

# NOTICE OF OPEN AND CLOSED MEETING

## Wisconsin Ethics Commission

212 East Washington Avenue, Third Floor Board Room  
Madison, Wisconsin  
Tuesday, August 21, 2018, 9:00 a.m.

### Open Session Agenda

- A. Call to Order
- B. Report of Appropriate Meeting Notice – Staff Counsel
- C. Approval of Minutes of Prior Meetings Page 3
  - 1. Minutes of June 19, 2018 Open Session Meeting
  - 2. Minutes of July 17, 2018 Open Session Meeting
  - 3. Minutes of July 26, 2018 Open Session Meeting
  - 4. Minutes of July 30, 2018 Open Session Meeting
- D. Personal Appearances
- E. Introduction of New Administrator
- F. Extension of Interim Administrator
- G. Attribution Requirements Research Page 13
- H. Administrative Rule Update Page 17
- I. Social Media Guideline Page 37
- J. Review of Lobbying-Related Opinions of Previous Boards Page 45
- K. SEI System Planning and Electronic Filing Record Retention Update Page 47
  - 1. Review of and potential revisions for standard settlement schedule, affidavit procedures, and waiver procedures
- L. Biennial Budget Review 2019-21 Page 55
  - 1. New Campaign Finance System
  - 2. Review of Statutorily-Created Fee Collection
- M. Annual Report Review Draft Page 71
- N. 2019 Proposed Commission Meeting Schedule Page 143
- O. Staff Report Page 145
- P. Consideration of Future Agenda Items
- Q. Closed Session
  - 1. Requests for Advice
  - 2. Complaints and Investigations
- R. Adjourn

#### Future Ethics Commission Meetings Scheduled:

- Tuesday, December 4, 2018 at 9:00 AM

*The Ethics Commission will convene in open session but may move to closed session under WIS. STAT. § 19.85(1)(c), (g), (h), or WIS. STAT. § 19.851. This notice is to inform the public that the Commission intends to convene in open session, but may move to closed session. The Commission plans to 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:

- (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

Campaign Finance | Lobbying | Ethics  
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## Wisconsin Ethics Commission

212 E. Washington Avenue  
Board Room  
Madison, Wisconsin  
June 19, 2018  
9:00 a.m.

### Open Session Minutes

Present: David Halbrooks, Katie McCallum, Mac Davis, Pat Strachota, Timothy Van Akkeren, Tamara Packard

Staff present: Colette Reinke, David Buerger, Julie Nischik, Rich Bohringer, and Caroline Russell

#### **A. Call to Order**

Commission Chair David Halbrooks called the meeting to order at 9:05 a.m.

#### **B. Report of Appropriate Meeting Notice**

Staff Counsel David Buerger reported that appropriate notice of the Commission meeting had been given to the public and news media.

#### **C. Approval of Minutes of Prior Meetings**

##### **1. Minutes of the April 24, 2018 Meeting**

**MOTION:** Approve the April 24, 2018 minutes. Moved by Commissioner Strachota, seconded by Commissioner McCallum. Motion carried unanimously (Commissioner Packard abstained from the vote).

##### **2. Minutes of the May 25, 2018 Meeting**

**MOTION:** Approve the May 25, 2018 minutes. Moved by Commissioner Strachota, seconded by Commissioner Davis. Motion carried unanimously (Commissioner Packard abstained from the vote).

#### **D. Personal Appearances**

There was one personal appearance by a member of the public.

Ann Marie Hynduk appeared regarding Chapter 20, the Professional Code of Conduct for Attorneys, and legal separation.

Since the Commission would not be able to take any action at the meeting today, Commissioner Halbrooks requested Ms. Hynduk submit a letter to the Commission with details of her request, and the Commission staff and chairs will review for consideration of adding to a future meeting agenda.

#### **E. Selection of New Chair and Vice Chair**

Commissioner Van Akkeren nominates Commissioner McCallum to Chair, and Commissioner Packard to Vice Chair.

Commissioners McCallum and Packard accept the nominations.

Commissioners vote unanimously to elect Commissioner McCallum to Chair and Commissioner Packard to Vice Chair.

**MOTION:** Change the Chair and Vice Chair terms to begin July 1 in an even numbered year, and end June 30 in the next even numbered year. Moved by Commissioner Strachota, seconded by Commissioner McCallum. Motion carried unanimously.

#### **F. Administrative Rule Update**

Staff Counsel David Buerger presented the memo on page 9 of the meeting materials.

The Commission discussed optional timelines for proceeding with submitting ETH 1.

**MOTION:** For ETH 1, submit the documents to the Rules Clearinghouse and schedule a public hearing on this rule for the August 21, 2018 meeting. Moved by Commissioner Davis, seconded by Commissioner Van Akkeren.

Discussion of submitting a separate scope statement to include amendments and attribution requirements.

Motion carried unanimously.

Staff Counsel David Buerger also provided a status update on ETH 16 to the Commission.

#### **G. Review of Lobbying-Related Opinions of Previous Boards, Receipt of Items or Services by State Officials, Reimbursement of Expenses**

Commission Administrator Colette Reinke presented the memo on page 19 of the meeting materials.

**MOTION:** Confirm the opinions that are consistent and not recommended for withdrawal. Moved by Commissioner Strachota, seconded by Commissioner Packard. Motion carried unanimously.

The Commission discussed the staff recommendation for Eth. Bd. Op. 05-07.

**MOTION:** Eth. Bd. Op. 05-07 should be reaffirmed as consistent with statutes. Moved by Commissioner Halbrooks, seconded by Commissioner Strachota. Motion carried unanimously.

**MOTION:** Eth. Bd. Ops. 03-10, 06-06, and 07-08 are withdrawn due to inconsistent analysis. Moved by Commissioner Van Akkeren, seconded by Commissioner Packard.

Discussion.

**AMEND MOTION:** Withdraw Eth. Bd. Ops. 03-10, 06-06, and 07-08 due to inconsistent analysis, and withdraw Eth. Bd. Op. 97-16. Amended by Commissioner Van Akkeren, agreed to by Commissioner Packard. Motion carried unanimously.

#### **H. Prohibition of Campaign Contributions by an Individual Performing Lobbying Activities on Behalf of a Limited Lobbying Principal**

Caroline Russell presented the memo on page 35 of the meeting materials.

The Commission discussed the facts presented in the memo.

**MOTION:** Direct staff to disseminate information that limited lobbyists are lobbyists. Moved by Commissioner Davis, seconded by Commissioner McCallum. Motion carried unanimously.

#### **I. Biennial Budget Review 2019-21**

Julie Nischik presented the memo on page 37 of the meeting materials.

The Commissioners requested for the budget review at the August meeting to include other options for Act 201, as well as a review of the operating budget from the 2017-19 biennium.

#### **J. Staff Report**

Commission Administrator Colette Reinke presented the memo on page 45 of the meeting materials.

#### **K. Administrator Recruitment**

Commission Administrator Colette Reinke presented the memo from the supplemental materials.

The Commission discussed changes to the position announcement. The Commission also discussed where the announcement should be posted, who will collect the applications, and finalized a timeline for reviewing applications and interviews.

#### **L. Consideration of Future Agenda Items**

Administrator Reinke suggested adding to the next meeting agenda a discussion of the future Campaign Finance system, the Biennial Budget, a public hearing for ETH 1, and any updates on ETH 16.

#### **M. Closed Session**

**MOTION:** The Commission went into closed session pursuant to WIS. STAT. §§ 19.50, 19.55(3), 19.85(1)(g), (h). Moved by Commissioner Van Akkeren, seconded by Commissioner Strachota. Motion carried unanimously.

1. Complaints and Investigations
2. Requests for Advice
3. Personnel Matters
4. Litigation Update

#### **N. Adjourn**

**MOTION:** To adjourn. Moved by Commissioner Strachota, seconded by Commissioner Van Akkeren. Motion carried unanimously.

Meeting adjourned at 3:18 p.m.

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June 19, 2018 Wisconsin Ethics Commission meeting minutes prepared by:

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Julie Nischik, Office Management Specialist

August 21, 2018

June 19, 2018 Wisconsin Ethics Commission meeting minutes certified by:

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Tamara Packard, Vice Chair

August 21, 2018



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## Wisconsin Ethics Commission

212 E. Washington Avenue  
Large Conference Room (Teleconference)  
Madison, Wisconsin  
July 17, 2018  
9:00 a.m.

### Open Session Minutes

Present (phone): Katie McCallum, Tamara Packard, Mac Davis, David Halbrooks,  
Pat Strachota, Timothy Van Akkeren

Staff Present: Colette Reinke, David Buerger, Julie Nischik

#### **A. Call to Order**

Commission Chair Katie McCallum called the meeting to order at 9:05 a.m.

#### **B. Report of Appropriate Meeting Notice**

Staff counsel notified the Commissioners that proper notice of the meeting was given to the public and news media.

#### **C. Closed Session**

**MOTION:** The Commission went into closed session pursuant to WIS. STAT. §§ 19.85(1), (c). Moved by Commissioner Strachota, seconded by Commissioner Halbrooks. Motion carried unanimously.

1. Personnel Matters

#### **D. Adjournment**

**MOTION:** To adjourn. Moved by Commissioner Van Akkeren, seconded by Commissioner Strachota. Motion carried unanimously.

The meeting adjourned at 10:20 a.m.

July 17, 2018 Wisconsin Ethics Commission meeting minutes prepared by:

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Julie Nischik, Office Management Specialist

August 21, 2018

July 17, 2018 Wisconsin Ethics Commission meeting minutes certified by:

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Tamara Packard, Vice Chair

August 21, 2018





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## Wisconsin Ethics Commission

212 E. Washington Avenue  
Board Room  
Madison, Wisconsin  
July 26, 2018  
9:00 a.m.

### Open Session Minutes

Present: Katie McCallum, Tamara Packard, Mac Davis, David Halbrooks,  
Pat Strachota, Timothy Van Akkeren

Staff Present: Colette Reinke, David Buerger, Julie Nischik

#### **A. Call to Order**

Commission Chair Katie McCallum called the meeting to order at 9:01 a.m.

#### **B. Report of Appropriate Meeting Notice**

Staff counsel notified the Commissioners that proper notice of the meeting was given to the public and news media.

#### **C. Closed Session**

**MOTION:** The Commission went into closed session pursuant to WIS. STAT. §§ 19.85(1), (c). Moved by Commissioner Van Akkeren, seconded by Commissioner Strachota. Motion carried unanimously.

1. Personnel Matters

#### **D. Adjournment**

**MOTION:** To adjourn. Moved by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_. Motion carried unanimously.

The meeting adjourned at 12:00 p.m.

July 26, 2018 Wisconsin Ethics Commission meeting minutes prepared by:

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Julie Nischik, Office Management Specialist

August 21, 2018

July 26, 2018 Wisconsin Ethics Commission meeting minutes certified by:

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Tamara Packard, Vice Chair

August 21, 2018



# Wisconsin Ethics Commission

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## Wisconsin Ethics Commission

212 E. Washington Avenue  
Large Conference Room (teleconference)  
Madison, Wisconsin  
July 30, 2018  
4:00 p.m.

### Open Session Minutes

Present (phone): Katie McCallum, Tamara Packard, Mac Davis, David Halbrooks,  
Pat Strachota, Timothy Van Akkeren

Staff Present: Colette Reinke, David Buerger, Julie Nischik

#### **A. Call to Order**

Commission Chair Katie McCallum called the meeting to order at 4:01 p.m.

#### **B. Report of Appropriate Meeting Notice**

The Administrator notified the Commissioners that proper notice of the meeting was given to the public and news media.

#### **C. Closed Session**

**MOTION:** The Commission went into closed session pursuant to WIS. STAT. §§ 19.85(1), (c). Moved by Commissioner Van Akkeren, seconded by Commissioner Strachota. Motion carried unanimously.

1. Personnel Matters – Administrator Recruitment/Hiring

#### **D. Administrator Recruitment/Hiring**

**MOTION:** To offer the position of Administrator to Daniel Carlton, at a salary of \$101,000 per year plus a one-time relocation reimbursement not to exceed \$4,000, within one year, pending verification that this is allowed. Moved by Commissioner Packard, seconded by Commissioner Davis.

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*Wisconsin Ethics Commissioners*

Mac Davis | David R. Halbrooks | Katie McCallum | Tamara Packard | Pat Strachota | Timothy Van Akkeren

*Administrator*  
Colette C. Reinke

Page 11

Roll call vote:

Commissioner Packard: aye  
Commissioner Van Akkeren: aye  
Commissioner Halbrooks: aye

Commissioner Strachota: aye  
Commissioner Davis: aye  
Commissioner McCallum: aye

Motion carried unanimously.

## **E. Adjournment**

**MOTION:** To adjourn. Moved by Commissioner Halbrooks, seconded by Commissioner Strachota. Motion carried unanimously.

The meeting adjourned at 5:33 p.m.

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July 30, 2018 Wisconsin Ethics Commission meeting minutes prepared by:

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Julie Nischik, Office Management Specialist

August 21, 2018

July 30, 2018 Wisconsin Ethics Commission meeting minutes certified by:

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Tamara Packard, Vice Chair

August 21, 2018



# Wisconsin Ethics Commission

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**DATE:** For the August 21, 2018 Commission Meeting  
**TO:** Members, Wisconsin Ethics Commission  
**FROM:** David Buerger, Staff Counsel  
**SUBJECT:** Attribution Requirements Research

## FOR COMMISSION ACTION

No action is required. This memorandum is for information only.

### I. Introduction

At its April 24, 2018 meeting the Commission directed staff to further research what the federal government and other states require for their attribution requirements. This memo is intended to illustrate the attribution requirements of other states and identify what if any specific guidance these jurisdictions give regarding the size or placement of attribution statements.

### II. Similar Federal Requirements (52 U.S.C. § 30120, 11 C.F.R. § 110.11)

The Federal Elections Commission (FEC) provides a great deal of guidance as to the disclaimers required by federal law. Federal law requires the disclaimer to identify the person(s) who paid for a communication and whether the communication was authorized by one or more candidates (e.g., “Paid for by the Sheridan for Congress Committee.”) Under federal law, any public communication made by a political committee – including communications that do not expressly advocate for the election or defeat of a clearly identified federal candidate or solicit a contribution – must display a disclaimer. The FEC also requires that disclaimers appear on political committee’s websites, and in certain email communications. All public communications that expressly advocate the election or defeat of a clearly identified candidate, electioneering communications, and all public communications that solicit any contribution require a disclaimer.

Disclaimers are not required when it cannot conveniently be printed (e.g., pens, buttons, similar small items), the display is not practical (e.g., apparel, water towers, skywriting), or when the item is of minimal value and does not contain a political message and is used for administrative purposes (e.g., a check). A disclaimer need not be on the front page of multi-page communications, as long as it is on one of the pages.

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Mac Davis | David R. Halbrooks | Katie McCallum | Tamara Packard | Pat Strachota | Timothy Van Akkeren

*Administrator*  
Colette C. Reinke

Similar to Wisconsin law, a disclaimer is also required when a communication is authorized by a committee even if the committee does not pay for it (e.g., “Paid for by the XYZ State Party Committee and authorized by Sheridan for Congress Committee”) or when another organization makes an express advocacy communication without the authorization of the candidate (e.g., “Paid for by the QRS Committee ([www.QRScommittee.org](http://www.QRScommittee.org)) and not authorized by any candidate or candidate’s committee.)

Federal disclaimers are required to be “clear and conspicuous” regardless of the medium in which the communication is transmitted. A disclaimer is not clear and conspicuous if it is difficult to read or hear, or if its placement is easily overlooked. A printed disclaimer must be contained within a printed box set apart from the contents of the communication.

*Example:*

Paid for by the Save the Seahorses Committee and authorized by the McKay for Senate Committee.
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The print of the disclaimer must be of sufficient size to be “clearly readable” by the recipient of the communication, and the print must have a reasonable degree of color contrast between the background and the printed statement. Federal regulations specifically provide a safe harbor for disclaimers using black text in 12-point font on a white background in printed material measuring no more than 24 inches x 36 inches. In the alternative to a white background, a safe harbor is also available where the degree of contrast between the background color and the disclaimer text color is at least as great as the degree of contrast between the background color and the color of the largest text in the communication.

Television communications have similar guidelines for a “clearly readable” disclaimer at the end of the communication that must be displayed for a period of at least four seconds at a height of at least four percent of the picture height. Radio communications must contain an audio disclaimer, although no specifications are given for an audio disclaimer other than the general “clear and conspicuous” disclaimer requirement.<sup>1</sup>

### **III. Other State Requirements**

Staff reviewed the requirements of the four adjacent states to provide a sense of what other jurisdictions require at the state and local level.

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<sup>1</sup> Federal law also requires communications by television or radio contain a “stand by your ad” audio statement that identifies the candidate and states that the candidate has approved the communication, or that another organization is responsible for the content of the advertising. However, these “stand by your ad” requirements appear to be separate and distinct from the general disclaimer requirement.

#### A. Minnesota (MINN. STAT. § 211B.04)

Minnesota law requires a committee to include a disclaimer on campaign literature distributed by the candidate or committee. The required form of the disclaimer is: “Prepared and paid for by the ..... committee, ..... (address).” If the material was produced and distributed without cost, the words “paid for by” may be omitted. The disclaimer requirement does not apply to fund-raising tickets, business cards, personal letters, or similar items that are clearly being distributed by the candidate. A disclaimer is also not required for bumper stickers, pins, buttons, pends, or similar small items on which the disclaimer cannot be conveniently printed; skywriting, wearing apparel, or other means of displaying an advertisement of such a nature that the inclusion of a disclaimer would be impracticable; and online banner ads and similar electronic communications that link directly to an online page that includes the disclaimer.

Minnesota recently revised this requirement effective June 1, 2018. The revised disclaimer requirement makes the following changes:

- The disclaimer address must be either the committee’s mailing address or the committee’s website, if the website includes the committee’s mailing address.
- Adds an independent expenditure disclaimer (e.g., “This is an independent expenditure prepared and paid for by .....(name of entity participating in the expenditure, .....(address). It is not coordinated with or approved by any candidate nor is any candidate responsible for it.”
- The disclaimer requirement is met for an entire website or social media page when the disclaimer required appears once on the homepage of the site.
- For written communications other than an outdoor sign, website, or social media page, the disclaimer must be printed in 8-point font or larger.

#### B. Illinois (10 ILCS 5/9-9.5)

Illinois law requires that any committee that makes an expenditure for any kind of communication directed at voters and mentioning the name of a candidate in the next upcoming election must ensure that the communication clearly identifies the committee as having paid for it. This applies to any committee that pays for any part of the advertisement, including its production and distribution. This disclosure is not required if the item is too small to contain it. The disclosure is also not required for telephone surveys that use random sampling or other scientific survey methods to gauge public opinion about a candidate or public policy question. Finally, this disclosure requirement does not apply to expenditures for preparation or distribution of any printed communication paid for by a political committee controlled by a member of the Illinois General Assembly, provided the communication is directed at constituents and is made in connection with the performance of governmental or public service functions. Vendors who produce political communications are required to keep records of the name and address of the person who made or requested the purchase and the amount paid.

C. Michigan (MICH. COMP. LAWS § 169.247, MICH. ADMIN. CODE r. 169.36)

Michigan law requires candidates and committees to place an identification on printed material referring to an election, candidate, or ballot question (e.g., “Paid for by the CTE Joe Smith, 123 Winners Lane, Lansing Michigan 48933.”) If the printed material is an independent expenditure, the statement must also include a disclaimer (e.g., “Not authorized by any candidate committee.”) Free social media such as Facebook, Twitter, or emails do not require an identification or disclaimer. An individual, other than a candidate, acting independently and not acting as an agent or any candidate or committee, is not required to provide an identification for printed material, but still must include an identification for radio/tv ads, robo-calls, or other paid electronic media. Michigan also requires certain identifications for certain mass communications referencing a clearly identified candidate or ballot question within 30/60 days of a primary/general election when the communication is targeted to the relevant electoral district.

Identifications and disclaimers must be in a place and in a print clearly visible to and readable by an observer. No specific font size is required, but the identification and/or disclaimer should be separate from any text and Michigan’s elections website specifically provides the example that a billboard identifier should be visible from the road. Michigan also lists a host of items that are exempted from the identification requirement due to size or difficulty of placement (e.g., aerial banners, pens, etc.)

D. Iowa (IOWA CODE § 68A.405, IOWA ADMIN. CODE r. 351-4.38 *et seq.*)

Iowa law requires a “paid for by” attribution statement on printed or displayed material that expressly advocates for or against a clearly identified candidate or ballot issue. The attribution shall identify the person paying for the material by name and address. If the material is an independent expenditure the attribution shall include that the material was not authorized by any candidate, candidate’s committee, or ballot issue committee.

Iowa’s attribution requirement does not apply to:

- Editorials, news articles, or other print or electronic media that are not paid political advertisements.
- Small items upon which the inclusion of the statement is impracticable (e.g., pens, buttons, etc.)
- T-shirts, caps, and other articles of clothing.
- An individual who acts alone and spends less than \$100 of his or her own money to advocate the passage or defeat of a ballot issue.
- Any material subject to federal regulations regarding an attribution requirement

Television, video, or motion picture advertising is required to display the attribution statement on screen for at least four seconds. Multi-page material need only include the attribution on a single page. For a website, the attribution need only appear on the home page of the site.





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**DATE:** For the August 21, 2018 Commission Meeting  
**TO:** Members, Wisconsin Ethics Commission  
**FROM:** David Buerger, Staff Counsel  
**SUBJECT:** Administrative Rule Update and Hearing

## FOR COMMISSION ACTION

1. For ETH 1 – Act 117 Amendments/Attribution, does the Commission direct staff to submit the proposed scope statement to the Governor for approval?
2. For ETH 1 – Act 117 Repeals, following the hearing and consideration of any public comments, does the Commission approve the draft rule and direct staff to submit the rule to the Governor for approval?

### I. Chapter ETH 1 – Act 117 Amendments/Attribution

At its last meeting the Commission directed staff to draft a new statement of scope to begin the rulemaking process to address amendments to ETH 1 required as a result of the changes of Act 117 as well as the Commission’s request to clarify the attribution requirement of [WIS. STAT. § 11.1303](#).

See Attachment A for a draft statement of scope for the Commission’s review.

### II. Chapter ETH 16 – Lobbying

This proposed rule received final approval from the Governor on June 15, 2018 and was submitted to the Legislature for review on June 18, 2018. As the proposed rule was received by the Legislature after its final general-business floor period of the session, no action is expected on this rule until the next session. See [WIS. STAT. § 227.19\(2\)](#).

### III. Chapter ETH 1 – 2015 Act 117 Repeals

This draft rule would repeal the provisions of ETH 1 that have been deemed inconsistent with the new Act 117.

At the Ethics Commission’s February 27, 2018 meeting it initially approved the scope statement for this rule. Staff submitted the scope statement to the Department of Administration and received approval from the Governor to continue with rulemaking on

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Mac Davis | David R. Halbrooks | Katie McCallum | Tamara Packard | Pat Strachota | Timothy Van Akkeren

*Administrator*  
Colette C. Reinke

March 13. The scope statement was submitted to the Legislative Reference Bureau for publication in the Administrative Register on March 14. The scope statement was published in Register No. 747A3 on March 19. On April 24, 2018, the Commission formally approved the scope statement and directed staff to begin drafting the proposed rule and associated documents for submission to the Legislative Council Rules Clearinghouse. On June 19, 2018, the Commission approved the draft rulemaking documents and directed staff to submit them to the Rules Clearinghouse and schedule a public hearing for August 21, 2018. Staff submitted the draft rulemaking order on June 22, 2018 and submitted a Notice of Hearing to hold a public hearing on this draft rule today, August 21, 2018. The hearing notice was published in Administrative Register No. 751A1 on July 2, 2018.

On July 20, 2018, the Commission received the Legislative Council's report on the draft rule and proposed four changes. Staff has incorporated those changes in the draft rule attached to this memorandum. After all public comments have been considered and the rule is in its final draft form, it may be submitted to the Governor's office for approval.

See Attachment B for the materials associated with ETH 1 – Act 117 Repeals.

#### **IV. Hearing Procedure**

With certain exceptions, Wisconsin law requires agencies to hold public hearings on their proposed administrative rules to allow members of the public to provide testimony as to the proposed rule. At the hearing the Commission is required to explain the purpose of the hearing and describe how testimony will be received, present a summary of the factual information on which the proposed rule is based, afford each interested person the opportunity to present facts, opinions, or arguments in writing, and keep a record of the hearing. [WIS. STAT. § 227.18\(1\)](#).

The Commission may choose to limit oral presentations if the hearing would be unduly lengthened by repetitious testimony, question or allow others present to question the person testifying, administer an oath or affirmation to any person appearing, or continue or postpone the hearing to a specified date, time, and place. [WIS. STAT. § 227.18\(2\)](#).

#### **V. Attachments**

- A. ETH 1 – Act 117 Amendments/Attribution Draft Scope Statement
- B. ETH 1 – Act 117 Repeals
  - 1. Proposed Rulemaking Order
  - 2. Notice of Submittal to Legislative Council Rules Clearinghouse
  - 3. Notice of Hearing
  - 4. Fiscal Estimate and Economic Impact Analysis
  - 5. Legislative Council Report

TEXT OF RULE

SECTION 1. ETH 1.02, 1.04, 1.05, 1.06, 1.10, 1.11, 1.15, 1.26 (3), 1.26 (4), 1.28, 1.30, 1.34, 1.36, 1.38, 1.42, 1.43, 1.44, 1.45, 1.455, 1.46, 1.50, 1.56 (4), 1.65, 1.655, 1.75, 1.85 (1), (2), (4), (5), (6), (7), 1.91 are repealed.

SECTION 2. EFFECTIVE DATE.

This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2), Stats.

**STATEMENT OF SCOPE  
PURSUANT TO WIS. STAT. § 227.135  
WISCONSIN ETHICS COMMISSION**

**Rule No.:** ETH Ch. 1

**Relating to:** Campaign Finance

**Rule Type:** Permanent

**1. Detailed description of the objective of the proposed rule:**

The Commission proposes a rule to amend Wis. Admin. Code ETH 1.20 (9), 1.26 (2), 1.26 (6), 1.60 (1) (b), 1.70 (1), and 1.855 (2) to reflect the changes of 2015 Wisconsin Act 117; and create ETH 1.96 to clarify the attribution requirements of s. 11.1303, Stats.

**2. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

The Government Accountability Board previously reviewed the provisions of Wis. Admin. Code ETH 1 as required by 2015 Wisconsin Act 117. In that review, the Board noted several provisions that were inconsistent with the new law, but it did not address other statutory and administrative references within ETH 1 that needed to be updated to harmonize the language with the newly created Chapter 11 or current administrative procedures. This proposed rule would update provisions that currently contain references to the prior version of Chapter 11 as well as references to outdated forms of the Government Accountability Board.

The Commission currently only advises committees as to the language required to comply with s. 11.1303 (2), Stats. However, the Commission regularly receives inquiries regarding the necessity of attributions on certain communications or on items where an attribution cannot be conveniently printed. The Commission also regularly receives inquiries as to the required size of an attribution statement. Wisconsin law currently requires that an attribution statement be “readable, legible, and readily accessible.” This rule will propose standards to better define when an attribution is readable, legible, and readily accessible; as well an exception for certain small items or other communications as allowed by s. 11.1303 (2) (f), Stats.

**3. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

The Commission has general authority for the promulgation of rules to carry out the requirements of Chapter 11. The Commission also has specific authority to promulgate a rule to specify small items or other communications to which s. 11.1303, Stats. does not apply.

s. 11.1303(2)(f), Stats.:

**11.1303 Attribution of political contributions, disbursements and communications.**

(2)(f) This subsection does not apply to communications containing express advocacy printed on small items on which the information required by this subsection cannot be conveniently printed, including text messages, social media communications, and certain small advertisements on mobile phones. The commission may, by rule, specify small items or other communications to which this subsection shall not apply.

s. 11.1304(17), Stats.:

**11.1304 Duties of the ethics commission.** The commission shall:

(17) Promulgate rules to administer this chapter.

s. 19.48(1), Stats.:

**19.48 Duties of the ethics commission.** The commission shall:

(1) Promulgate rules necessary to carry out ch. 11, subch. III of ch. 13, and this subchapter.

s. 227.11(2)(a), Stats.:

**227.11 Extent to which chapter confers rule-making authority.**

(2) Rule-making authority is expressly conferred on an agency as follows:

(a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.

**4. Estimate of the amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

The Commission estimates that it will use approximately 0.05 FTE staff to develop this rule. This includes time required for research, rule drafting, preparing related documents, coordinating stakeholder meetings, holding public hearings, legislative review and adoption, and communicating the final rule with affected persons and groups. The Commission will use existing staff resources to develop this rule.

**5. List with description of all entities that may be affected by the proposed rule:**

Candidates, candidate committees, political parties, legislative campaign committees, political action committees, independent expenditure committees, conduits, referendum

committees, recall committees, and the general public may be affected by the proposed rule.

**6. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

The Wisconsin Ethics Commission is unaware of any existing or proposed federal regulation that is applicable to this rule.

**7. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

The Wisconsin Ethics Commission anticipates the rule having no economic impact. This proposed rule includes no significant economic impact on small businesses.

**Contact person:** David P. Buerger  
david.buerger@wisconsin.gov (608) 267-0951

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David Buerger  
Staff Counsel  
Wisconsin Ethics Commission

---

Date Submitted

**STATEMENT OF SCOPE  
PURSUANT TO WIS. STAT. § 227.135  
WISCONSIN ETHICS COMMISSION**

**Rule No.:** ETH Ch. 1

**Relating to:** Campaign Finance

**Rule Type:** Permanent

**1. Detailed description of the objective of the proposed rule:**

The Commission proposes a rule to repeal the parts of Chapter ETH 1 that have been ruled unconstitutional or have been deemed inconsistent with the new campaign finance law created by 2015 Act 117.

**2. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

The Commission proposes no new policy in the proposed rule.

**3. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

The Commission has general authority for the promulgation of rules to carry out the requirements of Chapter 11.

s. 11.1304(17), Stats.:

**11.1304 Duties of the ethics commission.** The commission shall:  
(17) Promulgate rules to administer this chapter.

s. 19.48(1), Stats.:

**19.48 Duties of the ethics commission.** The commission shall:  
(1) Promulgate rules necessary to carry out ch. 11, subch. III of ch. 13, and this subchapter.

s. 227.11(2)(a), Stats.:

**227.11 Extent to which chapter confers rule-making authority.**  
(2) Rule-making authority is expressly conferred on an agency as follows:  
(a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.

**4. Estimate of the amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

The Commission estimates that it will use approximately 0.05 FTE staff to develop this rule. This includes time required for research, rule drafting, preparing related documents, coordinating stakeholder meetings, holding public hearings, legislative review and adoption, and communicating the final rule with affected persons and groups. The Commission will use existing staff resources to develop this rule.

**5. List with description of all entities that may be affected by the proposed rule:**

Candidates, candidate committees, political parties, legislative campaign committees, political action committees, independent expenditure committees, conduits, referendum committees, recall committees, and the general public may be affected by the proposed rule.

**6. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

The Wisconsin Ethics Commission is unaware of any existing or proposed federal regulation that is applicable to this rule.

**7. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

The Wisconsin Ethics Commission anticipates the rule having no economic impact. This proposed rule includes no significant economic impact on small businesses.

**Contact person:** David P. Buerger  
david.buerger@wisconsin.gov (608) 267-0951



---

David Buerger  
Staff Counsel  
Wisconsin Ethics Commission

March 1, 2018

---

Date Submitted



WISCONSIN ETHICS COMMISSION  
**Proposed Rule Making Order**

**INTRODUCTORY CLAUSE**

The Wisconsin Ethics Commission proposes an order to repeal ETH 1.02, 1.04, 1.05, 1.06, 1.10, 1.11, 1.15, 1.26 (3), 1.26 (4), 1.28, 1.30, 1.34, 1.36, 1.38, 1.42, 1.43, 1.44, 1.45, 1.455, 1.46, 1.50, 1.56 (4), 1.65, 1.655, 1.75, 1.85 (1), (2), (4), (5), (6), (7), 1.91 related to campaign finance.

**RULE SUMMARY**

A. **Statutes interpreted:** Chapter 11, Stats.

B. **Statutory authority:** The Wisconsin Ethics Commission is specifically directed to promulgate rules to administer Chapter 11 pursuant to s. 11.1304(17), Stats.

**11.1304 Duties of the ethics commission.** The commission shall:  
**(17)** Promulgate rules to administer this chapter.

The Commission also has general authority for the promulgation of rules to carry out the requirements of Chapters 11, 13, and 19.

s. 19.48(1), Stats.:

**19.48 Duties of the ethics commission.** The commission shall:  
**(1)** Promulgate rules necessary to carry out ch. 11, subch. III of ch. 13, and this subchapter.

s. 227.11(2)(a), Stats.:

**227.11 Extent to which chapter confers rule-making authority.**  
**(2)** Rule-making authority is expressly conferred on an agency as follows:  
**(a)** Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.

C. **Explanation of agency authority:** The Ethics Commission is required to promulgate rules to administer Chapter 11, Stats. The Legislature's repeal and re-creation of Chapter 11 by 2015 Act 117 required the Government Accountability Board to conduct a full review of all administrative rules promulgated by the Government Accountability Board that were affected by the provisions of the Act and required that any administrative rule found inconsistent with the Act could not be enforced. The Government Accountability Board did not take steps to

repeal these inconsistent provisions before it was dissolved. The Ethics Commission now seeks to repeal these provisions.

- D. **Related statute(s) or rule(s):** Chapters ETH 6 and 26.
- E. **Plain language analysis:** The rule repeals the parts of Chapter ETH 1 that have been ruled unconstitutional or have been deemed inconsistent with the new campaign finance law created by 2015 Act 117.
- F. **Summary of, and comparison with, existing or proposed federal regulations:** N/A
- G. **Comparison with similar rules in adjacent states:** N/A
- H. **Summary of factual data and analytical methodologies:** N/A
- I. **Analysis and supporting documentation used to determine effect on small businesses:**  
N/A
- J. **Effect on small business:** N/A
- K. **Agency contact person:**

David P. Buerger  
David.Buerger@wisconsin.gov  
(608) 267-0951

- L. **Place where comments are to be submitted and deadline for submission:**

Written comments on the proposed rule will be accepted and receive consideration if they are received by August 21, 2018. Written comments should be addressed by mail to: David Buerger, P.O. Box 7984, Madison, WI 53707-7984; or by email to: eth.rulecomments@wi.gov.

Fiscal Estimate: The creation of this rule does not affect business.

Initial Regulatory Flexibility Analysis: The creation of this rule has no fiscal effect.

#### **TEXT OF RULE**

See attached.

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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1. Type of Estimate and Analysis

Original    Updated    Corrected

---

2. Administrative Rule Chapter, Title and Number

ETH 1 – Campaign Financing

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3. Subject

Repeal of portions of Chapter ETH 1 that have been ruled unconstitutional or have been deemed inconsistent with the new campaign finance law created by 2015 Act 117.

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4. Fund Sources Affected

GPR    FED    PRO    PRS    SEG    SEG-S

5. Chapter 20, Stats. Appropriations Affected

N/A

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6. Fiscal Effect of Implementing the Rule

No Fiscal Effect    Increase Existing Revenues    Increase Costs  
 Indeterminate    Decrease Existing Revenues    Could Absorb Within Agency's Budget  
 Decrease Cost

---

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy    Specific Businesses/Sectors  
 Local Government Units    Public Utility Rate Payers  
 Small Businesses **(if checked, complete Attachment A)**

---

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes    No

---

9. Policy Problem Addressed by the Rule

Significant portions of Chapter ETH 1 have been found unconstitutional or are no longer consistent with state law subsequent to the passage of 2015 Act 117. The changes proposed in the rule are simply to repeal these provisions. There is no new policy being proposed.

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10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

N/A

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11. Identify the local governmental units that participated in the development of this EIA.

N/A

---

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The Commission finds that the proposed rule will have no economic impact on small businesses.

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13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Promulgating the rule would remove outdated portions of Chapter ETH 1 and reduce confusion of the regulated community. The alternative would be to not create such a rule, but instead continue to not enforce the outdated provisions. Such inaction could continue to promote confusion among the regulated community.

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14. Long Range Implications of Implementing the Rule

Promulgating the rule would remove those portions of the law that have been ruled unconstitutional or have been deemed inconsistent with the new campaign finance law created by 2015 Act 117.

---

15. Compare With Approaches Being Used by Federal Government

N/A

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16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

N/A

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**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

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17. Contact Name

David P. Buerger

18. Contact Phone Number

(608) 267-0951

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This document can be made available in alternate formats to individuals with disabilities upon request.

**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

**ATTACHMENT A**

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

---

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

---

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
  - Less Stringent Schedules or Deadlines for Compliance or Reporting
  - Consolidation or Simplification of Reporting Requirements
  - Establishment of performance standards in lieu of Design or Operational Standards
  - Exemption of Small Businesses from some or all requirements
  - Other, describe:
- 

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

---

5. Describe the Rule's Enforcement Provisions

---

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
-

## **Notice of Hearing**

The Wisconsin Ethics Commission announces that it will hold a public hearing on a permanent rule to repeal portions of ch. ETH 1 relating to campaign finance; at the time and place shown below.

### **Hearing Information**

Date: August 21, 2018

Time: 9:00 A.M.

Location: 212 East Washington Avenue, 3<sup>rd</sup> Floor, Madison, WI 53703

### **Appearances at the Hearing and Submittal of Written Comments**

The proposed rule may be reviewed at <http://docs.legis.wisconsin.gov/code> and <https://ethics.wi.gov/Pages/Resources/StatutesAndRules.aspx>.

Written comments may be submitted to David Buerger, Staff Counsel, Wisconsin Ethics Commission, P.O. Box 7984, Madison, WI 53707-7984, or by email to [eth.rulecomments@wi.gov](mailto:eth.rulecomments@wi.gov). Written comments must be received no later than August 21, 2018 to be included in the record of rulemaking proceedings.

Individuals who wish to provide their comments in person at the hearing are encouraged to also submit a written copy of their testimony for inclusion in the record.

### **Initial Regulatory Flexibility Analysis**

The proposed rule will not have an effect on small businesses, as defined under s. 227.114 (1).

**Notice of Submittal of Proposed Rule to  
Legislative Council Rules Clearinghouse**

On June 19, 2018, the Ethics Commission submitted a proposed rule to the Wisconsin Legislative Council Clearinghouse pursuant to s. 227.15 (1), Wis. Stats.

**Analysis**

The proposed rule repeals the parts of Chapter ETH 1 that have been ruled unconstitutional or have been deemed inconsistent with the new campaign finance law created by 2015 Act 117.

**Statement of Scope**

The scope statement for this rule, SS 025-18, was approved by the Governor on March 13, 2018, published in Register No. 747A3, on March 19, 2018, and approved by the Ethics Commission on April 24, 2018.

**Agency Procedure for Promulgation**

A public hearing is required and will be held on August 21, 2018.

**Agency Organizational Unit Primarily Responsible for Promulgating Rule**

Ethics Commission

**Agency Contact Person**

David P. Buerger  
P.O. Box 7984, Madison, WI 53707-7984  
David.Buerger@wisconsin.gov  
(608) 267-0951



**SCOTT WALKER**  
**OFFICE OF THE GOVERNOR**  
**STATE OF WISCONSIN**

P.O. Box 7863  
MADISON, WI 53707

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March 13, 2018

Colette Reinke  
Interim Administrator  
Wisconsin Ethics Commission  
212 East Washington Ave, Third Floor  
Madison, WI 53703

**RE: Scope Statement for ETH Ch. 1 relating to campaign finance**

Dear Ms. Reinke,

I hereby approve the statement of scope submitted on March 1, 2018 to SBO, pursuant to Wisconsin Statutes § 227.135, in regards to a proposed rule modifying Chapter ETH Ch. 1 of the Wisconsin Administrative Code. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.135(3).

Sincerely,

Scott Walker  
Governor





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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Scott Grosz**  
*Clearinghouse Director*

**Margit S. Kelley**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Jessica Karls-Ruplinger**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE **18-047**

AN ORDER to repeal ETH 1.02, 1.04, 1.05, 1.06, 1.10, 1.11, 1.15, 1.26 (3) and (4), 1.28, 1.30, 1.34, 1.36, 1.38, 1.42, 1.43, 1.44, 1.45, 1.46, 1.50, 1.56 (4), 1.65, 1.655, 1.75, 1.85 (1), (2), (4), (5), (6), and (7), and 1.91, relating to the parts of Chapter ETH 1 that have been ruled unconstitutional or have been deemed inconsistent with the new campaign finance law created by 2015 Act 117.

Submitted by **ETHICS COMMISSION**

06-22-2018 RECEIVED BY LEGISLATIVE COUNCIL.

07-20-2018 REPORT SENT TO AGENCY.

SG:JKR

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached            YES                             NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached            YES                             NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached            YES                             NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached            YES                             NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached            YES                             NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached            YES                             NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached            YES                             NO



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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Scott Grosz  
Clearinghouse Director

Margit Kelley  
Clearinghouse Assistant Director

Terry C. Anderson  
Legislative Council Director

Jessica Karls-Ruplinger  
Legislative Council Deputy Director

### CLEARINGHOUSE RULE 18-047

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]**

#### **2. Form, Style and Placement in Administrative Code**

a. The introductory clause should list the specific sections of ch. ETH 1 that are repealed by the proposed rule. [s. 1.02 (1), Manual.]

b. In SECTION 1, it appears that s. ETH 1.455 should also be repealed. According to the note following s. ETH 1.455, that section was also determined to be inconsistent with 2015 Wisconsin Act 117.

c. In SECTION 1, “1.85 (1), (2), (4), (5), (6), and (7), and 1.91” should replace “1.85 (1), 1.85 (2), 1.85 (4), 1.85 (5), 1.85 (6), 1.85 (7), 1.91” in the treatment clause.

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

In the statutory authority section of the rule summary, “11.1304 (17), Stats.” should replace “11.13.04 (17), Stats.”.





# Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics  
212 East Washington Avenue | Third Floor | P.O. Box 7125 | Madison, WI 53707-7125  
(608) 266-8123 | [ethics@wi.gov](mailto:ethics@wi.gov) | <https://ethics.wi.gov>

DATE: For the August 21, 2018 Meeting  
TO: Members, Ethics Commission  
FROM: Ethics Commission Staff  
SUBJECT: Draft Social Media Guideline

## FOR COMMISSION ACTION

The Commission may choose to:

1. Adopt the guideline as presented.
2. Adopt the guideline with modifications consistent with today's discussion.
3. Direct staff to continue revising the guideline consistent with today's discussion and bring it back for further consideration at a future meeting.
4. Table the guideline.

At its January 11, 2018 meeting, the Commission reviewed a variety of draft guidelines intended to provide guidance to the regulated community as to pressing concerns that had not yet been formally addressed by the Commission. At that meeting, the Commission discussed the limits on guidance documents and what guidance could be supported by existing case law, state statute, administrative rule, or formal opinion. Since that meeting staff has continued to monitor where guidelines may be appropriate.

At its June 19, 2018 meeting the Commission considered a complaint regarding the use of social media by a public official and subsequently directed staff to issue a clarification to the Chief Clerk of each house of the Legislature regarding the Commission's view of the appropriate use of social media by public officials under the code of ethics. The Commission also directed staff develop a guideline regarding the same for consideration at its next meeting.

The attached draft guideline attempts to incorporate the Commission's views on the appropriate use of social media by public officials, public employees, and also addresses specifically how the Commission applies the 50-piece rule ([WIS. STAT. § 11.1205](#)) to uses of social media. However, as the Commission's most relevant guidance in this area is an informal advisory opinion (2018 RA 03), the Commission may wish to publish this as a formal opinion to supplement the guideline.

As with prior draft guidelines, the attached draft guideline does not represent a final staff recommendation on these issues. Instead, staff intends for this draft guideline to serve as a starting point of discussion for the Commission, and to prompt a discussion between the Commission and the regulated community on these issues.

*Wisconsin Ethics Commissioners*

Mac Davis | David R. Halbrooks | Katie McCallum | Tamara Packard | Pat Strachota | Timothy Van Akkeren

*Administrator*  
Colette C. Reinke

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# Wisconsin Ethics Commission

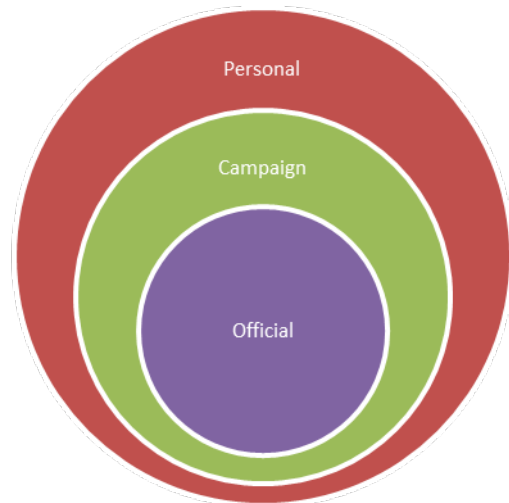
For persons elected to state or local office who become a candidate for national, state, or local office

## Social Media Use By Officials

### GENERAL GUIDANCE

The Code of Ethics for State Public Officials prohibits the use of an official's public position for private benefit.<sup>1</sup> As such, it is important for an official to be able to distinguish between a public purpose and a private purpose when considering the use of public resources. To avoid the appearance of misuse of public resources a public official should include some indication of whether a social media account is for the official position or is a campaign, business, or personal account in the profile, summary, or other description of the account.

Use of official social media accounts is the most restricted. Officials should limit use of their official social media accounts to information related to an official's position, duties, and issues with a public purpose (e.g., a state legislator discussing how the state could address criminal justice issues through state laws or actions). Endorsements, messages of support, and sharing information from an official social media or electronic communications account of a state or local public official is permissible; however, officials should only do so when justified by having a state purpose (e.g., "I support Sally Smith for Senate because she has worked hard to address [state policy issue] in Wisconsin," or "I support [non-profit] and their work to address [state policy issue] in Wisconsin," or "disaster relief resources for those affected by recent flooding are available here:"). Official accounts should not be used to solicit campaign contributions, promote campaign activities (e.g., circulating nomination papers), or for commercial purposes (e.g., promoting a business with which the official is associated). A campaign may use a campaign social media account for all communications allowable for an official account, in addition to campaign-related activities including solicitation of contributions but should not be used for strictly personal or commercial purposes.<sup>2</sup> A personal/business account may contain both official and campaign-related information. Please see the diagram to the right for an illustration of acceptable uses by type of account.



### STATE AND LOCAL PUBLIC OFFICIALS AND EMPLOYEES

State employees who are also working as campaign staff may not work on campaign activities on public time<sup>3</sup> and should comply with their office's policies for time management to take

<sup>1</sup> [WIS. STAT. § 19.45](#)

<sup>2</sup> [WIS. STAT. § 11.1208\(2\)\(A\)](#)

<sup>3</sup> [WIS. STAT. § 230.40](#)

leave whenever conducting campaign activities during normal work hours. While on public time or being paid by a campaign committee, employees may not work on activities for commercial purposes or that would provide a strictly personal benefit.

Because an elected official is simultaneously a candidate, an elected official is advised to not draft or post/send campaign communications or content while performing their official duties (i.e., while participating in an event in their official capacity – e.g., an event listed on their official calendar, a floor session, or committee hearing). The candidate may also not use campaign committee resources for strictly personal benefit, or for commercial purposes – for example, the candidate should not use a campaign rally or campaign website to advertise for a business with which he or she is associated.

## **50-PIECE RULE APPLICATION TO SOCIAL MEDIA**

The language of the 50-piece rule<sup>4</sup> does not distinguish between electronic pieces and printed pieces. It simply prohibits the use of public funds for the distribution of 50 or more pieces of substantially identical material by a covered person during a specified time period.<sup>5</sup> Because electronic communications almost always result in multiple copies being created even when sent to a single recipient due to the nature of the technical systems that enable electronic communications, when calculating the number of pieces distributed under the 50-piece rule the Commission will only count those instances of communication intended by the sender.<sup>6</sup>

If a message is actively communicated to individually addressed recipients, such as via emails, instant messages, or direct messages; each individual recipient is considered a single piece under the 50-piece rule. However, a passive message such as a website, Facebook post, or tweet, where the sender has no direct control over the audience of his or her message, is only counted as a single piece under the 50-piece rule.

## **ADDITIONAL RESOURCES**

For additional information, please visit the Ethics Commission website: <https://ethics.wi.gov>. If you have additional questions, please contact the Wisconsin Ethics Commission staff by email at [Ethics@wisconsin.gov](mailto:Ethics@wisconsin.gov), or by phone at (608) 266-8123. Advice sought from the Ethics Commission is confidential. For authoritative information, refer to Wisconsin Statutes. You may also wish to consult with an attorney.

*This document is only a guideline and does not constitute an informal or formal opinion of Wisconsin Ethics Commission. If you wish to obtain an informal or formal opinion of the Commission, you may make a written request pursuant to [WIS. STAT. § 19.46\(2\)](#). Your request is confidential and any response is as well; however, if the Commission acts formally then statutes require the Ethics Commission to purge identifying information from the opinion and then publish it. An informal or formal opinion issued by the commission will provide some protection to the requestor against an enforcement action pursuant to [WIS. STAT. § 19.49](#), providing the material facts are as stated in the request and the individual or committee is following the advice. No such protection attaches to informal opinions of Commission staff.*

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<sup>4</sup> [WIS. STAT. § 11.1205](#)

<sup>5</sup> See [Guideline 1251](#).

<sup>6</sup> See 2018 RA 03







# Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics  
212 East Washington Avenue | Third Floor | P.O. Box 7125 | Madison, WI 53707-7125  
(608) 266-8123 | [ethics@wi.gov](mailto:ethics@wi.gov) | <https://ethics.wi.gov>

**DATE:** For the August 21, 2018 Meeting

**TO:** Members, Wisconsin Ethics Commission

**FROM:** Colette C. Reinke, Interim Administrator

**SUBJECT:** Review of Lobbying-Related Opinions of Previous Boards,  
Employment and Compensation

## FOR COMMISSION ACTION

1. The Commission may decide to
  - a. Withdraw, modify, and reaffirm opinions as recommended by staff,
  - b. Withdraw, modify, and reaffirm opinions as amended by today's discussion,  
or
  - c. Direct staff to continue review of the opinions.

## Background

There are sixteen lobbying opinions related to employment and compensation. Staff has recommended that four opinions be withdrawn and twelve opinions be reaffirmed with minor citation revisions.

The attached spreadsheet provides a link to each opinion, a summary, whether the opinion is consistent or inconsistent, and some additional notes related to why opinions have been recommended for withdrawal.

Opinions that are consistent with current law and Commission interpretation, advice, and guidelines are recommended to be reaffirmed. Some opinions that are recommended to be reaffirmed will require minor revisions to correct citations. Staff recommended withdrawal of opinions for two reasons, either they are inconsistent with current statutes or with the current Commission's interpretation, advice, and guidelines, or the opinions are vague, provide no substantive analysis, or are written in such a way that could result in misinterpretation.

## Relevant Statutes and Amending Acts

[WIS. STAT. § 13.625](#) provides prohibitions for lobbyists, as well as exceptions to these prohibitions, including the prohibition on state officials and candidates from accepting anything of value from a lobbyist or principal. This section was amended in 1992 by [1991 Wisconsin Act 269](#). This Act created [subsection \(4\)](#) to add an exception that a candidate for elective state office may accept salaried employment and related benefits, things of value, from a principal, if the principal and the candidate employed by the principal can provide clear and convincing evidence

that the employment is unrelated to the candidacy for state office. If the employee was employed by the principal over a year before the deadline for filing nomination papers, and their employment continues without change in compensation or benefits, except as provided in a prior agreement, it is presumed that the employment, compensation, and benefits are unrelated to the individual's candidacy.

This exception allows for individuals employed by principals, to decide to run for office while continuing in their current employment, being paid the same salary, and receiving the same benefits. If that individual wins the election, they must then end the employment relationship before they take office. The two opinions recommended for withdrawal were issued before this exception to the prohibitions in WIS. STAT. § 13.625 was created and therefore conflict with current state law.

Each of the opinions being addressed at this meeting discuss and cite to WIS. STAT. § 13.625 generally. [2013 Wisconsin Act 253](#) and [2015 Wisconsin Act 117](#) amended subsection (1)(b) "furnish" was changed to "give." Staff determined that this did not substantively change the statute and its prohibitions as the words are synonymous. These opinions were addressed at an earlier meeting, but some minor revisions will be necessary in the opinions being reviewed at this meeting due to the language and citation changes in WIS. STAT. § 13.625, which is cited in all these opinions.

### **Opinions Recommended for Withdrawal**

The opinions that are being recommended for withdrawal are opinions based on statutory language prior to the amendments listed above or lack beneficial analysis. These opinions would require more than just minor revisions to modify them to be consistent with the current statutes.

1. [Eth. Bd. Op. 91-01](#) – The analysis and substance of this opinion relates entirely to Wis. Stat. § 13.625 prior to the creation of subsection (4).
2. [Eth. Bd. Op. 92-03](#) – The analysis and substance of this opinion relates entirely to Wis. Stat. § 13.625 prior to the creation of subsection (4).
3. [Eth. Bd. Op. 02-08](#) - This opinion lacks a clear set of facts and provides no substantive analysis or citations to statutes.
4. [Eth. Bd. Op. 03-05](#) - This opinion lacks a clear set of facts and provides no substantive analysis or citations to statutes.

### **Opinions Recommended for Reaffirmation with Limited Revisions**

The opinions marked as consistent should be reaffirmed, but will need very minor revisions to correct citations and language for the current WIS. STAT. §13.625.

Enclosure: Lobbying Opinions Spreadsheet August 21 Meeting

Employment and Compensation	Opinion Number	Opinion Summary	Legal Effect	Staff Comments
Employment and Compensation	<a href="#">Eth. Bd. Op. 92-03</a>	A candidate for elective state office may not receive a salary from an organization that employs a lobbyist but may continue to receive a pension and may participate in a group health plan if the candidate pays the premiums. OEB 92-3	Inconsistent	Wis. Stat. Sec. 13.625 (4) Adds an exception that a candidate for elective state office may accept salaried employment and related benefits from a principal.
Employment and Compensation	<a href="#">Eth. Bd. Op. 91-01</a>	A candidate for elective state office may not accept salaried employment from a principal. Eth. Bd. 621	Inconsistent	Wis. Stat. Sec. 13.625 (4) Adds an exception that a candidate for elective state office may accept salaried employment from a principal.
Public Official Conduct, Employment and Compensation	<a href="#">Eth. Bd. Op. 02-08</a>	The Ethics Board advises: Neither the Ethics Code nor lobbying law appears to restrict a legislator's working as a consultant to a company that is a broker-dealer that assists institutional money managers in identifying investment opportunities	Consistent	Withdraw for lack of substantive analysis
Public Official Conduct, Reimbursement, Compensation	<a href="#">Eth. Bd. Op. 03-05</a>	The Ethics Board advises that a state public official may serve as the honorary chair of a charitable event sponsored by a lobbying principal for which the official will receive no compensation and will pay the cost of dinner and golf.	Consistent	Withdraw for lack of substantive analysis
Employment and Compensation	<a href="#">Eth. Bd. Op. 03-15</a>	The Ethics Board advises that in general, neither the Ethics Code nor lobbying law restricts your employment in the circumstances you have described. The only restrictions are (1) that you not receive any payment from a lobbyist or from an organization that employs a lobbyist (including the local governmental unit if it is a lobbying principal) (§13.625, Wisconsin Statutes); (2) that you be able to demonstrate that you have not used the prestige or resources of your office to obtain or to perform consulting work (§19.45 (2), Wisconsin Statutes,); and (3) that you not represent the local government or consultant before a state agency unless it is a ministerial matter or a contested case which involves a party other than the state (§19.45 (7), Wisconsin Statutes).	Consistent	

Employment and Compensation	<a href="#">Eth. Bd. Op. 03-02</a>	The Ethics Board advises: A legislator should not accept compensation from an organization that employs a lobbyist even for services the legislator has provided to the organization; and In the case of two affiliated organizations, one employing a lobbyist and the other not, a legislator may accept compensation for services from the latter only if the organization can demonstrate that it acts independently of its affiliate.	Consistent	
Employment and Compensation, Conflicts	<a href="#">Eth. Bd. Op. 04-08</a>	A member of a state board should not participate in the consideration of issues on which the member lobbies on his or her employer's behalf or on matters, which affect those issues. If conflicts arise only occasionally, they may be satisfactorily addressed by abstaining, but when a conflict is regularly occurring and substantial, the conflict's cure can come only from the board member divesting himself or herself of public position or of the private interest that conflicts with public responsibilities. <sup>1</sup> We also advise that a member of a state board not, on behalf of his or her employer, lobby state government on issues before, or affecting the state board.	Consistent	
Employment and Compensation	<a href="#">Eth. Bd. Op. 05-08</a>	The Ethics Board advises that a candidate for the Legislature may, consistent with Wisconsin's lobbying law: (1) remain employed as a lobbyist by the candidate's employer while a candidate for election to the Legislature; (2) engage in campaign activities while on paid vacation time, holidays, and compensatory time in accordance, and consistent with, the employer's treatment of other employees' use of leave time; and (3) continue, while a candidate and prior to taking office, to receive benefits paid in part by the employer consistent with the organization's policy for other employees. The Ethics Board also advises that upon assuming office, a legislator may no longer accept compensation or anything else of pecuniary value from the organization except to the extent that the legislator, as a former employee, may be contractually entitled to continue to receive benefits from an employment or union contract that predates the candidacy.	Consistent	
Employment and Compensation	<a href="#">Eth. Bd. Op. 06-07</a>	The Ethics Board advises: 1) An elected state official may accept compensation from a joint venture if the official is providing professional services to the joint venture for its use; and 2) An elected state official may not accept compensation for professional services the official provides directly to a lobbying principal regardless of whether the lobbying principal pays the official directly or the joint venture pays the official.	Consistent	

Employment and Compensation	<a href="#">Eth. Bd. Op. 06-08</a>	The Ethics Board advises: 1) That the lobbying law does not prohibit an elected state official's acceptance of a salary as president of a union paid to the official by a business on the union's behalf, even if the business employs a lobbyist; 2) That the lobbying law does not prohibit the business to pay an official's salary related to the official's union duties; and 3) That the business may not pay the official, and the official may not accept, a salary for work performed for the business while the business employs a lobbyist in Wisconsin.	Consistent	
Employment and Compensation	<a href="#">Eth. Bd. Op. 07-11</a>	The Ethics Board advises that an individual employed by an organization that lobbies in Wisconsin may, consistent with Wisconsin's lobbying law: (1) remain employed as a lobbyist by the organization while the individual is a candidate for election to the Legislature; (2) engage in campaign activities for others that are consistent with the lobbying law while the individual is a lobbyist for the organization and a candidate for elective state office. The Ethics Board also advises that upon assuming office in January 2009, the individual may no longer accept compensation or anything else of pecuniary value from the organization except to the extent that the individual may be contractually entitled to continue to receive benefits from an employment contract that predates your candidacy.	Consistent	
Employment and Compensation	<a href="#">Eth. Bd. Op. 92-26</a>	The lobbying law is not an impediment to a business' continuing to pay an elected official a regular salary or wage even if the employer derives a portion of its income from the provision of professional services to a principal, as long as the business can clearly and convincingly demonstrate that (1) the official's level of compensation is unrelated to the employer's having one or more principals as clients; (2) the principal's purchase of services is unrelated to the official's hiring or continued employment; and (3) in the case of the official's provision of professional or technical services of a type customarily charged on an hourly or project basis, the official does not perform any work or services specifically for a principal. OEB 92-26	Consistent	

Employment and Compensation	<a href="#">Eth. Bd. Op. 10-01</a>	Based upon the facts as you presented them, you may be employed as an attorney, while also serving as a Representative to the Wisconsin Assembly, provided you comply with applicable laws and adhere to the advice set forth herein. You may also request an opinion from the Attorney General regarding issues of concern with respect to the Open Records Law. As an attorney licensed to practice law in Wisconsin, you may also seek an opinion from the Office of Lawyer Regulation regarding other legal-based ethical considerations.	Consistent	
Receipt of Items/Services of Value, Compensation, State Public Official Conduct	<a href="#">Eth. Bd. Op. 94-09</a>	An elected state official may accept compensation for participating as a commentator on state government issues on a weekly television program as long as the company that owns the television station operates independent of its corporate parent, which is a lobbying principal. Unless an official has evidence to the contrary, he or she may rely on the television stations's representation that in asking the official to appear on the television program it has not acted in consultation or cooperation with, or at the request or suggestion of, the parent company that is a principal. (OEB94-9) October 24, 1994	Consistent	
Employment and Compensation	<a href="#">Eth. Bd. Op. 98-11</a>	The Ethics Board advises that an agency official not, while the individual continues to serve, enter into an agreement for employment with a lobbyist or with an organization that employs a lobbyist. An official may, however, short of receiving or accepting a promise of future employment, explore possibilities for and circumstances of future employment or business relationships.	Consistent	
Employment and Compensation, Receipt of Items or Services by State Public Official	<a href="#">Eth. Bd. Op. 99-06</a>	The Ethics Board advises that an agency official may not accept compensation, or any other thing of pecuniary value, for serving on the board of directors of a business corporation that is a wholly-owned subsidiary of another corporation that is a lobbying principal if the corporate parent controls the official's selection to the subsidiary's board.	Consistent	



# Wisconsin Ethics Commission

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**DATE:** For the August 21, 2018 Commission Meeting  
**TO:** Members, Wisconsin Ethics Commission  
**FROM:** Adam Harvell, Ethics Specialist  
**SUBJECT:** Statements of Economic Interests – Policy Discussion

## FOR COMMISSION ACTION

The Commission may make a determination regarding the proposed updates to the Statements of Economic Interests procedures discussed below:

- 1) The addition of language concerning municipal judges to the previously approved settlement schedule for late SEIs.
- 2) The addition of a statement to the electronic filings in the SEI website that will replace the affidavit procedure currently used when the spouse of a filer will not disclose clients or other financial interests.
- 3) The addition of a waiver request to the electronic filings in the SEI website.
- 4) The continuation of the current policy of accepting SEIs filed outside of the SEI website and submitted by mail, email, or fax.

### 1) Potential update to current settlement Schedule for Statements of Economic Interests

At a previous meeting, the commission discussed the language in the current procedures when an official requests a waiver from reporting one or more interests on their SEI. [Link to current SEI Settlement Schedule and Waiver Procedures](#). Specifically, it was suggested that we add another category for municipal judges.

The entire section on position types is listed below, with a draft of the proposed change highlighted:

#### **The position held by the official requesting a waiver.**

*Elected officials* – Because such individuals generally exercise broad powers and in choosing whether or not 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.

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*Municipal and Multi-Jurisdictional Judges* – Municipal Judges, while elected officials, do not have the broad power over financial matters that other elected officials do. Like part-time appointed officials, they often have other jobs and business interests outside of their judicial positions. Granting waivers to municipal judges may present less of a threat to the public interest and help municipalities find individuals willing to serve in those positions.

*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.

## 2) Replacing the current affidavit procedure for electronic Statements of Economic Interests

For at least the past fifteen years, the agencies overseeing the filing process for Statements of Economic interests have accepted affidavits from individuals unable to disclose a portion of their financial interests. The three forms of affidavit are attached at the end of this memo. Basically, the affidavits state that the official required to file has a spouse, and the spouse is unwilling to divulge information on clients, representation, or investments.

The affidavit process is very rare – only three filers requested affidavits for the 2018 SEI filing, although a handful of filers may have attached updated affidavits based on the form they filed in previous years. The affidavits are not advertised on our website or SEI forms. However, if an official has questions about financial interests that a spouse is unwilling to disclose, staff may suggest the affidavit process.

The current affidavit process has a number of problems. First, although each affidavit is a part of that official's SEI and shared upon request, there isn't a way to systematically track all of the affidavits in our current or past databases. Second, the current format involves notarized forms, and requires that filers submit at least a portion of their SEI on paper (or scanned via fax or email). Maintaining a separate filing process for a handful of officials is inefficient. Finally, the



origins of the affidavits are unclear, and staff wants to ensure that the current commission has approved the current affidavit forms or an alternative process.

To address these issues, staff suggests that:

- 1) The requirement of a notarized statement be dropped, and the Ethics Commission should allow officials to submit a simplified statement about a spouse's (or other immediate family member's) refusal to provide specific information.
- 2) The electronic SEI system should add another screen, immediately before the certification screen, where officials could provide the information previously included on affidavits.
- 3) Beginning in 2019, any statements of this type should be presented to the Commission as part of the waiver process, so that the Commission remains aware of the undisclosed information, and can follow up if appropriate.
- 4) The statement described above should be publicly available and included on the official's SEI.

### **3) Adding the Waiver Process to the Electronic Submission of Statements of Economic Interests**

The waiver process allows SEI filers to request that the Commission waive the requirement to file some or all of the information on the Statement of Economic Interests. In 2018, the handful of filers who requested a waiver had to file at least part of their SEI on paper (or by fax or email). This requires a separate filing process for officials requesting waivers. To address that issue, staff suggests:

- 1) A screen containing a waiver request form should be added immediately before the certification screen in the SEI system.
- 2) The fact of the waiver request, and the sections that the official is requesting a waiver for, should be public information and included on the official's SEI.
- 3) The specifics of the waiver request should be available only to the filer, Commissioners, and Commission staff.

### **4) Confirmation of procedures for collecting future Statements of Economic Interests**

So far in 2018, about 80% of SEI filers have submitted their SEI online, and about 20% have submitted their SEI via mail, email, or fax. The percentage filing online is expected to increase next year, because last year some officials weren't aware of the new system, and the new system wasn't yet available for some officials needing to file in January to get on the 2018 Spring Election ballot. In addition, waivers and affidavits could not be filed in the new SEI website.

In 2018, staff worked with SEI filers and accepted the SEI filing in whatever format was most convenient for the filer. There are a number of filers who have difficulty with the technology, including a few who have no email address, or who route all of their email through another person like a municipal court clerk. In 2018, we mailed SEIs to about 60 filers who had not filed online

within a week after the deadline. It was very helpful to be able to accept those late forms by fax or email.

With the addition of the affidavit information and the waiver requests discussed above, the electronic SEI system would contain all of the possible information submitted on a paper form. The electronic SEI will become the official document, after staff enters the information submitted on paper or via pdf. At that point, the Commission could begin to require electronic filing and refuse to accept SEIs in other formats.

However, at this point, staff believes that a transition period of at least another year or two makes sense. For 2019, staff plans to continue to accept SEIs in paper or pdf format, and suggests revisiting the requirement for electronic filing when the rate of electronic filing increases to above ninety percent.

**Affidavit**

**Statement of Economic Interests  
Customers, Clients, and Tenants**

My spouse on December 31, \_\_\_\_\_, had or may have had an ownership interest of 10% or more in \_\_\_\_\_ . I do not have any knowledge relating to the identity of any of the customers, clients, or tenants of \_\_\_\_\_ and I do not have a right to an accounting of this information.

Because I know I must file this Statement of Economic Interests to the best of my knowledge, information, and belief, I have done the following to try to procure this information:

*Check all that apply.*

- I have asked my spouse for this information, and my spouse has refused to provide it.
- I have asked my spouse for this information, my spouse has requested this information from \_\_\_\_\_, and \_\_\_\_\_ has refused to provide it.
- I have requested this information from \_\_\_\_\_, and \_\_\_\_\_ has refused to provide it.
- Although I have no actual knowledge, I believe the customers, clients, and tenants of \_\_\_\_\_ include the following organizations and lobbyists: \_\_\_\_\_

The information I have listed on my Statement of Economic Interests and above is complete and correct to the best of my knowledge, information, and belief.

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(print name as signed above)

**State of** \_\_\_\_\_  
**County of** \_\_\_\_\_

**Subscribed and sworn to before me this**  
**\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.**

\_\_\_\_\_  
**(signature of notary public)**  
**My commission expires** \_\_\_\_\_.

**Affidavit**

**Statement of Economic Interests  
Authorized Representative**

My spouse on December 31, \_\_\_\_\_, was or may have been an authorized representative or agent of a number of organizations as an attorney at \_\_\_\_\_ . I do not have any knowledge relating to the identity of any of my spouse's clients and I do not have a right to an accounting of this information.

Because I know I must file this Statement of Economic Interests to the best of my knowledge, information, and belief, I have done the following to try to procure this information:

*Check all that apply.*

- I have asked my spouse for this information, and my spouse has refused to provide it.
- I have asked my spouse for this information, my spouse has requested this information from \_\_\_\_\_, and \_\_\_\_\_ has refused to provide it.
- I have requested this information from \_\_\_\_\_, and \_\_\_\_\_ has refused to provide it.
- Although I have no actual knowledge, I believe that my spouse is the authorized representative or agent of the following organizations:  
\_\_\_\_\_.

The information I have listed on my Statement of Economic Interests and above is complete and correct to the best of my knowledge, information, and belief.

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(print name as signed above)

*State of* \_\_\_\_\_  
*County of* \_\_\_\_\_

*Subscribed and sworn to before me this*  
*\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.*

\_\_\_\_\_  
*(signature of notary public)*  
*My commission expires* \_\_\_\_\_.

# Affidavit

## Statement of Economic Interests

My spouse on \_\_\_\_\_ had or may have had securities of which I do not have any  
(Date)  
direct interest or knowledge. He/she also has ownership interests of 10% or more in  
\_\_\_\_\_. I do not have any knowledge relating to the identity of any of the  
(Company)  
customers, clients, or tenants of this business, and I do not have a right to an accounting of this  
information.

Because I know I must file this Statement of Economic Interests to the best of my knowledge,  
information, and belief, I have done the following to try to procure this information:

*Check all that apply.*

- I have asked my spouse for this information, and my spouse has refused to provide it.
- I have asked my spouse for this information, my spouse has requested this information from \_\_\_\_\_, and \_\_\_\_\_ has refused to provide it.
- I have requested this information from \_\_\_\_\_, and \_\_\_\_\_ has refused to provide it.
- Although I have no actual knowledge, I believe the customers, clients, and tenants of \_\_\_\_\_ include the following organizations and lobbyists: \_\_\_\_\_

The information I have listed on my Statement of Economic Interests and above is complete and correct to the best of my knowledge, information, and belief.

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(print name as signed above)

**State of** \_\_\_\_\_  
**County of** \_\_\_\_\_

**Subscribed and sworn to before me this**  
**\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.**

\_\_\_\_\_  
**(signature of notary public)**

**My commission expires** \_\_\_\_\_.





# Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics  
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**DATE:** For the August 21, 2018 Meeting  
**TO:** Members, Wisconsin Ethics Commission  
**FROM:** Julie Nischik, Office Management Specialist  
**SUBJECT:** Biennial Budget 2019-21

## FOR COMMISSION ACTION

1. Review fiscal years 2018 and 2019 budget to actuals
2. Review agency description, mission, performance measures, and program goals
3. Review agency Biennial Budget 2019-21 (supplemental)
4. Review Act 201 scenarios, provide direction to staff
5. Review Campaign Finance system upgrade options, provide direction to staff
6. Review statutory collection of fees, provide direction to staff on any proposed changes

## Background

Commission staff are planning for the 2019-21 Biennial Budget submission, which is due on September 17, 2018. This memorandum and the supplemental materials provide information that must be included in the budget request and decision items to include in the budget submission, which will be drafted based on the guidance provided today and submitted after this meeting.

At the June 19, 2018 meeting, the Commission requested an overview of the current biennium including the budget and actual expenses. Below is the report by fiscal year. Fiscal year 2018 recently concluded and provides the most detail.

## Fiscal Year 2018 (July 2017 to June 2018) Budget to Actuals Overview

	<b>Budget</b>	<b>Actual</b>
GPR Appropriation 101	\$606,801	\$606,801
PR Appropriation 105- Investigations	\$225,000	\$43,979
PR Appropriation 120- Filing Fees	\$31,700	\$0
PR Appropriation 122- Materials & Services	\$4,500	\$4,500
PR Appropriation 123- Lobbying	\$462,900	\$356,021
	<b>\$1,330,901</b>	<b>\$1,011,301</b>

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<i>GPR Appropriation 101</i>		
<b>Allotment Lines</b>	<b>Budget</b>	<b>Actual</b>
Salary	\$251,749	\$251,749
LTE/Per Diem	\$14,614	\$14,614
Fringe	\$98,313	\$98,313
Supplies & Services*	\$242,125	\$242,125
	<b>\$606,801</b>	<b>\$606,801</b>

*\*Supplies & Services Breakdown – GPR Appropriation 101*

<b>Description</b>	<b>Budget</b>	<b>Actual</b>
Data Processing – Private	\$146,618.98	\$146,618.98
Data Processing – State	\$32,669.79	\$32,669.79
Other Supplies/Services	\$12,616.37	\$12,616.37
Mail, Postage, & Freight	\$785.80	\$785.80
Printing	\$13.87	\$13.87
Rent	\$41,641.05	\$41,641.05
Telecommunications	\$3,960.94	\$3,960.94
Travel & Training	\$3,818.26	\$3,818.26
	<b>\$242,125.06</b>	<b>\$242,125.06</b>

<i>Investigations Appropriation 105</i>		
<b>Allotment Line</b>	<b>Budget</b>	<b>Actual</b>
Supplies & Services	\$225,000	\$43,979
	<b>\$225,000</b>	<b>\$43,979</b>

<i>Program Revenue (Filing Fees) Appropriation 120</i>		
<b>Allotment Line</b>	<b>Budget</b>	<b>Actual</b>
Supplies & Services	\$31,700	\$0
	<b>\$31,700</b>	<b>\$0</b>
<b>Ending Revenue Balance</b>		<b>\$202,842.81</b>

<i>Program Revenue (Materials &amp; Services) Appropriation 122</i>		
<b>Allotment Line</b>	<b>Budget</b>	<b>Actual</b>
Supplies & Services	\$4,500	\$4,500
	<b>\$4,500</b>	<b>\$4,500</b>
<b>Ending Revenue Balance</b>		<b>\$11,019.64</b>

<i>Program Revenue (Lobbying) Appropriation 123</i>		
<b>Allotment Lines</b>	<b>Budget</b>	<b>Actual</b>
Salary	\$197,400	\$194,587
LTE/Per Diem	\$1,000	\$0
Fringe	\$78,000	\$64,326
Supplies & Services**	\$186,500	\$97,108
	<b>\$462,900</b>	<b>\$356,021</b>
<b>Ending Revenue Balance</b>		<b>\$395,852.55</b>



**\*\*Supplies & Services Breakdown – Appropriation 123**

<b>Description</b>	<b>Budget</b>	<b>Actual</b>
Contractual Services	\$2,000	\$1,703.43
Data Processing – Private	\$73,200	\$42,260.47
Data Processing – State	\$12,000	\$10,419.26
Other Supplies/Services	\$59,651.31	\$7,976.50
Mail, Postage, & Freight	\$100	\$0.46
Rent	\$31,573.99	\$31,573.99
Telecommunications	\$2,974.7	\$2,974.70
Travel Out of State	\$4,000	\$0
Travel & Training	\$1,000	\$199.00
	<b>\$186,500</b>	<b>\$97,107.81</b>

**Fiscal Year 2019 (July 2018 to June 2019) Budget Overview**

Note: Fiscal Year 2019 is also the base used to establish the Biennial Budget for 2019-21

<b>Allotment Lines</b>	<b>GPR (101)</b>	<b>Investigations (105)</b>	<b>Filing Fees (120)</b>	<b>Mats. &amp; Srvs (122)</b>	<b>Lobbying (123)</b>
Salary	\$231,900	\$0	\$0	\$0	\$197,400
LTE/Per Diem	\$1,300	\$0	\$0	\$0	\$1,000
Fringe	\$91,700	\$0	\$0	\$0	\$78,000
Supplies & Services	\$282,600	\$225,000	\$31,700	\$4,500	\$186,500
	<b>\$607,500</b>	<b>\$225,000</b>	<b>\$31,700</b>	<b>\$4,500</b>	<b>\$462,900</b>

## **Biennial Budget Agency Request 2019-21**

### **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 staff is non-partisan, including the administrator. 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, lobbying, and the Code of Ethics (Wisconsin Chapters 11, campaign finance; Chapter 13 Subchapter III, lobbying; and, Chapter 19 Subchapter III, the code of ethics). The duties of the Ethics Commission are codified in WIS. STAT. §§ 11.1304, 13.685, and 19.48.

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

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
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 related activities.

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

### **Campaign Finance**

Wisconsin campaign finance law requires candidates for state public office, political 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 and enforcing registration and reporting requirements along with limits on the source and amount of campaign funding. Information is available to the public on the Commission website: <http://ethics.wi.gov/campaign-finance>, and through <https://cfis.wi.gov>.

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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 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 online at <http://sei.wi.gov/>, 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 website: <https://ethics.wi.gov/Pages/Ethics/Ethics.aspx>.

## **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 website: <https://ethics.wi.gov/Pages/Ethics/ContractSunshine.aspx>.

## **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.

## **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**

**2017 and 2018 Goals and Actuals**

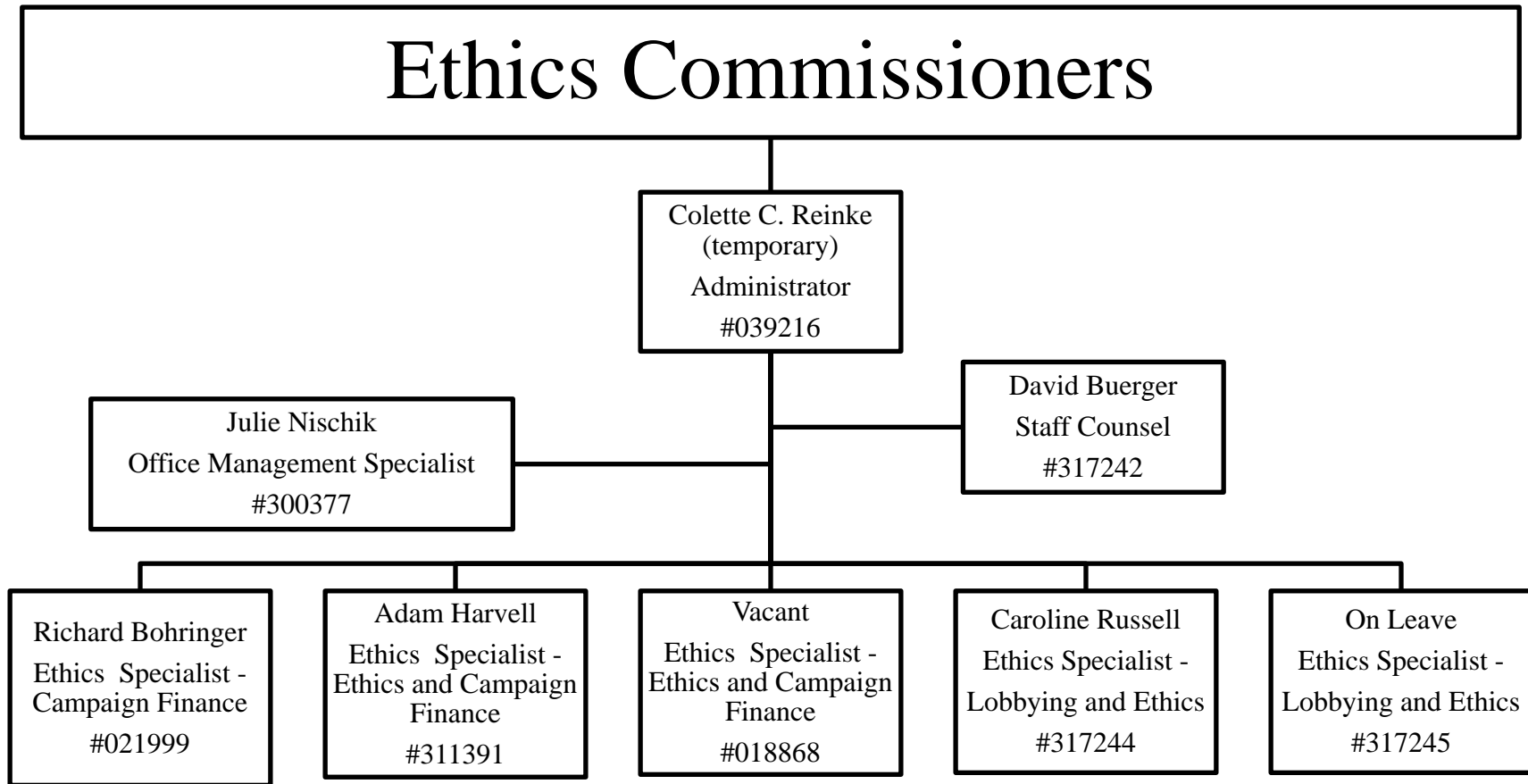
<b>Prog. No.</b>	<b>Performance Measure</b>	<b>Goal 2017</b>	<b>Actual 2017</b>	<b>Goal 2018</b>	<b>Actual 2018</b>
1	Percentage of fees received by electronic payment methods	50%	23%	65%	47%
1	Percentage of campaign finance registrations completed electronically	50%	70%	N/A	N/A
1	Percentage of campaign finance reports filed electronically	50%	74%	N/A	N/A
1	Percentage of campaign finance reports filed on or before the required date	99%	87%	99%	91%
1	Percentage of lobbyist time reports completed on or before the required date	99%	99%	99%	99%
1	Percentage of registered principals completing their Statements of Lobbying Activities and Expenditures (SLAEs) on or before the required date	99%	99%	99%	99%
1	Percentage of required SEIs filed on or before the required date	99%	96%	99%	95%

Note: Goals and actuals are based on fiscal year. Campaign finance reports are now required to be submitted electronically, and the Commission no longer accepts any other form of submission. Campaign finance registration forms are prescribed by the Commission to be electronic, with few exceptions when technical difficulties were present.

**2019, 2020, and 2021 Goals**

<b>Prog. No.</b>	<b>Performance Measure</b>	<b>Goal 2019</b>	<b>Goal 2020</b>	<b>Goal 2021</b>
1	Fees received by electronic payment methods	50%	55%	60%
1	Campaign finance reports filed on/before the required date	92%	95%	99%
1	Percentage of committees in compliance, based on audit findings	90%	93%	95%
1	Lobbyist time reports completed on/before the required date	99%	99%	99%
1	Principals completing their Statements of Lobbying Activities and Expenditures on/before the required date	99%	99%	99%
1	Percentage of principals in compliance, based on audit findings	95%	97%	99%
1	Required Statements of Economic Interest filed on or before the required date	99%	99%	99%
1	Statements of Economic Interest filed electronically	90%	92%	95%

Organizational Chart





**Agency Totals by Fund Source, Program, and Decision Items**

See supplemental materials.

**Program Revenue Balances Statement**

See supplemental materials.

**Decision Items**

See supplemental materials.

**Act 201**

At the June 19, 2018 Commission meeting, the commissioners requested multiple options be provided regarding the Act 201 requirements of the biennial budget. The Commission must present two scenarios in the final budget submitted to the state, one that shows zero percent growth over two fiscal years, and one that shows a five percent reduction in each fiscal year. Below are tables representing the zero and five percent change for each fiscal year. The five percent reduction sections include two options, of which the Commission must determine which will be presented in the final budget submission.

FY2020 0% change in each fiscal year

	<b>Adjusted Base</b>	<b>0% Change Target</b>	<b>Proposed Budget 2019-20</b>	<b>Change from base</b>
101	\$607,500	0	insert salary adjusted budget amounts	Any decision items (should equal 0% growth)
105	\$225,000	0		
120	\$31,700	0		
122	\$4,500	0		
123	\$462,900	0		
<b>Totals</b>	<b>\$1,331,600</b>	<b>0</b>		

FY2020 5% reduction in each fiscal year

*Option 1 – 5% reduction from Investigations appropriation*

	<b>Adjusted Base</b>	<b>5% Reduction Target</b>	<b>Proposed Budget 2019-20</b>	<b>Change from base</b>
101	\$607,500	\$0	insert salary adjusted budget amounts	
105	\$225,000	\$(66,580)		
120	\$31,700	\$0		
122	\$4,500	\$0		
123	\$462,900	\$0		
<b>Totals</b>	<b>\$1,331,600</b>	<b>\$(66,580)</b>		

*Option 2 – 5% reduction from each appropriation*

	<b>Adjusted Base</b>	<b>5% Reduction Target</b>	<b>Proposed Budget 2019-20</b>	<b>Change from base</b>
101	\$607,500	\$(30,375)	insert salary adjusted budget amounts	
105	\$225,000	\$(11,250)		
120	\$31,700	\$(1,585)		
122	\$4,500	\$(225)		
123	\$462,900	\$(23,145)		
<b>Totals</b>	<b>\$1,331,600</b>	<b>\$(66,580)</b>		

FY2021 0% change in each fiscal year

	<b>Adjusted Base</b>	<b>0% Change Target</b>	<b>Proposed Budget 2020-21</b>	<b>Change from base</b>
101	\$607,500	0	insert salary adjusted budget amounts	Any decision items (should equal 0% growth)
105	\$225,000	0		
120	\$31,700	0		
122	\$4,500	0		
123	\$462,900	0		
<b>Totals</b>	<b>\$1,331,600</b>	<b>0</b>		

FY2021 5% reduction in each fiscal year

*Option 1– 5% reduction from Investigations appropriation*

	<b>Adjusted Base</b>	<b>5% Reduction Target</b>	<b>Proposed Budget 2020-21</b>	<b>Change from base</b>
101	\$607,500	\$0	insert salary adjusted budget amounts	
105	\$225,000	\$(66,580)		
120	\$31,700	\$0		
122	\$4,500	\$0		
123	\$462,900	\$0		
<b>Totals</b>	<b>\$1,331,600</b>	<b>\$(66,580)</b>		

*Option 2– 5% reduction from each appropriation*

	<b>Adjusted Base</b>	<b>5% Reduction Target</b>	<b>Proposed Budget 2020-21</b>	<b>Change from base</b>
101	\$607,500	\$(30,375)	insert salary adjusted budget amounts	
105	\$225,000	\$(11,250)		
120	\$31,700	\$(1,585)		
122	\$4,500	\$(225)		
123	\$462,900	\$(23,145)		
<b>Totals</b>	<b>\$1,331,600</b>	<b>\$(66,580)</b>		

## Campaign Finance System Upgrade

### Background on the Campaign Finance Information System (CFIS)

- Original cost: \$1,794,000 to develop
- Current maintenance costs: FY17 \$49,500, FY18 \$49,500, FY19 \$24,750<sup>1</sup>
- Timeline: began RFP process in 2007, contract signed February 2008, final deliverables around 2010

In Fall of 2017, Commission staff conducted a survey of CFIS users. The survey is attached as Attachment A. Nearly half of CFIS users report neutral or negative experience with using the website. The system is outdated, and not mobile friendly. Staffs experience in working with PCC has been negative and difficult much of the time, as well as costly. We only have a license to use the application code, not access to the code. Therefore, most changes and updates to the system need to be done through PCC and at additional costs.

	<b>Description</b>	<b>Est. Timeline</b>	<b>Est. Budget</b>
Option 1	Utilize existing software from the State of Massachusetts to develop a customized system for Wisconsin. The Commission would need to hire at least one additional developer to do the majority of the work on customizing the code from Massachusetts to suit the needs of the agency and align with Wisconsin statutes.	One year to develop, one year for training and implementation. Two years total.	Code from Massachusetts is provided at no cost. Hiring a developer for 1 year at \$75/hour = \$156,000 Maintenance costs – part time developer 1,000 hours/year for at least 1 year \$78,000
Option 2	Outsource the project to another vendor, through the Request for Proposal (RFP) process. Not many known vendors can provide this service; PCC is one of few who do this work.	One year to develop business and system requirements, publish the RFP, select a vendor, and sign a contract. One year to develop system, one year for training and implementation. Three years total.	Commission staff would execute the RFP process with the assistance of DOA State Bureau of Procurement and DOA Division of Enterprise Technology. Cost to develop new software is unknown. PCC recently provided some estimates for updating to the newer version of our current site. This information is provided below. Annual maintenance costs may be similar or slightly higher than currently.

<sup>1</sup> FY19 is reduced because the maintenance contract is only a limited extension for 6 months. All prior maintenance contracts have been for a full year.

Option 3	Develop customized system from scratch in house	Six months to develop business and system requirements and hire technical contractors. One year to develop software. One year for implementation and training. Two and a half years total	1 year at \$75/hour = \$156,000 x 2 developers = \$312,000. Annual maintenance costs similar to option 1.
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PCC was able to provide us with estimates for updates and redevelopment of our current system. A perpetual right-to-use license for the current CFIS system would be \$125,000. This does not include access to the application code, meaning that all code revisions would need to be implemented through PCC at additional costs. The newer updated version on CFIS would cost an estimated \$499,000. This estimate does not include the license cost or the on-going maintenance and hosting costs. This estimate is for a system that would have some reduced capability and features. It would not include the limited auditing capabilities that the current system has. The new version would also only be a right-to-use license, without access to application code.

PCC also provided an estimate for a SaaS model of licensing. This type of licensing model provides the license on a subscription basis. There would be an initial one-time charge of \$50,000 and a monthly charge of \$11,000 or \$132,000 for a year. The minimum term is 5 years. These estimates include the maintenance and hosting of the system.

Options to potentially include in the Biennial Budget:

- Include a decision item within the budget request to increase spending authority on program revenue (filing fees)
- Include a decision item within the budget request to change filing fee statute to increase the fee to pay for upgrade
- Include a decision item within the budget request to request funds from the state to pay for upgrade

**Discussion of statutory fees**

One additional item to review related to the budget is the statutory fees that the Commission collects. These are provided in the table below. The options for the campaign finance system upgrade include possible increases to filing fees to pay for the upgrade. Does the Commission wish to discuss or request any other decreases or increases in the current fees?

<b>Statute</b>	<b>Language</b>	<b>Current Fee Amount</b>	
20.521 (1) (g)	<i>General program operations; program revenue.</i> The amounts in the schedule for general program operations under ch. <a href="#">11</a> and subch. <a href="#">III of ch. 19</a> . All moneys received from fees imposed under s. <a href="#">11.0102 (2)</a> shall be credited to this appropriation account.	\$100 annual filing fee for all non-candidate committees with disbursements greater than \$2,500	
20.521 (1) (i)	<i>Materials and services.</i> The amounts in the schedule for the cost of publishing documents, locating and copying records, postage and shipping, and conducting programs under s. <a href="#">19.48 (9)</a> and of compiling, disseminating, and making available information prepared by and filed with the commission under s. <a href="#">19.48 (10)</a> . All moneys received by the commission from sales of documents, and from fees collected for copies of records, for postage, shipping, and location fees, and from fees assessed under s. <a href="#">19.48 (9)</a> and <a href="#">(10)</a> shall be credited to this appropriation account.	Cost of reimbursement for copies, shipping, staff time to gather records; the Commission only charges if the cost is greater than \$25 per record request	
20.521 (1) (im)	<i>Lobbying administration; program revenue.</i> The amounts in the schedule for the administration of subch. <a href="#">III of ch. 13</a> . All moneys received from the fees imposed under s. <a href="#">13.75</a> shall be credited to this appropriation account.	Lobbying license (single)	\$250
		Lobbying license (multiple)	\$400
		Principal registration	\$375
		Lobbyist authorization	\$125/lobbyist
		Limited lobbying registration	\$20
		FOCUS subscription	\$100



State of Wisconsin  
Ethics Commission

# 2018 Annual Agency Report

August 21, 2018

[Ethics@wi.gov](mailto: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.

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The administrator serves as the agency head, and is responsible for the daily operations of the Commission. The Commission staff is non-partisan, including the administrator. 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, lobbying, and the Code of Ethics (Wisconsin Chapters 11, campaign finance; Chapter 13 Subchapter III, lobbying; and, Chapter 19 Subchapter III, the code of ethics). The duties of the Ethics Commission are codified in WIS. STAT. §§ [11.1304](#), [13.685](#), and [19.48](#).

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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 related activities.

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

### **Campaign Finance**

Wisconsin campaign finance law requires candidates for state public office, political 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 and enforcing registration and reporting requirements along with limits on the source and amount of campaign funding. Information is available to the public on Commission website: <http://ethics.wi.gov/campaign-finance>, and through <https://cfis.wi.gov>.

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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 website: <https://ethics.wi.gov/Pages/Lobbying/About-Lobbying.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 website: <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 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 new performance measures established by the Wisconsin Ethics Commission in 2018. The Commission's next annual report will include actual measured performance relative to these goals.

<b>Performance Measure (by Fiscal Year)</b>	<b>Goal 2018</b>	<b>Actual 2018</b>	<b>Goal 2019</b>	<b>Goal 2020</b>
Fees received by electronic payment methods	50%	46.6%	50%	55%
Campaign finance registrations created/amended electronically <sup>1</sup>	N/A	N/A	N/A	N/A
Campaign finance reports filed electronically <sup>2</sup>	N/A	N/A	N/A	N/A
Campaign finance reports filed on/before the required date	90%	91.23%	92%	95%
Percentage of committees in compliance, based on audit findings	90%	91%	90%	90%
Lobbyist time reports completed on/before the required date	99%	99.6%	99%	99%
Principals completing their Statements of Lobbying Activities and Expenditures on/before the required date	95%	99.8%	99%	99%
Percentage of principals in compliance, based on audit findings	99%	99.5%	99%	99%
Required SEIs filed on or before the required date	96%	95%	96%	97%
Statements of Economic Interest filed electronically	N/A	80%	90%	92%

---

<sup>1</sup> Campaign finance registration forms are prescribed by the Commission to be electronic, with few exceptions when technical difficulties were present.

<sup>2</sup> This performance measure is no longer applicable to the Ethics Commission, as WIS. STAT. § 11.1304 requires all committees that file with the Commission to file electronically.

# 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 Administrator to issue informal advisory opinions at its March 7, 2017 meeting.

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 is in the process of promulgating the necessary administrative rule, but has not authorized the Administrator to settle any alleged offenses.

*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%)
- 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%)
- 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 or the code of ethics. Entry and senior level Ethics Specialists share similar position descriptions, with slightly different allocations of effort, duties and responsibilities.

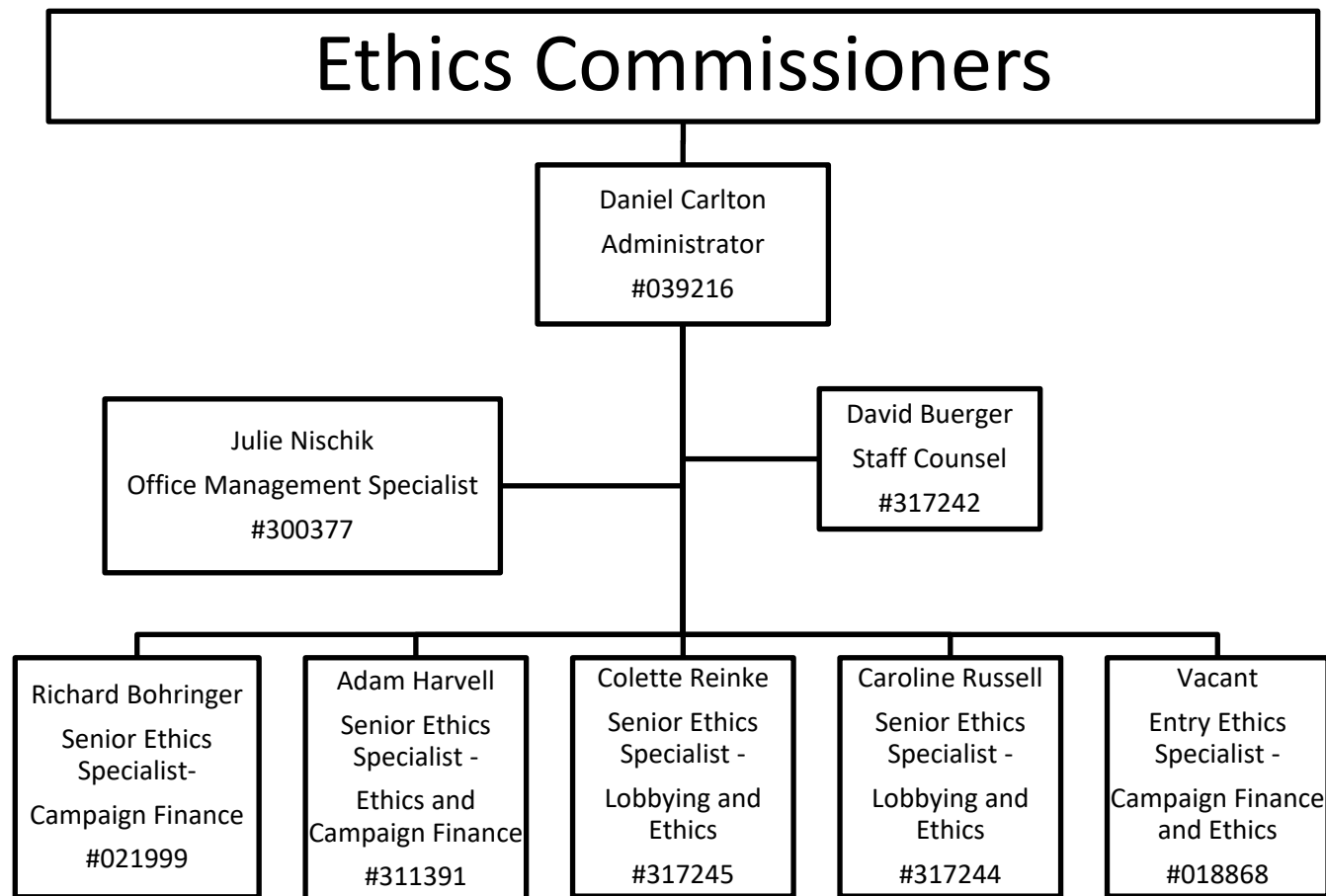
Under the general supervision of the Administrator of the Wisconsin Ethics Commission, these positions provide operational execution of the Wisconsin Ethics Commission's statutory responsibilities, and ensuring compliance with Wisconsin's campaign finance, lobbying, financial disclosure, and ethics laws. 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 reviews 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
- E. Perform all 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 August 21, 2018 meeting. 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.

### Previous Recommendations for Potential Legislation

In the 2017 annual report, the Ethics Commission presented 30 potential changes to the statutes that the Ethics Commission is responsible for administering. The potential changes included 7 from 2017 and 23 from the 2016 annual report. The Commission approved these 30 recommendations at its August 22, 2017 meeting. In 2017, the Ethics Commission also directed staff to work with the Legislative Reference Bureau and exercise the agency's drafting privileges regarding the recommendations where the Commission included a proposed change.

This work resulted in three drafts:

- LRB 17-0469\_P6: Campaign Finance changes;
- LRB 17-0476\_P3: Lobbying minor changes and reorganization of the lobbying prohibited practices provisions for clarity; and
- LRB 17-0477\_P3: Lobbying and Ethics minor changes.

The 30 recommendations from the 2017 annual report are restated below.

#### Campaign Finance (Chapter 11, Wisconsin Statutes)

1. § 11.0101(7). Listing the committee types that a conduit can give to in the definition makes it unclear whether conduits can give to federal candidates, out-of-state candidates, independent disbursement committees, referenda committees, or recall committees. Since the individual can give to all of those entities on their own, it seems logical that they should be able to do so through the conduit. The Legislature should consider revising this provision to remove the list of committees and instead state *any candidate or committee at the direction of the contributor*.
2. § 11.0102(2)(a). The previous statute said only committees required to register *with the board* had to pay filing fees. This statute implicates local recall committees and referendum committees that register with local clerks, not the Ethics Commission. In order to limit the filing fees provision, the Legislature should revise this provision to only committees required to register with the commission under this chapter.
3. § 11.0104. The annual expiration and renewal of exempt status is reasonable for committees that file at the state level. However, for local filing officers, it's time consuming and doesn't accomplish very much. Virtually all local committees are on exempt status, and tend to remain that way as long as that person holds office. The Legislature should add qualifying language that would limit the annual requirement to registrants that file with the Commission.
4. § 11.0104(1). This statute exempts committees from filing campaign finance reports if they have under \$2,000 in activity in a calendar year. It talks only about *amending* a registration statement - it does not, however, appear to allow a committee to claim the exemption when it files its initial registration. The Legislature should revise this provision by removing the word *amended* regarding claiming exemption. The Legislature could also consider changing the \$2,000 threshold to \$2,500 in order to be consistent with the threshold for registering most committees in Ch. 11.
5. § 11.0104(2). This statute covers committees on exempt status that should not be required to file any reports. The use of the words *continuing reports* leaves the requirements for pre-primary, pre-election, and post-election reports ambiguous. Staff recommends changing *continuing reports* to *campaign finance reports*.
6. § 11.0104(4). This provision exempts committees who are exempt from reporting requirements from filing termination reports. The Legislature should consider requiring termination reports regardless of exempt status to ensure disclosure of how residual funds were disposed.

7. § 11.0201(4). Contribution limits cover the entire election period – four, six, or ten years for some candidates. In order to audit contribution limits properly, the entire election period must be covered. Committees should keep records for the entire campaign period plus an additional three years after the election occurs in order to facilitate potential audits. The Legislature could address this by modifying this provision to state that *the treasurer shall maintain records for the entire campaign period in an organized and legible manner for not less than three years after the date of the election in which the candidate committee participates.*
8. §§ 11.0204(4)(d) and (5)(c), 11.0204(6)(b), 11.0304(4)(d) and (5)(c), 11.0404(2)(d) and (3)(c), 11.0504(4)(d) and (5)(c), 11.0604(4)(d) and (5)(c), 11.0704(4)(b) and (5)(b), 11.0804(4)(d) and (5)(c), and 11.0904(4)(d) and (5)(c). Several provisions regarding which committees are required to file a September continuing report in even years are not clear. Statutes require all partisan candidates and office holders to file the September continuing report, regardless of whether they are on the ballot in that election (e.g., state senators and state constitutional officers). The other provisions appear to limit the requirement to committees that make or accept contributions, make disbursements, or incur obligations to support or oppose one or more candidates (or referendum, in the case of referendum committees) at a partisan primary or general election. The Legislature should clarify the reporting sections of the statutes to either require all committees to file September continuing reports, or to specify a time period that would qualify a committee as having supported or opposed one or more candidates at a partisan primary or general elections (e.g., 60 days prior, during the campaign period, during the calendar year, etc.).
9. §§ 11.0204(1)(a) 7, 11.0304(1)(a) 7, 11.0404(1)(a) 7, 11.0504(1)(a) 7, 11.0604(1)(a) 7, 11.0804(1)(a) 6, 11.0904(1)(a) 7. These provisions exempt loans made to a committee of \$20 or less from itemized reporting. This conflicts with other contributions, which must be itemized, unless anonymous. The Legislature should remove the language *in an aggregate amount or value in excess of \$20* to require itemization of all contributions.
10. §§ 11.0204(7), 11.0304(7), 11.0404(7). These provisions establish a start date to begin late reporting, but no date to end them. The current statutes also require 72-hour late reporting of independent expenditures, and that reporting period ends on the day of the primary or election. The Legislature should add to these provisions *that late reporting requirements end on the day of the primary or the election.*
11. § 11.0505 (1) (a) and § 11.0605 (1) (a). This provision does not define starting and ending points for determining the aggregate spending on express advocacy and could lead to confusion on the requirement to file reports. The Legislature should require committees to begin counting express advocacy expenses 60 days prior to the primary and continue through the date of the election. Committees would aggregate totals separately for the spring and fall election periods.
12. § 11.1103. The Legislature should revise the citations in this provision to reference § 11.1101 (1) to (4), instead of just (1) to (3). This appears to be a drafting oversight that did not account for (4) which addresses *other persons.*
13. § 11.1103. Previously, campaign periods ended on December 31st and June 30th, corresponding with the January and June campaign finance reports. Under the current version of statutes, the campaign period ends on the day before the term of office begins.

For the November Election the campaign period ends sometime during the first week of January; the campaign period for local officials sometime in April or May; and the campaign period for judges ends July 31st. Since reports covering early January are not due until July, and reports covering July are not due until January, this delays auditing by six months. It's more difficult for candidates to keep a tally of contributions, since one report covers two campaign periods. It's also confusing for local candidates and filing officers. The Legislature should modify this provision to state that campaign periods end on the same date as the last day covered under the first continuing report due after the election. This would reinstate the December 31<sup>st</sup> and June 30<sup>th</sup> dates.

14. § 11.1208(2). The term “strictly personal use” is not defined by statute. The Federal Elections Commission does provide a definition of a “personal use,” a similar term. The Legislature should codify a definition of “strictly personal use” in statute.
15. § 11.1302. This provision requires any committee that makes a donation to a charity or the common school fund to report that activity within five days to their filing officer. With the rewrite of chapter 11, § 11.1208(2)(b)(3) specifically allows donations to charity or the common school fund. The original provision was added into statutes at the same time as another provision allowing committees to make donations to charity or the common school fund. Staff cannot identify a public interest that would require the disclosure within five days. In practice, some committees choose to donate contributions received from persons with negative or controversial reputations. CFIS currently allows them to disclose that voluntarily or with their next report. The legislature could remove this provision from statutes.
16. § 11.1303(2)(a). This provision limits the requirement for a disclaimer (e.g., paid for by...) to express advocacy. Since express advocacy as defined in §11.0101(11) applies only to communications about candidates, referenda committees would not have to provide a disclaimer under current law. The Legislature could consider whether or not to extend this requirement to referenda committees.
17. §§ 11.1400(5) and 11.1401(2). These provisions imply that the Ethics Commission must act and make a probable cause determination prior to a district attorney acting on a complaint under the Commission’s jurisdiction. An opinion of the Attorney General, [OAG 10-08](#), and § 978.05 contradict this and state that the Commission and district attorneys have coequal jurisdiction. The Legislature should revise this provision to reflect the coequal jurisdiction of the Commission and district attorneys.
18. Source Restrictions for Unregistered Entities Seeking to Contribute to Wisconsin Committees

If a section 527 organization or nonresident PAC registers as a PAC in Wisconsin, it is prohibited from accepting contributions from corporations, associations, labor unions, or tribes. [WIS. STAT. § 11.1112](#). If a section 527 organization or nonresident PAC registers as an independent expenditure committee, no source restrictions apply, but it cannot contribute to committees other than another independent expenditure committee or a referendum committee. WIS. STAT. §§ [11.0601\(3\)\(b\)](#), [11.1112](#).

If a section 527 organization or nonresident PAC is not required to register in Wisconsin, but chooses to contribute to Wisconsin committees, the law is unclear as to what, if any, source restrictions would apply.

Wisconsin's source restriction provision, [WIS. STAT. § 11.1112](#), states:

“No foreign or domestic corporation, no association organized under ch. [185](#) or [193](#), no labor organization, and no federally recognized American Indian Tribe may make a contribution to a committee, other than an independent expenditure committee or referendum committee, but may make a contribution to a segregated fund as provided under s. [11.1104 \(6\)](#) in amounts not to exceed \$12,000 in the aggregate in a calendar year.”

“Committee” is defined by [WIS. STAT. § 11.0101\(6\)](#) as:

“A candidate committee, legislative campaign committee, political action committee, independent expenditure committee, political party, recall committee, and referendum committee.”

The absence of language addressing unregistered entities in [WIS. STAT. § 11.1112](#) is expected as the entity may have no ties to Wisconsin and those sources may be perfectly permissible in the entity's home jurisdiction. However, when such an unregistered entity chooses to contribute to a Wisconsin committee there may be reason to question whether the entity should be required to make such a contribution only from sources of funds permissible in Wisconsin. Federal campaign finance law specifically addresses this type of situation and requires the unregistered contributor to make donations only from funds that are permissible under federal law. *See* 52 U.S.C. § 30125; 11 CFR § 102.5.

Currently, prohibited sources of funds like corporations cannot contribute to candidates at all and can only contribute money to political parties and legislative campaign committees through what is known as a “segregated fund”. [WIS. STAT. § 11.1112](#). These segregated funds are established by a political party or legislative campaign committee and the funds in them cannot be used to make contributions to a candidate committee or for disbursements for express advocacy. WIS. STAT. §§ [11.1104\(6\)](#), [11.1112](#). If corporations can give to 527s and non-resident PACs who can in turn give to Wisconsin committees without also segregating those corporate funds, it undermines the restrictions of [WIS. STAT. § 11.1112](#). It seems illogical that the Legislature would erect a barrier to such contributions only to allow them into campaigns via these entities.

The courts have said, “If a statute fails to cover a particular situation, and the omission should be cured, the remedy lies with the Legislature, not the courts.” *La Crosse Lutheran Hosp. v. La Crosse County*, 133 Wis. 2d. 335, 338 (1986). Accordingly, the Commission will not read words into the statute that are not there, but instead refers the matter to your committees for consideration.

The Commission requests that the Legislature review this issue to clarify if unregistered entities are required to abide by Wisconsin source restrictions when contributing to Wisconsin committees. The Commission referred this matter to the appropriate standing committees of the Legislature on March 14, 2017.

19. [§ 11.0101\(7\)](#). A review of legislative history illustrates that the creation of conduits under Wisconsin’s Campaign Finance laws intended to limit contributions to and given through a conduit to only individuals. The Legislature should update the definition of a conduit in statutes to specify that only individuals can contribute to and through a conduit.
20. [§§ 11.0103\(3\)\(a\)3.](#), [11.0204\(3\)\(c\)](#), [11.0204\(5\)\(d\)](#), [11.0304\(3\)\(c\)](#), [11.0304\(5\)\(d\)](#), [11.0404\(3\)\(d\)](#), [11.0504\(3\)\(c\)](#), [11.0504\(5\)\(d\)](#), [11.0604\(3\)\(c\)](#), [11.0604\(5\)\(d\)](#), [11.0704\(3\)\(b\)](#), and [11.0704\(5\)\(c\)](#). These provisions related to a post-election report required after a special election unless a continuing report is due on or before the 45<sup>th</sup> day after a special election. The report covers all activity after the special pre-election report through 22 days after the special election, and committees must file the report between the 23<sup>rd</sup> and 45<sup>th</sup> day after the special election. The Legislature should consider repealing these provisions to simplify reporting requirements. There is minimal value to public disclosure by requiring these special reports, rather than waiting until the next required continuing report, similar to regularly scheduled elections. If the Legislature wishes to retain these special election reports, the Legislature should at least consider removing the requirement from conduits, who do not file any other election-related reports.
21. [§ 11.1106\(3\)](#). This provision requires the filing officer of a conduit to place a copy of conduit contributions reported in a file for both the conduit and the recipient committee. Under the current campaign finance laws, the Ethics Commission is the only filing officer for all conduits. The Commission now maintains all of this information electronically through the Campaign Finance Information System (CFIS) at <https://cfis.wi.gov>. The information is available to the public under both the conduit and the receiving committee. The Legislature should consider repealing this provision because it is no longer required based on the use of technology to make this information readily available to the public.
22. [§ 11.1113\(3\)](#). This section of the statutes addresses contributions from limited liability companies. There are references in this section to both *candidate committees* as well as the more general *committees*. For consistency and uniform treatment of contributions, the Commission recommends that the Legislature remove the word *candidate* from this provision where it is followed by the word *committee* so that this section applies to all types of committees.

#### Lobbying (Subchapter III, Chapter 13, Wisconsin Statutes)

23. [§ 13.625](#). This provision outlines prohibited practices for lobbyists. The construction of this provision meanders back and forth between prohibited and permissible practices. For clarity, the State Legislature could revise this provision in order to clarify prohibited and permissible practices. Please refer to the additional memorandum included regarding proposed language revision for this section of the statutes.
24. [§ 13.68\(6\)](#). This provision of the statutes requires that the Commission “mail written notices” to lobbying principals and authorized lobbyists of those principals that fail to file timely reports. The legislature could modernize this provision to facilitate more cost-effective means of notification such as email by replacing “mail written notices” with “provide notice by the most effective means available” or other similar language. Commission staff has also requested an opinion from the Attorney General regarding the constitutionality of Commission’s ability to restrict a principal’s ability to lobby under this provision related to their right to free speech.



25. [§ 13.685\(7\)](#). This provision requires the Commission to provide information to legislative clerks related to lobbying. All required information is publicly available on the Commission’s *Eye on Lobbying* website. This provision was enacted prior to the creation of the lobbying website. Commission staff and the Legislative Chief Clerks agree that this provision is unnecessary and could be removed. The State Legislature could consider eliminating this unnecessary provision.
26. [§ 13.63\(1\)\(a\)](#). This section lists the information a lobbyist must provide when applying for a license. The Ethic Commission requests that the Legislature add a provision for a lobbyist applicant to voluntarily provide on their application their personal address, in order to facilitate more accurate auditing of prohibited personal contributions by lobbyists under [Wis. Stat. § 13.625\(1m\)](#), as well as adding that personal address to information not available for public inspection under [Wis. Stat. § 19.55\(2\)\(d\)](#).

Code of Ethics (Subchapter III, Chapter 19, Wisconsin Statutes)

27. [§§ 16.753, 19.48\(11\), and 20.9305\(2\)\(e\)](#). These provisions require the Commission to “maintain an internet site on which the information required to be posted by agencies under [Wis. Stat. § 16.753\(4\)](#) can be posted and accessed. The information on the site shall be accessible directly or by linkage from a single page on the internet.” This information has historically been available at <http://sunshine.wi.gov/>. Since the enactment of the Wisconsin Contract Sunshine Act, two other sites maintained by the State of Wisconsin provide the required information: VendorNet (<https://vendornet.wi.gov/>) and OpenBook Wisconsin (<http://openbook.wi.gov/>). In a 2011 report, the Legislative Audit Bureau similarly noted that this provision was outdated and recommended that the project be terminated.
28. [§ 19.42\(12\)](#). The current definition of a security used to determine what financial information filers must disclose on a statement of economic interests (SEIs) excludes only certificates of deposit and deposit accounts such as a checking or savings account. There are other types of securities that would be included in the definition provided in Wis. Stat. [§ 551.102\(28\)](#) that provide no substantial information regarding a person’s economic interests that may influence their official actions. The State Legislature could simplify the SEI reporting and reduce the burden on filers without reducing transparency regarding the economic interests of public officials by excluding defined benefit retirement plans, annuities, and money market funds from the definition of security in this provision of the statutes. The definition could also exclude mutual funds and exchange-traded funds (ETFs). All of these types of securities consist of a diverse conglomeration of securities not managed under the direct or indirect control or influence of the individual.
29. [§ 19.45\(12\)](#). A U.S. District Court found this provision unconstitutional. The State Legislature should repeal this provision. *Barnett v. State Ethics Board*, 817 F. Supp. 67 (1993).
30. [§ 19.43\(1\)](#). This provision requires any official required to file a statement of economic interests with the Commission for the preceding year to do so if the individual holds a position that is required to file an SEI for even one day in that year. Officials who leave state service early in the year, including Legislators whose term ends on the first Tuesday

in January are included in this requirement. The Commission and its predecessors have historically had to spend a disproportionate amount of effort to obtain filing from officials required to file that leave office. The Legislature may wish to consider amending section to exempt officials from filing if they have served less than 15 days in a calendar year. Alternatively, the Legislature could consider requiring officials required to file that leave their position and no longer hold a position required to file to file a terminating report within 21 days of terminating their state service.

### **New Recommendations for Potential Legislation**

#### 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 Commissions concerns on this matter. Appendix L contains this letter.

#### Lobbying (Subchapter III, Chapter 13, Wisconsin Statutes)

#### Code of Ethics (Subchapter III, Chapter 19, Wisconsin Statutes)

### **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 during fiscal year 2018, between July 1, 2017 and June 30, 2018. 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-2017-013	Segregated Funds Permitted Contributions and Disbursements	Formal Opinion 2017-ETH-03
It is the opinion of the Commission that:		
<ol style="list-style-type: none"> <li>1. Individuals, which include sole proprietorships, partnerships, and certain LLCs, may make unlimited monetary and in-kind contributions to segregated funds. However, corporations, labor organizations, cooperatives, federally-recognized Indian tribes, political action committees and other persons may only make monetary and in-kind contributions to a segregated fund of up to \$12,000 in a calendar year.</li> <li>2. A political party or legislative campaign committee may not make monetary or in-kind contributions to candidate committees or make disbursements for express advocacy using segregated funds.               <ol style="list-style-type: none"> <li>a. A political party or legislative campaign committee may provide goods and services to a candidate which was paid for with segregated funds as long as it charges fair market value. It may not however design or produce express advocacy communications for use by a candidate regardless of whether the candidate is charged fair market value.</li> </ol> </li> </ol>		

Request #	Description	Type
	<p>b. A political party or legislative campaign committee may make disbursements from a segregated fund to support any other political party or legislative campaign committee activities that are unrelated to direct candidate support or express advocacy.</p> <p>3. A political party or legislative campaign committee must make disbursements directly from a segregated fund to pay permitted expenses. A political party or legislative campaign committee may not make general purpose or unrestricted transfers from a segregated fund to another account in order to finance express advocacy or contribute to candidates.</p> <p>4. A political party or legislative campaign committee must report all contributions to a segregated fund as well as all disbursements made from the segregated fund. All contributions must be itemized as well as all disbursements in excess of \$20.</p>	
RA-2017-014	Spending on Candidate Recruitment	Formal Opinion 2017-ETH-04
It is the opinion of the Commission that:		
<ol style="list-style-type: none"> <li>1. There are no registration or reporting requirements triggered solely by an organization's candidate recruitment activities;</li> <li>2. There is no source restriction or contribution limit applicable to money spent in connection with an organization's candidate recruitment activities; and,</li> <li>3. Tangible personal property provided by an organization to an individual being recruited is not an in-kind contribution from the organization. If an individual receives such property and subsequently contributes it to his or her campaign, it is treated as an in-kind contribution from the candidate to the campaign if there is any residual value to be reported at that time.</li> </ol> <p>This opinion is limited to activities to recruit individuals who are not already holding state or local public office. If an individual already holds state or local public office, recruitment efforts would also be regulated by the state code of ethics for public officials, lobbying, and campaign finance laws.</p>		
RA-2017-015	Elected Officials Hosting a Charitable Event	Informal Opinion ETH-IAO-2017-05
It is the opinion of the Commission that a group of elected officials may solicit and receive items of value for conducting a charitable event open and advertised to the public, if the official can show by clear and convincing evidence that the item of value is unrelated to and did not arise from the recipient holding or having held public office. Officials should also not solicit or accept anything of more than nominal value from organizations that have a special or specific interest in an item or matter likely to be before the legislature. Elective state officials should not solicit or accept food, drink, or any other thing of pecuniary value from a lobbyist.		
RA-2017-016	Social Event Hosted by a Former Public Official	Informal Opinion ETH-IAO-2017-06
It is the opinion of the Commission that a former state public official may host a social event open to the public and charge the same attendance fee to all participants, and that the burden would be on any attending current state public official to show by clear and convincing evidence that any items of value received did not arise from the recipient holding or having held public office.		
RA-2017-017	Acceptance of Event Tickets by Public Officials	Informal Opinion ETH-IAO-2017-07
It is the opinion of the Commission that a state public official may accept a reduced ticket price to an event if the official can show by clear and convincing evidence that the receipt was on behalf of the state and primarily for the benefit of the state and not primarily for the benefit of the official or any other person. Alternatively, the official may receive items of value from the Department of Tourism or the		

Request #	Description	Type
	Wisconsin Economic Development Corporation under the exceptions to the ethics code provided to those agencies.	
RA-2017-018	Participation in Litigation as Amicus Curiae	Informal Opinion ETH-IAO-2017-08
	It is the opinion of the Commission that an elected official may not receive pro-bono legal services, which are something of value, to be a signatory to an Amicus Curiae brief, where evidence supports the conclusion that the elected official was offered the legal services and asked to sign because of holding a state public office.	
RA-2017-019	Prize Drawings at a Conference	Withdrawn
	Withdrawn by requestor; no opinion offered.	
RA-2017-020	Partnership with a State Agency to Host An Event	Informal Opinion ETH-IAO-2017-09
	It is the opinion of the Commission that if a lobbying principal wishes to provide the use of the room to the state for a separate event and wishes to arrange for refreshments for that event, it is best to do so via an agreement with the Wisconsin Economic Development Corporation (WEDC) or the Department of Tourism, as applicable.	
RA-2017-021	Support for Agency from a Lobbying Principal	Informal Opinion
	It is the opinion of the Wisconsin Ethics Commission that a lobbying principal may not provide anything of pecuniary value to an agency official unless one of the enumerated exceptions to the lobbying code is met. In this case, no exception appears to be applicable.	
RA-2017-022	Co-Sponsorship of an event	Informal Opinion ETH-IAO-2017-10
	Update to ETH-IAO-2017-03 to reflect the changes of 2017 Wisconsin Act 112, which extended the exception available to state public officials to receive items of value from WEDC or the Department of Tourism to local public officials.	
RA-2018-001	Use of Cryptocurrencies for Campaign Contributions and Disbursements	Referral to Legislature
	No opinion offered. The Commission referred the issue to the legislature for further consideration. See Recommendations for Potential Legislation.	
RA-2018-002	PAC Solicitations – Charitable Matching Program	Informal Opinion
	It is the opinion of the Commission that solicitation expenses paid for by a sponsoring organization on behalf of its political action committee may include a matching charitable contribution provided that such a matching charitable contribution will not result in the individual contributor to the political action committee receiving any premium, award, or other benefit from the charitable organization, and the contribution is not otherwise prohibited by law.	
RA-2018-003	Application of 50-Piece Rule to Agency Materials	Informal Opinion
	It is the opinion of the Commission that an agency is not subject to the 50-piece rule as by its terms, the rule only applies to persons elected to state or local office who become a candidate for national, state, or local office. However, the members of the agency’s board who are elected to state or local office and who are a candidate for national, state, or local office are subject to the 50-piece rule and any materials or distribution directed by those individuals must comply with requirements of the 50-piece rule.	
	It is also the opinion of the Commission that instances of communication via social media will be counted under the 50-piece rule by categorizing the communication as either active or passive, with active messages being counted as one piece per recipient, while passive messages are counted as a single piece.	

Request #	Description	Type
RA-2018-004	PAC or Conduit Use of Collecting Agents	Informal Opinion
<p>It is the opinion of the Commission that:</p> <ul style="list-style-type: none"> <li>chapter 11 allows the use of collecting agents in Wisconsin provided contributions are held in an escrow account and are properly documented;</li> <li>collecting agents may be both affiliated and unaffiliated organizations;</li> <li>collecting agents may collect and transfer funds to both PACs and conduits;</li> <li>a PAC sponsoring organization must pay administrative and solicitation expenses of a collecting agent unless the collecting agent would incur the expenses when not acting as a collecting agent for the PAC;</li> <li>an organization associated with a conduit may pay for its own administrative and solicitation expenses, with no reimbursement required, when acting as a collecting agent for the conduit; and,</li> <li>the collection and transfer of PAC contributions or conduit deposits by a collecting agent may occur via check as well as other financial instruments, including wire transfers and credit cards, and via third-party platforms.</li> </ul>		
RA-2018-005	Use of Campaign Funds for Childcare Expenses	Formal Opinion 2018 ETH 01
<p>It is the opinion of the Commission that a candidate is permitted to use campaign funds for childcare expenses to the extent that such expenses would be incurred only as a direct result of campaign activity and would not otherwise exist.</p>		
RA-2018-006	Use of Campaign Finance Data	Informal Opinion
<p>It is the opinion of the Commission that the proposed comparison of a private data set with information within the Campaign Finance Information System (CFIS) that is derived from campaign finance reports and registrations required to be submitted to the Commission would be a commercial use of that information and not permitted under WIS. STAT. § 11.1304(12).</p>		
RA-2018-007	Public Official Membership on Corporate Boards	Informal Opinion ETH-IAO-2018-006
<p>It is the opinion of the Commission that a public official may serve on corporate boards to the extent that anything of value that is received by the official fits an available exception to the lobbying law or ethics code. An official should be mindful that once a member of a board, the official may be conflicted from taking official action regarding that corporation.</p>		
RA-2018-009	Restrictions on Outside Employment of an Official	Informal Opinion ETH-IAO-2018-001
<p>It is the opinion of the Commission that a public official may seek outside employment to the extent that anything of value that is received by the official fits an available exception to the lobbying law or ethics code.</p>		
RA-2018-010	Restrictions on Outside Employment of an Official	Informal Opinion ETH-IAO-2018-002
<p>It is the opinion of the Commission that Wisconsin statutes do not prevent any state official from accepting other employment that does not interfere with their full and faithful discharge of their duties to the state. A public official may seek outside employment to the extent that anything of value that is received by the official fits an available exception to the lobbying law or ethics code.</p>		
RA-2018-011	Sale of Property to an Employee of a Lobbying Principal	Informal Opinion ETH-IAO-2018-003
<p>It is the opinion of the Commission that an official may accept an offer to purchase residential property made by a non-lobbyist employee of a lobbying principal who is not acting at the direction of the principal or a lobbyist if there is no special treatment due to the official's public position or the offer could reasonably be expected to influence the official's actions or judgment.</p>		

Request #	Description	Type
RA-2018-012	Conducting a Job Search While Employed as a State Official	Informal Opinion ETH-IAO-2018-004
<p>It is the opinion of the Commission that the ethics code prohibits the offer to or acceptance by a state official of anything of value that could reasonably be expected to influence the official's judgment or could reasonably be considered as a reward for official action. <a href="#">WIS. STAT. § 19.45(3)</a>. A promise of future employment, including specific salaries possibilities and start dates, would be something of value. As a state official you should not participate in any official matter in which the employer has an interest in while engaging in discussion related to promises of future employment, salaries, and start dates. You do not need to recuse yourself, under the ethics code, if you are not engaging in discussions related to promises for or specifics of future employment. See <a href="#">Ethics Commission Guideline ETH-1270</a>. The same restrictions apply even if you contract with a headhunter or recruitment service to seek employment on your behalf.</p>		
RA-2018-013	Participation in an Internship with a Lobbying Principal	Informal Opinion ETH-IAO-2018-005
<p>It is the opinion of the Commission that an official may participate in an internship program with a lobbying principal that is open and available to the general public. The general public exception applies to the internship so long as it is available to any similarly situated individual who wants it and is eligible for it, the criteria for eligibility are established, readily available, and objective, and applied without giving preference to any official; and there was no preference to the official because of his or her position or preferential notice to the official giving him or her an advantage over others.</p>		

### 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?
2017-ETH-023	Investigation of Administrator	No	No	Yes
2018-ETH-005	Expenditures and solicitation of contributions for a campaign prior to registration	Yes	No	No
2018-ETH-025	Expenditures and solicitation of contributions for a campaign prior to registration	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 August 21, 2018 meeting.

# 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.	<a href="https://ethics.wi.gov/Pages/CampaignFinance/Forms.aspx">https://ethics.wi.gov/Pages/CampaignFinance/Forms.aspx</a>
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.	<a href="https://ethics.wi.gov/Pages/CampaignFinance/Forms.aspx">https://ethics.wi.gov/Pages/CampaignFinance/Forms.aspx</a>
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.	<a href="https://ethics.wi.gov/Pages/CampaignFinance/CampaignFinance.aspx">https://ethics.wi.gov/Pages/CampaignFinance/CampaignFinance.aspx</a>
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.	<a href="https://ethics.wi.gov/Pages/CampaignFinance/CampaignFinance.aspx">https://ethics.wi.gov/Pages/CampaignFinance/CampaignFinance.aspx</a>
11.1304(4)	Develop a filing, coding, and cross-indexing system consonant with the purposes of this chapter.	<a href="https://cfis.wi.gov">https://cfis.wi.gov</a>
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). A committee that files a report under this subsection in an electronic format may file with the Commission that portion of the report signed by an authorized individual rather than submit the electronic signature of that individual. The Commission shall provide complete instructions to any committee that files a report under this subsection.	The Commission audits committees to determine if they meet the threshold to file electronically and requires them to do so. To sign electronically a person provides their name, ID number, password, and PIN. Committees still have the option of providing a written signature.

Statute	Language	Summary
<b>11.1304(6)(b)</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.
<b>11.1304(7)</b>	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.	<a href="https://campaignfinance.wi.gov">https://campaignfinance.wi.gov</a>
<b>11.1304(8)</b>	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. Paper records filed are store in accordance with current records disposition authorizations.
<b>11.1304(9)</b>	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.
<b>11.1304(10)</b>	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 and manually by staff, as required.
<b>11.1304(11)</b>	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.
<b>11.1304(12)</b>	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 <a href="https://campaignfinance.wi.gov">https://campaignfinance.wi.gov</a> upon being filed, with a disclaimer stating the restricted use specified in statute.
<b>11.1304(13)</b>	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.



Statute	Language	Summary
<b>11.1304(14)</b>	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.
<b>11.1304(15)</b>	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.
<b>11.1304(16)</b>	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.
<b>11.1304(17)</b>	Promulgate rules to administer this chapter.	<a href="http://docs.legis.wisconsin.gov/code/admin_code/eth">http://docs.legis.wisconsin.gov/code/admin_code/eth</a>
<b>11.1400(6)</b>	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.
<b>11.1401(2)</b>	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.
<b>13.62(4m)</b>	"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.
<b>13.685(1)</b>	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: <a href="https://lobbying.wi.gov">https://lobbying.wi.gov</a>

Statute	Language	Summary
<b>13.685(2)</b>	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.
<b>13.685(3)</b>	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.
<b>13.685(4)</b>	The Commission shall, by rule, define what constitutes a "topic" for purposes of ss. 13.67 and 13.68 (1) (bn).	<a href="#">Ethics Administrative Rule 16.03</a>
<b>13.685(7)</b>	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.
<b>13.695</b>	(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: <a href="https://lobbying.wi.gov">https://lobbying.wi.gov</a>

Statute	Language	Summary
<b>13.74</b>	<p>(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.</p> <p>(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.</p>	<p>The Commission conducts audits of all lobbying reports consistent with its lobbying program auditing schedule: <a href="https://ethics.wi.gov/Pages/Enforcement/Audits.aspx">https://ethics.wi.gov/Pages/Enforcement/Audits.aspx</a>.</p>
<b>13.75</b>	<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 and the State's e-payment application. The site currently allows ACH payments. Staff is working with DOA to expand that to accept credit card payments and charge a convenience fee, based on the Commission's actions at its August 23, 2016 meeting.</p>
<b>15.04(1)(d)</b>	<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>

Statute	Language	Summary
<b>15.06(5)</b>	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.	The Commission maintains its Madison office at 212 East Washington Avenue; the Commission holds at least four in-person meetings per year.
<b>19.43</b>	Collect Statements of Economic Interests from appointees, nominees, candidates, and continuing officials, and quarterly reports of economic transactions from Investment Board members and employees.	The Commission collects paper reports from Investment Board members and new candidates. All other public officials renew yearly statements of economic interests via <a href="https://sei.wi.gov">https://sei.wi.gov</a>
<b>19.43(7)</b>	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: <a href="https://ethics.wi.gov/Pages/Enforcement/SettlementSchedules.aspx">https://ethics.wi.gov/Pages/Enforcement/SettlementSchedules.aspx</a> .
<b>19.46(2)(a)</b>	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 cite 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 requests or issued any formal or informal advisory opinions. Additional information about requests for advice is available in a separate section of this report.

Statute	Language	Summary
<b>19.46(2)(b)</b>	<p>1. The Commission may authorize the Commission administrator or his or her designee to issue an informal written advisory opinion or transmit an informal advisory opinion electronically on behalf of the Commission, subject to such limitations as the Commission deems appropriate. Every informal advisory opinion shall be consistent with applicable formal advisory opinions issued by the Commission, statute or other law, and case law.</p> <p>2. Any individual may request in writing, electronically, or by telephone an informal advisory opinion from the Commission under this paragraph. The Commission's designee shall provide a written response, a written reference to an applicable statute or law, or a written reference to a formal advisory opinion of the Commission to the individual, or shall refer the request to the Commission for review and the issuance of a formal advisory opinion.</p> <p>3. Any person receiving an informal advisory opinion under this paragraph may, at any time, request a formal advisory opinion from the Commission on the same matter.</p> <p>19.46(2)(a)4 requires the administrator to review informal advisory opinions requested of and issued by the administrator at each regular meeting of the Commission.</p>	<p>The Commission authorized the administrator to issue informal advisory opinions on its behalf at its March 7, 2017 meeting. 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.</p>
<b>19.47(1)</b>	<p>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.</p>	<p>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.</p>
<b>19.47(2)</b>	<p>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.</p>	<p>The Ethics Commission appointed Brian M. Bell as the Administrator on June 24, 2016 to serve out a 4-year term. He served as Interim Administrator through January 22, 2018. Colette Reinke was appointed as temporary Interim Administrator on February 27, 2018, to serve through September 3, 2018. On August 2, 2018, the Commission appointed Daniel Carlton as the Interim Administrator, to begin serving on September 4, 2018. Daniel Carlton will serve out the remainder of the current administrator's 4-year term, ending July 1, 2019.</p> <p>David Buerger is serving as the legal counsel for the Commission.</p>
<b>19.47(3)</b>	<p>Statements of economic interests. All members and employees of the Commission shall file statements of economic interests with the Commission.</p>	<p>All members and employees of the Commission have a current SEI on file.</p>

Statute	Language	Summary
<b>19.47(4)</b>	<b>ACTION.</b> 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.
<b>19.47(5)</b>	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.
<b>19.47(6)</b>	<b>OPERATION.</b> The joint committee on legislative organization shall be advisory to the Commission on all matters relating to operation of the Commission.	No action required.
<b>19.47(7)</b>	<b>GUIDANCE FOLLOWING BINDING COURT DECISIONS.</b> 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.
<b>19.47(8)</b>	<b>STANDING.</b> 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.
<b>19.47(9)(a)</b>	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.
<b>19.47(9)(b)</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.
<b>19.47(9)(c)</b>	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.	13.172(3) directs the Commission to submit reports to the chief clerks in each Legislative house. The Commission would comply where this is applicable.

Statute	Language	Summary
<b>19.47(10)</b>	EMPLOYEES. All employees of the Commission shall be nonpartisan.	The Commission adopted a nonpartisan staff policy, which is included with this annual report.
<b>19.47(11)</b>	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.
<b>19.48(1)</b>	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.	<a href="https://docs.legis.wisconsin.gov/code/admin_code/eth">https://docs.legis.wisconsin.gov/code/admin_code/eth</a>
<b>19.48(2)</b>	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.
<b>19.48(3)</b>	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.
<b>19.48(4)</b>	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.
<b>19.48(5)</b>	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.

Statute	Language	Summary
<b>19.48(6)</b>	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.
<b>19.48(7)</b>	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.
<b>19.48(8)</b>	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.
<b>19.48(9)</b>	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.
<b>19.48(10)</b>	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.
<b>19.48(11)</b>	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.	<a href="https://ethics.wi.gov/Pages/Ethics/ContractSunshine.aspx">https://ethics.wi.gov/Pages/Ethics/ContractSunshine.aspx</a>
<b>19.49</b>	Follow statutory procedures for complaints outlined within this provision of statutes.	The Commission has established complaint procedures that comply with all statutory requirements.
<b>19.49(2)(b)10</b>	The Commission shall, by rule, prescribe categories of civil offenses which the Commission will agree to compromise and settle without formal investigation upon payment of specified amounts by the alleged offender.	The Commission's standard settlement schedules are set forth in WIS. ADMIN. CODE § ETH 26.01.
<b>19.49(2)(c)1</b>	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.



Statute	Language	Summary
<b>19.49(2)(c)(2)</b>	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.
<b>19.49(2)(d)</b>	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.
<b>19.49(2g)</b>	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.
<b>19.50</b>	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.
<b>19.55(1)</b>	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.

Statute	Language	Summary
<b>19.55(2)(c)</b>	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.
<b>19.57</b>	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.
<b>19.575</b>	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.
<b>19.851</b>	<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.
<b>20.9305(2)(e)</b>	<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. 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.

Statute	Language	Summary
<b>49.857(2)</b>	<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.
<b>73.0301(2)</b>	<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.
<b>108.227(2)</b>	<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> <p>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.</p> <p>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.</p>	MOU in place with DWD for lobbyist license checks; checks are being conducted.
<b>778.135</b>	<p>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.</p>	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 March 7, 2017 meeting 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. The Commission adopted this schedule at its October 10, 2016 meeting.

## Late Filing of Continuing 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)

(Business) 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 unreported contribution

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 Information**

**WIS. ADMIN. CODE § ETH 26.02 (6)**

Calendar Days Late:	Settlement Amount:
Up to 30 days from staff contact	Warning
31+ days from staff contact	\$100 plus 10 percent of contributions 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. Limitation 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. The Commission adopted schedules for late filing of semi-annual reports and late reporting of first communication on a lobbying matter at its October 10, 2016 meeting. The Commission adopted schedules for unauthorized lobbying and late payment of lobbying fees at its February 27, 2018 meeting.

## Late filing of semi-annual lobbying report (§13.68) – maximum penalty \$5,000

### WIS. ADMIN. CODE § ETH 26.03 (1)

Days Late	First Offense	Second or Greater Offense
2 business days	No penalty	Warning
3-5 days	Warning	\$50
6-15 days	Warning	\$100
16-29 days	\$50	\$250
30+ days	\$100	\$500

## 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 <sup>nd</sup> Occurrence of Late Reported Interest	< 10 percent	\$50 Per Interest
	>= 10 percent	\$100 Per Interest
3 <sup>rd</sup> 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.

**Late Payment of Lobbying Fees**

Days Late	Lobbyist	Principal
1-15	Warning	Warning
16-30	\$100	\$200
31-45	\$200	\$400
46+	\$300	\$600

The lobbyist is responsible for the payment of their lobbyist license fee and the principal for the fees associated with the principal registration and lobbyist authorization. (Wis. Stat. §§ [13.63](#), [13.75](#).)

**Unauthorized Lobbying (§ 13.65)**

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

Before engaging in lobbying on behalf of a principal, a lobbyist or the principal must obtain authorization for the lobbyist to represent the principal.

# 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 exacerbating circumstances like the number of previous offenses and the nature of the official's position, and may modify procedures and penalties accordingly. The Commission adopted this schedule at its October 10, 2016 meeting.

## **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	Days Late	Result
Candidate	0+	N/A – Candidate denied ballot placement
Other Official	0-15	Warning
Other Official	16+	\$100 plus \$100 every 15 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 or not 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 or not 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 sought 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 or not 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. Those procedures were updated on a regular basis based on court decisions and legislative changes. Staff seeks to update and clarify these procedures for future audit activity. Staff is seeking comments, clarifications, and recommendations on the future handling of audits under the Commission's jurisdiction.

## 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 other 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 possible violations are identified, staff will send out an initial communication to the committee or individual with a request to respond within 30 days. 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. On an ongoing basis, 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. Committees and persons admitting that a violation occurred will be added to the agenda for the next Commission meeting. Committees that wish to appear before the Commission through a written submission, by phone, or in person will be added to the agenda for the next Commission meeting.
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 Commission meeting to ask the Commission 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.

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 civil 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, and may request the Commission to initiate a civil action if the registrant does not comply.
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 2019 (July 1, 2018 – June 30, 2019)**

#### 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, and \$0 in outstanding debts and loans, if there is an outstanding filing fee, whether there are cash balance discrepancies, 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 the January Continuing campaign finance report is due, between the 15<sup>th</sup> and 17<sup>th</sup> 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 section three of the Campaign Finance Settlement Schedule (Late Payment of Annual Filing Fees).

### Timely Filing of Campaign Finance Reports

Period: Each Required Campaign Finance Report

Start Date: 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 to section one or two of the Campaign Finance Settlement Schedule (Late Filing of Continuing Campaign Finance Reports / Late Filing of Pre-Primary, Pre-Election, and special Post-Election Reports).

### Pending Transactions Audit

Period: Each Required Campaign Finance Report

Start Date: Each Filing Deadline

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 generally does an audit of pending transactions as soon as all reports are officially filed in the CFIS database, since unfiled transactions may impact all of the other audit results. Committees are given 30 days to respond to the initial staff contact and file the pending transactions, or delete them if they are duplicates. Committees identified through this audit could be subject to section six of the Campaign Finance Settlement Schedule (Cash Balance Discrepancies).

### Cash Balance Audit

Period: Each Required Campaign Finance Report

Start Date: Each Filing Deadline

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 section six of the Campaign Finance Settlement Schedule (Cash Balance Discrepancies).

### Corporate Contribution Audit

Period: Semiannually

Start Date: March and September, following each 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 section eight of the Campaign Finance Settlement Schedule (Prohibited Corporate Contributions).

#### Lobbyist Contribution Audit

Period: Annually

Start Date: March

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 section nine of the Campaign Finance Settlement Schedule (Prohibited Lobbyist Contributions).

#### Name/Address

Period: Annually

Start Date: Undetermined by Commission at this time

The new law effective January 1, 2016 requires committees collecting non-anonymous contributions of any amount report the name and address of the contributor. In order to allow time for committees to become familiar with current requirements, 2018 will be the first time staff will conduct this audit since the new campaign finance laws were enacted. Staff will audit for individual contributions missing the required information, and contact committees where there are five or more incomplete contributions in a six-month period and those incomplete transactions account for five percent or more of the reported transactions.

#### Occupation Information Audit

Period: Semiannually

Start Date: After each Continuing period

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. In order to allow time for committees to become familiar with current requirements, 2018 will be the first time staff will conduct this audit since the new campaign finance laws were enacted. Staff will audit for individual contributions missing the required information, and contact committees where there are five or more incomplete contributions in a six-month period and those incomplete transactions account for five percent or more of the reported transactions. Committees identified through this audit could be subject to section five of the Campaign Finance Settlement Schedule (Incomplete Contribution Information).

### Contribution Limits Audit – Spring/Fall

Period: Annually/Biannually

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

The campaign period for spring candidates (judges) 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.

### Independent Expenditure Reporting/72 Hour Reporting Audit

Period: Annual or Semiannual

Start Date: September after April Elections and May after November Elections

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 will examine transactions occurring within 60 days of a primary or election. This may involve collecting information from TV stations, radio stations, and newspapers, and comparing that spending to the reports from registered committees and reports from unregistered IEs of over \$2,500 in expenses. Any violations would be subject to section four of the Campaign Finance Settlement Schedule.

### Anonymous and Unitemized Transactions

Period: Semianually

Start Date: Following each Continuing Period

The new law effective January 1, 2016 requires committees collecting non-anonymous contributions of any amount report the name and address of the contributor.

# 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. Those procedures were updated on a regular basis based on court decisions and legislative changes. Staff seeks to update and clarify these procedures for future audit activity. Staff is seeking comments, clarifications, and recommendations on the future handling of audits under the Commission's jurisdiction.

## 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 Reporting 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 February 27, 2018 meeting, in accordance with § 13.75. The Commission must receive lobbying related payments from principals and lobbyists promptly.

Period: Continuous

Start Date: February 28, 2018

### **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

### **“Hours, No Dollars” Audit**

After every SLAE filing period, staff discovers a small handful of principals who report a certain number of hours spent on lobbying, but do not report a corresponding dollar amount of lobbying-related expenditures. Sometimes this is due to human error on the part of the filer; sometimes a lobbyist has agreed to do some work pro bono; sometimes there is another explanation.

Period: Each Required 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 statute 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 as a 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
  - 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)
    - 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.
    - 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 complaint they may wish to file their complaint with the local district attorney. A copy of such a notification should be saved in the complaint’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 complaint’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.
  - b. *A redacted copy of the complaint.* Staff may provide an un-redacted copy of the complaint to the complainant upon request of the complainant and approval of the Administrator.
7. If a response is received, staff shall save a copy of the response to the complaint’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 complaint’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.<sup>3</sup> Neither the Commission nor any member or employee of the Commission, including the Commission administrator, may file a sworn complaint.<sup>4</sup>

- a. A complaint must comply with certain requirements. It **must**:
    - 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 responding party. Before voting on

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<sup>3</sup> WIS. STAT § 19.49(2)(b).

<sup>4</sup> WIS. STAT § 19.49(2)(a).

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.<sup>5</sup>

- ii. A respondent who is or intends to be represented by legal counsel should inform the Commission by sending a statement regarding the designation of counsel, including the name and address of the individual(s).

### 3. Initial Vote to Proceed (Reasonable Suspicion Inquiry)

- a. Each complaint that is assigned to Counsel or other staff will be submitted to the Commission with recommendations on whether or not there is "reasonable suspicion" that the respondent has committed or is committing a violation of the law.<sup>6,7</sup> 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.<sup>9</sup> 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.<sup>10</sup>
  - i. When a complaint is designated for settlement, the Administrator shall

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<sup>5</sup> WIS. STAT. § 19.49(2)(b).

<sup>6</sup> 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.

<sup>7</sup> "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.

<sup>8</sup> 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.

<sup>9</sup> 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."

<sup>10</sup> 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.

- 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.<sup>11</sup>
  - 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.<sup>12</sup>
  - iv. If the Commission retains a special investigator to investigate a complaint against a person who is a resident of this state, the Commission shall provide to the district attorney for the county in which the person resides a copy of the complaint and shall notify the district attorney that it has retained a special investigator to investigate the complaint.<sup>13</sup>

### **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 Commission<sup>14</sup>
  - 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 Review<sup>15</sup>
  - 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

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<sup>11</sup> Wis. STAT. § 19.49(2)(b) 3.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Wis. STAT. § 19.49(2)(b) 4

<sup>15</sup> Id.

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 Determination<sup>16</sup>
- a. Unless an investigation is terminated by the Commission, at the conclusion of each investigation, the Administrator shall present to the Commission one of the following:
    - i. A recommendation to make a finding that probable cause exists to believe that one or more violations have occurred or are occurring, together with a recommended course of action.
    - ii. A recommendation for further investigation of the matter together with facts 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.<sup>17</sup>
    - 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:<sup>18</sup>
  - 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

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<sup>16</sup> Id.

<sup>17</sup> WIS. STAT. §§ 19.49(2)(b) 7 and 8.

<sup>18</sup> WIS. STAT. §§ 19.49(2)(b) 5 and 9.

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.<sup>19</sup>
- 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.<sup>20</sup>

### **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.

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<sup>19</sup> WIS. STAT. § 19.49(2)(b) 13 and 14 provide special procedures should a district attorney decline to prosecute a potential violation.

<sup>20</sup> 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.



# 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: Ethics Commission Letter to the Legislature



## Wisconsin Ethics Commission

212 East Washington Avenue | Third Floor | P.O. Box 7125 | Madison, WI 53707-7125  
(608) 266-8123 | [ethics@wi.gov](mailto:ethics@wi.gov) | [ethics.wi.gov](http://ethics.wi.gov)

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*Sent via email only*

May 4, 2018

Senator Devin LeMahieu  
Chair, Senate Committee on Elections and Local Government  
Room 323 South State Capitol  
Madison, WI 53707

Representative Scott Allen  
Chair, Assembly Committee on Constitution and Ethics  
Room 8 West State Capitol  
Madison, WI 53708

**RE: Referral of Request for Advisory Opinion to Legislative Standing Oversight  
Committees**

Dear Senator LeMahieu and Representative Allen:

I write on behalf of the Wisconsin Ethics Commission to refer to the respective committees you each chair a matter regarding the application of Wisconsin campaign finance laws to cryptocurrencies such as Bitcoin.

Our agency received the enclosed request for advice and after considerable research by Commission staff, a public hearing held on April 24, 2018, and careful deliberation by the Commission at that meeting, the Commission has decided to exercise the option granted by WIS.

STAT. § 19.46(2)(c)4 to refer the matter to the standing legislative oversight committees due to the concerns outlined below.

Wisconsin law currently permits committees to accept contributions of money, tangible personal property, or services subject to certain requirements and restrictions. However, cryptocurrency does not appear to fit into any of these categories. The prior version of Wisconsin's campaign finance law defined a contribution more broadly by including the words "or anything of value," but the current law does not include such broad language. If the Legislature intends for cryptocurrencies like Bitcoin to be contributed to Wisconsin committees, the Ethics Commission would advise a change to the statute to clarify whether cryptocurrencies may be accepted and if so whether such a contribution is to be treated as money, property, or something else entirely.

While cryptocurrency may be more like money than tangible personal property due to its digital nature, the value of cryptocurrency can change significantly over a short period of time, and therefore, if it were to be treated as money the Legislature may wish to require such contributions to be valued promptly upon receipt to ensure that the contribution was not in excess of the statutory limits. However, if the Legislature considers cryptocurrency a type of property, it may wish to modify the definition of contribution to allow for contributions of intangible assets as well as require additional reporting of the disposition of cryptocurrency contributions as under current law committees would not have any obligation to further report on the use of the cryptocurrency once it was received.

The Commission would also encourage the Legislature to affirmatively address this issue due to the Ethics Commission's concerns with cryptocurrency being used as a channel for anonymous or pseudonymous contributions. Under current law a committee is required to report the name and address of every contributor and may only keep up to \$10 of any anonymous contribution. While this requirement would continue if contributions of cryptocurrency were to be allowed, it is much easier for a potential bad actor to falsify his or her identity or channel multiple donations of cryptocurrency through strawman accounts than it is to do the same via cash contributions. As a cryptocurrency contributor's real-life identity, IP address, or country of operation cannot be reliably traced with current technology, allowing cryptocurrency contributions presents a serious challenge to the Commission's ability to ensure compliance with state law.

We hope that the Legislature would consider legislation in the next session in order address this issue and provide clarity to candidates and committees as to whether they may accept contributions of cryptocurrency and how those contributions should be handled. The Commission and its staff look forward to the opportunity to work with you and other Legislators on this matter. Please let us know if there is anything that we can do to assist in addressing this issue.

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in black ink that reads "Colette C. Reinke". The signature is written in a cursive, flowing style.

Colette Reinke

Commission Administrator

cc:

Senate Majority Leader Scott Fitzgerald  
Senate Minority Leader Jennifer Shilling  
Assembly Speaker Robin Vos  
Assembly Minority Leader Gordon Hintz  
Wisconsin Ethics Commissioners

Enclosure:

Request for Advice – Libertarian Party of Wisconsin

February 9<sup>th</sup>, 2018

**From: Phillip Anderson**

Chair | Libertarian Party of Wisconsin | PO Box 20815 | Greenfield | WI | 53220

**To: Commissioners and Staff of the Wisconsin Ethics Commission** Wisconsin Ethics Commission | PO Box 7125 | Madison | WI | 53707-7125

Dear Commissioners and Staff:

I am writing on behalf of the Libertarian Party of Wisconsin, and Libertarian candidates and campaigns in Wisconsin, to request an opinion, and formal public hearing, on the use of cryptocurrencies for campaign contributions and disbursements.

Cryptocurrencies, such as Bitcoin, Litecoin and Ethereum, are more and more widely accepted as currency and as stores of value. Total market capitalization of cryptocurrencies is around \$500 billion. The CBOE offers a futures market for Bitcoin, and other financial platforms, corporations and governments are weighing in on not 'whether' to address cryptocurrencies, but 'how'?

Our party and our campaigns are being offered donations in cryptocurrencies. Other states have issued guidance regarding campaign donations and expenditures in cryptocurrencies. Our particular questions are: how must we calculate cryptocurrency donations toward campaign limits, both/either at time of donation or expenditure? What registration of campaign cryptocurrency accounts is required? We understand that for certain donation levels, other information must be gathered, such as address and employer/profession of the donor. What else is required for accepting and disbursing campaign funds in these currencies?

My suggestion is that this commission choose to require campaigns to convert cryptocurrency donation value in dollars at the time of donation, or at the time of expenditure OR conversion to dollars and deposit in campaign accounts. The requirement to report other information would be on the individual campaigns to gather and report, as currently requirement.

Please address this issue as soon as possible. I am at your disposal for questions or further information.

Sincerely,

*Phillip N. Anderson*

Phillip Anderson  
Chair, Libertarian Party of Wisconsin  
[chair@lpwi.org](mailto:chair@lpwi.org)  
608 361-8608



# Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics  
212 East Washington Avenue | Third Floor | P.O. Box 7125 | Madison, WI 53707-7125  
(608) 266-8123 | [ethics@wi.gov](mailto:ethics@wi.gov) | <https://ethics.wi.gov>

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**DATE:** For the August 21, 2018 Meeting

**TO:** Members, Wisconsin Ethics Commission

**FROM:** Colette C. Reinke, Interim Administrator

**SUBJECT:** Proposed 2019 Commission Meeting Dates

The Commission is required to hold at least 4 meetings a year. In 2017, there were 4 regularly scheduled meetings. This year, there are 5 regularly scheduled meetings. Below is a list of possible dates for next year's Commission Meetings. Included with these proposed dates are filing deadlines and legal holidays. The Commission may approve a list of meeting dates based on the proposed dates listed below or based on today's discussions may set different dates for meetings in 2019.

## 2019 Commission Meetings

- January 15 – January Continuing due
- January 21 – MLK day
- January 31 – Period 4 2017-2018 SLAE due
- February 11 – Spring Pre-Primary due
- February 19 – Spring Primary
- **Commission Meeting February 26 or March 5**
- March 25 – Spring Pre-Election due
- April 2 – Spring Election
- **Commission Meeting April 9 or 16**
- May 27 – Memorial Day
- **Commission Meeting June 18 or 25**
- July 15 – July Continuing due
- July 31 – Period 1 2019-2020 SLAE due
- **Commission Meeting August 27 or September 10 or 17**
- September 2 – Labor Day
- **Commission Meeting December 3, 10, or 17**







# Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics  
212 East Washington Avenue | Third Floor | P.O. Box 7125 | Madison, WI 53707-7125  
(608) 266-8123 | [ethics@wi.gov](mailto:ethics@wi.gov) | <https://ethics.wi.gov>

---

DATE: For the August 21, 2018 Meeting  
TO: Members, Ethics Commission  
FROM: Ethics Commission Staff  
SUBJECT: Ethics Commission Staff Report

## Attorney General Opinion Requests

Staff have not yet received any further update from the Department of Justice on the two pending requests for Attorney General Opinions. The Department of Justice did not respond to a request for a status update prior to the drafting of this memo.

## Commission Administration

### Personnel Update

Commission staff completed the recruitment for a new Ethics Specialist, formerly held by David Divine. Interviews were conducted on August 7<sup>th</sup>. As a result of the interviews, an offer was extended to Harry Broderick, pending the results of an Illinois background check. He has accepted the position and will be starting in September. Harry will be working across all program areas.

### IT Systems Update

- Campaign Finance – Staff continue to weigh options for replacing the CFIS system. Those options include customizing software provided by the State of Massachusetts, custom development, or utilizing off-the-shelf software to be customized to suit the business requirements of the system. The current contract for maintenance and licensing of CFIS with PCC is being extended for a six-month term beginning on July 1, 2018.
- Lobbying – We are moving forward with the Web and Mobile Solutions (WaMS) team through DoIT at the University of Wisconsin—Madison (UW) to modernize the Eye on Lobbying website. The User Experience team at UW is currently creating workflow documents and in-depth analyses. We will reconvene in August to begin working with the technical team.
- Statements of Economic Interests – Staff continues to focus on correcting minor issues identified by users to make filing more user-friendly, and on communications and other administrative functions. Procedures for waivers, affidavits, and rules for paper filing will be discussed separately.
- Customer Relationship Management (CRM) software – Staff is working with the Innovation Center within the Division of Enterprise Technology to determine the best-fit CRM platform for our business needs and to develop a simplified bid for purchasing the software.

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*Wisconsin Ethics Commissioners*

Mac Davis | David R. Halbrooks | Katie McCallum | Tamara Packard | Pat Strachota | Timothy Van Akkeren

*Administrator*  
Colette C. Reinke

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## Records Management and Records Disposition Authorizations (RDAs)

Staff completed an inventory of records in storage and submitted a request to archive appropriate records with the Wisconsin Historical Society. As of this meeting, approximately half of the inventory has been transferred. We will continue to work with WHS staff to move the remaining records. We will keep other paper records that have not yet reached their retention period on site in storage. Upon moving to a new office location, staff will request storing those paper records that have not yet reached their retention period at the State Records Center.

The remaining bulk of paper records in the office consist of Statements of Economic Interest. Staff plan to scan and save electronically those that are most frequently requested in public records requests. The paper copies will then be archived by Official at the State Records Center. Staff will be able to make an online request for an Official's records, which will be delivered within 24-48 hours.

## Agency Office Move

The Commission's current office space lease runs through December of 2018. DOA provided staff with complete preliminary plans for the new space. DOA has received an estimate, opened the project, and will begin renovations for the new space this month. They will cover the costs for any needed construction, but the Ethics Commission will be responsible for any furniture needed beyond what currently exists in that space and what we already have in our current office. DOA has some surplus furniture available at no additional cost. We are still waiting on a lease which will include start and end dates. November or December of 2018 is the most likely date for the office location move for the agency. Staff have also been meeting with Badger State Industries (BSI), the vendor on the mandatory contract for purchasing furniture. Staff have developed plans for furniture needs and received initial quotes for purchase. A final purchase order will need to be completed by September 2018 to ensure delivery of furniture by the move in date.

## **Campaign Finance**

### July Continuing Reports

All registered committees, not claiming exemption from filing campaign finance reports, were required to file a July Continuing 2018 report by July 16, 2018. The report covered January 1, 2018 through June 30, 2018, unless committees had filed Spring or Special Election Pre-Primary or Pre-Election reports, for which the period then was from the date of last report filed through June 30, 2018. There were 934 reports due July 16. There were 63 reports (6.75%) not filed on July 17, and at the time of this memo 21 outstanding reports (2.25%).

### Fall Pre-Primary Reports

All candidates for the Fall 2018 election as well as committees supporting or opposing these candidates were required to a Fall Pre-Primary 2018 report covering all activity from July 1 through July 30, 2018. This report was due Monday, August 6, 2018. There 246 candidates on the ballot that filed their reports on time, and 10 that were either 1 or 2 days late. All candidates have filed the required report. There were 116 other committees that filed this report.

## **Lobbying**

### Principal Registration, Lobbyist Licensing, and Authorizations for the 2017-2018 Session

As of June Aug 9, 2018, there were 793 lobbying principals registered, 650 lobbyists licensed, and 1,744 lobbyists authorizations completed for the 2017-2018 Legislative Session.

### Statements of Lobbying Activities and Expenditures

Statutes require each lobbying principal to submit a Statement of Lobbying Activities and Expenditures (SLAE) twice a year. The July-December 2017 SLAE reports were all submitted on time for the second consecutive reporting period. The next deadline is January 31, 2019 which will cover activity from July 1 – December 31, 2018. After principals and lobbyists file their reports, staff will conduct audits for late SLAEs, late 15-Day Reports, and Lobbying without Authorization.

### Legislative Liaison Reporting

The next legislative liaison report is due January 31, 2019.

## **Code of Ethics and Financial Disclosure**

### Design of a new SEI system

As of 1/1/2018, the new SEI system has replaced the old database for everything but tracking SWIB Quarterly reports. A few officials are still requesting paper SEIs, with staff entering SEIs from 2017 and 2018 paper filers. The April 30<sup>th</sup> deadline for SEI filings went well, and staff is working on minor fixes and administrative functions, as well as discussing policy changes for next year.

### Statements of Economic Interests

The deadline for annual filing of SEIs was April 30, 2018. This year, all annual SEI filers received email notices, and a reminder by phone. SEIs were mailed only to those filers who requested a paper copy, and to those who had not filed by a week after the deadline.

Out of 2207 filers, 2091 filed on time. 96 filed between May 1 and May 15, within the 15 day grace period. Twelve filed between May 16 and June 5<sup>th</sup>. All but one filer has filed as of August 8<sup>th</sup>, and that person has left state service and we have no contact information.

### State of Wisconsin Investment Board Quarterly Reports

The latest batch of quarterly reports were due by July 31<sup>st</sup>, covering April 1<sup>st</sup> through June 30<sup>th</sup>. All of the reports for the 2<sup>nd</sup> quarter were received by August 8<sup>th</sup> and forwarded to the Legislative Audit Bureau for review.

