

Wisconsin Ethics Commission

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

Thursday, October 7, 2021, 9:00 a.m.

Open Session Agenda

- A. Call to Order
- B. Report of Appropriate Meeting Notice – Administrator
- C. Approval of Minutes of Prior Meetings
 - 1. Open Session Minutes for Meeting on July 27, 2021 Page 3
- D. Personal Appearances
- E. Commission Complaint Processes Page 7
- F. Annual Report Page 21
 - 1. Adoption of Policies
 - 2. Adoption of Annual Report
- G. Staff Report Page 99
- H. Consideration of Future Agenda Items
- I. Closed Session
 - 1. Requests for Advice
 - 2. Complaints and Investigations
 - 3. Personnel Matters
- J. Adjourn

Future Ethics Commission Meetings Scheduled:

- Tuesday, December 14, 2021, at 9:00 AM
- Tuesday, February 22, 2022, at 9:00 AM
- Tuesday, June 28, 2022, at 9:00 AM
- Tuesday, August 30, 2022, at 9:00 AM
- Tuesday, October 18, 2022, at 9:00AM

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

WIS. STAT. §§ 19.50 & 19.55(3) No employee of the Commission may disclose information related to an investigation or prosecution under ch. 11, subchapter III of ch. 13, or ch. 19.

WIS. STAT. § 19.85(1) Any meeting of a governmental body, upon motion duly made and carried, may be convened in closed session under one or more of the exemptions provided in this section. The motion shall be carried by a majority vote in such manner that the vote of each member is ascertained and recorded in the minutes. No motion to convene in closed session may be adopted unless the chief presiding officer announces to those present at the meeting at which such motion is made, the nature of the business to be considered at such closed session, and the specific exemption or exemptions under this subsection by which such closed session is claimed to be authorized. Such announcement shall become part of the record of the meeting. No business may be taken up at any closed session except that which relates to matters contained in the chief presiding officer's announcement of the closed session. A closed session may be held for any of the following purposes:

- (b) Considering dismissal, demotion, licensing or discipline of any public employee or person licensed by a board or commission or the investigation of charges against such person, or considering the grant or denial of tenure for a university faculty member, and the taking of formal action on any such matter; provided that the faculty member or other public employee or person licensed is given actual notice of any evidentiary hearing which may be held prior to final action being taken and of any meeting at which final action may be taken.
- (c) Considering employment, promotion, compensation, or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.
- (g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.
- (h) Consideration of requests for confidential written advice from the elections commission under s. 5.05 (6a) or the ethics commission under s. 19.46 (2), or from any county or municipal ethics board under s. 19.59 (5).

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



Wisconsin Ethics Commission

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Wisconsin Ethics Commission

101 East Wilson Street, St. Croix Room
Madison, Wisconsin
July 27, 2021
9:00 a.m.

Open Session Minutes

Present: Awais Khaleel, Shauntay Nelson, Pat Strachota, Timothy Van Akkeren, and David Wambach.

Staff Present: Daniel Carlton, David Buerger, Caroline Russell, Sathya Sivaji, Colette Greve, Richard Bohringer, Harry Broderick, and Adam Harvell.

A. Call to Order

Commission Chair Awais Khaleel called the meeting to order at 9:04 a.m. Chair Khaleel noted that Commissioner Connell is not present, but quorum is met with five of six commissioners 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. Introduction of New Commissioner

Commissioner Nelson introduced herself to the Commission, staff, and the public.

D. Approval of Minutes of Prior Meetings

1. Open Session Minutes for Meeting on May 11, 2021

MOTION: To approve the minutes. Moved by Vice Chair Strachota, seconded by Commissioner Van Akkeren. Motion carries unanimously.

E. Personal Appearances

There were no personal appearances.

F. Statement of Economic Interests Legislative Recommendations

Wisconsin Ethics Commissioners

Paul Connell | Awais Khaleel | Scot Ross | Pat Strachota | Timothy Van Akkeren | David Wambach

Administrator

Daniel A. Carlton, Jr.

Ethics Specialist Adam Harvell presented the memo on page five of the meeting materials.

MOTION: Ask the legislature to change the current statute to specify that vacation and recreational property, like the official's primary residence, does not need to be reported on the Statement of Economic Interests. Moved by Commissioner Wambach, seconded by Vice Chair Strachota.

Chair Khaleel:	No	Commissioner Van Akkeren:	No
Commissioner Nelson:	Aye	Commissioner Wambach:	Aye
Vice Chair Strachota:	Aye		

Motion fails 3-2 due to insufficient affirmative votes. [WIS. STAT. § 19.47\(4\)](#).

MOTION: Ask the legislature to change the current statute to specify that vacation and recreational property should be reported by municipality and county only, without requiring a specific address or location on the Statement of Economic Interests. Moved by Commissioner Van Akkeren, seconded by Commissioner Nelson.

Chair Khaleel:	No	Commissioner Van Akkeren:	Aye
Commissioner Nelson:	Aye	Commissioner Wambach:	Aye
Vice Chair Strachota:	Aye		

Motion carries 4-1.

G. 2022 Commission Meeting Schedule

Administrator Daniel Carlton presented the memo on page nine of the meeting materials.

MOTION: To change the proposed March 15, 2022, meeting, to February 22, 2022, and adopt all other meeting dates as laid out on page nine of the meeting materials. Moved by Vice Chair Strachota, seconded by Commissioner Van Akkeren. Motion carries unanimously.

H. Reconsideration of October 2021 Meeting Date

Chair Khaleel verbally presented this item.

MOTION: To move the October 12, 2021, meeting, to October 7, 2021, due to Chair Khaleel's scheduling conflict. Moved by Chair Khaleel, seconded by Commissioner Van Akkeren. Motion carries unanimously.

I. Staff Report

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

J. Consideration of Future Agenda Items

The Commission did not discuss any future agenda items.

K. Closed Session

MOTION: To go into closed session to discuss requests for advice, complaints, and investigations. Moved by Vice Chair Strachota seconded by Commissioner Wambach. Motion carries unanimously.

- 1. Requests for Advice**
- 2. Complaints and Investigations**

L. Final Action on Lobbyist License Revocation (if needed)

This item was not needed.

M. Adjourn

MOTION: To adjourn the meeting. Moved by Commissioner Van Akkeren, seconded by Commissioner Strachota. Motion carries unanimously.

Meeting adjourned at 4:54 p.m.

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July 27, 2021, Wisconsin Ethics Commission meeting minutes prepared by:

Caroline M. Russell, Ethics Specialist

October 7, 2021

July 27, 2021, Wisconsin Ethics Commission meeting minutes certified by:

Pat Strachota, Vice Chair

October 7, 2021



Wisconsin Ethics Commission

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DATE: For the Commission Meeting on October 7, 2021

TO: Members, Wisconsin Ethics Commission

FROM: Daniel A. Carlton, Jr., Administrator

SUBJECT: Commission Complaint Practices

FOR COMMISSION ACTION

For this agenda item, the Commission may:

1. Direct staff to begin creating orders for all actions of the Commission beginning December 14, 2021, as outlined herein;
2. Direct staff to begin creating orders only for findings of no reasonable suspicion, no probable cause, authorizing the filing of civil litigation, or referring the matter to a district attorney or other prosecutor; or
3. Take other action consistent with today's discussion.

Introduction

The purpose of this memo is to consider the Commission's complaint processes with an eye toward improving transparency. It is not unusual for complainants and respondents to publicize the fact that a complaint was filed. While a complaint is being considered or investigated, it is imperative that confidentiality be maintained. This protects the integrity of the complaint and investigative process and is required by law. While the complaint is pending, the Commission and staff cannot and do not confirm a complaint was filed or discuss it with anyone other than the parties, their representatives, or witnesses. But, once the process is concluded, transparency is very important. It benefits the public, the Commission, and parties to have as transparent of a process as possible. The public gains a better understanding of what the law prohibits and why there was (or was not) a violation. It shows the public that the Commission took deliberative action and that the action was supported by the law and the facts. Transparency also benefits the Commission by bolstering the public's confidence in its actions. Finally, transparency benefits the parties by having a clear record explaining the Commission's actions.

Current Complaint Process

Generally, the Wisconsin Ethics Commission can only initiate an investigation upon receipt of a sworn complaint. Once a complaint is received, staff reviews the complaint to determine whether it is in the proper form and whether it alleges a potential violation of a law within the Commission's jurisdiction. If so, Commission staff transmits the complaint to the Respondent. The Commission cannot act on the complaint, other than to dismiss the complaint, within 15 days after the

Wisconsin Ethics Commissioners

Paul Connell | Awais Khaleel | Shauntay Nelson | Pat Strachota | Timothy Van Akkeren | David Wambach

Administrator

Daniel A. Carlton, Jr.

Respondent received notice. This window allows the Respondent a chance to demonstrate to the Commission in writing that the Commission should take no action or provide any other pertinent information.

In most cases, the Commission receives a response. Once a response is received, staff prepares a memo. The purpose of this memo is to fully brief the Commission on the facts and legal issues to allow the Commission to decide whether or how to proceed on the complaint. The memo summarizes the allegations and responses. It contains quotes of pertinent statutory provisions and a plain language explanation of the statutory provisions. The memo discusses how the law applies to the facts presented in the complaint and response. Any exculpatory information that the staff is aware of is included in the memo. This memo, the complaint, and the response are provided to the Commission in advance of the meeting.

In closed session at the meeting, staff presents the memo to the Commission. The Commission then asks any questions it may have of staff and discusses whether and how to proceed. At the first meeting the Commission considers a complaint, the Commission generally either:

- Finds no reasonable suspicion of a violation of the laws within the Commission's jurisdiction and dismisses the complaint; or
- Finds reasonable suspicion of a violation of the laws within the Commission's jurisdiction and:
 - Orders an investigation, prescribing the scope of the investigation, or
 - Directs staff to offer a settlement.¹

If the Commission dismisses the complaint, it notifies the complainant and respondent that it has dismissed the complaint. If the Commission orders an investigation, it decides whether the investigation is conducted by staff or an outside investigator. If the Commission directs staff to offer a settlement, staff prepares and transmits the settlement to the Respondent. At this stage, the only record that would become public is a record containing a finding of no reasonable suspicion. If the Commission chooses to investigate or offer a settlement, the matter remains confidential.

Assuming the Commission offers a settlement, staff prepares a settlement offer that contains a brief restatement of the allegations, the applicable law, and the terms of the settlement offer. This remains confidential until the settlement is completed. Once completed, the Commission is required to retain the settlement agreement in its office for public inspection.

If the Commission orders an investigation, staff must update the Commission every 30 days. Within 90 days after the order of investigation, the Commission must either make a determination on the merits of the complaint or reauthorize the investigation. If the Commission fails to do one of these two things, the matter is deemed dismissed. If the Commission orders an investigation, a report containing recommendations prepared pursuant to [WIS. STAT. § 19.49\(2\)\(b\)4](#), is presented to the Commission at the next meeting. This document summarizes the results of the investigation and recommends a finding of probable cause, further investigation, or termination due to lack of sufficient evidence. If the Commission finds no probable cause, staff notifies the complainant and

¹ At the initial meeting, the Commission could also find probable cause. If the Commission finds probable cause, it can either proceed to litigation, offer a settlement, issue a warning, or take no further action if appropriate under the circumstances.

respondent it has found no probable cause and dismissed the complaint. If the Commission offers a settlement, staff prepares and transmits the settlement offer to the respondent. If the Commission orders further investigation, the matter remains confidential while staff investigates further. If the Commission finds probable cause and directs staff to file litigation or refers the matter to a district attorney or other prosecutor, staff will either file the litigation or refer the matter to the appropriate district attorney.

Confidentiality and Public Records

Subch. III, Ch. 19, of the Wisconsin Statutes, is very strict concerning confidentiality of complaints and complaint-related proceedings. Pursuant to [WIS. STAT. § 19.50\(1\)](#), the general rule is that no information may be disclosed by the Commission or anyone acting on behalf of the Commission about a complaint. The only exceptions relate to communications made in the course of the investigation or prosecution; communications with local, state, or federal law enforcement; or communications with the respondent or his/her attorney. Further, [WIS. STAT. § 19.55\(3\)](#) prohibits disclosure of records obtained or prepared by the Commission in connection with an investigation, including the full text of any complaint, unless one of the exceptions applies. In the normal course, the pertinent exceptions are:

- A record of the action of the Commission authorizing the filing of a civil complaint;
- A record of the action of the Commission referring a matter to a district attorney or other prosecutor for investigation or prosecution;
- A record containing a finding that a complaint does not raise a reasonable suspicion that a violation of the law occurred; or
- A record containing a finding, following an investigation, that no probable cause exists to believe that a violation of the law has occurred.

Additionally, [WIS. STAT. § 19.55\(3\)\(d\)](#) allows the subject of the investigation to essentially waive confidentiality and allow inspection and copy of all records if the Commission commences a civil action. In the absence of an exception, [WIS. STAT. § 19.58\(4\)](#) provides that any person that discloses information about a complaint may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

To summarize, the only records that become public under the current statutes are:

- A record containing a finding of no reasonable suspicion;
- A record containing a finding of no probable cause;
- A settlement;
- A record authorizing the filing of a civil complaint;
- A record referring the matter to a district attorney or other prosecutor; and
- A civil complaint initiating a lawsuit.

Commission's Current Practice

The Commission's practice has been to notify complainants and respondents that the Commission has found no reasonable suspicion or probable cause via email. If the complainant requests, the Commission can provide a copy of a settlement agreement once the settlement is complete. The Commission has not yet authorized a civil lawsuit to be filed concerning a complaint.

It is not unusual for a complainant or respondent to talk about the fact that a complaint was filed. It is also not unusual to have members of the press, the public, the complainant, or other officials ask about a complaint even before the matter has reached a point where it becomes public. Consistent with the confidentiality requirements, staff does not discuss anything about complaints while a matter is pending. As a result, a complaint is only public when a matter is dismissed or a settlement has been completed. Staff is frequently asked why a specific outcome occurred. Currently, the only thing that can be provided is the email that says simply that the matter was dismissed. In an effort to promote transparency, the Commission may want to consider a more intentional, formal approach to creating public records concerning complaints. Below are some recommendations to make the complaint process more transparent for the Commission's consideration.

Potential Change

Creating Orders for Certain Actions

At certain points during the complaint process, the statutes clearly contemplate some sort of writing. For example, [WIS. STAT. § 19.49\(1\)\(b\)](#) requires a settlement agreement to be in writing which will be open to inspection. Additionally, if the Commission believes there is a reasonable suspicion that a violation occurred, [WIS. STAT. § 19.49\(2\)\(b\)3.](#) contemplates the Commission authorizing an investigation via resolution.² Though it does not become a public record, at the conclusion of each investigation the Administrator is required to present a report and recommendations (whether probable cause exists, further investigation, or termination due to lack of sufficient evidence). *See* [WIS. STAT. § 19.49\(2\)\(b\)4.](#) The Commission shall then, 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, the complaint shall be dismissed, and the Commission shall immediately send written notice of the dismissal to the complainant and respondent. [WIS. STAT. § 19.49\(2\)\(b\)7.](#)

The statutes clearly contemplate some of these writings would eventually become publicly available. In addition to the staff memos already prepared, the Commission could begin creating formal orders for: a finding of no reasonable suspicion, a finding of no probable cause, directing staff to initiate litigation, referring a complaint to a district attorney or other prosecutor. These orders could contain a succinct explanation of the facts and allegations, a statement of the law(s) implicated, and the action taken by the Commission. While the law and procedure in Florida is significantly different than our laws, I have attached an example of an order dismissing a complaint as insufficient (akin to our no reasonable suspicion findings), an example of an order initiating an investigation (akin to our findings of a reasonable suspicion), an example of an order finding no probable cause, and an example of an order finding probable cause from the Florida Commission on Ethics. While there would inherently be some differences between our orders and theirs, these attachments are intended to show how clearly and concisely these public orders can be accomplished.

² Art. I, s. 4 of Robert's Rules of Order explains the difference between a main motion and a resolution is that a resolution should be in writing. Additionally, that section also provides that in assemblies with paid employees, instructions given to employees are called orders instead of resolutions.

In addition, the Commission may also want to adopt similar types of orders for the following matters which would not be available to the public except in limited circumstances:

- An order finding a reasonable suspicion; and
- An order finding probable cause, unless combined with direction to file litigation.

If the Commission decides to formalize its actions through orders, there are a couple of different approaches that the Commission should consider. First, the Commission can continue the complaint process as it currently does. When the Commission makes a finding or directs investigation, litigation, or a referral, staff can bring back a draft order for the Commission's approval at the next meeting.

Alternatively, if staff anticipates that the Commission will take a certain action, it can present the usual materials and a draft order for the Commission's consideration.³ This draft order will be watermarked "DRAFT" so as to not confuse it with an order the Commission has issued. The Commission is free to approve, reject, or direct staff to incorporate necessary revisions. If the Commission approves the order or approves an order with revisions which do not need to be presented to the Commission again, staff can then remove the watermark and prepare the order for signature. If the Commission rejects the order or wants to see the revisions before entering the order, an alternative order would be presented to the Commission at the next meeting. This approach would be more efficient from a staff perspective while respecting the fact that it is the Commission's role, not staff's, to make the determination on these issues.

Regardless of which approach the Commission chooses, it is important to remember that some of these orders would become available to the public pursuant to [WIS. STAT. § 19.55\(3\)](#). If the Commission adopted an order, the press, public, complainant, respondent, and others would all be entitled access to those orders. Staff would begin providing them upon request once they are adopted, the watermark is removed, and the order is signed.

As the Commission is aware, orders are typically signed by the judge or agency entering the order. The Commission could choose to have these orders signed by the Chair, signed by the Vice Chair, or have both the Chair and Vice Chair signatures on the orders. For efficiency's sake, the Commission may want to authorize the staff to add an electronically-created signature on behalf of whoever will sign the order.

Recommended Process

Upon receipt of a complaint and response (if the Respondent chooses to provide one), staff will continue to prepare the usual meeting memorandum reciting the facts, quoting and explaining the law, and providing any other pertinent information the Commission needs. In addition to that memo, if the staff anticipates the Commission making a certain finding, staff will prepare a draft order and include it as an attachment to the memo. The draft will have a blank signature line for the Chair and/or Vice Chair. The draft order will be clearly watermarked "DRAFT." The Commission will decide whether to accept the draft order, reject it, or modify it. If the Commission

³ If staff is not sure what action the Commission is likely to take, staff would not prepare an order until after the Commission has considered the matter. A draft order would then be presented at the next meeting.

accepts the draft order, staff will remove the watermark and add an electronically-created signature for the Chair and/or Vice Chair. If the Commission rejects the order or wants to review revisions prior to entry of the order, a new/revised draft order will be presented to the Commission at the next meeting in Closed session.

Once an order has been approved, the watermark removed, and the electronically-created signature added, staff will include the order in the file with the other records. If the order finds no reasonable suspicion, no probable cause, directs litigation to be filed, or refers the matter to a district attorney or other prosecutor, a copy of the order will be provided to anyone who requests it. If the order finds a reasonable suspicion or probable cause, without direction to file suit, the order will remain confidential unless required to be disclosed by a court.

If the Commission chooses to begin creating orders, staff will begin preparing orders for matters to be considered at the Commission's meeting on December 14, 2021.

Enclosures: Attachment A- FL COE Order Dismissing Complaint as Insufficient
 Attachment B- FL COE Order to Investigate
 Attachment C- FL COE Order Finding No Probable Cause
 Attachment D- FL COE Order Finding Probable Cause

JUL 28 2021

COMMISSION ON ETHICS

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

In re CARMINE MARCENO,)
)
 Respondent.)
_____)

Complaint No. 21-100

PUBLIC REPORT AND ORDER DISMISSING COMPLAINT

On Friday, July 23, 2021, the Commission on Ethics met in its executive session and considered this complaint for legal sufficiency pursuant to Commission Rule 34-5.002, F.A.C. The Commission's review was limited to questions of jurisdiction of the Commission and of the adequacy of the details of the complaint to allege a violation of the Code of Ethics for Public Officers and Employees. No factual investigation preceded the review, and therefore the Commission's conclusions do not reflect on the accuracy of the allegations of the complaint.

The Commission voted to dismiss the complaint for lack of legal sufficiency, based on the following analysis:

1. This complaint was filed by Carmen Lee McKinney of Cape Coral, Florida.
2. The Respondent, Carmine Marceno, serves as Sheriff of the Lee County Sheriff's Office (LCSO).
3. The complaint alleges that the Respondent and others misused public funds to ensure that life-sized images of the Respondent appeared on the façade of six different "Community Out Reach Centers" located throughout the City and which are only intermittently open to the public. The complaint then questions the public purpose of the Community Out Reach Centers and the use of public resources to adorn the exterior of these facilities with the image of the Respondent.

4. The complaint also requests an audit and investigation of expenditures made by the LCSO over a twenty month period for the possible misuse of Forfeiture Funds contained in the LCSO Law Enforcement Trust Fund (LETF) allegedly expended in violation of Section 932.7055, Florida Statutes, governing the disposition of liens and forfeiture property. The complaint questions, with particularity, a transfer of \$15,000 made on May 27, 2020, from the LCSO LETF to Compassionate Cops, LLC d/b/a Compassionate Cops, Inc., (Compassionate Cops) an entity wherein the Respondent and other members of the LSCO serve or served as officers or directors.

5. The Code of Ethics provision¹ arguably applicable to the allegations in paragraphs 3 and 4 is Section 112.313(6), Florida Statutes, which states:

MISUSE OF PUBLIC POSITION.--No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others.

Section 112.312(9), Florida Statutes, defines "corruptly" as

. . . done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of a public servant which is inconsistent with the proper performance of his or her public duties.

6. The allegations in paragraph 3 fail to indicate a possible violation by the Respondent of Section 112.313(6). In order to indicate a possible violation of this provision, a complaint must substantively allege that a respondent corruptly used or attempted to use his public position or resources within his public trust, or that he corruptly performed his official duties, in order to benefit himself or another. Here, even assuming the Respondent was involved in

¹ With respect to the allegation in paragraph 4 concerning the May 27, 2020, transfer of \$15,000 from the LCSO LETF to Compassionate Cops, the allegation does not trigger the prohibition currently found in Article II, Section 8(g)(2) of the Florida Constitution, which did not become effective until December 31, 2020.

establishing the Community Outreach Centers, the complaint does not indicate, in a factual, nonconclusory manner, any private capacity benefit to the Respondent, as would be supportive of the "corruption" required under the statute. Further, while the complaint claims the Respondent was attempting to obtain a benefit via the use of his personal image on the façade of the Community Outreach Centers, the broad assertion that the Respondent's involvement with the Community Outreach Centers as Sheriff was to benefit himself via free publicity is conclusory; and while material assertions of fact are taken as true in an analysis of legal sufficiency, conclusions or unwarranted deductions of fact are not a sufficiently specific basis for investigation. Moreover, it is well settled that Section 112.313(6) will not be violated in situations where there is a valid public purpose for a public officer's actions, notwithstanding that the action provides an incidental personal or private benefit to the public officer or another. See Blackburn v. State, Commission on Ethics, 589 So. 2d 431, (Fla. 1st DCA 1991). Here, the complaint contains photographs of Community Outreach Centers where the life-sized photos of the Sheriff, police vehicles, a police dog, and the LCSO decal appear; while one effect of the establishment of these centers may be greater notoriety for the Respondent, the benefit of these centers is primarily deigned to serve the community in Lee County as a location wherein, for example, self-defense and active shooter trainings may occur. Thus, because apparently there was a public purpose for the Respondent's conduct and the Community Outreach Centers, it cannot form the basis of a violation of Section 112.313(6).

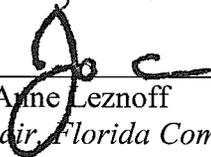
7. With respect to the allegations of paragraph 4 regarding expenditures made by the LCSO of Forfeiture Funds maintained in the LETF, these allegations also fail to indicate a possible violation by the Respondent of Section 112.313(6). The complaint process is not designed to serve as a general review or audit function to second guess the budgetary determinations of independent agencies of a political subdivision. The Complainant's doubt or skepticism about the LCSO's

process via which it used Law Enforcement Trust Funds, or his observation that certain funds were provided to an entity formed for the purpose of facilitating police outreach activities within the Lee County community, is not enough to trigger the Commission's investigative jurisdiction absent factual allegations which are not contained in the complaint.

8. In sum, we recognize the importance of matters in the complaint to the Complainant and the Complainant's effort in filing the complaint. Nevertheless, the Complainant's remedy, if any, lies with courts, forums, or agencies other than this Commission.

Accordingly, this complaint is hereby dismissed for failure to constitute a legally sufficient complaint with the issuance of this public report.

ORDERED by the State of Florida Commission on Ethics meeting in executive session on Friday, July 23, 2021.

July 28, 2021
Date Rendered

JoAnne Leznoff
Chair, Florida Commission on Ethics

JL/cmk

cc: Mr. R.W. Evans, Attorney for Respondent
Mr. Carmen Lee McKinney, Complainant

DATE FILED

OCT 17 2019

COMMISSION ON ETHICS

CONFIDENTIAL

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

In re DERRICK DIGGS,)
)
 Respondent.)
_____)

Complaint No. 19-162

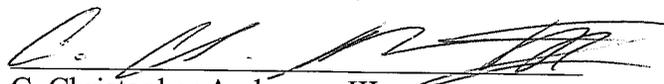
DETERMINATION OF INVESTIGATIVE JURISDICTION
AND ORDER TO INVESTIGATE

UPON REVIEW of this complaint, I find as follows:

1. This complaint was filed by Anthony Thomas, Jr., of Fort Myers, Florida.
2. The Respondent, Derrick Digs, allegedly serves as the Chief of Police of the Fort Myers Police Department.
3. The complaint alleges that Respondent used his City purchasing card for his own private benefit or the benefit of others, including the purchase of meals, boots, and a Sirius Satellite radio subscription, in contravention of the City's purchasing card policy or State statutes governing purchasing by public officers and employees. This indicates possible violation of Section 112.313(6), Florida Statutes, by the Respondent.

WHEREFORE staff of the Commission on Ethics shall conduct a preliminary investigation of this complaint for a probable cause determination of whether the Respondent has violated Section 112.313(6), Florida Statutes, as set forth above.

October 17, 2019
Date


C. Christopher Anderson, III
Executive Director

CCA/cmck

DATE FILED

JUL 29 2020

COMMISSION ON ETHICS

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

In re KARYN CUNNINGHAM,)
)
 Respondent.)
)
)
 _____)

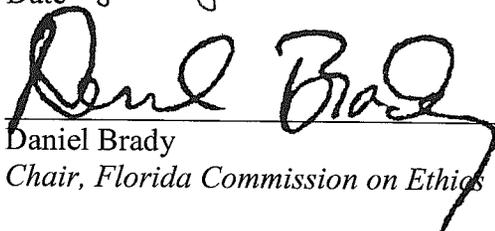
Complaint No. 20-002

PUBLIC REPORT

Based on the preliminary investigation of this complaint and on the recommendation of the Commission's Advocate, the Commission on Ethics finds that there is no probable cause to believe Respondent, as the Mayor of the Village of Palmetto Bay, violated Section 112.313(6), Florida Statutes, by using her position as Mayor of the Village of Palmetto Bay and/or using the Village's resources to benefit herself and/or a candidate for public office, as alleged in the complaint.

Accordingly, this complaint is dismissed with the issuance of this public report.

ORDERED by the State of Florida Commission on Ethics meeting in executive session on Friday, July 24, 2020.

Date July 29, 2020


Daniel Brady
Chair, Florida Commission on Ethics

DB/cmk

cc: Mr. Benedict P. Kuehne and Mr. Mark Herron, Attorneys for Respondent
Ms. Melody A. Hadley, Commission Advocate
Mr. David M. Singer, Complainant

DATE FILED

SEP 16 2020

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

COMMISSION ON ETHICS

In re DERRICK DIGGS,)
)
 Respondent.)
)
)
)
 _____)

Complaint No. 19-162

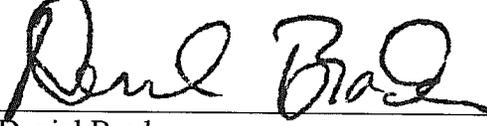
ORDER FINDING PROBABLE CAUSE

Based on the preliminary investigation of this complaint the Commission on Ethics rejects the recommendation of the Commission's Advocate and finds that there is probable cause to believe Respondent, as the Chief of Police for the Fort Myers Police Department, violated Section 112.313(6), Florida Statutes, by using his City-issued Purchasing Card for his own special private benefit and/or others' special benefit. Therefore, the Commission orders a public hearing as to whether the Respondent violated Sections 112.313(6), Florida Statutes.

A formal notice of hearing of the matter on which probable cause has been found will be prepared and sent to the Respondent and to the Advocate. Under Commission Rule 34-5.020, Florida Administrative Code, the Commission may resolve a complaint proceeding through a stipulation, settlement or consent order entered into by the Respondent and the Commission's Advocate and approved by the Commission. If the Respondent wishes to pursue a settlement of this case, he should contact the Commission's Advocate at (850) 414-3300 to discuss the terms of a possible settlement.

ORDERED by the State of Florida Commission on Ethics meeting in executive session on

Friday, September 11, 2020.

September 16, 2020
Date

Daniel Brady
Chair, Florida Commission on Ethics

DB/cmck

cc: Mr. Derrick Diggs, Respondent
Ms. Melody A. Hadley, Commission Advocate
Mr. Anthony Thomas, Jr., Complainant



State of Wisconsin
Ethics Commission

2021 Annual Agency Report

October 15, 2021

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

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Introduction

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

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

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

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

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

Mission

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

Agency Description

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

The Administrator serves as the agency head and is responsible for the daily operations of the Commission. The Commission Administrator and staff are non-partisan. The agency has a staff of 4.55 GPR and 3.45 PR full-time employees. The Commission administers and enforces Wisconsin law pertaining to campaign finance (Wisconsin Chapter 11), lobbying (Wisconsin Chapter 13, Subchapter III), and the Code of Ethics (Wisconsin Chapter 19, Subchapter III). The duties of the Ethics Commission are codified in WIS. STAT. §§ 11.1304, 13.685, and 19.48.

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

Commission activities are arranged by five general functions:

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

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

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

Campaign Finance

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

Lobbying

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

Ethics

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

State Purchasing

The Contract Sunshine program is mandated by the Legislature to allow the public to view the process state agencies use to procure goods and services from vendors. Additional information about the program is available on the Commission's website: <https://ethics.wi.gov/Pages/Ethics/ContractSunshine.aspx>.

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

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

Programs, Goals, Objectives, and Activities

Program 1: Ethics, Campaign Finance, and Lobbying Regulation

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

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

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

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

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

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

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

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

Performance Measures, Goals, and Performance

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

Performance Measure (by Fiscal Year)	Goal 2021	Actual 2021	Goal 2022	Goal 2023
Campaign finance reports filed on/before the required date	96%	94.0%	96%	96%
Percentage of committees in compliance, based on audit findings	95%	97.1%	95%	95%
Lobbying fees received by electronic payment methods	85%	86.79%	90%	90%
Lobbyist time reports completed on/before the required date	99%	99.9%	99%	99%
Principals completing their Statements of Lobbying Activities and Expenditures on/before the required date	99%	99.1%	99%	99%
Percentage of principals in compliance, based on audit findings	99%	99.8%	99%	99%
Required SEIs filed on or before the required date	96%	95.0%	96%	96%
Statements of Economic Interest filed electronically	95%	96.9%	96%	96%

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

Statutory Duties of the Administrator and Compliance with Each Duty

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Duties of All Individuals Employed by the Ethics Commission

Staff Counsel

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

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

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

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

Office Management Specialist

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

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

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

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

Ethics Specialists

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

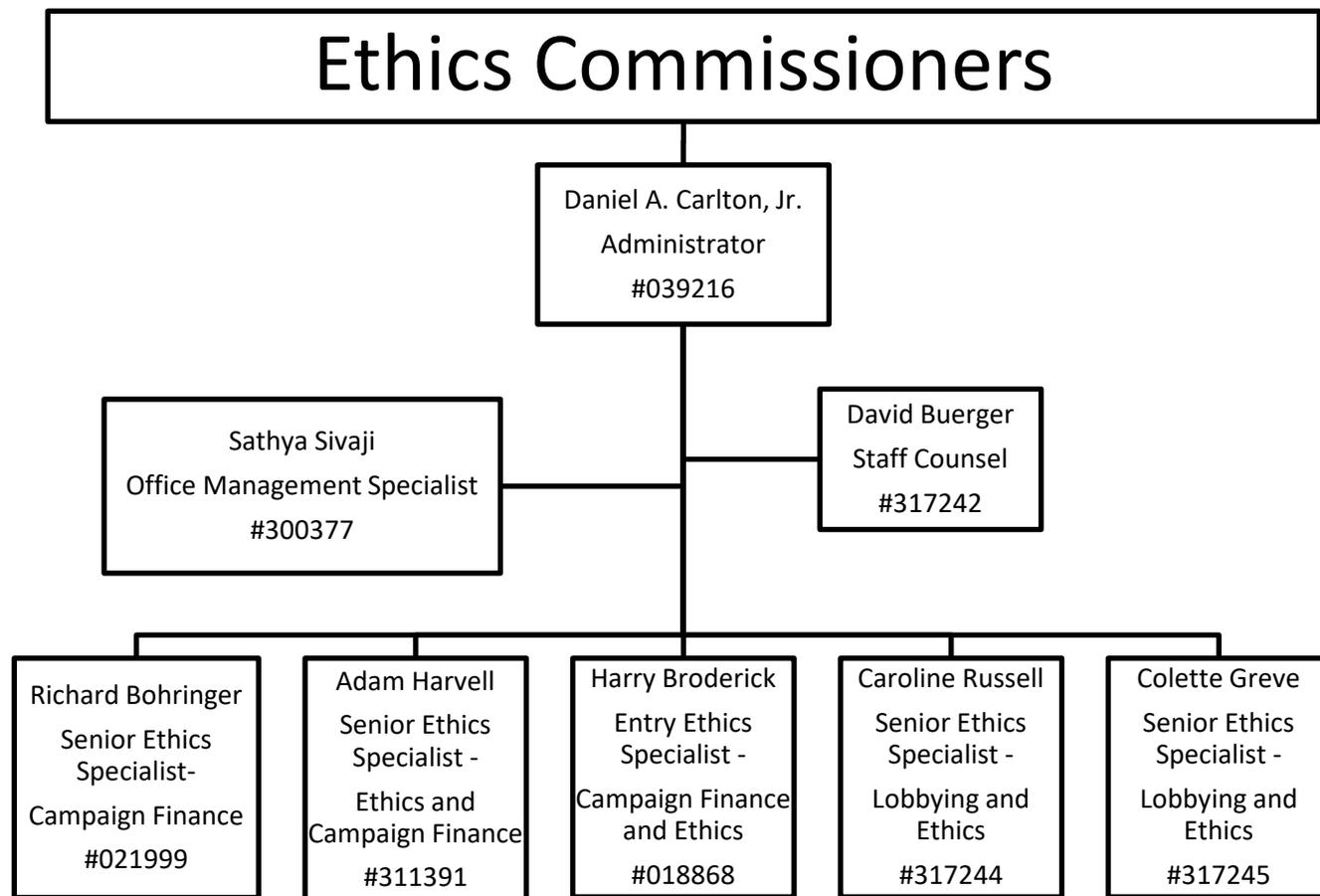
Under the general supervision of the Administrator of the Wisconsin Ethics Commission, these positions provide operational execution of the Wisconsin Ethics Commission's statutory responsibilities, and ensure compliance with Wisconsin's campaign finance, lobbying, financial disclosure, and ethics laws.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

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

Major duties and responsibilities of Ethics Specialists include the following:

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

Organizational Chart



Recommendations for Potential Legislation

These recommendations have been collected from staff experiences through administering the laws; comments from legislators, committees, lobbyists, principals, and state officials; and from public testimony at agency and legislative hearings. The Ethics Commission asks that the Legislature consider addressing the issues outlined below through legislation. The Ethics Commission approved these recommendations at its meeting on August 18, 2020. Commission staff is available to assist Legislators and their staff regarding any of the potential changes addressed in this memorandum, as well as any other potential changes to the statutes that the Commission administers.

2016 & 2017 Recommendations for Potential Legislation

In 2016, the Ethics Commission adopted 23 recommendations for potential legislation. In 2017, the Commission adopted 7 more recommendations. The full text of those recommendations is available in both of the Ethics Commission's Annual Agency Reports for 2017 and 2018 which are available on the Commission's website.

2018 Recommendations for Potential Legislation

In its 2018 Annual Report, the Commission included one additional legislative recommendation, which is summarized below.

Campaign Finance (Chapter 11, Wisconsin Statutes)

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.

2019 Recommendations for Potential Legislation

At its meeting on December 11, 2018, the Commission directed staff to work with the Legislative Reference Bureau to exercise the agency's drafting privileges regarding the legislative recommendations to date. In calendar year 2019, the Commission added two additional legislative recommendations.

Ethics (Subchapter III, Chapter 19, Wisconsin Statutes)

The Commission inherited Guideline 1235 from its predecessors. This Guideline addresses recommendations concerning the disposition of items that a covered official may receive but is not allowed by law to accept. The Guideline provides that the official may take one of the following actions:

- Turn the item over to the agency, if the item is one the agency can use or sell;
- Turn the item over to another state agency or to a public institution, such as a local school, library, or museum that can use the item;
- Donate the item to a charitable organization (other than one with which the official or a family member is an officer, director, or agent);
- Return the item to the donor; or
- If the donor is neither a lobbyist nor an organization that employs a lobbyist, purchase the item (by paying the donor the full retail value), and retain it.

2018 Act 369 required guidance documents that the Commission issues or maintains to have a certification attesting that the document does not have any standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or rule. While WIS. STAT. § 19.56(4) contains a statutory provision that is similar in nature to Guideline 1235, that Guideline has historically been more broadly applied by the Commission and its predecessors than contemplated by WIS. STAT. § 19.56(4). The Commission has recommended that this longstanding practice be codified.

Lobbying (Subchapter III, Chapter 13, Wisconsin Statutes)

The other new legislative recommendation concerns receipt of food, drink and other items from lobbyists or principals. WIS. STAT. § 13.625 contains a broad prohibition on a lobbyist or principal giving, and state public officials accepting, anything of value. There is a statutory exception that allows a state public official to accept from a principal "transportation, lodging, food, meals, beverages, or any other thing of pecuniary value which is also made available to the general public."

The Commission inherited Guideline 1211, which addresses what state public officials may accept and retain. This Guideline advises that a state public official may accept from anyone, even a lobbyist or principal, food and drink at an event conducive to the discussion of state governmental processes, proposals, and issues if he or she pays the highest of the price charged others, the food or drink's true value, or the sponsor's cost. The source of this policy statement is a direction to staff that is reflected in minutes of the Ethics Board meeting on March 8, 1995, advising staff not to interpret and apply the lobbying law to prohibit receipt of these items from a lobbyist or principal. However, there is limited basis in statute to support this interpretation. As with the previous legislative recommendation, there is insufficient statutory basis for the Commission to certify a revision of this Guideline, as required by 2018 Act 369, that includes reference to this practice. Since this practice has been in effect since at least 1995, the Commission has recommended that a narrow statutory exception be created to expressly allow the acceptance of food and beverage from a lobbyist or principal at events that are conducive to the discussion of state governmental processes, proposals, and issues. The state public official could accept the food or beverage if he or she pays the highest of either the actual cost incurred by the lobbyist or principal or the cost of admission to the event. The Commission also recommended that a state public official be allowed to attend such an event at no cost if he or she does not eat or drink and there is no discreet cost of admission.

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, 2020, and June 30, 2021. 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-2020-20	Application to Former Agency	Informal Opinion
The Commission has determined that your name may be disclosed as a part owner of the LLC on the loan application submitted to WHEDA by your partners, but that you may not independently submit your own independent tax credit application to WHEDA prior to the date you left state service.		
RA-2020-21	Permissibility of Radio PSA Using Campaign Funds	Informal Opinion
You may use funds from your candidate committee to pay to record and air a PSA advising constituents to contact you for assistance with unemployment benefits. As you have advised that you will not be using any public funds, resources, or time for the production and airing of these ads, neither the 50 Piece Rule nor the ethics laws would be implicated. Further, because you will use the disclaimer "paid for by" your committee, this will foster the public's confidence that you have not used your position to produce and air a PSA that some members of the public would consider to be political advertising. Aside from the statutory guidance concerning the disclaimer language, there are no other provisions of the laws within the Commission's jurisdiction that require or prohibit certain verbiage.		
RA-2020-22	Permissibility of Recorded Message for School District	Informal Opinion
You may use your candidate committee's funds and resources to record and distribute the message of support to the School District and its staff. As you have advised that you will not be using any public funds, resources, or time for the production and airing of the message, neither the 50 Piece Rule nor the ethics laws would be implicated.		

It is the opinion of staff of the Commission that a legislative employee may create and operate a legislative staff training business. In the creation and operation of the business the lobbying statutes prohibit the following: lobbyists and principals from offering the legislative employee employment or offering to retain his or her services; your solicitation of them as a client or employer; and your acceptance of employment or other economic consideration from a lobbyist or principal. The Commission advises that there are several narrowly tailored exceptions and if such circumstances arise, the legislative employee is advised to contact the Commission for further guidance on whether one or more of the exceptions might apply to those specific circumstances.

Staff of the Commission advises that you may communicate your public position and length of service in a general description of their professional history along with any other relevant positions and experiences (e.g., on a resume) as long as the title is used in the same style and prominence as other positions described and there is no evidence the official is seeking to obtain financial gain by use of his or her official title or the prestige of public office.

Staff of the Commission recommends that you should be thorough in documenting your business dealings, as the burden is on you as the state public official to prove by clear and convincing evidence that if you receive or retain anything of value, it is given unrelated to your use of state's time, facilities, services, or supplies not generally available to all citizens and that payment or reimbursement was unrelated to and did not arise out of you holding public office.

Additionally, you should review whether a potential client has matters coming before you or had matters that came before you as a state public official. If so, you should consider whether the person is hiring you to influence your official actions or reward you for past actions. If you have questions concerning whether this statute may apply to a particular client, you should contact the Commission for guidance.

Staff of the Commission advises that in the course of creating your training products or conducting your trainings, you must be mindful of your obligation not to use confidential information, or information that has not yet been made public, to obtain anything of substantial value for you or any other person, including clients or customers.

If a situation arises in your capacity as a legislative employee, that involves your interests, the interests of your immediate family, or the interests of your business or other organizations with which you are associated, you are encouraged to contact the Commission for guidance on whether this test might allow you to act notwithstanding that nexus.

Finally, you should be mindful of the common law duty of undivided loyalty to the state when acting in your official capacity, especially where those you are training are involved. You may want to recuse from any official action if you feel that you may have conflicting loyalties.

It is the opinion of staff of the Commission that the Local Code of Ethics is not a barrier to a local official's participation in official action regarding the amendment of the Land Use Plan and the rezoning of the parcel adjacent to and across the road from two parcels owned by a conservancy for which the official is a member of the Board of Directors. However, you are cautioned against taking any official action where you feel you have conflicting loyalties.

RA-2020-25	Conflict of Interest of Real Estate Broker	No Opinion Issued
No opinion was issued in response to this request.		
RA-2020-26	Application of Campaign Finance, Lobbying, and Ethics Laws to Public Service Announcements	Informal Opinion
A registered lobbying principal may not provide an elective state official an opportunity to participate in a PSA. Having concluded that the lobbying laws would prohibit a lobbying principal from providing an elective state official the opportunity to participate in a PSA, applicability of the ethics laws in subch. III, Ch. 19, of the Wisconsin Statutes, is not addressed herein.		
RA-2020-27	Recalls	Informal Opinion
<p>1. We understand that there are time-related and use-based dimensions to the scope of the contribution-limit exemption found in WIS. STAT. § 11.1104(10), that the time-related dimension focuses on when expenses are incurred, not when funds are raised, and that the use-based dimension requires that expenses be incurred in connection with or in response to specific aspects of the process for obtaining or opposing an order for a recall election. Can the Commission confirm this?</p> <p>Permissible expenses before a recall primary or election is ordered include expenses that are incurred in connection with or in response to: (1) circulating, (2) offering to file, or (3) filing a petition to recall an office holder. Permissible expenses after a recall primary or election is ordered are limited to expenses incurred to contest or defend the order.</p> <p>2. Are expenses incurred for public advocacy and persuasion included in the exception in WIS. STAT. § 11.1104(10) for recall related expenses that may be permissibly pair for with funds raised by a candidate committee?</p> <p>WIS. STAT. § 11.1104(10) does not limit the types of expenses for which exempt contributions may be used. The only restrictions appear to be that the expenses must be incurred at the times and for the reasons described by statute. Whether a given incurred expense meets the time and use criteria would be a fact-intensive inquiry that cannot be answered without additional facts.</p> <p>3. Can a candidate committee that pays for all permissible recall-related expenses use residual funds raised under WIS. STAT. § 11.1104(10), to the maximum extent allowed under applicable contribution limits? And do statutes require that funds in excess of contribution limits be returned to contributors or donated to a charitable organization or Common School Fund?</p> <p>Under current law once a candidate committee has paid for all its permissible recall-related expenses, any remaining contributions would be subject to the contribution limits of WIS. STAT. § 11.1101 and may be applied by the candidate committee to any purpose otherwise permitted by law. Any contributions received in an amount that exceeds the contributor’s respective limit under WIS. STAT. § 11.1101 and were not applied to a permissible recall-related expense may not be retained by the candidate committee.</p> <p>4. Are all contributions received by a candidate committee during the time period that the contribution-limit exemption under WIS. STAT. § 11.1104(10) applies considered contributions made for the purpose of paying recall-related expenses?</p>		

The treasurer of a candidate committee may agree with a prospective contributor that a contribution will be used for a specific purpose not prohibited by law. [WIS. STAT. § 11.1202](#). As such, a treasurer and a prospective contributor could agree that a given contribution will be applied only to eligible recall expenses. However, in the absence of such an agreement, the committee has broad discretion on how to use the contributions it receives. *See* [WIS. STAT. § 11.1208](#). As such, a committee may choose to use the contributions it receives without any specific earmark to pay for eligible recall expenses or any other expense of the committee permitted by law.

The exception for unlimited contributions to pay recall-related expenses does not identify a window of time in which those contributions must be made. *See* [WIS. STAT. § 11.1104\(10\)](#). Rather, it simply provides that contributions used to pay those recall-related expenses may be made in unlimited amounts. A candidate committee could use contributions it has already collected prior to the recall, it could use contributions solicited and collected during the recall, or it could use contributions received after the recall effort has concluded to pay down any outstanding obligations. The only time-related criterion is when the expenses are incurred.

5. Can the candidate committee of a candidate for Governor use funds raised during the time period that the contribution limit exemption under [WIS. STAT. § 11.1104\(10\)](#) applies for the recall-related expenses of both the candidate committee of a candidate for Governor and the candidate committee of a candidate for Lieutenant Governor?

A committee is not limited to using the contributions it received after the recall is initiated to pay for eligible recall expenses. Otherwise, the Commission agrees with your reading of WIS. STAT. §§ [11.0205](#) and [11.1104\(8\)](#). Current Wisconsin law permits a candidate committee of a candidate for Governor to use contributions it receives to pay for the recall-related expenses of both the candidate committee of a candidate for Governor and the candidate committee of a candidate for Lieutenant Governor. WIS. STAT. §§ [11.0205](#) and [11.1104\(8\)](#).

6. Can a candidate committee that raised funds during the time period that the contribution limit exemption under WIS. STAT. § 11.1104(10) applied halt its efforts to spend down or return funds if another recall petition is filed shortly after the first petition ceases or fails?

The Commission advises a candidate committee that is accepting contributions in excess of the limits that if it properly reports those contributions, it has until 15 days after the filing deadline for the reporting period in which the contribution is received to either apply the contribution to an eligible recall-related expense or return the contribution.

As explained in response to Question #4, a contribution is not limited to be used only for a particular purpose unless the treasurer and prospective contributor have agreed to do so. As such, a committee could use contributions received during one recall effort to pay eligible expenses later during a second, subsequent recall effort. However, state law does not provide for a committee to retain contributions in excess of the applicable limits longer than 15 days after the filing deadline for the reporting period in which the contribution is received.

Alternatively, a candidate targeted for recall could register his or her own recall committee opposing the recall that may be able to take on some of the expenses the candidate intended to incur. Such a recall committee would not face any contribution limits and as explained more fully in response to Question 9, may be able to coordinate with the candidate committee.

7. Can a single recall committee, as defined under [WIS. STAT. § 11.0101\(27\)](#), oppose the recall of multiple state-level elected officials? Or, is a single recall committee permitted to oppose the recall of only one state-level candidate?

The Commission believes that separate recall committees to oppose each recall petition would be appropriate.

8. Can a recall committee formed for the purpose of opposing the recall of a state-level elected official incur expenses and make expenditures after a recall election has been ordered, as compared to a candidate committee which may not use certain residual recall-related funds for expenses incurred after a recall election is ordered?

There is no state law that would prohibit a recall committee from using the contributions it receives to make disbursements after a recall election has been ordered. However, if the recall committee continues to remain active past the recall election it may be appropriate to convert to another type of committee. If the recall committee has the major purpose of express advocacy or uses more than 50% of its total spending in a 12-month period on expenditures for express advocacy or contributions to a candidate committee, legislative campaign committee, or political party, it may be required to register as a political action committee. *See* WIS. STAT. §§ [11.0101\(25\)](#), [11.0502](#). Alternatively, a recall committee that has the major purpose of making independent expenditures or uses more than 50% of its total spending in a 12-month period on independent expenditures may be required to register as an independent expenditure committee. *See* WIS. STAT. § [11.0101\(17\)](#), [11.0602](#).

As explained below in response to Question #10, there is no requirement that a recall committee terminate. However, if the recall committee subsequently fits the definition of either a PAC or IEC, the Commission would advise the recall committee to file a termination request and transfer any remaining funds to the newly created PAC or IEC.

9. Can a recall committee coordinate with a candidate committee? On a related note, can a recall committee be operated by people who also serve as candidate committee staff as long as the recall committee does not engage in express advocacy that exceeds the value of the applicable contribution limit after a recall election is ordered?

While a recall committee is not necessarily prohibited from coordinating with a candidate committee, the Commission advises a recall committee to exercise caution in coordinating with a candidate committee as a recall committee could be prohibited from coordination if the committee was composed of one individual. Alternatively, it could also be transitioning into a PAC or IEC depending on its future activity and may become subject to this prohibition upon meeting the definition of a PAC or IEC.

10. Can a recall committee continue to exist once efforts to have a recall election ordered fail or a recall election concludes?

The Commission advises that no state law requires a recall committee to terminate after a recall petition fails or after a recall election is held. As described above in response to Question #8, if the recall committee remains active in accepting contributions and making disbursements, it is possible that it may be appropriate to convert to either a political action committee or independent expenditure committee.

RA-2020-28	Publicly Supporting the Recall of Other School Board Members	Informal Opinion
Based on the facts presented your inquiry, the code of ethics does not prohibit you from publicly supporting the recall of other members of your school board. However, you are encouraged to confirm with your local school board's legal counsel that your public support would not violate any local school board rules or policies, or endanger the ability of the board to take official action regarding a potential recall petition or election.		
RA-2020-29	Acceptance of Campaign Contributions Causing Conflicts of Interest	Informal Opinion
It is the Commission's opinion that you should not accept a contribution or arrange for a contribution to a party, committee, or person engaging in communications concerning a local public official or candidate for local public office in exchange for your action, inaction, or promises to take or refrain from action. The Commission also advises that you should not accept a contribution to your federal committee if it would appear to a reasonable person that it was being given to influence his or her actions or judgment as a local public official or where it would appear to a reasonable person that you were being rewarded for past action. Further, the Commission advises that you should not use your position in such a way that would result in financial gain or a substantial benefit to you, your immediate family member, or an organization with which you are associated. If a matter arises where you, an immediate family member, or an organization you are associated with has a substantial financial interest, or if your use of your local office would result in a substantial benefit, you should contact the Commission for guidance concerning whether you should act on that matter.		
RA-2020-30	Conflict of Interest	Withdrawn
This request for an advisory opinion was withdrawn prior to any opinion being issued.		
RA-2020-31	School Board Member Applying for Position with Community Partner	Withdrawn
This request for an advisory opinion was withdrawn prior to any opinion being issued.		
RA-2020-32	Proposed Use of CFIS Data	Informal Opinion
It is the Commission's opinion that WIS. STAT. § 11.1304(12) prohibits a 501(c)(3) nonprofit corporation may not collect and compile data from CFIS into a product/database and sell/license that product/database to provide citizens with information about politics, candidates, and elections as this use would be a commercial purpose.		
RA-2020-33	Meetings with Lobbyists or Principals Via Zoom	Informal Opinion
When a legislator or legislator's staff member attends a virtual meeting hosted by a lobbyist or principal to discuss governmental processes and policies staff believes:		
<p>1) The legislator or legislator's staff member has not received something of pecuniary value prohibited by WIS. STAT. §§ 13.625(1)(b) or (2);</p> <p>2) The legislator or legislator's staff member has not received anything of substantial value or a substantial benefit prohibited by WIS. STAT. §§ 19.45(2) and 19.46(1)(b); and</p> <p>3) While an official's opinion may be swayed during the discussion because of the contents of that conversation, it is not reasonable to conclude that the thing provided here (namely hosting the meeting), in and of itself, would influence the official's actions or could reasonably be considered as a reward for official action or inaction. Therefore, staff does not believe that WIS. STAT. § 19.45(3) applies.</p>		
RA-2020-34	Private Sector Employment of Senator-Elect	Withdrawn
This request for an advisory opinion was withdrawn prior to any opinion being issued.		

RA-2020-35	Representative Fundraising on Behalf of Local Nonprofit	Informal Opinion
<p>You may participate in fundraising efforts of the nonprofit you serve as Chair. You can write letters of support for the nonprofit that can be included in fundraising communications if you refrain from soliciting donations in that letter. However, you would not be allowed to solicit a donation from a lobbyist, principal, or any person/entity that had or will have matters before you in your capacity as a Representative. Regardless of whether you are engaged in fundraising, you would not be able to ask other individuals, or a fundraising committee, that any of these prohibited donors be placed on a list of potential donors or ask/direct that they be solicited.</p>		
<p>If the nonprofit decides to designate a non-official or group of non-officials to do the fundraising, and you are not a part of those efforts, the laws discussed herein do not limit their ability to solicit donations on behalf of the nonprofit. If this path is chosen, the best approach would be for you to have no involvement or discussion with those doing the fundraising. However, you could communicate with them regarding matters associated with those efforts as long as you do not solicit contributions or identify potential donors.</p>		
RA-2020-36	Application of 50-Piece Rule to Automated Messages and Neighborhood Meeting Invitations	Informal Opinion
<p>It is permissible for an Alder to use personal funds or candidate committee funds to directly pay for communications. However, while subject to the 50 Piece Rule, an Alder may not use public funds for any communications, including those communications described herein, unless an exception applies. Currently, the only applicable exception is the one for answers to communications from constituents. Unless that exception applies, an Alder that is subject to the 50 Piece Rule cannot use public funds for production or distribution of 50 or more pieces of substantially identical material and then reimburse the City for those costs. The 50 Piece Rule applies where the Alder requests or directs another to use public funds for the production of 50 or more substantially identical material. The Commission specifically determined that automatic blog update notifications may not be sent while an Alder is subject to the 50 Piece Rule and that, even if a developer reimbursed the City for the costs of production or distribution of postcard invitations during the period in which the 50 Piece Rule applies, a violation of the 50 Piece Rule would occur.</p>		
<p>It is important to note that this opinion does not restrict the ability of City personnel or officials who are not subject to the 50 Piece Rule to communicate on matters of public import where an Alder subject to the 50 Piece Rule has not been involved in determining whether a communication will be made, deciding the content of that material, or involved in the distribution of the materials. Where there is no involvement by an Alder subject to the 50 Piece Rule, those communications are permissible.</p>		
RA-2020-37	Local Governmental Unit Principal Employing Legislator	Informal Opinion
<p>It is the opinion of the Commission, that a public school system that is a registered lobbying principal may not employ a state legislator as a teacher. Because this opinion concludes that WIS. STAT. § 13.625(2) prohibits a public school system that is a registered lobbying principal from employing a state legislator, application of the ethics laws is not considered. Additionally, as the Commission does not have jurisdiction to opine on the doctrine of compatibility, that doctrine is not addressed.</p>		

RA-2021-01	Legislative Employee Serving on Principal’s Board	Informal Opinion
<p>It is the opinion of the Commission that the legislative staffer is not prohibited by any laws within the Commission’s jurisdiction from serving on the lobbying principal’s board while she is employed in her position. While serving in both capacities, she should be mindful of the prohibitions of the lobbying laws and the ethical standards of conduct in subch. III, Ch. 19, of the Wisconsin Statutes. As you conclude, she cannot accept anything of pecuniary value from the lobbying principal, including food, meals, and beverages, unless an exception applies. It is important to note that she is not prohibited from taking any actions or using her position solely because the lobbying principal has taken a position on a matter. However, she would be prohibited from taking official actions substantially affecting a matter in which she, an immediate family member, or the lobbying principal have a substantial financial interest. She would also be prohibited from using her position or office in matters that would substantially benefit herself, her immediate family, or the lobbying principal. As you note, a best practice would be to not work on legislative matters that are tailored to impact the lobbying principal. Should questions arise that indicate a potential conflict of interest, or that implicate any other laws within the Commission’s jurisdiction, either of you are welcome to contact the Commission for guidance.</p>		
RA-2021-02	Creation of Legislative Caucus Foundation	Informal Opinion
<p>The laws within the Commission’s jurisdiction do not prohibit a group of legislators and other individuals from forming a nonprofit foundation. However, the state’s ethics laws prohibit using the word “legislative” in its name. While legislators are not prohibited from all fundraising efforts, any legislator fundraising on behalf of the Foundation should be aware of the limitations concerning soliciting lobbyists, principals, and others who may have matters requiring the legislator’s vote, judgment, or actions. It is not clear whether the Foundation would be engaging in lobbying. If the Foundation would like to engage in advocating concerning rulemaking or legislative action, the Foundation should contact the Commission with specific representations about what advocacy is contemplated and whether anyone is being paid to lobby.</p> <p>Finally, while creating the Foundation will not necessarily require any additional filings with the Commission, additional filings and disclosure may be required of the Foundation and state public officials involved with the Foundation. Specifically, any official that is “associated” with the Foundation would be required to disclose his/her relationship with the Foundation. If the Foundation engages in lobbying and pays a lobbyist, the Foundation will have additional reporting requirements under the lobbying law. There may also be other filings required with other agencies.</p>		
RA-2021-03	Legislative Staff Member Soliciting for Non-Profit	Informal Opinion
<p>The foregoing provides general guidance regarding solicitation while you are not at work. While you are prohibited from soliciting a lobbyist, principal, or any person or business with matters pending before the Legislature or your office, you may solicit others during your time off if you do not use any state resources or property to do so. You have the option to give the non-profit an endorsement letter that does not solicit, urge, or endorse giving to the non-profit that it can include in its solicitations. You may also make a Facebook post consistent with the guidance above. There is no requirement in the laws over which the Commission has jurisdiction that you use a certain type of leave. However, you should contact the Chief Clerk’s Office to make sure that there is no other law, rule, or policy that would require use of certain types of leave.</p>		

RA-2021-04	Legislators Voting on Tax Legislation	Informal Opinion
<p>Most legislators that personally received a PPP loan, or are “associated” with an organization that received the loan, would be able to vote on the legislation. There is a very large class of similarly-situated interests and all members of the affected class will be affected the same way. Further, absent unusual circumstances, legislators’ interests would likely be insignificant when compared to the class as a whole. Therefore, most legislators would be able to vote on a bill that would amend the definition of income to exclude money received from PPP loans.</p>		
RA-2021-05	Senator Voting on Tax Legislation	Informal Opinion
<p>No state public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. This subsection does not prohibit a state public official from using the title or prestige of his or her office to obtain contributions permitted and reported as required by ch. 11. WIS. STAT. § 19.45(2).</p>		
<p>This statute prohibits a Senator from using her position or office to obtain financial gain or anything of substantial value for her private benefit, the private benefit of a member of the Senator’s immediate family, or the private benefit of an organization with which the Senator is associated.</p>		
<p>It is clear that you would be using your position in voting on the legislation. Based on your representation that you own the business, it seems clear that you are “associated” with the business. It is also clear that the bill would result in financial gain or would be a thing of substantial value to your business. However, it does not appear that you are prohibited from voting on the bill. The longstanding opinion precedent establishes that, even if a Senator, a member of the Senator’s immediate family, or an organization the Senator is associated with has a substantial interest in a legislative matter, the Senator may participate if:</p> <ol style="list-style-type: none"> a) The Senator’s action affects a whole class of similarly-situated interests; b) The Senator’s interest is insignificant when compared to all affected interests in the class; and c) The Senator’s action’s effect on the Senator’s private interests is neither significantly greater nor less than upon other members of the class. <i>See</i> 2008 GAB 02 and 11 Op. Eth Bd 9. 		
<p>It is clear that there is a whole class of similarly-situated interests. More than 85,000 businesses have received PPP loans. Likewise, it is also clear that your interests in the matter are insignificant when compared to all affected interests in the class. You advised that your business received a specific amount of money. Based on that amount, it is clear that the impact on your business’ taxes would be less than \$5,000.00. As noted above, the revenue implications of the bill are well into the hundreds of millions of dollars. Finally, the bill’s impact on your business is not significantly greater or less than its impact on other PPP loan recipients. To the contrary, it appears that the bill would affect all recipients of a PPP loan the same. No recipient would have to pay taxes related to a PPP loan. Therefore, each element of the test is satisfied.</p>		
<p>In light of the foregoing, you are not prohibited from voting on the bill.</p>		
RA-2021-06	Conflict of Interest of Councilperson	Informal Opinion
<p>It is the opinion of the staff of the Commission that WIS. STAT. § 19.59(1)(a), and (c)1 prohibit the Councilperson from voting or otherwise using her position or office on matters that affect her spouse’s salary and benefits, unless the impact of the official action is remote or speculative. It is also likely that WIS. STAT. § 19.59(1)(c)2 would also prohibit such actions. The</p>		

Councilperson may be eligible to participate in preliminary discussions and deliberations that set the general parameters of the budget or similar official actions where the impact of the official action on the financial interest implicated is remote and speculative.

RA-2021-07 Conflict of Interest of Commissioner Informal Opinion

It is the opinion of the Commission that your work as a consultant is not in immediate conflict with the laws administered by this Commission. However, it does present the possibility for future potential violations of the ethics code and the lobbying laws. It may also present potential conflicts of interest for you down the road. Therefore, we have outlined the relevant provisions below to help guide you in the future.

As an agency official, a lobbyist or lobbying principal (i.e., an organization that employs a lobbyist) may not give you anything of pecuniary value. [WIS. STAT. § 13.625\(1\)\(b\)](#), [\(2\)](#). Additionally, the lobbying law prohibits you from soliciting or accepting anything of pecuniary value from a lobbyist or lobbying principal. [WIS. STAT. § 13.625\(3\)](#). Wages from an employer or compensation for services by a client of a consulting business would be considered a thing of pecuniary value. [2003 Wis Eth Bd 2](#). Therefore, these statutes prohibit lobbyists and principals from offering you employment or offering to retain your services; your solicitation of them as a client or employer; and your acceptance of employment or other economic consideration from a lobbyist or principal.

[WIS. STAT. § 19.45\(2\)](#) could be implicated by your inquiry in two ways. First, it would prohibit you from using your title or any public resource to further your consulting business. Second, it would prohibit you from using your title or any public resource to obtain financial gain or anything of substantial value for your private benefit, the private benefit of an immediate family member, or the private benefit of an organization with which you are associated. Because you would clearly be “associated” with your consulting business, this would include actions taken to operate, obtain clients, or obtain compensation for you or the consulting business. To avoid any potential violation of [WIS. STAT. § 19.45\(2\)](#), you should not make any reference to your public position when advertising your consulting business or use any other public resources provided to you by your Commission to assist your business activities.

The code of ethics also prohibits a state public official from “soliciting or accepting from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the state public official’s vote, official actions or judgement, or could reasonably be considered a reward for any official action or inaction on the part of the state public official.” [WIS. STAT. § 19.45\(3\)](#). This prohibition is designed to prevent situations where a thing of value is provided either to influence future action or to reward a state public official’s past action. This restriction is not meant to be a broad prohibition from outside employment. However, accepting compensation from an entity could reasonably be expected to influence an official’s actions on issues and matters of interest to the entity. [2019 ETH 1](#).

You should seek to avoid potential violations of this provision by not participating in discussion, deliberations, or votes that would relate to issues or matters that are specific to your consulting business or any client, either past or present. If a situation arises where your consulting business, a client, or a former client has a matter that comes before you for your action at your Commission, you should contact the Commission for guidance on whether you may act.

The code of ethics also prohibits a state public official from intentionally using or disclosing information gained in the course of holding public office to benefit any other person if the

information has not been communicated to the public or is not public information. [WIS. STAT. § 19.45\(4\)](#). In your position with your Commission, you may have access to confidential information and information that while potentially public information, has not yet been communicated to the public. In the course of operating your consulting business, you must be mindful of your obligation not to use confidential information, or information that has not yet been made public, to obtain anything of substantial value for you or any other person.

Finally, the code of ethics also prohibits a state public official from representing a person for compensation before a department or any employee thereof, except:

- In a contested case which involves a party other than the state with interests adverse to those represented by the state public official; or
- At an open hearing at which a stenographic or other record is maintained; or
- In a matter that involves only ministerial action by the department; or
- In a matter before the department of revenue or tax appeals commission that involves the representation of a client in connection with a tax matter.

[WIS. STAT. § 19.45\(7\)](#).

Due to the definition of “department,” this is a broad prohibition. While your request does not necessarily indicate that you will be engaged in any representation of clients before state agencies, should you have questions about whether this statute prohibits certain actions on behalf of clients, you are advised to contact the Commission so that we can make an appropriate determination based on the applicable facts.

If any question arises concerning your compensation for your private business dealings, the ethics code has an exception for receipt of things of value when those things are provided for reasons completely unrelated to one’s state service. Specifically, it provides “a state public official may receive and retain anything of value if the activity or occasion for which it is given is unrelated to the official’s use of the state’s time, facilities, services, or supplies not generally available to all citizens of this state, and the official can show by clear and convincing evidence that the payment or reimbursement was unrelated to and did not arise from the recipient’s holding or having held a public office.” [WIS. STAT. § 19.56\(3\)\(b\)](#). Unlike many other exceptions to the ethics code, this exception requires the official to provide clear and convincing evidence. As such, we encourage you to keep thorough business records so as to meet your burden of proof, if necessary.

The code of ethics also contains prohibitions on the actions of officials when they are subject to a conflict of interest. Specifically, a state public official may not “take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.” [WIS. STAT. § 19.46\(1\)\(a\)](#). A state public official also may not “use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official’s immediate family either separately or together, or an organization with which the official is associated.” [WIS. STAT. § 19.46\(1\)\(b\)](#).

If a situation arises in your capacity as a Commissioner, that involves your interests, the interests of your immediate family, or the interests of your consulting business or other organizations with which you are associated, you are encouraged to contact the Commission for guidance on whether you might be allowed to act notwithstanding that nexus.

Finally, please note that this consulting business may result in several items to be disclosed on your Statement of Economic Interest. The business itself may need to be disclosed as a business you have a 10% or greater interest in. [WIS. STAT. § 19.44\(1\)\(a\)](#). The source of any income to you or an immediate family member in excess of \$1,000 from an organization or business must be disclosed. [WIS. STAT. § 19.44\(1\)\(e\)](#). Finally, if your consulting business is organized as a partnership, LLC, or corporation electing to be taxed as a partnership or service corporation, and you or an immediate family member receive at least \$10,000 from the business, you may be required to disclose the identity of any organization who exceeds \$10,000 in payments to the business. [WIS. STAT. § 19.44\(1\)\(f\)](#). Should you have any questions about whether a particular matter is required to be disclosed, please contact the Commission.

It is the opinion of the Commission that your work as a consultant is not in immediate conflict with the laws administered by this Commission if you conduct yourself consistent with the advice provided above.

RA-2021-08	Conflict of Interest of Division Administrator	Informal Opinion
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The laws within the Commission’s jurisdiction do not prohibit you from serving as a Supplemental Court Commissioner. You may also wish to confirm that the Wisconsin Bar’s Rules of Professional Conduct do not restrict or prohibit your service as a Supplemental Court Commissioner.

RA-2021-09	Automatic Attribution	Informal Opinion
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[WIS. STAT. § 11.1303](#) does not prohibit a third-party organization from including its own attribution statement on political ads. While those attributions are not prohibited, they may not satisfy Wisconsin’s attribution statement requirement. Whether an ad is required to have the attribution statement in the ad itself will be determined on a case-by-case basis. A candidate or committee interested in assuring compliance with the attribution statement requirement can do so in several ways. First, it can include the attribution statement in the ad itself. Second, the ad can link directly to a page that includes an attribution statement. Third, the ad can employ technological solutions such as a pop-up, rollover, or other similar mechanism containing the required attribution statement. Regardless of the method used, the attribution must be in a manner that is readable, legible, and readily accessible.

RA-2021-10	Legislator Seeking Private Employment	Informal Opinion
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The lobbying law does not prohibit you from applying for the lobbying principal’s Vice President position. However, you must resign prior to receiving or accepting an offer of employment. Likewise, the ethics code does not prohibit you from seeking the position if you do not use any state resources, your title, or the prestige of your office to apply. You can include the fact that you have served in the Assembly on your resume in a style and prominence that is the same as your other employment. *See* [2017 ETH 01](#). You may also discuss your general political skills and experience when seeking the position. While you are an applicant, you should not participate in, or vote on, any official matter in which the lobbying principal has an interest.

RA-2021-11	Acceptance of Food and Beverage at a Wedding	Informal Opinion
<p>Neither the lobbying law nor the ethics laws appear to prohibit you from accepting food and beverage at this wedding. The lobbying law appears to be inapplicable. As to the ethics laws, there does not appear to be a use of your public position. Additionally, it appears likely that you could show by clear and convincing evidence that the food and beverage is being provided to you without any nexus to your public position. Finally, you are not prohibited from giving a wedding gift to the couple.</p>		
RA-2021-12	Splitting the Cost of a Table	Informal Opinion
<p>Neither the lobbying law nor the ethics laws appear to prohibit an official from accepting an offer to split the cost of buying a table at an event with a friend and her spouse. The lobbying law appears to be inapplicable. As to the ethics laws, there does not appear to be a use of public position or office. Additionally, to the extent that the official could be said to have received anything of value, it appears likely that the official could show by clear and convincing evidence that the item of value received is provided without any connection to the official's public position or office.</p>		
RA-2021-13	Acceptance of Tickets	Informal Opinion
<p>As there is no evidence presented that the tickets are being offered by a lobbyist or principal, the lobbying law appears to be inapplicable. While acceptance of any tickets would appear to be prohibited by the ethics laws, there is a potentially applicable exception in WIS. STAT. § 19.56(3)(c). Ultimately, the burden is on the official to show by clear and convincing evidence that whatever was accepted was primarily for the benefit of the state and not primarily for the private benefit of the official or any other person.</p>		
RA-2021-14	Spouse Working with Campaign Committees	Informal Opinion
<p>As noted above, your wife's employment does not disqualify you from serving in your official position. While it does not sound as if matters affecting her or her business would come before you in your official capacity, the foregoing explanation of some of the pertinent statutes should prepare you for that eventuality if it were to occur. The Commission staff would be happy to provide you guidance specific to any circumstances that arise. Finally, please be aware that, if you have not already filed an SEI for this year, you will be required to file one within 21 days of assuming your official position. The pertinent statutes may require some disclosure of your spouse's interests and businesses activities. If you have questions about the SEI requirement or any other questions about the laws in the Commission's jurisdiction, please contact the Commission's staff.</p>		

RA-2021-15	Conflict of Interest of Chancellor	Informal Opinion
<p>It is the opinion of the Commission that the state code of ethics does not prohibit you from accepting the position of President of the Board of the organization. As discussed above, WIS. STAT. § 19.45(2) and WIS. STAT. § 19.46(1)(b), do not prohibit you from accepting the Board position, because you have not used your office to obtain the offer of the Board position. Additionally, at this time, there is nothing that demonstrates that you are using your position to provide or produce a financial gain or something of substantial value for the benefit of yourself or the organization. Should you decide to accept the position, you should be mindful to avoid using your position or public resources for the organization’s benefit. You should also be mindful of potential conflicts of interest. Furthermore, you should refrain from taking official action on any matters in which the organization has a financial interest to avoid violating the provisions in WIS. STAT. § 19.46(1)(a). Finally, WIS. STAT. § 19.45(3) does not prohibit your acceptance of the position because it does not appear to be a reward for official action or inaction. Nor is it reasonably expected to influence your official actions unless circumstances change. If you accept the Board position and any circumstances arise in your time as President of the organization’s Board, where there is a nexus between your service with the organization and your service as Chancellor, you are encouraged to contact the Commission for guidance.</p>		
RA-2021-16	Conflict of Interest of School Board Member	Informal Opinion
<p>Notwithstanding the appearance of impropriety, the laws within the Commission’s jurisdiction do not prohibit the district board member’s proposed business arrangement. It is the opinion of the Commission that this arrangement is not in immediate conflict with the laws administered by this Commission but could present a future conflict of interest. This potential future conflict of interest can be avoided by abstaining from participation in official action, including discussions, deliberations, and votes regarding the organization with which she is associated. When abstaining from official action due to a conflict of interest, the district board member should note her conflict for the record and ask that the minutes of the meeting reflect her abstention from all discussions, deliberations, and votes related to that agenda item. However, due to the potential for this conduct to be prohibited by criminal law even if the district board member abstains from official action, we strongly advise that she seek additional legal counsel before proceeding.</p>		
RA-2021-17	Use of Office to Bid on Tax Foreclosed Property	Informal Opinion
<p>The Commission issues opinions on matters that may occur on future matters or actions. Your request asks whether the County Clerk violated the local code of ethics by placing the bid on the property. The County Clerk has already placed the bid on the property. As this act has already occurred, the proper mechanism to address this conduct is the complaint process. Therefore, this opinion does not address the prior conduct described in your request.</p> <p>However, you also asked for guidance concerning potential future conduct. This informal opinion provides advice as to the future official action that the County Clerk may need to take related to the property. It is the opinion of the Commission that, if the County Clerk is the successful bidder on the property, the local code of ethics prohibits the County Clerk from using her office and taking official action by signing the deed conveying such property to herself and her husband. If she is not the successful bidder, she will no longer have a financial interest in or benefit personally from the matter and may sign the deed on behalf of the County. If the County Board passes a resolution delegating authority to a deputy clerk to sign the deed for this property, the County Clerk will no longer be required to take official action on this matter and there would be no use office. If such resolution is passed, the prohibitions under WIS. STAT. § 19.59(1)(a) or (c) would not apply.</p>		

RA-2021-18 Acceptance of Outside Employment or Service to Board Informal Opinion

WIS. STAT. § 19.45(2) and WIS. STAT. § 19.46(1)(b) could prohibit you from accepting the Board position if it is being offered to you because you are a Representative. You should only accept the position if you are comfortable that you can clearly demonstrate that the position was not offered to you because you are a Representative. In making that determination, you may rely on the organization's representations unless there is evidence to the contrary. WIS. STAT. § 19.45(3) does not prohibit your acceptance of the position because it does not appear to be a reward for official action or inaction. Nor is it reasonably expected to influence your official actions unless circumstances change.

Should you decide to accept the position, you should be mindful to avoid using your position or public resources for the organization's benefit. You should also be mindful of potential conflicts of interest. If any circumstances arise where there is a nexus between your service/relationship with the organization and your service as a Representative, you are encouraged to contact the Commission for guidance. Finally, if the organization becomes a lobbying principal in the future, you may have to resign from the organization's Board or your Assembly seat.

RA-2021-19 Conflict of Interest of UW Board of Regents Member Informal Opinion

You indicate in your request, that out of an abundance of caution, you will be firewalled off from decision making and other involvement related to past or future contractual and financial relationships with any UW System institution or interest. Additionally, you advise that as a Regent, you would not participate in any votes or actions related to the company or its competitors that may come before the Board during your tenure. You have requested advice as to whether these proactive steps are sufficient to avoid any potential conflicts of interests under Chapter 19. It is the opinion of the Commission that the steps you have taken are sufficient to avoid conflicts under Chapter 19. As your request did not seek advice on any specific action or conflict of interest, if additional facts or circumstances should arise in which you may be required to use your office or take official action on a matter related to the company or its competitors, you should request further advice from the Commission.

You also requested that the Commission advise on any other additional steps you should take. The Commission advises that you should be mindful to avoid using your position or public resources for the company's benefit, as well as your own or your immediate families' benefit. Again, if any circumstances arise where there is a nexus between your employment as CEO of the company and your service as a Regent, that cannot be resolved by the steps you have already taken, you are encouraged to contact the Commission for guidance.

Finally, the Commission advised that as a Regent you are an agency official and subject to the lobbying law. As such, you are prohibited from accepting anything of pecuniary value from a licensed lobbyist or registered lobbying principal. If any circumstances should arise in which you may be receiving something of value from a lobbyist or a principal, you should request further advice from the Commission.

RA-2021-20	Purchasing Candy with Campaign Funds	Informal Opinion
It is the opinion of the Commission that you may use campaign funds to purchase candy to distribute as part of your participation in the parade. Please remember to report the purchase on your next required campaign finance report.		

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?
2020-ETH-01	50-Piece Rule Violation	Yes	No	No
2020-ETH-49	Conflict of Interest	No	No	Yes
2021-ETH-01	Failure to File Required Reports	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 7, 2021.

Appendix A: Statutory Duties and Compliance

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

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

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

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

Statute	Language	Summary
13.75	<p>(1g) The Commission shall charge and collect for the following purposes the following amounts: (a) Obtaining a license under s. 13.63 (1) to act on behalf of one principal, \$250, except that no fee is required for an individual who is eligible for the veterans fee waiver program under s. 45.44. (am) Obtaining a license under s. 13.63 (1) to act on behalf of 2 or more principals, \$400, except that no fee is required for an individual who is eligible for the veterans fee waiver program under s. 45.44. (b) Filing the principal registration form under s. 13.64, \$375. (c) Filing a verified statement under s. 13.621 (5), \$10. (d) Filing an authorization statement under s. 13.65, \$125. (e) Registering an interest in a legislative proposal, proposed administrative rule, budget bill subject or other topic under s. 13.67 (2), \$10, except that no fee is required for an individual who is eligible for the veterans fee waiver program under s. 45.44.</p> <p>(1r) The board [Commission] may accept payment under this section by credit card, debit card, or other electronic payment mechanism, and may charge a surcharge to recover the actual cost associated with the acceptance of that electronic payment.</p>	<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)	<ol style="list-style-type: none"> 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. <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.	https://ethics.wi.gov/Pages/Ethics/ContractSunshine.aspx
19.49	Follow statutory procedures for complaints outlined within this provision of statutes.	The Commission has established complaint procedures that comply with all statutory requirements.
19.49(2)(b)10	The Commission shall, by rule, prescribe categories of civil offenses which the Commission will agree to compromise and settle without formal investigation upon payment of specified amounts by the alleged offender.	The Commission's standard settlement schedules are set forth in WIS. ADMIN. CODE CH. ETH 26.
19.49(2)(c)1	No individual who serves as the administrator may have been a lobbyist, as defined in s. 13.62 (11). No such individual may have served in a partisan state or local office.	The Commission Administrator has never been a lobbyist or ever served in a partisan state or local office.
19.49(2)(c)2	No employee of the Commission, while so employed, may become a candidate, as defined in s. 11.0101 (1), for a state or partisan local office. No individual who is retained by the Commission to serve as a special investigator or as special counsel may, while so retained, become a candidate, as defined in s. 11.0101 (1), for any state or local office. A filing officer shall decline to accept nomination papers or a declaration of candidacy from any individual who does not qualify to become a candidate under this paragraph.	Employees of the Commission are aware of this prohibition. One employee is a candidate, as defined by statute, for a non-partisan local office, as a Village Board Trustee.
19.49(2)(d)	No individual who serves as an employee of the Commission and no individual who is retained by the Commission to serve as a special investigator or a special counsel may, while so employed or retained, make a contribution, as defined in s. 11.0101 (8), to a candidate for state or local office. No individual who serves as an employee of the Commission and no individual who is retained by the Commission to serve as a special investigator or as special counsel, for 12 months prior to becoming so employed or retained, may have made a contribution, as defined in s. 11.0101 (8), to a candidate for a partisan state or local office.	Employees of the Commission are aware of the prohibition against making contributions to candidates for state or local office while employed by the Commission, and for making contributions to candidates for partisan state and local offices during the 12 months prior to employment with the Commission. However, the prohibition on employees making contributions to their own campaign for non-partisan local office may be unconstitutional.

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

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

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

Appendix B: Nonpartisan Staff Policy

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

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

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

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

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

Seeking Elective Office

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

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

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

Appendix C: Delegation of Authority for Informal Advisory Opinions Policy

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

(b)

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

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

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

Adopted Policy Delegating Authority to Issue Informal Opinions

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

How to Request an Informal Advisory Opinion

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

Appendix D: Campaign Finance Standard Settlement Schedule

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Violation Type:	Settlement Amount:
Receiving Committee	1.5 times amount of contribution
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, and no financial penalty will be assessed.

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

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

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

Standards for waiver of financial disclosure requirements

Introduction

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

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

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

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

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

The position held by the official requesting a waiver.

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

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

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

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

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

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

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

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

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

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

The number of interests an official has.

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

Conclusion

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

Appendix G: Campaign Finance Auditing Schedule

Introduction

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

Overview of Statutory Requirements

Audit Procedures

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

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

Restrictions on Release of Records

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

Overview of Audit Procedures

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

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

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

Audit Planning for Fiscal Year 2021 (July 1, 2020 – June 30, 2021)

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

The new law effective January 1, 2016, requires committees collecting non-anonymous contributions of any amount report the name and address of the contributor. Committees that appear to have received unlawful contributions are contacted and asked to respond within 30 days. Committees identified through this audit could be subject to the standard settlement provided for in WIS. ADMIN. CODE ETH 26.02(6).

Contribution Limits Audit – Spring/Fall

Period: Semi-Annually

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

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

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

Committees identified through this audit could be subject to the standard settlement provided for in Wis. Admin. Code ETH 26.02(9).

Name/Address

Period: Annually

Start Date: TBD

The new law effective January 1, 2016, 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.

The new law effective January 1, 2016, 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).

The Commission does not have the available resources to conduct audits of each lobbying principal and lobbyist's internal records. Staff audits 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.

Period: Each Required Statement of Lobbying Activities and Expenditures Report

Start Date: Each Filing Deadline

Late Payment of Lobbying Fees Audit

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

Period: Continuous

Start Date: December 1, 2020

Unauthorized Lobbying Audit

§ 13.65 Lobbyist Authorization

Before engaging in lobbying on behalf of a principal, a lobbyist or the principal who employs a lobbyist shall file with the commission a written authorization for the lobbyist to represent the principal, signed by or on behalf of the principal. A lobbyist or principal shall file a separate authorization for each principal represented by a lobbyist.

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

Period: Each Statement of Lobbying Activities and Expenditures Report

Start Date: Each Filing Deadline

Appendix I: Complaints and Investigations Procedures

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

Complaint Intake

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

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

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

- b. Create a folder to store documents related to the complaint in the Complaints section of SharePoint under the respective year;
 - i. The folder shall be labeled with to the complaint ID assigned and the parties involved (e.g., 2017-ETH-001 Smith v. Johnson);
 - ii. If the complaint involves allegations against a local public official, the suffix “Local” should be appended to the folder name (e.g., 2017-ETH-001 Smith v. Johnson (Local));
 - iii. All documents received related to the complaint should be saved in the folder. Paper documents should be scanned and uploaded to the folder before being forwarded to Staff Counsel for retention; and,
 - iv. A redacted copy of the complaint should also be prepared and saved to the complaint folder. Staff should redact the name and contact information of the complainant and redact any indication of the complainant’s identity from the allegations of the complaint.
5. If the complaint alleges a violation by a local public official or candidate for local office, the Administrator or staff, at the direction of the Administrator, shall notify the complainant that the Commission’s established policy is to defer to the local district attorney in such matters and advise the complainant that they may wish to file their complaint with the local district attorney. A copy of such a notification should be saved in the 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.¹ Neither the Commission nor any member or employee of the Commission, including the Commission Administrator, may file a sworn complaint.²
 - a. A complaint must comply with certain requirements. It **must**:

¹ WIS. STAT § 19.49(2)(b).

² WIS. STAT § 19.49(2)(a).

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

³ WIS. STAT. § 19.49(2)(b).

3. Initial Vote to Proceed (Reasonable Suspicion Inquiry)

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

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

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

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

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

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

⁹ WIS. STAT. § 19.49(2)(b) 3.

¹⁰ *Id.*

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 complaint.¹¹

Formal Investigation Procedures

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

¹¹ *Id.*

¹² WIS. STAT. § 19.49(2)(b)4.

¹³ *Id.*

¹⁴ *Id.*

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

5. Post-Probable Cause Finding

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

¹⁵ WIS. STAT. §§ 19.49(2)(b)7 and 8.

¹⁶ WIS. STAT. §§ 19.49(2)(b)5 and 9.

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

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

Post Complaint Action

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

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

Officer Positions of the Ethics Commission

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

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

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

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

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

Terms of Commission Officers and Procedures for Addressing Vacancies

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

Appendix K: Administrative Suspension of Registrants

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

Administration Suspension Policy

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

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

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

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

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

Flexible-time Work Schedules

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

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

Part-time Employment

N/A.

Other Alternative Work Patterns

N/A.

Appendix M: Delegation of Authority to Issue Standard Settlements

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

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

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

After this delegation, staff will use the following process:

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

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

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



Wisconsin Ethics Commission

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

DATE: For the Commission Meeting on October 7, 2021

TO: Members, Wisconsin Ethics Commission

FROM: Ethics Commission Staff

SUBJECT: Ethics Commission Staff Report

Commission Administration

Deputy Administrator

The Deputy Administrator position addressed in our biennial budget is effective October 1, 2021. As the Commission is aware, the Deputy Administrator position will be filled internally by current Ethics Specialist Colette Greve. In addition to her current position, Ms. Greve previously served as the Commission's Interim Administrator. Ms. Greve is an attorney licensed to practice law in Wisconsin.

Administrative Rules

Ethics Commission staff continue to work on additions to ETH 21 – Practice and Procedure, regarding the process to be used for complaints and requests for advisory opinions received by the Commission.

Training

Administrator Carlton and Staff Counsel Buerger presented a series of ethics trainings in August and September for legislative staff. Administrator Carlton, Staff Counsel Buerger, and Deputy Administrator Greve attended the Wisconsin Municipal Clerks Association's annual conference in Brookfield and gave a presentation on local ethics and campaign finance issues on August 26, 2021. Finally, Staff Counsel Buerger presented a brief ethics training for the State of Wisconsin Investment Board's Board of Trustees on September 15, 2021.

Campaign Finance

July Continuing 2021

All registered committees that have not claimed the exemption from filing finance reports were required to file a July Continuing 2021 report by July 15, 2021. There were 974 committees required to file this report. As of the date of this memo, 934 committees have filed their report, with 40 committees still outstanding.

Wisconsin Ethics Commissioners

Paul Connell | Awais Khaleel | Shauntay Nelson | Pat Strachota | Timothy Van Akkeren | David Wambach

Administrator

Daniel A. Carlton, Jr.

Post – Election Special 2021 – 37th Assembly

Two of the three candidates (one claimed exemption) in the 37th Assembly Special Election, along with the committees that supported or opposed them, were required to file a Post-Election report by August 27, 2021. That report covered all activity from July 1, 2021-August 4, 2021.

Audits

Staff conducted the missing contribution/disbursement information audit query and the anonymous contribution audit query. Staff sent notices to committees identified as not in compliance regarding anonymous donations, and those lacking occupations, and complete addresses, on August 23, 2021. Committees have 30 days (September 22), to amend their reports to provide the missing information or to provide an explanation why there is no violation of the applicable law. Consistent with the authority delegated to the Administrator to offer standard settlements, a standard settlement offer will be sent to those who are unable to resolve their issues before September 22, 2021. If any appeals are requested, they will be presented to the Commission at the December meeting.

Lobbying

2021-2022 Legislative Session

As of September 14, 2021, there are 637 lobbyists licensed, 797 principals registered and 1,661 lobbyist authorizations.

Statement of Lobbying Activities and Expenditures (SLAE) were due on Monday, August 2, 2021. There was 99.87% compliance, with enforcement action taken for only one principal out of the 779 required to file. That principal was issued a warning for the late report.

The next SLAE covering July-December 2021 will be due on Monday, January 31, 2022.

Lobbying Website

Staff is currently working with the UW-Madison Department of Information Technologies developer to finish the last portion of the lobbying website: the public-facing side. Staff is still working through internal testing. From there, staff will work with a couple members of the lobbying community to get their feedback before launching the website. Once that is done, we will proceed to launch.

Legislative Liaison Reporting

The 6-month legislative liaison report was due August 2, 2021. As of September 7th, only the Eau Claire Student Senate has not filed. Staff will continue to follow up until all reports are filed.

Code of Ethics and Financial Disclosure

Statements of Economic Interests (SEIs)

Elected officials sworn in for a new term in January 2021 filed their SEIs by January 25, 2021. The remaining annual filers had their SEIs due by April 30, 2021. Out of 2,242 state public officials, 2,130 filed by the April 30, 2021, deadline. 107 officials filed between May 1 and May 17, 2021, the last day to file without penalty. The last 2021 SEI was filed on September 7, 2021. Candidates for the 2022 Spring Election will begin filing December 1, 2021. Those who have not already appealed have been sent a settlement offer consistent with the standard settlement schedule.

State of Wisconsin Investment Board Quarterly Reports

The 2021 second quarter reports were due by August 2, 2021. All SWIB filers filed within the grace period and their reports have been transferred to the Legislative Audit Bureau. The 2021 third quarter reports are due by November 1, 2021.

