies on their behalf, issues in which they have an interest, and provide other information, all available to the public on the Commission's website: <https://ethics.wi.gov/Pages/Lobbying/LobbyingOverview.aspx>, and <https://lobbying.wi.gov/>.

Ethics

The Commission fosters ethical conduct of public officials by advising them about ethics laws and providing information about officials' financial interests to identify any potential conflicts of interest. State public officials file annual Statements of Economic Interests with the Commission, and the trustees and staff of the State of Wisconsin Investment Board file quarterly reports. Information regarding the Commission's ethics-related activities is available to the public on the Commission's website: <https://ethics.wi.gov/Pages/Ethics/Ethics.aspx>, and <https://sei.wi.gov/>.

State Purchasing

The Contract Sunshine program was mandated by the Legislature to allow the public to view the process state agencies use to procure goods and services from vendors. That requirement was repealed during the 2021 Legislative Session. The Commission still maintains information about that requirement on its website. However, that information may be removed in the future. Additional information about the program is available on the Commission's website: <https://ethics.wi.gov/Pages/Ethics/ContractSunshine.aspx>.

Statutory Duties of the Ethics Commission and the Agency's Compliance

The table in Appendix A outlines the statutory duties of the Wisconsin Ethics Commission, as well as provides a summary of the agency's compliance with those requirements or any unresolved issues related to those duties.

Programs, Goals, Objectives, and Activities

Program 1: Ethics, Campaign Finance, and Lobbying Regulation

- A. Goal: Facilitate compliance with the requirements of Wisconsin's campaign finance, lobbying, and ethics laws.*

A-1. Objective/Activity: Provide training, educational materials, and assistance to the regulated community and the public, focusing on applicable registration and reporting requirements.

A-2. Objective/Activity: Conduct timely audits of registration and report information, consistent with statutory requirements.

A-3. Objective/Activity: Provide informal and formal advisory opinions, as well as informal guidance, in a timely manner whenever requested to do so.

B. Goal: Support the operation of open and responsible government, and preserve the integrity of governmental decision-making, and protect the rights of individuals.

B-1. Objective/Activity: Promptly make reported campaign finance, lobbying, and financial disclosure information publicly available.

B-2. Objective/Activity: Maintain the Wisconsin Campaign Finance Information System (CFIS), Eye On Lobbying website, and Statements of Economic Interests website in order to facilitate the registration and reporting requirements under applicable Wisconsin Statutes, as well as making the disclosure of reported information readily accessible and understandable.

B-3. Objective/Activity: Investigate complaints of possible violations of the ethics code, lobbying law, and campaign finance law and seek appropriate remedies as circumstances merit.

Performance Measures, Goals, and Performance

The table below includes the performance measures established by the Wisconsin Ethics Commission in 2020.

Performance Measure (by Fiscal Year)	Goal 2022	Actual 2022	Goal 2023	Goal 2024
Campaign finance reports filed on/before the required date	96%	93.6%	96%	96%
Percentage of committees in compliance, based on audit findings	95%	97.3%	95%	95%
Lobbying fees received by electronic payment methods	90%	94.8%	95%	95%
Lobbyist time reports completed on/before the required date	99%	99.71%	99%	99%
Principals completing their Statements of Lobbying Activities and Expenditures on/before the required date	99%	98.4%	99%	99%
Required SEIs filed on or before the required date	96%	93.2%	96%	96%
Statements of Economic Interest filed electronically	96%	97.1%	96%	96%

Information the Ethics Commission is required to Report under WIS. STAT. § 19.47(5)

Statutory Duties of the Administrator and Compliance with Each Duty

1. 19.46(2)(a)4. *At each regular meeting of the Commission, the Commission administrator shall review informal advisory opinions requested of and issued by the administrator and that relate to recurring issues or issues of first impression for which no formal advisory opinion has been issued.*

The Administrator includes an agenda item for requests for advice on every closed session meeting agenda to present the information required under this provision. The Commission first delegated the authority to the Administrator to issue informal advisory opinions at its meeting on March 7, 2017.

2. 19.47(2). *The administrator shall appoint such other personnel as he or she requires to carry out the duties of the Commission and may designate an employee of the Commission to serve as legal counsel of the Commission.*

The Administrator has designated the staff attorney to serve as legal counsel of the Commission. The Administrator also makes all other staffing decisions for the Commission.

3. 19.47(2). *The administrator shall perform such duties as the Commission assigns to him or her in the administration of ch. 11, subch. III of ch. 13, and this subchapter.*

The Commission has approved the Administrator's position description and can decide to review the Administrator's performance at any time.

4. 19.47(2). *Neither the Commission nor any member or employee of the Commission, including the Commission administrator, may file a sworn complaint for purposes of this subsection.*

The Administrator is responsible for reviewing all complaints received by the Commission and does not file complaints, nor accept them from Commissioners or staff.

5. 19.49(2)(b)4. *If the Commission authorizes the administrator to investigate any matter without retaining a special investigator, the administrator shall make periodic reports to the Commission, as directed by the Commission, but in no case may the reporting interval exceed 30 days.*

The Commission and the Administrator are aware of this requirement and include it in the Commission's adopted complaints and investigations procedures. The Commission has complied with this requirement when applicable.

6. *19.49(2)(b)4. During the pendency of any investigation, the Commission shall meet for the purpose of reviewing the progress of the investigation at least once every 90 days. The special investigator or the administrator shall report in person to the Commission at that meeting concerning the progress of the investigation.*

The Commission and the Administrator are aware of this requirement and include it in the Commission's adopted complaints and investigations procedures. The Commission has complied with this requirement when applicable.

7. *19.49(2)(b)4. Unless an investigation is terminated by the Commission, at the conclusion of each investigation, the administrator shall present to the Commission one of the following:*
- a. A recommendation to make a finding that probable cause exists to believe that one or more violations under subd. 1. have occurred or are occurring, together with a recommended course of action.*
 - b. A recommendation for further investigation of the matter together with facts supporting that course of action.*
 - c. A recommendation to terminate the investigation due to lack of sufficient evidence to indicate that a violation under subd. 1. has occurred or is occurring.*

The Commission and the Administrator are aware of this requirement and include it in the Commission's adopted complaints and investigations procedures. The Commission has complied with this requirement when applicable.

8. *19.49(2)(b)5.a. If the Commission finds that there is probable cause to believe that a violation under subd. 1. has occurred or is occurring, the Commission may authorize the administrator to file a civil complaint against the alleged violator.*

The Commission and the Administrator are aware of this requirement and include it in the Commission's adopted complaints and investigations procedures. The Commission has complied with this requirement when applicable.

9. *19.49(2)(b)5.a. In such case, the administrator may request the assistance of special counsel to prosecute any action brought by the Commission. If the administrator requests the assistance of special counsel with respect to any matter, the administrator shall submit to the Commission the names of 3 qualified individuals to serve as special counsel. The Commission may retain one of the individuals to act as special counsel.*

The Commission and the Administrator are aware of this requirement and include it in the Commission's adopted complaints and investigations procedures. The Commission has complied with this requirement when applicable.

10. *19.49(2)(b)10. The commission shall, by rule, prescribe categories of civil offenses which the commission will agree to compromise and settle without a formal investigation upon payment of specified amounts by the alleged offender. The Commission may authorize the administrator to compromise and settle such alleged offenses in the name of the Commission if the alleged offenses by an offender, in the aggregate, do not involve payment of more than \$2,500.*

The Commission has promulgated WIS. ADMIN. CODE ETH 26 pursuant to this directive. At its meeting on December 8, 2020, the Commission authorized the Administrator to issue standard settlements consistent with ETH 26.

11. 19.49(2)(b)11. *If a special investigator or the administrator, in the course of an investigation authorized by the Commission, discovers evidence that a violation under subd. 1. that was not within the scope of the authorized investigation has occurred or is occurring, the special investigator or the administrator may present that evidence to the Commission. If the Commission finds that there is a reasonable suspicion that a violation under subd. 1. that is not within the scope of the authorized investigation has occurred or is occurring, the Commission may authorize the special investigator or the administrator to investigate the alleged violation or may elect to authorize a separate investigation of the alleged violation as provided in subd. 3.*

The Commission and the Administrator are aware of this requirement and include it in the Commission's adopted complaints and investigations procedures. The Commission has complied with this requirement when applicable.

12. 19.49(2)(b)12. *If a special investigator or the administrator, in the course of an investigation authorized by the Commission, discovers evidence of a potential violation of a law that is not administered by the Commission arising from or in relation to the official functions of the subject of the investigation or any matter that involves campaign finance, ethics, or lobbying regulation, the special investigator or the administrator may present that evidence to the Commission. The Commission may thereupon refer the matter to the appropriate district attorney specified in subd. 9. or may refer the matter to the attorney general. The attorney general may then commence a civil or criminal prosecution relating to the matter.*

The Commission and the Administrator are aware of this requirement and include it in the Commission's adopted complaints and investigations procedures. The Commission has complied with this requirement when applicable.

Duties of All Individuals Employed by the Ethics Commission

Staff Counsel

Under the general supervision of the Administrator of the Wisconsin Ethics Commission, this position is responsible for providing legal advice on the application of campaign finance, election administration, ethics, and lobbying laws to the Commission and its staff along with authoritative and timely advice and information to political registrants, state public officials, county and local corporate counsels, district attorneys, and the public. This position is responsible for preparing legal opinions, enforcement orders, and administrative rules to implement agency policy and authority. This person is responsible for agency investigation and enforcement of campaign finance, ethics, and lobbying law violations. The individual in this position responds to questions involving complex application of statutes and administrative code in order to promote compliance with applicable laws. The individual in this position conducts policy and legal analysis related to the administration of Wisconsin's campaign finance, election administration, lobbying, and ethics laws, and reviews applicable court decisions for potential impact on the Commission's responsibilities.

This position receives and responds to requests for information and requires the judgment necessary to discern what information may or may not be released to the public. Due to the nature of the responsibilities of the Ethics Commission, this position works with and is privy to statutorily confidential information. Therefore, this position requires an increased level of professionalism and the maintenance of confidentiality in order to preserve the public trust in the efforts of the Commission. Wisconsin Ethics Commission staff members are required to be non-partisan, in accordance with WIS. STAT. § 19.47(10). The individual in this position must also possess a law degree from an accredited law school and be eligible to be licensed to practice law in the State of Wisconsin.

Major duties and responsibilities of the Staff Counsel and the approximate allocation of effort include the following:

- A. Provide legal advice to the Commission and staff, along with authoritative and timely advice and information on the application of laws, rules, and regulations under the agency's jurisdiction to political registrants, state public officials, county and local corporate counsels, district attorneys, and the public (40%);
- B. Investigate alleged violations of campaign finance, ethics, and lobby law (25%);
- C. Represent the agency in election related matters, civil forfeiture actions, and provide litigation support on behalf of the agency (15%);
- D. Provide general legal services for the agency (5%);
- E. Implement administrative rule making authority and responsibilities of agency. (5%);
- F. Provide legislative support services for the agency (5%); and,
- G. Perform all other duties as assigned by the Administrator (5%).

Office Management Specialist

Under the general supervision of the Administrator of the Wisconsin Ethics Commission, this position provides a wide variety of support for Commission operations. This position manages the day-to-day administrative support operations of the Commission's campaign finance, lobbying, and ethics reporting programs; assists the Administrator with budget development and management; provides forms and records management; serves as the Commission's purchasing and printing agent; conducts liaison activities for the Commission on personnel management matters; provides fiscal accounting support; and prepares special reports and analyses for the Administrator.

The position reports the success of the program's policies and procedures to the Administrator and the Commissioners on a regular basis, and directs staff to develop and implement more effective, efficient ways to achieve the program's goals. This position receives and responds to requests for information and requires the judgment necessary to discern what information may or may not be released to the public. Due to the nature of the responsibilities of the Ethics Commission, this position works with and is privy to statutorily confidential information. Therefore, this position requires an increased level of professionalism and the maintenance of confidentiality in order to preserve the public trust in the efforts of the Commission. Wisconsin Ethics Commission staff members are required to be non-partisan, in accordance with WIS. STAT. § 19.47(10).

Major duties and responsibilities of the Office Management Specialist and the approximate allocation of effort include the following:

- A. Operational and Administrative Management of Commission Programs (35%);
- B. Budget, Financial, and Purchasing Activities (25%);
- C. Records Management (20%);
- D. Personnel Management Support (10%); and,
- E. Perform all other duties as assigned by the Administrator (10%).

Ethics Specialists

Four positions under the Ethics Commission are classified as Ethics Specialists. Ethics Specialists' responsibilities are related to all program areas: campaign finance, the lobbying law, and the Code of Ethics. Entry and senior level Ethics Specialists share similar position descriptions, with slightly different allocations of effort, duties and responsibilities.

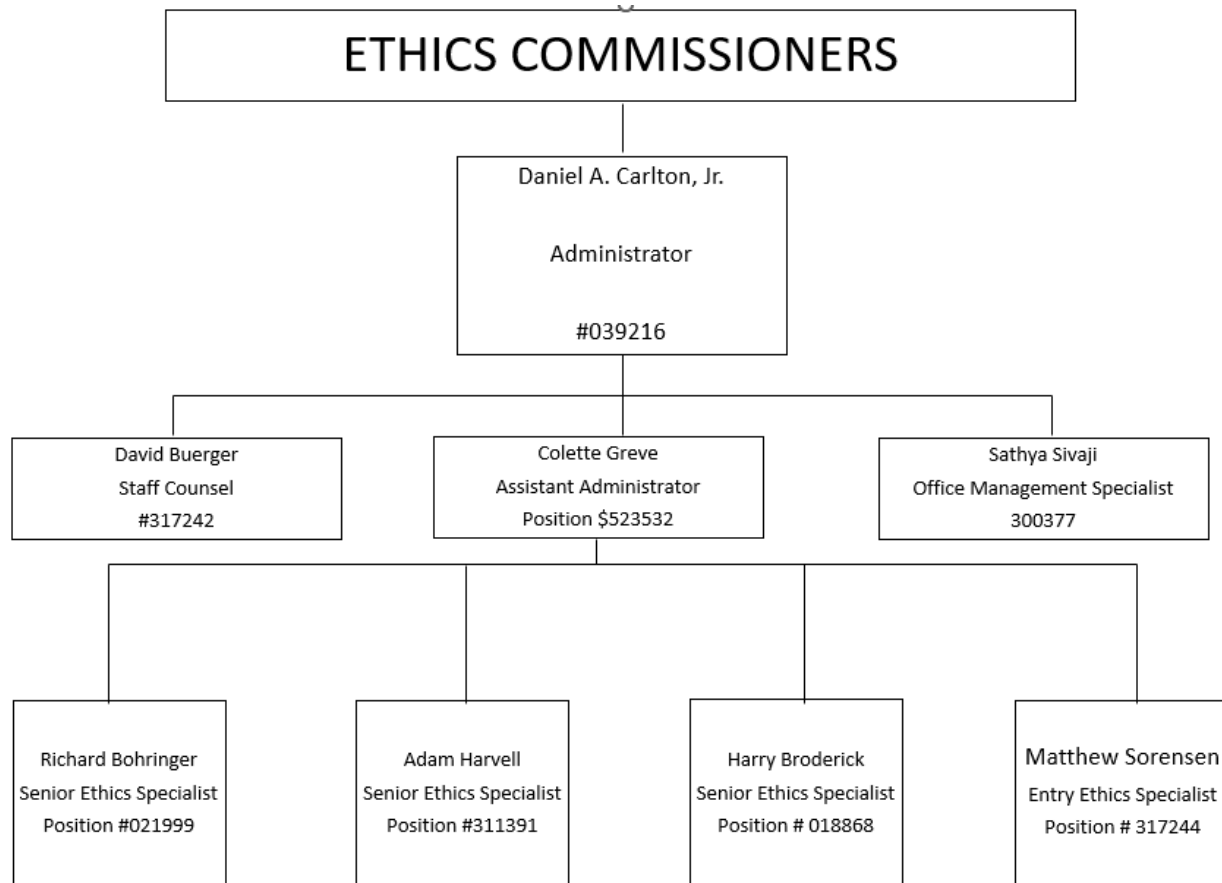
Under the general supervision of the Administrator of the Wisconsin Ethics Commission, these positions provide operational execution of the Wisconsin Ethics Commission's statutory responsibilities, and ensure compliance with Wisconsin's campaign finance, lobbying, financial disclosure, and ethics laws. The individuals in these positions must be able to respond to questions involving complex application of statutes and administrative code, and assist individuals and organizations to comply with registration, licensing, and reporting requirements. The individuals in these positions conduct policy and legal analysis related to the administration of Wisconsin's campaign finance, lobbying and ethics laws, and review applicable court decisions for potential impact on the Commission's responsibilities. These positions report to the Administrator and the Commissioners on a regular basis the success of programs, policies, and procedures, and develop and implement more effective, efficient ways to achieve program goals.

These positions receive and respond to requests for information and require the judgment necessary to discern what information may or may not be released to the public. Due to the nature of the responsibilities of the Ethics Commission, these positions work with and are privy to statutorily confidential information. Therefore, these positions require an increased level of professionalism and the maintenance of confidentiality in order to preserve the public trust in the efforts of the Commission. Wisconsin Ethics Commission staff members are required to be non-partisan, in accordance with WIS. STAT. § 19.47(10).

Major duties and responsibilities of Ethics Specialists include the following:

- A. Campaign Finance;
- B. Lobbying;
- C. State of Wisconsin Code of Ethics;
- D. Policy and Legal Analysis; and,
- E. Other duties as assigned by the Administrator.

Organizational Chart



Recommendations for Potential Legislation

During the 2021 Legislative Session, most of the Commission's legislative recommendations to date were addressed through enactment of three laws (2021 Act 265, 2021 Act 266, and 2021 Act 267). The Commission wishes to thank the Legislature for addressing these recommendations and the Governor for signing them into law. There are a few remaining recommendations that have not yet been addressed. The Ethics Commission approved these recommendations at prior meetings and readopted them at its meeting on August 18, 2020. Commission staff is available to assist Legislators and their staff regarding any of the potential changes addressed herein, as well as any other potential changes to the statutes that the Commission administers. The following are those recommendations:

Campaign Finance (Chapter 11, Wisconsin Statutes)

1. Pursuant to WIS. STAT. § 11.1208(2)(a), committees are prohibited from making disbursements for a "strictly personal use." However, there is no definition of "strictly personal use" in the statutes. The Commission has generally followed the federal "personal use" standard, understanding that inclusion of "strictly" means that Wisconsin law may be more permissive than the federal law. The Commission recommends that the phrase "strictly personal use" be defined.
2. Pursuant to WIS. STAT. §§ 11.1400(5) and 11.1401(2), the Ethics Commission must act and make a probable cause determination prior to a district attorney acting on a campaign finance related complaint. However, both statute and a prior opinion of the Attorney

General contradict this and state that the Commission and District Attorneys have co-equal jurisdiction. *See* WIS. STAT. § 978.05 and OAG 10-08. The Commission has previously recommended that these provisions of Ch. 11 be amended to reflect the coequal jurisdiction of the Commission and district attorneys.

3. A 527 organization or PAC registered in Wisconsin must abide by certain source restrictions. Specifically, WIS. STAT. § 11.1112 prohibits contributions from corporations, associations, labor unions, or federally recognized American Indian Tribes. However, it is not clear whether these source restrictions apply to a 527 organization or PAC that is not required to register in Wisconsin but chooses to make contributions to Wisconsin committees. The Commission has recommended that the Legislature clarify whether unregistered entities making contributions are required to abide by the source restrictions in WIS. STAT. § 11.1112.
4. Currently, the provisions of Chapter 11 require a post-election report after a special election unless a continuing report is due within 45 days after the special election. The Commission has previously recommended removing this requirement and requiring that information be reported on the next continuing report. Alternatively, the Commission recommended to remove this requirement as to conduits because they do not file election-related reports.
5. WIS. STAT. § 11.1106(3) requires the filing officer of a conduit to place a copy of contributions reported in a file for both the conduit and the recipient committee. The Commission is the only filing officer for all conduits. These reports are filed in the Campaign Finance Information System and are readily accessible to anyone. Therefore, this requirement is no longer necessary.
6. In response to RA-2018-001, regarding the use of cryptocurrencies for campaign contributions and disbursements, the Ethics Commission decided to exercise the option granted by WIS. STAT. § 19.46(2)(c)(4) to refer the matter to the standing legislative oversight committees. On May 4, 2018, the Commission sent letters to the Senate Committee on Elections and Local Government and the Assembly Committee on Constitution and Ethics detailing the Commission's concerns on this matter.

The Commission is scheduled to meet on October 18, 2022. As part of that meeting, it is anticipated that the Commission will consider its legislative recommendations for the 2023 Legislative Session. The Commission may reconsider some or all of the foregoing recommendations at that time.

Determinations and Advisory Opinions Issued Under WIS. STAT. § 19.46(2)

The table below provides a summary of requests for advisory opinions the Commission has received between July 1, 2021, and June 30, 2022. Below each request is a summary of the Commission's determinations and any advisory opinion issued related to that request, where applicable.

Request #	Description	Type
RA-2021-21	Payments Concerning Sale of Lobbying Firm	Informal Opinion
The laws within the Commission's jurisdiction do not prohibit an individual that may become a candidate for a state public office from selling his business. Nor do they prohibit the individual from collecting annual contractual payments for the sale of that business, even if the individual becomes a candidate. Further, if the individual becomes a candidate for a state public office, the		

individual may remain employed with the business while the individual is a candidate for state public office.		
RA-2021-22	Costs of Mixed Purpose State Business/Campaign Trip	Informal Opinion
<p>The laws within the Commission’s jurisdiction require a state public official taking a one-day trip that has both state business and campaign business to pay the round-trip cost of the state fleet vehicle even if the official returns to the official’s city in a separate, privately-owned vehicle. Further, the official may travel in paid campaign staff’s personal vehicle without violating the ethics laws. However, the campaign should pay the costs of gas/mileage to ensure that transportation is being provided by the committee.</p>		
RA-2021-23	50 Piece Rule Application to Local Official Not Seeking Re-Election	Informal Opinion
<p>The advice sought was whether an individual, who at the time of the request, was a County Board Supervisor and Wisconsin State Representative was subject to the 50-piece rule applicable during the 2022 Spring Election, even though the official had filed a declaration of non-candidacy, did not plan to circulate nomination papers, closed the County Supervisor candidate committee bank account, and filed a termination report with the filing officer. The official was seeking re-election to the State Representative seat in the Fall 2022 election. It is the opinion of the Commission that as an individual who holds the offices of both County Board Supervisor and Wisconsin State Representative, the official became a candidate as she was seeking re-election for her State Assembly seat and raised and spent money for this re-election. As such, the 50-piece rule applies to you for the Spring 2022 election.</p> <p>At the time of the request, the official advised that she would not be seeking re-election for a seat on the ballot in the Spring 2022 election and would not be on the primary ballot. Therefore, the official would be prohibited from using any public funds for materials or distribution of 50 or more pieces of substantially identical material from December 1, 2021, the date which spring candidates may begin circulating nomination papers, through April 1, 2022, the date of the Spring 2022 Primary. If the official decided to file nomination papers for the County Supervisor position, she was advised to request further advice from the Commission, as the 50-piece rule window would change.</p>		
RA-2021-24	Conflict of Interest of Chancellor	Informal Opinion
<p>It is the opinion of the Commission’s staff that the state code of ethics does not prohibit a state public official from accepting a position as a board member for a bank. As discussed above, WIS. STAT. § 19.45(2) and WIS. STAT. § 19.46(1)(b), do not prohibit a state public official from accepting the board position, because the state public official did not use her office to obtain the offer of the board position. Additionally, as there were no facts to demonstrates that the state public official was using her position to provide or produce a financial gain or something of substantial value for the benefit of herself or the bank. Should the state public official decide to accept the board member position, Commission staff advised that she should be mindful to avoid using your position or public resources for the bank’s benefit. The state public official should also be mindful of potential conflicts of interest. Furthermore, the state public official should refrain from taking official action on any matters in which bank has a financial interest to avoid violating the provisions in WIS. STAT. § 19.46(1)(a). Finally, WIS. STAT. § 19.45(3) does not prohibit the state public official’s acceptance of the position because it does not appear to be a reward for official action or inaction. Nor is it reasonably expected to influence her official actions unless circumstances change from the facts that were provided. If the state public official accepts the board member position and any circumstances arise in your time as a board member, where there</p>		

is a nexus between your service with the bank and her service as state public official, she was encouraged to contact the Commission for guidance.		
RA-2021-25	Lobbyist Contributions to Legislative Staff Running for Local Office	Informal Opinion
The lobbying laws do not prohibit a lobbyist from giving a personal campaign contribution to a legislative staff member that is a candidate for a local public office. The legislative staff member is “legislative employee,” not a “partisan elective official” or “candidate for partisan office.” Further, it would not violate the code of ethics because the lobbyist was a long-time friend and it appeared that the exception in WIS. STAT. § 19.56(3)(b) applied. Finally, as there was no apparent quid pro quo, it did not appear that WIS. STAT. § 19.45(13) would be violated if the contribution was accepted.		
RA-2021-26	Local Official Use of Picture with County Seal for Campaign Literature	Informal Opinion
The requestor, a local public official, sought advice on whether he could use a photograph taken by a private individual, that captured him at a press conference where he was acting in his official role and standing behind a podium with the county seal, may be used for campaign literature. It is the opinion of the Commission that use of a photograph is a use of office to obtain something of substantial value for your private benefit. However, WIS. STAT. § 19.59(1)(a) , provides an exception that a local public official may use the title or prestige of office to obtain campaign contributions that are permitted and reported as required by Wisconsin campaign finance laws. If the campaign materials that include this photograph are for the purpose of obtaining campaign contributions, then this exception will apply, and you may use the photograph.		
RA-2021-27	Legislative Staff Accepting Outside Employment	Informal Opinion
The lobbying law does not prohibit a legislative staff member from accepting outside employment with a consulting agency that is not a lobbying principal. Further, the ethics laws do not prohibit the legislative staff member from accepting employment with the consulting agency. There was no indication that the position is being given because of the legislative staff member’s service to the Legislature or that it could reasonably be considered a reward for past action.		
RA-2021-28	Reporting of Joint Ads	Formal Opinion (2022 ETH 01)
<p>The following two scenarios were presented with this requested for advice:</p> <ol style="list-style-type: none"> 1. The cost of the advertising is split by the two campaign committees. <ol style="list-style-type: none"> a. We assume each committee would report a disbursement equal to their committee’s actual cost. b. Does each candidate committee also need to recognize an “in-kind” contribution from the other in this case? (If so, this seems to somewhat limit the ability of the committees to pursue such joint efforts since the contribution limit between two local candidate committees may be reached quickly.) 2. The cost of an ad is paid for by Candidate Committee A, but Candidate Committee B is consulted about and approves the ads, which say, “Vote for A and B.” <ol style="list-style-type: none"> a. Presumably, Candidate Committee B needs to report an in-kind contribution, but in what amount—50% of the cost of the ad? 100%? b. What about Candidate Committee A’s expenditure report? How would this committee reflect the expenditure? c. It appears that the contribution limit between two local candidate committees would apply. 		

Additionally, the requester sought advice on how the potential in-kind contributions would affect contribution limits.

It is the opinion of the Commission that when candidate committees purchase a joint ad and share the cost of such ad, there is an exchange of in-kind contributions between the candidate committees for the portion they did not pay. Similarly, when candidate committees agree to a joint ad and one candidate committee pays for the full cost for the other committee(s), there is an in-kind contribution disbursed by the candidate committee paying for the ad and an in-kind contribution being received by the other committee(s) participating in the joint ad. The exchanged in-kind contributions count towards the contribution limits. Additionally, the exchanged in-kind contributions must be considered in determining whether the committees will exceed the threshold to remain on exempt status.

RA-2021-29	Participation as a Panelist at a Conference	Informal Opinion
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A legislator is advised of the permissible ways to attend a conference. The legislator was advised that she could pay for the conference expenses from personal funds, pay from her candidate committee, or that there were several exceptions to the ethics laws that could apply to permit her to accept those costs from the conference host/sponsor.

RA-2021-30	Blanket Authorization for Release of Conduit Funds	Informal Opinion
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As stated above, it is the opinion of the Commission that use of the proposed form provided with this request for advice does not meet the requirements provided in [WIS. STAT. § 11.0701\(3\)](#) and [WIS. ADMIN. CODE. ETH 1.855](#). The Commission advises that the conduit may utilize a preauthorization form as long as it abides by the requirements in [WIS. STAT. § 11.0701\(3\)](#) and [WIS. ADMIN. CODE. ETH 1.855](#). A pre-authorization form must identify the candidate and the specific amount of the contribution.

RA-2021-31	Acceptance of Scholarship for Certificate Program	Informal Opinion
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A legislator is advised that she could not accept a scholarship to attend an out-of-state certificate program because, based on the conference schedule, it did not appear that she could prove by clear and convincing evidence that the conference was primarily for the benefit of the state and not the private benefit of the legislator. However, the Commission advises that the legislator could use funds from her candidate committee to attend the conference.

RA-2022-01	Acceptance of Volunteer Services	Informal Opinion
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The Commission declined to issue guidance concerning whether a legislator could accept free volunteer services because it was not clear that the legislator could prove by clear and convincing evidence that the services were being provided primarily for the benefit of the state and not the personal benefit of the legislator. The legislator was advised that, in the event a complaint is filed, the legislator will have the burden to prove by clear and convincing evidence that the services were being provided primarily for the benefit of the state and not the personal benefit of the legislator.

RA-2022-02	Provision of Volunteer Service and Acceptance of Funds from Online Donation Campaign	Informal Opinion
<p>The Commission declined to issue guidance concerning whether a state public official could provide another state public official volunteer services because it was not clear that the Requestor could prove by clear and convincing evidence that the services were being provided primarily for the benefit of the state and not the personal benefit of the state public official. Further, the state public official was advised that, under the circumstances, the official could not accept funds raised in an online donation campaign.</p>		
RA-2022-03	State Public Official Starting a New Non-Profit Organization	Informal Opinion
<p>A state public official was advised that the laws within the Commission's jurisdiction do not prohibit him from starting a new non-profit organization. The official was given general guidance concerning solicitation and certain other conduct. The official was advised to contact the Commission for guidance on specific circumstances.</p>		
RA-2022-04	Conflict of Interest	Informal Opinion
<p>An agency official may not solicit or accept anything of pecuniary value from a lobbyist or lobbying principal except as specifically provided. The official may solicit from other persons if the official does not use his or her position, title, or the prestige of office. The official may also include reference to the official's position in his or her biography or resume so long as there is no evidence that the official is seeking to obtain financial gain by use of his or her title or the prestige of public office. Finally, the official is advised to avoid soliciting or accepting anything of more than nominal value from persons that may have a special or specific interest in a matter that is likely to be before the official's agency.</p> <p>While there were not any facts described in the request that would prohibit the official from generally participating in official action relating to the statewide regulation of the topic identified in the request, the official is encouraged to contact the Commission for further advice prior to any official action that may have a significant or disparate impact on the financial interests of the official, his or her immediate family, or organizations with which the official is associated.</p>		
RA-2022-05	Contribution Limits -WITHDRAWN	No Opinion Issued
Request withdrawn by the Requestor. No opinion issued.		
RA-2022-06	Legislative Staff Accepting Outside Employment	Informal Opinion
<p>Based on the information provided, it does not appear that the ethics laws would prohibit a legislative staff member from accepting employment with an employer while working for your Representative between now and the end of his term. Nothing in the request, or discussed in our phone calls, indicates that the legislative staff member is being given this opportunity because of his position. Further, there is no indication that this opportunity would reasonably be expected to influence your official actions. Nor is there any indication that it could reasonably be considered a reward for his official actions. Should any legislative matter arise involving the employer arise during that time, he should refrain from participating in that matter without first contacting the Commission. While working for both the Coalition and the Representative, he was advised to be mindful of the laws within the Commission's jurisdiction.</p>		
RA-2022-07	Redistricting Litigation Attorneys Fees – Campaign Funds/Acceptance of Funds	Informal Opinion
<p>A legislator was advised that she could use candidate committee funds to pay for attorneys fees related to her participation in redistricting litigation. The Commission declined to issue guidance on whether she could personally accept funds for those costs.</p>		

RA-2022-08	Creation of a Nonprofit Foundation	Informal Opinion
While it is permissible for the official to create a nonprofit foundation, the Commission advised that certain names for the organization may be prohibited by the ethics laws.		
RA-2022-09	Lobbying Principal Communication Activities and Lobbying Activity Exemption	Informal Opinion
It is the opinion of the Commission that the communications described in your request fall within the definition of lobbying, the communications appear to qualify under the exemption in WIS. STAT. § 13.621(1)(a) . The communications to be disseminated through the principal's email list may be considered a periodical or a public address to an audience made up principally of persons other than legislators or agency officials. As such, the dissemination of the communications would not trigger any licensing requirements for the non-lobbyist employees, or authorization or reporting requirements for the principal. If the communications in question are taken out of the e-newsletter and/or not disseminated through the email list, then such communications may not be covered by the exemption. In this case, the principal should seek further guidance from the Commission.		
RA-2022-10	Use of Campaign Funds for Legal Services	Informal Opinion
A legislator can pay for certain legal services from his candidate committee where they are clearly connected to his public service and would not, therefore, be considered a strictly personal use. The legislator is advised to report the transactions from the candidate committee as required by law.		
RA-2022-11	Publishing an eBook	Informal Opinion
<p>The subject matter of the eBook is campaigning for public office. However, the official indicated that the publication or sale of the eBook would not be conducted through the official's candidate committee or be used in any way to promote the official's campaign. As such, Wisconsin's campaign finance laws are not implicated. Additionally, the official affirmatively asserted that the official is not employed by any state governmental agency and otherwise does not appear to fit the definition of an agency official, so the lobbying laws also appear inapplicable. <i>See WIS. STAT. § 13.62(3)</i>. However, a local public official is subject to the restrictions of the code of ethics for local public officials. <i>See WIS. STAT. § 19.59(1)(a) and (c)2</i>.</p> <p>These two provisions would prohibit a local public official from using his or her title or any public resource to produce or assist in the production of a substantial benefit, or to obtain financial gain or anything of substantial value, for the official's private benefit, the private benefit of an immediate family member, or the private benefit of an organization with which the official is associated. The creation, publication, and sale of an eBook, of which the official would retain the proceeds, is clearly a substantial benefit, a financial gain, or something of substantial value to the official privately. However, the official advised that he or she will not make any reference to his or her public positions or titles, or use any other resources provided to the official as a result of his or her public positions to create, publish, or sell the eBook. As such, these provisions do not appear to bar the official from creating, publishing, or selling an eBook as there would not be any use of office or position for those activities.</p>		

Summary of Investigations Conducted

The Ethics Commission is required by WIS. STAT. § 19.47(5) to specify in its annual report the total number of investigations conducted by the Commission since its last annual report and include a description of the nature of each investigation, including whether the investigation related to campaign finance, ethics, or lobbying. The required information is provided in the table below.

Case #	Nature of the Investigation	Campaign Finance?	Lobbying?	Ethics?
2021-ETH-27	Unlawful Earmarking of a Contribution	Yes	No	No
2021-ETH-29	Conflict of Interest	No	No	Yes
2021-ETH-78	Receipt of Tickets to Event	No	No	Yes
2021-ETH-79	Receipt of Tickets to Event	No	No	Yes
2021-ETH-80	Receipt of Tickets to Event	No	No	Yes

Policies and Procedures of the Commission

Current policies and procedures adopted by the Commission are provided as appendices to this report. If the Commission makes changes to current policies or adopts new policies, those actions will be promptly reported as required under WIS. STAT. § 19.47(9)(a). All of the policies and procedures listed in the appendices to this report were approved or reapproved by the Commission at its meeting on August 30, 2022.

Appendix A: Statutory Duties and Compliance

Statute	Language	Summary
11.0102(2)(a)	Except as provided in pars. (c) and (d), each committee that is required to register under this chapter shall annually pay a filing fee of \$100 to the Commission. The Commission may accept payment under this subsection by credit card, debit card, or other electronic payment mechanism, and may charge a surcharge to that committee to recover the actual costs associated with the acceptance of that electronic payment.	The Commission collects filing fees from all committees required to register with the Commission except candidate committees, and committees that do not expend more than \$2,500 annually.
11.0103(3)(d)	The Commission shall prescribe a simplified, short form for compliance with this section by a committee treasurer who has not engaged in any financial transaction since the last date included on the treasurer's preceding report.	https://ethics.wi.gov/Pages/CampaignFinance/Forms.aspx
11.1304(1)	Prescribe forms for making the reports, statements, and notices required by this chapter. The Commission shall make the forms available free of charge on the Commission's Internet site and shall distribute or arrange for the distribution of all forms for use by other filing officers.	https://ethics.wi.gov/Pages/CampaignFinance/Forms.aspx
11.1304(2)	Upon request, transmit a form described under sub. (1), free of charge, by facsimile or by 1st class mail.	All forms are available online.
11.1304(3)(a)	Prepare and publish for the use of persons required to file reports and statements under this chapter a manual setting forth simply and concisely recommended uniform methods of bookkeeping and reporting.	https://ethics.wi.gov/Pages/CampaignFinance/CampaignFinance.aspx
11.1304(3)(b)	Prepare, publish, and revise as necessary a manual simply and concisely describing the filing and registration requirements established in this chapter in detail, as well as other major provisions of this chapter and ch. 12.	https://ethics.wi.gov/Pages/CampaignFinance/CampaignFinance.aspx
11.1304(4)	Develop a filing, coding, and cross-indexing system consonant with the purposes of this chapter.	https://cfis.wi.gov
11.1304(5)	Assign an identification number to each committee for whom the Commission acts as a filing officer under s. 11.0102 (1) and to each conduit.	CFIS assigns committee ID numbers automatically.
11.1304(6)(a)	Except as provided in par. (b), require each committee for whom the Commission serves as filing officer under s. 11.0102 (1) to file each campaign finance report that is required to be filed under this chapter in an electronic format. The Commission shall permit an authorized individual to provide at the time of filing an electronic signature, as defined ins. 137.11 (8), that is subject to a security procedure, as defined in s. 137.11 (13). The Commission shall provide complete instructions to any committee that files a report under this subsection.	Every committee that is required to file with the Commission files electronically. To sign electronically a person provides their name, ID number, password, and PIN. Committees still have the option of providing a written signature.
11.1304(6)(b)	Permit a committee that accepts contributions in a total amount or value of \$1,000 or less during a campaign period to opt out of the requirement to file a campaign finance report in an electronic format as specified in par. (a). In this paragraph, the campaign period of a candidate committee begins and ends as provided under s. 11.1103, and the campaign period of any other committee begins on January 1 of each odd-numbered year and ends on December 31 of the following year.	The Commission audits committees during each campaign period to determine if they meet the eligibility to be exempt from electronic filing of reports.

Statute	Language	Summary
11.1304(7)	Compile and maintain on an electronic system a current list of all reports and statements received by or required of and pertaining to each committee registered under this chapter.	https://campaignfinance.wi.gov
11.1304(8)	Maintain a duplicate record of any statement submitted by a political action committee under s. 11.0505 or by an independent expenditure committee under s. 11.0605 or by a person under subch. X together with the record of each candidate to whom it relates.	Information filed in CFIS and a duplicate copy is maintained electronically.
11.1304(9)	Determine whether each report or statement required to be filed under this chapter has been filed in the form and by the time prescribed by law, and whether it conforms on its face to the requirements of this chapter.	Staff conducts audits of all reports filed for compliance with Wisconsin Statutes.
11.1304(10)	Immediately send to any committee or conduit which is delinquent in filing, or which has filed otherwise than in the proper form, a notice that the committee or conduit has failed to comply with this chapter. Whenever a candidate committee has appointed an individual other than the candidate as campaign treasurer, the Commission shall send the notice to both the candidate and the treasurer of the candidate committee.	Notices are sent electronically through CFIS by staff, as required.
11.1304(11)	Receive and maintain in an orderly manner all reports and statements required to be filed with the state under the federal election campaign act. The Commission shall: (a) Preserve such reports and statements for a period of 6 years from date of receipt. (b) Compile and maintain a current list of all reports and statements pertaining to each candidate who is required to file a report or statement under the federal election campaign act. (c) Promptly compile and release for public inspection a list of all reports received from candidates for national office and from committees supporting or opposing such candidates which are required to be filed with the state under the federal election campaign act, as soon as possible after each deadline for receipt of such reports as provided by federal law.	This information is available on the Federal Elections Commission website. No reports are filed with the Ethics Commission.
11.1304(12)	Make the reports and statements filed under this chapter, including those reports and statements filed under sub. (11), available on the Commission's Internet site for public inspection and copying, commencing as soon as practicable but not later than the end of the 2nd day following the day during which they are received. No information copied from such reports and statements may be sold or utilized by any person for any commercial purpose.	Information is immediately available on https://campaignfinance.wi.gov upon being filed, with a disclaimer stating the restricted use specified in statute.
11.1304(13)	Upon the request of any person, permit copying of any report or statement described under sub. (12) by hand or by duplicating machine at cost.	The public can access reports online for free through CFIS in a PDF format.
11.1304(14)	Include in its annual report under s. 19.47 (5) compilations of any of the following in its discretion: (a) Total reported contributions, disbursements, and incurred obligations for all committees registered and reporting under this chapter during the biennium. (b) Total amounts contributed during the biennium, reported by contribution amounts as determined by the Commission, to each type of committee registered and reporting under this chapter. (c) Total amounts expended during the biennium, reported by disbursement amounts as determined by the Commission, by each type of committee registered and reporting under this chapter. (d) Total amounts expended for influencing nominations and elections whenever separate information is reported. (e) Aggregate amounts contributed by any contributors shown to have contributed more than \$100.	At the discretion of the Commission.

Statute	Language	Summary
11.1304(15)	Prepare and publish from time-to-time special reports comparing the various totals and categories of contributions and disbursements made with respect to preceding elections.	At the discretion of the Commission.
11.1304(16)	Make available a list of delinquents for public inspection.	The Commission publishes a list of late filers on its website after each campaign finance report filing deadline. The Commission has not yet determined a policy for how to complete this requirement for all other campaign finance reporting requirements.
11.1304(17)	Promulgate rules to administer this chapter.	http://docs.legis.wisconsin.gov/code/admin_code/eth
11.1400(6)	Any elector may file a verified petition with the Commission requesting that civil action under this chapter be brought against any person or committee. The petition shall allege such facts as are within the knowledge of the petitioner to show probable cause that a violation of this chapter has occurred.	The Commission accepts verified petitions under its complaints procedures.
11.1401(2)	Except as otherwise provided in ss. 19.49 (2) (b) 13. and 14. and (h) and 19.554, and only after the Commission has determined probable cause, all prosecutions under this section shall be conducted by the district attorney for the county where the defendant resides or, if the defendant is a nonresident, by the district attorney for the county where the violation is alleged to have occurred. For purposes of this subsection, a person other than an individual resides within a county if the person's principal place of operation is located within that county.	The Commission determines whether there is probable cause to refer criminal prosecutions to district attorneys through its complaints procedures.
13.62(4m)	"Budget bill subject" means a subject specified by the Commission that is included in the executive budget bill or bills introduced under s. 16.47.	The Commission uses the budget bill subjects specified by the Legislative Fiscal Bureau for the purpose of lobbying reporting.
13.685(1)	The Commission shall prescribe forms and instructions for preparing and filing license applications under s. 13.63 (1), registration applications under s. 13.64 and the statements required under ss. 13.68 and 13.695.	All forms and instructions are provided on the Eye on Lobbying website: https://lobbying.wi.gov
13.685(2)	The Commission shall prepare and publish a manual setting forth recommended uniform methods of accounting and reporting for use by persons who are required to provide information under s. 13.68 (4) or to file statements under s. 13.68 or 13.695	Lobbying manuals and training materials are available on the agency and Eye on Lobbying websites.
13.685(3)	The Commission shall examine each statement filed under s. 13.68.	Staff must review statements through the website before they are accepted and made public.
13.685(4)	The Commission shall, by rule, define what constitutes a "topic" for purposes of ss. 13.67 and 13.68 (1) (bn).	Ethics Administrative Rule 16.03

Statute	Language	Summary
13.685(7)	Beginning with the 3rd Tuesday following the beginning of any regular or special session of the legislature and on every Tuesday thereafter for the duration of such session, the Commission shall, from its records, submit to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), a report of the names of lobbyists licensed under s. 13.63 and the names of officers and employees of agencies filed under s. 13.695 who were not previously reported, the names of the principals or agencies whom they represent and the general areas of legislative and administrative action which are the object of their lobbying activity. Such reports shall be incorporated into the journal of the senate and a copy filed in the office of the chief clerk of the assembly. The Commission shall also notify the chief clerk of each house that a copy of each statement which is required to be filed under ss. 13.68 and 13.695 is available upon request. Such copy shall be open to public inspection but shall not be incorporated in the journal unless the chief clerk so orders. The Commission shall include in its report under s. 15.04 (1) (d), a summary of the statements it has received under ss. 13.68 and 13.695.	The Commission automated this process within the Eye on Lobbying website by automatically generating a report with the required information and emailing it to the Chief Clerks in each house of the State Legislature.
13.695	(1) Each agency shall file with the Commission on or before January 31 and July 31 a statement which identifies the officers and employees of the agency who are paid a salary and whose regular duties include attempting to influence legislative action. The statement shall be attested by the agency head or such person's designee. Each statement shall contain the following information, which shall be current to within 30 days of the filing deadline, and cover the period since the last date covered in the previous statement: (a) The name of the agency filing the statement; (b) The name, title and salary, which is paid by the state, of each officer or employee engaged in such legislative activity, the proportionate amount of time spent on legislative activity and the general area of legislative action which the officer or employee has attempted to influence.	Agencies complete their reporting through a customized application within the Eye On Lobbying website: https://lobbying.wi.gov
13.74	(1) The Commission shall cause to have made an examination of all statements which are required to be filed with it under this subchapter and may examine any of the documents used to develop such statements. The Commission shall make official note in the file of a principal of any error or other discrepancy which the Commission discovers. The Commission shall inform the person submitting the report of the error. (2) In the discharge of its duties under this subchapter and upon notice to the party or parties being investigated, the Commission may subpoena and bring before it any person in the state and require the production of any papers, books or other records relevant to an investigation. A circuit court may by order permit the inspection and copying of the accounts and the depositor's and loan records at any financial institution as defined in s. 705.01 (3) doing business in the state to obtain evidence of any violation of this subchapter upon showing of probable cause to believe there is a violation and that such accounts and records may have a substantial relation to such violation. In the discharge of its duties, the Commission may cause the deposition of witnesses to be taken in the manner prescribed for taking depositions in civil actions in circuit court.	The Commission conducts audits of all lobbying reports consistent with its lobbying program auditing schedule: https://ethics.wi.gov/Pages/Enforcement/Audits.aspx .

Statute	Language	Summary
13.75	<p>(1g) The Commission shall charge and collect for the following purposes the following amounts: (a) Obtaining a license under s. 13.63 (1) to act on behalf of one principal, \$250, except that no fee is required for an individual who is eligible for the veterans fee waiver program under s. 45.44. (am) Obtaining a license under s. 13.63 (1) to act on behalf of 2 or more principals, \$400, except that no fee is required for an individual who is eligible for the veterans fee waiver program under s. 45.44. (b) Filing the principal registration form under s. 13.64, \$375. (c) Filing a verified statement under s. 13.621 (5), \$10. (d) Filing an authorization statement under s. 13.65, \$125. (e) Registering an interest in a legislative proposal, proposed administrative rule, budget bill subject or other topic under s. 13.67 (2), \$10, except that no fee is required for an individual who is eligible for the veterans fee waiver program under s. 45.44.</p> <p>(1r) The board [Commission] may accept payment under this section by credit card, debit card, or other electronic payment mechanism, and may charge a surcharge to recover the actual cost associated with the acceptance of that electronic payment.</p>	The Commission collects lobbying fees either by paper check or through the Eye on Lobbying website. Fees may be paid on the Commission's website by ACH, credit card or debit card. There is a 2.5% surcharge to recover the actual cost associated with payments made via credit card or debit card.
15.04(1)(d)	Biennial report. On or before October 15 of each odd-numbered year, submit to the governor and the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), a report on the performance and operations of the department or independent agency during the preceding biennium, and projecting the goals and objectives of the department or independent agency as developed for the program budget report. The secretary of administration may prescribe the format of the report and may require such other information deemed appropriate. Each department or independent agency shall provide a copy of its biennial report to legislators upon request. Any department or independent agency may issue such additional reports on its findings and recommendations as its operations require. A department or independent agency may, on or before October 15, submit an annual report prepared by it, in place of the biennial report required under this paragraph, if the submission of the annual reports is approved by the secretary of administration or is otherwise required by law.	19.47(5) requires the Commission to report annually the information required under 15.04(1)(d).
15.06(5)	FREQUENCY OF MEETINGS; PLACE. Every commission shall meet on the call of the chairperson or a majority of its members. Every commission shall maintain its offices in Madison, but may meet or hold hearings at such other locations as will best serve the citizens of this state. The elections commission and the ethics commission shall meet in person at least 4 times each year and shall conduct meetings in accordance with accepted parliamentary procedure.	The Commission maintains its Madison office at 101 East Wilson Street, Suite 127; the Commission holds at least four in-person meetings per year.
19.43	Collect Statements of Economic Interests from appointees, nominees, candidates, and continuing officials, and quarterly reports of economic transactions from Investment Board members and employees.	The Commission collects paper reports from Investment Board members. All other public officials and candidates file statements of economic interests via https://sei.wi.gov

Statute	Language	Summary
19.43(7)	If an official required to file fails to make a timely filing, the Commission shall promptly provide notice of the delinquency to the secretary of administration, and to the chief executive of the department of which the official's office or position is a part, or, in the case of a district attorney, to the chief executive of that department and to the county clerk of each county served by the district attorney or in the case of a municipal judge to the clerk of the municipality of which the official's office is a part, or in the case of a justice, court of appeals judge, or circuit judge, to the director of state courts. Upon such notification both the secretary of administration and the department, municipality, or director shall withhold all payments for compensation, reimbursement of expenses, and other obligations to the official until the Commission notifies the officers to whom notice of the delinquency was provided that the official has complied with this section.	This requirement is addressed within the Commission's settlement schedule for late SEI filings: https://ethics.wi.gov/Pages/Enforcement/SettlementSchedules.aspx .
19.46(2)(a)	These provisions allow the Commission to issue formal or informal opinions on propriety of actions under Chapters 11, subchapter III of Chapter 13, subchapter III of Chapter 19. The opinions must be supported by specific legal authority under a statute or other law, or by specific case or common law authority, and shall include a citation to each statute or other law and each case or common law authority upon which the opinion is based, and shall specifically articulate or explain which parts of the cited authority are relevant to the Commission's conclusion and why they are relevant.	The Commission complies with these requirements regarding any requested or issued any formal or informal advisory opinions. Additional information about requests for advice is available in a separate section of this report.
19.46(2)(b)	<p>1. The Commission may authorize the Commission administrator or his or her designee to issue an informal written advisory opinion or transmit an informal advisory opinion electronically on behalf of the Commission, subject to such limitations as the Commission deems appropriate. Every informal advisory opinion shall be consistent with applicable formal advisory opinions issued by the Commission, statute or other law, and case law.</p> <p>2. Any individual may request in writing, electronically, or by telephone an informal advisory opinion from the Commission under this paragraph. The Commission's designee shall provide a written response, a written reference to an applicable statute or law, or a written reference to a formal advisory opinion of the Commission to the individual, or shall refer the request to the Commission for review and the issuance of a formal advisory opinion.</p> <p>3. Any person receiving an informal advisory opinion under this paragraph may, at any time, request a formal advisory opinion from the Commission on the same matter.</p> <p>19.46(2)(a)4 requires the administrator to review informal advisory opinions requested of and issued by the administrator at each regular meeting of the Commission.</p>	The Commission authorized the Administrator to issue informal advisory opinions on its behalf at its meeting on March 7, 2017. Since that authority was delegated, the Administrator has reported informal advisory opinions issued at the next regularly scheduled meeting of the Commission in accordance with this section of the statutes.
19.47(1)	OFFICE. The office of the Commission shall be in Madison, but the Commission may, after proper public notice and in compliance with subch. V, meet or exercise any of its powers at any other place in the state.	The Ethics Commission office is currently located in Madison. The staff has also researched the cost of meeting or exercising any of its powers at any other place in the state.

Statute	Language	Summary
19.47(2)	ADMINISTRATOR. The Commission shall appoint an administrator in the manner provided under s. 15.62 (1) (b). The administrator shall be outside the classified service. The administrator shall appoint such other personnel as he or she requires to carry out the duties of the Commission and may designate an employee of the Commission to serve as legal counsel of the Commission. The administrator shall perform such duties as the Commission assigns to him or her in the administration of ch. 11, subch. III of ch. 13, and this subchapter.	The Ethics Commission appointed Daniel A. Carlton, Jr., to serve as the Commission Administrator. David Buerger is serving as the legal counsel for the Commission.
19.47(3)	Statements of economic interests. All members and employees of the Commission shall file statements of economic interests with the Commission.	All members and employees of the Commission have a current SEI on file.
19.47(4)	ACTION. Any action by the Commission, except an action relating to procedure of the Commission, requires the affirmative vote of at least two-thirds of its members.	The Commission complies with this requirement at each meeting.
19.47(5)	Annual report. The Commission shall submit an annual report under s. 15.04 (1) (d) and shall include in its annual report the names and duties of all individuals employed by the Commission and a summary of its determinations and advisory opinions issued under s. 19.46 (2). Except as authorized or required under s. 19.55 (4) (b), the Commission shall make sufficient alterations in the summaries to prevent disclosing the identities of individuals or organizations involved in the decisions or opinions. The Commission shall identify in its report the statutory duties of the administrator of the Commission, together with a description of the manner in which those duties are being fulfilled. Notwithstanding ss. 19.50 and 19.55 (3), the Commission shall also specify in its report the total number of investigations conducted by the Commission since the last annual report and a description of the nature of each investigation, including whether the investigation related to campaign finance, ethics, or lobbying. The Commission may also include in its annual report any information compiled under s. 11.1304 (14). The Commission shall make such further reports on the matters within its jurisdiction and such recommendations for legislation as it deems appropriate.	Reports are due annually no later than October 15 of each year, per 15.04(1)(d). The Commission will submit reports annually that cover each fiscal year.
19.47(6)	OPERATION. The joint committee on legislative organization shall be advisory to the Commission on all matters relating to operation of the Commission.	No action required.
19.47(7)	GUIDANCE FOLLOWING BINDING COURT DECISIONS. Within 2 months following the publication of a decision of a state or federal court that is binding on the Commission and this state, the Commission shall issue updated guidance or formal advisory opinions, commence the rule-making procedure to revise administrative rules promulgated by the Commission, or request an opinion from the attorney general on the applicability of the court decision.	The Commission will comply with this requirement when it becomes applicable.
19.47(8)	STANDING. The Commission has standing to commence or intervene in any civil action or proceeding for the purpose of enforcing the laws regulating campaign finance, ethics, or lobbying or ensuring their proper administration.	No action required.
19.47(9)(a)	Annually, the Commission shall adopt written policies and procedures in order to govern its internal operations and management and shall annually report such policies and procedures to the appropriate standing committees of the legislature under s. 13.172 (3).	Policies and procedures adopted by the Commission are included in the annual report and are annually adopted with the approval of this report.

Statute	Language	Summary
19.47(9)(b)	Notwithstanding par. (a), the Commission may reconsider at any time any policy or procedure adopted as provided under par. (a). If, upon reconsideration, the Commission revises a previously reported policy or procedure, the Commission shall report the revision to the appropriate standing committees of the legislature under s. 13.172 (3).	13.172(3) directs the Commission to submit reports to the chief clerks in each Legislative house. The Commission complies where this is applicable.
19.47(9)(c)	The Commission may reconsider at any time any written directives or written guidance provided to the general public or to any person subject to the provisions of ch. 11, subch. III of ch. 13, and this subchapter with regard to the enforcement and administration of those provisions.	The Commission is aware of this and will exercise its discretion to do so where appropriate.
19.47(10)	EMPLOYEES. All employees of the Commission shall be nonpartisan.	The Commission adopted a nonpartisan staff policy, which is included with this annual report.
19.47(11)	PAYMENTS. The Commission may accept payment by credit card, debit card, or other electronic payment mechanism for any amounts owed pursuant to the administration of ch. 11, subch. III of ch. 13, or this subchapter, and may charge a surcharge to the payer to recover charges associated with the acceptance of that electronic payment.	The Commission directed staff to implement offering electronic payment for all transactions, to charge a convenience fee for the lobbying program, but absorb the surcharge for all other transactions.
19.48(1)	Promulgate rules necessary to carry out ch. 11, subch. III of ch. 13, and this subchapter. The Commission shall give prompt notice of the contents of its rules to state public officials who will be affected thereby.	https://docs.legis.wisconsin.gov/code/admin_code/eth
19.48(2)	Prescribe and make available forms for use under ch. 11, subch. III of ch. 13, and this subchapter, including the forms specified in s. 13.685 (1).	All required forms are available electronically on the Commission's websites.
19.48(3)	Accept and file any information related to the purposes of ch. 11, subch. III of ch. 13, and this subchapter which is voluntarily supplied by any person in addition to the information required by this subchapter.	The Commission complies with this requirement.

Statute	Language	Summary
19.48(4)	Preserve the statements of economic interests filed with it for a period of 6 years from the date of receipt in such form, including microfilming, optical imaging or electronic formatting, as will facilitate document retention, except that: (a) Upon the expiration of 3 years after an individual ceases to be a state public official the Commission shall, unless the former state public official otherwise requests, destroy any statement of economic interests filed by him or her and any copies thereof in its possession. (b) Upon the expiration of 3 years after any election at which a candidate for state public office was not elected, the Commission shall destroy any statements of economic interests filed by him or her as a candidate for state public office and any copies thereof in the Commission's possession, unless the individual continues to hold another position for which he or she is required to file a statement, or unless the individual otherwise requests. (c) Upon the expiration of 3 years from the action of the senate upon a nomination for state public office at which the senate refused to consent to the appointment of the nominee, the Commission shall destroy any statements of economic interests filed by him or her as a nominee and any copies thereof in the Commission's possession, unless the individual continues to hold another position for which he or she is required to file a statement, or unless the nominee otherwise requests. This paragraph does not apply to any individual who is appointed to state public office under s. 17.20 (2).	The Commission complies with this requirement and applicable records disposition authorizations.
19.48(5)	Except as provided in s. 19.55 (2) (c), make statements of economic interests filed with the Commission available for public inspection and copying during regular office hours and make copying facilities available at a charge not to exceed actual cost.	SEIs are available for public inspection in accordance with this provision, and copies available, consistent with the agency's public records request policy.
19.48(6)	Compile and maintain an index to all the statements of economic interests currently on file with the Commission to facilitate public access to such statements of economic interests.	The Commission maintains an indexed archive of paper records filed, as well as an electronic database for maintaining reported information and preparing pre-populated forms for filers' upcoming reports.
19.48(7)	Prepare and publish special reports and technical studies to further the purposes of ch. 11, subch. III of ch. 13, and this subchapter.	At the discretion of the Commission.
19.48(8)	Report the full name and address of any individual and the full name and address of any person represented by an individual seeking to copy or obtain information from a statement of economic interests in writing to the individual who filed it, as soon as possible.	The Commission complies with this requirement as applicable.
19.48(9)	Administer programs to explain and interpret ch. 11, subch. III of ch. 13, and this subchapter for state public officials, and for elective state officials, candidates for state public office, legislative officials, agency officials, lobbyists, as defined in s. 13.62, local public officials, corporation counsels and attorneys for local governmental units. The programs shall provide advice regarding appropriate ethical and lobbying practices, with special emphasis on public interest lobbying. The Commission may delegate creation and implementation of any such program to a group representing the public interest. The Commission may charge a fee to participants in any such program.	Staff creates and maintains training manuals, FAQ documents, presentations, seminars, training sessions, webinar events, and other instructional programs that help explain and interpret the statutes the Commission administers and provide advice on compliance.

Statute	Language	Summary
19.48(10)	Compile and make available information filed with the Commission in ways designed to facilitate access to the information. The Commission may charge a fee to a person requesting information for compiling, disseminating or making available such information, except that the Commission shall not charge a fee for inspection at the Commission's office of any record otherwise open to public inspection under s. 19.35 (1).	Information regarding the programs the Commission administers is readily available and accessible free of charge on the Commission's websites and can customize the compilation and dissemination of information through IT support available through a contractor.
19.48(11)	Maintain an Internet site on which the information required to be posted by agencies under s. 16.753 (4) can be posted and accessed. The information on the site shall be accessible directly or by linkage from a single page on the Internet.	https://ethics.wi.gov/Pages/Ethics/ContractSunshine.aspx
19.49	Follow statutory procedures for complaints outlined within this provision of statutes.	The Commission has established complaint procedures that comply with all statutory requirements.
19.49(2)(b)10	The Commission shall, by rule, prescribe categories of civil offenses which the Commission will agree to compromise and settle without formal investigation upon payment of specified amounts by the alleged offender.	The Commission's standard settlement schedules are set forth in WIS. ADMIN. CODE CH. ETH 26.
19.49(2)(c)1	No individual who serves as the administrator may have been a lobbyist, as defined in s. 13.62 (11). No such individual may have served in a partisan state or local office.	The Commission Administrator has never been a lobbyist or ever served in a partisan state or local office.
19.49(2)(c)2	No employee of the Commission, while so employed, may become a candidate, as defined in s. 11.0101 (1), for a state or partisan local office. No individual who is retained by the Commission to serve as a special investigator or as special counsel may, while so retained, become a candidate, as defined in s. 11.0101 (1), for any state or local office. A filing officer shall decline to accept nomination papers or a declaration of candidacy from any individual who does not qualify to become a candidate under this paragraph.	Employees of the Commission are aware of this prohibition. One employee is a candidate, as defined by statute, for a non-partisan local office, as a Village Board Trustee.
19.49(2)(d)	No individual who serves as an employee of the Commission and no individual who is retained by the Commission to serve as a special investigator or a special counsel may, while so employed or retained, make a contribution, as defined in s. 11.0101 (8), to a candidate for state or local office. No individual who serves as an employee of the Commission and no individual who is retained by the Commission to serve as a special investigator or as special counsel, for 12 months prior to becoming so employed or retained, may have made a contribution, as defined in s. 11.0101 (8), to a candidate for a partisan state or local office.	Employees of the Commission are aware of the prohibition against making contributions to candidates for state or local office while employed by the Commission, and for making contributions to candidates for partisan state and local offices during the 12 months prior to employment with the Commission. However, the prohibition on employees making contributions to their own campaign for non-partisan local office may be unconstitutional.

Statute	Language	Summary
19.49(2g)	In addition to the facial examination of reports and statements required under s. 11.1304 (9), the Commission shall conduct an audit of reports and statements which are required to be filed with it to determine whether violations of ch. 11 have occurred.	Staff conducts regular audits each calendar year and the Commission annually approves the audit schedule.
19.50	Except as specifically authorized by law and except as provided in sub. (2), no investigator, prosecutor, employee of an investigator or prosecutor, or member or employee of the Commission may disclose information related to an investigation or prosecution under ch. 11, subch. III of ch. 13, or this subchapter or any other law specified in s. 978.05 (1) or (2) or provide access to any record of the investigator, prosecutor, or the Commission that is not subject to access under s. 19.55 (3) to any person other than an employee or agent of the prosecutor or investigator or a member, employee, or agent of the Commission prior to presenting the information or record in a court of law.	Commissioners and staff maintain confidentiality of all applicable information.
19.55(1)	The Commission shall require an individual wishing to examine a statement of economic interests or the list of persons who inspect any statements which are in the Commission's possession to provide his or her full name and address, and if the individual is representing another person, the full name, and address of the person which he or she represents. Such Commission shall record and retain for at least 3 years information obtained by it pursuant to this subsection. No individual may use a fictitious name or address or fail to identify a principal in making any request for inspection.	The Commission complies with this requirement as applicable.
19.55(2)(c)	Statements of economic interests and reports of economic transactions which are filed with the Commission by members or employees of the investment board, except that the Commission shall refer statements and reports filed by such individuals to the legislative audit bureau for its review, and except that a statement of economic interests filed by a member or employee of the investment board who is also an official required to file shall be open to public inspection.	Staff refers statements from SWIB employees and members to the Legislative Audit Bureau when they are filed.
19.57	Conferences, visits, and economic development activities. The Wisconsin Economic Development Corporation shall file a report with the Commission no later than April 30 annually, specifying the source and amount of anything of value received by the Wisconsin Economic Development Corporation during the preceding calendar year for a purpose specified in s. 19.56 (3) (e), and the program or activity in connection with which the thing is received, together with the location and date of that program or activity.	WEDC provides these reports to the Commission, which are retained according to the standard records disposition authorizations.
19.575	Tourism Activities. The department of tourism shall file a report with the Commission no later than April 30 annually, specifying the source and amount of anything of value received by the department of tourism during the preceding calendar year for a purpose specified in s. 19.56 (3) (em) and the program or activity in connection with which the thing is received, together with the location and date of that program or activity.	The Department of Tourism provides these reports to the Commission, which are retained according to the standard records disposition authorizations.

Statute	Language	Summary
19.851	<p>(1) Prior to convening under this section or under s. 19.85 (1), the ethics Commission and the elections Commission shall vote to convene in closed session in the manner provided in s. 19.85 (1). The ethics Commission shall identify the specific reason or reasons under sub. (2) and s. 19.85 (1) (a) to (h) for convening in closed session. The elections Commission shall identify the specific reason or reasons under s. 19.85 (1) (a) to (h) for convening in closed session. No business may be conducted by the ethics Commission or the elections Commission at any closed session under this section except that which relates to the purposes of the session as authorized in this section or as authorized in s. 19.85 (1).</p> <p>(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.</p>	The Commission complies with this requirement as applicable.
20.9305(2)(e)	<p>The governor shall post on the Internet site maintained by the ethics Commission under s. 16.753 all of the following:</p> <p>20.9305(2)(e)1. A copy of any contingency fee contract entered into under this subsection and of the corresponding determination under par. (a) during the period beginning 5 days after the contract is entered into and ending when the contract and all of its extensions expire or are terminated.</p> <p>2. Notice of the amount of any contingency fees paid under a contract entered into under this subsection during the period beginning 15 days after payment is made and ending 365 days after the payment is made.</p>	The Commission complies with this requirement related to contract sunshine.
49.857(2)	<p>(a) The department shall establish a system, in accordance with federal law, under which a licensing authority is requested, and a licensing agency or credentialing board is required, to restrict, limit, suspend, withhold, deny, refuse to grant or issue, or refuse to renew or revalidate a license in a timely manner upon certification by and in cooperation with the department, if the individual holding or applying for the license is delinquent in making court-ordered payments of support or fails to comply, after appropriate notice, with a subpoena or warrant.</p> <p>(b) Under the system, the department shall enter into a memorandum of understanding with a licensing authority, if the licensing authority agrees, and with a licensing agency.</p>	MOU in place with DCF for lobbyist license checks; checks are being conducted.
73.0301(2)	<p>Each licensing department and the supreme court, if the supreme court agrees, shall enter into a memorandum of understanding with the department of revenue under sub. (4) (a) that requires the licensing department or supreme court to do all of the following:</p> <p>73.0301(2)(a)1.</p> <p>1. Request the department of revenue to certify whether an applicant for a license or license renewal or continuation is liable for delinquent taxes. With respect to an applicant for a license granted by a credentialing board, the department of safety and professional services shall make a request under this subdivision. This subdivision does not apply to the department of transportation with respect to licenses described in sub. (1) (d) 7.</p> <p>2. Request the department of revenue to certify whether a license holder is liable for delinquent taxes. With respect to a holder of a license granted by a credentialing board, the department of safety and professional services shall make a request under this subdivision.</p>	MOU in place with DOR for lobbyist license checks; checks are being conducted.

Statute	Language	Summary
108.227(2)	<p>(a) Each licensing department and the supreme court, if the supreme court agrees, shall enter into a memorandum of understanding with the department of workforce development under sub. (4) (a) that requires the licensing department or supreme court to do all of the following:</p> <ol style="list-style-type: none"> 1. Request the department of workforce development to certify whether an applicant for a license or license renewal or continuation is liable for delinquent contributions. With respect to an applicant for a license granted by a credentialing board, the department of safety and professional services shall make a request under this subdivision. This subdivision does not apply to the department of transportation with respect to licenses described in sub. (1) (e) 7. 2. Request the department of workforce development to certify whether a license holder is liable for delinquent contributions. With respect to a holder of a license granted by a credentialing board, the department of safety and professional services shall make a request under this subdivision. 	MOU in place with DWD for lobbyist license checks; checks are being conducted.
778.135	Campaign finance, lobbying, and ethics forfeitures; how recovered. Notwithstanding s. 778.13, whenever any action or proposed action by the elections Commission under s. 5.05 (1) (c) or the ethics Commission under s. 19.49 (1) (b) is settled as a result of agreement between the parties without approval of the court, the moneys accruing to the state on account of such settlement shall be paid to the Commission and deposited with the secretary of administration.	Forfeitures received are transferred through the Department of Administration and the Bureau of Public Lands to the Common School Fund.

Appendix B: Nonpartisan Staff Policy

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

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

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

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

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

Seeking Elective Office

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

Any employee who files a campaign registration statement to register as a candidate for partisan elective office prior to the time that nomination papers can first be circulated shall report that filing to the Administrator, who shall place the employee on unpaid leave until the nomination papers are filed or until the employee is no longer a candidate for partisan office.

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

Appendix C: Delegation of Authority for Informal Advisory Opinions Policy

The Ethics Commission is required by WIS. STAT. § 19.47(9)(a) to report adopted policies to the appropriate standing committees of the Legislature under WIS. STAT. § 13.172(3). At its meeting on March 7, 2017, the Ethics Commission adopted a policy to authorize the Commission Administrator or his or her designee to issue an informal written advisory opinion, consistent with WIS. STAT. § 19.46(2)(b). That section of the statutes states the following:

(b)

- 1. The commission may authorize the commission administrator or his or her designee to issue an informal written advisory opinion or transmit an informal advisory opinion electronically on behalf of the commission, subject to such limitations as the commission deems appropriate. Every informal advisory opinion shall be consistent with applicable formal advisory opinions issued by the commission, statute or other law, and case law.*
- 2. Any individual may request in writing, electronically, or by telephone an informal advisory opinion from the commission under this paragraph. The commission's designee shall provide a written response, a written reference to an applicable statute or law, or a written reference to a formal advisory opinion of the commission to the individual, or shall refer the request to the commission for review and the issuance of a formal advisory opinion.*
- 3. Any person receiving an informal advisory opinion under this paragraph may, at any time, request a formal advisory opinion from the commission on the same matter.*

Additionally, WIS. STAT. § 19.46(2)(a)4 requires the Administrator to report the issuance of informal opinions to the Commission and the options the Commission may exercise upon receiving such a report:

- 4. At each regular meeting of the commission, the commission administrator shall review informal advisory opinions requested of and issued by the administrator and that relate to recurring issues or issues of first impression for which no formal advisory opinion has been issued. The commission may determine to issue a formal advisory opinion adopting or modifying the informal advisory opinion. If the commission disagrees with a formal or informal advisory opinion that has been issued by or on behalf of the commission, the commission may withdraw the opinion, issue a revised formal or informal advisory opinion, or request an opinion from the attorney general. No person acting after the date of the withdrawal or issuance of the revised advisory opinion is exempted from prosecution under this subsection if the opinion upon which the person's action is based has been withdrawn or revised in relevant degree.*

Adopted Policy Delegating Authority to Issue Informal Opinions

1. The request for an informal opinion must be received in writing (e.g., email, or a typed or written letter).
2. The issuance of an informal opinion must be provided in writing (e.g., email, or a typed or written letter).
3. Every informal opinion issued shall be consistent with all applicable formal advisory opinions issued by the Commission, statute or other law, and case law as required by WIS. STAT. § 19.46(2)(b)1; as well as United States and Wisconsin constitutional law.
4. The Commission Administrator, or the Staff Counsel upon delegation by the Administrator, may issue an informal opinion consistent with the policy adopted by the Commission

How to Request an Informal Advisory Opinion

We recommend that requests for informal advisory opinions explicitly state that an informal opinion is requested. Requesters should also provide as much detail as possible regarding the facts and circumstances related to the request to ensure that the opinion provided sufficiently addresses the matter. Requests can be directed to the Administrator or Staff Counsel, directly, or to the agency in general. Contact information for the Administrator, Staff Counsel, and the agency is available on our website here: <https://ethics.wi.gov/Pages/AboutUs/ContactUs.aspx>.

Appendix D: Campaign Finance Standard Settlement Schedule

This document sets out authorized settlement offers for campaign finance violations, in lieu of pursuing court action. It includes recommended settlement amounts for specific situations. The Commission's authority to make settlement offers is set out in WIS. STAT. § 19.49(1)(b). The Commission may specify settlement amounts for certain violations and may compromise and settle those matters without formal investigation. If an individual or committee chooses not to accept a settlement offer, the Commission may bring a civil action and seek the maximum forfeitures provided by law, including costs and attorneys' fees. The Commission's primary interest is providing timely and accurate campaign finance information to the public, and collection of settlements is secondary. This schedule is codified in WIS. ADMIN. CODE ETH 26.

Late Filing of Continuing or September Campaign Finance Reports-WIS. ADMIN. CODE ETH § 26.02(1)

Calendar Days Late:	First Violation:	Second or Greater Violation:
0-30	Warning	Warning
31-60	\$100	\$200
61-90	\$200	\$300
91-120	\$300	\$400
Over 120	\$500	\$500

Filing deadlines are set by WIS. STAT. §§ 11.0204, 11.0304, 11.0404, 11.0504, 11.0604, 11.0704, 11.0804, and 11.0904. Penalties are set by WIS. STAT. § 11.1400. Maximum penalty is \$500 plus the greater of \$50 or one percent of the annual salary of the office sought for each day of delinquency.

Late Filing of Pre-Primary, Pre-Election, and Special Post-Election Reports-WIS. ADMIN. CODE ETH § 26.02(2)

Calendar Days Late:	Settlement Amount:
1	\$100
2	\$150
3	\$200
4	\$250
5	\$300
6	\$350
7	\$400
8	\$450
9	\$500

Filing deadlines are set by WIS. STAT. §§ 11.0204, 11.0304, 11.0404, 11.0504, 11.0604, 11.0704, 11.0804, and 11.0904. Penalties are set by WIS. STAT. § 11.1400. Maximum penalty is \$500 plus the greater of \$50 or one percent of the annual salary of the office sought for each day of delinquency.

Late Payment of Annual Filing Fees-WIS. ADMIN. CODE ETH § 26.02(3)

Calendar Days Late:	Settlement Amount:
1-15	Warning
16-45	\$300
46-90	\$500
91 or more	\$800

Fees are set by WIS. STAT. § 11.0102(2). Penalties are set by WIS. STAT. § 11.1400(4). Maximum penalty is \$800.

Late/Incomplete Filing of 72-Hour Reports-WIS. ADMIN. CODE ETH § 26.02 (4) and (5)

Late/Incomplete Reporting	Settlement Amount:
5% of the total amount of the contribution or disbursement not timely reported.	

Filing requirements for 72-hour reporting are set by WIS. STAT. §§ 11.0204(7), 11.0304(7), 11.0505, 11.0605, and 11.1001. Penalties are set by WIS. STAT. § 11.1400. Maximum penalty is \$500 for each reporting violation.

Incomplete Contribution/Disbursement Information-WIS. ADMIN. CODE ETH § 26.02 (6) and (7)

Calendar Days Late:	Settlement Amount:
Up to 30 days from staff contact	Warning
31+ days from staff contact	\$100 plus 10 percent of the total amount of contributions or disbursements with incomplete information

Reporting requirements are set by WIS. STAT. §§ 11.0204, 11.0304, 11.0404, 11.0504, 11.0604, 11.0704, 11.0804, and 11.0904. Penalties are set by WIS. STAT. § 11.1400. Maximum penalty is \$500 per reporting violation.

Cash Balance Discrepancies-WIS. ADMIN. CODE ETH § 26.02 (8)

Calendar Days Late:	Settlement Amount:
Up to 30 days from staff contact	Warning
31+ days from staff contact	\$100 plus 10% of discrepancy

Reporting requirements are set by WIS. STAT. §§ 11.0204, 11.0304, 11.0404, 11.0504, 11.0604, 11.0704, 11.0804, and 11.0904. Penalties are set by WIS. STAT. § 11.1400. Maximum penalty is \$500 per unreported transaction that led to the discrepancy.

Exceeding Contributions Limits-WIS. ADMIN. CODE ETH § 26.02 (9)

Violation Type:	Settlement Amount:
Receiving Excess Contribution	Amount of excess contribution
Furnishing Excess Contribution	If receiving committee forfeits full amount of excess contribution, \$0; else, case-by-case basis

Contribution limits are set by WIS. STAT. § 11.1101. Penalties are set by WIS. STAT. § 11.1400. Maximum penalties for the receiving committee are \$500, plus surrendering the amount of the excess contribution. Maximum penalties for the contributor are \$500 plus treble the amount of the portion of the contribution that exceeds the maximum. There shall be no violation if excess or improper contributions are returned within 15 days after the filing date for the reporting period in which the contribution is received as provided by WIS. STAT. § 11.1110(2)(b).

Prohibited Corporate Contributions-WIS. ADMIN. CODE ETH § 26.02 (10)

Violation Type:	Settlement Amount:
Receiving Committee	1.5 times amount of contribution, plus surrendering the amount of the unlawful contribution.
Corporate Contributor	1.5 times amount of contribution

Corporate contributions are limited by WIS. STAT. § 11.1112. Penalties are set by WIS. STAT. § 11.1400(1) and (3). Maximum penalty for the receiving committee is \$500 plus surrendering the amount of the unlawful contribution. Maximum penalty for the corporate contributor is three times the amount of the contribution. There shall be no violation if excess or improper contributions are returned within 15 days after the filing date for the reporting period in which the contribution is received as provided by WIS. STAT. § 11.1110(2)(b).

Prohibited Lobbyist Contributions-WIS. ADMIN. CODE ETH § 26.02 (11)

Violation Type:	Settlement Amount:
Receiving Committee	Return of the contribution to the lobbyist
Lobbyist Contributor	1.5 times amount of contribution, up to \$1,000

Lobbyist contributions are limited by WIS. STAT. § 13.625. Penalties are set by WIS. STAT. § 13.69(2). Maximum penalty for the receiving committee is \$1,000, plus surrendering the amount of the unlawful contribution. Maximum penalty for the lobbyist is \$1,000. Limitations on lobbyist contributions are set out in Chapter 13 but the settlement offer schedule is set out here. There shall be no violation if excess or improper contributions are returned within 15 days after the filing date for the reporting period in which the contribution is received as provided by WIS. STAT. § 11.1110(2)(b).

Appendix E: Lobbying Standard Settlement Schedule

This document sets out authorized settlement offers for lobbying law violations, in lieu of pursuing court action. It includes recommended settlement amounts for specific situations. The Commission's authority to make settlement offers is set out in WIS. STAT. § 19.49(1)(b). The Commission may specify penalties for certain offenses and may compromise and settle those matters without formal investigation per WIS. STAT. § 19.49(2)(b)10. If a lobbying principal or lobbyist chooses not to accept a settlement offer, the Commission may bring a civil action and seek the maximum forfeitures provided by law, including costs and attorneys' fees. If there appears to be an intentional violation of law, the matter may be brought to the Commission for further action. The Commission's primary interest is providing timely and accurate lobbying information to the public, and collection of civil penalties is secondary. This schedule is codified in WIS. ADMIN. CODE ETH 26.

Late filing of semi-annual lobbying report – WIS. ADMIN. CODE ETH § 26.03 (1)

Business Days Late	First Offense	Second or Greater Offense
2 days	No penalty	Warning
3-5 days	Warning	\$50
6-15 days	Warning	\$100
16-29 days	\$50	\$250
30+ days	\$100	\$500

Lobbying principals are required by WIS. STAT. § 13.68 to semi-annually file a statement disclosing certain information as to their lobbying activities and expenditures. WIS. STAT. § 13.69(1) outlines the penalties for late reporting. The maximum penalty is a forfeiture of not more than \$5,000. Pursuant to WIS. STAT. § 13.69(6m) any principal, lobbyist, or other individual acting on behalf of a principal who files a statement which he or she does not believe to be true is guilty of a Class H felony.

Late reporting of the first communication on a lobbying matter – WIS. ADMIN. CODE ETH § 26.03 (2)

Late Reports	Percent of Total Effort	Forfeiture
1st Occurrence of Late Reported Interest	< 10 percent	Warning
	>= 10 percent	\$25 Per Interest
2 nd Occurrence of Late Reported Interest	< 10 percent	\$50 Per Interest
	>= 10 percent	\$100 Per Interest
3 rd or Greater Occurrence of Late Reported Interest	Any	\$100 Per Interest

Lobbying principals are required by WIS. STAT. § 13.67(1) to report each legislative proposal, budget bill subject, or lobbying topic through the Eye On Lobbying website within 15 days of the first communication on that matter. WIS. STAT. § 13.69(2m) outlines the penalties for late reporting

of lobbying activity. The maximum penalty is up to \$25 for the first offense within a three-year period and up to \$100 for a second and subsequent offense within three years from the first violation. Pursuant to WIS. STAT. § 13.69(6m) any principal, lobbyist, or other individual acting on behalf of a principal who files a statement which he or she does not believe to be true is guilty of a Class H felony.

Unauthorized Lobbying – WIS. ADMIN. CODE ETH § 26.03(3a)

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

WIS. STAT. § 13.65 requires that 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 for the lobbyist to represent the principal, signed by or on behalf of the principal. WIS. STAT. § 13.69(1) outlines the penalties for a lobbying principal. WIS. STAT. § 13.69(2) outlines the penalties for a lobbyist. The maximum penalties are a forfeiture of not more than \$1,000 for a lobbyist and \$5,000 for a lobbying principal. Pursuant to WIS. STAT. § 13.69(6m) any principal, lobbyist, or other individual acting on behalf of a principal who files a statement which he or she does not believe to be true is guilty of a Class H felony.

Late Payment of Lobbying Fees – Wis. Admin. Code ETH § 26.03(4)

Calendar Days Late	Lobbyist	Principal
1-30	Warning	Warning
31-45	\$100	\$200
46-60	\$200	\$400
61+	\$300	\$600

WIS. STAT. § 13.63 requires an applicant for a license to act as a lobbyist to pay a lobbyist license fee as set forth in WIS. STAT. § 13.75(1g)(a). A registered principal shall pay a principal registration fee as set forth in WIS. STAT. § 13.75(1g)(b). A lobbying principal or lobbyist who files a written authorization statement shall pay an authorization fee as set forth in WIS. STAT. § 13.75(1g)(d).

Appendix F: Statements of Economic Interests Standard Settlement Schedule and Waiver Policy

This document sets out clear written procedures for enforcing the requirement for state public officials to file Statement of Economic Interests by the statutory deadlines set out in WIS. STAT. § 19.43. The Commission's authority for initiating settlement offers is set out in WIS. STAT. § 19.49(1)(b). The primary interest of the Commission is providing timely and accurate economic information to the public, and collection of penalties is secondary to that goal. In assessing penalties and offering settlements for violations, the Commission may consider mitigating or aggravating circumstances, such as the number of previous offenses and the nature of the official's position, and may modify procedures and penalties accordingly. This schedule is codified at WIS. ADMIN. CODE ETH 26.

Filing of Statements of Economic Interests, WIS. STAT. § 19.43.

Requests for Extensions of time under WIS. STAT. § 19.43(8)

By statute, officials may request an extension of the deadline to file a Statement of Economic Interests. When an official requests an extension, staff will ask for the request in writing. For reasons of administrative efficiency, staff will grant requests for extensions for 15 days or less. If the official's request is for more than a 15-day extension, staff will grant an extension of 15 days and inform the official that their request for further extension will be presented at the next Commission meeting, along with information on when the official's Statement was filed. If the Commission grants the request for further extension, no penalty will be assessed. If the Commission denies the request for further extension, and the official filed a Statement more than 15 days after the original deadline, the official will be assessed a penalty for late filing under section (d). Staff will not grant extensions to candidates for office required to file a Statement under WIS. STAT. § 19.43(4).

Requests for Waivers under WIS. STAT. § 19.43(8)

When an official requests a waiver from filing all or part of their Statement, staff will ask for the request in writing. Staff will inform the official that their request for waiver will be presented at the next Commission meeting, along with information on whether part or all of the official's Statement has been filed. If the Commission grants the request for waiver, the official will not be required to file the portion of the Statement that was waived. If the Commission denies the request for waiver, the official will be notified of that denial. If the official fails to file all required information within 15 days of that notification, penalties will be assessed under section (d).

Failure to Timely File by Candidates for State Public Office under WIS. STAT. § 19.43(4)

A candidate required to file a Statement that fails to meet the deadline set out in WIS. STAT. § 19.43(4) will be denied ballot placement. No financial penalty will be assessed.

Failure to Timely File by Officials and Nominees under WIS. STAT. § 19.43(1), (2) and (3)

If an official or nominee is required to file a Statement by WIS. STAT. § 19.43(1), (2), or (3) and fails to file a Statement within 15 days after written notice from staff, the recommended settlement amount will be \$100. This penalty will increase by \$100 every two weeks, up to a maximum of \$500. If any filer disputes the recommended settlement amount, the issue will be brought to the commission for a decision. In addition, if an official or nominee fails to file a statement within 30 days, staff will notify the officials identified in WIS. STAT. § 19.43(7), and instruct the employer to withhold compensation to the individual until the Statement has been filed.

Type of Official	Calendar Days Late	Result
Candidate	0+	N/A – Candidate denied ballot placement
Other Official	0-15	Warning
Other Official	16+	\$100 plus \$100 every 15 calendar days
Other Official	30+	Compensation temporarily withheld per § 19.43(7)

Standards for waiver of financial disclosure requirements

Introduction

Wisconsin's Code of Ethics for State Public Officials requires approximately 2,500 state officials to file a Statement of Economic Interests on an annual basis. WIS. STAT. §§ 19.43 and 19.44. In general, the requirement applies to all state elected officials, top agency management, legislative service agency employees, and all gubernatorial appointments requiring Senate confirmation, as well as to candidates for state elective office.

The purpose of financial disclosure is twofold: (1) To give the public confidence that a state official is not acting in matters in which the official has a personal financial interest; and (2) To annually make an official think about the official's economic ties so that the individual may avoid conflicts.

Nonetheless, WIS. STAT. § 19.43(8) provides that the Ethics Commission may waive any financial disclosure requirement:

WIS. STAT. § 19.43(8) *On its own motion or at the request of any individual who is required to file a statement of economic interests, the commission may extend the time for filing or waive any filing requirement if the commission determines that the literal application of the filing requirements of this subchapter would work an unreasonable hardship on that individual or that the extension of the time for filing or waiver is in the public interest. The commission shall set forth in writing as a matter of public record its reason for the extension or waiver.*

The Commission adopts and will apply the following considerations on a case-by-case basis in determining whether to grant a waiver of any disclosure requirement.

The position held by the official requesting a waiver.

Elected officials – Because such individuals generally exercise broad powers and in choosing whether to run for office an individual can take financial disclosure requirements into consideration, the Commission will closely scrutinize whether it will grant a waiver.

Full-time appointed officials – Because top management officials also exercise broad powers, albeit in narrower areas than elected officials, the Commission will closely scrutinize whether it will grant a waiver.

Part-time appointed officials – Part-time officials do not exercise the broad powers that elected and full-time officials do. They generally oversee commissions with limited jurisdiction and are more likely than full-time officials to have other jobs and active business interests. Such individuals' service on state commissions is a public service for which they receive little remuneration and, if disclosure would interfere with an individual's perceived ability to carry on the individual's private economic endeavors, it could lead to an unwillingness to serve.

Employees with limited decision-making power – Some agencies, such as the Ethics Commission, The Elections Commission, the Wisconsin Economic Development Corporation, the Legislative Audit Bureau, and the Wisconsin Housing and Economic Development Authority, require all employees, or all non-clerical employees, to file a statement. These employees may have relatively little control over regulatory and financial matters, and waiver may present less of a threat to the public interest.

For any official, the Commission will heavily weigh the relationship between the official's governmental duties and the nature of the economic interests that the official does not want to disclose.

The importance of confidentiality with respect to the economic interest ought to be protected.

While the Code of Professional Conduct does not prohibit an attorney from disclosing clients on a Statement of Economic Interests lawyers are justifiably sensitive to this, especially with respect to clients where the official's representation is not generally known. The Commission will give great weight to this concern. Countervailing considerations to granting a waiver are: (1) whether a client engages in activity related to the official's regulatory responsibilities; and (2) the extent to which the official's representation is known to others.

For a start-up business or in a competitive business situation, the disclosure of customers may be detrimental. The Commission will give weight to this consideration, but the harm claimed should not be simply speculative.

It is unlikely that a relationship with non-Wisconsin entities could present a conflict of interest situation for an official. This appears to be recognized by WIS. STAT. §19.44 (1) (b) which provides that an ownership interest in a company not doing business in Wisconsin is not required to be disclosed. The Commission will give great weight to this factor.

The Commission will give great weight to confidentiality requirements imposed by other sources of law.

The number of interests an official has.

If an official has a great many interests to report, reporting may create a heavy administrative burden on the official. Moreover, it may be that no particular customer, client, or business interest is important if an official has very many such interests. The Commission will consider this as a factor in determining whether to grant a waiver.

Conclusion

The Commission believes that waivers should be granted cautiously and rarely. No one is compelled to be a state public official – it is always voluntary, and the reporting requirements should be known up front. On the other hand, it would be unfortunate if the reporting requirements discouraged an individual from entering public service or had a detrimental effect on an official's economic standing. The Commission views the above considerations as part of a sliding scale of factors. An applicant for waiver should be able to show that undue hardship is not simply speculative. And a requester should establish a showing of hardship by clear and convincing evidence. When the Commission grants a waiver, it will condition it on the requirement that an official recuse himself or herself from any matter that involves or impacts the entity that has not been disclosed whether a statutory conflict would otherwise exist.

Appendix G: Campaign Finance Auditing Schedule

Introduction

Following the implementation of the Campaign Finance Information System (CFIS) database in the fall of 2008, and Eye on Lobbying Database in 2012, Government Accountability Board staff developed procedures for regular audits of common campaign finance violations and lobbying activity. The Ethics Commission first reviewed and approved these procedures at its meeting on October 10, 2016. These procedures have continued to be reviewed on an annual basis and are updated as needed based on court decisions and legislative changes.

Overview of Statutory Requirements

Audit Procedures

The Commission is required to audit campaign finance reports to check for violations under WIS. STAT. § 19.49(2g). The statute requires making note of the possible violation, and informing the committee of the issue, but does not detail procedures for resolving the possible violations.

(2g) AUDITING. In addition to the facial examination of reports and statements required under s. 11.1304(9), the commission shall conduct an audit of reports and statements which are required to be filed with it to determine whether violations of ch. 11 have occurred. The commission may examine records relating to matters required to be treated in such reports and statements. The commission shall make official note in the file of a committee, as defined in s. 11.0101(6), of any error or other discrepancy which the commission discovers and shall inform the person submitting the report or statement. The board [commission] may not audit reports, statements, or records beyond the 3-year period for which a committee must retain records under ch. 11.

Restrictions on Release of Records

The Commission is prohibited under WIS. STAT. § 19.50(1) from releasing or allowing inspection of certain records including, information related to an investigation or prosecution under Ch. 11, subch. III of Ch. 13, or subch. III of Ch. 19 or any law specified in WIS. STAT. § 978.05(1) or (2). Under WIS. STAT. § 19.55(3), records not subject to inspection include anything obtained or prepared by the Commission in connection with an investigation, including the full text of any complaint received by the Commission. While audits are separated from the confidentiality provisions that specifically apply to complaints, they still may result in an investigation or prosecution, so past practice of the staff has been to release only very general information, such as the number of possible violations identified in an audit. Information identifying a committee, individual, violation, or settlement amount was released only if contained within a signed settlement agreement.

Overview of Audit Procedures

1. Staff will initiate an audit based on the schedule listed below. Some audits, like timely filing of campaign finance reports or payment of filing fees, will occur shortly after a report or payment is due. Others require more data analysis and will occur as time permits.
2. When conducting an audit, staff will perform a global analysis of all committees or individuals subject to a particular law – for example, all committees required to report cash balances will be audited for cash balance discrepancies, and all candidates on the ballot during the previous election cycle will be audited for contribution limits violations.
3. Most data will be pulled from the CFIS database. For lobbying audits, data is also pulled from the Eye on Lobbying website, and for audits of contribution limit violations, staff will pull a list of candidates on the ballot in a specific election from WisVote.
4. Audit data and documents for each committee or person contacted will be saved on the Ethics Commission's internal SharePoint site.
5. When potential violations are identified, staff will send out an initial communication to the committee or individual with a request to respond or resolve possible violations and may be given up to 30 days to resolve the potential violation. All notices of possible violations will be sent via email to the email addresses included in the committee's registration statement. The initial communication will identify the issue and request that it be fixed, or that the committee or person admit that the violation occurred. The initial communication may reference the Ethic's Commission standard settlement schedules and settlement amounts but will not include settlement agreements.
6. During the 30-day window, staff will work with committees to correct erroneous reports. If a mistake is corrected, staff will close the audit for that committee or person.
7. The audit findings will be added to the agenda for the next Commission meeting. Requests to appear before the Commission by phone or in person will be communicated to the Chair and Vice Chair for approval.
8. Once 30 days have passed since the initial communication:
 - a. If the committee or person has not responded, staff will send a second communication with a reminder of the issue.
 - b. Staff will add the audit item to the audit database for tracking.
 - c. Staff will add the item to the agenda of the next regularly scheduled Commission meeting for the Commission to review and determine whether to issue a settlement agreement for the amount specified in the standard settlement schedule.
9. The Commission, at its next meeting, may direct staff to issue a settlement agreement or close the audit as appropriate for each committee or person. If the Commission has not already considered their case, the committee or person may request to appear before the Commission. Once a settlement offer is issued, the committee or person shall have 30 days

to pay the settlement offer and sign the settlement agreement. Once executed, a settlement is no longer confidential.

10. If the registrant or individual refuses to accept the Commission's settlement offer or does not respond, the Commission may direct staff counsel to commence a civil action to collect a forfeiture of at least the amount of the settlement offer.
11. The Commission may place some registrants on administrative suspension rather than pursue further action. This will generally apply to registrants with little activity that cannot be contacted. When staff believes a registrant should be placed on administrative suspension, staff will present the situation for the Commission's approval. If a registrant on administrative suspension wishes to become active again, staff will seek all incurred penalties and all reports.
12. Commission staff will inform the Commission of all late reports, settlement offers, paid settlements and administrative suspensions, and will compile an annual summary for each calendar year.

Audit Planning for Fiscal Year 2023 (July 1, 2022 – June 30, 2023)

Termination Audits

Period: Up to three years from the date of the most recent election in which the committee participated through Termination

Start Date: Ongoing

Termination audits cover a number of issues, such as whether the committee has \$0 cash on hand, whether the committee has \$0 in outstanding debts and loans, whether there are cash balance discrepancies, whether there is an outstanding filing fee, whether there are outstanding settlements, and other issues. These audits are conducted on an ongoing basis as committees request to terminate. If time and other work priorities permit, staff will contact unsuccessful candidates and advise them of their options regarding continued reporting, exemption, and termination. Committees identified through this audit could be subject to any of the applicable sections of the Campaign Finance Settlement Schedule.

Campaign Finance Filing Fees

Period: Annually

Start Date: January 15

Annual filing fees are due the same date that the January Continuing campaign finance report is due, between the 15th and 17th of January. Notices are sent by email approximately one month before the fee is due, and reminder emails are sent one week and one day before the deadline. Committees that have not paid are contacted within a few days of the deadline. Committees identified through this audit could be subject to the standard settlement provided for in WIS. ADMIN. CODE ETH 26.02(3).

Timely Filing of Campaign Finance Reports

Period: Each Required Campaign Finance Report

Start Date: Day After Each Filing Deadline

Notices to file campaign finance reports are sent by email approximately one month before the report is due, and reminder emails are sent one week and one day before the deadline. Committees that have not filed are contacted the day after the deadline (for election related reports) or within a few days of the deadline (for continuing reports). Committees identified through this audit could be subject the standard settlement as provided for in WIS. ADMIN. CODE ETH 26.02(1) or (2).

Pending Transactions Review (Courtesy Review Prior to Audits)

Period: Semi-Annually

Start Date: Following Each Continuing Report

Committees have the ability to save transactions in the CFIS website, and file them all together when a continuing report or election related report is due. If a committee saves a transaction but does not file it, it is visible to staff, but not visible on the official report available to the general public. Staff will use a query to identify all unfiled transactions semi-annually before the cash balance audit. This information will be gathered merely to assist committees in ensuring that all transactions that were meant to be reported are filed. Committees will be provided with notice of pending transactions and staff will recommend that committees review the transactions and file amended reports if transactions were meant to be filed or delete the transactions if they are duplicates. This action is recommended as unfiled transactions may impact all other audit results.

Cash Balance Audit

Period: Semi-Annually

Start Date: Following Each Continuing Report

If a committee has a discrepancy of \$100 or more within a report, or between the ending balance and beginning balance of subsequent reports, staff will contact the committee and ask for a resolution within 30 days. Committees identified through this audit could be subject to the standard settlement provided for in WIS. ADMIN. CODE ETH 26.02(8).

Corporate Contribution Audit

Period: Annually

Start Date: Following July Continuing Report

Once a year, staff audits CFIS for contributions to candidates, party committees, legislative campaign committees, or PACs from businesses to check for unlawful corporate contributions. We also audit for contributions labeled as coming from individuals containing business identifiers like "Corp," "Inc," or "LLC." Committees that appear to have received unlawful contributions are contacted and asked to respond within 30 days. Committees identified through this audit could be subject to the standard settlement provided for in WIS. ADMIN. CODE ETH 26.02(10).

Lobbyist Contribution Audit

Period: Annually

Start Date: Following July Continuing Report

Once a year, staff compares a list of campaign contributions to partisan candidates with a list of registered lobbyists. If any matches are found, staff checks to see if the contribution was given before the lobbyist registered or after they surrendered their license. Staff also checks for returned contributions and attempts to eliminate false matches based on people with the same name from different cities. Lobbyists who appear to have made unlawful contributions are contacted and asked to respond within 30 days. Committees identified through this audit could be subject to the standard settlement provided for in WIS. ADMIN. CODE ETH 26.02(11).

Anonymous and Unitemized Transactions

Period: Annually

Start Date: Following July Continuing Report

Campaign finance law requires committees collecting non-anonymous contributions of any amount report the name and address of the contributor. Committees that appear to have received unlawful contributions are contacted and asked to respond within 30 days. Committees identified through this audit could be subject to the standard settlement provided for in WIS. ADMIN. CODE ETH 26.02(6).

Contribution Limits Audit – Spring/Fall

Period: Semi-Annually

Start Date: Following April after April Election/Following August after November Election

The campaign period for spring candidates runs until July 31. Therefore, the final report of the campaign period is the January Continuing Report of the following year. The campaign period for fall candidates runs until the first Tuesday in January. Therefore, the final report of the campaign period is July Continuing Report of the following year.

After all reports from those periods are entered, and annual audits have been started, staff audit the campaign period for each office for violations of the contribution limits by individuals or committees. Staff conducts an annual audit of the \$12,000 annual contribution limit to parties and segregated funds at the same time as the audit of the spring election cycle from the previous year.

Committees identified through this audit could be subject to the standard settlement provided for in WIS. ADMIN. CODE ETH 26.02(9).

Name/Address

Period: Annually

Start Date: TBD

Campaign finance law requires committees collecting non-anonymous contributions of any amount to report the name and address of the contributor. The Commission adopted a process for this audit. The audit processes will be reported in subsequent annual reports.

Occupation Information Audit

Period: Annually

Start Date: TBD

The Commission adopted a process for this audit. The audit processes will be reported in subsequent annual reports.

Campaign finance law requires that committees must report the occupation of any contributor giving more than \$200 in a calendar year. The Commission adopted a process for this audit. The audit processes will be reported in subsequent annual reports.

Independent Expenditure Reporting/72 Hour Reporting Audit

Period: TBD

Start Date: TBD

For spring elections, after the July report is filed, the 72-hour reporting by candidates and parties can be compared to the committees' regular reports. For fall elections, this would be possible after the January report is filed. Staff is still developing a process to complete this audit. It will not be conducted until a process that is satisfactory to the Commission is approved. Any violations would be subject to the standard settlement provided for in WIS. ADMIN. CODE ETH 26.02(4) or (5).

Appendix H: Lobbying Auditing Schedule

Following the implementation of the Eye on Lobbying Database in 2012, Government Accountability Board staff developed procedures for regular audits of common campaign finance violations and lobbying activity. The Ethics Commission first reviewed and approved these procedures at its meeting on October 10, 2016. These procedures have continued to be reviewed on an annual basis and are updated as needed based on court decisions and legislative changes.

Late Statements of Lobbying Activities and Expenditures (SLAEs) Audit

13.68 Principal's expense statement.

(1) STATEMENT. Every principal which is registered under s. 13.64 shall, on or before July 31 and January 31, file with the commission an expense statement covering the preceding reporting period. The statement shall be signed, under the penalty for making false statements provided in s. 13.69 (6m), by an individual identified under s. 13.64(1)(e) who is authorized to represent the principal. The statement shall contain the following information...

Staff conducts an audit to ascertain which principals do not meet the deadline.

Period: Each Required Statement of Lobbying Activities and Expenditures Report

Start Date: Each Filing Deadline

Late 15-Day Report of Lobbying Interest Audit

13.67 Identification of legislative and administrative proposals and topics.

(1) Except as authorized under s. 13.621, no person may engage in lobbying as a lobbyist on behalf of a principal and no principal may authorize a lobbyist to engage in lobbying on its behalf unless the principal reports to the commission, in such manner as the commission may prescribe, each legislative proposal, budget bill subject and proposed administrative rule number in connection with which the principal has made or intends to make a lobbying communication or, if the lobbying does not relate to a legislative proposal or proposed administrative rule that has been numbered or a budget bill subject, each topic of a lobbying communication made or intended to be made by the principal. A principal shall describe any topic of a lobbying communication with reasonable specificity, sufficient to identify the subject matter of the lobbying communication and whether the communication is an attempt to influence legislative or administrative action, or both. The principal shall file the report no later than the end of the 15th day after the date on which the principal makes a lobbying communication with respect to a legislative proposal, proposed administrative rule, budget bill subject or other topic not previously reported by the principal under this section during the biennial period for which the principal is registered. The report shall be made by a person who is identified by the principal under s.13.64 (1) (e).

Previously, the Commission did not have the available resources to conduct audits of each lobbying principal and lobbyist's internal records. Staff has been auditing for 15-day reports

submitted after an SLAE deadline, which can be determined with certainty as being late. The Commission would also investigate any formal complaints related to late reporting. With the launch of the new lobbying website, the Commission now has the information needed to more accurately audit for late 15-day reports. These procedures will be reviewed in the near future.

Period: Each Required Statement of Lobbying Activities and Expenditures Report

Start Date: Each Filing Deadline

Late Payment of Lobbying Fees Audit

The Commission adopted a standard settlement for the late payment of lobbying related fees at its meeting on February 27, 2018, in accordance with § 13.75. The Commission must receive lobbying related payments from principals and lobbyists promptly.

Period: Continuous

Start Date: December 1, 2020

Unauthorized Lobbying Audit

§ 13.65 Lobbyist Authorization

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 for the lobbyist to represent the principal, signed by or on behalf of the principal. A lobbyist or principal shall file a separate authorization for each principal represented by a lobbyist.

Staff conducts an audit to determine if lobbyists communicated more than the allowable four-day threshold before obtaining their authorization from the principal and paying the applicable fees.

Period: Each Statement of Lobbying Activities and Expenditures Report

Start Date: Each Filing Deadline

Appendix I: Complaints and Investigations Procedures

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

Complaint Intake

1. A complaint may be received by paper or electronically. When received on paper (mailed or in-person) Front Desk staff shall forward the complaint to the Commission Administrator (“Administrator”) and Staff Counsel (“Counsel”). Any other member of the staff that receives a complaint shall forward those to the Administrator and Counsel.

If the Administrator and Counsel are unavailable to receive a complaint filed in-person, a staff person receiving a complaint in-person should review the complaint to ensure it meets the applicable standards (see Step 2) and that all referenced exhibits are attached. If there appears to be any insufficiency, staff shall notify the person delivering the complaint of the insufficiency but keep possession of the original complaint.

2. Regardless of the form of the submission, the Administrator or Counsel shall determine whether it constitutes a sworn complaint. A valid complaint should:
 - a. List a named complainant with contact information;
 - b. List a named respondent with contact information;
 - c. Contain allegations of violations within the jurisdiction of the commission; and,
 - d. Be sworn under oath before a notary.
3. Complaints will be entered into the Complaint Tracking Database. The Ethics Commission portal of the Database is intended to track complaints under the Commission’s jurisdiction as well as submissions relating to matters outside of its jurisdiction.
4. If the submission constitutes a sworn complaint to be included in the Database, the Administrator or staff, at the direction of the Administrator, shall
 - a. Create a record in the Complaint tracking list entering all required fields;
 - i. Complaint ID shall be entered in the form: YYYY-ETH-[3-digit sequential number] (e.g., 2017-ETH-001 for the first complaint of 2017); and,
 - ii. Required fields include Complaint ID, complainant, respondent, date received, and short summary of the allegations.

- b. Create a folder to store documents related to the complaint in the Complaints section of SharePoint under the respective year;
 - i. The folder shall be labeled with to the complaint ID assigned and the parties involved (e.g., 2017-ETH-001 Smith v. Johnson);
 - ii. If the complaint involves allegations against a local public official, the suffix “Local” should be appended to the folder name (e.g., 2017-ETH-001 Smith v. Johnson (Local));
 - iii. All documents received related to the complaint should be saved in the folder. Paper documents should be scanned and uploaded to the folder before being forwarded to Staff Counsel for retention; and,
 - iv. A redacted copy of the complaint should also be prepared and saved to the complaint folder. Staff should redact the name and contact information of the complainant and redact any indication of the complainant’s identity from the allegations of the complaint.
5. If the complaint alleges a violation by a local public official or candidate for local office, the Administrator or staff, at the direction of the Administrator, shall notify the complainant that the Commission’s established policy is to defer to the local district attorney in such matters and advise the complainant that they may wish to file their complaint with the local district attorney. A copy of such a notification should be saved in the complaint’s SharePoint folder.
6. The Administrator or staff, at the direction of the Administrator, shall notify the respondent for each valid complaint within 5 days of the complaint being received. Staff should update the SharePoint Complaint list with the date this notification is sent. A copy of the notification should also be saved in the complaint’s SharePoint folder. The notification should include:
 - a. A statement that a complaint has been filed against them and that they have 15 days from receipt of this notice to file a response if they wish to respond; and
 - b. An unredacted copy of the complaint.
7. If a response is received, staff shall save a copy of the response to the complaint’s SharePoint folder and update the SharePoint Complaint list with the date the response was received. Any hardcopy response should be scanned and saved to the complaint’s folder before being forwarded to Counsel for retention.

Complaint Processing

1. Any person may file a complaint if he or she believes a violation of Ch. 11, Ch. 13 Subch. III., or Ch. 19 Subch. III of the Wisconsin Statutes has occurred or is occurring.¹ Neither the Commission nor any member or employee of the Commission, including the Commission Administrator, may file a sworn complaint.²
 - a. A complaint must comply with certain requirements. It **must**:

¹ WIS. STAT § 19.49(2)(b).

² WIS. STAT § 19.49(2)(a).

- i. Provide the full name and address of the person filing the complaint (called the complainant); and
 - ii. Be signed and sworn.
 - b. In order for a complaint to be considered complete and proper, it **should**:
 - i. Clearly recite the facts that show specific violations under the Commission's jurisdiction (citations to the law and/or regulations are valuable);
 - ii. Clearly identify each person, committee or group that is alleged to have committed a violation (called the respondent[s]);
 - iii. Include any documentation supporting the allegations, if available; and
 - iv. Differentiate between statements based on the complainant's (the person who files the complaint) personal knowledge and those based on information and belief. Statements not based on personal knowledge should identify the source of the information.
2. The Administrator reviews each complaint to determine whether it states a violation within the jurisdiction of the Commission and satisfies the above criteria for a proper complaint. If the complaint does not meet these requirements, the Administrator notifies the complainant of the deficiencies.
- a. Non-jurisdictional & Local Complaints
 - i. Within five (5) days of receiving a complaint, the Administrator or Staff Counsel shall determine whether the complaint involves a matter outside of the agency's jurisdiction or pertains to a local matter. In either case, the Administrator will assign a staff member to generate an email or letter advising the complainant: (1) that the agency does not have jurisdiction regarding the matter, and informing the complainant of any other governmental agency that may be able to assist with the matter, if that information is known; or (2) that the matter should be addressed to a District Attorney. Standardized communications may be utilized to resolve matters outside of the Commission's jurisdiction. Staff assigned to the matter shall attach the complaint and may attach the closing correspondence to the complaint record in the database.
 - b. Jurisdictional Complaints
 - i. Within five (5) days of receipt of a complaint that is within the jurisdiction of the Ethics Commission, staff will verify the receipt of the sworn complaint to the complainant and respondent. Before voting on whether to take any action regarding the complaint, other than to dismiss, the commission shall give each person receiving a notice an opportunity to demonstrate to the commission, in writing and within 15 days after receiving the notice, that the commission should take no action against the person on the basis of the complaint.³
 - ii. A respondent who is or intends to be represented by legal counsel should inform the Commission by sending a statement regarding the designation of counsel, including the name and address of the individual(s).

³ WIS. STAT. § 19.49(2)(b).

3. Initial Vote to Proceed (Reasonable Suspicion Inquiry)

- a. Each complaint that is assigned to Counsel or other staff will be submitted to the Commission with recommendations on whether there is "reasonable suspicion" that the respondent has committed or is committing a violation of the law.⁴⁵⁶ The Commission makes the final decision by voting for or against a "reasonable suspicion" determination or otherwise terminating the complaint. (Four affirmative votes are required to go forward with any enforcement action). In making this determination, the Commissioners may consider the complaint, the respondent's reply, available information on the public record and the staff's analysis and recommendations.
- b. If the Commission fails to find "reasonable suspicion" that a violation has occurred or is occurring with respect to all of the allegations, or if the Commission dismisses the matter for other reasons, the case is closed, and the parties involved are notified.⁷ If, on the other hand, the Commission finds that there is "reasonable suspicion" that the respondent has violated or is violating the law, the Commission may either authorize an investigation via resolution or enter directly into settlement negotiations by the same.⁸
 - i. When a complaint is designated for settlement, the Administrator shall assign it to a staff member and/or Counsel for processing and resolution.
 - ii. If the complaint is designated for an investigation by resolution, the resolution shall specifically set forth any matter that is authorized to be investigated.⁹
 - iii. To assist in the investigation, the Commission may elect to retain a special investigator. If the Commission elects to retain a special investigator, the Administrator shall submit to the Commission the names of three (3) qualified individuals to serve as a special investigator.¹⁰
 - iv. If the Commission retains a special investigator to investigate a complaint against a person who is a resident of this state, the

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

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

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

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

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

⁹ WIS. STAT. § 19.49(2)(b) 3.

¹⁰ *Id.*

Commission shall provide to the district attorney for the county in which the person resides a copy of the complaint and shall notify the district attorney that it has retained a special investigator to investigate the complaint.¹¹

Formal Investigation Procedures

1. The goal of the formal investigation stage is to determine whether the Commission can make a finding that probable cause exists to believe that one or more violations under have occurred or are occurring, together with a recommended course of action.
2. Reports to Commission¹²
 - a. Special Investigators: Each special investigator who is retained by the Commission shall make periodic reports to the Commission, as directed by the Commission, but in no case may the interval for reporting exceed 30 days.
 - b. Administrator: If the Commission authorizes the Administrator to investigate any matter without retaining a special investigator, the Administrator shall make periodic reports to the Commission, as directed by the Commission, but in no case may the reporting interval exceed 30 days.
3. Investigation Review¹³
 - a. During the pendency of any investigation, the Commission shall meet for the purpose of reviewing the progress of the investigation at least once every 90 days. The special investigator or the Administrator shall report in person to the Commission at that meeting concerning the progress of the investigation. If, after receiving a report, the Commission does not vote to continue an investigation for an additional period not exceeding 90 days, the investigation is terminated at the end of the reporting interval.
 - b. The Commission shall not expend more than \$25,000 to finance the cost of an investigation before receiving a report on the progress of the investigation and a recommendation to commit additional resources.
 - c. The Commission may vote to terminate an investigation at any time. If an investigation is terminated, any complaint from which the investigation arose is deemed to be dismissed by the Commission.
 - d. The Commission may close any complaint, at any time, for other cause within its discretion.
4. Probable Cause Determination¹⁴
 - a. Unless an investigation is terminated by the Commission, at the conclusion of each investigation, the Administrator shall present to the Commission one of the following:

¹¹ *Id.*

¹² WIS. STAT. § 19.49(2)(b)4.

¹³ *Id.*

¹⁴ *Id.*

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

5. Post-Probable Cause Finding

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

¹⁵ WIS. STAT. §§ 19.49(2)(b)7 and 8.

¹⁶ WIS. STAT. §§ 19.49(2)(b)5 and 9.

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

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

Post Complaint Action

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

Appendix J: Commission Chair and Vice-Chair Terms and Vacancies

Officer Positions of the Ethics Commission

Wisconsin Statutes require the Commission to select a Chair. The process for selecting a Chair for the Ethics Commission is governed by WIS. STAT. § 15.06(2)(b)2. which reads:

The chairperson of the ethics commission shall be chosen from the members appointed under s. 15.62(1)(a)1. to 4. by affirmative vote of at least two-thirds of the commission members at the commission's first meeting every 2 years. The chairperson shall serve a 2-year term. The first chairperson shall be chosen from the commissioners affiliated with the same major political party. The major political party from which to select the first chairperson shall be determined by lot. The 2nd chairperson shall be chosen from the commissioners affiliated with the other major political party. Each subsequent chairperson shall be chosen from the commissioners affiliated with the 2 major political parties on a rotating basis.

The Chair of the Ethics Commission is responsible for leading each meeting of the Commission.

The Ethics Commission also established an officer position of Vice-Chair, to be selected from the opposite party of the Chair. The Vice-Chair is responsible for signing the minutes of each meeting of the Commission. The Vice-Chair may also lead a meeting of the Commission during a temporary absence of the Chair.

The Chair and Vice-Chair are jointly responsible for determining the agenda of each Commission meeting, in collaboration with the Administrator.

Terms of Commission Officers and Procedures for Addressing Vacancies

The Ethics Commission has established that each party will retain the position of Chair or Vice-Chair for a full two-year term. The Commission unanimously approved the following terms for the Commission Chair and Vice-Chair at the June 19, 2018, Commission Meeting. The Chair and Vice-Chair will serve a two-year term. Each term shall begin on July 1 of even numbered years, and end June 30 in the next even numbered year. After each term, the parties will switch retention of officer positions. Upon a vacancy in either the Chair or Vice-Chair positions, the Commission shall elect a successor to serve out the remainder of the term from the members appointed by the same party.

Appendix K: Administrative Suspension of Registrants

The Ethics Commission is required by WIS. STAT. § 19.47(9)(a) to report adopted policies to the appropriate standing committees of the Legislature under WIS. STAT. § 13.172(3). At its December 5, 2017, meeting, the Ethics Commission unanimously adopted the following to establish internal policies and procedures for placing registrants (e.g., campaign committees and lobbying principals) on an administrative suspension status in order to minimize the requirements of staff to continually attempt to contact non-responsive registrants. Nothing in this policy affects the registration effectiveness or rights of any registrant.

Administration Suspension Policy

It is the policy of the Ethics Commission to place on administrative suspension any registrant who violates any provision of Chapter 11 or subchapter III of Chapter 13, who fails to subsequently respond to Commission communications regarding that violation, and where further attempts to contact the registrant are reasonably expected to be futile. Commission staff shall make reasonable efforts to find new contact information by consulting available data sources before placing a registrant on administrative suspension.

If Commission staff has been unsuccessful in contacting a registrant over a period of at least six consecutive months, staff need not continue to send a notice to the registrant regarding any violations that may continue to occur while on administrative suspension. Commission staff shall document any such violations by a registrant but need not include such registrants in their regular audits and subsequent reports to the Commission. This policy does not relieve a registrant of the duty to file reports when due or other obligations under state law.

If a registrant who is placed on administrative suspension subsequently is located by Commission staff, or contacts Commission staff to return the registrant to active status, the registrant may be returned to active status if requested, but the Commission shall be notified at its next meeting so as to consider taking appropriate action on any violations that may have accrued by the registrant while on administrative suspension.

Commission staff shall maintain a list of methods of contact to utilize before placing a registrant on administrative suspension and document all attempts to contact a registrant regarding placing them on administrative suspension. Commission staff shall report to the Commission at the next regular meeting any registrants placed on administrative suspension since the last report.

Appendix L: Agency Report Pursuant to Wis. Stat. § 230.215(4)- Flexible-time Work Schedules; Additional, Part-time Positions; and Other Alternative Work Patterns

Flexible-time Work Schedules

Due to the small staff size of the Commission, flexible scheduling is approved on an informal basis by the Commission's Administrator. The Commission's flexible scheduling includes options to work non-standard shifts if the employee can do so while complying with applicable employment laws. Additionally, the Commission's flexible scheduling includes the option for "flex time" in which an employee may work a longer number of hours on a day(s) during a pay period and "flex off" hours or even a whole day during that pay period.

Currently, several staff members use a non-standard, 5-day per week, schedule. Some members of staff may begin work before normal business hours begin and leave before the close of business. Other staff members may begin work after normal business hours begin. They would work appropriate hours after the close of business. Additionally, at least one staff member works a schedule involving 4, 10-hour, workdays per week. That individual then "flexes off" one day per week. Due to the small size of the Commission's staff, this flexible arrangement has worked well for staff and is easy to adjust as needed.

Part-time Employment

N/A.

Other Alternative Work Patterns

N/A.

Appendix M: Delegation of Authority to Issue Standard Settlements

The Ethics Commission is required by WIS. STAT. § 19.47(9)(a) to report adopted policies to the appropriate standing committees of the Legislature under WIS. STAT. § 13.172(3). At its December 8, 2020, meeting, the Ethics Commission unanimously adopted the following as permitted by WIS. STAT. § 19.49(2)(b)10. to authorize the administrator to issue standard settlements pursuant to WIS. ADMIN. CODE ETH 26. Nothing in this policy affects the rights of any person.

The Commission hereby delegates the authority to offer standard settlements pursuant to ETH 26 to the Administrator as follows:

- The Administrator may offer settlements for late reports or late payment of fees once the deadline has passed. Any extenuating circumstances can be submitted as an appeal. Every appeal will be presented to the Commission at its next regularly scheduled meeting.
- For any other audit, the Administrator may offer settlements only if the person, committee, or principal:
 - Does not respond within 30 days, or
 - Admits the violation.
- If a response is received that disputes whether a violation occurred or requests the Commission's consideration, no standard settlement will be issued by the Administrator. The matter will be considered by the Commission at the next regularly scheduled meeting.
- If the Administrator has any doubt as to the resolution of a potential violation found in an audit, the matter will be presented to the Commission for its consideration at the next regularly scheduled meeting.
- The Administrator may only offer settlements with an aggregate financial component of \$2,500 or less. If the standard settlement schedule provides for a settlement with a financial component in excess of \$2,500, the matter must be referred to the Commission.

After this delegation, staff will use the following process:

- Staff will notify the person, committee, or principal of a potential violation.
- Staff will present the findings and response, if received, to the Administrator.
- The Administrator will decide consistent with the delegation above whether the matter should be considered by the Commission. If not, the Administrator may offer a standard settlement on behalf of the Commission.
- If the Administrator offers a standard settlement, the Administrator may direct staff to draft the settlement agreement and send it to the person, committee, or principal.
- Any settlement offered by the Administrator will be logged and tracked by the staff member conducting that audit.

- The Commission will be advised of all settlements offered by the Administrator as follows:
 - If a settlement is offered, accepted, and the matter is closed between regularly scheduled meetings, staff will prepare a memo that will apprise the Commission of the identity of the party to the settlement, the nature of the settlement, the amount of the settlement, the date the settlement was offered, and the date the settlement was closed.
 - If a settlement is offered but is not accepted before the next regularly scheduled Commission meeting, the settlement will be included in the Outstanding Settlements memorandum presented in Closed Session.

Anyone who receives a settlement offer from the Administrator may appeal. All appeals will be decided by the Commission. An appeal will be presented to the Commission at the next regularly scheduled meeting.