



Wisconsin Ethics Commission

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DATE: March 7, 2017

TO: Chief Clerk, Wisconsin State Senate
Chief Clerk, Wisconsin State Assembly

CC: The Honorable Scott Walker, Governor of Wisconsin
The Honorable Scott Fitzgerald, Senate Majority Leader
The Honorable Jennifer Shilling, Senate Minority Leader
The Honorable Robin Vos, Assembly Speaker
The Honorable Peter Barca, Assembly Minority Leader

FROM: Members, Wisconsin Ethics Commission

SUBJECT: Delegation of Authority for Informal Opinions

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.*

Wisconsin Ethics Commissioners

Mac Davis | David R. Halbrooks | Peg Lautenschlager | Katie McCallum | Pat Strachota | Timothy Van Akkeren

Administrator
Brian M. Bell, MPA

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

The Ethics Commission adopted the policy enumerated below at its March 7, 2017 meeting by a vote of 6-0.

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>.