



Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics
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DATE: January 5, 2022
TO: Filing Officers
FROM: Daniel A. Carlton, Jr., Administrator
SUBJECT: Joint Ads Guidance/Helpful Campaign Finance Reminders for the 2022 Election Cycle

Dear Filing Officers,

Thank you for all that you do to help administer Wisconsin's campaign finance laws. From accepting registration statements and campaign finance reports to providing guidance to local candidates and committees, your role is vital in having open, transparent elections. As we head into 2022, I wanted to say thanks and to reach out to say that we are here to help with any campaign finance or ethics questions you might have. I also wanted to let you know of new guidance issued by the Commission and about two common things we are seeing at the local level.

New Joint Ads Guidance

First, regarding the new guidance, the Commission recently addressed a question about how to properly treat "joint ads" done by two or more candidate committees. There is no prohibition on joint ads in the current statutes. So, the only question is how the candidate committees would report these types of ads when the candidate committees each pay a portion of the cost of the ad. Obviously, the exact answer will depend on certain facts, such as the cost of the ad and how much each candidate committee paid of the total cost. However, it will be helpful for you to know that, if multiple candidate committees purchase a joint ad and split the cost, they have made a disbursement to the vendor and there would also be an exchange of in-kind contributions between the candidate committees for the portion they did not pay. For example,

Candidate A and Candidate B decide to do a joint advertisement together. The advertisement costs \$500. Candidate A and Candidate B each pay half of the cost. Both candidate committees must report a disbursement to the vendor for \$250. Additionally, each candidate committee would report making an in-kind contribution to the other and receiving an in-kind contribution from the other committee. So, Candidate A's committee would report a \$250 in-kind contribution to Candidate B's committee. Candidate A's committee would also report receiving a \$250 in-kind contribution from Candidate B's committee. The same is true for Candidate B's committee. It would report making a \$250 in-kind contribution to Candidate A's committee and receiving a \$250 in-kind contribution from Candidate A's committee.

The exchanged in-kind contributions count towards the contribution limits. Further, they are considered in determining whether the committees have exceeded the threshold to remain on exempt status.

Wisconsin Ethics Commissioners
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The Commission is aware that candidate committees often run ads together, especially at the local level, and that this guidance could change the way some committees have been handling joint ads. The Commission has recommended that the Legislature address how to properly treat joint ads. In the meantime, committees considering running joint ads should strongly consider contacting the Commission for guidance on how to report the transactions, help in determining whether there would be a contribution limit issue, or help in determining whether the committee is eligible for exempt status.

Exemption from Campaign Finance Reporting

Second, we receive a lot of questions regarding exempt status. As you are aware, exempt status is available under [Wis. STAT. § 11.0104](#). That statute has led to a lot of questions over the years, some of which the Commission has not been able to answer. There are two bills in the Legislature which would provide some much-needed clarity. We hope that you will support SB 718 and AB 755.

Also, there appears to be some confusion regarding how to determine whether a committee has exceeded the \$2,000 threshold. The statutory threshold is “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.” Some believe that the threshold means that you have to have more than \$2,000 of each type of transaction. For example, you could remain on exempt status if you had \$2,000 in contributions, \$2,000 in disbursements, and \$2,000 in incurred obligations. When asked, Commission staff advises that it is a \$2,000 aggregate total across the categories. So, the total of contributions, disbursements, and incurred obligations cannot exceed \$2,000. For example, a committee that has \$1,000 in contributions, \$800 in disbursements, and \$300 in incurred obligations, would exceed the threshold. That committee would no longer be eligible to be exempt.

Attribution Statement Reminder

Finally, during last year’s Spring Election cycle, the Commission saw a large volume of local campaign finance complaints. Since 2017, the largest total number of complaints that were properly brought to the Commission in a year was 69 complaints. Last Spring, we received nearly 60 complaints by early April. Many of those were local campaign finance complaints. The most common issue complained about was yard signs and other materials that did not have the required attribution statement (the “Paid for by…” language). We also received numerous calls and emails about missing attribution statements. As this is such a common issue, we thought it would a good idea to remind you and get help spreading the word that any ad or other communication containing express advocacy that is paid for by a committee, or for which a committee assumes responsibility, must have the disclaimer on it. The disclaimer must be readable, legible, and readily accessible. The Commission has adopted [WIS. ADMIN. CODE RULE ETH 1.96](#), which provides guidance on how to comply with this requirement and provides a few items which do not require an attribution statement.

If you have any questions regarding this memo, please contact the Wisconsin Ethics Commission at ethics@wi.gov or (608) 266-8123.