

NOTICE OF OPEN AND CLOSED MEETING

Wisconsin Ethics Commission

Room 411 South, Wisconsin State Capitol
Madison, Wisconsin
Thursday January 11, 2018, 9:00 a.m.

Open Session Agenda

- | | |
|---|--------------|
| A. Call to Order | |
| B. Report of Appropriate Meeting Notice – Administrator | |
| C. Minutes of December 5, 2017 Open Session Meeting | Page 3 |
| D. Minutes of December 8, 2017 Open Session Meeting | Page 9 |
| E. Minutes of December 22, 2017 Open Session Meeting | Page 11 |
| F. Draft Guidelines | Page 13 |
| 1. Joint Fundraisers | Page 15 |
| 2. Strictly Personal Use Under Campaign Finance Law | Page 19 |
| 3. The 50-Piece Rule | Page 21 |
| 4. Attribution Statements (Political Disclaimers) | Page 25 |
| 5. Social Media and Other Electronic Communications | Page 29 |
| 6. Segregated Funds | Page 33 |
| 7. 1258 – Referenda (Revised) | Page 37 |
| G. Review of Lobbying-Related Opinions of Previous Boards | Page 39 |
| H. Closed Session | |
| 1. Complaints and Investigations | |
| 2. Requests for Advice | |
| 3. Litigation Update | |
| I. Standard Settlement Schedules for Lobbying Without Authorization | Supplemental |
| J. Audit of Lobbying Without Authorization | Supplemental |
| K. Staff Report | Page 57 |
| L. Consideration of Future Agenda Items (Open Session) | |
| M. Adjourn | |

Future Ethics Commission Meetings Scheduled:

- Tuesday, February 27, 2018 at 9:00 AM
- Tuesday, April 24, 2018 at 9:00 AM
- Tuesday, June 19, 2018 at 9:00 AM
- Tuesday August 21, 2018 at 9:00 AM
- 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)(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:

- (c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.
- (g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.
- (h) The Commission's deliberations on requests for advice under the ethics code, lobbying law, and campaign finance law shall be in closed session.

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



Wisconsin Ethics Commission

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Wisconsin Ethics Commission

Wisconsin State Capitol
Room 411 South
2 E. Main Street
Madison, Wisconsin
December 5, 2017
9:00 a.m.

Open Session Minutes

Present: David Halbrooks, Katie McCallum, Mac Davis, Pat Strachota,
Timothy Van Akkeren, and Jeralyn Wendelberger

Staff present: Brian Bell, Richard Bohringer, David Divine, Adam Harvell, Julie Nischik,
Colette Reinke, and Caroline Russell

A. Call to Order

Commission Chair David Halbrooks called the meeting to order at 9:13 a.m.

B. Report of Appropriate Meeting Notice

Administrator Bell reported that appropriate notice of the Commission meeting had been given to the public and news media.

C. Minutes of the August 22, 2017 Meeting

MOTION: Approve the minutes. Moved by Commissioner Strachota, seconded by Commissioner McCallum. Motion carried unanimously.

D. Personal Appearances

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

Matt Rothschild, representing Wisconsin Democracy Campaign, appeared regarding the Campaign Finance website and other issues with statute. Mr. Rothschild indicated issues with inaccurate reporting of contributions by PACs to candidates due to changes in the law in 2015. Mr. Rothschild also indicated his concern with the lack of details provided regarding employer information for those who are reporting contributions over \$100. Mr. Rothschild is also concerned with the statute that allows corporations to give directly to political parties and legislative campaign committees. Mr. Rothschild urged the Commission to work with the

Wisconsin Ethics Commissioners

Mac Davis | David R. Halbrooks | Katie McCallum | Pat Strachota | Timothy Van Akkeren | Jeralyn Wendelberger

Administrator
Brian M. Bell, MPA

Page 3

Legislature to make changes to the campaign finance law regarding the issues he has highlighted in his statement.

E. User Feedback Survey RE: current and future campaign finance site

Commission Administrator Bell presented the memo starting on page 7 of the meeting materials, and the report on Campaign Finance Reporting Systems in Other States, from the supplemental materials.

The Commissioners discussed the state's rank in the report from The Campaign Finance Institute. Commissioner Davis requested staff report to the Commissioners on any progress made in making improvements to the campaign finance reporting system. The Commissioners also discussed the results of the survey of CFIS users, who generally reported a positive experience with using the system, and the initial hurdle of understanding how to use the system.

F. User Feedback Survey RE: current and future lobbying site

Commission Administrator Bell presented the memo starting on page 9 of the meeting materials.

G. New Statements of Economic Interest System Demonstration

Commission staff Adam Harvell provided a demonstration of the new Statement of Economic Interest (SEI) website, and discussed the details in the memo starting on page 11 of the meeting materials.

The Commissioners and staff discussed whether or not it will be required for filers to use the new system to file their SEI. While the filing in 2018 will be optional, staff would like to require that filers do so through the online system to reduce the amount of data entry required with paper filing. Commissioner Davis requested there be a waiver process for those who do not want to file online. Commissioner Halbrooks requested that staff review and approve the requests to view an SEI, to ensure that the request is legitimate.

H. Ability to Place Registrants on Administrative Suspension

Commission Administrator Bell and Commission staff Colette Reinke presented the memo starting on page 13.

MOTION: Adopt the proposed policy, but exclude "on at least two separate occasions". Moved by Commissioner Davis, seconded by Commissioner Wendelberger.

Discussion of the policy, Commissioner Davis suggested creating a list of methods of contact to check off and document the attempts to contact. Staff will report to the Commission all committees that are placed on administrative suspension.

Motion carried unanimously.

I. Administrative Rules Update

Administrator Bell presented the memo starting on page 17 of the meeting materials.

MOTION: Direct staff to draft ETH 1 (Campaign Finance) to begin the promulgation process to repeal the unenforceable provisions. Moved by Commissioner Davis, seconded by Commissioner Van Akkeren.

Discussion.

Motion carried unanimously.

MOTION: For ETH 16, the Commission approves the scope statement for revision of ETH 16 and directed staff to begin drafting the proposed rule. Moved by Commissioner Van Akkeren, seconded by Commissioner Strachota. Motion carried unanimously.

J. Guidance to Staff on Conducting Audits Using External Data

Commissioner Administrator Bell and Commission Staff Adam Harvell presented the memo starting on page 35 of the meeting materials.

Commissioners and Staff discuss the differences between conducting audits and investigations.

MOTION: Regarding audits conducted by staff, staff shall not do research outside Commission records unless there is time available. If issues are found within that research, staff may ask the registrant to explain or rectify questions. Moved by Commissioner Davis.

Discussion.

Motion withdrawn. Commissioners direct staff to draft a report on time and costs associated with doing this type of audit, and draft a procedure for this type of audit. In the meantime, staff shall only conduct audits based on agency data.

L. 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 Strachota, seconded by Commissioner McCallum. Motion carried unanimously.

- a. Complaints and Investigations
- b. Requests for Advice
- c. Litigation Update
- d. Performance Evaluation – Administrator

M. Reconsideration of Standard Settlement Schedules

Administrator Bell presented the memo starting on page 39 of the meeting materials.

The Commissioners directed staff to develop a revised settlement schedule for Campaign Finance violations, and stealth Lobbying violations.

N. Segregated Funds Draft Guidance

Commission Chair Halbrooks adjourned this item to the next meeting, and directed staff to notify any who are waiting on guidance that no decision was reached.

O. Staff Report

Administrator Bell presented the memo starting on page 47 of the meeting materials.

No action was taken.

P. Consideration of Future Agenda Items (Open Session)

Administrator Bell suggested adding the following to a future agenda: reoccurring questions, clarifications of the law, propose draft guidelines on conducting joint fundraisers, strictly personal use, 50-piece rule, attribution statements, use of social media, and referendums to stem potential complaints.

Commission Chair Halbrooks suggested adding more meeting dates in 2018 to cover all of these topics. January 11, 2018 was proposed for the next meeting, and Commissioners are to notify the Administrator if that date works.

Q. Adjourn

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

The Commission adjourned at 6:17 p.m.

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December 5, 2017 Wisconsin Ethics Commission meeting minutes prepared by:

Julie Nischik, Office Management Specialist

January 11, 2018

December 5, 2017 Wisconsin Ethics Commission meeting minutes certified by:



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Wisconsin Ethics Commission

212 E. Washington Avenue
Large Conference Room – Teleconference
Madison, Wisconsin
December 8, 2017 at 11:00 a.m.

Open Session Minutes

Present (via telephone): David Halbrooks, Katie McCallum, Mac Davis, Pat Strachota,
Timothy Van Akkeren, and Jeralyn Wendelberger

Staff present: Brian Bell, David Buerger, Colette Reinke, and Caroline Russell

A. Call to Order

Commission Chair David Halbrooks called the meeting to order at 11:03 a.m.

B. Report of Appropriate Meeting Notice

Administrator Bell reported that appropriate notice of the Commission meeting had been given to the public and news media.

C. 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 Wendelberger, seconded by Commissioner McCallum. Motion carried unanimously.

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December 8, 2017 Wisconsin Ethics Commission meeting minutes prepared by:

Julie Nischik, Office Management Specialist January 11, 2018

December 8, 2017 Wisconsin Ethics Commission meeting minutes certified by:

Katie McCallum, Vice Chair January 11, 2018



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Wisconsin Ethics Commission

212 E. Washington Avenue
Board Room – Teleconference
Madison, Wisconsin
December 22, 2017
10:30 a.m.

Open Session Minutes

Present (via telephone): David Halbrooks, Katie McCallum, Mac Davis, Pat Strachota, Timothy Van Akkeren, and Jeralyn Wendelberger

Staff present: Brian Bell, David Buerger

A. Call to Order

Commission Chair David Halbrooks called the meeting to order at 10:34 a.m.

B. Report of Appropriate Meeting Notice

Administrator Bell reported that appropriate notice of the Commission meeting had been given to the public and news media.

C. Modifications to CR 17-038 at the request of JCRAR

Attorney Buerger and Administrator Bell presented the letter starting on page 3 of the meeting materials.

MOTION: To approve the letter to JCRAR and modify the ETH21 draft rule to incorporate the policy. Moved by Commissioner Strachota, seconded by Commissioner Van Akkeren. Motion carried unanimously.

D. Discussion of Letter from Senate Majority Leader Fitzgerald and Speaker Vos

The Commission discussed the option of holding a hearing before the confirmation vote if the Senate does not hold a hearing.

The co-chairs agree to send a letter to the Majority Leader inquiring about a hearing date, and will determine further action if a response is received.

E. Future Meeting Dates and Agenda Items

Commissioners and staff discussed agenda items for the January 11, 2018 meeting. Staff directed to draft an agenda for January 11, 2018.

F. Personal Appearances

Matt Rothschild, of Wisconsin Democracy Campaign made a personal appearance regarding the letter from Senate Majority Leader Fitzgerald and Speaker Vos.

Brian Bell, Commission Administrator, made an appearance requesting investigation of the allegations of his partisan conduct.

G. 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 Wendelberger, seconded by Commissioner McCallum. Motion carried unanimously.

H. Adjourn

MOTION: To adjourn. Moved by Commissioner [redacted], seconded by Commissioner [redacted]. Motion carried unanimously.

The Commission adjourned at 1:55 p.m.

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December 22, 2017 Wisconsin Ethics Commission meeting minutes prepared by:

Julie Nischik, Office Management Specialist January 11, 2018

December 22, 2017 Wisconsin Ethics Commission meeting minutes certified by:

Katie McCallum, Vice Chair January 11, 2018



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DATE: For the January 11, 2018 Meeting

TO: Members, Ethics Commission

FROM: Brian M. Bell, MPA
Commission Administrator

SUBJECT: Draft Guidelines

Guidelines were originally created under the former Wisconsin Ethics Board. The intent was to provide general guidance like advisory opinions, but in a manner that could be publicly and widely distributable and applicable. The Ethics Board also intended for these guidelines to make public the body's general guidance and thus reduce the need for the regulated community to seek confidential advisory opinions.

By discussing guidelines in open session, the Ethics Commission is also allowing the regulated community to observe and participate in the discussion and formulation of these guidelines. Based on interactions with elected officials, candidates, treasurers, and other campaign finance practitioners, staff prepared several draft guidelines to address what appear to be the most pressing concerns that the regulated community would like the Commission to further explain beyond existing statutes, administrative rules, and advisory opinions.

These draft guidelines do not represent a final staff recommendation on these issues. Instead, staff intends for these documents 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.

Following this introductory memo are several drafts of new guidelines addressing the following: joint fundraisers, strictly personal use under campaign finance law, the 50-piece rule, attribution statements (political disclaimers), social media and other electronic communications, and segregated funds.

Staff also reviewed two guidelines that the Commission inherited from the previous boards. Guideline 1258 addresses referendums and staff has prepared a revised guideline that accounts for the changes to Chapter 11. Staff also reviewed Guideline 1245 regarding public service announcements, but instead of a separate guideline staff has attempted to address public service announcements within the new 50-piece rule draft guideline.

With each of the draft guidelines the Commission could choose to adopt the guideline as presented, make modifications based on discussion or public comment, or table the guideline for further discussion at a future meeting date.



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DATE: For the January 11, 2018 Meeting

TO: Members, Ethics Commission

FROM: Brian M. Bell, MPA
Commission Administrator

SUBJECT: Campaign Finance Joint Fundraisers Guideline

FOR COMMISSION ACTION

Question 1: Does the Commission agree with the proposed guideline provided below, or does the Commission wish to revise any of the proposed guidance?

Question 2: Are there any other questions or information that the Commission wishes to address?

Question 3: Does the Commission wish to approve a guideline that incorporates the information below and any questions and information addressed through questions 1 and 2 above?

Campaign Finance Joint Fundraisers

When the Legislature rewrote Wisconsin's campaign finance laws with 2015 Wisconsin Act 117, they did not include provisions on conducting and reporting joint fundraising activities that existed under the previous version of Wisconsin's campaign finance laws. Based on the current law, this guideline outlines some of the potential options for those who wish to conduct joint fundraising activities, and how to report activities based on those options. These potential options are not necessarily an exhaustive list, and are not in any particular order.

Joint Fundraising Activities Coordinated Between Committees

Two or more candidate committees could coordinate a fundraising event where each committee agrees to pay a certain amount or percentage of the expenses related to conducting the event, or to pay for certain expenses (e.g., one committee pays for food, another pays for space rental). Each committee must receive separate invoicing for the expenses. If one committee pays for all of the expenses and then the other committee(s) reimburse the first committee, those payments would count towards contribution limits between committees.

Under this option, contributors or event attendees must make separate contributions to each committee. Alternatively, certain participants could agree to make a contribution to a particular committee (e.g., first two contributors to a Senate candidate, next three contributors to one of each of three Assembly Candidates, and then repeat). It may also be possible to utilize electronic

payment or campaign fundraising software (e.g., PayPal, ActBlue, Piryx, etc.) to allow contributors to make a single payment and automate a percentage going to each committee participating in the joint fundraiser. However, each committee must be able to itemize each contribution, including all required information (name, address, and, if applicable, occupation).

The requirement for separate expenditure invoices and separate contributions makes this option the most cumbersome, in terms of administration and reporting requirements. This option provides direct transparency as to the source of the contributions.

Joint Fundraising Activities by Establishing a Conduit

Committees could form and register a conduit for the sole purpose of conducting joint fundraising activities. Similar to joint fundraising conducted by multiple committees, the committees involved would need to have an agreement on how to separately pay for expenses related to the fundraising activities.

Under this option, contributors/attendees could make a single contribution to the conduit and at the same time complete a release authorization, specifying what amount to release to each of the involved committees. The conduit would then be responsible for providing each receiving committee with a transmittal letter, and each receiving committee would itemize each contribution they receive from the conduit.

This option simplifies the contribution process for the contributor, but is just as complex as option one in terms of fundraising expenses. This option provides direct transparency as to the source of the contributions, but duplicates the reporting requirements (i.e., once to the conduit, and then again when received by the committee).

Joint Fundraising Activities Coordinated by a Political Party Committee or Legislative Campaign Committee

A political party committee or legislative campaign committee may host a joint fundraising activity for multiple committees, and the political party committee or legislative campaign committee may pay for the administrative expenses for the event. However, segregated funds may not be used to pay for the fundraising activities.

Under this option, contributors/attendees would make a single contribution to the political party committee or legislative campaign committee, but may not earmark any part of their contribution for a candidate or other committee. The political party committee or legislative campaign committee would then have the discretion to determine how much to contribute to other committees, or how much to pay towards the administrative expenses related to the fundraising activities. A political party or legislative campaign committee may advertise to potential donors how they intend to distribute contributions to candidates. The political party committee or legislative campaign committee would be required to itemize each individual contribution, and then also report the administrative expenses related to the fundraising activities as well as each contribution to another committee. The receiving committees would only report the single contribution from the political party committee or legislative campaign committee.

This option allows for a method to use a portion of the funds raised to directly pay for the administrative expenses related to the fundraising activities. It also would allow contributors to make a single contribution, but provides no guarantee to the contributor or participating committees as to whom the political party committee or legislative campaign committee makes a contribution.

Joint Fundraising Activities by a Political Action Committee, Independent Expenditure Committee or Unregistered Person

The restriction under Wisconsin's campaign finance laws regarding coordination prohibit an independent expenditure committee from making expenditures for the purpose of express advocacy for the benefit of any candidate if it coordinated with that candidate, their committee, any agent of the candidate, the candidate's political party, or a legislative campaign committee of the candidate's political party. This restriction on coordination includes any coordinated express advocacy for the purpose of fundraising. PACs and other persons may coordinate, subject to applicable contribution limits and source restrictions. PACs, independent expenditure committees, or other persons interested in pursuing joint fundraisers to benefit non-candidate committees should contact the Ethics Commission.

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 CampaignFinance@wi.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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DATE: For the January 11, 2018 Meeting

TO: Members, Ethics Commission

FROM: Brian M. Bell, MPA
Commission Administrator

SUBJECT: Strictly-Personal Use Guideline

FOR COMMISSION ACTION

Question 1: Does the Commission agree with the proposed guideline provided below, or does the Commission wish to revise any of the proposed guidance?

Question 2: Are there any other questions or information that the Commission wishes to address?

Question 3: Does the Commission wish to approve a guideline that incorporates the information below and any questions and information addressed through questions 1 and 2 above?

Strictly-Personal Use

Wisconsin's campaign finance laws prohibit a committee from using campaign funds (disbursement or incurred obligation) for strictly-personal use.ⁱ

Strictly-personal use is the use of any funds in a campaign account to fulfill a commitment, obligation, or expense of any person that would exist irrespective of the candidate's campaign or responsibilities as a public officeholder. In other words, if the expense would still exist if the person were not a candidate or officeholder, payment of such an expense would be strictly-personal use. This is consistent with the Federal Election Commission's definition of personal use.ⁱⁱ

Examples of Spending that are not Strictly-Personal Useⁱⁱⁱ

- Disbursements in connection with a campaign for national office^{iv}
- Payment of civil penalties incurred by the committee under Wisconsin's campaign finance laws (Chapter 11, Wisconsin Statutes), but not any other chapter
- Donations to a charitable organization or the Common School Fund
- Expense for nonpartisan campaigns to increase voter registration or participation
- Inaugural expenses of an individual who is elected to state or local office (contributions are reportable and subject to contribution limits under Wisconsin's campaign finance laws)

Additional Resources

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ⁱ [WIS. STAT. § 11.1208\(2\)\(a\)](#)

ⁱⁱ <https://www.fec.gov/help-candidates-and-committees/making-disbursements/personal-use/>

ⁱⁱⁱ [WIS. STAT. § 11.1208\(2\)\(b\) and \(c\)](#)

^{iv} Note: contact the Federal Elections Commission regarding rules for candidates for national office



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DATE: For the January 11, 2018 Meeting

TO: Members, Ethics Commission

FROM: Brian M. Bell, MPA
Commission Administrator

SUBJECT: 50-Piece Rule Draft Guideline

FOR COMMISSION ACTION

Question 1: Does the Commission agree with the proposed guideline provided below, or does the Commission wish to revise any of the proposed guidance?

Question 2: Are there any other questions or information that the Commission wishes to address?

Question 3: Does the Commission wish to approve a guideline that incorporates the information below and any questions and information addressed through questions 1 and 2 above?

The 50-Piece Rule

Wisconsin's campaign finance law ([WIS. STAT. § 11.1205](#)) prohibits a person elected to state or local office who becomes a candidate for any office from using public funds for the cost of materials or distribution for 50 or more pieces of substantially identical material during the campaign season. This rule is also sometimes referred to as the 49-piece rule, because it allows for the distribution of up to 49 pieces of substantially identical materials, with the 50th piece being a violation of the law.

This prohibition begins after:

- The first day to circulate nomination papers, if nominated by nomination papers
- The day the board of canvassers issues a determination that the person is nominated if nominated at a primary election by write-in votes
- The date of the caucus, if nominated at a caucus
- The first day of the month preceding the month which includes the last day to for filing a declaration of candidacy, if nominated solely by filing the declaration

This prohibition ends:

- The day after the date of the primary election, if the candidate is unsuccessful in being nominated at the primary election, and is not running as a write-in candidate in the election
- The day after the date of the election

Exceptions to the 50-Piece Rule

The 50-piece rule does not apply to the following:

- Answers to communications from constituents
- Actions taken by a state or local government administrative officer pursuant to a specific law, ordinance or resolution which authorizes or directs the actions to be taken
- Communications between members of the legislature regarding the legislative or deliberative process while the legislature is in session
- Communications not exceeding 500 pieces by members of the legislature relating solely to the subject matter of a special session or extraordinary session, made during the period between the date that the session is called or scheduled and 14 days after adjournment of the session

What Does “Substantially Identical” Mean?

Substantially Identical means essentially, mostly, significantly, or to a great extent similar in virtually every detail or nearly exactly alike. Simply addressing to different recipients or having a different salutation does not provide enough of a distinction between pieces. In order to determine if materials are substantially identical, the entirety of materials must be considered. It may be permissible to use similar content (e.g., a photo, or template) as long as the entirety of the materials provided or sent to an individual are personalized to that individual (again, this must be more than just a unique salutation). This is always a very fact-intensive analysis, but often starts by asking the question, “Would a reasonable person conclude that this material is substantially identical to other materials?” and “What is the substance of the material/communication?”

Direct Versus Passive Messaging

For this guideline, it is helpful to distinguish between direct and passive messaging using social media and comparable communications using more traditional media. Each recipient of a direct message counts as one piece under the 50-piece rule. However, each passive message, regardless of the number of people who may read it, is only counted as one piece under the 50-piece rule.

Direct messaging involves communicating a specific message directly to individually targeted recipients, where the sender actively selects individuals they wish to receive the message. With direct messaging, the sender has control of the number of individuals who will initially receive the communication (separate from whether those individuals decide to share the communication with others). Examples include direct phone calls, text messages, emails, messages sent to a distribution list, and direct/private messages sent through various social media accounts (this is not an all-inclusive list).

Passive messaging involves communicating to a general audience where the sender does not actively control who receives that message. With passive messaging, the sender of the communication does not have the ability to control who initially receives the communication. Examples include yard signs, billboards, press releases (if only posted and not actively communicated), bulletin boards, social media posts/tweets/etc. (this is not an all-inclusive list). Even with passive messaging, the official is limited

to forty-nine pieces. For example, a press release could be emailed to forty-nine media organizations, but not fifty.

Broadcast of commercials, advertisements, or announcements, while passive in the sense that the speaker does not control the audience, should still be kept below 50 airings during the prohibited period unless the broadcast would be pursuant to a specific law, ordinance or resolution which authorizes or directs the actions to be taken.

Communications Sent on Behalf of an Elected Official

Coordination for others to share a communication (agreement between the original sender and another person) with a targeted audience is still a direct message (i.e., you cannot ask someone else to do something on your behalf that the law does not permit you to do yourself), and would count toward the limit on substantially identical materials under the 50-piece rule. Asking others to share your communication/materials with others within your original communication (e.g., “Please retweet this!”) and not identifying a targeted audience does not constitute coordination of messaging. However, something like asking an officer of an organization to share your communication/materials with their members would be equivalent to sending the message to the organization’s members yourself 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 CampaignFinance@wi.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.

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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 | <https://ethics.wi.gov>

DATE: For the January 11, 2018 Meeting

TO: Members, Ethics Commission

FROM: Brian M. Bell, MPA
Commission Administrator

SUBJECT: Campaign Finance Disclaimers / Attribution Statements Guideline

FOR COMMISSION ACTION

Question 1: Does the Commission agree with the proposed guideline provided below, or does the Commission wish to revise any of the proposed guidance?

Question 2: Are there any other questions or information that the Commission wishes to address?

Question 3: Does the Commission wish to approve a guideline that incorporates the information below and any questions and information addressed through questions 1 and 2 above?

Attribution Statements¹ - Types of Communications

Wisconsin campaign finance laws require an attribution statement, also known as a disclaimer, on materials containing express advocacy that are paid for by any contribution or disbursement. Materials or communications made for the purpose of influencing the recall or retention in office of a state or local elected official must also generally include an attribution statement. Express advocacy paid for by a person, other than a committee, must also include an attribution statement if the cost of the communications exceeds \$2,500.

Contents of an Attribution Statement

An attribution statement must include the words, “Paid for by” and the name of the committee making the payment or reimbursement, or assuming responsibility for the communication. The attribution statement may also include the name of the treasurer or other authorized agents of the committee (NOTE: name(s) of the treasurer or other officers of the committee is not required).

Independent Express Advocacy

Political Action Committees (PACs), Independent Expenditure Committees, or Other Persons who engage in independent express advocacy (a communication that says, “vote for” or “vote against”

¹ [WIS. STAT. § 11.1303](#)

that wasn't coordinated with any candidate, candidate's committee, or candidate's agent, nor with any legislative campaign committee of the candidate's political party, or a political party) must include the words "Paid for by", the name of the committee, and the words "Not authorized by any candidate or candidate's agent or committee."

Readable, Legible, and Readily Accessible

The attribution must be readable, legible, and readily accessible. This means that the attribution:

- can be read with just the naked eye,
- is clear enough to read, and
- a person can identify the attribution without any additional effort (i.e., printed or written on the immediately outward-facing surface)

Types of Communications and Materials Requiring an Attribution Statement

Communications and materials covered under the types of communications listed above must include an attribution statement on the following:

- Printed advertisements/direct mail
- Phone calls that include express advocacy (e.g. robo-calls)
- Billboards
- Handbills
- Sample ballots
- Television or radio advertisements
- Other communications containing express advocacy, or recall or retention in office
- **(not an all-inclusive list)**

Types of Communications That Do Not Require Attribution Statements

- Text messages
- Social media communications
- Small advertisements on mobile devices
- Other small items on which the attribution statement cannot be conveniently printed
- **(not an all-inclusive list)**

Additional Resources

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DATE: For the January 11, 2018 Meeting

TO: Members, Ethics Commission

FROM: Brian M. Bell, MPA
Commission Administrator

SUBJECT: Social Media and Electronic Communications Draft Guideline

FOR COMMISSION ACTION

Question 1: Does the Commission agree with the proposed guideline provided below, or does the Commission wish to revise any of the proposed guidance?

Question 2: Are there any other questions or information that the Commission wishes to address?

Question 3: Does the Commission wish to approve a guideline that incorporates the information below and any questions and information addressed through questions 1 and 2 above?

Candidates and Campaign Staff

Candidates and their campaign staff may share any publicly available information related to official activities through their campaign social media and electronic communications accounts (e.g., photo of legislator in the Capitol, or a press release posted on an official website). However, officials should not use public resources to create content solely for campaign or other private purposes.

Lobbyists and Principals (Lobbying Organizations)

Direct communication through social media or other electronic communication is a lobbying communication, regardless of whether you send it from an official or personal account, but only if the communication is made by or on behalf of a principal (lobbying organization).

If the message is only a one-way communication (i.e., from the principal to the official, or only an acknowledgement from the recipient), it would still count as an instance of communication, but because the communication was instantaneous, the lobbyist would not report any time on their time report, nor would the principal need to report any time on their Statement of Lobbying Activities and Expenditures (SLAE).

If the communication becomes conversational (i.e., multiple exchanges from both the initial sender and recipient), each date on which messages the lobbyist or principal sent messages would count as an instance of lobbying communication.

Lobbyist and principals (lobbying organizations) should report time spent preparing short, concise messages (e.g., text message or direct private message) by making a good faith effort of the time spent communicating back and forth with the official as though the conversation occurred in person or via a phone call. Lobbyists and principals (lobbying organizations) should report time spent preparing communications of substantial content as “other” (not “communicating”) time.

Lobbyists and principals (lobbying organizations) should include time associated with grassroots lobbying efforts through social media or other electronic communications (e.g., “Contact your legislator and tell them...”) in the “other” time reported on the lobbyist time report or SLAE, but not as lobbying communication (“communicating”) hours. Principals (lobbying organizations) should also include on their SLAE any costs associated with those grassroots lobbying efforts through electronic communications.

State and Local Public Officials and Legislative Staff

State and local public officials should limit the use of social media accounts and other forms of electronic communications created or maintained using public resources to only those purposes related to their official duties. This may include the discussion of policy matters (e.g. a state legislator discussing how the state could address local crime issues through state laws or actions, or local public officials discussing how their locality would be affected by federal program funding). The Ethics Commission defers to each agency (e.g., the Department, the Legislature, etc.) to determine whether a given communication has a state purpose.

Public officials should not solicit campaign contributions for themselves or others from their official social media or electronic communications accounts, nor should they promote campaign activities (e.g., events or nomination papers) from their official accounts. An official also may not use their official accounts for personal gain (e.g., advertising their personal business), or to influence or gain unlawful benefits, advantages, or privileges personally or for others.

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:”). A best practice is to establish an internal policy for what information gets shared (e.g., issues related to tax reform or healthcare, employment opportunities with a certain minimum starting wage, with the discretion for the official to ultimately decide what to share/post) in order to avoid potential violations of use of office for a private benefit (i.e., if you shared something for one organization, would you do the same for any other organization that asked you to do so?).

It is also important to remember that if information is available to the official through their position, but is not yet publicly available, that using that information for campaign purposes would be a prohibited use of public resources.

Legislative staff who are also campaign staff may not work on campaign activities on state time and should comply with the Legislature’s policies for time management (contact the Senate/Assembly Chief Clerk’s Office for additional information). Because an elected official is also always a candidate, an elected official should 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).

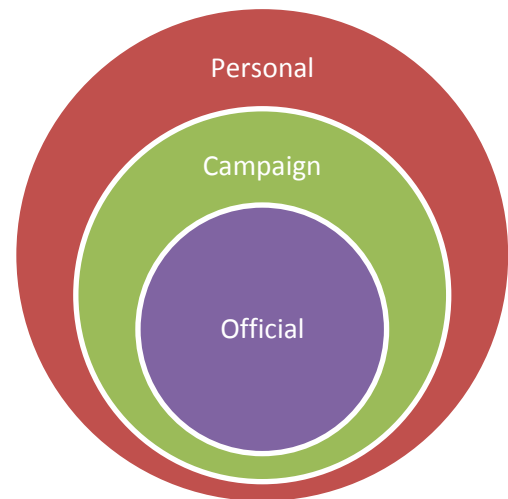
General Guidance

Using Separate Accounts and Mixed-Use Accounts/Sites

It is important to separate public from private uses of resources. It is also important to separate official activities from campaign activities. Social media accounts and other forms of electronic communication should include some indication of whether the account is for the official position, a campaign, or personal in nature (e.g., in the profile or summary), but in each individual message does not need to include an indication of whether the account is official, campaign or personal, when doing so would be impractical (e.g., include it in the twitter profile and email messages, but not necessary in each individual tweet/message)

Use of official social media and other communication accounts is the most restricted. Officials should limit use of their official accounts to information related to an individual’s official position, duties, and issues with a public purpose. Official accounts should not be used to solicit campaign contributions, or for personal benefits (e.g., promoting a business the official owns/operates).

A campaign may use a campaign account for all communications allowable for an official account, in addition to campaign-related activities including solicitation of contributions. A personal/private account may contain both official and campaign-related information. Please see the diagram to the right for an illustration of acceptable activities based on the type of account.



Additional Resources

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DATE: For the January 11, 2018 Meeting
TO: Members, Ethics Commission
FROM: Brian M. Bell, MPA
Commission Administrator
SUBJECT: Segregated Funds Draft Guideline

FOR COMMISSION ACTION

Question 1: Does the Commission agree with the proposed guideline provided below, or does the Commission wish to revise any of the proposed guidance?

Question 2: Are there any other questions or information that the Commission wishes to address?

Question 3: Does the Commission wish to approve a guideline that incorporates the information below and any questions and information addressed through questions 1 and 2 above?

What Is a Segregated Fund?

2015 Wisconsin Act 117, which repealed and recreated Wisconsin's campaign finance laws authorizes political party committees and legislative campaign committees to establish a segregated fund. A segregated fund is a fund or set of funds accounted for separate of a committee's primary fund. The segregated fund may be held in the same account as the primary fund, but the funds must be accounted for and reported separately. While not required, Ethics Commission staff recommends maintaining separate accounts for the primary and segregated fund.

What Types of Committees May Establish a Segregated Fund?

Only a political party committee or a legislative campaign committee registered with the Ethics Commission may establish and administer a segregated fund.

Is a Segregated Fund Required?

A segregated fund is only required if a political party or legislative campaign committee wishes to accept contributions from corporations, unions, associations (cooperatives), and American Indian tribes. If the committee does not intend to accept funds from those types of contributors, the segregated fund is not required by Wisconsin Statutes.

Are There Restrictions on Who May Contribute to a Segregated Fund?

Yes, independent expenditure committees may not contribute to a political party or legislative campaign committee's primary or segregated fund. An independent expenditure committee may only make contributions to a referendum committee or another independent expenditure committee.¹

What Are the Contributions Limits Regarding a Segregated Fund?

Individuals, candidate committees and party committees may contribute to a segregated fund in unlimited amounts. Political action committees (PACs), corporations, unions, tribes, and other persons (e.g., unregistered committees) may contribute up to \$12,000 in aggregate per calendar year. PACs and other persons that give to both the party's primary account and the segregated fund may not give more than \$12,000 in total in a calendar year.

Are There Restrictions on How Segregated Funds May Be Used?

Yes, segregated funds may not be used for making contributions to a candidate committee or making disbursements for express advocacy. Segregated funds may be used for anything allowable by Wisconsin Statutes outside of contributions to a candidate committee or making disbursements for express advocacy. The funds may not be used for strictly-personal use.

What Are Some Common Examples of How Segregated Funds May Be Used?

Some common uses for segregated funds would include, but not be limited to, administrative expenses of the party such as office space rent, office supplies, administrative expenses for fundraising activities, website hosting or development. committees must make sure that such activities do not violate the prohibition on using segregated funds for express advocacy.

Who Should I Contact If I Am Not Absolutely Sure If a Use of Segregated Funds Is Allowable Under Wisconsin Statutes?

For information about how to use the Wisconsin Campaign Finance Information System (CFIS), please visit this webpage: <https://ethics.wi.gov/Pages/CampaignFinance/CFISManuals.aspx>. 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 CampaignFinance@wi.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.

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¹ 2017 ETH 02 (found online at https://ethics.wi.gov/Resources/17-02_IndependentExpenditureCommittees.pdf)

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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DATE: For the January 11, 2018 Meeting

TO: Members, Ethics Commission

FROM: Brian M. Bell, MPA
Commission Administrator

SUBJECT: Advocating Passage or Defeat of a Referendum Guideline 1258 (Revised)

FOR COMMISSION ACTION

Question 1: Does the Commission agree with the proposed guideline provided below, or does the Commission wish to revise any of the proposed guidance?

Question 2: Are there any other questions or information that the Commission wishes to address?

Question 3: Does the Commission wish to approve a guideline that incorporates the information below and any questions and information addressed through questions 1 and 2 above?

Officials Given Broad Latitude to Comment on the Role of Government and Matters of Public Policy

Wisconsin's law accords governmental officials broad latitude to comment upon the role of government and matters of public policy; consequently, officials' comment on the wisdom and consequences of a referendum's passage is consistent with laws that the Wisconsin Ethics Commission administers.

Actions Independent of Governmental Resources

When acting without reliance upon governmental resources, a state public official¹ may advocate the passage or defeat of a referendum² and may solicit money for a committee advocating the passage or defeat of a referendum as long as the official does not solicit money for this purpose from a lobbyist, from a business or organization that employs a lobbyist, or from a business or

¹ "State public official" includes elected state officials, employees of the legislature and its service bureaus, the Governor's appointees to positions in state government, and most positions in the unclassified civil service. For a more detailed accounting see WIS. STAT. § 19.42(13)

² See Judicial Conduct Advisory Opinion 06-1R, which advises judges there are limits on commenting on November 2006 referendum concerning death penalty

organization regulated by or doing business with an official's governmental office or agency or legislative body.³

Use of Governmental Resources to Advocate Passage or Defeat of a Referendum Prohibited

A state public official may rely on governmental resources, including the services of state employees, to identify and provide information about a referendum's subject and the likely consequences of a referendum's passage or defeat only to the extent to which the official is acting in furtherance of his or her governmental duties; otherwise, a state public official should not use the services of governmental employees and other resources not normally available to anyone to advocate the passage or defeat of a referendum.

Registration of Political Committees and Reports of Their Receipts and Expenditures

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@wi.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.

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³ WIS. STAT. §§ 13.625, 19.45(3).

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DATE: For the January 11, 2018 Meeting
TO: Members, Wisconsin Ethics Commission
FROM: Colette Reinke, Ethics Specialist
SUBJECT: Review of Lobbying-Related Opinions of Previous Boards

FOR COMMISSION ACTION

The Commission may decide to:

1. Withdraw and reaffirm opinions as recommended by staff.
2. Withdraw and reaffirm opinions as amended by today's discussion.
3. Direct staff to continue review of the opinions.

Staff has reviewed eighty-eight formal opinions from the previous boards (Ethics Board and Government Accountability Board) related to lobbying.

Opinions that are consistent with current law and Commission interpretation, advice, and guidelines are recommended to be reaffirmed. Staff recommended withdrawal of opinions for two reasons, either:

1. They are inconsistent with current statutes or with the current Commission's interpretation, advice, and guidelines, or
2. the opinions are vague and provide no substantive analysis.

Staff is recommending that fifty-one opinions be reaffirmed, thirty opinions be withdrawn as they are inconsistent with current law, and seven opinions be withdrawn as they provide no substantive analysis.

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.

Enclosure: Lobbying Opinions Spreadsheet Jan 11 Meeting

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer
Lobbyist Contributions (Overruled by statute)	Eth. Bd. Op. 97-09	While serving as a member of Wisconsin's legislature, a candidate for Congress may accept a campaign contribution from a lobbyist or lobbying organization for the purpose of promoting the legislator's candidacy for election to Congress only during the year of the Congressional election between June 1 and the date of the general election and only if the Wisconsin Legislature has concluded its final floor period and is not in special or extraordinary session.	Inconsistent	2013 Act 153 and 2015 Act 117 amended and renumbered 13.625 (1)(c) to (1m). Time frame that lobbyists may contribute amended from between June 1 and day of general election to the 1st day authorized by law for circulation of nomination papers and the day of the election.
Lobbying and Associated PAC	Eth. Bd. Op. 93-06	The Ethics Board advises that a political action committee that is a separate legal entity not acting subject to the control of a lobbying principal is not subject to the restrictions of the lobbying law. OEB 93-6	Inconsistent	13.625 (1m). 2013 Act 153 and 2015 Act 117 amended and renumbered 13.625 (c) to (1m). Time frame that lobbyists may contribute amended from between June 1 and day of general election to the 1st day authorized by law for circulation of nomination papers and the day of the election.
Lobbyists Daily Log	Eth. Bd. Op. 91-07	Non-lobbyists need not maintain an individual daily log of activities. A principal need only maintain a log for the time of its employees and individuals engaged in lobbying activities under the supervision or control of the organization. Costs incurred by a principal for research must be reported only if the cost would not have been incurred but for lobbying. Eth. Bd. 641	Inconsistent	1997 law change. Wis. Stat. Sec. 13,68(1)(c), non-lobbyist employees participating in lobbying activity must track time.
Registration and Reporting	Eth. Bd. Op. 93-10	A. Regardless of whether a lobbyist is acting on behalf of the organization that employs the lobbyist or independent of it, the lobbyist need not account to the Ethics Board: 1. For time the lobbyist spends participating as a member in the deliberations either of a rule-making advisory committee established by a state agency under §227.13 or of a committee of the Legislature or 2. For time the lobbyist spends providing information to a state agency official in response to the official's request. B. Otherwise the lobbyist should account for all the time he or she is engaged in attempting to influence state legislation ¹ or an administrative rule ² on his or her employer's behalf, even if the information the lobbyist provides was requested by a legislator. C. A lobbyist is not obliged to account to the Ethics Board for activities: 1. That are unrelated to influencing state legislation or administrative rules or 2. That the lobbyist undertakes independent of his or her employer's interests and not as its representative. OEB 93-10	Inconsistent	1997 law change. Wis. Stat. Sec. 13,68(1)(c), non-lobbyist employees participating in lobbying activity must track time.
Reporting	Eth. Bd. Op. 97-10	The Ethics Board advises that a lobbying principal include in its semiannual report to the Ethics Board the time an individual, who is not a lobbyist, spends on the principal's behalf participating, and preparing to participate, on a committee established by a state agency to formulate recommended changes to state statutes.	Inconsistent	1997 law change. Wis. Stat. Sec. 13,68(1)(c), non-lobbyist employees participating in lobbying activity must track time.
Registration, Reporting and American Indian Tribes	Eth. Bd. Op. 03-14	The Ethics Board advises that the lobbying law does not exempt elected leaders of Wisconsin's Native American tribes from its registration and reporting requirements.	Inconsistent	2005 Act 463 created 13.62 (14) and extends the same exemptions, relating to obtaining a lobbyist's license, provided to public offices to tribal officials.

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer
Lobbying - Prohibited Practices	Eth. Bd. Op. 91-08	The lobbying law prohibits a lobbyist from making a campaign contribution during a prohibited time period if it is from a personal campaign committee account over which the lobbyist exerts control or which acts at the direction or as an agent of the lobbyist. Eth. Bd. 682	Inconsistent	2013 Act 153- Wis. Stat. Sec. 13.625 (1m) Provides new time periods during which a lobbyist can make a personal contribution
Lobbying, Principal, and Contributions	Eth. Bd. Op. 06-02	A lobbying principal may, consistent with the lobbying law, urge its members to contribute to a candidate, as long as the organization is not acting in concert with the candidate. A lobbying principal may not bundle and furnish contributions from its members to legislators except between June 1 and the general election in the year of the member's election and, then, only if the Legislature has concluded its final floorperiod and is not in special or extraordinary session.	Inconsistent	2015 Act 117 replaced the word "furnish" with "give," and replaced "campaign contribution" with "personal contribution." (13.625 (1) and (1m)). Lobbyists are now restricted from making personal contributions, but may convey contributions from a committee. 2013 Act 153 and 2015 Act 117 amended and renumbered 13.625 (c) to (1m). Time frame that lobbyists may contribute amended from between June 1 and day of general election to the 1st day authorized by law for circulation of nomination papers and the day of the election.
Lobbying and Conduit	Eth. Bd. Op. 97-18	The Ethics Board advises: (1) that a lobbyist may administer a conduit and sign conduit checks and transmittal letters; and (2) that a lobbyist may sign a conduit check and transmittal letter conveying a campaign contribution to a partisan elective state official or candidate for a partisan elective state office only between June 1 and the date of the general election in the year of a candidate's election and to a legislative candidate during that period only if the legislature has concluded its final floorperiod and is not in special or extraordinary session.	Inconsistent	2015 Act 117 replaced the word "furnish" with "give," and replaced "campaign contribution" with "personal contribution." (13.625 (1) and (1m)). Lobbyists are now restricted from making personal contributions, but may convey contributions from a committee.
Lobbying, Meals, Lodging, Travel, Gifts	Eth. Bd. Op. 97-12	The Ethics Board advises: A lobbying organization may, consistent with the Ethics Code and lobbying law, furnish food and drink to state officials at a reception if: (1) the organization can demonstrate its genuine attempt to attract the general public to the reception; (2) the reception is open to the public on the same terms it is available to state officials without the purpose or effect of the manner of invitation conferring an advantage on a state official greater than that available to the general public; and (3) either: (a) the organization sets and collects from each state official the greater of: [i] the established charge or ticket price, if any, charged others for the same or comparable benefit, [ii] the organization's cost of acquiring the goods or services the organization provides, or [iii] the market price of the recipient's independently acquiring like benefits; or (b) the reception is unrelated to state officials' discussion of state government processes or issues initiated by or affecting state government.	Inconsistent	Allowing officials to receive things of value if unrelated to the state official's discussion of state government processes or issues initiated by or affecting state government is inconsistent with Wis. Stat. §13.625

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer
Registration and Reporting	Eth. Bd. Op. 92-16	The time and expenses related to the lobbying activities of individuals employed by companies that are members of a trade association that is a principal should be recorded as follows: (1) If the individuals are lobbying on the trade association's behalf, and under its supervision or control, the trade association should account for their time and the lobbying expenses that the association incurs; (2) If the individuals are lobbying on their employer's behalf, then if the employer otherwise meets the definition of "principal," the employer should account for the employees' time and the lobbying expenses that the employer incurs; and (3) If the individuals are lobbying on behalf of both the trade association and the employer, then both the trade association and the employer should undertake the accounting described in (1) and (2). The exemption for participating in the deliberations of an agency's advisory committee on rulemaking established under §227.13 or of a legislative committee of which the individual is a member extends to preparation and communication with committee members and staff, outside a meeting, that is directly related to committee deliberations. OEB 92-16	Inconsistent	Except those devoting less than 10 hours, clerical EEs, and unpaid volunteers.
Lobbying and Principal Conduct	Eth. Bd. Op. 92-29	The Ethics Board advises that the lobbying law's restrictions on the timing of campaign contributions applies to a lobbying principal whether the principal is a corporation or an unincorporated association. A principal is subject to the lobbying law's restrictions on campaign contributions whether it makes a contribution directly or through its alter ego or agent, such as a PAC. Corporate lobbying principals that have created and registered PACs under §11.38, Wisconsin Statutes, may utilize those PACs to make campaign contributions to the full extent permitted under campaign finance laws and within the time periods permitted under Wisconsin's lobbying statute. Businesses, organizations, and individuals that are not lobbying principals are free to make campaign contributions through their PACs without restraint from laws administered by the Ethics Board. OEB 92-29 November 18, 1992	Inconsistent	Inconsistent with current statutes regarding campaign contributions under Wis. Stat. §13.625
Registration and Reporting	Eth. Bd. Op. 99-02	The Ethics Board advises that each chapter that contributes payments for your lobbying effort and which makes expenditures or incurs obligations exceeding \$500 in a calendar year must separately register as a lobbying principal if you make lobbying communications on each of at least five days in a six-month reporting period unless the network (1) has articles or other written agreement of association; and (2) has officers, directors, or others who jointly direct the association's activities; and (3) you do not take direction from any one chapter or combination of chapters other than the association.	Inconsistent	Inconsistent with the Commission's interpretation of the definition of principal
Joint Lobbying	Eth. Bd. Op. 92-11	Two organizations jointly lobbying under a different name should continue to report separately the time and resources expended in lobbying by each organization. OEB 92-11	Inconsistent	Inconsistent with the definition of a principal
Lobbying, Elected Official, and Gifts	Eth. Bd. Op. 97-16	The Ethics Board advises that: (1) Both state and local officials may participate in a round-trip train excursion that celebrates a lobbying organization's 10th anniversary; (2) The lobbying organization should not furnish refreshments to elected state officials or to state agency officials whose responsibilities relate to rulemaking; and (3) Local public officials and non-elected state officials whose responsibilities do not involve state rule-making may pay for and partake of the food and drink that is offered in connection with the proposed event. The official should pay the greater of [i] the established charge to others for the refreshments, [ii] the organization's cost of providing the refreshments, or [iii] the fair market value of the recipient's independently acquiring like items at a comparable event.	Inconsistent	Officials would receive preferential notice of the event and exclusive access, which in itself can be something of value

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer
Lobbying and Elected Officials	Eth. Bd. Op. 97-08	The Ethics Board advises that, consistent with the lobbying law: (1) a legislator may direct a letter to a lobbyist asking the lobbyist to ask others to endorse the legislator's candidacy or to provide volunteer personal services to the legislator's campaign such as erecting yard signs, delivering campaign literature, and stuffing envelopes (but not business or professional services); and (2) a legislator not direct a letter to a lobbyist asking the lobbyist to ask others to make a campaign contribution to the legislator's campaign, except between June 1 and the day of the general election in the year of the election and then, if the legislator is running for reelection to the legislature, only if the legislature has concluded its final floorperiod and is not in special or extraordinary session.	Inconsistent	Paragraph 7 refers to amended statutory section-13.625 (1m). 2013 Act 153 and 2015 Act 117 amended and renumbered 13.625 (c) to (1m). Time frame that lobbyists may contribute amended from between June 1 and day of general election to the 1st day authorized by law for circulation of nomination papers and the day of the election.
Registration	Eth. Bd. Op. 96-17	An association is a lobbying principal subject to Wisconsin's lobbying law if (1) it reimburses a member for lost wages in connection with lobbying on the association's behalf and (2) the member communicates with state officials other than the legislators from the member's own district, on more than 4 days in a 6-month reporting period. A lobbying principal may not, consistent with the lobbying law, reimburse its members' campaign contributions that are furnished at a time not permitted to the principal.	Inconsistent	Paragraph 7 refers to amended statutory section-13.625 (1m). 2013 Act 153 and 2015 Act 117 amended and renumbered 13.625 (c) to (1m). Time frame that lobbyists may contribute amended from between June 1 and day of general election to the 1st day authorized by law for circulation of nomination papers and the day of the election.
Lobbying and Campaign Activity	Eth. Bd. Op. 96-05	1. A lobbyist may, without restriction from the lobbying law, advise a lobbying organization's members, or their employees, about making campaign contributions as long as the lobbyist is acting independent of any candidate or candidate's campaign committee. 2. Campaign contributions collected from members of a lobbying organization, a circumstance popularly known as "bundling", are best delivered by one of the contributors on behalf of the contributors without reference to the organization. Neither a lobbyist (nor anyone acting at a lobbyist's behest) nor anyone representing himself or herself as acting on behalf of the lobbying organization should physically convey campaign contributions to partisan elected state officials, or candidates for partisan state elective office, except during the statutorily authorized period. OEB 96-5	Inconsistent	Question 1: Consistent. Question 2: Inconsistent. Wis. Stat. 13.625 (1) (b) was amended by WI 2015 Act 117 and "furnish" was replaced by "give." The time period had been amended by 2013 Act 153 (see comments for 93-06). Lobbyists may give personal contributions during the time period provided for in the statutes. Issue raised in the questions was limited to what it means to furnish a contribution.
Improper Use of Office, Conflict (Contact Commission Staff)	Eth. Bd. Op. 07-07	An organization that employs a lobbyist in Wisconsin may furnish an elected state official the opportunity to narrate a public service announcement and purchase airtime for its dissemination, when the dissemination is not proximate to an election at which the official is or is likely to be a candidate.	Inconsistent	Statutory definition of candidate has been amended.
Lobbying, Officials, and Membership Activity	Eth. Bd. Op. 07-14	A legislator may appear in a lobbying principal's video for employees and directors of the organization's members on the importance of talking about how the member institutions serve members and communities but the lobbying organization should not disseminate the video proximate to an election in which the legislator is or is likely to be a candidate.	Inconsistent	Statutory definition of candidate has been amended.

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer
Registration and Reporting	Eth. Bd. Op. 06-09	The Ethics Board advises that consistent with the statutes that the Ethics Board administers: 1. As long as a business that employs a lobbyist accords the privilege of serving clients on its premises and using its facilities to all members of a legislator's profession living in the area of the business, and the legislator remains a member of that profession, the business may continue to extend that privilege to the legislator. 2. For a lobbying principal's sibling corporation, the members of whose board of directors are identical to the principal's board of directors, to furnish salary, compensation, or payment to a legislator, these two conditions must be present: a. Any salary, compensation, or payment that a sibling corporation provides or arranges for the legislator is independent of any services he provides for, at the behest of, or for the benefit of the lobbying principal. b. The principal's sibling corporation must arrive at its decisions about whether to employ the legislator, and to determine his salary and compensation, and the nature, scope and hours of his employment, independent of the principal. As long as both organizations are under the direction and control of boards of directors comprising the same people, the Ethics Board thinks it likely that as a matter of law, the sibling corporation cannot meet this condition.	Inconsistent	This opinion is poorly written and may lead readers to a false conclusion regarding restrictions on legislator employment
Lobbyist and Officials, Rent	Eth. Bd. Op. 05-07	The Ethics Board advises that a legislative employee not rent an apartment or a house with a lobbyist unless (1) the lobbyist is the employee's relative or (2) the employee and the lobbyist are <u>part of the same domestic unit</u> .	Inconsistent	This opinion conflicts with the exception provided for members of the <u>same household</u>
Reporting and Grassroots Lobbying	Eth. Bd. Op. 97-05	A lobbying principal should not report in its Statement of Lobbying Activities and Expenditures the time and money it has spent on developing and airing television commercials that do not urge members of the general public to try to influence legislation or administrative rulemaking.	Inconsistent	This opinion incorrectly categorizes activity as not being grassroots lobbying
Principal Registration	Eth. Bd. Op. 92-02	Both organizations may be principals when one organization contracts with another for the latter's <u>employee to lobby on the former's behalf</u> . OEB 92-2	Inconsistent	This opinion is poorly written, <u>contradicts itself and current law</u>
Lobbying and Legal Representation	Eth. Bd. Op. 93-01	An individual is a lobbyist if he or she engages in activities that constitute lobbying under the lobbying law, even if the activities are merely an outgrowth of legal representation. Lobbying includes attempting to influence or affect legislation or administrative rules, but does not include attempting to influence other kinds of agency decisions. Discussions with state agencies concerning the use of conventional construction bidding as opposed to privatization for prisons, attempts to get a state agency to make payments due your client, a conversation with a state agency regarding the effect of a highway project on your client, contacts regarding a client's proposal to design buildings for the State of Wisconsin, and discussions with a state agency concerning possible investment in a client do not appear to constitute lobbying and an individual's pursuit of these activities would not require the individual to obtain a lobbying license or require the individual's client to register as a lobbying principal with the Ethics Board. OEB 93-1	Inconsistent	While the activities described in this opinion do not represent ongoing legislative or administrative action, they do fit the definition of a lobbying topic
Lobbying and Elected Official	Eth. Bd. Op. 92-03	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.
Lobbying and Elected Official	Eth. Bd. Op. 91-01	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.

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Disqualification - Local Officials	Eth. Bd. Op. 92-12	Members of local landfill negotiating committees or other local officials, whose financial interests are likely to be affected by negotiations concerning a landfill expansion, should not participate in those negotiations or any decisions to ratify an agreement reached through those negotiations. OEB 92-12	Inconsistent	Wis. Stat. Sec. 144.445 does not exist now.
Grants, Improper Use of Office and Lobbying	Eth. Bd. Op. 04-02	The Ethics Board advises that a state agency may accept a grant from a company that employs a lobbyist for an agency program initiative.	Inconsistent	Withdraw for lack of substantive analysis
Improper Use of Office and Conflict	Eth. Bd. Op. 02-08	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
Improper Use of Office	Eth. Bd. Op. 03-05	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
Improper Use of Office and Reporting	Eth. Bd. Op. 03-10	The Ethics Board advises that neither a state public official's acceptance of cards for distribution to the public that provide health care information nor the company's furnishing them to the state of Wisconsin will violate Wisconsin's Ethics Code for state officials. This transaction will not subject the company to Wisconsin's lobbying law or otherwise be considered a lobbying expense.	Consistent	Withdraw for lack of substantive analysis
Improper Use of Office and Employment	Eth. Bd. Op. 03-15	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	Withdraw for lack of substantive analysis
501c4 and Lobbying	Eth. Bd. Op. 05-01	This is in response to your letter in which you have asked a number of general questions concerning application of laws administered by the Ethics Board to a 501 (c) (3) or 501 (c) (4) organization. The answers pertain equally to a 501 (c) (3) or 501 (c) (4) organization.	Consistent	Withdraw for lack of substantive analysis
Fees, Honorarium, and Gifts	Eth. Bd. Op. 06-06	Wisconsin law [§19.56 (1), Wisconsin Statutes] encourages you to address groups about legislative, administrative, executive or judicial processes and proposals and issues initiated by or affecting a department or the judicial branch and to accept reasonable compensation from the sponsor when you do. The bookends offered are well within the ambit of reasonable compensation. If your address can be appropriately characterized as meeting the subject matter criterion, you may surely retain them	Consistent	Withdraw for lack of substantive analysis
Gifts, Meals, Lodging, and Travel	Eth. Bd. Op. 07-08	The Ethics Board advises that a state official may accept food, drink, and entertainment from anyone as long as the person extending the invitation is not a lobbyist or a lobbying principal and the official can demonstrate that the person made the offer for a reason unrelated to the official's holding or having held a government position.	Consistent	Withdraw for lack of substantive analysis

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer
Registration and Reporting	Eth. Bd. Op. 97-19	The Ethics Board advises: (1) If an individual contracts for or receives economic consideration (including stock or an option to acquire stock) from a company, attempts to influence legislation or rules on its behalf, and communicates with state officials, either orally or in writing, on five or more days in a reporting period in attempting to influence those officials, then Wisconsin's lobbying law will require the company to register as a lobbying principal and to authorize the individual to lobby on its behalf; and (2) An individual should not agree to lobby on behalf of a company if the individual's compensation is stock or a stock option, unless the individual is prepared to clearly and convincingly demonstrate that the value of the stock or the stock option is not in any manner dependent on the success or failure of legislative or administrative action.	Consistent	
Lobbying, Official and Contracts	Eth. Bd. Op. 00-03	The Ethics Board advises that: (1) Consistent with statutes that the Ethics Board administers, a company that employs a lobbyist in Wisconsin and its employee may honor a union contract pre-dating the employee's candidacy for election to state government office, that provides for the company to credit an employee for up to two years of seniority during an unpaid leave of absence permitted under the contract. (2) The company should not credit the employee with and the employee should not accept credit for more than two years of seniority in connection with a leave of absence granted or taken in connection with the employee's service as a state government official.	Consistent	

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Gifts and Improper Use of Office	Eth. Bd. Op. 01-02	The Ethics Board advises: For state and local government officials Neither a state public official nor a local public official should accept or purchase a ticket or admission to an event or access to a loge, skybox, or other premium area unless the official can clearly and convincingly demonstrate that at least one of these conditions obtains: • The ticket, admission, or access is offered for a reason unrelated to the official's holding or having held a public office; • The ticket, admission, or access is available to the general public on the same terms and conditions as available to the official; or • The ticket, admission, or access is without pecuniary value. In addition, for state officials and organizations that employ lobbyists A lobbying principal should not give, sell, or furnish or arrange for another to give, sell, or furnish to an elected state official, legislative employee, candidate for state office, or agency official a ticket or admission to an event or access to a loge, skybox, or other premium area unless the ticket, admission, or access is available to the general public on the same terms and conditions or the ticket, admission, or access is without pecuniary value. An elected state official, legislative employee, candidate for state office, or agency official should not accept or purchase from a lobbying principal a ticket or admission to an event or access to a loge, skybox, or other premium area unless the ticket, admission, or access is available to the general public on the same terms and conditions or the ticket, admission, or access is without pecuniary value. In addition, for state officials and lobbyists A lobbyist should not give, sell, or furnish or arrange for another to give, sell, or furnish to an elected state official, legislative employee, candidate for state office, or agency official a ticket or admission to an event or access to a loge, skybox, or other premium area unless the ticket, admission, or access is without pecuniary value. An elected state official, legislative employee, candidate for state office, or agency official should not accept or purchase from a lobbyist a ticket or admission to an event or access to a loge, skybox, or other premium area unless the ticket, admission, or access is without pecuniary value. Limited exception To the extent that an official's participation in an event is in furtherance of substantive or ceremonial governmental responsibilities appropriate to the official's government office so as to be clearly and convincingly for the benefit primarily of the state or a local government and any private benefit is merely incidental, then an individual or organization may provide admission to or accommodation at the event and a state or local public official may attend the event without payment or on terms not available to the general public.	Consistent	
Lobbying and Prohibitions	Eth. Bd. Op. 02-03	The Ethics Board advises that §13.625, Wisconsin Statutes, prohibits a lobbying principal to reimburse expenses of a member of its board of directors who is an agency official.	Consistent	
Improper Use of Office	Eth. Bd. Op. 02-06	The Ethics Board advises: A legislator is free to commence a lawsuit to challenge the constitutionality of a law and to seek and retain legal counsel to represent himself or herself. If a legislator wants to join an existing lawsuit, the Ethics Board recommends that the legislator direct a letter to the Court asking that he or she be permitted to join the plaintiffs as a party or as amicus curiae, representing himself or herself. The Board further advises that a legislator not permit a lobbying organization to pay or arrange for legal services for the legislator.	Consistent	
Officials, Compensation and Employment	Eth. Bd. Op. 03-02	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	

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Solicitation and Officials	Eth. Bd. Op. 03-06	The Ethics Board advises: An employee of the Legislature should not solicit lobbyists or lobbying organizations for contributions to a community organization on whose board the employee sits. Nor should the employee use the status or prestige of office to solicit contributions to the organization.	Consistent	
Improper Use of Office and Conflict	Eth. Bd. Op. 04-04	The Ethics Board advises that: Neither the lobbying law nor Ethics Code will be an obstacle to state officials taking advantage of the terms of the State of Wisconsin's agreement with Microsoft that provides state employees with discounts on the purchase of computer products for home and personal use.	Consistent	
Lobbying Reimbursement and Agency Activity	Eth. Bd. Op. 04-07	The Ethics Board advises that an agency official should pay a lobbying organization on whose board of directors the official serves for any food, lodging, or transportation the organization furnishes the official in connection with serving on its board of directors. Because the official's state agency encourages its employees to participate in the organization's activities, routinely permits employees to participate in those activities without the need to take leave time, and reimburses employees' expenses for those activities when it can, it appears appropriate for the agency to reimburse the official for those costs. The lobbying law is not an obstacle to the organization's reimbursing the state agency for those expenses.	Consistent	
Employment Conflicting with Official Duties	Eth. Bd. Op. 04-08	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. ¹ 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	
Lobbying, Officials, Candidates, and Employment	Eth. Bd. Op. 05-08	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	

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Officials, Gifts, and Education Material	Eth. Bd. Op. 06-04	The Ethics Board advises that: 1. A state public official attending a conference or convention may accept educational or informational material or other item for the purpose of conveying it to the State of Wisconsin for the use or benefit of a state office or agency. 2. Except as just noted, a state public official should not accept from a lobbying principal or lobbyist anything of pecuniary value or from anyone else any item of more than token value. This is so, regardless of whether the official was to retain it or furnish it to another for other than governmental use. 3. A state official should not accept, without full payment, a meal or drink offered at a conference or convention unless it is provided, arranged, or sanctioned by the event's sponsor.	Consistent	
Officials, Compensation and Employment	Eth. Bd. Op. 06-07	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	
Officials, Compensation and Employment	Eth. Bd. Op. 06-08	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	
Candidates, Officials, and Campaign Activity	Eth. Bd. Op. 07-11	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	
Improper Use of Office	Eth. Bd. Op. 08-04	The Government Accountability Board advises that a state agency may not knowingly permit the use of confidential information by University of Wisconsin student interns for the benefit of the students' program, when the programs assets are held by a private entity for the program's benefit.	Consistent	
Gifts, Officials, and Judges	Eth. Bd. Op. 08-05	The Government Accountability Board advises that a judge may not accept, for participating in a program, an award that is a glass plate on an inscribed base, valued at \$400, which is furnished by an organization that is a lobbying principal. An appropriate disposition of the award would be donating it to the court system, through the director of state courts.	Consistent	
Improper Use of Office-Discounts	Eth. Bd. Op. 08-07	The Government Accountability Board advises that the company may not provide a discount to state or local government officials covered by the Ethics Code or lobbying law, even if the discount is made available to employees of the company's other customers, but may provide a discount if the state or a local government has negotiated discounts for its employees as part of a contract with the company.	Consistent	

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Officials and Legal Advice	Eth. Bd. Op. 10-01	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	
Lobbying and Elected Official	Eth. Bd. Op. 91-03	An elected state official may not accept a lobbyist's offer to buy stock in a non-publicly held corporation in which the lobbyist is a major investor. Eth. Bd. 626	Consistent	
Lobbying and Judge	Eth. Bd. Op. 91-04	A judge may not accept an honorarium from a principal for presenting a talk but may accept reimbursement of expenses. Eth. Bd. 635	Consistent	
Solicitation	Eth. Bd. Op. 91-06	You may solicit contributions for a foundation if: (1) you do not invoke the title or prestige of your office to solicit; (2) you do not rely upon the state's time, facilities, supplies or services not generally available to all Wisconsin citizens; (3) any response to your solicitations could not reasonably be expected to influence your official judgement or be considered a reward for past actions; and (4) you do not solicit any lobbyist or lobbyist's employer. Eth. Bd. 640.	Consistent	
Lobbying - Prohibited Practices and SEIs	Eth. Bd. Op. 91-09	The lobbying law does not prohibit a lobbying principal from awarding a scholarship to the child of an elected state official as long as the scholarship is available to the general public. The scholarship should be reported as a gift on the official's Statement of Economic Interests. Eth. Bd. 684	Consistent	
Gag Law and Union Officer	Eth. Bd. Op. 92-01	An employee does not violate the so-called "gag" law if he or she communicates with the legislature in his or her capacity as a union officer. OEB 92-1	Consistent	
Lobbying and Elected Official Stocks	Eth. Bd. Op. 92-05	The lobbying law prohibits a legislator from selling shares of stocks of a closely-held corporation to an organization that employs a lobbyist but not to a corporation owned by an individual who owns other corporations that employ lobbyists. OEB 92-5	Consistent	
Lobbying and State Agency	Eth. Bd. Op. 92-06	The exemption in § 13.621(1)(c) applies only to service on ad hoc advisory committees established by state agencies to advise with respect to rule making. Moreover, service on a state board or committee may not be lobbying if the individual exercises independent judgement and is not a <u>representative of his or her employer</u> . OEB 92-6	Consistent	
Lobbying - Prohibited Practices	Eth. Bd. Op. 92-21	Wisconsin's lobbying law poses no restriction on a lobbyist representing clients in negotiating a purchase of land to a state agency on a contingency fee basis unless the matter is associated with adoption, modification, or repeal of a rule or the Legislature's consideration of an appropriation earmarked for the purchase of the land at issue, or an agency's development of such a legislative proposal. OEB 92-21	Consistent	

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Lobbying and Elected Official	Eth. Bd. Op. 92-26	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	
Lobbying, Elected Official, and Improper Use	Eth. Bd. Op. 93-04	A legislator may not accept anything of pecuniary value from a lobbying principal. To the extent that a referendum committee is an intermediary, agent, or alter ego for a lobbying principal, a legislator should treat the referendum committee as if it were a lobbying principal and be guided by the advice given in 1992 Wis Eth Bd 26. A legislator should not bid or negotiate for, nor should anyone offer him or her, work on behalf of a referendum committee if it involves a matter on which the legislator is authorized to take any discretionary action unless the Legislature has completed its final action on that matter. Because referenda are part of the work of the Legislature, we recommend that a legislator not take pay to work on a referendum unless the legislator is confident that he or she can demonstrate that the employment is unrelated to being a member of the Legislature and is unlikely to influence the judgment the legislator exercises as a state official. OEB 93-4	Consistent	
Disqualification and Improper Use	Eth. Bd. Op. 94-03	The Ethics Board advises that the lobbying law does not pose an obstacle to an official's spouse's employment as a lobbyist. However, an official should avoid placing himself or herself in a position in which a conflict of interest may arise. In instances of occasional and infrequent conflicts, an official can avoid a violation of the Ethics Code by refraining from any official discussions or votes on matters on which the spouse's employer lobbies or has a demonstrated interest before the official's agency. An official should also refrain from extending any special access or assistance to his or her spouse or spouse's employer in agency matters. If conflicts are frequent and continuing, public policy may best be served by divesting either the private interest or the public responsibilities. OEB94-3	Consistent	
Lobbying, Improper Use of Office, Fee and Honorariums	Eth. Bd. Op. 94-09	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	
Elected Official and Principal	Eth. Bd. Op. 96-01	With respect to a legislator whose company has already entered into a contract with a lobbying organization: (1) The better course would have been that the company not have entered into the contract; (2) In the future, the legislator should not simultaneously serve in the Legislature and enter into a financial relationship with a business or organization that pays lobbyists to try to influence state government; and (3) Although public policy normally favors a legislator's voting on all matters properly addressed by the Legislature, for the remainder of the legislative session the legislator should not participate in discussions or votes on proposals that would specifically affect the lobbying organization. OEB 96-1	Consistent	

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Lobbying and Membership	Eth. Bd. Op. 96-06	1. The lobbying law does not proscribe an agency official's membership on a lobbying organization's Board of Directors, or the official's participation in its affairs; and 2. The lobbying law forbids an agency official elected to a lobbying organization's board of directors to accept reimbursement from the organization for expenses incurred in attending meetings of the organization's directors because the organization does not reimburse the general public for those expenses. OEB 96-6	Consistent	
Lobbying and Elected Officials Business	Eth. Bd. Op. 96-07	A lobbying organization may, consistent with Wisconsin's lobbying law, purchase services from a business wholly owned by a state legislator only if the organization's offer to purchase can reasonably be said to be available to the general public. This means that the organization should be able to demonstrate clearly and convincingly that its purchase of services is the result of an orderly, established competitive bidding process open to a substantial number of similar businesses, not unduly limited geographically, that gives no special advantage to a business owned by a state official. Even if the organization can demonstrate that its offer to purchase is available to the general public, the better course would be for the organization not to engage in business with a company wholly owned by a state legislator unless the organization is satisfied that its doing so would not undermine the public's confidence in the legislator's financial independence from the organization. OEB 96-7	Consistent	
Lobbying and Elected Officials-Supplemental	Eth. Bd. Op. 96-07	A lobbying organization may, consistent with Wisconsin's lobbying law, purchase services from a business wholly owned by a state legislator only if the organization's offer to purchase can reasonably be said to be available to the general public. Even if the organization can demonstrate that its offer to purchase is available to the general public, the better course would be for the organization not to engage in business with a company wholly owned by a state legislator unless the organization is satisfied that its doing so would not undermine the public's confidence in the legislator's financial independence from the organization. OEB 96-7	Consistent	
Lobbying and Out-of-State Travel	Eth. Bd. Op. 96-08	A lobbying principal may not furnish a legislator transportation to visit a facility in another state. A principal may make transportation available to the state under either of the following circumstances: (1) the State pays the full cost of the transportation; or (2) the State procures the transportation, at any or no cost, for a governmental purpose neither at the behest of a specific governmental official-beneficiary nor with the intention of a specific governmental official's benefiting from the procurement. OEB 96-8	Consistent	
State Agency Solicitations and Lobbying	Eth. Bd. Op. 96-14	A state agency may solicit donations for the agency's gifts and grants account as long as the agency solicits donations only from individuals, businesses, and organizations that do not do business with the agency, are not regulated by the agency, and are neither lobbyists nor lobbying principals. The agency should not use solicited funds for rewarding state public officials. Consistent with statutes administered by the Ethics Board, the agency may use solicited funds to reward other employees for exceptional accomplishment or outstanding performance as long as the use of such funds does not conflict with applicable collective bargaining agreements or with statutes or rules administered by the Department of Employment Relations. OEB 96-14	Consistent	
Improper Use of Office	Eth. Bd. Op. 97-04	A legislator may use a library service offered to legislators by several public libraries only in connection with his or her legislative duties and responsibilities.	Consistent	
Lobbying, Gifts, and Elected Officials	Eth. Bd. Op. 97-13	The Ethics Board advises: A legislator should not accept a lobbying principal's offer of a commercial quantity of informational brochures.	Consistent	

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer
Elected Officials and Local Government	Eth. Bd. Op. 97-20	The Ethics Board advises that a legislator not accept from a local government that is a lobbying principal reimbursement of expenses the legislator incurred in traveling to Washington, D.C. on the local government's behalf to meet with the state's Congressional representatives to lobby for federal money for a local project.	Consistent	
Lobbyist, PAC, and Campaign Activity	Eth. Bd. Op. 97-21	The Ethics Board advises that Wisconsin's lobbying law does not prohibit the appearance of a lobbyist's name as the treasurer of a political action committee on letterhead transmitting a campaign contribution to a member of the legislature.	Consistent	
Solicitation and State Agency	Eth. Bd. Op. 98-02	The Ethics Board advises, consistent with laws it administers, that: (1) a division of a state Department may use state resources in connection with its sponsorship of the annual conference of an association of state regulatory agencies; (2) the Department's employees may not solicit contributions to help host the conference from a lobbyist or a lobbying principal or from individuals or entities that are likely to be materially affected by laws or rules which the Department is called upon to interpret or apply or that do business with the Department; (3) the Department's employees may solicit attendance at the conference by any person other than a lobbyist or a lobbying principal; and (4) the Department's employees may prepare and send written notices of the conference to lobbyists and lobbying principals.	Consistent	
Improper Use of Office and Solicitation	Eth. Bd. Op. 98-05	The Ethics Board advises, consistent with laws it administers, that: (1) a state agency may use state resources in connection with its hosting of a convention of a national organization in Wisconsin; and (2) state public officials associated with the agency, and the agency's employees may not, either orally or in writing, personally solicit contributions from a lobbyist, an employee of a lobbying organization, or an employee of a business or organization that is regulated by or does business with the agency.	Consistent	
Improper Use of Office and Solicitation	Eth. Bd. Op. 98-06	The Ethics Board advises that a legislator should not authorize an organization to draw on the title and prestige of the legislator's state government office to solicit financial contributions if the organization [1] is a lobbying principal that tries to influence legislation and spends money in support of or in opposition to candidates for election to state offices, or [2] is an organization with which the legislator is associated.	Consistent	
Lobbying and Tickets	Eth. Bd. Op. 98-07	The Ethics Board advises that a lobbying principal not give or sell its sports stadium luxury box tickets to an elective state official, candidate for elective state office, state agency official, or legislative employee.	Consistent	
Improper Use of Office, Gifts	Eth. Bd. Op. 98-10	The Ethics Board advises: [1] A state public official may accept for the official and for the official's spouse transportation, lodging, meals, food, and beverages, or reimbursement of actual and reasonable costs, from a national association of which the official's state agency is a member, for attendance at the association's meetings to the extent that the official can clearly and convincingly demonstrate that the association's payments are received on behalf of, and primarily for the benefit of, the state and not primarily for private benefit. [2] In the normal course of business and in the absence of evidence to the contrary, the Ethics Board will defer to a state agency's determination of whether the provision of travel costs for an official or an official's spouse by a national association of which the state agency is a member is primarily of benefit to and on behalf of the state.	Consistent	

Subject	Opinion Number	Summary of Opinion	Legal Effect	New Statutory Section or Disclaimer
Officials and Employment	Eth. Bd. Op. 98-11	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	
Registration, Reporting, and Reimbursement	Eth. Bd. Op. 99-04	The Ethics Board advises that an organization that employs a lobbyist may (1) neither directly pay reimbursement of expenses to a member of its board of directors who is an agency official under the lobbying law (2) nor arrange for another organization to pay expenses arising from the official's activities as a member of the organization's board.	Consistent	
Officials and Compensation	Eth. Bd. Op. 99-06	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	
Registration and Reporting - Union	Eth. Bd. Op. 99-07	The Ethics Board advises that: (1) Wisconsin law requires an officer or member of a union who makes a lobbying communication on the union's behalf on more than four days in a reporting period to be licensed and authorized as a lobbyist if the union reimburses the member's employer for the individual's wages for the time spent in lobbying activities; and (2) the union should include, in its semi-annual report of lobbying expenditures, the union's salary reimbursement for an individual's time spent in lobbying activities, whether or not the individual is a lobbyist.	Consistent	
Lobbying, Officials, and Investments	Eth. Bd. Op. 99-09	The Ethics Board advises that legislative employees and agency officials not form an investment club with a lobbyist. State official's request.	Consistent	
Investment Club	Eth. Bd. Op. 99-10	The Ethics Board advises that a lobbyist not form an investment club with legislative employees or agency officials. Lobbyist's request.	Consistent	



Wisconsin Ethics Commission

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

DATE: For the January 11, 2018 Meeting

TO: Members, Ethics Commission

FROM: Brian M. Bell, MPA
Commission Administrator

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 management is currently evaluating the request regarding the ability of a candidate committee to claim exemption from campaign finance reporting in the year the candidate appears on the ballot. The second opinion request was in regards to the constitutionality of [WIS. STAT. § 13.68\(6\)](#) and the ability of the Commission to suspend a lobbyist's ability to lobby on behalf of a principal as a result of the principal failing to file reports in a timely fashion.

Commission Administration

Records Management and Records Disposition Authorizations (RDAs)

Staff completed an inventory of records in storage and will submit a request to archive appropriate records with the Wisconsin Historical Society. 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, as it is substantially less expensive than paying rent for onsite storage space. Staff could request to retrieve those records at any time, should a business need to do so arise. The staff is working with the Division of Enterprise Technology to enable staff to scan documents to a shared drive for archiving.

Agency Office Space Request

The Commission's current office space lease runs through December of 2018. Staff received notice of a potential future office location from the Department of Administration (DOA). The proposed location would be on the first floor of the state office building located at 101 East Wilson Street, in Madison. Staff is working with DOA to draft a floor plan for the proposed location. DOA will address 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. However, DOA may have some surplus furniture available at no additional cost. We are still waiting on confirmation of the new location and a lease which will include start and end dates. December of 2018 is the most likely date for the office location move for the agency. DOA has

stated that there is some flexibility in the start date, but it would certainly be available prior to the end of our current lease. By moving the agency towards paperless operations and utilizing shared conference rooms in the building, the lease for the proposed new office location will be approximately \$27,000 less each year compared to the current lease, or nearly 40 percent lower.

Voice Over Internet Protocol (VoIP) Phones Update

The agency converted to Voice Over Internet Protocol (VoIP) phones at 4:00 PM, on December 28, 2017. Staff worked with AT&T and DOA DET to work through the issues related to the port, but had all staff receiving calls as usual by the afternoon of December 29, 2017. The new system has an automated reception and call routing feature for anyone who calls the Ethics Commission main phone line. The caller is prompted to select a number associated with the main program areas. The system then routes the call based on who is available (i.e. at their desk, not on a call, not in a meeting) at the time. This process should ensure that anyone who calls the office will be able to talk to a staff person.

Public Records Requests

Staff has received a public records request on December 19, 2017, for emails/texts sent or received by Commissioners after December 4, 2017, that include a list of specific words. Staff has already conducted a search of its emails and is awaiting responses from individual Commissioners before it can complete this request.

Campaign Finance

Special Elections for Assembly Districts 58 and 66, and Senate District 10

All candidates participating in the special elections for Assembly Districts 58 and 66, and Senate District 10 submitted their Special Pre-Primary reports on time.

The Special Pre-Election report and the January Continuing report were due on January 8 for committees participating in the special election. Staff will provide a verbal update on the status of these filings.

Staff will continue to monitor reporting and assist committees with compliance, as well as report to the Commission at the February meeting regarding any significant issues the Commission may wish to consider regarding enforcement activities.

2018 January Continuing Reports

All registered committees not on exempt status (currently, 876 committees) must file the 2018 January continuing report by January 16, 2018 (the 15th falls on Martin Luther King, Jr. Day). The reports will include all activity since the previously filed report through December 31, 2017.

CFIS Updates

All GAB references have been removed from CFIS in the latest update, and several technical issues were also addressed. Staff continue to work with PCC (the software vendor) to address minor technical issues in order to enhance user experience with the site.

Updating Campaign Finance Forms and Compliance Materials

All campaign finance forms except for the full disclosure report have been updated and published on the agency website. The new forms were designed to suit the new chapter 11 in Wisconsin Statutes, and clarify language that filers found confusing. A redesign for the full disclosure report is currently in draft and will be published by the end of the month.

Staff is also developing a comprehensive compliance guide to help all filers better understand their obligations under chapter 11. The new guide will include guidelines, best practices, and an overview of common reporting errors. The guide will be published before the end of February.

Lobbying

Eye on Lobbying Website Redesign

Staff is exploring options to hire a Limited Term Employee (LTE) to assist in the redesign of Eye on Lobbying (<https://lobbying.wi.gov>). The LTE employee will work alongside our IT contractor, Kavita Dornala, on the visual design on a new Eye on Lobbying website that will be mobile-responsive.

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

As of January 3, 2018, there were 748 lobbying principals registered, 595 lobbyists licensed, and 1,601 lobbyist 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 next deadline is January 31, 2018 which will cover activity from July 1 – December 31, 2017. After principals and lobbyists file their reports, staff will conduct audits for late SLAEs, late 15-Day Reports, and Lobbying without Authorization. Reminders to lobbyists and principals will be sent out on January 16, 2018.

Legislative Liaison Reporting

Statutes require each state agency to certify their agency legislative liaison report twice a year. The next reporting deadline is January 31, 2018. Filing reminders were sent out to state agencies on January 2, 2018.

Code of Ethics and Financial Disclosure

Design of a new SEI system

The new SEI system is in limited use, with staff entering SEIs from 2017 and 2018 paper filers. Staff will test the new system in early January, evaluating the email notification system and instructions. A second test may be run with the Elections Commission staff and/or the Legislative Audit Bureau before requesting SEIs from all state public officials in mid-January.

Statements of Economic Interests

On a regular basis, staff continues to process SEIs for newly nominated and appointed officials, and responds to requests to view statements. Candidates in the 2018 Spring Election running for state or judicial offices must file their Statement of Economic Interest no later than January 5, 2018. A few annual filers began filing their SEIs on 12/1/2017, and the SEIs must be filed by April 30, 2018.

State of Wisconsin Investment Board Quarterly Reports

The most recent quarterly reports were due by October 31st, covering July 1st through September 30th. All reports were filed by October 31st, and copies were delivered to the Legislative Audit Bureau. The next quarterly reports will be due by January 31, 2018, covering October 1st through December 31st.