



Wisconsin Ethics Commission

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Commission Chair David Halbrooks and Commission Vice-Chair Katie McCallum issued the following response to an editorial published by the Wisconsin State Journal on Wednesday, September 6, 2017:

WATCHDOG DOESN'T BARK FOR ATTENTION, BUT PLENTY OF TEETH IN ITS BITE

How disappointing that in a time of extreme partisan polarization, a news source would minimize how well the new bipartisan Wisconsin Ethics Commission is operating.

Last week, the Wisconsin State Journal's editorial board published a piece titled "No Bark Nor Bite From State Lap Dog Agency." Dog analogies may make for cute headlines, but the editorial board sadly chose to bury the real story. In truth, the Wisconsin Ethics Commission has accomplished much in its short tenure.

Sticking with the dog metaphors, while the state's watchdog can no longer roam around and sniff at whatever it wants, it can bark when something doesn't smell right (through audits) and can dig deeper when alerted to a potential problem (through a complaint). But to claim this watchdog has been lying around or is anyone's lap dog is demonstrably false. It has been just as active, if not more so, than the old dog – and it has even learned a few new tricks.

The authors claim that the Ethics Commission is less active than the GAB based on the Legislative Audit Bureau's (LAB) report on 17 GAB investigations over FY 2010-13. The article admits that the comparison is unrealistic, quoting the former GAB Director:

"the...period examined in the audit is an imperfect benchmark because it included the recall elections of 2011 and 2012, which he said triggered an unusually large volume of complaints."

The GAB did not include summaries of its investigations in its biennial reports, so we reviewed GAB records and determined that only one additional investigation was initiated during the GAB's final three years, but it related to elections. That means the Ethics Commission conducted more ethics investigations in its first year than the GAB did in its last three years. However, judging a regulatory agency by how many investigations it conducts is like judging a police department by the number of tickets they write. It measures an output, without regard to outcomes.

State law now requires the Commission to notify the target of a complaint and give the target an opportunity to respond before deciding if an investigation is warranted. In many cases both sides agree on the facts and further investigation simply is unnecessary. The Ethics Commission has also frequently invited parties into closed session to provide additional information. As you might expect, allowing both sides to be heard up front has reduced the need for further investigation.

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Additionally, not every complaint needs to proceed to an investigation and eventual legal action to get compliance with the law. Both the GAB and the Ethics Commission have had great success with negotiating settlements which include acknowledgements of wrongdoing along with potential monetary forfeitures. In its first year, the Ethics Commission completed 83 settlements with another 54 still being negotiated (137 total). By comparison, the GAB completed 84 settlements in its last year.

Enforcement and compliance are on the rise. The Ethics Commission also conducts audits more frequently than the GAB had done thanks to an increase in electronic filing and automating much of the auditing process. Campaign finance termination audits are now conducted as needed, rather than only once a year. Audits for pending transactions and cash balance issues are done after every reporting period instead of once a year. Several other audits, done only once every year or two under GAB, are now done at least once or twice per year. So, in fact, the Ethics Commission has been just as active and effective in enforcement as the GAB, if not more so.

Now, let's turn to what the paper failed to mention.

The Ethics Commission is managed differently, setting new program objectives and performance measures that support achieving the agency's mission. We now measure the percentage of the regulated communities in compliance based on audit findings. We are pursuing a comprehensive performance management approach based on objective and measurable outcomes, and not just outputs. That is ultimately how we can determine if we are fulfilling our duties and serving the public well. By contrast, one of the GAB's performance measures was simply how often the GAB was in the news. Another GAB measure was the number of public contacts, without any indication of whether those contacts were positive or negative.

The Ethics Commission also adopted new policies and procedures to maintain objectivity and standardize operations. The first policy adopted was its nonpartisan staff policy. There are also policies for standard settlement offers, and clear procedures for processing complaints and conducting investigations, when necessary. These are all included in the agency's annual report.

And this was not the only work that needed to be done. We have been updating training materials, educating the regulated community on a complete re-write of campaign finance laws, reviewing advisory opinions issued by previous boards, implementing recommendations from the LAB audits of GAB, clearing a backlog of over 400 campaign committee terminations requests, hiring new staff, and organizing a massive amount of records that had been left behind by the GAB, and all of this happened while the Ethics Commission transitioned from the GAB and established itself as an independent agency.

Perhaps the most important thing the authors omitted is that despite such hyper-partisanship throughout society, this Commission has generally operated by consensus: virtually all votes have been unanimous, and yet even when they are not, there has never been a vote divided on party lines.

However, there is still more to do. Most importantly, we will strive to do better, to make campaign finance, lobbying, and ethics information more readily available and understandable to the public. We will continue to meet with elected and appointed officials, as well as expand training opportunities for candidates, committee treasurers, lobbyists, and state public officials so they may better comply with and understand the laws.

Regardless of one's perspective about the GAB, we are choosing to follow the state motto and move "Forward" to do our best for the State of Wisconsin. Editorials like the one published Wednesday may fit a popular narrative, but they do so by leaving out important details and ultimately only diminish the confidence of individuals in their government. The Ethics Commission should be judged as we are expected to operate: fairly, objectively, and with reliance on facts. Please, just watch and see what this dog can do.