NOTICE OF OPEN AND CLOSED MEETING

Wisconsin Ethics Commission

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

Tuesday, October 21, 2025, 9:00 a.m.

Open Session Agenda

A.	Call to Order	
B.	Report of Appropriate Meeting Notice – Administrator	Verbal
C.	Approval of Minutes for Meeting on August 5, 2025	Page 3
D.	Personal Appearances	
E.	Review of Campaign Finance Opinions	Page 7
F.	Pending Legislation Update	Verbal
G.	Staff Report	Page 27
H.	Consideration of Future Agenda Items	
I.	Closed Session	

1. Request for Advice
2. Complaints and Investigations
3. Litigation/Potential Litigation
4. Audit Matters
5. Personnel Matters
6. Adjourn

Future Ethics Commission Meetings Scheduled:

- Tuesday, December 16, 2025, at 9:00 AM
- Tuesday, March 10, 2026, at 9:00 AM
- Tuesday, June 23, 2026, at 9:00 AM
- Tuesday, September 22, 2026, at 9:00 AM
- Tuesday, December 15, 2026, at 9:00 AM

The Ethics Commission will convene in open session but may move to closed session under WIS. STAT. § 19.85(1)(c), (g), (h), or WIS. STAT. § 19.851. This notice is to inform the public that the Commission intends to convene in open session but may move to closed session. The Commission plans to adjourn in closed session after completion of the closed session agenda, as outlined in the above agenda. WIS. STAT. § 19.85(2).

WIS. STAT. § 19.46(2)(c)1.	**1.** Any individual may request in writing, electronically, or by telephone a formal advisory opinion from the commission or the review or modification of a formal advisory opinion issued by the commission under this paragraph. The individual making the request shall include all pertinent facts relevant to the matter. The commission shall review a request for a formal advisory opinion and may issue a formal advisory opinion to the individual making the request. Except as authorized or required for opinions specified in s. 19.55 (4) (b), the commission's deliberations and actions upon such requests shall be in meetings not open to the public.
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.
(g)	Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.
(h)	Consideration of requests for confidential written advice from the elections commission under s. 5.05 (6a) or the ethics commission under s. 19.46 (2), or from any county or municipal ethics board under s. 19.59 (5).
WIS. STAT. § 19.851(2)	The commission shall hold each meeting of the commission for the purpose of deliberating concerning an investigation of any violation of the law under the jurisdiction of the commission in closed session under this section.
WIS. STAT. § 19.851(3)	The commission shall convene in closed session for any of the following purposes: **(a)** To consider whether there is a reasonable suspicion or probable cause to believe that a violation of the law occurred or is occurring based on a complaint and, if received, a response to that complaint. **(b)** To receive reports concerning audit findings and consider whether there is a reasonable suspicion or probable cause to believe that a violation of the law occurred or is occurring.

Wisconsin Ethics Commission

101 E Wilson Street, St. Croix Room
Madison, Wisconsin
Tuesday, August 5, 2025, 9:00 a.m.

Open Session Minutes

Present: Maryann Sumi, Andrew Weininger, Pat Strachota, Gerald Ptacek, Debra Kolste, and Paul Higginbotham (via Teams)

Absent:

Staff Present: Daniel Carlton, Colette Greve, David Buerger, Catherine Luoma, Richard Bohringer, Chloe Ruppel, Coleman Maberry, and Thomas Jackson.

A. Call to Order

Chair Sumi called the meeting to order at 9:02 a.m. A quorum was present.

B. Report of Appropriate Meeting Notice – Administrator

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

C. Approval of Minutes for Meeting on May 13, 2025

MOTION: To approve minutes. Moved by Commissioner Kolste, seconded by Commissioner Ptacek.

6-0 Motion carried unanimously.

D. Personal Appearances

There were no personal appearances.

E. 2026 Commission Meeting Dates

Administrator Daniel Carlton presented the 2026 Commission Meeting Dates on page 7 of the meeting materials.

MOTION: To approve the four (4) meeting schedule, the first meeting will be adjusted from March 10, 2026, to February 24, 2026. Moved by Commissioner Strachota, seconded by Vice Chair Weininger.

6-0 Motion carried unanimously.

F. New Campaign Finance Website

Administrator Daniel Carlton provided an update on the new Campaign Finance Website on page 11 of the meeting materials.

G. Consideration of Legislative Proposal

Administrator Daniel Carlton presented the agenda item on page 21 of the meeting materials.

MOTION: To support the concept behind the draft bill and direct the administrator to work with legislators on the legislation and keep the Commission updated. Moved by Commissioner Kolste, seconded by Commissioner Ptacek.

6-0 Motion carried unanimously.

H. Consideration of Formal Opinion 2025 ETH 02 – Use of Campaign Funds for Computer and Cell Phone

Assistant Administrator Colette Greve presented the agenda item on page 27 of the meeting materials.

MOTION: To adopt the formal advisory opinion as drafted. Moved by Commissioner Ptacek, seconded by Commissioner Strachota.

6-0 Motion carried unanimously.

I. Proposed Update to Commission Policy – Administrative Suspension

Ethics Specialist Cole Maberry presented the agenda item on page 33 of the meeting materials.

MOTION: To adopt the proposed policies. Moved by Commissioner Strachota, seconded by Vice Chair Weininger.

6-0 Motion carried unanimously.

J. 2025 Annual Report

Administrator Daniel Carlton presented the Annual Report.

MOTION: To approve the adoption of the proposed policies within the Annual Report as drafted. Moved by Commissioner Higginbotham, seconded by Vice Chair Weininger.

6-0 Motion carried unanimously.

MOTION: To approve the 2025 Annual Report as drafted. Staff is authorized to include the policies adopted in the previous agenda item and make technical changes for edits after proof reading. Moved by Vice Chair Weininger, seconded by Commissioner Ptacek.

6-0 Motion carried unanimously.

K. Staff Report

Administrator Daniel Carlton presented the Staff Report on page 41 of the meeting materials.

L. Consideration for Future Agenda Items

No future agenda items identified.

M. Closed Session

1. Request for Advice
2. Complaints and Investigations
3. Litigation/Potential Litigation
4. Audit Matters
5. Adjourn

MOTION: To go into Closed Session to discuss requests for advice, complaints, investigations, legal advice regarding potential litigation, and audit matters. Moved by Vice Chair Weininger, seconded by Commissioner Strachota.

6-0 Motion carried unanimously.

10:17 a.m. Moved to Closed Session

August 5, 2025, Wisconsin Ethics Commission meeting minutes prepared by:

____
Catherine Luoma, Office Management Specialist October 21, 2025

August 5, 2025, Wisconsin Ethics Commission meeting minutes certified by:

____
Andrew Weininger, Vice Chair October 21, 2025

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 October 21, 2025

TO: Members, Wisconsin Ethics Commission

FROM: Cole Maberry, Ethics Specialist

SUBJECT: Review of Campaign Finance Opinions

FOR COMMISSION ACTION

The Commission could take one of the following actions:

1. Approve the draft revisions to the formal opinions;
2. Issue new opinions;
3. Decline to revise the opinions; or
4. Take other action consistent with today's discussion.

Introduction

The Commission may revise its formal opinions at any time. *See* WIS. STATS. §§ 19.46(2)(a)1., 19.46(2)(c)1., and 19.47(9)(c). In August 2025, the Commission launched Sunshine, the new campaign finance reporting website, to replace the old website, the Campaign Finance Information System ("CFIS"). As a result of changes in the new website, staff believe that minor revisions are in order for two of the Commission's formal opinions: 2018 ETH 02 USE OF CFIS DATA and 2022 ETH 01 REPORTING OF JOINT ADVERTISEMENTS. The Commission could revise the opinions or issue new opinions.

Facts

The Commission approved 2018 ETH 02 at its meeting on June 19, 2018. The opinion discusses the prohibition on commercial use of campaign finance data in WIS. STAT. § 11.1304(12) and concludes that the method proposed by the requestor was impermissible. The proposed changes reflect the change in the name of the new website, along with an updated description of how the disclaimer of the statutory prohibition is displayed. The proposed revision with edits marked is attached as Attachment A. The Commission could alternatively adopt the proposed revision as a new opinion.

The Commission approved 2022 ETH 01 at its meeting on February 16, 2022. The opinion discusses the treatment of joint advertisements for the purposes of reporting, contribution limits, and exemption status. The opinion concludes that, in joint advertisements, each committee receives the full benefit of the advertisement, so the in-kind contributions must be reported accordingly. The opinion deals specifically with local candidate committees. However, the same analysis applies to state candidate committees or other committees.

One of the most notable changes in Sunshine is the reporting of in-kind contributions. In CFIS, a committee reporting receiving an in-kind contribution had to report two separate transactions: an in-kind contribution and an offsetting in-kind disbursement. The offsetting disbursement was necessary to avoid throwing off the committee's calculated cash balance. In Sunshine, in-kind contributions do not factor into the calculation of the cash balance, so the offsetting disbursement is no longer needed. Because of this change, the advice in the penultimate paragraph of page 6 is inaccurate for electronic filers.[1]

A revised version of 2022 ETH 01 with added text describing the reporting process for electronic filers is attached as Attachment B. Potential changes are marked via strikethrough and underlining. Alternatively, if the Commission wishes to adopt a new formal opinion specifically for electronic filers, a draft of such an opinion is attached as Attachment C. For ease of review, portions that differ from the original opinion are marked. This draft also includes changes to the example scenarios and other details to better align the opinion with state filers.

Conclusion

For each opinion, the Commission can approve revisions to the published opinion or approve a new opinion. If the Commission chooses to issue a new opinion, it can also withdraw the prior opinion.

Attachments:

A. Proposed Revisions to 2018 ETH 02
B. Proposed Revisions to 2022 ETH 01
C. Proposed 2025 ETH 03

[1] Presently, all local committees file on paper, and all state committees file electronically. While WIS. STAT. § 11.1304(6)(b) provides a limited exception for some state committees to file on paper, almost no committees have ever done so. *See also* WIS. ADMIN. CODE ETH § 6.05. Currently, local filers are set to register with the Ethics Commission beginning on December 1, 2027. *See* 2025 Wisconsin Act 7, 2023 Wisconsin Act 126. At that time, local filers will also file online.

2018 ETH 02

CAMPAIGN FINANCE – USE OF ~~CFIS~~ SUNSHINE DATA

You are a resident of the State of Wisconsin. You have asked for an advisory opinion regarding a proposed use of information within the ~~Campaign Finance Information System (CFIS)~~ campaign finance reporting website, Sunshine, that is maintained by the Commission and is subject to restrictions on its use.[1]

Summary:

It is the opinion of the Commission that your proposed practice would not be permitted under WIS. STAT. § 11.1304(12).

Analysis:

Wisconsin law requires committees and conduits to file various reports or statements with the Commission reflecting their initial organization and ongoing activity. *E.g.*, WIS. STAT. §§ 11.0204, 11.0704. State law also requires the Commission to make those reports or statements publicly available on the Commission's website. WIS. STAT. § 11.1304(12). The Commission complies with this mandate by requiring that reports filed with it be submitted through ~~the Campaign Finance Information System (CFIS)~~ Sunshine. WIS. ADMIN. CODE ETH 6.05(2). The reports are then immediately accessible to the public. However, the statutory mandate also requires that "no information copied from such reports and statements may be sold or utilized by any person for any commercial purpose." WIS. STAT. § 11.1304(12). The Commission provides notice of this restriction by ~~requiring visitors to the CFIS website to click through a warning screen when accessing CFIS data~~ displaying a disclaimer about the restriction on public pages of Sunshine and before downloading data.

The Commission has not yet had the opportunity to provide any guidance on this restriction. The former Elections Board issued one opinion that examined the prior version of this restriction in WIS. STAT. § 11.21(5) (repealed December 31, 2015). 1978 Op. El Bd. 6 (withdrawn December 6, 2016). In that opinion, the Elections Board held that a candidate could contact individuals listed on campaign finance reports for the purpose of informing those persons that he is a candidate and that he is willing to communicate with them regarding issues in the campaign, without any requests for financial contributions. The Board further noted that any use of information obtained from Board-filed reports for solicitation of contributions at any time was prohibited.

The staff of the Government Accountability Board also spoke to the use of CFIS data in an informal staff opinion issued on May 8, 2014. In that opinion, staff advised that solicitations using information obtained from CFIS were not permitted, but that a person could send questionnaires or surveys using CFIS data to determine who the person wished to endorse.

The question of whether a person can use ~~CFIS~~ campaign finance data to develop their own metrics to be applied to a private data source has not previously been asked in Wisconsin. However, the FEC has a similar restriction on the use of data provided on reports filed with it. *See* 52 U.S.C. §

[1] The Commission revised this opinion on October 21, 2025, to reflect the launching on the new campaign finance website, Sunshine, which replaced the Campaign Finance Information System (CFIS).

30111(a)(4), 11 CFR 104.15. The FEC has issued several opinions that speak to permissible uses of FEC data. Most analogous to your request is FEC Advisory Opinion 1985-16. In that opinion, the FEC held that a person could not cross-check a private data set with FEC data for the purpose of identifying contributors within the private data set as that would involve obtaining and using FEC data for commercial purposes. The opinion also relied on past opinions of the FEC where it had examined the legislative history of the restriction and declared that the purpose of the restriction was to protect individuals who make contributions to campaigns from being victimized by list-brokering.

While your proposed steps do not include "copying" information from ~~CFIS~~Sunshine, it is clear that the information would be used for a commercial purpose. The federal restriction is similarly worded to the Wisconsin restriction and the FEC has previously held that a similar cross-check of private data to public data would be a prohibited commercial use. While the Commission is not bound by this FEC opinion, it is persuasive to the Commission, and the Commission has determined that a similar conclusion is appropriate in this case.

2022 ETH 01

CAMPAIGN FINANCE – REPORTING OF JOINT ADVERTISEMENTS

You are an attorney for a statewide organization. You requested that the Commission provide advice on proper campaign finance reporting for joint express advocacy paid advertisements (“ad”). Specifically, you presented two scenarios listed below:

1. The cost of the advertising is split by the two campaign committees.
   a. We assume each committee would report a disbursement equal to their committee’s actual cost.
   b. Does each candidate committee also need to recognize an “in-kind” contribution from the other in this case? (If so, this seems to somewhat limit the ability of the committees to pursue such joint efforts since the contribution limit between two local candidate committees may be reached quickly.)

2. The cost of an ad is paid for by Candidate Committee A, but Candidate Committee B is consulted about and approves the ads, which say, “Vote for A and B.”
   a. Presumably, Candidate Committee B needs to report an in-kind contribution, but in what amount—50% of the cost of the ad? 100%?
   b. What about Candidate Committee A’s expenditure report? How would this committee reflect the expenditure?
   c. It appears that the contribution limit between two local candidate committees would apply.

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

Summary:

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

Analysis

Applicable Law

Candidate committees are subject to reporting requirements in Wisconsin Statutes Chapter 11 and Wisconsin Administrative Code Chapter ETH 1. Before analyzing the applicable provisions of campaign finance law, there are several definitions that are important to know.

WIS. STAT. § 11.0101(8)(a)

(8)
(a) Except as provided in par. (b), “contribution" means any of the following:
1. A gift, subscription, loan, advance, or transfer of money to a committee.
2. With the committee's consent under s. 11.1109, a transfer of tangible personal property or services to a committee, valued as provided under s. 11.1105.
3. A transfer of funds between committees.
4. The purchase of a ticket for a fundraising event for a committee regardless of whether the ticket is used to attend the event.

WIS. STAT. § 11.0101(10)(a)

(10)
(a) “Disbursement" means any of the following:
1. An expenditure by a committee from the committee's depository account.
2. The transfer of tangible personal property or services by a committee.
3. A transfer of funds between committees.

WIS. STAT. § 11.0101(11)

(11) “Express advocacy" means a communication that contains terms such as the following with reference to a clearly identified candidate and that unambiguously relates to the election or defeat of that candidate:
(a) “Vote for".
(b) “Elect".
(c) “Support".
(d) “Cast your ballot for".
(e) “Smith for ... (an elective office)".
(f) “Vote against".
(g) “Defeat".
(h) “Reject".
(i) “Cast your ballot against".

The relevant statutory provisions are as follows:

WIS. STAT. § 11.0104(1)

(1)
(a) Except as provided in par. (b), any committee which does not anticipate accepting or making contributions, making disbursements, or incurring obligations, and any conduit which does not anticipate accepting or releasing contributions, in an aggregate amount exceeding $2,000 in a calendar year may file an amended registration statement with the appropriate filing officer indicating that fact. The committee or conduit shall certify the amended registration in the manner required under s. 11.0103 (3) (c) and shall include the information required to be reported by that committee or conduit on its continuing reports.

This statute provides that candidate committees may claim exempt status, meaning that the candidate committee will be exempt from filing campaign finance reports. This status is available to candidate committees which do not anticipate accepting or making contributions, making disbursements, or incurring obligations, and any conduit which does not anticipate accepting or releasing contributions, in an aggregate amount exceeding $2,000 in a calendar year.

WIS. STAT. § 11.0204(1)(a)

(1) Contributions and disbursements.
(a) Each candidate, through his or her candidate committee, shall make full reports, upon a form prescribed by the commission and certified as required under s. 11.0103 (3) (c), of all contributions, disbursements, and obligations received, made, and incurred by the candidate committee.

This statutory provision requires that candidate committees report all contributions and disbursements.

WIS. STAT. § 11.1101(2)

(2) Candidate committees. A candidate committee may contribute to another candidate committee no more than the following amounts specified for the candidate whose nomination or election the committee supports [See Figure 11.1101 following]:
(h) Candidates for local offices, an amount equal to the greater of the following:
1. Five hundred dollars.
2. Two cents times the number of inhabitants of the jurisdiction or district, according to the latest federal census or the census information on which the district is based, as certified by the appropriate filing officer, but not more than $6,000.

This statute provides the contribution limits for contributions between candidate committees. Specifically for this case, the contributions limits for local candidates are provided above.

WIS. STAT. § 11.1105

(1) Except as provided in s. 11.1111, for purposes of complying with a contribution limit under this section, the value of a contribution of any tangible or intangible item, other than money, is the item's fair market value at the time that the individual or committee made the contribution.
(2) Except as provided in s. 11.1111, for purposes of complying with a contribution limit under this section, the value of a contribution of a service is the fair market value of the service at the time that the individual or committee made the contribution.

These statutory provisions provides that contributions of intangible items are given the value of the item or service's fair market value at the time the contribution is made.

WIS. ADMIN. CODE ETH 1.20(1)

(1) In this section:
(a) "Actual value" means the fair market value.
(b) "Authorized person" means a candidate, treasurer, agent, other person whom a candidate designates, or a person whom any other registrant designates to authorize a proposed in-kind contribution.

(c) “Contributor" means any individual or registrant who proposes to make an in-kind contribution.
(d) “Date of contribution" means the time as of which the benefit, of the thing of value given or of the service performed, is conferred upon the candidate's campaign or upon the registrant.
(e) “In-kind contribution" means a disbursement by a contributor to procure a thing of value or service for the benefit of a registrant who authorized the disbursement.
(f) “Registrant" has the same meaning as provided in s. 11.0101 (6) and (7), Stats.

WIS. ADMIN. CODE ETH 1.20(6)

(6) An in-kind contribution shall be reported as received and accepted by the candidate or registrant on the date that the benefit, of the material supplied or the service performed, is conferred upon the candidate or other registrant.

WIS. ADMIN. CODE ETH 1.20(9)

(9) Any registrant who makes or receives an in-kind contribution shall report the contribution on its campaign finance report.

These provisions require that candidate committees report in-kind contributions that they make or receive and instruct candidate committees on what date to use when reporting.

It is important to note that neither the statutes nor administrative code contemplate joint advertisements. The only type of sharing or joint efforts contemplated in the current statutes is in the context of polls.[1] Prior to the rewrite of the campaign finance statutes that occurred in 2015, the statutes did expressly contemplate shared fundraising. Before candidate committees engaged in such fundraising, the statutes required candidate committees to determine how to allocate the contributions and disbursements. It is not clear whether the statutes applied to joint ads that were not seeking contributions. This is no longer part of the statutes.

Application

1. Is there a contribution? If so, what is contributed.

Candidate committees are required to report all contributions received and disbursements made.[2] This includes any in-kind contributions received or in-kind contributions made to other candidate committees.[3] A contribution is defined as any of the following:

1. A gift, subscription, loan, advance, or transfer of money to a committee.
2. With the committee's consent under s. 11.1109, a transfer of tangible personal property or services to a committee, valued as provided under s. 11.1105.
3. A transfer of funds between committees.

[1] WIS. STAT. § 11.1111(5).
[2] WIS. STAT. § 11.0204(1)(a).
[3] WIS. ADMIN. CODE ETH 1.20(6) and (9).

4. The purchase of a ticket for a fundraising event for a committee regardless of whether the ticket is used to attend the event.[4]

An in-kind contribution means a disbursement by a contributor to procure a thing of value or a service for the benefit of a registrant who authorized the disbursement.[5]

In scenario one of your request for advice, the advertisement cost is being split by two candidate committees. Each candidate committee is paying the vendor only half the cost of the ad. The question, then, is whether the unpaid half of the ad is an in-kind contribution to the other candidate committee. An in-kind contribution occurs when there is disbursement for something of value or a service for the benefit of the recipient with the recipient's consent. In this case, it is clear there is consent from each party, as they are jointly purchasing the ad. Each candidate committee will only be paying half the cost of the ad to the vendor. The ad would not have run without the full cost being paid. Each candidate committee will receive a thing of value, half of the cost of the ad, for its own benefit from the other candidate committee. As such, the Commission advises that when candidate committees purchase a joint ad and share the cost of such ad, there is an exchange of in-kind contributions between the candidate committees for the portion they did not pay.

Similar advice applies to a joint ad for which one candidate committee pays, but the ad is shared by two candidate committees. One candidate committee will have made a disbursement for the ad, which is also an in-kind contribution to the other candidate committee, as it is something of value for the benefit of that candidate committee, for which it did not make a disbursement. The candidate committee that paid the full amount will have made an in-kind contribution (non-monetary) to the other candidate committee for the full amount of the ad. The candidate committee that did not pay the vendor for the ad will be receiving an in-kind contribution (non-monetary) for the full amount of the ad.

2. How are the transactions reported?

The two scenarios you have requested advice for involve two candidate committees. This opinion will refer to the candidate committees as "Committee A" and "Committee B." For purposes of this opinion, the value assigned to the ad will be $500.00. It is important to note that in practice, the value of the ad is something that should always be known, as it is the actual value/fair market value the vendor charges for the ad.

Scenario One Reporting

In scenario one, a $500.00 joint ad, encouraging support for each candidate committee, is split evenly by Committee A and Committee B. Committee A and B each make a disbursement to the vendor for half of the cost of the ad. Each Committee will report a $250.00 disbursement to the vendor supplying/producing the ad in their campaign finance report covering that period of time.

To report the in-kind portion of the transaction, the Committees must each report an in-kind contribution received from the other Committee, and an outgoing in-kind disbursement to the other Committee. For example, Committee A will report an in-kind contribution of $250.00 received from Committee B, as well as an in-kind disbursement of $250.00 to Committee B. Committee B will report likewise.

[4] WIS. STAT. § 11.0101(8)(a).
[5] WIS. ADMIN. CODE ETH 1.20(1)(e).

Scenario Two Reporting

In scenario two, the $500.00 ad is paid for entirely by Committee A. Committee B is consulted about the ad and approves and accepts it. The ad is still a joint ad encouraging support for both Candidate A and B. Committee A should report a disbursement of $500.00 to the vendor for the ad. The disbursement for the ad is also an in-kind contribution of $500.00 to Committee B, as it is something of value for the benefit of Committee B, for which Committee B did not make a disbursement. Therefore, Committee A should also report a disbursement of a $500.00 in-kind, non-monetary contribution to Committee B.

Committee B is not making any disbursement for the ad, but it is accepting the ad from Committee A. Committee B is receiving an in-kind contribution, because it is receiving value from the ad. Committee B will report receiving an in-kind contribution of $500.00.

When reporting the in-kind contribution, Committee B will report both an in-kind contribution of $500 and an in-kind disbursement of $500. Committee B must report the disbursement to off-set the contribution, as it is a receipt of something of value, not a monetary contribution. This maintains an accurate cash balance on its reports.[6]

Contribution Limits

Your request also seeks advice on the contribution limits application using the same two hypotheticals. For purposes of this opinion, we will assume the contribution limit for the local office is $500.00 and that Committee A and Committee B have never contributed to one another.

In each scenario the candidate committees will be subject to contribution limits for candidate committees. Specifically, the limits for local candidate committees will be applicable. The limits are as follows:

> **(h)** Candidates for local offices, an amount equal to the greater of the following:
> **1.** Five hundred dollars.
> **2.** Two cents times the number of inhabitants of the jurisdiction or district, according to the latest federal census or the census information on which the district is based, as certified by the appropriate filing officer, but not more than $6,000.[7]

Your request did not include offices/districts of the candidates and committees in question, so the Commission cannot advise on the exact amounts for contribution limits. However, the Commission can advise that in-kind contributions count towards the contribution limits. The value of a non-monetary contribution, such as something tangible or intangible or a service, is its fair market value.[8]

---

[6] The offsetting disbursement is only required for committees filing on the paper forms, CF-2L or CF-2LE. Committees filing electronically through Sunshine do not report offsetting in-kind disbursements.
[7] WIS. STAT. § 11.1101(2)(h).
[8] WIS. STAT. § 11.1105.

For purposes of this opinion, we will assume the contribution limit is $500.00 and there have been no contributions between the two candidate committees. In scenario one, there is no contribution limit violation. In this scenario there was an exchange of in-kind contributions between the two candidate committees. Committee A contributed $250.00 to Committee B, and Committee B contributed $250.00 to Committee A. Each candidate committee may still contribute $250.00 to the other.

In scenario two, Committee A made a $500.00 contribution and has reached the limit. Committee B did not contribute to Committee A. <u>If filing on paper forms,</u> Committee B will be reporting a disbursement of $500.00, but this is only for accounting purposes to offset the incoming contribution being reported. It will not count towards the contribution limit for Committee B giving to Committee A.

Conclusion

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

2025 ETH 03

CAMPAIGN FINANCE – REPORTING OF JOINT ADVERTISEMENTS BY ELECTRONIC FILERS

You are an attorney for a statewide organization. You requested that the Commission provide advice on proper campaign finance reporting for joint express advocacy paid advertisements (“ad”). Specifically, you presented two scenarios listed below:

1. The cost of the advertising is split by the two campaign committees.
   a. We assume each committee would report a disbursement equal to their committee’s actual cost.
   b. Does each candidate committee also need to recognize an “in-kind” contribution from the other in this case? (If so, this seems to somewhat limit the ability of the committees to pursue such joint efforts since the contribution limit between two ~~local~~ candidate committees may be reached quickly.)

2. The cost of an ad is paid for by Candidate Committee A, but Candidate Committee B is consulted about and approves the ads, which say, “Vote for A and B.”
   a. Presumably, Candidate Committee B needs to report an in-kind contribution, but in what amount—50% of the cost of the ad? 100%?
   b. What about Candidate Committee A’s expenditure report? How would this committee reflect the expenditure?
   c. It appears that the contribution limit between two ~~local~~ candidate committees would apply.

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

These questions were previously addressed in 2022 ETH 01. The Commission is reissuing this opinion to advise committees that report with the Commission how to report these transactions in the new campaign finance system, Sunshine, which was launched in August 2025. Local committees filing on paper forms should instead refer to 2022 ETH 01.

Summary:

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

Analysis

Applicable Law

Candidate committees are subject to reporting requirements in Wisconsin Statutes Chapter 11 and Wisconsin Administrative Code Chapter ETH 1. Before analyzing the applicable provisions of campaign finance law, there are several definitions that are important to know.

WIS. STAT. § 11.0101(8)(a)

(8)
(a) Except as provided in par. (b), "contribution" means any of the following:
1. A gift, subscription, loan, advance, or transfer of money to a committee.
2. With the committee's consent under s. 11.1109, a transfer of tangible personal property or services to a committee, valued as provided under s. 11.1105.
3. A transfer of funds between committees.
4. The purchase of a ticket for a fundraising event for a committee regardless of whether the ticket is used to attend the event.

WIS. STAT. § 11.0101(10)(a)

(10)
(a) "Disbursement" means any of the following:
1. An expenditure by a committee from the committee's depository account.
2. The transfer of tangible personal property or services by a committee.
3. A transfer of funds between committees.

WIS. STAT. § 11.0101(11)

(11) "Express advocacy" means a communication that contains terms such as the following with reference to a clearly identified candidate and that unambiguously relates to the election or defeat of that candidate:
(a) "Vote for".
(b) "Elect".
(c) "Support".
(d) "Cast your ballot for".
(e) "Smith for ... (an elective office)".
(f) "Vote against".
(g) "Defeat".
(h) "Reject".
(i) "Cast your ballot against".

The relevant statutory provisions are as follows:

WIS. STAT. § 11.0104(1)

(1)
(a) Except as provided in par. (b), any committee which does not anticipate accepting or making contributions, making disbursements, or incurring obligations, and any conduit which does not anticipate accepting or releasing contributions, in an aggregate amount exceeding $2,000 in a calendar year may file an amended registration statement with the appropriate filing officer indicating that fact. The committee or conduit shall certify the

amended registration in the manner required under s. 11.0103 (3) (c) and shall include the information required to be reported by that committee or conduit on its continuing reports.

This statute provides that candidate committees may claim exempt status, meaning that the candidate committee will be exempt from filing campaign finance reports. This status is available to candidate committees which do not anticipate accepting or making contributions, making disbursements, or incurring obligations, and any conduit which does not anticipate accepting or releasing contributions, in an aggregate amount exceeding $2,5~~0~~00 in a calendar year.

Wis. Stat. § 11.0204(1)(a)

(1) Contributions and disbursements.
(a) Each candidate, through his or her candidate committee, shall make full reports, upon a form prescribed by the commission and certified as required under s. 11.0103 (3) (c), of all contributions, disbursements, and obligations received, made, and incurred by the candidate committee.

This statutory provision requires that candidate committees report all contributions and disbursements.

Wis. Stat. § 11.1101(2)

(2) Candidate committees. A candidate committee may contribute to another candidate committee no more than the following amounts specified for the candidate whose nomination or election the committee supports [See Figure 11.1101 following]:
~~**(h)** Candidates for local offices, an amount equal to the greater of the following:~~
~~**1.** Five hundred dollars.~~
~~**2.** Two cents times the number of inhabitants of the jurisdiction or district, according to the latest federal census or the census information on which the district is based, as certified by the appropriate filing officer, but not more than $6,000.~~

This statute provides the contribution limits for contributions between candidate committees. ~~Specifically for this case, the contributions limits for local candidates are provided above.~~ The specific amount varies by office sought.

Wis. Stat. § 11.1105

(1) Except as provided in s. 11.1111, for purposes of complying with a contribution limit under this section, the value of a contribution of any tangible or intangible item, other than money, is the item's fair market value at the time that the individual or committee made the contribution.
(2) Except as provided in s. 11.1111, for purposes of complying with a contribution limit under this section, the value of a contribution of a service is the fair market value of the service at the time that the individual or committee made the contribution.

These statutory provisions provides that contributions of intangible items are given the value of the item or service's fair market value at the time the contribution is made.

WIS. ADMIN. CODE ETH 1.20(1)

(1) In this section:
(a) "Actual value" means the fair market value.
(b) "Authorized person" means a candidate, treasurer, agent, other person whom a candidate designates, or a person whom any other registrant designates to authorize a proposed in-kind contribution.
(c) "Contributor" means any individual or registrant who proposes to make an in-kind contribution.
(d) "Date of contribution" means the time as of which the benefit, of the thing of value given or of the service performed, is conferred upon the candidate's campaign or upon the registrant.
(e) "In-kind contribution" means a disbursement by a contributor to procure a thing of value or service for the benefit of a registrant who authorized the disbursement.
(f) "Registrant" has the same meaning as provided in s. 11.0101 (6) and (7), Stats.

WIS. ADMIN. CODE ETH 1.20(6)

(6) An in-kind contribution shall be reported as received and accepted by the candidate or registrant on the date that the benefit, of the material supplied or the service performed, is conferred upon the candidate or other registrant.

WIS. ADMIN. CODE ETH 1.20(9)

(9) Any registrant who makes or receives an in-kind contribution shall report the contribution on its campaign finance report.

These provisions require that candidate committees report in-kind contributions that they make or receive and instruct candidate committees on what date to use when reporting.

It is important to note that neither the statutes nor administrative code contemplate joint advertisements. The only type of sharing or joint efforts contemplated in the current statutes is in the context of polls.[1] Prior to the rewrite of the campaign finance statutes that occurred in 2015, the statutes did expressly contemplate shared fundraising. Before candidate committees engaged in such fundraising, the statutes required candidate committees to determine how to allocate the contributions and disbursements. It is not clear whether the statutes applied to joint ads that were not seeking contributions. This is no longer part of the statutes.

Application

1. Is there a contribution? If so, what is contributed.

Candidate committees are required to report all contributions received and disbursements made.[2] This includes any in-kind contributions received or in-kind contributions made to other candidate committees.[3] A contribution is defined as any of the following:

[1] WIS. STAT. § 11.1111(5).
[2] WIS. STAT. § 11.0204(1)(a).
[3] WIS. ADMIN. CODE ETH 1.20(6) and (9).

1. A gift, subscription, loan, advance, or transfer of money to a committee.
2. With the committee's consent under s. 11.1109, a transfer of tangible personal property or services to a committee, valued as provided under s. 11.1105.
3. A transfer of funds between committees.
4. The purchase of a ticket for a fundraising event for a committee regardless of whether the ticket is used to attend the event.[4]

An in-kind contribution means a disbursement by a contributor to procure a thing of value or a service for the benefit of a registrant who authorized the disbursement.[5]

In scenario one of your request for advice, the advertisement cost is being split by two candidate committees. Each candidate committee is paying the vendor only half the cost of the ad. The question, then, is whether the unpaid half of the ad is an in-kind contribution to the other candidate committee. An in-kind contribution occurs when there is disbursement for something of value or a service for the benefit of the recipient with the recipient's consent. In this case, it is clear there is consent from each party, as they are jointly purchasing the ad. Each candidate committee will only be paying half the cost of the ad to the vendor. The ad would not have run without the full cost being paid. Each candidate committee will receive a thing of value, half of the cost of the ad, for its own benefit from the other candidate committee. As such, the Commission advises that when candidate committees purchase a joint ad and share the cost of such ad, there is an exchange of in-kind contributions between the candidate committees for the portion they did not pay.

Similar advice applies to a joint ad for which one candidate committee pays, but the ad is shared by two candidate committees. One candidate committee will have made a disbursement for the ad, which is also an in-kind contribution to the other candidate committee, as it is something of value for the benefit of that candidate committee, for which it did not make a disbursement. The candidate committee that paid the full amount will have made an in-kind contribution (non-monetary) to the other candidate committee for the full amount of the ad. The candidate committee that did not pay the vendor for the ad will be receiving an in-kind contribution (non-monetary) for the full amount of the ad.

2. How are the transactions reported?

The two scenarios you have requested advice for involve two candidate committees. This opinion will refer to the candidate committees as "Committee A" and "Committee B." For purposes of this opinion, the value assigned to the ad will be $~~500.00~~1,000.00. It is important to note that in practice, the value of the ad is something that should always be known, as it is the actual value/fair market value the vendor charges for the ad.

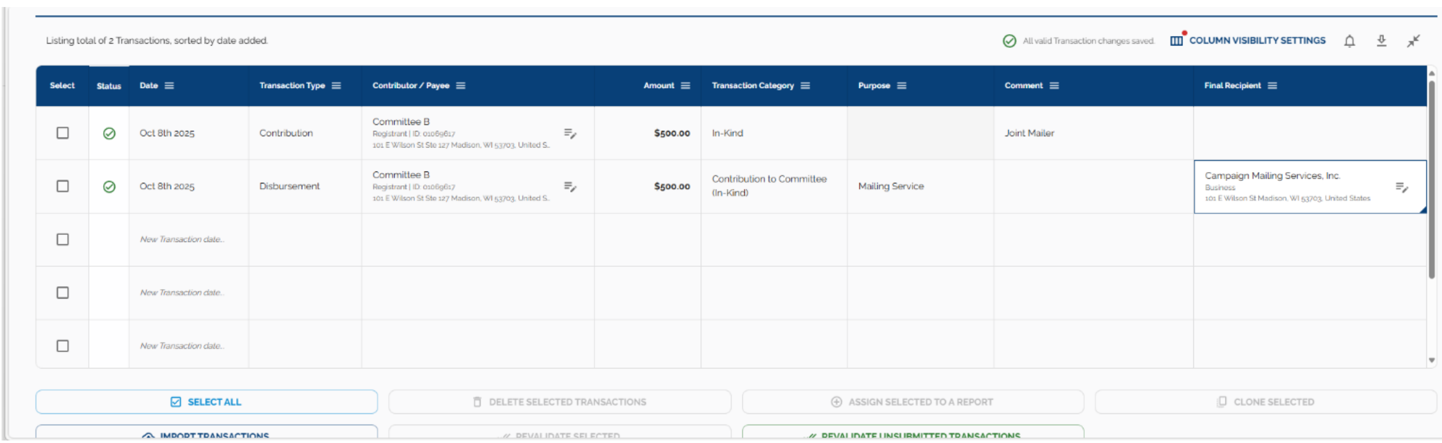
Scenario One Reporting

In scenario one, a $~~500.00~~1,000.00 joint ad, encouraging support for each candidate committee, is split evenly by Committee A and Committee B. Committee A and B each make a disbursement to the vendor for half of the cost of the ad. Committee A and B each make an in-kind contribution to the other committee and receive an in-kind contribution from the other committee. Committee A

[4] WIS. STAT. § 11.0101(8)(a).
[5] WIS. ADMIN. CODE ETH 1.20(1)(e).

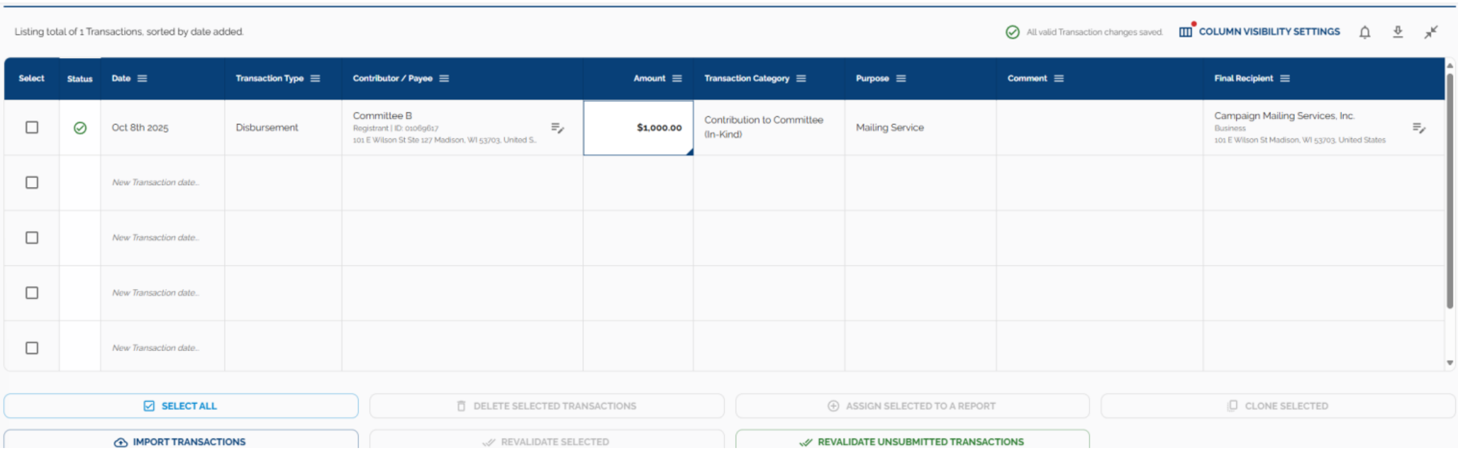
will report receiving a contribution of $500 from Committee B with the transaction category In-Kind. Committee A will report making a disbursement of $500 to Committee B with the transaction category Contribution to Committee (In-Kind) and with the vendor listed under Final Recipient. This transaction serves both as the in-kind contribution to Committee B and as the monetary disbursement to the vendor. ~~Each Committee will report a $250.00~~500.00 ~~disbursement to the vendor supplying/producing the ad in their campaign finance report covering that period of time.~~

~~To report the in-kind portion of the transaction, the Committees must each report an in-kind contribution received from the other Committee, and an outgoing in-kind disbursement to the other Committee. For example, Committee A will report an in-kind contribution of $250.00~~500.00 ~~received from Committee B, as well as an in-kind disbursement of $250.00~~500.00 ~~to Committee B.~~ Committee B will report likewise. The screenshot below shows what Committee A’s reporting should look like, with unused columns hidden.



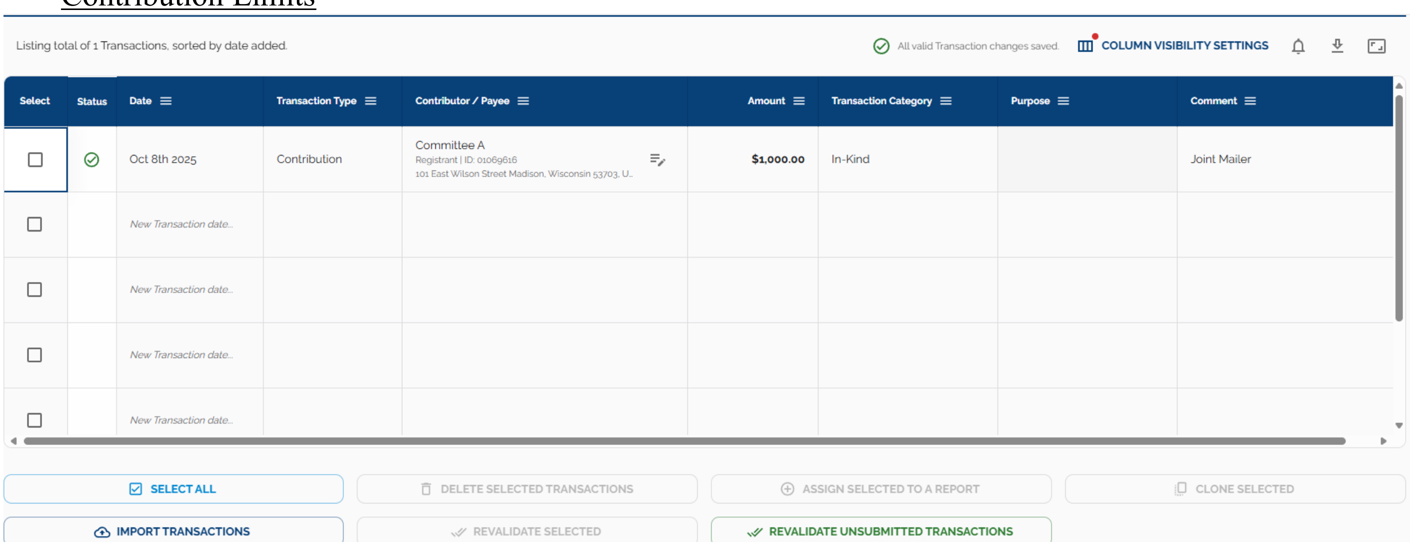
Scenario Two Reporting

In scenario two, the $~~500.00~~1,000.00 ad is paid for entirely by Committee A. Committee B is consulted about the ad and approves and accepts it. The ad is still a joint ad encouraging support for both Candidate A and B. Committee A ~~should report~~ makes a disbursement of $~~500.00~~1,000.00 to the vendor for the ad. The disbursement for the ad is also an in-kind contribution of $~~500.00~~1,000.00 to Committee B, as it is something of value for the benefit of Committee B, for which Committee B did not make a disbursement. Therefore, Committee A should ~~also~~ report a disbursement of $~~500.00~~1,000.00 with the category Contribution to Committee (In-Kind) of ~~$500.00 in-kind, non-monetary contribution~~ to Committee B and with the vendor listed under Final Recipient. This transaction serves both as the in-kind contribution to Committee B and as the monetary disbursement to the vendor. The screenshot below shows what Committee A’s reporting should look like, with unused columns hidden.



Committee B is not making any disbursement for the ad, but it is accepting the ad from Committee A. Committee B is receiving an in-kind contribution, because it is receiving value from the ad. Committee B will report receiving an in-kind contribution of $~~500.00~~1,000.00. ~~When reporting the in-kind contribution, Committee B will report receiving both an in-kind contribution of $500.00 and an in-kind disbursement of $500. Committee B must report the disbursement to off-set the contribution, as it is a receipt of something of value, not a monetary contribution. This maintains an accurate cash balance on its reports.~~ In Sunshine, there is no need to report an offsetting in-kind disbursement. The screenshot below shows what Committee B's reporting should look like, with unused columns hidden.

Contribution Limits



Your request also seeks advice on the contribution limits application using the same two hypotheticals. For purposes of this opinion, we will assume the contribution limit for the ~~local~~ office is $~~500.00~~1,000.00 and that Committee A and Committee B have never contributed to one another.

In each scenario the candidate committees will be subject to contribution limits for candidate committees. ~~Specifically, the limits for local candidate committees will be applicable. The limits are as follows:~~

> ~~**(h)** Candidates for local offices, an amount equal to the greater of the following:~~
> ~~**1.** Five hundred dollars.~~
> ~~**2.** Two cents times the number of inhabitants of the jurisdiction or district, according to the latest federal census or the census information on which the district is based, as certified by the appropriate filing officer, but not more than $6,000.~~[6]

~~Your request did not include offices/districts of the candidates and committees in question, so the Commission cannot advise on the exact amounts for contribution limits. However, the~~The Commission can advise that in-kind contributions count towards the contribution limits. The value of a non-monetary contribution, such as something tangible or intangible or a service, is its fair market value.[7]

~~For purposes of this opinion, we will assume the contribution limit is $500.00 and there have been no contributions between the two candidate committees.~~ In scenario one, there is no contribution limit violation. In this scenario there was an exchange of in-kind contributions between the two candidate committees. Committee A contributed $~~250.00~~500.00 to Committee B, and Committee B contributed $~~250.00~~500.00 to Committee A. Each candidate committee may still contribute $~~250.00~~500.00 to the other.

In scenario two, Committee A made a $~~500.00~~1,000.00 contribution and has reached the limit. Committee B did not contribute to Committee A and can still contribute $1,000 to Committee A. ~~Committee B will be reporting a disbursement of $500.00, but this is only for accounting purposes to offset the incoming contribution being reported. It will not count towards the contribution limit for Committee B giving to Committee A.~~

Conclusion

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

[6] WIS. STAT. § 11.1101(2)(h).
[7] WIS. STAT. § 11.1105.

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 October 21, 2025

TO: Members, Wisconsin Ethics Commission

FROM: Ethics Commission Staff

SUBJECT: Ethics Commission Staff Report

Commission Administration

2025-27 Biennial Budget

As was discussed more fully at the August meeting, the Commission did not receive the much-needed additional attorney position or the concomitant costs of relocating it requested. The Administrator is considering next steps related to the attorney position needed. Originally, the Administrator intended to bring this back to the Commission at this meeting. Due to various factors, a recommendation is not yet ready. The Administrator plans to present the subject for further discussion at the December meeting.

Training

At the August meeting, Commission staff announced the launch of the new Sunshine campaign finance website and the training plans for the fall. Commission staff conducted the following training sessions:

- Conduits – Online Training on August 27, 2025, and Office Hours on August 29, 2025;
- Candidates
    - Online Training on September 10, 2025, and Office Hours on September 12, 2025;
    - Online Training on September 24, 2025, and Office Hours on September 26, 2025;
- PACs – Online Training on October 8, 2025, and Office Hours on October 10, 2025.

Staff Counsel Buerger presented an ethics training for the State of Wisconsin Investment Board on September 10th. He was also an instructor at the 2025 Judicial College on September 16th. On October 28th he will conduct a joint presentation with the Wisconsin Elections Commission at the University of Green Bay – Gubernatorial Election Academy. Staff Counsel Buerger is also scheduled to present ethics trainings to the Group Insurance Board on November 12th and the Wisconsin Economic Development Corporation on November 18th.

Campaign Finance

The new campaign finance website was successfully launched on August 19, 2025. Staff have held a number of training sessions for conduits, candidates, and PACs, with upcoming trainings scheduled for Independent Expenditure Committees (and unregistered groups making independent disbursements), Political Parties, and Legislative Campaign Committees. Staff have also sent audit notifications. Committees have successfully been amending past reports using the new website.

The next report is not due until January 15, 2026. This will be the first report required to be filed using the new website. The new website will allow us to track candidates and committees being required to renew their exemption from filing finance reports on an annual basis as well as restricting candidates from claiming the exemption in the year of their election.

Lobbying

<u>2025–2026 Legislative Session</u>

The January–June 2025 Statement of Lobbying Activity and Expenditures (“SLAE”) was due on July 31, 2025, for 838 principals. All but 17 SLAEs were filed on time.

Code of Ethics and Financial Disclosure

<u>State of Wisconsin Investment Board Quarterly Reports</u>

The SWIB Quarterly Report for the second quarter of 2025, which covered from April to June, was due on July 31, 2025. All 55 officials filed on time. The SWIB Quarterly Report for the third quarter, which covers from July to September, will be due on October 31 for 55 officials.