

NOTICE OF OPEN AND CLOSED MEETING

Wisconsin Ethics Commission

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

Wednesday, August 28, 2024, 9:00 a.m.

Open Session Agenda

- A. Call to Order
- B. Report of Appropriate Meeting Notice – Administrator
- C. Approval of 2024 Annual Report
- D. 2025-2027 Biennial Budget Request
- E. Closed Session
 - 1. Personnel Matters

Page 3

Page 75

Future Ethics Commission Meetings Scheduled:

- Tuesday, October 15, 2024, at 9:00 AM
- Tuesday, December 17, 2024, at 9:00 AM
- Tuesday, February 25, 2025, at 9:00 AM
- Tuesday May 13, 2025, at 9:00 AM
- Tuesday August 5, 2025, at 9:00 AM
- Tuesday October 21, 2025, at 9:00 AM
- Tuesday December 16, 2025, 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). This notice is to inform the public that the Commission intends to convene in open session but may move to closed session. The Commission intends to adjourn in closed session after completion of the closed session agenda.

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 an 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.



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>

DATE: For the Commission Meeting on August 28, 2024

TO: Members, Wisconsin Ethics Commission

FROM: Daniel A. Carlton, Jr., Administrator

SUBJECT: 2024 Annual Agency Report

FOR COMMISSION ACTION

For the 2024 Annual Agency Report, the Commission may:

1. Readopt the policies contained in the draft annual report; and
2. Either:
 - a. Approve the 2024 Annual Agency Report as drafted; or
 - b. Suggest revisions and authorize staff to file the report once amended.

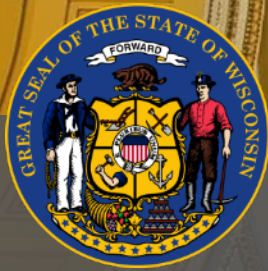
Each year, the Commission is required to submit an annual report containing certain information to the Governor and Chief Clerk of each house of the Legislature no later than October 15, 2024. As the Commission's next scheduled meeting is on the deadline day for that report, staff is seeking approval of the 2024 Annual Agency Report, a draft of which is attached to this memo. 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. Recommendations that were passed this session have been removed.
- The performance data table has been updated to include FY 2024 performance statistics and update the goals for FY 2025 and FY 2026.
- The summaries of opinions section were updated to provide opinion summaries for FY 2024.
- The investigations section was updated to advise of investigation(s) completed in the last fiscal year.

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

This agenda item requires two steps. First, it requires a motion to readopt the policies contained in the annual report. Second, assuming the Commission approves of the draft, it requires a motion to approve the 2024 Annual Report. Prior to submission, staff will perform one more review for formatting and typographical errors. Any such errata will be fixed. However, no substantive changes will be made after approval by the Commission.

Attachment: 2024 Annual Agency Report Draft



State of Wisconsin
Ethics Commission

2024 Annual Agency Report

October 15, 2024

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

Table of Contents

2024 Annual Agency Report	1
Introduction.....	3
Information Required of All Agencies under Wis. Stat. § 15.04(1)(d).....	4
Mission.....	4
Agency Description	4
Statutory Duties of the Ethics Commission and the Agency’s Compliance.....	5
Programs, Goals, Objectives, and Activities.....	5
Performance Measures, Goals, and Performance	7
Information the Ethics Commission is required to Report under Wis. Stat. § 19.47(5)	8
Statutory Duties of the Administrator and Compliance with Each Duty.....	8
Duties of All Individuals Employed by the Ethics Commission	10
Recommendations for Potential Legislation.....	13
Determinations and Advisory Opinions Issued Under Wis. Stat. § 19.46(2)	16
Summary of Investigations Conducted.....	23
Policies and Procedures of the Commission	24
Appendix A: Statutory Duties and Compliance.....	25
Appendix B: Nonpartisan Staff Policy.....	38
Appendix C: Delegation of Authority for Informal Advisory Opinions Policy	40
Appendix D: Campaign Finance Standard Settlement Schedule.....	42
Appendix E: Lobbying Standard Settlement Schedule.....	45
Appendix F: Statements of Economic Interests Standard Settlement Schedule and Waiver Policy	47
Appendix G: Campaign Finance Auditing Schedule.....	51
Appendix H: Lobbying Auditing Schedule	57
Appendix I: Complaints and Investigations Procedures	59
Appendix J: Commission Chair and Vice-Chair Terms and Vacancies	66
Appendix K: Administrative Suspension of Registrants	67
Appendix L: Agency Report Pursuant to Wis. Stat. § 230.215(4)- Flexible-time Work Schedules; Additional, Part-time Positions; and Other Alternative Work Patterns	68
Appendix M: Delegation of Authority to Issue Standard Settlements.....	69

Introduction

The Wisconsin Ethics Commission is pleased to submit its 2024 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, political parties, legislative campaign committees, political action committees, independent expenditure committees, certain referendum committees, certain recall committees, and conduits 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 <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 FY 2023.

Performance Measure (by Fiscal Year)	Goal 2024	Actual 2024	Goal 2025	Goal 2026
Campaign finance reports filed on/before the required date	96%	88.5%	96%	96%
Percentage of committees in compliance, based on audit findings	95%	93.0%	95%	95%
Lobbying fees received by electronic payment methods	95%	96.4%	95%	95%
Lobbyist time reports completed on/before the required date	99%	99.6%	99%	99%
Principals completing their Statements of Lobbying Activities and Expenditures on/before the required date	99%	97.5%	99%	99%
Percentage of principals in compliance, based on audit findings	99%	99%	99%	99%
Required SEIs filed on or before the required date	96%	96.1%	96%	96%
Statements of Economic Interest filed electronically	96%	98.1%	96%	98%

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

Assistant Administrator

Under the general supervision of, and in partnership with, the Administrator of the Wisconsin Ethics Commission, this position assists in carrying out the Commission's statutory duties. The position also provides support and supervision of the Commission's Ethics Specialists. This person is also responsible for providing legal advice on the application of campaign finance, election administration, ethics, and lobbying laws to the Commission, its staff, members of the Commission's regulated communities, and the public.

This position is responsible for preparing legal opinions and enforcement orders. This person assists in 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).

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 rulemaking 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 on 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, 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.

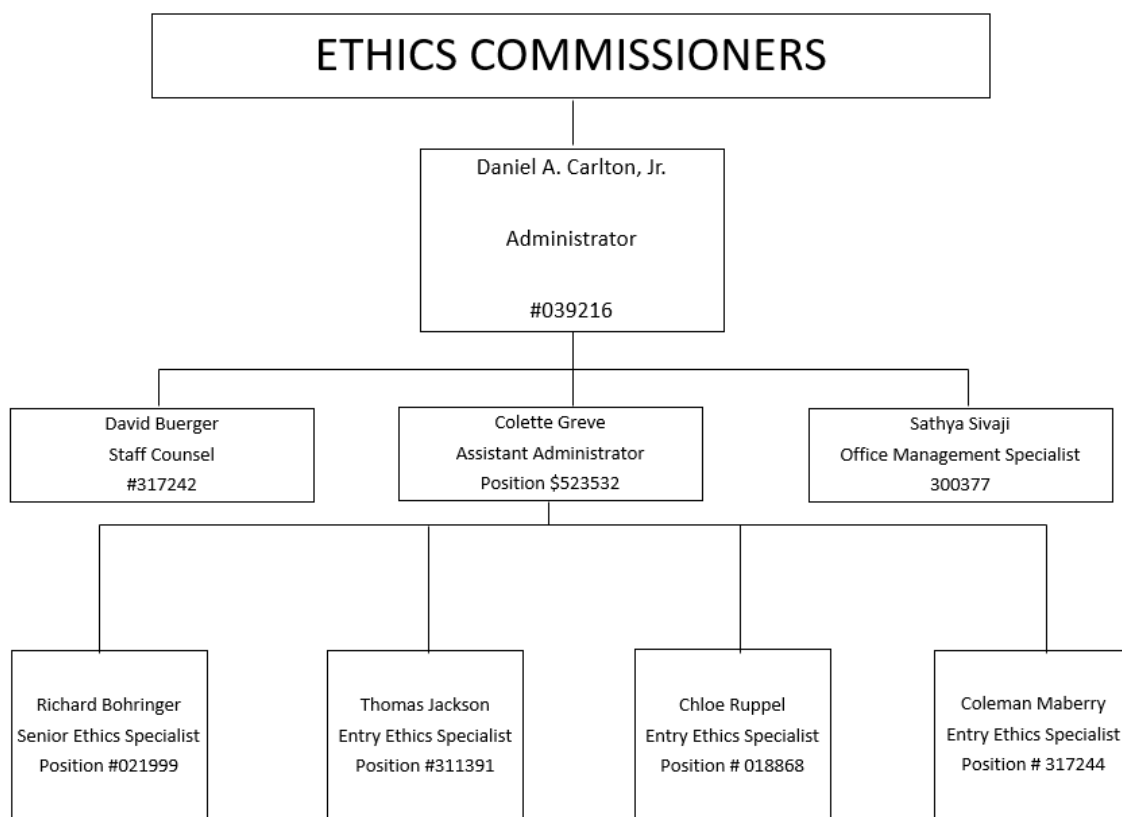
Under the general supervision of the Administrator of the Wisconsin Ethics Commission, these positions provide operational execution of the Wisconsin Ethics Commission's statutory responsibilities, and ensure compliance with Wisconsin's campaign finance, lobbying, financial disclosure, and ethics laws. 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 on 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). 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 co-equal 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 removing 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.

At the Commission’s meeting on May 9, 2023, the Commission unanimously approved its legislative recommendations for the 2023 Legislative Session. Most of these legislative recommendations were passed in 2023 Wisconsin Act 120 and 2023 Wisconsin Act 126. The following are the remaining legislative recommendations for the 2023 Legislative Session by program area.

Campaign Finance (Chapter 11, Wisconsin Statutes)

1. Valuation and Reporting of Joint Ads

It is not unusual for local candidates to work together to produce joint advertisements, mailers, and other campaign communications. While [WIS. STAT. § 11.1111](#) provides guidance on how to prorate and account for opinion poll results, there is no similar provision for joint advertising. There is no legislative guidance concerning whether these efforts are permissible, whether the total cost of the ad should be prorated amongst the candidates, the impact on contribution limits, and calculating whether the committee has exceeded the threshold for exemption. The Commission was able to provide guidance on some of these issues in [2022 ETH 01](#). This opinion is publicly available on the Commission's website and has been furnished to legislative leadership, our substantive committee chairs, and others. The Commission requests that the Legislature confirm this interpretation and codify the holdings of that opinion. If the Legislature does not agree with the holdings of the opinion, the Commission requests clarification of treatment of joint ads in the statutes.

2. Require a Separate Committee for Each Office Sought

[WIS. STAT. § 11.0202\(2\)\(d\)](#) allows a current officeholder to establish a second candidate committee for the purpose of pursuing a different state or local office. However, this is permissive in nature. The statutes do not prohibit an officeholder from running for a different office while operating out of one candidate committee and one checking account. Several issues arise from this scenario.

First, reporting may be confusing for the public and susceptible to otherwise avoidable mistakes. CFIS currently allows an official to designate one office per candidate committee. The statutes do not require, and the system does not allow, the candidate or treasurer to identify that a contribution or disbursement is for a particular race when using one committee. The only way to do that is to include a comment identifying which race the contribution or disbursement was for. Mistakes would be very easy to make.

Second, determining compliance with contribution limits is more difficult when a candidate runs two campaigns from one committee. It would be easy for the candidate or treasurer to make mistakes when calculating contribution limits. Each office has a different limit and the periods during which they apply may not be the same.

Third, this may allow an unintended advantage to an existing officeholder. An officeholder may not start with a zero balance. An officeholder likely has funds that were accumulated during prior contribution limit periods. These funds are the property of the candidate committee. If an officeholder set up a second committee to run for a different office and sought to transfer those funds from the first committee to the second, the contribution limits in [WIS. STAT. § 11.1101\(2\)](#) would apply. While the Legislature could have easily created an exception, there is no exception for contributions from a candidate's first committee to their second committee.¹ So, the second committee would only be able to receive up to the

¹ The only exception for a candidate is that he/she is free to contribute personal funds or funds co-owned with their spouse in unlimited amounts. [WIS. STAT. § 11.1104\(7\)](#).

maximum limits from the first committee. However, if the officeholder does not create a second committee, there is nothing in the statutes that prohibits the committee from spending the funds from prior years. The committee gets to start off with a bigger war chest. It is important to note that there is a legitimate argument about whether a candidate should be allowed to transfer unlimited contributions from a candidate’s first committee to their second committee. With what is currently in statutes, we have no evidence that that was intended to be permissible. In fact, to the contrary, the Legislature limited transfers from a donor between a first committee and a second committee. *See* [WIS. STAT. § 11.1114](#). The Commission recommends that an officeholder seeking a different state or local office be required to create a second candidate committee.

3. Disposal of Residual Conduit Funds

Recently, the Commission has considered several questions concerning conduits who were trying to terminate but were unable to identify the source of some of the remaining funds in the conduit account. The only provision that lets a conduit do anything with money where it is not directed to do so by the contributor is [WIS. STAT. § 11.0705](#). That provision allows redirection only under certain circumstances. If it is unable to identify the contributor, the conduit cannot possibly attempt to contact the contributor for consent to redirect the money to the sponsor. It also cannot identify a surviving spouse or executor for their consent. [WIS. STAT. 11.1302](#) allows any committee to donate to a charitable organization or the common school fund. However, a conduit is not a committee under the definition in [WIS. STAT. § 11.0101\(6\)](#). So, it cannot do so. This makes sense as, generally, contributors would only want to either give their money to a candidate or committee or get it back from the conduit. However, if after a good faith effort, the conduit cannot identify the source of money leftover when it terminates, it must have a mechanism to dispose of that money; otherwise, the conduit will not be able to terminate. The Commission recommends that the Legislature authorize a conduit that is terminating to dispose of money by giving it to the common school fund or a charitable organization that does not have any nexus to the conduit when it cannot identify the source of excess funds or cannot locate them for redirection as provided in law.

The Commission anticipates taking up additional legislative recommendations for the 2025 Legislative Session at its meeting on October 15, 2024. Any adopted recommendations will be presented to the Governor and Legislature for consideration.

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, 2023, and June 30, 2024. 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-2023-07	Service on Agency Advisory Committee	Informal Opinion
Staff for a state legislator inquired whether he could serve on an advisory committee created by a state agency to advise the agency on promulgation of a rule under its jurisdiction. If permissible, the staff member would serve as a volunteer. There was no indication in the legislative staff member’s inquiry that he was being offered the opportunity to serve on the advisory committee’s Board because of his position as legislative staff member. Further, there was no indication that he had used his position to receive financial gain, anything of substantial value, or a substantial		

benefit for himself, his immediate family, or any organization with which he was associated. Therefore, the Commission found that he may accept the position on the advisory committee. The Commission advised that if he accepted the opportunity, he should remain mindful of the obligations imposed on him by the lobbying laws and ethics laws.

RA-2023-08 Impact of Transfers on Contribution Limit Calculation Informal Opinion

A legislator who ran for a constitutional office created a second candidate committee to operate his campaign for the constitutional office. The legislator requested advice as to how to calculate contributions to determine compliance with the contribution limits if a contribution made to his legislative candidate committee was transferred to his constitutional office candidate committee. For example, a PAC contributed \$2,000 to the legislator’s candidate committee, transferred it to the constitutional office candidate committee and that contribution was properly reported by the constitutional office candidate committee. The question presented is whether that PAC would subsequently be able to give an additional \$2,000 to the legislative candidate committee?

The Commission advised that, where an officeholder creates a second candidate committee to run for a different office and in which the contribution limit period overlap, once the legislative candidate committee transfers a contribution to the constitutional office candidate committee, that contribution no longer is included when calculating whether the contributor has reached or exceeded the contribution limit for the legislative candidate committee.

RA-2023-09 Applicability of Ethics Laws to MOUs Between Legislative Caucus and Private Companies Informal Opinion

A legislative caucus requested advice as to whether the ethics code prohibited it and/or its members from entering into a memorandum of understanding (“MOU”) with private business third parties.

Based on the limited facts presented in the request, it was the opinion of the Commission that the laws within the Commission’s jurisdiction would prohibit the Caucus members from voting for the Caucus to enter these voluntary MOUs. However, the specific facts of a situation may necessitate a different conclusion. Prior to entering an MOU, the Caucus should review the specific facts pertinent to that agreement to determine whether any of the following potential issues are present:

1. Whether there are facts indicating that a Caucus member, an immediate family member of a Caucus member, or an organization with which the Caucus member (or his/her immediate family) would receive any sort of benefit from entering the MOU;
2. Whether there are facts indicating that a Caucus member, an immediate family member of a Caucus member, or an organization with which the Caucus member (or his/her immediate family) is associated has a substantial financial interest affected by entering an MOU; or
3. Whether there are facts indicating that the Caucus or any member thereof would be soliciting or accepting anything of pecuniary value from a lobbyist or principal. If any of these issues arise, the requestor should contact the Commission for further guidance based on the specific facts presented.

RA-2023-10 State Public Official Creating a Political Action Committee Informal Opinion

This request for advice concerned a state public official's involvement with creation of a political action committee ("PAC"). The request included four specific questions.

Question 1: Can an individual with a campaign committee [candidate committee] concurrently be one of the two or more persons forming a PAC?

A candidate can only have one candidate committee unless the candidate holds an office and creates a second committee to run for a different state or local office. A PAC is a person other than an individual, or combination of two or more unmarried persons, that either has the major purpose of being a PAC or the person(s) spend more than 50% of its total spending in a twelve-month period on certain expenses. The only limitation on who can register a PAC is that no person may register more than one PAC. Nothing in the statutes prohibits a candidate from being one of the two or more unmarried persons registering a PAC.

Question 2: Can a candidate with a campaign committee [candidate committee] actively raise funds for a PAC by organizing events, attending events, and calling potential donors?

Based upon the assumption that the candidate would comply with the ethics laws, lobbying laws, and other legal authority/precedent regarding such activity nothing currently in the campaign finance statutes prohibits a candidate from soliciting/raising funds for a PAC. If there are no state resources being used, and the candidate is not soliciting contributions from a lobbyist or principal, the laws within the Commission's jurisdiction would not prohibit a candidate from soliciting funds for a PAC or engaging in other political activity with the PAC.

Question 3: Whether a PAC that is created/registered by a candidate and another person can contribute to the candidate's candidate committee.

Nothing in Chapter 11 expressly prohibits a PAC from giving to the candidate committee of one of its founders/members. However, there are several statutes that the official and the PAC should note. First, that the contribution(s) would be subject to the contribution limits. Next, contributors would not be allowed to give a contribution to the PAC with direction to support the official that is the founding member or any other candidate. Finally, a person is prohibited from directly or indirectly making a contribution other than from funds or property belonging to that person. Additionally, a person is prohibited from directly or indirectly giving funds or property to another for the purpose of making a contribution in someone else's name.

Question 4: Can a PAC with one of its organizing people accept contributions from lobbyists while the legislature is in session. Or in other words, does the prohibition on lobbyist contributions extend to a PAC if a legislative candidate is one of the organizing individuals forming the PAC?

Depending on the circumstances, Question 4 could be answered in the affirmative or answered in the negative. The request did not provide any specific factual representations for this question. Since the determination of whether the lobbying law prohibits certain conduct depends on the specific facts, the Commission declined to answer this question.

A legislator inquired whether he may accept air travel to a public speaking event to give an update on the legislative agenda and other governmental matters affecting the State of Wisconsin. The group sponsoring the event offered to fly the legislator to the event and back. The organization sponsoring the event was not a lobbying principal and the owner was not a lobbyist. The trip was entirely unrelated to campaign-related activity.

The Commission advised that the legislator could permissibly accept the flight under both the exception in WIS. STAT. § 19.56(3)(a) and the exception in WIS. STAT. § 19.56(3)(c). The legislator should maintain appropriate documentation to demonstrate that the exception(s) apply. In the case of the first exception, it will help show that the costs are reasonable. In the case of the latter, it will help to demonstrate that his acceptance of the flight is primarily for the benefit of the state and not primarily for his personal benefit. The flight is disclosable as an honorarium on the legislator's annual Statement of Economic Interests.

A UW-System Chancellor requested advice on how to avoid potential conflicts of interest or any appearance of conflicts of interest as she serves on the Board of Directors for three organizations. WIS. STAT. § 19.45(2) and WIS. STAT. § 19.46(1)(b) prohibits a Chancellor from using her public position or office in such a way as to produce or assist in the production of a substantial benefit for herself, an immediate family member, or an organization with which she is associated. It does not appear that the Chancellor has used her office to obtain the Chair positions on two of the Boards. Nor does membership on or serving as chairperson of these boards have any measurable or demonstrable substantial benefits for her.

One of the Boards the Chancellor serves on pays for expenses related to the cost of attendance at a conference and lodging for the conference. As such, she obtains financial gain and/or something of substantial value as a member of the Board. This financial gain or thing of substantial value would be for her private benefit as it would be provided directly to her as a member of the Board. However, it does not appear that the Chancellor used her office to obtain the position on the Board. If she can clearly demonstrate that the position on the board was not offered to her solely because she is a UW-System Chancellor, there would be no use of office. As a Chairperson of two of the Boards and a member of the board of directors for another, the Chancellor is associated with these organizations. Therefore, the Chancellor should not use her position to obtain financial gain or anything of substantial value or benefit for the organizations. The request did not demonstrate any facts that this use of office is an issue. However, the Chancellor can avoid future violations of these provisions by abstaining from any official action relating to the Boards, including any official discussions, deliberations, negotiations, approval of collaborations, financial contributions, or contracts and other legal documents.

Under WIS. STAT. § 19.46(1)(a), the Chancellor is prohibited from taking official action substantially affecting a matter in which herself or the Boards as organizations she is associated with, have a substantial financial interest. The request for advice does not indicate that there are matters pending before her in her official capacity, as a Chancellor, in which the Boards have a substantial financial interest.

WIS. STAT. § 19.45(3) prohibits a person from offering or giving an official anything of value if it could reasonably be expected to influence official actions or judgment or if it could reasonably

be seen as a reward for official action or inaction. Additionally, it prohibits the Chancellor from soliciting or accepting anything of value if it could reasonably be expected to influence her official actions or judgment or could reasonably be seen as a reward for official action or inaction. The Chancellor only accepts something of value as a member of one of the Boards. However, there was nothing in the request to indicate that there are matters pending before her in her official capacity in which that organization has an interest. As such, it does not appear that holding a position on this Board would reasonably be expected to influence her official actions or judgment as she had not and would not be taking action on matters related to the organization.

Under WIS. STAT. § 19.45(3), there were no facts to show that the Chancellor would be soliciting anything either directly or indirectly for her benefit or the Boards’ benefit. Going forward, the Chancellor was advised to refrain from soliciting anything of value if it could reasonably be expected to influence her official actions or judgment or be seen as a reward for official action or inaction. If, as a member of the Boards, the Chancellor would begin engaging in solicitation, she was advised to be mindful of WIS. STAT. § 19.45(3)’s prohibition on soliciting and accepting anything of value if it could reasonably be expected to influence her official actions or judgment or be seen as a reward for official action or inaction.

RA-2024-01 Legislator Participating in Private Company Informal Opinion
 Roundtable

A legislator requested advice regarding his attendance and participation as a presenter at a legislative round table for a conference of a private company. The event was to be held at the company’s campus over three days. As part of the conference the legislator would be given the opportunity to tour the company’s facility, witness cutting-edge technology demonstrations, and speak with business leaders and policy experts. Areas of discussion include cybersecurity, cloud computing, sustainability, research, and emerging technologies. The legislator anticipated discussing technology in Wisconsin and legislative updates on policy issues. The company offered to provide round-trip airfare, lodging, food & beverage, and ground transportation. Specifically, the company offered a maximum of \$1,500 for airfare in economy class; 2 nights of lodging, meals and refreshments, transportation between the hotel and the company’s campus, and dinners. Attendees were responsible for their own transportation to and from airports. The company would not pay for any other expenses related to the event that are not identified above.

The Commission advised that the legislator may accept the airfare, transportation, meals, and beverages described in the request for advice under both the code of ethics and state lobbying laws to the extent that they were actual and reasonable expenses. Unless an exception applied, he would be required to identify the company as having provided expenses related to a talk or presentation on his SEI.

RA-2024-02 University of Wisconsin System Vice Chancellor Informal Opinion
 Serving as Ex-Officio Member of Foundation

A UW-System Vice Chancellor requested advice on whether he may serve as an ex-officio member of a prospective real estate foundation and on how to avoid any potential conflicts of interest or any appearance of conflicts of interest.

WIS. STAT. § 19.45(2) and WIS. STAT. § 19.46(1)(b) prohibits a Vice Chancellor from using his public position or office in such a way as to produce or assist in the production of a substantial benefit for himself, an immediate family member, or an organization with which he is associated. The Vice-Chancellor was asked to serve, in his capacity as Vice Chancellor, as an ex-officio

member of a foundation. As such, there was a use of office. However, based on the facts provided in the request, it did not appear there was a financial gain or substantial value or benefit for himself. The Vice Chancellor would be associated with the foundation. As such, the Commission advised that he should refrain from using his office to obtain financial gain or substantial value or benefit for the foundation. At the time of the request there were no facts demonstrating that this use of office would be an issue. However, the Vice Chancellor was advised that he can avoid future violations of these provisions by abstaining from any official action relating to the foundation, including any official discussions, deliberations, negotiations, approval of collaborations, financial contributions, or contracts and other legal documents.

Under WIS. STAT. § 19.46(1)(a), the Vice Chancellor is prohibited from taking official action substantially affecting a matter in which he himself or the foundation, as an organization he is associated with, have a substantial financial interest. The request for advice did not indicate that there are matters pending before him in his official capacity, as a Vice Chancellor, in which the foundation has a substantial financial interest. However, when the foundation is created and if he becomes an ex-officio member, the Commission advised that he should refrain from taking any official action in matters that involves the foundation's financial interests, as well as financial interests of his own which may arise from the ex-officio position.

WIS. STAT. § 19.45(3) prohibits a person from offering or giving an official anything of value if it could reasonably be expected to influence his official actions or judgment or if it could reasonably be seen as a reward for official action or inaction. Additionally, it prohibits an official from soliciting or accepting anything of value if it could reasonably be expected to influence his official actions or judgment or could reasonably be seen as a reward for official action or inaction. There was nothing in the request to indicate that the Vice Chancellor would have been receiving anything from the foundation or that there were matters pending before him in his official capacity in which the foundation has an interest. As such, it did not appear that holding an ex-officio position with the foundation would reasonably be expected to influence his official actions or judgment. Under WIS. STAT. § 19.45(3), the Vice Chancellor was advised to refrain from soliciting anything of value if it could reasonably be expected to influence his official actions or judgment or be seen as a reward for official action or inaction. There were no facts to show that he would be soliciting anything either directly or indirectly for his or the foundation's benefit. If, in the ex-officio position, the Vice Chancellor were to begin engaging in solicitation, he was advised to be mindful of WIS. STAT. § 19.45(3)'s prohibition on soliciting and accepting anything of value if it could reasonably be expected to influence his official actions or judgment or be seen as a reward for official action or inaction.

The Vice Chancellor was an agency official subject to Wisconsin lobbying laws. WIS. STAT. § 13.62(2) and (3). The lobbying law restrict solicitation, if it is solicitation of a registered lobbying principal. If any such situation arises, the Commission suggested that the Vice Chancellor request further guidance.

The Commission advised that in similar requests for advice, officials have assigned duties of his or her office, in which they could be asked to take official action on matters related to his or her interests or that of immediate family or an organization he or she is associated with, to another official or individual to avoid violations of Code of Ethics and conflicts of interest. Or officials have agreed to recuse himself or herself from any discussions, decisions, or issues in front of the outside organizations he or she serve related directly or indirectly to any contracts, agreements, or other issues that would conflict with the interests of his or her employment with the UW-System. These are useful steps to take to avoid conflicts of interest.

RA-2024-03 University of Wisconsin Stipend to Unpaid Student Intern of Assembly Candidate Informal Opinion

A candidate for State Assembly requested advice concerning whether a University of Wisconsin (“UW”) student, who is volunteering as an intern for his campaign, may apply for and accept an internship stipend from UW and whether the stipend is a contribution to his candidate committee.

Under Wisconsin statutes, the stipend that UW may award the student interning with the candidate committee is not a contribution to his candidate committee. UW and the program providing the stipend would not be providing any gift, subscription, loan, or transfer of money to the candidate committee. Additionally, it is also not tangible personal property provided to the candidate committee. The candidate committee is not receiving anything from UW or the program. Rather, the stipend recipient would be the student intern.

Even if the provision of services by the intern technically met the definition of “contribution,” there is an exception to the definition which is pertinent in this situation. Under WIS. STAT. § 11.0101(8)(b)1., uncompensated volunteer services are not considered contributions. In this case the student intern is not being paid by the candidate committee for his or her services. Additionally, if the student is awarded the stipend, it is not compensation for his or her services to the candidate committee. Rather it is meant to “offset” lack of wages. As such, the student's volunteer services fall under WIS. STAT. § 11.0101(8)(b)1. and are not a contribution.

RA-2024-04 Outside Employment by Legislator Informal Opinion

A legislator requested an advisory opinion concerning the propriety of his private sector employment as a Legislative Researcher. The organization he is employed by is not a lobbying principal. The legislator first took office as a Representative to the Assembly in January 2023. While running for Assembly, Commission staff advised him that he could run for Assembly and remain employed by the Society. The legislator was seeking reelection and requested confirmation that he may continue to be employed by the Society if he is reelected.

The Commission advised that the ethics code does not prohibit the legislator’s continued employment with the organization. However, the legislator should be mindful of the prohibitions in the code of ethics and other laws as he serves.

RA-2024-05 Familial Gifts to Candidate Informal Opinion

The husband of a candidate for State Assembly requested an advisory opinion regarding himself, his wife, the candidate, and daughter accepting various gifts from his parents. These gifts include cash gifts of up to \$20,000, candy valued at \$30, a contribution of \$500 for catering at the candidate’s mother’s celebration of life, \$50 for an anniversary dinner, and college graduation gifts of perhaps \$1,000 to the daughter. The requestor and his wife provided financial support to the daughter and the husband’s parents may assume that support. The requestor asked whether these such gifts are permissible. Further, the inquiry asked whether, if certain gifts may not be permissible, what line may distinguish permissible and impermissible gifts. Finally, he also inquired whether, if permissible, these gifts need to be reported in any way.

The Commission advised that the requestor and his wife, the candidate for Assembly, and his daughter may accept the gifts. Nothing in the request indicated that the gifts were intended to be campaign contributions. Rather, they were simply gifts from family members. The Commission opined that the gifts are only permissible to the extent that they are not given for the purpose of contributing to the campaign in the name of someone other than the husband’s parent’s name. If

that was the case, they would not need to be reported on the Statement of Economic Interests. However, if the gifts are intended to assist the campaign, they would have to be reported as being from the requestor’s parents and would be subject to the applicable contribution limits. If a complaint is filed, the requestor may need to be able to demonstrate that the gifts were not given for this purpose. If the requestor is not able to do so, himself, his wife, and his daughter should consider refraining from taking such gifts.

RA-2024-07 Referendum Committee Registration and Reporting Informal Opinion
Trigger

Attorneys representing several clients that intended to make disbursements related to referendum questions on the 2024 General Election ballot requested confirmation that an organization is only required to register and report as a referendum committee if it meets the definition in WIS. STAT. § 11.0101(28).

It is the opinion of the Commission that, for the registration and reporting provisions of subch. VIII, Chapter 11, of the Wisconsin Statutes to apply, the person or persons must meet the definition of “referendum committee” in WIS. STAT. § 11.0101(28) to be subject to registration and reporting requirements.

RA-2024-08 WEDC Co-Hosting Event Informal Opinion

An agency was asked to co-sponsor an event with a private business that was not a lobbying principal. Under WIS. STAT. §§ 19.56(3)(e) and (f), the agency could co-sponsor the conference and officials could accept food, beverages, and meals at the conference.

RA-2024-09 Application of 50-Piece Rule to State Highway Maps Informal Opinion

This was an inquiry concerning the applicability of the 50-Piece Rule to state highway maps produced by the Wisconsin Department of Transportation (“DOT”). A Assembly Representative has become a candidate for reelection in the 2024 General Election. The candidate is interested in acquiring state highway maps from the DOT, affixing campaign stickers to them, and then distributing them during campaign door-knocking. This would be done entirely through the campaign and its staff. There would be no public resources or staff time to obtain the maps, put the stickers on them, or distribute the maps during campaign door-knocking efforts. According to the DOT website, the maps are free to the public. They are published by the DOT, with contributions from the Department of Tourism, as a service to the public. The DOT website has a form that any member of the public can use to request copies of state highway maps. There is no limit on the number of maps a person may request. In light of the foregoing, the requestor asked whether the 50-Piece Rule would be implicated by using maps acquired by the campaign from the DOT.

The Commission advised that the 50-Piece Rule would not prohibit the campaign of the Representative from requesting state highway maps, adding a sticker that is paid for or produced by the campaign, and distributing them while doing campaign door-knocking work.

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?
2022-ETH-74	Earmarking, Unlawful Political Contributions	Yes	No	No
2022-ETH-75	Earmarking, Unlawful Political Contributions	Yes	No	No
2022-ETH-76	Earmarking, Unlawful Political Contributions	Yes	No	No
2022-ETH-77	Earmarking, Unlawful Political Contributions	Yes	No	No
2022-ETH-78	Earmarking, Unlawful Political Contributions	Yes	No	No
2022-ETH-79	Earmarking, Unlawful Political Contributions	Yes	No	No
2023-ETH-42	Earmarking, Unlawful Political Contributions	Yes	No	No

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 October 5, 2023.

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. This section was recently repealed. However, this automated process has not yet stopped. It will be done in coordination with the Chief Clerks.
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 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>	<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.</p>
15.04(1)(d)	<p>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.</p>	<p>19.47(5) requires the Commission to report annually the information required under 15.04(1)(d).</p>
15.06(5)	<p>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.</p>	<p>The Commission maintains its Madison office at 101 East Wilson Street, Suite 127; the Commission holds at least four in-person meetings per year.</p>
19.43	<p>Collect Statements of Economic Interests from appointees, nominees, candidates, and continuing officials, and quarterly reports of economic transactions from Investment Board members and employees.</p>	<p>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</p>

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 site 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/ad_min_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. This requirement has been repealed and will be sunset.	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 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>	This requirement has been repealed. The Commission has retained copies of previous-filed documents.
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 a 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 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 the 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 on 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 complainant’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 complainant’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 complainant’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 complainant’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.² Neither the Commission nor any member or employee of the Commission, including the Commission Administrator, may file a sworn complaint.³
 - a. A complaint must comply with certain requirements. It **must**:
 - i. Provide the full name and address of the person filing the complaint (called

² WIS. STAT § 19.49(2)(b).

³ WIS. STAT § 19.49(2)(a).

- 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.⁴
 - ii. A respondent who is or intends to be represented by legal counsel should inform the Commission by sending a statement regarding the designation of counsel, including the name and address of the individual(s).
- 3. Initial Vote to Proceed (Reasonable Suspicion Inquiry)
 - a. Each complaint that is assigned to Counsel or other staff will be submitted to the

⁴ WIS. STAT. § 19.49(2)(b).

Commission with recommendations on whether there is "reasonable suspicion" that the respondent has committed or is committing a violation of the law.⁵⁶⁷ 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.⁸ 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.⁹
 - 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.¹⁰
 - 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.¹¹
 - iv. If the Commission retains a special investigator to investigate a complaint against a person who is a resident of this state, the Commission shall provide to the district attorney for the county in which the person resides a copy of the complaint and shall notify the district attorney that it has retained a special investigator to investigate the

⁵ 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.

⁶ "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.

⁷ 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.

⁸ 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."

⁹ 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.

¹⁰ WIS. STAT. § 19.49(2)(b) 3.

¹¹ *Id.*

complaint.¹²

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 have occurred or are occurring, together with a recommended course of action.
2. Reports to Commission¹³
 - 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 Review¹⁴
 - 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 Determination¹⁵
 - a. Unless an investigation is terminated by the Commission, at the conclusion of each investigation, the Administrator shall present to the Commission one of the following:
 - i. A recommendation to make a finding that probable cause exists to believe that one or more violations have occurred or are occurring, together with a recommended course of action.
 - ii. A recommendation for further investigation of the matter together with facts

¹² *Id.*

¹³ WIS. STAT. § 19.49(2)(b)4.

¹⁴ *Id.*

¹⁵ *Id.*

- 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.¹⁶
 - 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:¹⁷
 - 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.¹⁸
 - 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.¹⁹

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

¹⁶ WIS. STAT. §§ 19.49(2)(b)7 and 8.

¹⁷ WIS. STAT. §§ 19.49(2)(b)5 and 9.

¹⁸ WIS. STAT. § 19.49(2)(b)13 and 14 provide special procedures should a district attorney decline to prosecute a potential violation.

¹⁹ 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.

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.



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 28, 2024
TO: Members, Wisconsin Ethics Commission
FROM: Daniel A. Carlton, Jr., Administrator
SUBJECT: 2025-27 Biennial Budget Request

FOR COMMISSION ACTION

For this agenda item, the Commission could take one or more of the following actions:

1. Approve the Biennial Budget Request as presented and submit it to the Governor;
2. Direct staff to revise the Biennial Budget Request consistent with today's discussion and submit it to the Governor;
3. Authorize staff to seek the necessary additional positions through a supplemental appropriation request; or
4. Take action consistent with today's discussion.

At its meeting on July 23, 2024, staff presented a memo addressing the primary budget needs of the Commission for the 2025-27 Biennial Budget Request. Based on the Commission's discussion at that meeting, staff is preparing the following decision items to include in its Biennial Budget Request:

- Decision Item: Ending Reliance on Lobbying Program Revenue for staffing needs which eliminates a conflict of interest;
- Decision Item: Addressing IT hardware and software needs for existing staff;
- Decision Item: Other IT Needs (Cloud-based servers to host the Commission's application and retaining the Commission's second IT contractor);
- Decision Item: New Campaign Finance System Project
 - Extend the maintenance phase of the contract by 1 year;
 - Deduplication/Merge of duplicate identities;
 - Online Payment Portal;
- Decisions Items Related to Passage of 2023 Act 126:
 - Converting Current Entry Ethics Specialists to Senior Ethics Specialists (expected salary increases totaling \$20,155/year, plus fringe);
 - Additional Equipment;
 - Relocating;
 - Additional Staff Needed:
 - Trainers- 1 Full-time Permanent Position; 1 Full-Time Project Position (expected salaries \$162,240, plus fringe);

- One Office Management Specialist (expected salary \$64,314, plus fringe);
- Attorney Supervisor and 2 Attorneys (expected salaries \$351,000, plus fringe);
- Additional Ethics Specialists (TBD- discussion below).

At the time of the July meeting, the details of many of these items were still being fleshed out. Most of the needed information has been obtained and the Decision Items are being crafted in accordance with the staff's understanding of the Commission's decisions. Unfortunately, we are still waiting for information that will affect the final calculations. For example, the costs of fringe benefits has not yet been determined. This cost is based on a percentage of the employee's salary and is an additional amount we must account for. This information is provided to us by the State Controller's Office. Therefore, we are not able to present a draft of the final budget request at the present time. However, the Commission can provide instructions on the remaining issues and allow staff to finalize the request. If the Commission requests, staff will provide a final copy to the Commissioners as soon as possible. Then, if there is no further need to meet, staff will submit it to the Governor before the deadline on September 16, 2024.

Based on some of the information we have learned since the July Meeting, there are some changes or additions that need to be made to what we discussed. Also, there are two items that have not yet been addressed/decided.

Changes/Additions to Items Discussed at the July Meeting

First, the Commission considered existing equipment needs. The Commission approved requesting \$6,000 to replace computer monitors. Since that time, the Office Management Specialist advised that software licensing costs for the past year increased significantly and that we anticipate another increase in software licensing costs in the next two years. Therefore, staff would like to increase this amount to \$15,000 to cover increased/additional licensing costs for existing staff.

Second, the Office Management Specialist also noted that, for the new positions being requested, there will be additional need for office supplies. According to the State Budget Office, they typically expect supply costs per person to be \$10,000 per year. The draft budget we are working on will include those costs.

Third, we needed to calculate the anticipated travel costs for the new trainers. As you will see below, it is clear that there is a dire need for training at the local level. For the first year of the biennium, we anticipate sending staff to each of the counties in the state. There also could be need for additional trips. We anticipate 80 total trips during the first year. The costs of hotel, transportation, and meals is expected to be approximately \$60,000. During the second year of the biennium, we anticipate taking a more regional approach to training and relying more heavily on online training sessions and resources. We anticipate doing approximately 40 trips during the second year of the biennium. The anticipated hotel, transportation, and meal cost would be approximately \$30,000 for the second year of the biennium.

Fourth, we will have to relocate to provide space for the additional staff. There is a space that will be coming available (date TBD) in the not-too-distant future on the 3rd floor of our current building. I have consulted with the facilities staff, and they have estimated the costs of changing that space

to our needs and moving costs to be \$202,000. Additionally, our rent will increase by approximately \$65,000 (from \$46,500 to \$111,179).

Two Remaining Decision Items

Act 201 Exercise

One item that was not discussed at the Commission’s July meeting was the Act 201 submission. This document is simply an exercise to show what it would look like if the Commission were to have 0% growth and what it would look like if the Commission had to reduce its budget by 5%. This is a legally required exercise. **It does not mean that the Commission is requesting either no growth or a 5% reduction.** Given the passage of 2023 Wisconsin Act 126 and the current state surplus, the chances of having to reduce the Commission’s budget by 5% are very low.

The Commission has handled this part of the budget request exercise in basically the same way during the last two biennial budget requests. Concerning the exercise where the Commission would be required to reduce its budget by 5%, the majority of this reduction would have to come from the investigation appropriation because there is not sufficient money in other appropriations for that significant of a reduction. Staff prepared this year’s Act 201 submission the same way that it was done in the previous biennial budget request. For the last budget request submitted, the Commission’s exercise showed the following reductions:

- \$46,500 from the Lobbying Program Administration Appropriation
- \$30,000 from the Investigation Appropriation; and
- \$2,500 in the Materials and Services Appropriation.¹

For this biennium’s submission, staff calculated the 5% reduction the same way the Commission did it for the last biennium. The numbers in the current draft are identical to the ones above. However, there may be some minor deviations when we finalize this document. Whether this occurs depends on whether there is any change to the “Adjusted Base” when we do the final calculations. There should not be a change of more than a couple hundred dollars from the numbers above. As noted above, this is consistent with how the Commission directed this to be done in the past. Further, there is not room in other appropriations to take much more from them. Therefore, there is not much flexibility in how to do this exercise. However, if the Commission wants to change some of these a little, it can direct staff to do so at the meeting.

Additional Ethics Specialists Needed

The only major decision left to be made is the number of Ethics Specialists the Commission will need. The intention is to hire the needed Ethics Specialists as “Entry Ethics Specialists.” Entry Ethics Specialists will be hired at the same rate that we typically pay Entry Ethics Specialists. The remainder of this memo will focus on the ways that the Commission could approximate the number

¹ The spreadsheet completed for this exercise has two columns. The first shows the planned reduction with the Standard Budget Adjustments” included. The other shows the planned reduction with the “Standard Budget Adjustments” removed. All references above reflect the reduction after “Standard Budget Adjustments” are removed. The first bullet point is the only one that has any difference between the two. The amount of the reduction with the “Standard Budget Adjustments” included was \$49,500.

of Entry Ethics Specialists it will need to assume responsibility for the local campaign finance committees. It is important to note at the outset that the Commission is assuming the campaign finance workload for 2,345 local clerks.

Entry Ethics Specialists Needed

The Governor signed 2023 Wisconsin Act 126 into law on March 21, 2024. Currently, committees and conduits register and report with either the Commission or a local filing officer.² The Act requires all committees to register and report with the Commission beginning July 1, 2025. The purpose of this portion of the memo is to understand the impact of this legislation and to help the Commission determine the appropriate number of additional Ethics Specialists the Commission will need to administer campaign finance laws for all committees and conduits. The memo will conclude with a recommendation which the Commission can accept or modify as it pleases.

Wisconsin's campaign finance law requires every candidate to have a candidate committee. Additionally, campaign finance laws allow groups to create other types of committees. These other types of committees are: political parties, legislative campaign committees, political action committees (PAC/PACs), independent expenditure committees (IEC/IECs), referendum committees, and recall committees. Finally, the law authorizes creation of "conduits," which allow individuals to essentially set aside money that they can later use to donate to candidates. Under current law, the following are required to register and report with the Commission:

- Candidate committees of a candidate for state office,
- Political parties,
- Legislative campaign committees,
- PACs,
- IECs,
- Referendum committees involved in a state referendum,
- Recall committees concerning state candidates, and
- Conduits.

According to the Commission's Campaign Finance Information System ("CFIS"), there are currently 3,141 committees and conduits whose status is "current." Of these, there are 1,848 (65.5%) committees and conduits that are exempt from reporting. So, the Commission's staff currently supports 1,293 active committees and conduits.

The following committees currently register and report with the appropriate local clerk:

- Candidate committees of a candidate for a local office,
- Referendum committees involved in a local referendum, and
- Recall committees concerning the recall of local candidates.

There are approximately 15,240 local elected offices. Since local candidates and other committees file with their local clerk, the Commission does not have an accurate number of local candidate committees or other committees. To try to determine how many new committees and conduits

² For purposes of this memo, "local" means at the county level, municipal level (cities, towns, and villages), and school district level.

would register and report with the Commission under the Act, Commission staff surveyed the local clerks. The survey asked the number of registered candidate committees³ the clerk has, the number that are exempt from reporting, and other information.

The survey was sent to 2,345 local clerks. The Commission received 628 responses. However, of those 628 responses, 320 responded that they had no registered candidate committees or provided a response of “0” or “N/A.” Since every officeholder is required to have a candidate committee, these responses were clearly invalid. Further, there were some responses that indicated that the clerk had more exempt candidate committees than their total number of candidate committees. There were 297 responses in which the clerk provided a number of candidate committees registered greater than 0 and a number of candidate committees that were exempt that did not exceed the number of existing candidate committees. Thus, we had 297 responses which appeared on their face to be plausible.

It is important to note that even this data must be taken with a grain of salt. A committee can claim exemption from filing campaign finance reports if it has less than \$2,500 activity in the aggregate amongst its contributions, disbursements, or incurred obligations in a calendar year. So, if a committee had \$1,600 in contributions, \$500 in disbursements, and \$500 in incurred obligations in a calendar year, it has exceeded the threshold and is not eligible to claim exemption. Based on the Commission staff’s experience, there is still confusion about how to properly determine whether a committee has exceeded the \$2,500 exemption threshold. Many registrants appear to believe that they can claim exemption if they do not exceed \$2,500 in any one of those transaction types. Second, local candidates commonly misinterpret “contributions” to only include donations from others, and do not consider their own expenditures on behalf of their campaigns to be contributions. This is a common error that may result in a number of committees not being eligible for exempt status. It is highly likely that some committees are claiming exempt status when they are not eligible to do so. Unfortunately, there is no way we can presently estimate the number of committees that are currently exempt but may, in fact, be ineligible for exempt status.

Survey Results

From the 297 clerks that provided responses that appear plausible, we obtained the following data:

- They had a total of 3,018 candidate committees;
- The average number of candidate committees per filing officer was approximately 10;
- The most commonly reported number of candidate committees by a filing officer was 7; and
- 84% of candidate committees are exempt from filing.

Additional Ethics Specialist Positions Required

To calculate the number of additional Ethics Specialists that will be required, we need to know how many additional work hours will be generated when we take over the local committees. This

³ This memo will focus on the number of additional candidate committees because, of the plausible survey responses, only 4 clerks said they had a recall committee or a referendum committee in the last 3 years. Therefore, the number of referendum and recall committees is few enough to be a significant factor in this analysis.

requires us to calculate the total number of additional committees we expect, the number of committees on exempt status, and the hours needed per committee.

The first challenge is to calculate the total number of committees we can reasonably expect. We know that there are 2,435 total local filing officers. We also know that there are 15,240 local elected officers. This information is important because it gives us some indication of how accurate our calculations are. There are several ways that we can calculate the total number of committees we can reasonably expect.

First, we could simply multiply the most commonly reported number of committees (“Mode”) by the number of filing officers (2,345 x 7). Doing so results in a total number of anticipated committees of 16,415.

Alternatively, we could multiply the average number of committees reported by the number of filing officers (2,345 x 10). Doing so results in a total number of anticipated committees of 23,450.

Another alternative would be to assume that there are at least two candidate committees per office. This would result in a minimum of 30,480 anticipated committees.

Finally, we could try to draw a comparison between what we see in CFIS and what we would expect at the local level. There are 2,112 committees with a status of “current” in CFIS. Additionally, we have 486 offices in CFIS. By dividing the number of committees by the number of offices, we can approximate that there are approximately 4.35 committees per office. If we assumed 4.35 committees per local office (15,240), this would result in a total of 66,294 additional committees.

The next challenge is to calculate the number of committees on exempt status. The survey indicated that 84% of the committees were exempt. While this is consistent with our expectations, the actual rate may be lower than that. Given the concern that some committees were not properly exempt, we could reasonably expect the correct number to be lower than that. There are 2,112 current committees in CFIS. Of those, 1,384 are exempt (65.5%). However, we would expect that the proper number of exempt committees at the local level is higher than at the state level. One way to calculate a more plausible exempt rate would be to create an average by adding the two percentages and dividing by 2. This yields an exempt percentage of 75%.

The table below shows how many new active committees we could expect based on a 75% exemption rate.

Calculation Method	Total New Anticipated Committees	Exempt New Committees (75%)	Total Active New Committees
Survey Mode	16,415	12,311	4,104
Survey Average	23,450	17,588	5,862
2 Committees/Office	30,480	22,860	7,620
Committees/Office in CFIS	66,294	49,721	16,573

The table below shows how many new active committees we could expect based on an 84% exemption rate.

Calculation Method	Total New Anticipated Committees	Exempt New Committees (84%)	Total Active New Committees
Survey Mode	16,415	13,789	2,626
Survey Average	23,450	19,698	3,752
2 Committees/Office	30,480	25,603	4,877
Committees/Office in CFIS	66,294	55,687	10,607

Next, we have to calculate the anticipated number of hours needed to support these new committees. There are two ways we could go about this. First, we could calculate the increase in the number of active committees we expect to have and multiply that by the number of hours spent to support current committees. From tracking staff time in July, we know that it took 330 hours to support the existing number of committees (1,293). So, for example, if we had 1,000 committees but expected to add another 2,000 committees, we would double the number of hours currently worked to calculate the additional hours we would have. We would multiply $330 \times 2 = 660$. (We would have to account for a total of 990 hours, the 330 current hours worked by staff plus the additional staff needed to work the 660 additional hours.) The monthly total of 660 hours could then be multiplied by 12 to provide an estimate for the annual hours required. For this example, we would multiply $660 \times 12 = 7,920$ additional hours per year. The table below calculates the additional hours per year using this formula if we assume a 75% exemption rate.

Calculation Method	Total Active New Committees	Increase from Current (1,293)	Additional Hours/Month	Additional Hours/Year
Survey Mode	4,104	317% (3.2x)	1,056	12,672
Survey Average	5,862	453% (4.5x)	1,485	17,820
2 Committees/Office	7,620	589% (5.9x)	1,947	23,364
Committees/Office in CFIS	16,573	1,282% (12.8x)	4,224	50,688

The table below shows the additional hours per year using this formula if we used the 84% exemption rate.

Calculation Method	Total Active New Committees	Increase from Current (1,293)	Additional Hours/Month	Additional Hours/Year
Survey Mode	2,626	203% (2x)	660	7,920
Survey Average	3,752	290% (2.9x)	957	11,484
2 Committees/Office	4,877	377% (3.8x)	1,254	15,048
Committees/Office in CFIS	10,607	820% (8.2x)	2,706	32,472

Alternatively, we could estimate the number of additional hours per committee by dividing the number of hours worked by the active registrants we have (non-exempt, current registrants). This is $330 \text{ hours} \div 1293 \text{ active, non-exempt registrants}$. This yields an average of 0.26 hours per

registrant. We would then multiply the number of anticipated non-exempt registrants by 0.26 to determine the number of hours of additional work in a month. We would then multiply the number of hours of work in a month by 12 to calculate the anticipated additional hours of work per year. The table below calculates the additional hours per year using this formula if we used the 75% exemption rate.

Calculation Method	Total Active New Committees	Additional Hours/Month	Additional Hours/Year
Survey Mode	4,104	1,067	12,804
Survey Average	5,862	1,524	18,288
2 Committees/Office	7,620	1,981	23,772
Committees/Office in CFIS	16,573	4,309	51,708

The table below shows the additional hours per year using this formula if we used the 84% exemption rate.

Calculation Method	Total Active New Committees	Additional Hours/Month	Additional Hours/Year
Survey Mode	2,626	683	8,193
Survey Average	3,752	976	11,706
2 Committees/Office	4,877	1,268	15,216
Committees/Office in CFIS	10,607	2,758	33,094

The final step that we have is to calculate the number of people required to work those additional hours. First, we know that state employees are paid for 2,080 hours per calendar year. Entry Ethics Specialists are entitled to 104 hours of vacation, 36 hours of personal holiday, 72 hours of legal holiday, and up to 130 hours of sick leave. The expectation is that staff will use all vacation, personal holidays, and legal holidays. According to Human Resources, employees use an average of 75 hours of sick leave per year. Therefore, we can reasonably expect that an employee will work approximately 1,793 hours per year. If we divide the total number of additional hours per year by 1,793, we can calculate how many employees will be needed. The table below shows the number of additional employees we would need using the first estimation method to calculate additional hours per year described above when 75% of them are exempt.

Calculation Method	Total Active New Committees	Additional Hours/Year	Number of New Employees
Survey Mode	4,104	12,672	7
Survey Average	5,862	17,820	9
2 Committees/Office	7,620	23,364	13
Committees/Office in CFIS	16,573	50,688	28

The table below shows the number of additional employees we would need based on the number of new committees using the first estimation method to calculate additional hours per year described above if 84% of them are exempt.

Calculation Method	Total Active New Committees	Additional Hours/Year	Number of New Employees
Survey Mode	2,626	7,920	4
Survey Average	3,752	11,484	6
2 Committees/Office	4,877	15,048	8
Committees/Office in CFIS	10,607	32,472	18

Alternatively, the table below shows the number of new employees needed using the second estimation method to calculate additional hours per year described above. The table below shows the number of employees needed if 75% of the new committees are exempt.

Calculation Method	Total Active New Committees	Increased Hours/Year	Number of New Employees
Survey Mode	4,104	12,804	7
Survey Average	5,862	18,288	10
2 Committees/Office	7,620	23,772	13
Committees/Office in CFIS	16,573	51,708	29

The following table shows the number of employees needed using the second estimation method to calculate additional hours per year described above if 84% of the new committees are exempt.

Calculation Method	Total Active New Committees	Increased Hours/Year	Number of New Employees
Survey Mode	2,626	8,193	5
Survey Average	3,752	11,706	7
2 Committees/Office	4,877	15,216	8
Committees/Office in CFIS	10,607	33,094	18

Recommendation

First, it is noteworthy that regardless of which estimation method was used to calculate the number of additional hours needed, the total number of needed new employees is similar. There are two variables that need to be considered when determining the closest approximation of new staff needed: total number of new committees expected and whether to use the 75% exemption rate or the 84% exemption rate.

As to the former, with 15,240 local elected offices, using 16,415 additional new committees appears to be too low. On the other hand, using 66,294 total new committees, while plausible, appears too high. Using four candidates per office based on CFIS information has a flaw, namely that the total number of committees includes long-term inactive committees. Even if that was consistent at the local level, we would not expect the local long-term inactive committees to transfer over to the Commission. Therefore, we might not want to use a calculation that includes these types of committees. The data from the survey clearly supports 23,450 additional

committees. On the other hand, using 30,480 committees (two committees per office) also seems consistent with realistic expectations. It would account for multiple candidates per office while also accounting for long-term inactive committees. It would also seem slightly more plausible than 23,450 because 1.5 committees per office seems to account for both the fact that not all races are contested and that it would not assume as many long-term inactive committees. While these are all merely rough estimates, an estimate of 30,480 new committees seems the most reasonable.

Next, the other variable to settle on is what exemption rate should be used. The survey data indicates that an 84% exempt rate is expected. However, as the Commission is aware, there is confusion among registrants about the exemption threshold. It is likely not being applied consistently across the state. Further, based on Commission staff's experience, candidates commonly believe that their personal expenditures to support their committee do not count as a contribution. So, the 84% exempt rate may be too high. However, it is not reasonable to expect a 65.5% exemption rate like there is at the state level. It simply does not cost as much to run for a local office in many areas of the state. Anecdotally, some clerks have told us that they have about a 90% exemption rate. While 84% is certainly plausible, the Commission has ample reason to be cautious of exempt rate estimates. The Commission must have sufficient staff to support the new workload. Also, even exempt local registrants may require some indeterminate number of additional hours to get initially registered with the Commission. Therefore, the best exemption rate to use for these purposes is the 75% rate.

If the Commission agrees to use 30,480 as the total number of new committees and the 75% exemption rate, the calculations support requesting at least 13 additional Ethics Specialist positions. If the Commission is concerned about the uncertainty of these estimates, the Commission could request a mix of permanent and project positions. Project positions are funded for a single biennium at a time. If the Commission later determined that these project positions were no longer required, it would not request those positions to be funded in the next biennium. Alternatively, if the Commission later determined that its permanent position estimates were too low it could request the project positions be extended or made permanent. Knowing that the calculation supports at least 13 additional Ethics Specialist positions, the Commission could request 13 permanent Ethics Specialist positions. If the Commission is concerned that this number is too low, the Commission could add project positions to its request which can be made permanent or eliminated in the next biennial budget. If the Commission is concerned that this number is too high, the Commission might still want to request 13 positions but have some of them be project positions. For example, the Commission could request 10 permanent Ethics Specialist positions and 3 project Ethics Specialist positions.

Budget Approval, Effective Date, and Hiring Timing

The last thing that needs to be addressed is the fact that the effective date of 2023 Act 126 is July 1, 2025. That date is the first day of the new biennium. Also, there have been times when the budget has not been approved until after that date. It is also important to note that, historically, it has taken about 6 weeks or so to hire when we have been trying to fill only one or two positions. Hiring requires a panel of 3 resume screeners and 3 different interviewers. We cannot begin staffing positions until those positions are created by the Legislature. When staff is able to start hiring, this will consume the vast majority of the Commission staff's time. Even if the budget is

approved by July 1, 2025, that would leave a period of several months before we would be able to ramp up the staff and be fully prepared to onboard local registrants. While one option is to ask the Legislature to delay the effective date, that would mean less time to onboard local candidates before their Spring election cycle begins in earnest. Therefore, staff also requests authority to work with Legislative leadership and members of the Joint Finance Committee beginning in January to approve a supplemental appropriation for the last several months of this fiscal year to allow us to hire as much of the additional staff as possible and have at least a month to get them onboarded and ready to assist before the effective date of the bill.