Candidate Information for the Media

Please provide your contact information that you are willing to have posted on our website and shared with the media. The media may reach out to you for candidate profiles or for other news stories.

Candidate Name: _____

Candidate Mailing Address: _____

Candidate Phone Number: _____

Candidate Email Address: _____

Candidate social media page(s), if any. Please list the platform and page title: _____

_____

_____

Please print legibly. Our office is not responsible if media cannot contact you if the information you provide is incorrect or illegible.

Kaitlyn Bernarde – City Clerk
Mary Goede – Deputy City Clerk
Kody Hart – Deputy City Clerk

TEL: (715) 261-6620
FAX: (715) 261-6626

Candidate for Elected Office:

Good luck in your run for public office! You may file Declaration of Candidacy and Campaign Registration Statement with the clerk's office no later than 5:00 pm., on Tuesday, January 2, 2024. **Nomination papers may not be circulated before Friday, December 1, 2023. Campaign Registration forms should be filed prior to circulation of nomination papers.** Within this election packet are the following materials and information for the Spring 2024 Election:

- City of Wausau Election Information 2024 (Mayor, Municipal Judge, Districts 1-11)
- Elected Official Duties
- Elected Official Salaries
- Ballot Access Checklist for Municipal Candidates (ELIS-7)
- Declaration of Candidacy Form (EL-162)
- Campaign Finance Registration Statement (CF-1)
- Contribution Limits for Local Office
- Nomination Papers (EL-169) *(Make copies of these forms as needed.)*
- Wisconsin Elections Commission Administrative Code EL 2: Election Petitions
- Chapter 12 of the WI Statutes: Prohibited Election Practices
- Chapter 19 of WI Statutes: General Duties of Public Officials (§19.01-19.36)
- Code of Ethics for Public Officials and Employees
- GAB Data Availability and Data Quality
- Election Boundary Map
- Notice of Non-Candidacy *(For incumbents who are not going to run again.)*
    - If you decide not to run, return the candidate packet, and submit **Declaration of Non-Candidacy form to the City Clerk no later than 5:00 p.m., on Friday, December 22, 2023.**

If you have any questions regarding the 2024 elections, please contact my office at 715-261-6620.

Sincerely,
CITY OF WAUSAU

Kaitlyn A. Bernarde
City Clerk

CITY OF WAUSAU ELECTION INFORMATION 2024

Spring Primary *(if 3 or more candidates successfully file for 1 office)*	**February 20, 2024**
Spring Election	**April 2, 2024**
Partisan Primary	August 13, 2024
General Election	November 5, 2024

This information is for those individuals who plan to run for one of the following public offices:

- **Mayor** (Term: April 16, 2024 – April 17, 2028)
- **Municipal Judge** (Term: May 1, 2024 – April 30, 2028)
- **Alderperson in Districts 1 through 11** (Term: April 16, 2024 – April 20, 2026)

QUALIFICATIONS

- Any U.S. citizen aged 18 or older, and
- who has resided in an election district for 10 or more consecutive days before any election, and
- is an eligible elector in that district Sec. 6.02 of the Wisconsin Statutes
- Municipal judge must be licensed to practice law in the state, in good standing with the bar, and a resident of the city.

CAMPAIGN FINANCE REGISTRATION STATEMENT

- Every candidate must file a Campaign Finance Registration Statement with the City Clerk regardless of whether any contributions are accepted, or disbursements are made before circulating nomination papers.
- A candidate is eligible for exemption from filing provided no contributions, disbursements, or incurred obligations in an aggregate amount exceed more than $2,500 in a calendar year.
- Your candidate committee is active and requires reporting until you file the paperwork to terminate the committee.

NOMINATION PAPERS

- The first day for circulating nomination papers for the above offices is **December 1, 2023**.
- A candidate may circulate their own nomination papers.
- The number of signatures needed to be nominated is as follows:

Office you are Seeking	Minimum # of Signatures	Maximum # of Signatures
Alderperson	20	40
Mayor	200	400
Municipal Judge	200	400

- Signatures for Alderpersons must be qualified electors in the City District in which the candidate seeks to represent. We recommend getting more than the minimum to be safe.
- The last day for filing nomination papers with the City Clerk, for the above offices is no later than **5:00 pm (CST) on January 2, 2024**.

ELECTED OFFICIAL ORIENTATION

If you are elected in April, we will hold an Elected Officials Orientation on **Monday, April 15, 2024, at 5:15pm,** to discuss technology, Roberts Rules of Order, and to complete required HR paperwork.

Chapter 2.04 - ELECTED OFFICIALS

Footnotes:
*--- (**1**) ---*
***State Law reference—** For statutory provisions pertaining to City officers generally, see Wis. Stats. § 62.09.*

2.04.010 - Mayor.

There shall be a Mayor who shall be elected at the regular City election for a term of four years commencing on the third Tuesday of April in the year of his election.

The Mayor shall devote his full time to discharge of his statutory duties as outlined by Wis. Stats. § 62.09(8) and all other duties and responsibilities incident to his office. He shall engage in no other remunerative employment.

(Ord. 61-4081 §1, 1968; prior code §2.01(1).)

Note— Section 2.04.010 was adopted by an unnumbered Charter Ordinance dated May 14, 1963.

2.04.020 - Common Council.

There shall be one City Alderperson from each of the 11 Aldermanic Districts who shall be elected at the regular City election for a term of two years commencing on the third Tuesday of April in the year of his/her election.

A person may file for both the positions of City Alderperson and County Supervisor and be elected to both of those positions.

(Ord. 61-4977 §1, 1997; Ord. 61-4622 §1, 1987.)

Note— Section 2.04.010 was adopted by a Charter Ordinance #24 dated May 26, 2015.

2.04.030 - Municipal Justice.

There shall be a Municipal Justice who shall be elected at the regular City election for a term of four years commencing on May 1 of the year of the election.

(Ord. 61-5600 §1, 2013, File No. 97-0424; Ord. 61-5594 §1, 2013, File No. 75-1138; Ord. 61-4299 §1, 1975.)

ELECTED OFFICIAL SALARY & BENEFITS

Mayor

08/09/11 – Current = $78,873.60

Benefits: Retirement, Health, Dental, Vision, Life Insurance, ICI, WRS, Deferred Comp, $161.54/bi-weekly auto allowance.

Alderperson

04/19/06 – Current = $ 5,355

Benefits: If grandfathered WRS, deferred comp programs.

Municipal Judge

04/30/08 – Current = $20,222.28

Benefits: Retirement, Life Insurance, ICI, deferred comp programs.

Chapter 2.04 - ELECTED OFFICIALS

Footnotes:
*--- (**1**) ---*
***State Law reference—** For statutory provisions pertaining to City officers generally, see Wis. Stats. § 62.09.*

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(Ord. 61-5600 §1, 2013, File No. 97-0424; Ord. 61-5594 §1, 2013, File No. 75-1138; Ord. 61-4299 §1, 1975.)

FOR OFFICE USE ONLY

NOTIFICATION OF NONCANDIDACY

I, _____, state that I am currently the
(please print name)

incumbent officeholder for the office listed below.

I will not be a candidate for this office at the next election. I understand that the timely receipt* of this notice will avoid an extension of the deadline for filing ballot access documents.

TITLE OF OFFICE: _____
(print current office, including district #, if any)

NEXT ELECTION DATE: _____

SIGNATURE: _____

DATE OF SIGNING: _____

**Notification must be received by the proper filing officer no later than 5:00 p.m. on the 2nd Friday preceding the deadline for filing ballot access documents to avoid an extension of time for filing such papers.*

The information on this form is filed in accordance with §§.8.05(1)(j), 8.10(2)(a), 8.15(1), 8.20(8)(a), 120.06(6)(b), Wis. Stats. This form is prescribed by the Wisconsin Elections Commission, 212 East Washington Avenue, 3rd Floor, P.O. Box 7984, Madison, WI 53707-7984, (608) 266-8005, FAX (608)267-0500, http://elections.wi.gov Email: elections@wi.gov.

2024 Ballot Access Checklist:
Municipalities Where Nomination Papers are Used

Each of the following forms must be completed and filed on time by a candidate for municipal office in order for the candidate's name to be placed on the ballot at the **February 20, 2024 Spring Primary** and the **April 2, 2024 Spring Election**.

In the City of Milwaukee, the filing officer is the Milwaukee City Election Commission. In all other municipalities, the filing officer is the municipal clerk (town, village or city). Candidates should contact their filing officer for further information or to obtain any of the necessary forms.

☐ ***Complete and Submit a Registration Statement*** **(Form CF-1)** to the filing officer prior to raising or spending any funds, and no later than **5:00 p.m. on Tuesday, January 2, 2024** or the candidate's name will not be placed on the ballot. If the form is faxed or emailed, the original document must follow postmarked no later than January 2, 2024. Wis. Stat. §§ 8.10(5), 8.30(2), Wis. Admin. Code EL § 6.04.

- *New Candidates*
  File a campaign registration statement before campaign funds are collected or spent or before submitting nomination papers. Wis. Stat. §§ 11.0202(1)(a),11.0101(1).

- *Continuing Candidates*
  Amend your current registration, indicating the office sought and the new primary and election dates. Wis. Stat. §§ 11.0202(1)(a), 11.0101(1).

☐ ***Complete and Submit a Declaration of Candidacy*** **(Form EL-162)** to the filing officer no later than **5:00 p.m. on Tuesday, January 2, 2024** or the candidate's name will not be placed on the ballot. If the form is faxed or emailed, the original document must follow, postmarked no later than January 2, 2024. Wis. Stat. §§ 8.10(5), 8.21, 8.30(4), Wis. Admin. Code EL § 6.04.

☐ ***Circulate and Submit Nomination Papers for Nonpartisan Office*** **(Form EL-169)** to the filing officer no later than **5:00 p.m. on Tuesday, January 2, 2024** or the candidate's name will not be placed on the ballot**.** Only original nomination papers (no photocopies, faxes, or emailed documents) will be accepted. Nomination papers may not be circulated before December 1, 2023. Wis. Stat. § 8.10(2), Wis. Admin. Code EL § 6.04(2).

The number of signatures required is as follows:

All village and town offices:		20 - 100
1st Class Cities:	Citywide offices	1,500 - 3,000
	Alderperson elected to district	200 - 400
2nd and 3rd Class Cities:	Citywide offices	200 - 400
	Alderperson elected at large	100 - 200
	Alderperson elected to district	20 - 40
4th Class Cities:	Citywide offices	50 - 100
	Alderperson elected to district	20 - 40

☐ **Municipal Judge Candidates:**

Complete and submit a Statement of Economic Interests (SEI) to the Ethics Commission using the website (https://sei.wi.gov). Incumbents will be emailed a notice about December 1. New candidates must sign up on the website so staff can set them up to file electronically. The SEI must be received no later than 4:30 p.m. on Friday, January 5, 2024, or the candidate's name will not appear on the ballot. Wis. Stat. §§ 8.10(5), 8.30(3), 19.43(4). Candidates may also print the SEI form and instructions from the Ethics Commission website (https://ethics.wi.gov), and return those forms by email or fax. For more information, please contact the Ethics Commission at 608-266-8123 or ethics@wi.gov.

Important Note Regarding Statements of Economic Interests:

A municipality may enact an ordinance establishing a code of ethics for public officials that may require a candidate for municipal office, *in addition to the office of Municipal Judge*, to file a ***Statement of Economic Interests (SEI)***. The ordinance may also provide that failure to timely file an SEI will prevent the candidate's name from being placed on the ballot. Wis. Stat. § 19.59(1m),(3)(b). Please contact the filing officer to learn if this requirement applies to you.

Declaration of Candidacy

(See instructions for preparation on back)

FOR OFFICE USE ONLY

Is this an amendment?

☐ **Yes** (if you have already filed a DOC for this election) ☐ **No** (if this is the first DOC you have filed for this election)

I, _____, being duly sworn, state that
Candidate's name

I am a candidate for the office of _____
Official name of office - **Include district, branch or seat number**

representing _____
If partisan election, name of political party or statement of principle - five words or less (*Candidates for nonpartisan office may leave blank*.)

and I meet or will meet at the time I assume office the applicable age, citizenship, residency and voting qualification requirements, if any, prescribed by the constitutions and laws of the United States and the State of Wisconsin, and that I will otherwise qualify for office, if nominated and elected.

I have not been convicted of a felony in any court within the United States for which I have not been pardoned.[1]

My present address, including my municipality of residence for voting purposes is:

				Town of ☐ **Village** of ☐ **City** of ☐	
House or fire no.	Street Name	Mailing Municipality and State	Zip code	Municipality of Residence for Voting	

My name as I wish it to appear on the official ballot is as follows:

_____
(Any combination of first name, middle name or initials with surname. A nickname may replace a legal name.)

_____
(Signature of candidate)

STATE OF WISCONSIN }
County of _____ } ss.
(County where oath administered)

Subscribed and sworn to before me this _____day of _____, _____.

NOTARY SEAL REQUIRED, IF OATH ADMINISTERED BY NOTARY PUBLIC

_____
(Signature of person authorized to administer oaths)

☐ Notary Public or ☐ other official _____
(Official title, if not a notary)

If Notary Public: My commission expires _____ or ☐ is permanent.

The information on this form is required by Wis. Stat. § 8.21, Art. XIII, Sec. 3, Wis. Const., and must be filed with the filing officer in order to have a candidate's name placed on the ballot. Wis. Stats. §§ 8.05 (1)(j), 8.10 (5), 8.15 (4)(b), 8.20 (6), 120.06 (6)(b), 887.01.

EL-162 | Rev. 2019-08 | Wisconsin Elections Commission, P.O. Box 7984, Madison, WI 53707-7984
608-266-8005 | web: elections.wi.gov | email: elections@wi.gov

1 A 1996 constitutional amendment bars any candidate convicted of a misdemeanor which violates the public trust from running for or holding a public office. However, the legislature has not defined which misdemeanors violate the public trust. A candidate convicted of any misdemeanor is not barred from running for or holding a public office until the legislature defines which misdemeanors apply.

Instructions for Completing the Declaration of Candidacy

All candidates seeking ballot status for election to any office in the State of Wisconsin must properly complete and file a ***Declaration of Candidacy***. This form must be **ON FILE** with the proper filing officer no later than the deadline for filing nomination papers or the candidate's name will not appear on the ballot. A facsimile will be accepted if the FAX copy is received by the filing officer no later than the filing deadline **and** the signed original declaration is received by the filing officer with a postmark no later than the filing deadline.

***Information to be provided by the candidate*:**

- Type or print your name on the first line.
- The title of the office and **any district, branch, or seat number** for which you are seeking election must be inserted on the second line. *For legislative offices insert the title and district number, for district attorneys insert the title and the county, for circuit court offices insert the title, county and branch number, and for municipal and school board offices insert the title and any district or seat number.*
- Type or print the political party affiliation or principle supported by you in five words or less on the third line. *Nonpartisan candidates may leave this line blank.*
- **Felony convictions: Your name cannot appear on the ballot if you have been convicted of a felony in any court in the United States for which you have not been pardoned. Please see footnote on page 1 for further information with respect to convictions for misdemeanors involving a violation of public trust. *These restrictions only apply to candidates for state and local office.***
- Your current address, including your municipality of residence for voting purposes, must be inserted on the fourth line. This must include your entire mailing address (**street and number**, **municipality where you receive mail)** ***and*** **the name of the municipality in which you reside and vote** (town, village, or city of __). If your address changes before the election, an amended Declaration of Candidacy must be filed with the filing officer. Wis. Stat. § 8.21. *Federal candidates are not required to provide this information, however an address for contact purposes is helpful.*
- Type or print your name on the fifth line as you want it to be printed on the official ballot. You may use your full legal name, former legal surname, or any combination of first name, middle name, and initials, surname or nickname with last name.

  Note: The Wisconsin Elections Commission has determined that, absent any evidence of an attempt to manipulate the electoral process, candidates are permitted to choose any form of their name, including nicknames, by which they want to appear on the ballot.

  No titles are permitted. In addition, names such as “Red” or “Skip” are permitted, but names which have an apparent electoral purpose or benefit, such as “Lower taxes,” “None of the above” or “Lower Spending” are not permitted. It is also not permissible to add nicknames in quotes or parentheses. For example, John “Jack” Jones or John (Jack) Jones are not acceptable, but John Jones, Jack Jones or John Jack Jones are acceptable.

This form must be sworn to and signed in the presence of a notary public or other person authorized to administer oaths, such as a county or municipal clerk. Wis. Stat. §§ 8.21(2), 887.01(1).

***Information to be provided by the person administering the oath*:**

- The county where the oath was administered.
- The date the Declaration of Candidacy was signed and the oath administered.
- The signature and title of the person administering the oath. If signed by a notary public, the notary seal is required and the date the notary’s commission expires must be listed.

All candidates for offices using the nomination paper process must file this form (*and all school district candidates must file the EL-162sd*) with the appropriate filing officer no later than the deadline for filing nomination papers. Wis. Stats. §§ 8.10 (5), 8.15 (4)(b), 8.20 (6), 8.21, 8.50 (3)(a), 120.06 (6)(b). Candidates nominated for local office at a caucus must file this form with their municipal clerk within 5 days of receiving notice of nomination. Wis. Stat. § 8.05 (l)(j).

Campaign Finance Committee/Conduit Registration Statement

State of Wisconsin

Note: An amended registration statement must be filed within 10 days of any changes in information.

1. Is this an Amendment? ◯ No ◯ Yes If yes, please enter your committee number:

Committee Number

SECTION A: GENERAL INFORMATION

A1. Committee/Conduit Name		A2. Registrant Type (Choose One)
		◯ Candidate ◯ Referendum ◯ Recall ◯ Conduit ◯ Political Action (PAC) ◯ Independent Expenditure (IEC) ◯ Political Party ◯ Legislative Campaign Committee
A3. Email	**A4. Phone**	

A5. Mailing Address	A6. City	A7. State	A8. Zip

Depository Institution Information

A9. Institution Name	A10. Street Address	A11. City	A12. State	A13. Zip

Treasurer/Administrator Information

A14. Name	A15. Email	A16. Phone

A17. Mailing Address	A18. City	A19. State	A20. Zip

Other Officers (Optional)

Independent and local non-partisan candidates: Indicate by an asterisk (*) which officers are authorized to fill a vacancy in nomination due to death of candidate.

A21. Name	A22. Title	A23. Email	A24. Phone
A25. Name	**A26. Title**	**A27. Email**	**A28. Phone**

Filing Exemption

Registrants that will not accept contributions, make disbursements, or incur obligations in an aggregate amount of more than $2,500 in a calendar year are eligible for exemption from filing campaign finance reports. For committees registering with the Commission, exempt status is effective only for the calendar year in which it is granted. Those committees registering with the Commission that want to remain exempt must renew each year. Local candidate committees that do not anticipate accepting or making contributions, making disbursements, or incurring obligations in an aggregate amount exceeding $2,500 in a calendar year may claim an exemption from filing campaign finance reports at any time. This exemption applies until the local candidate committee exceeds the $2,500 aggregate activity threshold, amends its registration, or is terminated.

A29. Exemption Affirmation

◯ Yes, this registrant is eligible for exemption.

◯ No, this registrant is not eligible for exemption.

SECTION B: CANDIDATE COMMITTEES

B1. Office Sought (include District/Branch)	B2. Political Party	B3. Election Date

Candidate Information

B4. Name	B5. Email	B6. Phone

B7. Mailing Address	B8. City	B9. State	B10. Zip

Second Candidate Committee

An individual who holds a state or local elective office may establish a second candidate committee to pursue another state or local office.

B11. Is this your only registered candidate committee in Wisconsin?

◯ Yes, this is my only candidate committee in Wisconsin.

◯ No, this is my second candidate committee in Wisconsin.

B12. Other Office Held or Sought (include District/Branch) *Only complete B12 if you responded "No" to B11.*

Campaign Finance Committee/Conduit Registration Statement

State of Wisconsin

Note: An amended registration statement must be filed within 10 days of any changes in information.

SECTION C: RECALL COMMITTEES

C1. Name of Official Subject to Recall	C2. Office of Official Subject to Recall	C3. ◯ Support ◯ Oppose

SECTION D: PAC, IEC, AND CONDUITS

D1. Sponsoring Organization	D2. Email	D3. Phone	
D4. Mailing Address	**D5. City**	**D6. State**	**D7. Zip**

SECTION E: POLITICAL PARTY & LEGISLATIVE CAMPAIGN COMMITTEES

E1. Political Party or Legislative Campaign Committee	E2. Does the Party or Committee have a Segregated Fund? ◯ No ◯ Yes

Segregated Fund Depository Institution Information (if applicable)

E3. Institution Name	E4. Street Address	E5. City	E6. State	E7. Zip

SECTION F: REFERENDA COMMITTEES

F1. Nature of Referendum (if applicable)	F2. ◯ Support ◯ Oppose

SECTION G: CERTIFICATION

Accurate Information

I certify that I am an authorized representative of the registrant and that to my knowledge all of the information contained within this registration is true, correct, and complete.

Timely Amendments

I am aware of the requirement to amend this registration statement within 10 days of any change of information contained within, as well as the requirement to register within 10 days of meeting the requirements to register under Chapter 11 of Wisconsin Statutes.

Records Retention

I acknowledge the duty to maintain records in an organized and legible manner for three years from the date of the most recent election in which this registrant participates. If registering a candidate committee, I acknowledge the duty to maintain records in an organized and legible manner for the three-year period prescribed in s.11.0201(4).

Ongoing Compliance

This registrant shall continue to maintain its registration and comply with all applicable reporting requirements under Chapter 11 of Wisconsin Statutes.

Treasurer/Administrator

G1. Printed Name	G2. Signature	G3. Date

Candidate (if applicable)

G4. Printed Name	G5. Signature	G6. Date

Form Instructions

Campaign Finance Committee/Conduit Registration Statement (CF-1)

Note: This form is used to register a committee or conduit under Chapter 11 of the Wisconsin Statutes. Committees and conduits required to register and report with the Wisconsin Ethics Commission should register and report using the Commission's Campaign Finance Information System which can be found on line at cfis.wi.gov. Committees required to register and report with a local filing officer must register with this form. The Commission does not intend to use any personally identifiable information from this form for any purpose other than registering a committee or conduit. This form will be made available to the public upon request. All information you provide is available to the public.

Item 1. Is this an amendment? Check the appropriate box. If "Yes" is checked, enter the committee ID number if you have one. If "No' is checked, proceed directly to Section A.

Section A: General Information. All committees and conduits must complete section A. Candidates for local office may find the CF-1L form easier to use. Either form CF-1 or CF-1L is allowed.

Item A1: Committee/Conduit Name. All committees and conduits must have a name. It is not required that the name include the candidate or organization's name, but it is recommended. A political party committee wishing to operate under the same name as a state political party committee must receive authorization from that state party (Wis. Stat. § 11.0101(26)(a)1).

Item A29: Exemption Affirmation. Committees claiming exemption may not have more than $2,500 of activity, in the aggregate per year. For example, in a calendar year, if you raise $1,600 and spend $1,000 you have $2,600 of aggregate activity and are not eligible to claim exemption.

Depository Institution Information. All committees and conduits must designate a depository institution. While it is recommended that all committees have a designated campaign depository account, candidates who will serve as their own treasurer may designate a single personal account to serve as the committee depository account while claiming a filing exemption and may intermingle personal and campaign funds (Wis. Stat. § 11.0201(2)(b)).

Treasurer/Administrator Information. Each committee must appoint a treasurer and each conduit must appoint an administrator. Any adult may serve as a treasurer or administrator. A candidate may serve as his or her own treasurer. If a candidate is serving as their own treasurer, please enter 'Candidate' or 'Self' in the name, and then you can leave the other treasurer information blank.

Section B: Candidate Committees. All candidates register their committee to appear on the ballot. Candidate committees must complete section B. No other committee type should complete section B. Candidates for local office may find the CF-1L form easier to use. Either form CF-1 or CF-1L is allowed.

Section C: Recall Committees. Recall committees must complete section C. No other committee type should complete section C.

Section D: PAC, IEC, and Conduits. Political action committees, independent expenditure committees, and conduits must complete section D. No other committee type should complete section B. All fields in section D refer to the sponsoring organization's contact information.

Section E: Political Party and Legislative Campaign Committees. Only political party committees and legislative campaign committees should complete section E.

Item E2. A political party or a legislative campaign committee may establish a segregated fund for purposes other than making contributions to a candidate committee or making disbursements for express advocacy (Wis. Stat. § 11.1104(6)). If the political party or legislative campaign committee has a segregated fund, please indicate by checking "Yes."

Items E3 - E7. If the segregated fund is maintained with the same depository institution as the primary account, write "Same as primary account." in E3.

Section F: Referendum Committees. Only referendum committees should complete section F.

Section G: Certification. All committees and conduits must complete section G. If a candidate is serving as their own treasurer, they only need to sign the certification once as either the candidate or treasurer.

State of Wisconsin
Ethics Commission

Campaign Finance: Contribution Limits

Limits for All State and Local Offices

Contribution limitations apply cumulatively to the entire primary and election campaign in which the candidate participates, whether or not there is a contested primary election.

	Individual Contributor	Candidate Committee	Political Action Committee and Other Persons
Governor	$20,000	$20,000	$86,000
Lieutenant Governor	$20,000	$20,000	$26,000
Secretary of State	$20,000	$20,000	$18,000
State Treasurer	$20,000	$20,000	$18,000
Attorney General	$20,000	$20,000	$44,000
Superintendent of Public Instruction	$20,000	$20,000	$18,000
Supreme Court	$20,000	$20,000	$18,000
State Senator	$2,000	$2,000	$2,000
State Assembly Representative	$1,000	$1,000	$1,000
Appeals Judge (Populous Districts)	$6,000	$6,000	$6,000
Appeals Judge (Other Districts)	$5,000	$5,000	$5,000
Circuit Judge (Populous Area)	$6,000	$6,000	$6,000
Circuit Judge (Other Area)	$2,000	$2,000	$2,000
District Attorney (Populous Area)	$6,000	$6,000	$6,000
District Attorney (Other Area)	$2,000	$2,000	$2,000

Local Offices*	• For districts with a population of 25,000 or fewer, $500 • For districts with a population of 25,001 or greater, $.02 times the population, up to $6,000	• For districts with a population of 25,000 or fewer, $500 • For districts with a population of 25,001 or greater, $.02 times the population, up to $6,000	• For districts with a population of 20,000 or fewer, $400 • For districts with a population of 20,001 or greater, $.02 times the population, up to $5,000

*The latest federal census or the census information on which the district is based should be used to determine population (§ 11.1101(1)(h)2 (https://docs.legis.wisconsin.gov/statutes/statutes/11/XI/1101/1/h/2)).

Corporations, Associations, Labor Organizations, & American Indian Tribes

Corporations, associations, labor organizations, and American Indian tribes are prohibited from contributing to candidate committees, political action committees, and primary funds of political party and legislative campaign committees. These entities may contribute to independent expenditure committees and referendum committees in unlimited amounts, and may contribute up to $12,000 per calendar year to a segregated fund account of a political party committee or a legislative campaign committee.

Political Action Committees and Party Committees

- Political action committees (PACs) may make unlimited contributions to other PACs
- PACs may contribute up to $12,000 to a political party committee in a calendar year
- Party committees may make unlimited contributions to PACs
- Party committees may make unlimited contributions to other party committees
- Party committees may make unlimited contributions to candidate committees
- Individuals may make unlimited contributions to PACs and party committees

Populous Areas for Appeals Judge, Circuit Court, and District Attorney

Appeals Judge

Populous districts are districts which contain a county having a population of more than 750,000. District 1 is the only district that qualifies as a populous district as of the 2010 US Census.

Circuit Court & District Attorney

A populous area is an area with more than 300,000 residents. Dane, Milwaukee, and Waukesha counties are the only three counties that have more than 300,000 residents as of the 2010 US Census.

(3) TIMING. A person who is required to report under this section shall submit the report to the commission no later than 72 hours after making the disbursements.

History: 2015 a. 117 ss. 24, 74 (1m); 2021 a. 265.

SUBCHAPTER XI

CONTRIBUTIONS

11.1101 Contribution limits. (1) INDIVIDUAL LIMITS. An individual may contribute to a candidate committee no more than the following amounts specified for the candidate whose nomination or election the individual supports [See Figure 11.1101 following]:

(a) Candidates for governor, lieutenant governor, secretary of state, state treasurer, attorney general, state superintendent, or justice, $20,000.

(b) Candidates for state senator, $2,000.

(c) Candidates for representative to the assembly, $1,000.

(d) Candidates for court of appeals judge in districts which contain a county having a population of more than 750,000, $6,000.

(e) Candidates for court of appeals judge in other districts, $5,000.

(f) Candidates for circuit judge in circuits having a population of more than 300,000, or candidates for district attorney in prosecutorial units having a population of more than 300,000, $6,000.

(g) Candidates for circuit judge in other circuits or candidates for district attorney in other prosecutorial units, $2,000.

(h) Candidates for local offices, an amount equal to the greater of the following:

1. Five hundred dollars.

2. Two cents times the number of inhabitants of the jurisdiction or district, according to the latest federal census or the census information on which the district is based, as certified by the appropriate filing officer, but not more than $6,000.

(2) CANDIDATE COMMITTEES. A candidate committee may contribute to another candidate committee no more than the following amounts specified for the candidate whose nomination or election the committee supports [See Figure 11.1101 following]:

(a) Candidates for governor, lieutenant governor, secretary of state, state treasurer, attorney general, state superintendent, or justice, $20,000.

(b) Candidates for state senator, $2,000.

(c) Candidates for representative to the assembly, $1,000.

(d) Candidates for court of appeals judge in districts which contain a county having a population of more than 750,000, $6,000.

(e) Candidates for court of appeals judge in other districts, $5,000.

(f) Candidates for circuit judge in circuits having a population of more than 300,000, or candidates for district attorney in prosecutorial units having a population of more than 300,000, $6,000.

(g) Candidates for circuit judge in other circuits or candidates for district attorney in other prosecutorial units, $2,000.

(h) Candidates for local offices, an amount equal to the greater of the following:

1. Five hundred dollars.

2. Two cents times the number of inhabitants of the jurisdiction or district, according to the latest federal census or the census information on which the district is based, as certified by the appropriate filing officer, but not more than $6,000.

(3) POLITICAL ACTION COMMITTEES. A political action committee may contribute to a candidate committee no more than the following amounts specified for the candidate whose nomination or election the committee supports [See Figure 11.1101 following]:

(a) Candidates for governor, $86,000.

(b) Candidates for lieutenant governor, $26,000.

(c) Candidates for attorney general, $44,000.

(d) Candidates for secretary of state, state treasurer, state superintendent, or justice, $18,000.

(e) Candidates for state senator, $2,000.

(f) Candidates for representative to the assembly, $1,000.

(g) Candidates for court of appeals judge in districts which contain a county having a population of more than 750,000, $6,000.

(h) Candidates for court of appeals judge in other districts, $5,000.

(i) Candidates for circuit judge in circuits having a population of more than 300,000, or candidates for district attorney in prosecutorial units having a population of more than 300,000, $6,000.

(j) Candidates for circuit judge in other circuits or candidates for district attorney in other prosecutorial units, $2,000.

(k) Candidates for local offices, an amount equal to the greater of the following:

1. Four hundred dollars.

2. Two cents times the number of inhabitants of the jurisdiction or district, according to the latest federal census or the census information on which the district is based, as certified by the appropriate filing officer, but not more than $5,000.

(4) OTHER PERSONS. A person, other than a person subject to sub. (1), (2), or (3) or s. 11.1112, may contribute to a candidate committee no more than the following amounts specified for the candidate whose nomination or election the committee supports:

(a) Candidates for governor, $86,000.

(b) Candidates for lieutenant governor, $26,000.

(c) Candidates for attorney general, $44,000.

(d) Candidates for secretary of state, state treasurer, state superintendent, or justice, $18,000.

(e) Candidates for state senator, $2,000.

(f) Candidates for representative to the assembly, $1,000.

(g) Candidates for court of appeals judge in districts that contain a county having a population of more than 750,000, $6,000.

(h) Candidates for court of appeals judge in other districts, $5,000.

(i) Candidates for circuit judge in circuits having a population of more than 300,000, or candidates for district attorney in prosecutorial units having a population of more than 300,000, $6,000.

(j) Candidates for circuit judge in other circuits or candidates for district attorney in other prosecutorial units, $2,000.

(k) Candidates for local offices, an amount equal to the greater of the following:

1. Four hundred dollars.

2. Two cents times the number of inhabitants of the jurisdiction or district, according to the latest federal census or the census information on which the district is based, as certified by the appropriate filing officer, but not more than $5,000.

Figure 11.1101:

	INDIVIDUAL CONTRIBUTORS	CANDIDATE COMMITTEE CONTRIBUTORS	POLITICAL ACTION COMMITTEE CONTRIBUTORS
GOVERNOR	$20,000	$20,000	$86,000
LT. GOVERNOR	$20,000	$20,000	$26,000

SECRETARY OF STATE	$20,000	$20,000	$18,000
STATE TREASURER	$20,000	$20,000	$18,000
ATTORNEY GENERAL	$20,000	$20,000	$44,000
STATE SUPERINTENDENT	$20,000	$20,000	$18,000
JUSTICE	$20,000	$20,000	$18,000
STATE SENATOR	$2,000	$2,000	$2,000
ASSEMBLY REPRESENTATIVE	$1,000	$1,000	$1,000
APPEALS JUDGE – POPULOUS DISTRICTS	$6,000	$6,000	$6,000
APPEALS JUDGE – OTHER DISTRICTS	$5,000	$5,000	$5,000
CIRCUIT JUDGE – POPULOUS AREA	$6,000	$6,000	$6,000
DISTRICT ATTORNEY – POPULOUS AREA	$6,000	$6,000	$6,000
CIRCUIT JUDGE – OTHER AREA	$2,000	$2,000	$2,000
DISTRICT ATTORNEY – OTHER AREA	$2,000	$2,000	$2,000
LOCAL OFFICES	GREATER OF $500 OR 2 CENTS TIMES THE POPULATION, BUT NOT MORE THAN $6,000	GREATER OF $500 OR 2 CENTS TIMES THE POPULATION, BUT NOT MORE THAN $6,000	GREATER OF $400 OR 2 CENTS TIMES THE POPULATION, BUT NOT MORE THAN $5,000

History: 2015 a. 117, 261; 2017 a. 207 s. 5.

11.1103 Applicable periods. (1) For an individual who is a candidate seeking reelection to the office that the individual holds, the limits under s. 11.1101 (1) to (4) apply as follows:

(a) For a candidate elected to an office at the general election, from the January 1 immediately after the candidate is elected to his or her current term to the December 31 immediately after a successor is elected or the incumbent is reelected.

(b) For a candidate elected to an office at the spring election, from the July 1 immediately after the candidate is elected to his or her current term of office to the June 30 immediately after a successor is elected or the incumbent is reelected.

(2) For an individual who is a candidate for an office that the individual does not hold, the limits under s. 11.1101 (1) to (4) apply as follows:

(a) For an individual seeking election to an office at the general election, from the date on which the individual becomes a candidate to the December 31 immediately after the election.

(b) For an individual seeking election to an office at the spring election, from the date on which the individual becomes a candidate to the June 30 immediately after the election.

(3) For an individual seeking election to an office at a special election, the limits under s. 11.1101 (1) to (4) apply from the date on which the individual becomes a candidate to the 22nd day after the election. If the individual is elected at the special election, the limits under s. 11.1101 (1) to (4) apply from the 23rd day after the special election to the end of the applicable period under sub. (1).

History: 2015 a. 117; 2021 a. 265.

11.1104 Exceptions. Except as provided in subs. (3) (b) and (4) (b) and s. 11.1112, the following contributions may be made in unlimited amounts:

(1) Contributions to a political action committee.

(2) Contributions transferred between political action committees.

(3) (a) Except as provided in par. (b), contributions to a legislative campaign committee.

(b) A political action committee or a person subject to the limits under s. 11.1101 (4) may contribute no more than $12,000 in any calendar year to a legislative campaign committee.

(4) (a) Except as provided in par. (b), contributions to a political party.

(b) A political action committee or a person subject to the limits under s. 11.1101 (4) may contribute no more than $12,000 in any calendar year to a political party.

(5) Contributions made by a political party or legislative campaign committee to a candidate committee.

(6) Contributions paid to a segregated fund established and administered by a political party or legislative campaign committee for purposes other than making contributions to a candidate committee or making disbursements for express advocacy, except that a political action committee or a person subject to s. 11.1101 (4) may contribute no more than $12,000 in any calendar year to such a fund.

(7) Contributions that a candidate makes to his or her candidate committee from the candidate's personal funds or property or the personal funds or property that are owned jointly or as marital property with the candidate's spouse.

(8) Contributions transferred between the candidates for governor and lieutenant governor of the same political party.

(9) Contributions used to pay legal fees and other expenses incurred as a result of a recount under s. 9.01.

(10) Contributions used to pay legal fees and other expenses incurred in connection with or in response to circulating, offering to file, or filing a petition to recall an office holder prior to the time that a recall primary or election is ordered, or after that time if incurred to contest or defend the order.

(11) Contributions to a recall committee.

(12) Contributions to a referendum committee.

(13) Contributions to an independent expenditure committee.

History: 2015 a. 117, 261.

11.1105 Valuation. (1) Except as provided in s. 11.1111, for purposes of complying with a contribution limit under this section, the value of a contribution of any tangible or intangible item, other than money, is the item's fair market value at the time that the individual or committee made the contribution.

(2) Except as provided in s. 11.1111, for purposes of complying with a contribution limit under this section, the value of a contribution of a service is the fair market value of the service at the time that the individual or committee made the contribution.

History: 2015 a. 117.

11.1106 Conduit contributions. (1) For purposes of this chapter, a contribution released by a conduit to a committee is to be reported by the committee as a contribution from the individual who made the contribution and not as a contribution from the conduit.

(2) A contribution of money received from a conduit, accompanied by the information required under s. 11.0704 (1), is considered to be a contribution from the original contributor.

(3) Each filing officer shall place a copy of any report received under s. 11.0704 in the file of the conduit and the file of the recipient.

History: 2015 a. 117.

11.1107 Limitation on cash contributions. Every contribution of money exceeding $100 shall be made by negotiable instrument or evidenced by an itemized credit card receipt bearing on the face the name of the remitter. No committee required to report under this chapter may accept a contribution made in violation of this section. The committee shall promptly return the contribution, or donate it to the common school fund or to a charitable organization in the event that the donor cannot be identified.

History: 2015 a. 117.

11.1108 Anonymous contributions. No committee may accept an anonymous contribution exceeding $10. If an anonymous contribution exceeds $10, the committee shall donate the contribution to the common school fund or to a charitable organization and report the donation as required under this chapter.

History: 2015 a. 117.

11.1109 In–kind contributions. Before making a contribution, as defined under s. 11.0101 (8) (a) 2., to a committee, the prospective contributor shall notify the candidate or candidate's agent or the administrator or treasurer of the committee and obtain that individuals oral or written consent to the contribution.

History: 2015 a. 117.

11.1110 Return of contributions. (1) A committee required to report under this chapter may return a contribution at any time before or after it has been deposited.

(2) (a) Except as provided in par. (b), the subsequent return of a contribution deposited contrary to law does not constitute a defense to a violation.

(b) A committee that accepts a contribution contrary to law, reports that contribution, and returns that contribution within 15 days after the filing date for the reporting period in which the contribution is received does not violate the contribution or source limits under this subchapter.

History: 2015 a. 117.

11.1111 Valuation of opinion poll results. (1) In this section:

(a) "Election period" means any of the following:

1. The period beginning on December 1 and ending on the date of the spring election.

2. The period beginning on May 1 and ending on the date of the general election.

3. The period beginning on the first day for circulating nomination papers and ending on the date of a special election.

(b) "Initial recipient" means the individual who or committee which commissions a public opinion poll or voter survey.

(c) "Results" means computer output or a written or verbal analysis.

(d) "Voter survey" includes acquiring information that identifies voter attitudes concerning candidates or issues.

(2) If a committee receives opinion poll or voter survey results during the first 15 days after the initial recipient receives the results, and the committee received the results during an election period, the committee shall report the results as a contribution. The committee shall report the contribution's value as 100 percent of the cost incurred by the initial recipient to commission the poll or survey, except that if more than one committee receives the results, the committees shall report the contribution's value as 100 percent of the amount allocated to the committee under sub. (5).

(3) If the committee receives the opinion poll or voter survey results 16 to 60 days following the day on which the initial recipient received the results, and the committee received the results during an election period, the committee shall report the results as a contribution valued at 50 percent of the cost incurred by the initial recipient to commission the poll or survey, except that if more than one committee receives the results, the committees shall report the contribution's value as 50 percent of the amount allocated to the committee under sub. (5).

(4) If the committee receives the opinion poll or voter survey results more than 60 days after the initial recipient received the results, the committee is not required to report the results as a contribution.

(5) If a person contributes opinion poll or voter survey results to more than one committee, the person shall apportion the value of the poll or survey to each committee receiving the results by one of the following methods and shall provide the apportioned values to the committees:

(a) Determine the share of the cost of the opinion poll or voter survey that is allocable to each recipient based on the allocation formula used by the person that conducted the poll or survey.

(b) Determine the share of the cost of the opinion poll or voter survey that is allocable to each recipient by dividing the cost of the poll or survey equally among all the committees receiving the results.

(c) Determine the share of the cost of the opinion poll or voter survey that is allocable to each recipient as follows:

1. Divide the number of question results received by each recipient by the total number of question results received by all recipients.

2. Multiple the total cost of the poll or survey by the number determined under subd. 1.

(6) If a person makes a contribution of opinion poll or voter survey results to a committee after the person has apportioned the value of the results to previous recipients under sub. (5), the person shall make a good faith effort to apportion the value to the committee, considering the value apportioned to other recipients under sub. (5), and shall report that value to the committee. For purposes of this subsection, the total value of the contributor's aggregate contributions may exceed the original cost of the poll or survey.

(7) A person who contributes opinion poll or voter survey results shall maintain records sufficient to support the contribution's value and shall provide the contribution's value to the recipient.

History: 2015 a. 117.

11.1112 Corporations, cooperatives, and tribes. No foreign or domestic corporation, no association organized under ch. 185 or 193, no labor organization, and no federally recognized

American Indian Tribe may make a contribution to a committee, other than an independent expenditure committee or referendum committee, but may make a contribution to a segregated fund as provided under s. 11.1104 (6) in amounts not to exceed $12,000 in the aggregate in a calendar year.

History: 2015 a. 117.

The government may regulate corporate political speech through disclaimer and disclosure requirements, but it may not suppress that speech altogether. Federal law prohibiting corporations and unions from using their general treasury funds to make independent expenditures for speech defined as an "electioneering communication" or for speech expressly advocating the election or defeat of a candidate is unconstitutional. Citizens United v. Federal Election Commission, 558 U.S. 310, 130 S. Ct. 876, 175 L. Ed. 2d 753 (2010).

11.1113 Sole proprietors, partnerships, and limited liability companies. (1) SOLE PROPRIETORSHIPS. A contribution made to a committee by a sole proprietorship is considered a contribution made by the individual who is the sole proprietor and subject to the limits under this subchapter.

(2) PARTNERSHIPS. A contribution made to a committee by a partnership is considered a contribution made by each of the contributing partners and subject to the limits under this subchapter. A partnership that makes a contribution to a committee shall provide to the committee the names of the contributing partners and the amount of the individual contribution made by each partner. For purposes of determining the individual contribution amounts made by each partner, the partnership shall attribute the individual contributions according to each partner's share of the partnership's profits, unless the partners agree to apportion the contribution in a different manner.

(3) LIMITED LIABILITY COMPANIES. (a) A contribution made to a committee by a limited liability company treated as a partnership by the federal internal revenue service pursuant to 26 CFR 301.7701–3 is considered a contribution made by each of the contributing members and subject to the limits under this subchapter. A limited liability company that makes a contribution under this paragraph shall affirm to the committee that it is treated as a partnership for federal tax purposes and eligible to make the contribution. The company shall provide to the committee the names of the contributing members and the amount of the individual contribution made by each member. For purposes of determining the individual contribution amounts made by each member, the company shall attribute the individual contributions according to each member's share of the company's profits, unless the members agree to apportion the contribution in a different manner.

(b) A contribution made to a committee by a single–member limited liability company in which the sole member is an individual is considered a contribution made by that individual and subject to the individual limits under s. 11.1101 (1). A limited liability company that makes a contribution under this paragraph shall affirm to the committee that it is a single–member limited liability company in which the sole member is an individual and eligible to make the contribution.

History: 2015 a. 117; 2017 a. 366; 2021 a. 265.

11.1114 Two candidate committees. (1) If a candidate establishes a 2nd candidate committee under s. 11.0202 (2) to pursue a state or local office for which the contribution limit under this subchapter is higher than the contribution limit for the office that the candidate originally sought, the 2nd candidate committee may accept contributions up to the higher limit, but shall take into account the amount of any contributions transferred from the first candidate committee to the 2nd candidate committee to determine whether the 2nd candidate committee has reached or exceeded the higher limits.

(2) If a candidate establishes a 2nd candidate committee under s. 11.0202 (2) to pursue a state or local office for which the contribution limit under this subchapter is lower than the contribution limit for the office that the candidate originally sought, the first candidate committee may transfer its contributions to the 2nd candidate committee in an amount not to exceed the contribution limits applicable to the 2nd candidate committee.

(3) Upon termination of a 2nd candidate committee, the 2nd candidate committee may transfer any of its remaining funds to the first candidate committee in amounts not to exceed the contribution limits applicable to the persons who contributed to the first candidate committee.

History: 2015 a. 117.

SUBCHAPTER XII

PROHIBITED PRACTICES

11.1201 False reports and statements. No person may prepare or submit a false report or statement to a filing officer under this chapter.

History: 2015 a. 117.

11.1202 Earmarking. (1) The treasurer of a candidate committee may agree with a prospective contributor that a contribution is received to be used for a specific purpose not prohibited by law. That purpose may not include a disbursement to a committee to support or oppose another candidate.

(2) When a contribution is made to a committee other than a candidate committee, the contributor may not direct the committee to make a disbursement to a committee to support or oppose another candidate.

(3) Except for transfers of membership–related moneys between committees of the same political party, no committee may transfer to another committee the earmarked contributions of others. Transfers of membership–related moneys between political parties shall be treated in the same manner as other transfers.

History: 2015 a. 117.

11.1203 Coordination. (1) No political action committee, independent expenditure committee, other person required to report under s. 11.1001, or individual may make an expenditure for express advocacy for the benefit of a candidate that is coordinated with that candidate, candidate's committee, or candidate's agent, nor with any legislative campaign committee of the candidate's political party, or a political party, in violation of the contribution limits under s. 11.1101 or the source restrictions under s. 11.1112.

(2) (a) For purposes of this section, an expenditure for express advocacy is coordinated if any of the following applies:

1. The candidate, candidate's agent, legislative campaign committee of the candidate's political party, or the candidate's political party communicates directly with the political action committee, independent expenditure committee, other person, or individual making the expenditure to specifically request that the political action committee, independent expenditure committee, other person, or individual make the expenditure that benefits the candidate and the political action committee, independent expenditure committee, other person, or individual explicitly assents to the request before making the expenditure.

2. The candidate, candidate's agent, legislative campaign committee of the candidate's political party, or the candidate's political party exercises control over the expenditure or the content, timing, location, form, intended audience, number, or frequency of the communication.

(b) If an expenditure for express advocacy is coordinated, but not in violation of the coordination prohibitions under sub. (1), all of the following apply:

1. The political action committee or independent expenditure committee making the expenditure shall report the expenditure as required under this chapter.

2. The candidate committee shall report the expenditure as a contribution.

(3) None of the following are considered coordinated communications prohibited under this section:

(a) Candidates endorsing and soliciting contributions for other candidates.

NOMINATION PAPER FOR NONPARTISAN OFFICE

Candidate's name (**required**); no titles may be used.	Candidate's residential address (**required**) ***No P.O. box addresses*** Street, fire, or rural route number; box number (if rural route); and name of street or road		Candidate's municipality for voting purposes (**required**) ❑ Town ❑ Village _____ ❑ City (name of municipality)	
Candidate's mailing address, including municipality for mailing purposes (**required** if different than residential address or voting municipality)	State (**required**) **WI**	Zip code	Type of election (**required**) ❑ spring ❑ special	Election date (**required**) *Do not use primary date*. Mo/Day/Year
Title of office **(required)**	Branch, district or seat number (**required** if applicable) ❑ Branch ❑ District ❑ Seat	Name of jurisdiction or district in which candidate seeks office (**required**)		

I, the undersigned, request that the candidate, whose name and residential address are listed above, be placed on the ballot at the election described above as a candidate so that voters will have the opportunity to vote for ❑ him or ❑ her for the office listed above. I am eligible to vote in the jurisdiction or district in which the candidate named above seeks office. I have not signed the nomination paper of any other candidate for the same office at this election.

The municipality used for mailing purposes, when different than municipality of residence, is not sufficient. The name of the municipality of residence must always be listed.

Signatures of Electors	**Printed Name of Electors**	**Residential Address *(No P.O. Box Addresses)*** **Street and Number or Rural Route** (Rural address must also include box or fire no.)	**Municipality of Residence** Check the type and write the name of your municipality for voting purposes.	**Date of Signing** Mo/Day/Year
1.			❑ Town ❑ Village ❑ City	
2.			❑ Town ❑ Village ❑ City	
3.			❑ Town ❑ Village ❑ City	
4.			❑ Town ❑ Village ❑ City	
5.			❑ Town ❑ Village ❑ City	
6.			❑ Town ❑ Village ❑ City	
7.			❑ Town ❑ Village ❑ City	
8.			❑ Town ❑ Village ❑ City	
9.			❑ Town ❑ Village ❑ City	
10.			❑ Town ❑ Village ❑ City	

CERTIFICATION OF CIRCULATOR

I,_____ certify: I reside at _____.
(Name of circulator) (Circulator's residential address - **Include number, street, and municipality.**)

I further certify I am either a qualified elector of Wisconsin, or a U.S. citizen, age 18 or older who, if I were a resident of this state, would not be disqualified from voting under Wis. Stat. §6.03. I personally circulated this nomination paper and personally obtained each of the signatures on this paper. I know that the signers are electors of the jurisdiction or district the candidate seeks to represent. I know that each person signed the paper with full knowledge of its content on the date indicated opposite his or her name. I know their respective residences given. I intend to support this candidate. I am aware that falsifying this certification is punishable under Wis. Stat. § 12.13(3)(a).

_____ _____
(Date) (Signature of circulator)

Page No.

INSTRUCTIONS FOR PREPARING NOMINATION PAPERS FOR NONPARTISAN OFFICE

This is a sample nomination paper form. It conforms to the statutory requirements for nomination papers for nonpartisan office. All information concerning the candidate must be completed in full before circulating this form to obtain signatures of electors. All information concerning the signing electors and the circulator must be completed in full before filing with the appropriate filing officer. This form may be reproduced in any way. A candidate's picture and biographical data may also be added to this form. The Wisconsin Elections Commission has determined that no disclaimer or other attribution statement is required on nomination papers. Candidates are advised to send a sample of their completed form the filing officer for review before circulation.

Page Numbers – Number each page consecutively, beginning with "1", before submitting to the filing officer. A space for page numbers has been provided in the lower right-hand corner of the form.

Candidate's Name - Insert the candidate's name. A candidate may use his or her full legal name, or any combination of first name, middle name, and initials or nickname with last name. The Wisconsin Elections Commission has determined that, absent any evidence of an attempt to manipulate the electoral process, candidates are permitted to choose any form of their name, including nicknames, by which they want to appear on the ballot.

No titles are permitted. In addition, names such as "Red" or "Skip" are permitted, but names which have an apparent electoral purpose or benefit, such as "Lower taxes," "None of the above" or "Lower Spending" are not permitted. It is also not permissible to add nicknames in quotes or parentheses between first and last names. For example, John "Jack" Jones or John (Jack) Jones are not acceptable, but John Jones, Jack Jones or John Jack Jones are acceptable.

Candidate's Address – Insert the candidate's residential address (*no P.O. Box addresses*) and the municipality for voting purposes. Indicate if the municipality of residence is a town, village, or city. If a candidate's mailing address is different from the residential address or voting municipality, a complete mailing address must also be given.

Date of Election - Insert the date of the election. If the nomination paper is being circulated for a spring election, the date is the first Tuesday in April. If the election is a special nonpartisan election, the date of the special election must be listed.

Title of Office - The name of the office must be listed **along with any branch, district, or seat number** (if applicable) that clearly identifies the office the candidate is seeking. If necessary, the name of the jurisdiction that identifies the office, such as Dane County Circuit Court Judge, Branch 3, must also be listed.

Name of Jurisdiction - The nomination papers must also indicate the municipality or jurisdiction in which the signing electors are qualified to vote, as it relates to the office sought by the candidate named on the nomination paper. For example, for a statewide office the jurisdiction is the State of Wisconsin. Others may be the county, town, village, city, aldermanic district, school district, or town sanitary district, as required.

Signatures and Printed Name of Electors - Only qualified electors of the jurisdiction or the district the candidate seeks to represent may sign the nomination papers. Each signer must also legibly print their name. Each elector must provide their **residential** address (*no P.O. Box addresses*), including any street, fire or rural route number, box number (if rural route) and street or road name, and municipality of residence. A post office box number alone does not show where the elector actually resides. The name of the Municipality of Residence must be listed for each signing elector and must clearly identify the town, village or city where the elector's voting residence is located. The date the elector signed the nomination paper, including month, day and year, must be indicated. Ditto marks that follow correct and complete address or date information are acceptable. The circulator may add any missing or illegible address or date information before the papers are filed with the filing officer.

Signature of Circulator - The circulator should carefully read the language of the *Certification of Circulator*. **THE CIRCULATOR MUST PERSONALLY PRESENT THE NOMINATION PAPER TO EACH SIGNER. THE NOMINATION PAPER MAY NOT BE LEFT UNATTENDED ON COUNTERS OR POSTED ON BULLETIN BOARDS.** The circulator's complete residential address including municipality of residence must be listed in the certification. **After** obtaining signatures of electors, the circulator must sign and date the certification.

Other Instructions - Candidates and circulators should review Ch. Wisconsin Elections Commission §§ 2.05, 2.07, Wis. Adm. Code.

- *Original* nomination papers must be in the physical custody of the appropriate filing officer by the filing deadline. A postmark on the filing deadline is **NOT** sufficient. Nomination papers **CANNOT** be faxed to the filing officer. Ch. Wisconsin Elections Commission § 6.04(2), Wis. Adm. Code.
- Nomination papers with the required number of signatures must be filed with the appropriate filing officer **no later than 5:00 p.m.** on the first Tuesday in January (or the next day if the first Tuesday is a holiday) before the spring election. Special elections may have different filing deadlines. Check with the filing officer.
- In order for a candidate's name to be placed on the ballot, a candidate must file a *Campaign Registration Statement* (ETHCF-1), a *Declaration of Candidacy* (EL-162), and *Nomination Papers* (EL-169) containing the appropriate number of signatures for the office sought no later than the filing deadline. Wis. Stat. § 8.10(3). Candidates for state office and municipal judge must also file a statement of economic interests with the Wisconsin Ethics Commission by the third business day after the nomination paper filing deadline. Wis. Stat. § 19.43. If any one of these required forms is not filed by the deadline, the candidate's name will not be placed on the ballot. Wis. Stat. § 8.30.
- If a candidate or circulator has any questions, he or she should contact the filing officer.

2.03.020 - Definitions.

For the purpose of this chapter, the words set out in this section shall have the following meanings:

Anything of value:

(1) Means any money, property, favor, service, payment, advance, forbearance, loan, guarantee of loan or promise of future employment;

(2) Includes, without restriction by enumeration, tickets, passes, admission offered and provided by sponsors or organizations doing business with the City;

(3) Shall not preclude an official/employee from attending programs or events sponsored by an agency of City government to which an official/employee shall attend or participate in the course of official/employee duty, and it shall not include political contributions which are reported under Wis. Stats. ch. 111, or hospitality extended for a purpose unrelated to City business by a person other than an organization;

(4) Shall not include fees, honorariums, compensation or reimbursement of expenses, provided reimbursement does not exceed $100.00 for a published work, meeting, presentation of a paper, talk or demonstration. If the value of the above exceeds $100.00, the official/employee shall report such receipt to the board, with a brief report of the event concerned. The report shall be made within 60 days of its receipt.

Associated when used with reference to an organization, means any organization in which an individual or a member of his or her immediate family is a director, officer or trustee, or owns or controls, directly or indirectly, at least ten percent of the outstanding equity, voting rights or indebtedness, whether individually or in the aggregate.

Board means the Ethics Board.

City means the City of Wausau.

Employee means any person excluded from the definition of an official who is employed by the City.

Financial interest means any interest, which yields a monetary or other material benefit to the official/employee or to any person employing or retaining the services of the official/employee.

Gift means the payment or receipt of anything of value without valuable consideration.

Immediate family means:

(1) An individual's spouse;

(2) An individual's relative by marriage, lineal descent or adoption, who receives, directly or indirectly, more than 50 percent of his or her support from such individual or from whom such individual receives, directly or indirectly, more than 50 percent of his or her support.

Income has the meaning given under section 61 of the Federal Internal Revenue Code.

Internal Revenue Code has the meaning given under Wis. Stats. § 71.02(1)(a) and (2)(b).

Ministerial action means an action performed in a prescribed manner in obedience to the mandate of legal authority without regard to the exercise of judgment as to the propriety of the action being taken.

Official means any official holding an elected City office, any candidate for elected City office and all members of boards, commissions or committees appointed by the Mayor or Common Council.

Organization means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, unincorporated association, receivership, trust or any legal entity organized for profit, other than an individual or government entity.

Payor means any person providing anything of value to the official/employee, and his or her spouse.

Person means any individual, person or organization.

(Ord. 61-4706 §1(Exh. A) (part), 1990.)

2.03.030 - Standards of conduct.

(a) No official/employee shall use his or her public position or office to obtain financial gain or anything of value for the private benefit of himself or herself or his or her immediate family, or for an organization with which the official/employee is associated.

(b) No official/employee shall solicit or accept from any person, directly or indirectly, anything of value, if it could reasonably be expected to influence the official's vote, official/employee actions or judgments, or could reasonably be considered as reward for any official/employee action or inaction on the part of the official/employee. This subsection does not prohibit an official/employee from engaging in outside employment or his or her normal course of business.

(c) No official/employee shall intentionally use or disclose information gained in the course of or by reason of his or her official position or activities in any way that could result in the receipt of anything of value for himself or herself, for his or her immediate family or for any other person, if the information has not been communicated to the public or is not public information.

(d) No official/employee shall use or attempt to use his or her public position to influence or gain unlawful benefits, advantages or privileges for himself, herself or other person.

(e) No official/employee and no organization in which an official/employee or a member of his or her immediate family is associated shall enter into a contract with the City, for more than $3,000.00 per year, without first disclosing it at and entering it into the minutes of the meeting of the appropriate governmental body. Any contract or lease entered into in violation of this subsection may be voided by the City in an action commenced within three years of the date on which the board or the department or official/employee acting for the City, in regard to the allocation of City funds from which payment is derived, knew or should have known that a violation of this subsection occurred. This subsection does not affect the application of Wis. Stats. § 946.13.

(f) An official/employee may appear on behalf of and may make inquiries for information for a person before any City employee, department, board, commission or other agency, only if the official/employee receives no compensation therefor beyond the salary and other compensation or other reimbursement due which the official/employee is entitled by law.

(g) No official/employee shall engage in or accept private employment or act in regard to any financial interest, direct or indirect, which is incompatible with the proper discharge of his or her official/employee duties, if it could reasonably be expected to influence the official's vote, official/employee actions or judgment or could reasonably be expected to influence the official's vote, official/employee actions or judgment or could reasonably be considered as a reward for any official/employee action or inaction on the part of the official/employee, unless otherwise permitted by law and unless disclosure is made, as hereinafter provided.

(h) No official/employee shall, for compensation, act on behalf of any person other than the City, in connection with any judicial or quasi-judicial proceeding or matter which might give rise to a judicial or quasi-judicial proceeding in which the official/employee has at any time participated personally in his official/employee capacity.

(i) No official shall vote on any matter when the official or the official's immediate family has a personal financial interest.

(j) No official/employee shall in his or her official capacity do any act which he or she knows is in excess of his or her lawful authority or which he or she knows he or she is forbidden by law to do in his or her official capacity.

(k) No official/employee, without Common Council authorization, shall use or permit the use of any City property for personal convenience, use or profit.

(l) No former official shall, for compensation, for 12 months following the date on which he or she ceases to be an official, act on behalf of any person other than the City in connection with any judicial or quasi-judicial proceeding or matter which might give rise to a judicial or quasi-judicial proceeding in which the former official participated personally and substantially as a City official.

(m) No official/employee shall grant special consideration, treatment or advantage to any person, beyond that which is available to every other person.

(n) This section does not prohibit an official/employee of the City from taking any action concerning the lawful payment of salaries or employee benefits or reimbursement of actual necessary expenses, or prohibit an official/employee from taking official action with respect to any proposal to modify City ordinances or resolutions.

Chapter EL 2

ELECTION RELATED PETITIONS

Note: Chapter ElBd 2 was renumbered chapter GAB 2 under s. 13.92 (4) (b) 1., Stats., and corrections made under s. 13.92 (4) (b) 2. and 7., Stats., Register April 2008 No. 628. **Chapter GAB 2 was renumbered Chapter EL 2 under s. 13.92 (4) (b) 1., Stats., Register June 2016 No. 726.**

EL 2.05 Treatment and sufficiency of nomination papers. (1) Each candidate for public office has the responsibility to assure that his or her nomination papers are prepared, circulated, signed, and filed in compliance with statutory and other legal requirements.

(2) In order to be timely filed, all nomination papers shall be in the physical possession of the filing officer by the statutory deadline. Each of the nomination papers shall be numbered, before they are filed, and the numbers shall be assigned sequentially, beginning with the number "1". Notwithstanding any other provision of this chapter, the absence of a page number will not invalidate the signatures on that page.

(3) The filing officer shall review all nomination papers filed with it, up to the maximum number permitted, to determine the facial sufficiency of the papers filed. Where circumstances and the time for review permit, the filing officer may consult maps, directories and other extrinsic evidence to ascertain the correctness and sufficiency of information on a nomination paper.

(4) Any information which appears on a nomination paper is entitled to a presumption of validity. Notwithstanding any other provision of this chapter, errors in information contained in a nomination paper, committed by either a signer or a circulator, may be corrected by an affidavit of the circulator, an affidavit of the candidate, or an affidavit of a person who signed the nomination paper. The person giving the correcting affidavit shall have personal knowledge of the correct information and the correcting affidavit shall be filed with the filing officer not later than three calendar days after the applicable statutory due date for the nomination papers.

(5) Where any required item of information on a nomination paper is incomplete, the filing officer shall accept the information as complete if there has been substantial compliance with the law.

(6) Nomination papers shall contain at least the minimum required number of signatures from the circuit, county, district or jurisdiction which the candidate seeks to represent.

(7) The filing officer shall accept nomination papers which contain biographical data or campaign advertising. The disclaimer specified in s. 11.1303 (2), Stats., is not required on any nomination paper.

(8) An elector shall sign his or her own name unless unable to do so because of physical disability. An elector unable to sign because of physical disability shall be present when another person signs on behalf of the disabled elector and shall specifically authorize the signing.

(9) A person may not sign for his or her spouse, or for any other person, even when they have been given a power of attorney by that person, unless sub. (8) applies.

(10) The signature of a married woman shall be counted when she uses her husband's first name instead of her own.

(11) Only one signature per person for the same office is valid. Where an elector is entitled to vote for more than one candidate for the same office, a person may sign the nomination papers of as many candidates for the same office as the person is entitled to vote for at the election.

(12) A complete address, including municipality of residence for voting purposes, and the street and number, if any, of the residence, (or a postal address if it is located in the jurisdiction that the candidate seeks to represent), shall be listed for each signature on a nomination paper.

(13) A signature shall be counted when identical residential information or dates for different electors are indicated by ditto marks.

(14) No signature on a nomination paper shall be counted unless the elector who circulated the nomination paper completes and signs the certificate of circulator and does so after, not before, the paper is circulated. No signature may be counted when the residency of the circulator cannot be determined by the information given on the nomination paper.

(15) An individual signature on a nomination paper may not be counted when any of the following occur:

(a) The date of the signature is missing, unless the date can be determined by reference to the dates of other signatures on the paper.

(b) The signature is dated after the date of certification contained in the certificate of circulator.

(c) The address of the signer is missing or incomplete, unless residency can be determined by the information provided on the nomination paper.

(d) The signature is that of an individual who is not 18 years of age at the time the paper is signed. An individual who will not be 18 years of age until the subject election is not eligible to sign a nomination paper for that election.

(e) The signature is that of an individual who has been adjudicated not to be a qualified elector on the grounds of incompetency or limited competency as provided in s. 6.03 (3), Stats., or is that of an individual who was not, for any other reason, a qualified elector at the time of signing the nomination paper.

(16) After a nomination paper has been filed, no signature may be added or removed. After a nomination paper has been signed, but before it has been filed, a signature may be removed by the circulator. The death of a signer after a nomination paper has been signed does not invalidate the signature.

(17) This section is promulgated pursuant to the direction of s. 8.07, Stats., and is to be used by election officials in determining the validity of all nomination papers and the signatures on those papers.

History: Emerg. cr. 8–9–74; cr. Register, November, 1974, No. 227, eff. 12–1–74; emerg. r. and recr. eff. 12–16–81; emerg. r. and recr. eff. 6–1–84; cr. Register, November, 1984, No. 347, eff. 12–1–84**;** r. and recr. Register, January, 1994, No. 457, eff. 2–1–94; CR 00–153: am. (2), (4), and (14), r. (15), renum. (16), (17), and (18) to be (15), (16) and (17), and am. (15) (b) as renum., Register September 2001 No. 549, eff. 10–1–01; **correction in (7) made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726.**

EL 2.07 Challenges to nomination papers. (1) The elections commission shall review any verified complaint concerning the sufficiency of nomination papers of a candidate for state office that is filed with the elections commission under ss. 5.05 and 5.06, Stats.; and the local filing officer shall review any verified complaint concerning the sufficiency of nomination papers of a candidate for local office that is filed with the local fil-

ing officer under s. 8.07, Stats. The filing officer shall apply the standards in s. EL 2.05 to determine the sufficiency of nomination papers, including consulting extrinsic sources of evidence under s. EL 2.05 (3).

(2) (a) Any challenge to the sufficiency of a nomination paper shall be made by verified complaint, filed with the appropriate filing officer. The complainant shall file both an original and a copy of the challenge at the time of filing the complaint. Notwithstanding any other provision of this chapter, the failure of the complainant to provide the filing officer with a copy of the challenge complaint will not invalidate the challenge complaint. The filing officer shall make arrangements to have a copy of the challenge delivered to the challenged candidate within 24 hours of the filing of the challenge complaint. The filing officer may impose a fee for the cost of photocopying the challenge and for the cost of delivery of the challenge to the respondent. The form of the complaint and its filing shall comply with the requirements of ch. EL 20. Any challenge to the sufficiency of a nomination paper shall be filed within 3 calendar days after the filing deadline for the challenged nomination papers. The challenge shall be established by affidavit, or other supporting evidence, demonstrating a failure to comply with statutory or other legal requirements.

(b) The response to a challenge to nomination papers shall be filed, by the candidate challenged, within 3 calendar days of the filing of the challenge and shall be verified. After the deadline for filing a response to a challenge, but not later than the date for certifying candidates to the ballot, the elections commission or the local filing officer shall decide the challenge with or without a hearing.

(3) (a) The burden is on the challenger to establish any insufficiency. If the challenger establishes that the information on the nomination paper is insufficient, the burden is on the challenged candidate to establish its sufficiency. The invalidity or disqualification of one or more signatures on a nomination paper shall not affect the validity of any other signatures on that paper.

(b) If a challenger establishes that an elector signed the nomination papers of a candidate more than once or signed the nomination papers of more than one candidate for the same office, the 2nd and subsequent signatures may not be counted. The burden of proving that the second and subsequent signatures are that of the same person and are invalid is on the challenger.

(c) If a challenger establishes that the date of a signature, or the address of the signer, is not valid, the signature may not be counted.

(d) Challengers are not limited to the categories set forth in pars. (a) and (b).

(4) The filing officer shall examine any evidence offered by the parties when reviewing a complaint challenging the sufficiency of the nomination papers of a candidate for state or local office. The burden of proof applicable to establishing or rebutting a challenge is clear and convincing evidence.

(5) Where it is alleged that the signer or circulator of a nomination paper does not reside in the district in which the candidate being nominated seeks office, the challenger may attempt to establish the geographical location of an address indicated on a nomination paper, by providing district maps, or by providing a statement from a postmaster or other public official.

History: Emerg. cr. 8–9–74; cr. Register, November, 1974, No. 227, eff. 12–1–74; emerg. r. and recr. eff. 12–16–81; emerg. r. and recr. eff. 6–1–84; cr. Register, November, 1984, No. 347, eff. 12–1–84; emerg. am. (1), (4) to (6), eff. 6–1–86; am. (1), (4) to (6), Register, November, 1986, No. 371, eff. 12–1–86; r. and recr. Register, January, 1994, No. 457, eff. 2–1–94; CR 00–153: am. (2) (a) and (b), Register September 2001 No. 549, eff. 10–1–01; reprinted to restore dropped copy in (2) (b), Register December 2001 No. 552; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register April 2008 No. 628; **correction in (1), (2) (b) made under s. 13.92 (4) (b) 6., Stats., and correction in (1), (2) (a) made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726.**

EL 2.09 Treatment and sufficiency of election petitions. (1) Except as expressly provided herein, the standards established in s. EL 2.05 for determining the treatment and sufficiency of nomination papers are incorporated by reference into, and are made a part of, this section.

(2) In order to be timely filed, all petitions required to comply with s. 8.40, Stats., and required by statute or other law to be filed by a time certain, shall be in the physical possession of the filing officer not later than the time set by that statute or other law.

(3) All petitions shall contain at least the number of signatures, from the election district in which the petition was circulated, equal to the minimum required by the statute or other law establishing the right to petition.

(4) Only one signature per person for the same petition, is valid.

(5) This section applies to all petitions which are required to comply with s. 8.40, Stats., including recall petitions, and to any other petition whose filing would require a governing body to call a referendum election.

History: Cr. Register, January, 1994, No. 457, eff. 2–1–94; **correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726.**

EL 2.11 Challenges to election petitions. (1) Except as expressly provided herein, the standards established in s. EL 2.07 for determining challenges to the sufficiency of nomination papers apply equally to determining challenges to the sufficiency of petitions required to comply with s. 8.40, Stats., including recall petitions, and to any other petition whose filing requires a governing body to call a referendum election.

(2) (a) Any challenge to the sufficiency of a petition required to comply with s. 8.40, Stats., shall be made by verified complaint filed with the appropriate filing officer. The form of the complaint, the filing of the complaint and the legal sufficiency of the complaint shall comply with the requirements of ch. EL 20; the procedure for resolving the complaint, including filing deadlines, shall be governed by this section and not by ch. EL 20.

(b) The complaint challenging a petition shall be in the physical possession of the filing officer within the time set by the statute or other law governing the petition being challenged or, if no time limit is specifically provided by statute or other law, within 10 days after the day that the petition is filed.

(3) The response to a challenge to a petition shall be filed within the time set by the statute or other law governing that petition or, if no time limit is specifically provided by statute or other law, within 5 days of the filing of the challenge to that petition. After the deadline for filing a response to a challenge, the filing officer shall decide the challenge with or without a hearing.

History: Cr. Register, January, 1994, No. 457, eff. 2–1–94; **correction in (1), (2) (a) made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726.**

CHAPTER 12

PROHIBITED ELECTION PRACTICES

NOTE: 2005 Wis. Act 451, which made major revisions to the election laws, including to Chapter 12, contains an extensive prefatory note explaining the changes.

Cross−reference: See definitions in s. 5.02.

12.01 Definitions. The definitions given under s. 11.0101 apply to this chapter, except as follows:

(1) "Candidate" includes a candidate for national office.

(2) "Commission" means the elections commission.

History: 1973 c. 334; 1975 c. 93; 1977 c. 427; 1979 c. 89; 1983 a. 484; 2015 a. 118; 2017 a. 366.

12.02 Construction. In this chapter, criminal intent shall be construed in accordance with s. 939.23.

History: 1977 c. 427.

12.03 Campaigning restricted. (1) No election official may engage in electioneering on election day. No municipal clerk or employee of the clerk may engage in electioneering in the clerk's office or at the alternate site under s. 6.855 during the hours that ballots may be cast at those locations.

(2) (a) 1. No person may engage in electioneering during polling hours on election day at a polling place.

2. No person may engage in electioneering in the municipal clerk's office or at an alternate site under s. 6.855 during the hours that absentee ballots may be cast.

(b) 1. No person may engage in electioneering during polling hours on any public property on election day within 100 feet of an entrance to a building containing a polling place.

2. No person may engage in electioneering during the hours that absentee ballots may be cast on any public property within 100 feet of an entrance to a building containing the municipal clerk's office or an alternate site under s. 6.855.

3. No person may engage in electioneering within 100 feet of an entrance to or within a qualified retirement home or residential care facility while special voting deputies are present at the home or facility under s. 6.875 (6).

(d) This subsection does not apply to the placement of any material on the bumper of a motor vehicle that is parked or operated at a place and time where electioneering is prohibited under this subsection.

(3) A municipal clerk, election inspector or law enforcement officer may remove posters or other advertising which is placed in violation of this section.

(4) In this section, "electioneering" means any activity which is intended to influence voting at an election.

History: 1973 c. 334; 1977 c. 427; 1979 c. 89; 1983 a. 484; 1993 a. 173; 2005 a. 451; 2011 a. 23; 2013 a. 159.

Violators may not be deprived of the right to vote, although penalties may follow. Constitutional issues are discussed. 61 Atty. Gen. 441.

12.035 Posting and distribution of election−related material. (1) In this section, "election−related material" means any written matter which describes, or purports to describe, the rights or responsibilities of individuals voting or registering to vote at a polling place or voting an absentee ballot at the office of the municipal clerk or an alternate site under s. 6.855.

(2) The legislature finds that posting or distributing election−related material at the polling place, at locations where absentee ballots may be cast, or near the entrance to such locations when voting is taking place may mislead and confuse electors about their rights and responsibilities regarding the exercise of the franchise and tends to disrupt the flow of voting activities at such locations. The legislature finds that the restrictions imposed by this section on the posting or distribution of election−related material are necessary to protect the compelling governmental interest in orderly and fair elections.

(3) (a) No person may post or distribute any election−related material during polling hours on election day at a polling place.

(b) No person may post or distribute any election−related material during polling hours on any public property on election day within 100 feet of an entrance to a building containing a polling place.

(c) No person may post or distribute any election−related material at the office of the municipal clerk or at an alternate site under s. 6.855 during hours that absentee ballots may be cast.

(d) No person may post or distribute election−related material during the hours that absentee ballots may be cast on any public property within 100 feet of an entrance to a building containing the office of the municipal clerk or an alternate site under s. 6.855.

(4) Subsection (3) does not apply to any of the following:

(a) The posting or distribution of election−related material posted or distributed by the municipal clerk or other election officials.

(b) The placement of any material on the bumper of a motor vehicle located on public property.

(5) A municipal clerk, election inspector, or law enforcement officer may remove election−related material posted in violation of sub. (3) and may confiscate election−related material distributed in violation of sub. (3).

History: 2005 a. 451.

12.04 Communication of political messages. (1) In this section:

(a) "Election campaign period" means:

1. In the case of an election for office, the period beginning on the first day for circulation of nomination papers by candidates, or the first day on which candidates would circulate nomination papers were papers to be required, and ending on the day of the election.

2. In the case of a referendum, the period beginning on the day on which the question to be voted upon is submitted to the electorate and ending on the day on which the referendum is held.

(b) "Political message" means a message intended for a political purpose or a message which pertains to an issue of public policy of possible concern to the electorate, but does not include a message intended solely for a commercial purpose.

(c) "Residential property" means property occupied or suitable to be occupied for residential purposes and property abutting that property for which the owner or renter is responsible for the maintenance or care. If property is utilized for both residential and nonresidential purposes, "residential property" means only the portion of the property occupied or suitable to be occupied for residential purposes.

(2) Except as provided in ss. 12.03 or 12.035 or as restricted under sub. (4), any individual may place a sign containing a political message upon residential property owned or occupied by that individual during an election campaign period.

(3) Except as provided in sub. (4), no county or municipality may regulate the size, shape, placement or content of any sign containing a political message placed upon residential property during an election campaign period.

(4) (a) A county or municipality may regulate the size, shape or placement of any sign if such regulation is necessary to ensure traffic or pedestrian safety. A county or municipality may regulate the size, shape or placement of any sign having an electrical, mechanical or audio auxiliary.

(b) In addition to regulation under par. (a), a municipality may regulate the size, shape or placement of a sign exceeding 11 square feet in area. This paragraph does not apply to a sign which is affixed to a permanent structure and does not extend beyond the perimeter of the structure, if the sign does not obstruct a window, door, fire escape, ventilation shaft or other area which is required by an applicable building code to remain unobstructed.

(5) (a) The renter of residential property may exercise the same right as the owner to place a sign upon the property under sub. (2) in any area of the property occupied exclusively by the renter. The terms of a lease or other agreement under which residential property is occupied shall control in determining whether property is occupied exclusively by a renter.

(b) The owner of residential property may exercise the right granted under sub. (2) in any portion of the property not occupied exclusively by a renter.

(6) This section does not apply to signs prohibited from being erected under s. 84.30.

History: 1985 a. 198; 1993 a. 246; 2005 a. 451; 2009 a. 173.

12.05 False representations affecting elections. No person may knowingly make or publish, or cause to be made or published, a false representation pertaining to a candidate or referendum which is intended or tends to affect voting at an election.

History: 1973 c. 334; 1993 a. 175.

A violation of this section does not constitute defamation per se. Tatur v. Solsrud, 174 Wis. 2d 735, 498 N.W.2d 232 (1993).

12.07 Election restrictions on employers. (1) No person may refuse an employee the privilege of time off for voting under s. 6.76 or subject an employee to a penalty therefor.

(2) No employer may refuse to allow an employee to serve as an election official under s. 7.30 or make any threats or offer any inducements of any kind to the employee for the purpose of preventing the employee from so serving.

(3) No employer or agent of an employer may distribute to any employee printed matter containing any threat, notice or information that if a particular ticket of a political party or organization or candidate is elected or any referendum question is adopted or rejected, work in the employer's place or establishment will cease, in whole or in part, or the place or establishment will be closed, or the salaries or wages of the employees will be reduced, or other threats intended to influence the political opinions or actions of the employees.

(4) No person may, directly or indirectly, cause any person to make a contribution or provide any service or other thing of value to or for the benefit of a committee registered under ch. 11, with the purpose of influencing the election or nomination of a candidate to national, state or local office or the passage or defeat of a referendum by means of the denial or the threat of denial of any employment, position, work or promotion, or any compensation or other benefit of such employment, position or work, or by means of discharge, demotion or disciplinary action or the threat to impose a discharge, demotion or disciplinary action. This subsection does not apply to employment by a committee registered under ch. 11 in connection with a campaign or political party activities. This subsection also does not apply to information provided by any person that expresses that person's opinion on any candidate or committee, any referendum or the possible effects of any referendum, or the policies advocated by any candidate or committee.

History: 1973 c. 334; 1983 a. 484; 1991 a. 316; 2005 a. 451; 2015 a. 117; 2017 a. 365 s. 111.

12.08 Denial of government benefits. No person may, directly or indirectly, cause any person to make a contribution or provide any service or other thing of value to or for the benefit of a committee registered under ch. 11, with the purpose of influencing the election or nomination of a candidate to national, state, or local office or the passage or defeat of a referendum by means of the denial or threat of denial of any payment or other benefit of a program established or funded in whole or in part by this state or any local governmental unit of this state, or a program which has applied for funding by this state or any local governmental unit of this state.

History: 1983 a. 484; 1985 a. 304; 2015 a. 117; 2017 a. 365 s. 111.

12.09 Election threats. (1) No person may personally or through an agent make use of or threaten to make use of force, violence, or restraint in order to induce or compel any person to vote or refrain from voting at an election.

(2) No person may personally or through an agent, by abduction, duress, or any fraudulent device or contrivance, impede or prevent the free exercise of the franchise at an election.

(3) No person may personally or through an agent, by any act compel, induce, or prevail upon an elector either to vote or refrain from voting at any election for or against a particular candidate or referendum.

History: 1973 c. 334; 1991 a. 316; 2005 a. 451.

12.11 Election bribery. (1) In this section, "anything of value" includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds $1. The prohibitions of this section apply to the distribution of material printed at public expense and available for free distribution if such materials are accompanied by a political message.

(1m) Any person who does any of the following violates this chapter:

(a) Offers, gives, lends or promises to give or lend, or endeavors to procure, anything of value, or any office or employment or any privilege or immunity to, or for, any elector, or to or for any other person, in order to induce any elector to:

1. Go to or refrain from going to the polls.

2. Vote or refrain from voting.

3. Vote or refrain from voting for or against a particular person.

4. Vote or refrain from voting for or against a particular referendum; or on account of any elector having done any of the above.

(b) Receives, agrees or contracts to receive or accept any money, gift, loan, valuable consideration, office or employment personally or for any other person, in consideration that the person or any elector will, so act or has so acted.

(c) Advances, pays or causes to be paid any money to or for the use of any person with the intent that such money or any part thereof will be used to bribe electors at any election.

(2) This section applies to any convention or meeting held for the purpose of nominating any candidate for any election, and to the signing of any nomination paper.

(3) (a) This section does not prohibit a candidate from publicly stating his or her preference for or support of any other candidate for any office to be voted for at the same election. A candidate for an office in which the person elected is charged with the duty of participating in the election or nomination of any person as a candidate for office is not prohibited from publicly stating or pledging his or her preference for or support of any person for such office or nomination.

(b) This section does not apply to money paid or agreed to be paid for or on account of authorized legal expenses which were legitimately incurred at or concerning any election.

(c) This section does not apply where an employer agrees that all or part of election day be given to its employees as a paid holiday, provided that such policy is made uniformly applicable to all similarly situated employees.

(d) This section does not prohibit any person from using his or her own vehicle to transport electors to or from the polls without charge.

(e) This section does not apply to any promise by a candidate to reduce public expenditures or taxes.

History: 1973 c. 334; 1975 c. 93; 1983 a. 484; 1991 a. 316; 1993 a. 213.

There are constitutional limits on the state's power to prohibit candidates from making promises in the course of an election campaign. Some promises are universally acknowledged as legitimate, indeed indispensable to decisionmaking in a democracy. Brown v. Hartlage, 456 U.S. 45 (1982).

12.13 Election fraud. (1) ELECTORS. Whoever intentionally does any of the following violates this chapter:

(a) Votes at any election or meeting if that person does not have the necessary elector qualifications and residence requirements.

(b) Falsely procures registration or makes false statements to the municipal clerk, board of election commissioners or any other election official whether or not under oath.

(c) Registers as an elector in more than one place for the same election.

(d) Impersonates a registered elector or poses as another person for the purpose of voting at an election.

(e) Votes more than once in the same election.

(f) Shows his or her marked ballot to any person or places a mark upon the ballot so it is identifiable as his or her ballot.

(g) Procures an official ballot and neglects or refuses to cast or return it. This paragraph does not apply to persons who have applied for and received absentee ballots.

(h) Procures, assists or advises someone to do any of the acts prohibited by this subsection.

(2) ELECTION OFFICIALS. (a) The willful neglect or refusal by an election official to perform any of the duties prescribed under chs. 5 to 12 is a violation of this chapter.

(b) No election official may:

1. Observe how an elector has marked a ballot unless the official is requested to assist the elector; intentionally permit anyone not authorized to assist in the marking of a ballot to observe how a person is voting or has voted; or disclose to anyone how an elector voted other than as is necessary in the course of judicial proceedings.

2. Illegally issue, write, change or alter a ballot on election day.

3. Permit registration or receipt of a vote from a person who the official knows is not a legally qualified elector or who has refused after being challenged to make the oath or to properly answer the necessary questions pertaining to the requisite requirements and residence; or put into the ballot box a ballot other than the official's own or other one lawfully received.

4. Intentionally assist or cause to be made a false statement, canvass, certificate or return of the votes cast at any election.

5. Willfully alter or destroy a poll or registration list.

6. Intentionally permit or cause a voting machine, voting device or automatic tabulating equipment to fail to correctly register or record a vote cast thereon or inserted therein, or tamper with or disarrange the machine, device or equipment or any part or appliance thereof; cause or consent to the machine, device or automatic tabulating equipment being used for voting at an election with knowledge that it is out of order or is not perfectly set and adjusted so that it will correctly register or record all votes cast thereon or inserted therein; with the purpose of defrauding or deceiving any elector, cause doubt for what party, candidate or proposition a vote will be cast or cause the vote for one party, candidate or proposition to be cast so it appears to be cast for another; or remove, change or mutilate a ballot on a voting machine, device or a ballot to be inserted into automatic tabulating equipment, or do any similar act contrary to chs. 5 to 12.

6m. Obtain an absentee ballot for voting in a qualified retirement home or residential care facility under s. 6.875 (6) and fail to return the ballot to the issuing officer.

7. In the course of the person's official duties or on account of the person's official position, intentionally violate or intentionally cause any other person to violate any provision of chs. 5 to 12 for which no other penalty is expressly prescribed.

8. Intentionally disclose the name or address of any elector who obtains a confidential listing under s. 6.47 (2) to any person who is not authorized by law to obtain that information.

(3) PROHIBITED ACTS. No person may:

(a) Falsify any information in respect to or fraudulently deface or destroy a certificate of nomination, nomination paper, declaration of candidacy or petition for an election, including a recall petition or petition for a referendum; or file or receive for filing a certificate of nomination, nomination paper, declaration of candidacy or any such petition, knowing any part is falsely made.

(am) Fail to file an amended declaration of candidacy as provided in s. 8.21 with respect to a change in information filed in an original declaration within 3 days of the time the amended declaration becomes due for filing; or file a false declaration of candidacy or amended declaration of candidacy. This paragraph applies only to candidates for state or local office.

(b) Wrongfully suppress, neglect or fail to file nomination papers in the person's possession at the proper time and in the proper office; suppress a certificate of nomination which is duly filed.

(c) Willfully or negligently fail to deliver, after having undertaken to do so, official ballots prepared for an election to the proper person, or prevent their delivery within the required time, or destroy or conceal the ballots.

(d) Remove or destroy any of the supplies or conveniences placed in compartments or polling booths.

(e) Prepare or cause to be prepared an official ballot with intent to change the result of the election as to any candidate or referendum; prepare an official ballot which is premarked or which has an unauthorized sticker affixed prior to delivery to an elector; or deliver to an elector an official ballot bearing a mark opposite the name of a candidate or referendum question that might be counted as a vote for or against a candidate or question.

(f) Before or during any election, tamper with voting machines, voting devices or automatic tabulating equipment readied for voting or the counting of votes; disarrange, deface, injure or impair any such machine, device or equipment; or mutilate, injure or destroy a ballot placed or displayed on a voting machine or device, or to be placed or displayed on any such machine, device or automatic tabulating equipment or any other appliance used in connection with the machine, device or equipment.

(g) Falsify any statement relating to voter registration under chs. 5 to 12.

(h) Deface, destroy or remove any legally placed election campaign advertising poster with intent to disrupt the campaign advertising efforts of any committee registered under ch. 11, or alter the information printed thereon so as to change the meaning thereof to the disadvantage of the candidate or cause espoused. Nothing

in this paragraph restricts the right of any owner or occupant of any real property, or the owner or operator of any motor vehicle, to remove campaign advertising posters from such property or vehicle.

(i) Falsely make any statement for the purpose of obtaining or voting an absentee ballot under ss. 6.85 to 6.87.

(j) When called upon to assist an elector who cannot read or write, has difficulty in reading, writing or understanding English, or is unable to mark a ballot or depress a lever or button on a voting machine, inform the elector that a ballot contains names or words different than are printed or displayed on the ballot with the intent of inducing the elector to vote contrary to his or her inclination, intentionally fail to cast a vote in accordance with the elector's instructions or reveal the elector's vote to any 3rd person.

(k) Forge or falsely make the official endorsement on a ballot or knowingly deposit a ballot in the ballot box upon which the names or initials of the ballot clerks, or those of issuing clerks do not appear.

(L) When not authorized, during or after an election, break open or violate the seals or locks on a ballot box containing ballots of that election or obtain unlawful possession of a ballot box with official ballots; conceal, withhold or destroy ballots or ballot boxes; willfully, fraudulently or forcibly add to or diminish the number of ballots legally deposited in a ballot box; or aid or abet any person in doing any of the acts prohibited by this paragraph.

(m) Fraudulently change a ballot of an elector so the elector is prevented from voting for whom the elector intended.

(n) Receive a ballot from or give a ballot to a person other than the election official in charge.

(o) Vote or offer to vote a ballot except as has been received from one of the inspectors.

(p) Receive a completed ballot from a voter unless qualified to do so.

(q) Solicit a person to show how his or her vote is cast.

(r) Remove a ballot from a polling place before the polls are closed.

(s) Solicit another elector to offer assistance under s. 6.82 (2) or 6.87 (5), except in the case of an elector who is blind or visually impaired to the extent that the elector cannot read a ballot.

(t) Obtain an absentee ballot as the agent of another elector under s. 6.86 (3) and fail or refuse to deliver it to such elector.

(u) Provide false documentation of identity for the purpose of inducing an election official to permit the person or another person to vote.

(w) Falsify a ballot application under s. 6.18.

(x) Refuse to obey a lawful order of an inspector made for the purpose of enforcing the election laws; engage in disorderly behavior at or near a polling place; or interrupt or disturb the voting or canvassing proceedings.

(y) After an election, break the locks or seals or reset the counters on a voting machine except in the course of official duties carried out at the time and in the manner prescribed by law; or disable a voting machine so as to prevent an accurate count of the votes from being obtained; or open the registering or recording compartments of a machine with intent to do any such act.

(z) Tamper with automatic tabulating equipment or any record of votes cast or computer program which is to be used in connection with such equipment to count or recount votes at any election so as to prevent or attempt to prevent an accurate count of the votes from being obtained.

(ze) Compensate a person who obtains voter registration forms from other persons at a rate that varies in relation to the number of voter registrations obtained by the person.

(zm) Willfully provide to a municipal clerk false information for the purpose of obtaining a confidential listing under s. 6.47 (2) for that person or another person.

(zn) Disclose to any person information provided under s. 6.47 (8) when not authorized to do so.

(5) UNAUTHORIZED RELEASE OF RECORDS OR INVESTIGATORY INFORMATION. (a) Except as specifically authorized by law and except as provided in par. (b), no investigator, prosecutor, employee of an investigator or prosecutor, or member or employee of the commission may disclose information related to an investigation or prosecution under chs. 5 to 10 or 12, or any other law specified in s. 978.05 (1) or (2) or provide access to any record of the investigator, prosecutor, or the commission that is not subject to access under s. 5.05 (5s) to any person other than an employee or agent of the prosecutor or investigator or a member, employee, or agent of the commission prior to presenting the information or record in a court of law.

(b) This subsection does not apply to any of the following communications made by an investigator, prosecutor, employee of an investigator or prosecutor, or member or employee of the commission:

1. Communications made in the normal course of an investigation or prosecution.

2. Communications with a local, state, or federal law enforcement or prosecutorial authority.

3. Communications made to the attorney of an investigator, prosecutor, employee, or member of the commission or to a person or the attorney of a person who is investigated or prosecuted by the commission.

History: 1973 c. 334; 1975 c. 85, 93, 199; 1977 c. 427, 447; 1979 c. 89, 249, 260, 311, 357; 1983 a. 183 s. 45; 1983 a. 192 s. 304; 1983 a. 484 ss. 135, 172 (3), 174; 1983 a. 491; 1985 a. 304; 1987 a. 391; 1989 a. 192; 1991 a. 316; 1999 a. 49; 2001 a. 16; 2003 a. 265; 2005 a. 451; 2007 a. 1; 2011 a. 23; 2013 a. 159; 2015 a. 117; 2015 a. 118 ss. 130, 266 (10).

Sub. (5) does not apply to district attorneys or law enforcement agencies. It only applies to the government accountability board, its employees and agents, and the investigators and prosecutors retained by the board, and the assistants to those persons. OAG 7–09.

12.60 Penalties. (1) (a) Whoever violates s. 12.09, 12.11 or 12.13 (1), (2) (b) 1. to 7. or (3) (a), (e), (f), (j), (k), (L), (m), (y) or (z) is guilty of a Class I felony.

(b) Whoever violates s. 12.03, 12.05, 12.07, 12.08 or 12.13 (2) (b) 8., (3) (b), (c), (d), (g), (i), (n) to (x), (ze), (zm) or (zn) may be fined not more than $1,000, or imprisoned not more than 6 months or both.

(bm) Whoever violates s. 12.13 (5) may be fined not more than $10,000 or imprisoned for not more than 9 months or both.

(c) Whoever violates s. 12.13 (3) (am) may be required to forfeit not more than $500.

(d) Whoever violates s. 12.035 or 12.13 (3) (h) may be required to forfeit not more than $100.

(2) (a) If a successful candidate for public office, other than a candidate for the legislature or a candidate for national office, is adjudged guilty in a criminal action of any violation of this chapter under sub. (1) (a) committed during his or her candidacy, the court shall after entering judgment enter a supplemental judgment declaring a forfeiture of the candidate's right to office. The supplemental judgment shall be transmitted to the officer or agency authorized to issue the certificate of nomination or election to the office for which the person convicted is a candidate. If the candidate's term has begun, the office shall become vacant. The office shall then be filled in the manner provided by law.

(b) If a successful candidate for the legislature or U.S. congress is adjudged guilty in a criminal action of any violation of this chapter under sub. (1) (a) committed during his or her candidacy, the court shall after entering judgment certify its findings to the presiding officer of the legislative body to which the candidate was elected.

(3) Any election official who is convicted of any violation of this chapter shall, in addition to the punishment otherwise provided, be disqualified to act as an election official for a term of 5 years from the time of conviction.

(4) Prosecutions under this chapter shall be conducted in accordance with s. 11.1401 (2).

History: 1973 c. 334; 1975 c. 85; 1977 c. 418 s. 924 (18) (e); 1977 c. 427; 1979 c. 249, 311, 328; 1983 a. 484; 1985 a. 304; 1997 a. 283; 1999 a. 49; 2001 a. 109; 2005 a. 451; 2007 a. 1; 2015 a. 117.

CHAPTER 19

GENERAL DUTIES OF PUBLIC OFFICIALS

SUBCHAPTER I

OFFICIAL OATHS AND BONDS

19.01 Oaths and bonds. (1) FORM OF OATH. Every official oath required by article IV, section 28, of the constitution or by any statute shall be in writing, subscribed and sworn to and except as provided otherwise by s. 757.02 and SCR 40.15, shall be in substantially the following form:

STATE OF WISCONSIN,

County of ....

I, the undersigned, who have been elected (or appointed) to the office of ...., but have not yet entered upon the duties thereof, swear (or affirm) that I will support the constitution of the United States and the constitution of the state of Wisconsin, and will faithfully discharge the duties of said office to the best of my ability. So help me God.

....,

Subscribed and sworn to before me this .... day of ...., ... (year)

....(Signature)....,

(1m) FORM OF ORAL OATH. If it is desired to administer the official oath orally in addition to the written oath prescribed above, it shall be in substantially the following form:

I, ..., swear (or affirm) that I will support the constitution of the United States and the constitution of the state of Wisconsin, and will faithfully and impartially discharge the duties of the office of .... to the best of my ability. So help me God.

(2) FORM OF BOND. (a) Every official bond required of any public officer shall be in substantially the following form:

We, the undersigned, jointly and severally, undertake and agree that ...., who has been elected (or appointed) to the office of ...., will faithfully discharge the duties of the office according to law, and will pay to the parties entitled to receive the same, such damages, not exceeding in the aggregate .... dollars, as may be suffered by them in consequence of the failure of .... to discharge the duties of the office.

Dated ...., ... (year)

....(Principal)....,

....(Surety)....,

(b) Any further or additional official bond lawfully required of any public officer shall be in the same form and it shall not affect or impair any official bond previously given by the officer for the same or any other official term. Where such bond is in excess of the sum of $25,000, the officer may give 2 or more bonds.

(2m) EFFECT OF GIVING BOND. Any bond purportedly given as an official bond by a public officer, of whom an official bond is required, shall be deemed to be an official bond and shall be deemed as to both principal and surety to contain all the conditions and provisions required in sub. (2), regardless of its form or word-

ing, and any provisions restricting liability to less than that provided in sub. (2) shall be void.

(3) OFFICIAL DUTIES DEFINED. The official duties referred to in subs. (1) and (2) include performance to the best of his or her ability by the officer taking the oath or giving the bond of every official act required, and the nonperformance of every act forbidden, by law to be performed by the officer; also, similar performance and nonperformance of every act required of or forbidden to the officer in any other office which he or she may lawfully hold or exercise by virtue of incumbency of the office named in the official oath or bond. The duties mentioned in any such oath or bond include the faithful performance by all persons appointed or employed by the officer either in his or her principal or subsidiary office, of their respective duties and trusts therein.

(4) WHERE FILED. (a) Official oaths and bonds of the following public officials shall be filed in the office of the secretary of state:

1. All members and officers of the legislature.
2. The governor.
3. The lieutenant governor.
4. The state superintendent.
5. The justices, reporter and clerk of the supreme court.
6. The judges of the court of appeals.
7. The judges and reporters of the circuit courts.
8. All notaries public.
9. Every officer, except the secretary of state, state treasurer, district attorney and attorney general, whose compensation is paid in whole or in part out of the state treasury, including every member or appointee of a board or commission whose compensation is so paid.
10. Every deputy or assistant of an officer who files with the secretary of state.

(b) Official oaths and bonds of the following public officials shall be filed in the office of the governor:

1. The secretary of state.
2. The state treasurer.
3. The attorney general.

(bn) Official oaths and bonds of all district attorneys shall be filed with the secretary of administration.

(c) Official oaths and bonds of the following public officials shall be filed in the office of the clerk of the circuit court for any county in which the official serves:

1. All circuit and supplemental court commissioners.
4. All judges, other than municipal judges, and all judicial officers, other than judicial officers under subd. 1., elected or appointed for that county, or whose jurisdiction is limited to that county.

(d) Official oaths and bonds of all elected or appointed county officers, other than those enumerated in par. (c), and of all officers whose compensation is paid out of the county treasury shall be filed in the office of the county clerk of any county in which the officer serves.

(dm) Official oaths and bonds of members of the governing board, and the superintendent and other officers of any joint county school, county hospital, county sanatorium, county asylum or other joint county institution shall be filed in the office of the county clerk of the county in which the buildings of the institution that the official serves are located.

(e) Official oaths and bonds of all elected or appointed town officers shall be filed in the office of the town clerk for the town in which the officer serves, except that oaths and bonds of town clerks shall be filed in the office of the town treasurer.

(f) Official oaths and bonds of all elected or appointed city officers shall be filed in the office of the city clerk for the city in which the officer serves, except that oaths and bonds of city clerks shall be filed in the office of the city treasurer.

(g) Official oaths and bonds of all elected or appointed village officers shall be filed in the office of the village clerk for the village in which the officer serves, except that oaths and bonds of village clerks shall be filed in the office of the village treasurer.

(h) The official oath and bond of any officer of a school district or of an incorporated school board shall be filed with the clerk of the school district or the clerk of the incorporated school board for or on which the official serves.

(j) Official oaths and bonds of the members of a technical college district shall be filed with the secretary for the technical college district for which the member serves.

(4m) APPROVAL AND NOTICE. Bonds specified in sub. (4) (c), (d) and (dm) and bonds of any county employee required by statute or county ordinance to be bonded shall be approved by the district attorney as to amount, form and execution before the bonds are accepted for filing. The clerk of the circuit court and the county clerk respectively shall notify in writing the county board or chairperson within 5 days after the entry upon the term of office of a judicial or county officer specified in sub. (4) (c), (d) and (dm) or after a county employee required to be bonded has begun employment. The notice shall state whether or not the required bond has been furnished and shall be published with the proceedings of the county board.

(5) TIME OF FILING. Every public officer required to file an official oath or an official bond shall file the same before entering upon the duties of the office; and when both are required, both shall be filed at the same time.

(6) CONTINUANCE OF OBLIGATION. Every such bond continues in force and is applicable to official conduct during the incumbency of the officer filing the same and until the officer's successor is duly qualified and installed.

(7) INTERPRETATION. This section shall not be construed as requiring any particular officer to furnish or file either an official oath or an official bond. It is applicable to such officers only as are elsewhere in these statutes or by the constitution or by special, private or local law required to furnish such an oath or bond. Provided, however, that whether otherwise required by law or not, an oath of office shall be filed by every member of any board or commission appointed by the governor, and by every administrative officer so appointed, also by every secretary and other chief executive officer appointed by such board or commission.

(8) PREMIUM ON BOND ALLOWED AS EXPENSE. The state and any county, town, village, city or school district may pay the cost of any official bond furnished by an officer or employee thereof pursuant to law or any rules or regulations requiring the same if said officer or employee shall furnish a bond with a licensed surety company as surety, said cost not to exceed the current rate of premium per year. The cost of any such bond to the state shall be charged to the proper expense appropriation.

History: 1971 c. 154; 1977 c. 29 s. 1649; 1977 c. 187 ss. 26, 135; 1977 c. 305 s. 64; 1977 c. 449; Sup. Ct. Order, eff. 1–1–80; 1979 c. 110 s. 60 (13); 1983 a. 6, 192; 1983 a. 538 s. 271; 1989 a. 31; 1991 a. 39, 316; 1993 a. 399; 1997 a. 250; 1999 a. 32, 83; 2001 a. 61; 2007 a. 96; 2013 a. 107.

19.015 Actions by the state, municipality or district. Whenever the state or any county, town, city, village, school district or technical college district is entitled to recover any damages, money, penalty or forfeiture on any official bond, the attorney general, county chairperson, town chairperson, mayor, village president, school board president or technical college district board chairperson, respectively, shall prosecute or cause to be prosecuted all necessary actions in the name of the state, or the municipality, against the officer giving the bond and the sureties for the recovery of the damages, money, penalty or forfeiture.

History: 1971 c. 154; 1983 a. 192; 1989 a. 56; 1993 a. 399.

19.02 Actions by individuals. Any person injured by the act, neglect or default of any officer, except the state officers, the officer's deputies or other persons which constitutes a breach of the condition of the official bond of the officer, may maintain an action in that person's name against the officer and the officer's

sureties upon such bond for the recovery of any damages the person may have sustained by reason thereof, without leave and without any assignment of any such bond.

History: 1991 a. 316.

19.03 Security for costs; notice of action. (1) Every person commencing an action against any officer and sureties upon an official bond, except the obligee named therein, shall give security for costs by an undertaking as prescribed in s. 814.28 (3), and a copy thereof shall be served upon the defendants at the time of the service of the summons. In all such actions if final judgment is rendered against the plaintiff the same may be entered against the plaintiff and the sureties to such undertaking for all the lawful costs and disbursements of the defendants in such action, by whatever court awarded.

(2) The plaintiff in any such action shall, within 10 days after the service of the summons therein, deliver a notice of the commencement of such action to the officer who has the legal custody of such official bond, who shall file the same in his or her office in connection with such bond.

History: Sup. Ct. Order, 67 Wis. 2d 585, 773 (1975); 1975 c. 218; 1991 a. 316.

19.04 Other actions on same bond. No action brought upon an official bond shall be barred or dismissed by reason merely that any former action shall have been prosecuted on such bond, but any payment of damages made or collected from the sureties or any of them on any judgment in an action previously begun by any party on such bond shall be applied as a total or partial discharge of the penal sum of such bond, and such defense or partial defense may be pleaded by answer or supplemental answer as may be proper. The verdict and judgment in every such action shall be for no more than the actual damages sustained or damages, penalty or forfeiture awarded, besides costs. The court may, when it shall be necessary for the protection of such sureties, stay execution on any judgment rendered in such actions until the final determination of any actions so previously commenced and until the final determination of any other action commenced before judgment entered in any such action.

19.05 Execution; lien of judgment. (1) Whenever a judgment is rendered against any officer and the officer's sureties on the officer's official bond in any court other than the circuit court of the county in which the officer's official bond is filed, no execution for the collection of the judgment shall issue from the other court unless the plaintiff, the plaintiff's agent or the plaintiff's attorney shall make and file with the court an affidavit showing each of the following:

(a) That no other judgment has been rendered in any court in an action upon the officer's bond against the sureties of the bond that remains in whole or in part unpaid.

(b) That no other action upon the officer's bond against the sureties was pending and undetermined in any other court at the time of the entry of the judgment.

(2) A transcript of a judgment described in sub. (1) may be entered in the judgment and lien docket in other counties, shall constitute a lien, and may be enforced, in all respects the same as if it were an ordinary judgment, for the recovery of money, except as provided otherwise in sub. (1).

History: 1991 a. 316; 1995 a. 224.

19.06 Sureties, how relieved. Whenever several judgments shall be recovered against the sureties on any official bond in actions which shall have been commenced before the date of the entry of the last of such judgments the aggregate of which, exclusive of costs, shall exceed the sum for which such sureties remain liable at the time of the commencement of such actions, they may discharge themselves from all further liability upon such judgments by paying into court the sum for which they are then liable, together with the costs recovered on such judgments; or the court may, upon motion supported by affidavit, order that no execution for more than a proportional share of such judgments shall be issued thereon against the property of such sureties or either of them and that upon payment or collection of such proportional share they shall be discharged from the judgment or judgments upon which such proportional share shall be paid or collected. When the money is paid into court by the sureties as above specified the same, exclusive of the costs so paid in, shall be distributed by an order of the court to the several plaintiffs in such judgments in proportion to the amount of their respective judgments. But every judgment shall have precedence of payment over all judgments in other actions commenced after the date of the recovery of such judgment.

History: 1979 c. 110 s. 60 (11).

19.07 Bonds of public officers and employees. (1) CIVIL SERVICE EMPLOYEES; BLANKET BONDS. (a) The surety bond of any civil service employee of a city, village, town or county may be canceled in the manner provided by sub. (3).

(b) Any number of officers, department heads or employees may be combined in a schedule or blanket bond, where such bond is to be filed in the same place, and in the event such bond is executed by a corporate surety company, payment of the premium therefor is to be made from the same fund or appropriation prescribed in s. 19.01.

(2) CONTINUATION OF OBLIGATION. Unless canceled pursuant to this section, every such bond shall continue in full force and effect.

(3) CANCELLATION OF BOND. (a) Any city, village, town or county by their respective governing body may cancel such bond or bonds of any one employee or any number of employees by giving written notice to the surety by registered mail, such cancellation to be effective 15 days after receipt of such notice.

(b) When a surety, either personal or corporate, on such bond, shall desire to be released from such bond, the surety may give notice in writing that the surety desires to be released by giving written notice by registered mail, to the clerk of the respective city, village, town or county, and such cancellation shall be permitted if approved by the governing body thereof, such cancellation to be effective 15 days after receipt of such notice. This section shall not be construed to operate as a release of the sureties for liabilities incurred previous to the expiration of the 15 days' notice.

(c) Whenever a surety bond is canceled in the manner provided by this section, a proportional refund shall be made of the premium paid thereon.

History: 1979 c. 110 s. 60 (11); 1991 a. 316; 1993 a. 246.

19.10 Oaths. Each of the officers enumerated in s. 8.25 (4) (a) or (5) shall take and subscribe the oath of office prescribed by article IV, section 28, of the constitution, as follows: The governor and lieutenant governor, before entering upon the duties of office; the secretary of state, treasurer, attorney general, state superintendent and each district attorney, within 20 days after receiving notice of election and before entering upon the duties of office.

History: 1983 a. 192; 1989 a. 31; 1991 a. 39.

19.11 Official bonds. (1) The secretary of state and treasurer shall each furnish a bond to the state, at the time each takes and subscribes the oath of office required of that officer, conditioned for the faithful discharge of the duties of the office, and the officer's duties as a member of the board of commissioners of public lands, and in the investment of the funds arising therefrom. The bond of each of said officers shall be further conditioned for the faithful performance by all persons appointed or employed by the officer in his or her office of their duties and trusts therein, and for the delivery over to the officer's successor in office, or to any person authorized by law to receive the same, of all moneys, books, records, deeds, bonds, securities and other property and effects of whatsoever nature belonging to the officer's offices.

(2) Each of said bonds shall be subject to the approval of the governor and shall be guaranteed by resident freeholders of this state, or by a surety company as provided in s. 632.17 (2). The amount of each such bond, and the number of sureties thereon if

guaranteed by resident freeholders, shall be as follows: secretary of state, $25,000, with sufficient sureties; and treasurer, $100,000, with not less than 6 sureties.

(3) The treasurer shall give an additional bond when required by the governor.

(4) The governor shall require the treasurer to give additional bond, within such time, in such reasonable amount not exceeding the funds in the treasury, and with such security as the governor shall direct and approve, whenever the funds in the treasury exceed the amount of the treasurer's bond; or whenever the governor deems the treasurer's bond insufficient by reason of the insolvency, death or removal from the state of any of the sureties, or from any other cause.

History: 1975 c. 375 s. 44; 1991 a. 316; 2017 a. 59.

19.12 Bond premiums payable from public funds. Any public officer required by law to give a suretyship obligation may pay the lawful premium for the execution of the obligation out of any moneys available for the payment of expenses of the office or department, unless payment is otherwise provided for or is prohibited by law.

History: 1977 c. 339.

SUBCHAPTER II

PUBLIC RECORDS AND PROPERTY

19.21 Custody and delivery of official property and records. (1) Each and every officer of the state, or of any county, town, city, village, school district, or other municipality or district, is the legal custodian of and shall safely keep and preserve all property and things received from the officer's predecessor or other persons and required by law to be filed, deposited, or kept in the officer's office, or which are in the lawful possession or control of the officer or the officer's deputies, or to the possession or control of which the officer or the officer's deputies may be lawfully entitled, as such officers.

(2) Upon the expiration of each such officer's term of office, or whenever the office becomes vacant, the officer, or on the officer's death the officer's legal representative, shall on demand deliver to the officer's successor all such property and things then in the officer's custody, and the officer's successor shall receipt therefor to said officer, who shall file said receipt, as the case may be, in the office of the secretary of state, county clerk, town clerk, city clerk, village clerk, school district clerk, or clerk or other secretarial officer of the municipality or district, respectively; but if a vacancy occurs before such successor is qualified, such property and things shall be delivered to and be receipted for by such secretary or clerk, respectively, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

(3) Any person who violates this section shall, in addition to any other liability or penalty, civil or criminal, forfeit not less than $25 nor more than $2,000; such forfeiture to be enforced by a civil action on behalf of, and the proceeds to be paid into the treasury of the state, municipality, or district, as the case may be.

(4) (a) Any city council, village board or town board may provide by ordinance for the destruction of obsolete public records. Prior to the destruction at least 60 days' notice in writing of such destruction shall be given the historical society which shall preserve any such records it determines to be of historical interest. The historical society may, upon application, waive such notice. No assessment roll containing forest crop acreage may be destroyed without prior approval of the secretary of revenue. This paragraph does not apply to school records of a 1st class city school district.

(b) The period of time any town, city or village public record is kept before destruction shall be as prescribed by ordinance unless a specific period of time is provided by statute. The period prescribed in the ordinance may not be less than 2 years with respect to water stubs, receipts of current billings and customer's ledgers of any municipal utility, and 7 years for other records unless a shorter period has been fixed by the public records board under s. 16.61 (3) (e) and except as provided under sub. (7). This paragraph does not apply to school records of a 1st class city school district.

(c) Any local governmental unit or agency may provide for the keeping and preservation of public records kept by that governmental unit through the use of microfilm or another reproductive device, optical imaging or electronic formatting. A local governmental unit or agency shall make such provision by ordinance or resolution. Any such action by a subunit of a local governmental unit or agency shall be in conformity with the action of the unit or agency of which it is a part. Any photographic reproduction of a record authorized to be reproduced under this paragraph is deemed an original record for all purposes if it meets the applicable standards established in ss. 16.61 (7) and 16.612. This paragraph does not apply to public records kept by counties electing to be governed by ch. 228.

(cm) Paragraph (c) does not apply to court records kept by a clerk of circuit court and subject to SCR chapter 72.

(5) (a) Any county having a population of 750,000 or more may provide by ordinance for the destruction of obsolete public records, except for court records subject to SCR chapter 72.

(b) Any county having a population of less than 750,000 may provide by ordinance for the destruction of obsolete public records, subject to s. 59.52 (4) (b) and (c), except for court records governed by SCR chapter 72.

(c) The period of time any public record shall be kept before destruction shall be determined by ordinance except that in all counties the specific period of time expressed within s. 7.23 or 59.52 (4) (a) or any other law requiring a specific retention period shall apply. The period of time prescribed in the ordinance for the destruction of all records not governed by s. 7.23 or 59.52 (4) (a) or any other law prescribing a specific retention period may not be less than 7 years, unless a shorter period is fixed by the public records board under s. 16.61 (3) (e).

(d) 1. Except as provided in subd. 2., prior to any destruction of records under this subsection, except those specified within s. 59.52 (4) (a), at least 60 days' notice of such destruction shall be given in writing, to the historical society, which may preserve any records it determines to be of historical interest. Notice is not required for any records for which destruction has previously been approved by the historical society or in which the society has indicated that it has no interest for historical purposes. Records which have a confidential character while in the possession of the original custodian shall retain such confidential character after transfer to the historical society unless the director of the historical society, with the concurrence of the original custodian, determines that such records shall be made accessible to the public under such proper and reasonable rules as the historical society promulgates.

2. Subdivision 1. does not apply to patient health care records, as defined in s. 146.81 (4), that are in the custody or control of a local health department, as defined in s. 250.01 (4).

(e) The county board of any county may provide, by ordinance, a program for the keeping, preservation, retention and disposition of public records including the establishment of a committee on public records and may institute a records management service for the county and may appropriate funds to accomplish such purposes.

(f) District attorney records are state records and are subject to s. 978.07.

(6) A school district may provide for the destruction of obsolete school records. Prior to any such destruction, at least 60 days' notice in writing of such destruction shall be given to the historical society, which shall preserve any records it determines to be of historical interest. The historical society may, upon application, waive the notice. The period of time a school district record shall be kept before destruction shall be not less than 7 years, unless a shorter period is fixed by the public records board under s. 16.61

(3) (e) and except as provided under sub. (7). This section does not apply to pupil records under s. 118.125.

(7) Notwithstanding any minimum period of time for retention set under s. 16.61 (3) (e), any taped recording of a meeting, as defined in s. 19.82 (2), by any governmental body, as defined under s. 19.82 (1), of a city, village, town or school district may be destroyed no sooner than 90 days after the minutes have been approved and published if the purpose of the recording was to make minutes of the meeting.

(8) Any metropolitan sewerage commission created under ss. 200.21 to 200.65 may provide for the destruction of obsolete commission records. No record of the metropolitan sewerage district may be destroyed except by action of the commission specifically authorizing the destruction of that record. Prior to any destruction of records under this subsection, the commission shall give at least 60 days' prior notice of the proposed destruction to the state historical society, which may preserve records it determines to be of historical interest. Upon the application of the commission, the state historical society may waive this notice. Except as provided under sub. (7), the commission may only destroy a record under this subsection after 7 years elapse from the date of the record's creation, unless a shorter period is fixed by the public records board under s. 16.61 (3) (e).

History: 1971 c. 215; 1975 c. 41 s. 52; 1977 c. 202; 1979 c. 35, 221; 1981 c. 191, 282, 335; 1981 c. 350 s. 13; 1981 c. 391; 1983 a. 532; 1985 a. 180 ss. 22, 30m; 1985 a. 225; 1985 a. 332 s. 251 (1); Sup. Ct. Order, 136 Wis. 2d xi (1987); 1987 a. 147 ss. 20, 25; 1989 a. 248; 1991 a. 39, 185, 316; 1993 a. 27, 60, 172; 1995 a. 27, 201; 1999 a. 150 s. 672; 2017 a. 207 s. 5.

Sub. (1) provides that a police chief, as an officer of a municipality, is the legal custodian of all records of that officer's department. Town of LaGrange v. Auchinleck, 216 Wis. 2d 84, 573 N.W.2d 232 (Ct. App. 1997), 96–3313.

This section relates to records retention and is not a part of the public records law. An agency's alleged failure to keep sought–after records may not be attacked under the public records law. Gehl v. Connors, 2007 WI App 238, 306 Wis. 2d 247, 742 N.W.2d 530, 06–2455.

Under sub. (1), district attorneys must indefinitely preserve papers of a documentary nature evidencing activities of prosecutor's office. 68 Atty. Gen. 17.

A county with a population under 500,000 [now 750,000] may by ordinance under sub. (6) [now sub. (5)] provide for the destruction of obsolete case records maintained by the county social services agency under s. 48.59 (1). 70 Atty. Gen. 196.

A VTAE (technical college) district is a "school district" under sub. (7) [now sub. (6)]. 71 Atty. Gen. 9.

19.22 Proceedings to compel the delivery of official property. (1) If any public officer refuses or neglects to deliver to his or her successor any official property or things as required in s. 19.21, or if the property or things shall come to the hands of any other person who refuses or neglects, on demand, to deliver them to the successor in the office, the successor may make complaint to any circuit judge for the county where the person refusing or neglecting resides. If the judge is satisfied by the oath of the complainant and other testimony as may be offered that the property or things are withheld, the judge shall grant an order directing the person so refusing to show cause, within some short and reasonable time, why the person should not be compelled to deliver the property or things.

(2) At the time appointed, or at any other time to which the matter may be adjourned, upon due proof of service of the order issued under sub. (1), if the person complained against makes affidavit before the judge that the person has delivered to the person's successor all of the official property and things in the person's custody or possession pertaining to the office, within the person's knowledge, the person complained against shall be discharged and all further proceedings in the matter before the judge shall cease.

(3) If the person complained against does not make such affidavit the matter shall proceed as follows:

(a) The judge shall inquire further into the matters set forth in the complaint, and if it appears that any such property or things are withheld by the person complained against the judge shall by warrant commit the person complained against to the county jail, there to remain until the delivery of such property and things to the complainant or until the person complained against be otherwise discharged according to law.

(b) If required by the complainant the judge shall also issue a warrant, directed to the sheriff or any constable of the county, commanding the sheriff or constable in the daytime to search such places as shall be designated in such warrant for such official property and things as were in the custody of the officer whose term of office expired or whose office became vacant, or of which the officer was the legal custodian, and seize and bring them before the judge issuing such warrant.

(c) When any such property or things are brought before the judge by virtue of such warrant, the judge shall inquire whether the same pertain to such office, and if it thereupon appears that the property or things pertain thereto the judge shall order the delivery of the property or things to the complainant.

History: 1977 c. 449; 1991 a. 316; 1993 a. 213.

19.23 Transfer of records or materials to historical society. (1) Any public records, in any state office, that are not required for current use may, in the discretion of the public records board, be transferred into the custody of the historical society, as provided in s. 16.61.

(2) The proper officer of any county, city, village, town, school district or other local governmental unit, may under s. 44.09 (1) offer title and transfer custody to the historical society of any records deemed by the society to be of permanent historical importance.

(3) The proper officer of any court may, on order of the judge of that court, transfer to the historical society title to such court records as have been photographed or microphotographed or which have been on file for at least 75 years, and which are deemed by the society to be of permanent historical value.

(4) Any other articles or materials which are of historic value and are not required for current use may, in the discretion of the department or agency where such articles or materials are located, be transferred into the custody of the historical society as trustee for the state, and shall thereupon become part of the permanent collections of said society.

History: 1975 c. 41 s. 52; 1981 c. 350 s. 13; 1985 a. 180 s. 30m; 1987 a. 147 s. 25; 1991 a. 226; 1995 a. 27.

19.24 Refusal to deliver money, etc., to successor. Any public officer whatever, in this state, who shall, at the expiration of the officer's term of office, refuse or willfully neglect to deliver, on demand, to the officer's successor in office, after such successor shall have been duly qualified and be entitled to said office according to law, all moneys, records, books, papers or other property belonging to the office and in the officer's hands or under the officer's control by virtue thereof, shall be imprisoned not more than 6 months or fined not more than $100.

History: 1991 a. 316.

19.25 State officers may require searches, etc., without fees. The secretary of state, treasurer and attorney general, respectively, are authorized to require searches in the respective offices of each other and in the offices of the clerk of the supreme court, of the court of appeals, of the circuit courts, of the registers of deeds for any papers, records or documents necessary to the discharge of the duties of their respective offices, and to require copies thereof and extracts therefrom without the payment of any fee or charge whatever.

History: 1977 c. 187, 449.

19.31 Declaration of policy. In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be the public policy of this state that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them. Further, providing persons with such information is declared to be an essential function of a representative government and an integral part of the routine duties of officers and employees whose responsibility it is to provide such information. To that end, ss. 19.32 to 19.37 shall be construed in every instance with a presumption of complete public access, con-

sistent with the conduct of governmental business. The denial of public access generally is contrary to the public interest, and only in an exceptional case may access be denied.

History: 1981 c. 335, 391.

An agency cannot promulgate an administrative rule that creates an exception to the open records law. Chvala v. Bubolz, 204 Wis. 2d 82, 552 N.W.2d 892 (Ct. App. 1996), 95–3120.

Although the requester referred to the federal Freedom of Information Act, a letter that clearly described open records and had all the earmarkings of an open records request was in fact an open records request and triggered, at minimum, a duty to respond. ECO, Inc. v. City of Elkhorn, 2002 WI App 302, 259 Wis. 2d 276, 655 N.W.2d 510, 02–0216.

The public records law addresses the duty to disclose records; it does not address the duty to retain records. An agency's alleged failure to keep sought–after records may not be attacked under the public records law. Section 19.21 relates to records retention and is not a part of the public records law. Gehl v. Connors, 2007 WI App 238, 306 Wis. 2d 247, 742 N.W.2d 530, 06–2455.

Absent a clear statutory exception, a limitation under the common law, or an overriding public interest in keeping a public record confidential, the public records law shall be construed in every instance with a presumption of complete public access. As the denial of public access generally is contrary to the public interest, access may be denied only in an exceptional case. An exceptional case exists when the facts are such that the public policy interests favoring nondisclosure outweigh the public policy interests favoring disclosure, notwithstanding the strong presumption favoring disclosure. Hagen v. Board of Regents, 2018 WI App 43, 383 Wis. 2d 567, 916 N.W.2d 198, 17–2058.

The Wisconsin Public Records Law. De la Mora. 67 MLR 65 (1983).

Toward a More Open and Accountable Government: A Call for Optimal Disclosure Under the Wisconsin Open Records Law. Roang. 1994 WLR 719.

Wisconsin's Public–Records Law: Preserving the Presumption of Complete Public Access in the Age of Electronic Records. Holcomb & Isaac. 2008 WLR 515.

Municipal responsibility under the Wisconsin revised public records law. Maloney. WBB Jan. 1983.

The public records law and the Wisconsin Department of Revenue. Boykoff. WBB Dec. 1983.

The Wisconsin Open Records Act: An update on issues. Trubek & Foley. WBB Aug. 1986.

Getting the Best of Both Worlds: Open Government and Economic Development. Westerberg. Wis. Law. Feb. 2009.

19.32 Definitions. As used in ss. 19.32 to 19.39:

(1) "Authority" means any of the following having custody of a record: a state or local office, elective official, agency, board, commission, committee, council, department or public body corporate and politic created by the constitution or by any law, ordinance, rule or order; a governmental or quasi–governmental corporation except for the Bradley center sports and entertainment corporation; a special purpose district; any court of law; the assembly or senate; a nonprofit corporation which receives more than 50 percent of its funds from a county or a municipality, as defined in s. 59.001 (3), and which provides services related to public health or safety to the county or municipality; a university police department under s. 175.42; or a formally constituted subunit of any of the foregoing.

(1b) "Committed person" means a person who is committed under ch. 51, 971, 975 or 980 and who is placed in an inpatient treatment facility, during the period that the person's placement in the inpatient treatment facility continues.

(1bd) "Elective official" means an individual who holds an office that is regularly filled by vote of the people.

(1bg) "Employee" means any individual who is employed by an authority, other than an individual holding local public office or a state public office, or any individual who is employed by an employer other than an authority.

(1c) "Incarcerated person" means a person who is incarcerated in a penal facility or who is placed on probation and given confinement under s. 973.09 (4) as a condition of placement, during the period of confinement for which the person has been sentenced.

(1d) "Inpatient treatment facility" means any of the following:

(a) A mental health institute, as defined in s. 51.01 (12).

(c) A facility or unit for the institutional care of sexually violent persons specified under s. 980.065.

(d) The Milwaukee County mental health complex established under s. 51.08.

(1de) "Local governmental unit" has the meaning given in s. 19.42 (7u).

(1dm) "Local public office" has the meaning given in s. 19.42 (7w), and also includes any appointive office or position of a local governmental unit in which an individual serves as the head of a department, agency, or division of the local governmental unit, but does not include any office or position filled by a municipal employee, as defined in s. 111.70 (1) (i).

(1e) "Penal facility" means a state prison under s. 302.01, county jail, county house of correction or other state, county or municipal correctional or detention facility.

(1m) "Person authorized by the individual" means the parent, guardian, as defined in s. 48.02 (8), or legal custodian, as defined in s. 48.02 (11), of an individual who is a child, as defined in s. 48.02 (2); the guardian of an individual adjudicated incompetent in this state; the personal representative or spouse of an individual who is deceased; or any person authorized, in writing, by an individual to act on his or her behalf.

(1r) "Personally identifiable information" has the meaning specified in s. 19.62 (5).

(2) "Record" means any material on which written, drawn, printed, spoken, visual, or electromagnetic information or electronically generated or stored data is recorded or preserved, regardless of physical form or characteristics, that has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed, or printed pages, maps, charts, photographs, films, recordings, tapes, optical discs, and any other medium on which electronically generated or stored data is recorded or preserved. "Record" does not include drafts, notes, preliminary computations, and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials that are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent, or bequest; and published materials in the possession of an authority other than a public library that are available for sale, or that are available for inspection at a public library.

(2g) "Record subject" means an individual about whom personally identifiable information is contained in a record.

(3) "Requester" means any person who requests inspection or copies of a record, except a committed or incarcerated person, unless the person requests inspection or copies of a record that contains specific references to that person or his or her minor children for whom he or she has not been denied physical placement under ch. 767, and the record is otherwise accessible to the person by law.

(3m) "Special purpose district" means a district, other than a state governmental unit or a county, city, village, or town, that is created to perform a particular function and whose geographic jurisdiction is limited to some portion of this state.

(4) "State public office" has the meaning given in s. 19.42 (13), but does not include a position identified in s. 20.923 (6) (f) to (gm).

History: 1981 c. 335; 1985 a. 26, 29, 332; 1987 a. 305; 1991 a. 39, 1991 a. 269 ss. 26pd, 33b; 1993 a. 215, 263, 491; 1995 a. 158; 1997 a. 79, 94; 1999 a. 9; 2001 a. 16; 2003 a. 47; 2005 a. 387; 2007 a. 20; 2013 a. 171, 265; 2015 a. 195, 196.

NOTE: 2003 Wis. Act 47, which affects this section, contains extensive explanatory notes.

A study commissioned by the corporation counsel and used in various ways was not a "draft" under sub. (2), although it was not in final form. A document prepared other than for the originator's personal use, although in preliminary form or marked "draft," is a record. Fox v. Bock, 149 Wis. 2d 403, 438 N.W.2d 589 (1989).

A settlement agreement containing a pledge of confidentiality and kept in the possession of a school district's attorney was a public record subject to public access. Journal/Sentinel, Inc. v. School Board, 186 Wis. 2d 443, 521 N.W.2d 165 (Ct. App. 1994).

Individuals confined as sexually violent persons under ch. 980 are not "incarcerated" under sub. (1c). Klein v. Wisconsin Resource Center, 218 Wis. 2d 487, 582 N.W.2d 44 (Ct. App. 1998), 97–0679.

A nonprofit corporation that receives 50 percent of its funds from a municipality or county is an authority under sub. (1) regardless of the source from which the municipality or county obtained those funds. Cavey v. Walrath, 229 Wis. 2d 105, 598 N.W.2d 240 (Ct. App. 1999), 98–0072.

A person aggrieved by a request made under the open records law has standing to raise a challenge that the requested materials are not records because they fall within the exception for copyrighted material under sub. (2). Under the facts of this case, the language of sub. (2), when viewed in light of the fair use exception to copyright infringement, applied so that the disputed materials were records within the statutory

definition. Zellner v. Cedarburg School District, 2007 WI 53, 300 Wis. 2d 290, 731 N.W.2d 240, 06–1143.

"Record" in sub. (2) and s. 19.35 (5) does not include identical copies of otherwise available records. A copy that is not different in some meaningful way from an original, regardless of the form of the original, is an identical copy. If a copy differs in some significant way for purposes of responding to an open records request, then it is not truly an identical copy, but instead a different record. Stone v. Board of Regents, 2007 WI App 223, 305 Wis. 2d 679, 741 N.W.2d 774, 06–2537.

A municipality's independent contractor assessor was not an authority under sub. (1) and was not a proper recipient of an open records request. In this case, only the municipalities themselves were the "authorities" for purposes of the open records law. Accordingly, only the municipalities were proper recipients of the relevant open records requests. WIREdata, Inc. v. Village of Sussex, 2008 WI 69, 310 Wis. 2d 397, 751 N.W.2d 736, 05–1473.

A corporation is quasi–governmental if, based on the totality of circumstances, it resembles a governmental corporation in function, effect, or status, requiring a case–by–case analysis. Here, a primary consideration was that the body was funded exclusively by public tax dollars or interest thereon. Additionally, its office was located in the municipal building, it was listed on the city website, the city provided it with clerical support and office supplies, all its assets revert to the city if it ceases to exist, its books are open for city inspection, the mayor and another city official are directors, and it had no clients other than the city. State v. Beaver Dam Area Development Corp., 2008 WI 90, 312 Wis. 2d 84, 752 N.W.2d 295, 06–0662.

Employees' personal emails were not subject to disclosure in this case. Schill v. Wisconsin Rapids School District, 2010 WI 86, 327 Wis. 2d 572, 786 N.W.2d 177, 08–0967.

Redacted portions of emails, who sent the emails, and where they were sent from were not "purely personal" and therefore subject to disclosure. Public awareness of who is attempting to influence public policy is essential for effective oversight of our government. Whether a communication is sent to a public official from a source that appears associated with a particular unit of government, a private entity, or a nonprofit organization, or from individuals who may be associated with a specific interest or particular area of the state, from where a communication is sent further assists the public in understanding who is attempting to influence public policy and why. John K. MacIver Institute for Public Policy, Inc. v. Erpenbach, 2014 WI App 49, 354 Wis. 2d 61, 848 N.W.2d 862, 13–1187.

To be a "quasi–governmental corporation" under sub. (1) an entity must first be a corporation. To hold that the term "quasi–governmental corporation" includes an entity that is not a corporation would effectively rewrite the statute to eliminate the legislature's use of the word corporation. Wisconsin Professional Police Ass'n v. Wisconsin Counties Ass'n, 2014 WI App 106, 357 Wis. 2d 687, 855 N.W.2d 715, 14–0249.

"Notes" in sub. (2) covers a broad range of frequently created, informal writings. Documents found to be notes in this case were mostly handwritten and at times barely legible. They included copies of post–it notes and telephone message slips, and in other ways appeared to reflect hurried, fragmentary, and informal writing. A few documents were in the form of draft letters, but were created for and used by the originators as part of their preparation for, or as part of their processing after, interviews that they conducted. Voice of Wisconsin Rapids, LLC v. Wisconsin Rapids Public School District, 2015 WI App 53, 364 Wis. 2d 429, 867 N.W.2d 825, 14–1256.

The exception from the definition of "record" in sub. (2) of notes "prepared for the originator's personal use" may apply to notes that are created or used in connection with government work and with a governmental purpose. Voice of Wisconsin Rapids, LLC v. Wisconsin Rapids Public School District, 2015 WI App 53, 364 Wis. 2d 429, 867 N.W.2d 825, 14–1256.

A district attorney is employed by an authority and holds a state public office and therefore is not an "employee" within the meaning of sub. (1bg). Moustakis v. Department of Justice, 2016 WI 42, 368 Wis. 2d 677, 880 N.W.2d 142, 14–1853.

Each case involving an alleged quasi–governmental corporation must be decided on the particular facts presented. An entity is a quasi–governmental corporation if, based on the totality of the circumstances, the entity resembles a governmental corporation in function, effect, or status. Accordingly, courts must consider a nonexhaustive list of factors, with no single factor being outcome determinative. The five factors that guided the supreme court's conclusion in *Beaver Dam Area Development Corp.*, 2008 WI 90, are: 1) whether the entity's funding comes from predominately public or private sources; 2) whether the entity serves a public function; 3) whether the entity appears to the public to be a government entity; 4) the degree to which the entity is subject to government control; and 5) the amount of access governmental bodies have to the entity's records. Flynn v. Kemper Center, Inc., 2019 WI App 6, 385 Wis. 2d 811, 924 N.W.2d 218, 17–1897.

There is no requirement under sub. (2) that a record be created by a public authority. Privately created materials are not exempt from disclosure. Journal Sentinel, Inc. v. Milwaukee County Sheriff's Office, 2022 WI App 44, 404 Wis. 2d 328, 979 N.W.2d 609, 21–0615.

"Records" must have some relation to the functions of the agency. 72 Atty. Gen. 99.

Discussing the treatment of drafts under the public records law. 77 Atty. Gen. 100.

Applying Open Records Policy to Wisconsin District Attorneys: Can Charging Guidelines Promote Public Awareness? Mayer. 1996 WLR 295.

19.33 Legal custodians. (1) An elective official is the legal custodian of his or her records and the records of his or her office, but the official may designate an employee of his or her staff to act as the legal custodian.

(2) The chairperson of a committee of elective officials, or the designee of the chairperson, is the legal custodian of the records of the committee.

(3) The cochairpersons of a joint committee of elective officials, or the designee of the cochairpersons, are the legal custodians of the records of the joint committee.

(4) Every authority not specified in subs. (1) to (3) shall designate in writing one or more positions occupied by an officer or employee of the authority or the unit of government of which it is a part as a legal custodian to fulfill its duties under this subchapter. In the absence of a designation the authority's highest ranking officer and the chief administrative officer, if any, are the legal custodians for the authority. The legal custodian shall be vested by the authority with full legal power to render decisions and carry out the duties of the authority under this subchapter. Each authority shall provide the name of the legal custodian and a description of the nature of his or her duties under this subchapter to all employees of the authority entrusted with records subject to the legal custodian's supervision.

(5) Notwithstanding sub. (4), if an authority specified in sub. (4) or the members of such an authority are appointed by another authority, the appointing authority may designate a legal custodian for records of the authority or members of the authority appointed by the appointing authority, except that if such an authority is attached for administrative purposes to another authority, the authority performing administrative duties shall designate the legal custodian for the authority for whom administrative duties are performed.

(6) The legal custodian of records maintained in a publicly owned or leased building or the authority appointing the legal custodian shall designate one or more deputies to act as legal custodian of such records in his or her absence or as otherwise required to respond to requests as provided in s. 19.35 (4). This subsection does not apply to members of the legislature or to members of any local governmental body.

(7) The designation of a legal custodian does not affect the powers and duties of an authority under this subchapter.

(8) No elective official of a legislative body has a duty to act as or designate a legal custodian under sub. (4) for the records of any committee of the body unless the official is the highest ranking officer or chief administrative officer of the committee or is designated the legal custodian of the committee's records by rule or by law.

History: 1981 c. 335; 2013 a. 171.

The right to privacy law, s. 895.50 [now s. 995.50], does not affect the duties of a custodian of public records under former s. 19.21, 1977 stats. 68 Atty. Gen. 68.

19.34 Procedural information; access times and locations. (1) Each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian under s. 19.33 from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. The notice shall also separately identify each position of the authority that constitutes a local public office or a state public office. This subsection does not apply to members of the legislature or to members of any local governmental body.

(2) (a) Each authority which maintains regular office hours at the location where records in the custody of the authority are kept shall permit access to the records of the authority at all times during those office hours, unless otherwise specifically authorized by law.

(b) Each authority which does not maintain regular office hours at the location where records in the custody of the authority are kept shall:

1. Permit access to its records upon at least 48 hours' written or oral notice of intent to inspect or copy a record; or

2. Establish a period of at least 2 consecutive hours per week during which access to the records of the authority is permitted. In such case, the authority may require 24 hours' advance written or oral notice of intent to inspect or copy a record.

(c) An authority imposing a notice requirement under par. (b) shall include a statement of the requirement in its notice under sub. (1), if the authority is required to adopt a notice under that subsection.

(d) If a record of an authority is occasionally taken to a location other than the location where records of the authority are regularly kept, and the record may be inspected at the place at which records of the authority are regularly kept upon one business day's notice, the authority or legal custodian of the record need not provide access to the record at the occasional location.

History: 1981 c. 335; 2003 a. 47; 2013 a. 171.

NOTE: 2003 Wis. Act 47, which affects this section, contains extensive explanatory notes.

19.345 Time computation. In ss. 19.33 to 19.39, when a time period is provided for performing an act, whether the period is expressed in hours or days, the whole of Saturday, Sunday, and any legal holiday, from midnight to midnight, shall be excluded in computing the period.

History: 2003 a. 47.

NOTE: 2003 Wis. Act 47, which creates this section, contains extensive explanatory notes.

19.35 Access to records; fees. (1) RIGHT TO INSPECTION. (a) Except as otherwise provided by law, any requester has a right to inspect any record. Substantive common law principles construing the right to inspect, copy or receive copies of records shall remain in effect. The exemptions to the requirement of a governmental body to meet in open session under s. 19.85 are indicative of public policy, but may be used as grounds for denying public access to a record only if the authority or legal custodian under s. 19.33 makes a specific demonstration that there is a need to restrict public access at the time that the request to inspect or copy the record is made.

(am) In addition to any right under par. (a), any requester who is an individual or person authorized by the individual has a right to inspect any personally identifiable information pertaining to the individual in a record containing personally identifiable information that is maintained by an authority and to make or receive a copy of any such information. The right to inspect or copy information in a record under this paragraph does not apply to any of the following:

1. Any record containing personally identifiable information that is collected or maintained in connection with a complaint, investigation or other circumstances that may lead to an enforcement action, administrative proceeding, arbitration proceeding or court proceeding, or any such record that is collected or maintained in connection with such an action or proceeding.

2. Any record containing personally identifiable information that, if disclosed, would do any of the following:

a. Endanger an individual's life or safety.

b. Identify a confidential informant.

c. Endanger the security, including the security of the population or staff, of any state prison under s. 302.01, jail, as defined in s. 165.85 (2) (bg), juvenile correctional facility, as defined in s. 938.02 (10p), secured residential care center for children and youth, as defined in s. 938.02 (15g), mental health institute, as defined in s. 51.01 (12), center for the developmentally disabled, as defined in s. 51.01 (3), or facility, specified under s. 980.065, for the institutional care of sexually violent persons.

d. Compromise the rehabilitation of a person in the custody of the department of corrections or detained in a jail or facility identified in subd. 2. c.

2m. The actual address, as defined in s. 165.68 (1) (b), of a participant in the program established in s. 165.68.

3. Any record that is part of a records series, as defined in s. 19.62 (7), that is not indexed, arranged or automated in a way that the record can be retrieved by the authority maintaining the records series by use of an individual's name, address or other identifier.

(b) Except as otherwise provided by law, any requester has a right to inspect a record and to make or receive a copy of a record. If a requester appears personally to request a copy of a record that permits copying, the authority having custody of the record may, at its option, permit the requester to copy the record or provide the requester with a copy substantially as readable as the original.

(c) Except as otherwise provided by law, any requester has a right to receive from an authority having custody of a record which is in the form of a comprehensible audio recording a copy of the recording substantially as audible as the original. The authority may instead provide a transcript of the recording to the requester if he or she requests.

(d) Except as otherwise provided by law, any requester has a right to receive from an authority having custody of a record which is in the form of a video recording a copy of the recording substantially as good as the original.

(e) Except as otherwise provided by law, any requester has a right to receive from an authority having custody of a record which is not in a readily comprehensible form a copy of the information contained in the record assembled and reduced to written form on paper.

(em) If an authority receives a request to inspect or copy a record that is in handwritten form or a record that is in the form of a voice recording which the authority is required to withhold or from which the authority is required to delete information under s. 19.36 (8) (b) because the handwriting or the recorded voice would identify an informant, the authority shall provide to the requester, upon his or her request, a transcript of the record or the information contained in the record if the record or information is otherwise subject to public inspection and copying under this subsection.

(f) Notwithstanding par. (b) and except as otherwise provided by law, any requester has a right to inspect any record not specified in pars. (c) to (e) the form of which does not permit copying. If a requester requests permission to photograph the record, the authority having custody of the record may permit the requester to photograph the record. If a requester requests that a photograph of the record be provided, the authority shall provide a good quality photograph of the record.

(g) Paragraphs (a) to (c), (e) and (f) do not apply to a record which has been or will be promptly published with copies offered for sale or distribution.

(h) A request under pars. (a) to (f) is deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under s. 19.37.

(i) Except as authorized under this paragraph, no request under pars. (a) and (b) to (f) may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. Except as authorized under this paragraph, no request under pars. (a) to (f) may be refused because the request is received by mail, unless prepayment of a fee is required under sub. (3) (f). A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.

(j) Notwithstanding pars. (a) to (f), a requester shall comply with any regulations or restrictions upon access to or use of information which are specifically prescribed by law.

(k) Notwithstanding pars. (a), (am), (b) and (f), a legal custodian may impose reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.

(L) Except as necessary to comply with pars. (c) to (e) or s. 19.36 (6), this subsection does not require an authority to create

a new record by extracting information from existing records and compiling the information in a new format.

(2) FACILITIES. The authority shall provide any person who is authorized to inspect or copy a record under sub. (1) (a), (am), (b) or (f) with facilities comparable to those used by its employees to inspect, copy and abstract the record during established office hours. An authority is not required by this subsection to purchase or lease photocopying, duplicating, photographic or other equipment or to provide a separate room for the inspection, copying or abstracting of records.

(3) FEES. (a) An authority may impose a fee upon the requester of a copy of a record which may not exceed the actual, necessary and direct cost of reproduction and transcription of the record, unless a fee is otherwise specifically established or authorized to be established by law.

(b) Except as otherwise provided by law or as authorized to be prescribed by law an authority may impose a fee upon the requester of a copy of a record that does not exceed the actual, necessary and direct cost of photographing and photographic processing if the authority provides a photograph of a record, the form of which does not permit copying.

(c) Except as otherwise provided by law or as authorized to be prescribed by law, an authority may impose a fee upon a requester for locating a record, not exceeding the actual, necessary and direct cost of location, if the cost is $50 or more.

(d) An authority may impose a fee upon a requester for the actual, necessary and direct cost of mailing or shipping of any copy or photograph of a record which is mailed or shipped to the requester.

(e) An authority may provide copies of a record without charge or at a reduced charge where the authority determines that waiver or reduction of the fee is in the public interest.

(f) An authority may require prepayment by a requester of any fee or fees imposed under this subsection if the total amount exceeds $5. If the requester is a prisoner, as defined in s. 301.01 (2), or is a person confined in a federal correctional institution located in this state, and he or she has failed to pay any fee that was imposed by the authority for a request made previously by that requester, the authority may require prepayment both of the amount owed for the previous request and the amount owed for the current request.

(g) Notwithstanding par. (a), if a record is produced or collected by a person who is not an authority pursuant to a contract entered into by that person with an authority, the authorized fees for obtaining a copy of the record may not exceed the actual, necessary, and direct cost of reproduction or transcription of the record incurred by the person who makes the reproduction or transcription, unless a fee is otherwise established or authorized to be established by law.

(4) TIME FOR COMPLIANCE AND PROCEDURES. (a) Each authority, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor.

(b) If a request is made orally, the authority may deny the request orally unless a demand for a written statement of the reasons denying the request is made by the requester within 5 business days of the oral denial. If an authority denies a written request in whole or in part, the requester shall receive from the authority a written statement of the reasons for denying the written request. Every written denial of a request by an authority shall inform the requester that if the request for the record was made in writing, then the determination is subject to review by mandamus under s. 19.37 (1) or upon application to the attorney general or a district attorney.

(c) If an authority receives a request under sub. (1) (a) or (am) from an individual or person authorized by the individual who identifies himself or herself and states that the purpose of the request is to inspect or copy a record containing personally identifiable information pertaining to the individual that is maintained by the authority, the authority shall deny or grant the request in accordance with the following procedure:

1. The authority shall first determine if the requester has a right to inspect or copy the record under sub. (1) (a).

2. If the authority determines that the requester has a right to inspect or copy the record under sub. (1) (a), the authority shall grant the request.

3. If the authority determines that the requester does not have a right to inspect or copy the record under sub. (1) (a), the authority shall then determine if the requester has a right to inspect or copy the record under sub. (1) (am) and grant or deny the request accordingly.

(5) RECORD DESTRUCTION. No authority may destroy any record at any time after the receipt of a request for inspection or copying of the record under sub. (1) until after the request is granted or until at least 60 days after the date that the request is denied or, if the requester is a committed or incarcerated person, until at least 90 days after the date that the request is denied. If an authority receives written notice that an action relating to a record has been commenced under s. 19.37, the record may not be destroyed until after the order of the court in relation to such record is issued and the deadline for appealing that order has passed, or, if appealed, until after the order of the court hearing the appeal is issued. If the court orders the production of any record and the order is not appealed, the record may not be destroyed until after the request for inspection or copying is granted.

(6) ELECTIVE OFFICIAL RESPONSIBILITIES. No elective official is responsible for the record of any other elective official unless he or she has possession of the record of that other official.

(7) LOCAL INFORMATION TECHNOLOGY AUTHORITY RESPONSIBILITY FOR LAW ENFORCEMENT RECORDS. (a) In this subsection:

1. "Law enforcement agency" has the meaning given s. 165.83 (1) (b).

2. "Law enforcement record" means a record that is created or received by a law enforcement agency and that relates to an investigation conducted by a law enforcement agency or a request for a law enforcement agency to provide law enforcement services.

3. "Local information technology authority" means a local public office or local governmental unit whose primary function is information storage, information technology processing, or other information technology usage.

(b) For purposes of requests for access to records under sub. (1), a local information technology authority that has custody of a law enforcement record for the primary purpose of information storage, information technology processing, or other information technology usage is not the legal custodian of the record. For such purposes, the legal custodian of a law enforcement record is the authority for which the record is stored, processed, or otherwise used.

(c) A local information technology authority that receives a request under sub. (1) for access to information in a law enforcement record shall deny any portion of the request that relates to information in a local law enforcement record.

History: 1981 c. 335, 391; 1991 a. 39, 1991 a. 269 ss. 34am, 40am; 1993 a. 93; 1995 a. 77, 158; 1997 a. 94, 133; 1999 a. 9; 2001 a. 16; 2005 a. 344; 2009 a. 259, 370; 2013 a. 171; 2015 a. 356.

NOTE: The following annotations relate to public records statutes in effect prior to the creation of s. 19.35 by ch. 335, laws of 1981.

A mandamus petition to inspect a county hospital's statistical, administrative, and other records not identifiable with individual patients states a cause of action under this section. State ex rel. Dalton v. Mundy, 80 Wis. 2d 190, 257 N.W.2d 877 (1977).

Police daily arrest lists must be open for public inspection. Newspapers, Inc. v. Breier, 89 Wis. 2d 417, 279 N.W.2d 179 (1979).

This section is a statement of the common law rule that public records are open to public inspection subject to common law limitations. Section 59.14 [now s. 59.20 (3)] is a legislative declaration granting persons who come under its coverage an absolute right of inspection subject only to reasonable administrative regulations. State ex rel. Bilder v. Town of Delavan, 112 Wis. 2d 539, 334 N.W.2d 252 (1983).

A newspaper had the right to intervene to protect its right to examine sealed court files. State ex rel. Bilder v. Town of Delavan, 112 Wis. 2d 539, 334 N.W.2d 252 (1983).

Examination of birth records cannot be denied simply because the examiner has a commercial purpose. 58 Atty. Gen. 67.

Consideration of a resolution is a formal action of an administrative or minor governing body. When taken in a proper closed session, the resolution and result of the vote must be made available for public inspection absent a specific showing that the public interest would be adversely affected. 60 Atty. Gen. 9.

Inspection of public records obtained under official pledges of confidentiality may be denied if: 1) a clear pledge has been made in order to obtain the information; 2) the pledge was necessary to obtain the information; and 3) the custodian determines that the harm to the public interest resulting from inspection would outweigh the public interest in full access to public records. The custodian must permit inspection of information submitted under an official pledge of confidentiality if the official or agency had specific statutory authority to require its submission. 60 Atty. Gen. 284.

Discussing the right to inspection and copying of public records in decentralized offices. 61 Atty. Gen. 12.

Public records subject to inspection and copying by any person would include a list of students awaiting a particular program in a VTAE (technical college) district school. 61 Atty. Gen. 297.

The investment board can only deny members of the public from inspecting and copying portions of the minutes relating to the investment of state funds and documents pertaining thereto on a case–by–case basis if valid reasons for denial exist and are specially stated. 61 Atty. Gen. 361.

Matters and documents in the possession or control of school district officials containing information concerning the salaries, including fringe benefits, paid to individual teachers are matters of public record. 63 Atty. Gen. 143.

The Department of Administration probably had authority under former s. 19.21 (1) and (2), 1973 stats., to provide a private corporation with camera–ready copy of session laws that is the product of a printout of computer stored public records if the costs are minimal. The state cannot contract on a continuing basis for the furnishing of this service. 63 Atty. Gen. 302.

Discussing the scope of the duty of the governor to allow members of the public to examine and copy public records in the governor's custody. 63 Atty. Gen. 400.

Discussing the public's right to inspect land acquisition files of the Department of Natural Resources. 63 Atty. Gen. 573.

Financial statements filed in connection with applications for motor vehicle dealers' and motor vehicle salvage dealers' licenses are public records, subject to limitations. 66 Atty. Gen. 302.

Sheriff's radio logs, intradepartmental documents kept by the sheriff, and blood test records of deceased automobile drivers in the hands of the sheriff are public records, subject to limitations. 67 Atty. Gen. 12.

Plans and specifications filed under s. 101.12 are public records and are available for public inspection. 67 Atty. Gen. 214.

Under s. 19.21 (1), district attorneys must indefinitely preserve papers of a documentary nature evidencing activities of prosecutor's office. 68 Atty. Gen. 17.

Discussing the right to examine and copy computer–stored information. 68 Atty. Gen. 231.

After the transcript of court proceedings is filed with the clerk of court, any person may examine or copy the transcript. 68 Atty. Gen. 313.

NOTE: The following annotations relate to s. 19.35.

Although a meeting was properly closed, in order to refuse inspection of records of the meeting, the custodian was required by sub. (1) (a) to state specific and sufficient public policy reasons why the public's interest in nondisclosure outweighed the right of inspection. Oshkosh Northwestern Co. v. Oshkosh Library Board, 125 Wis. 2d 480, 373 N.W.2d 459 (Ct. App. 1985).

Courts must apply the open records balancing test to questions involving disclosure of court records. The public interests favoring secrecy must outweigh those favoring disclosure. C.L. v. Edson, 140 Wis. 2d 168, 409 N.W.2d 417 (Ct. App. 1987).

Public records germane to pending litigation were available under this section even though the discovery cutoff deadline had passed. State ex rel. Lank v. Rzentkowski, 141 Wis. 2d 846, 416 N.W.2d 635 (Ct. App. 1987).

To uphold a custodian's denial of access, an appellate court will inquire whether the trial court made a factual determination supported by the record of whether documents implicate a secrecy interest and, if so, whether the secrecy interest outweighs the interests favoring release. Milwaukee Journal v. Call, 153 Wis. 2d 313, 450 N.W.2d 515 (Ct. App. 1989).

That releasing records would reveal a confidential informant's identity was a legally specific reason for denial of a records request. The public interest in not revealing the informant's identity outweighed the public interest in disclosure of the records. Mayfair Chrysler–Plymouth v. Baldarotta, 162 Wis. 2d 142, 469 N.W.2d 638 (1991).

Items subject to examination under s. 346.70 (4) (f) may not be withheld by the prosecution under a common law rule that investigative material may be withheld from a criminal defendant. State ex rel. Young v. Shaw, 165 Wis. 2d 276, 477 N.W.2d 340 (Ct. App. 1991).

Prosecutors' files are exempt from public access under the common law. State ex rel. Richards v. Foust, 165 Wis. 2d 429, 477 N.W.2d 608 (1991).

Records relating to pending claims against the state under s. 893.82 need not be disclosed under this section. Records of non–pending claims must be disclosed unless an in camera inspection reveals that the attorney–client privilege would be violated. George v. Record Custodian, 169 Wis. 2d 573, 485 N.W.2d 460 (Ct. App. 1992).

The public records law confers no exemption as of right on indigents from payment of fees under sub. (3). George v. Record Custodian, 169 Wis. 2d 573, 485 N.W.2d 460 (Ct. App. 1992).

The denial of a prisoner's information request regarding illegal behavior by guards on the grounds that it could compromise the guards' effectiveness and subject them to harassment was insufficient. State ex. rel. Ledford v. Turcotte, 195 Wis. 2d 244, 536 N.W.2d 130 (Ct. App. 1995), 94–2710.

The amount of prepayment required for copies may be based on a reasonable estimate. State ex rel. Hill v. Zimmerman, 196 Wis. 2d 419, 538 N.W.2d 608 (Ct. App. 1995), 94–1861.

The *Foust*, 165 Wis. 2d 429 (1991), decision does not automatically exempt all records stored in a closed prosecutorial file. The exemption is limited to material actually pertaining to the prosecution. Nichols v. Bennett, 199 Wis. 2d 268, 544 N.W.2d 428 (1996), 93–2480.

Department of Regulation and Licensing test scores were subject to disclosure under the open records law. Munroe v. Braatz, 201 Wis. 2d 442, 549 N.W.2d 452 (Ct. App. 1996), 95–2557.

Subs. (1) (i) and (3) (f) did not permit a demand for prepayment of $1.29 in response to a mail request for a record. Borzych v. Paluszcyk, 201 Wis. 2d 523, 549 N.W.2d 253 (Ct. App. 1996), 95–1711.

An agency cannot promulgate an administrative rule that creates an exception to the open records law. Chvala v. Bubolz, 204 Wis. 2d 82, 552 N.W.2d 892 (Ct. App. 1996), 95–3120.

While certain statutes grant explicit exceptions to the open records law, many statutes set out broad categories of records not open to an open records request. A custodian faced with such a broad statute must state with specificity a public policy reason for refusing to release the requested record. Chvala v. Bubolz, 204 Wis. 2d 82, 552 N.W.2d 892 (Ct. App. 1996), 95–3120.

The custodian is not authorized to comply with an open records request at some unspecified date in the future. Such a response constitutes a denial of the request. WTMJ, Inc. v. Sullivan, 204 Wis. 2d 452, 555 N.W.2d 125 (Ct. App. 1996), 96–0053.

Subject to the redaction of officers' home addresses and supervisors' conclusions and recommendations regarding discipline, police records regarding the use of deadly force were subject to public inspection. State ex rel. Journal/Sentinel, Inc. v. Arreola, 207 Wis. 2d 496, 558 N.W.2d 670 (Ct. App. 1996), 95–2956.

A public school student's interim grades are pupil records specifically exempted from disclosure under s. 118.125. If records are specifically exempted from disclosure, failure to specifically state reasons for denying an open records request for those records does not compel disclosure of those records. State ex rel. Blum v. Board of Education, 209 Wis. 2d 377, 565 N.W.2d 140 (Ct. App. 1997), 96–0758.

Requesting a copy of 180 hours of audiotape of 911 calls, together with a transcription of the tape and log of each transmission received, was a request without "reasonable limitation" and was not a "sufficient request" under sub. (1) (h). Schopper v. Gehring, 210 Wis. 2d 208, 565 N.W.2d 187 (Ct. App. 1997), 96–2782.

If the requested information is covered by an exempting statute that does not require a balancing of public interests, there is no need for a custodian to conduct such a balancing. Written denial claiming a statutory exception by citing the specific statute or regulation is sufficient. State ex rel. Savinski v. Kimble, 221 Wis. 2d 833, 586 N.W.2d 36 (Ct. App. 1998), 97–3356.

Protecting persons who supply information or opinions about an inmate to the parole commission is a public interest that may outweigh the public interest in access to documents that could identify those persons. State ex rel. Bergmann v. Faust, 226 Wis. 2d 273, 595 N.W.2d 75 (Ct. App. 1999), 98–2537.

Sub. (1) (b) gives the record custodian, and not the requester, the choice of how a record will be copied. The requester cannot elect to use his or her own copying equipment without the custodian's permission. Grebner v. Schiebel, 2001 WI App 17, 240 Wis. 2d 551, 624 N.W.2d 892, 00–1549.

Requests for university admissions records focusing on test scores, class rank, grade point average, race, gender, ethnicity, and socio–economic background were not requests for personally identifiable information, and release was not barred by federal law or public policy. That the requests would require the university to redact information from thousands of documents under s. 19.36 (6) did not essentially require the university to create new records and, as such, did not provide grounds for denying the request under sub. (1) (L). Osborn v. Board of Regents, 2002 WI 83, 254 Wis. 2d 266, 647 N.W.2d 158, 00–2861.

The police report of a closed investigation regarding a teacher's conduct that did not lead either to an arrest, prosecution, or any administrative disciplinary action was subject to release. Linzmeyer v. Forcey, 2002 WI 84, 254 Wis. 2d 306, 646 N.W.2d 811, 01–0197.

When a requested item is a public record under the open records law, and there is no statutory or common law exception, the open records law applies and the presumption of openness attaches to the record. The court must then decide whether that presumption can be overcome by a public policy favoring non–disclosure of the record. The fundamental question is whether there is harm to a public interest that outweighs the public interest in inspection of the record. A balancing test is applied on a case–by–case basis. If the harm to the public interest caused by release overrides the public interest in release, the inspection of the record may be prevented in spite of the general policy of openness. Linzmeyer v. Forcey, 2002 WI 84, 646 NW 2d 811, 254 Wis. 2d 306, 01–0197.

The John Doe statute, s. 968.26, which authorizes secrecy in John Doe proceedings, is a clear statement of legislative policy and constitutes a specific exception to the public records law. On review of a petition for a writ stemming from a secret John Doe proceeding, the court of appeals may seal parts of a record in order to comply with existing secrecy orders issued by the John Doe judge. Unnamed Persons Numbers 1, 2, & 3 v. State, 2003 WI 30, 260 Wis. 2d 653, 660 N.W.2d 260, 01–3220.

Sub. (1) (am) is not subject to a balancing of interests. Therefore, the exceptions to sub. (1) (am) should not be narrowly construed. A requester who does not qualify for access to records under sub. (1) (am) will always have the right to seek records under sub. (1) (a), in which case the records custodian must determine whether the requested records are subject to a statutory or common law exception and, if not, whether the strong presumption favoring access and disclosure is overcome by some even stronger public policy favoring limited access or nondisclosure determined by applying a balancing test. Hempel v. City of Baraboo, 2005 WI 120, 284 Wis. 2d 162, 699 N.W.2d 551, 03–0500.

Sub. (1) (a) does not mandate that, when a meeting is closed under s. 19.85, all records created for or presented at the meeting are exempt from disclosure. The court must still apply the balancing test articulated in *Linzmeyer*, 2002 WI 84. Zellner v. Cedarburg School District, 2007 WI 53, 300 Wis. 2d 290, 731 N.W.2d 240, 06–1143.

A general request does not trigger the sub. (4) (c) review sequence. Sub. (4) (c) recites the procedure to be employed if an authority receives a request under sub. (1) (a) or (am). An authority is an entity having custody of a record. The definition does not include a reviewing court. Seifert v. School District, 2007 WI App 207, 305 Wis. 2d 582, 740 N.W.2d 177, 06–2071.

The open records law cannot be used to circumvent established principles that shield attorney work product, nor can it be used as a discovery tool. The presumption of access under sub. (1) (a) is defeated because the attorney work product qualifies under the "otherwise provided by law" exception. Seifert v. School District, 2007 WI App 207, 305 Wis. 2d 582, 740 N.W.2d 177, 06–2071.

Sub. (1) (am) 1. plainly allows a records custodian to deny access to one who is, in effect, a potential adversary in litigation or other proceeding unless or until required to do so under the rules of discovery in actual litigation. The balancing of interests under sub. (1) (a) must include examining all the relevant factors in the context of the particular circumstances and may include the balancing the competing interests consider sub. (1) (am) 1. when evaluating the entire set of facts and making its specific demonstration of the need for withholding the records. Seifert v. School District, 2007 WI App 207, 305 Wis. 2d 582, 740 N.W.2d 177, 06–2071.

The sub. (1) (am) analysis is succinct. There is no balancing. There is no requirement that the investigation be current for the exemption for records "collected or maintained in connection with a complaint, investigation or other circumstances that may lead to . . . [a] court proceeding" to apply. Seifert v. School District, 2007 WI App 207, 305 Wis. 2d 582, 740 N.W.2d 177, 06–2071.

"Record" in sub. (5) and s. 19.32 (2) does not include identical copies of otherwise available records. A copy that is not different in some meaningful way from an original, regardless of the form of the original, is an identical copy. If a copy differs in some significant way for purposes of responding to an open records request, then it is not truly an identical copy, but instead a different record. Stone v. Board of Regents, 2007 WI App 223, 305 Wis. 2d 679, 741 N.W.2d 774, 06–2537.

Schopper, 210 Wis. 2d 208 (1997), does not permit a records custodian to deny a request based solely on the custodian's assertion that the request could reasonably be narrowed, nor does *Schopper* require that the custodian take affirmative steps to limit the search as a prerequisite to denying a request under sub. (1) (h). The fact that the request may result in the generation of a large volume of records is not, in itself, a sufficient reason to deny a request as not properly limited, but at some point, an overly broad request becomes sufficiently excessive to warrant rejection under sub. (1) (h). State ex rel. Gehl v. Connors, 2007 WI App 238, 306 Wis. 2d 247, 742 N.W.2d 530, 06–2455.

The public records law addresses the duty to disclose records; it does not address the duty to retain records. An agency's alleged failure to keep sought–after records may not be attacked under the public records law. Section 19.21 relates to records retention and is not a part of the public records law. State ex rel. Gehl v. Connors, 2007 WI App 238, 306 Wis. 2d 247, 742 N.W.2d 530, 06–2455.

Foust, 165 Wis. 2d 429 (1991), held that a common law categorical exception exists for records in the custody of a district attorney's office, not for records in the custody of a law enforcement agency. A sheriff's department is legally obligated to provide public access to records in its possession, which cannot be avoided by invoking a common law exception that is exclusive to the records of another custodian. That the same record was in the custody of both the law enforcement agency and the district attorney does not change the outcome. To the extent that a sheriff's department can articulate a policy reason why the public interest in disclosure is outweighed by the interest in withholding the particular record, it may properly deny access. Portage Daily Register v. Columbia County Sheriff's Department, 2008 WI App 30, 308 Wis. 2d 357, 746 N.W.2d 525, 07–0323.

When requests are complex, municipalities should be afforded reasonable latitude in time for their responses. An authority should not be subjected to the burden and expense of a premature public records lawsuit while it is attempting in good faith to respond, or to determine how to respond, to a request. What constitutes a reasonable time for a response by an authority depends on the nature of the request, the staff and other resources available to the authority to process the request, the extent of the request, and other related considerations. WIREdata, Inc. v. Village of Sussex, 2008 WI 69, 310 Wis. 2d 397, 751 N.W.2d 736, 05–1473.

Employees' personal emails were not subject to disclosure in this case. Schill v. Wisconsin Rapids School District, 2010 WI 86, 327 Wis. 2d 572, 786 N.W.2d 177, 08–0967.

Under sub. (3) the legislature provided four tasks for which an authority may impose fees on a requester: "reproduction and transcription," "photographing and photographic processing," "locating," and "mailing or shipping." For each task, an authority is permitted to impose a fee that does not exceed the "actual, necessary and direct" cost of the task. The process of redacting information from a record does not fit into any of the four statutory tasks. Milwaukee Journal Sentinel v. City of Milwaukee, 2012 WI 65, 341 Wis. 2d 607, 815 N.W.2d 367, 11–1112.

Redacted portions of emails, who sent the emails, and where they were sent from were not "purely personal" and therefore subject to disclosure. Public awareness of who is attempting to influence public policy is essential for effective oversight of our government. Whether a communication is sent to a public official from a source that appears associated with a particular unit of government, a private entity, or a nonprofit organization, or from individuals who may be associated with a specific interest or particular area of the state, from where a communication is sent further assists the public in understanding who is attempting to influence public policy and why. John K. MacIver Institute for Public Policy, Inc. v. Erpenbach, 2014 WI App 49, 354 Wis. 2d 61, 848 N.W.2d 862, 13–1187.

The record requester's identity was relevant in this case. As a general proposition, the identity and purpose of the requester of public records is not a part of the balancing test to be applied in determining whether to release records. However, the determination of whether there is a safety concern that outweighs the presumption of disclosure is a fact–intensive inquiry determined on a case–by–case basis. State ex rel. Ardell v. Milwaukee Board of School Directors, 2014 WI App 66, 354 Wis. 2d 471, 849 N.W.2d 894, 13–1650.

In the present case, although the defendant commission's responses did not state that no record existed, that omission did not impair the court's ability to determine whether a statutory exemption to disclosure applied. Under the facts of the case, the defendant commission lawfully denied the plaintiff newspaper's request because no responsive record existed at the time of the request. Journal Times v. City of Racine Board of Police & Fire Commissioners, 2015 WI 56, 362 Wis. 2d 577, 866 N.W.2d 563, 13–1715.

Sub. (4) (a) does not requires immediate disclosure of a record. It allows a custodian a reasonable amount of time to respond to a public records request. Journal Times v. City of Racine Board of Police & Fire Commissioners, 2015 WI 56, 362 Wis. 2d 577, 866 N.W.2d 563, 13–1715.

There is no obligation to create a record in response to an open records request and a requester is not entitled to the release of information in response to a public records request. Journal Times v. City of Racine Board of Police & Fire Commissioners, 2015 WI 56, 362 Wis. 2d 577, 866 N.W.2d 563, 13–1715.

The question asked by the balancing test is whether there is a risk to the public if information is released, not whether there is a risk to an individual if the information is released. Voces de la Frontera, Inc. v. Clarke, 2016 WI App 39, 369 Wis. 2d 103, 880 N.W.2d 417, 15–1152.

Reversed on other grounds. 2017 WI 16, 373 Wis. 2d 348, 891 N.W.2d 803, 15–1152.

In applying the balancing test to a requested video in this case, the court concluded that the public interest in preventing release of specific police and prosecution strategies and techniques being taught and used in Wisconsin outweighed the general legislative presumption that public records should be disclosed. Because the video consisted almost entirely of police tactics and specific prosecution strategies in cases involving sexual exploitation of children, disclosure would result in public harm—if local criminals learn the specific techniques and procedures used by police and prosecutors, the disclosed information could be used to circumvent the law. The public policy factors favoring nondisclosure thus overcame the presumption in favor of disclosure. Democratic Party of Wisconsin v. Department of Justice, 2016 WI 100, 372 Wis. 2d 460, 888 N.W.2d 584, 14–2536.

The context of the records request, although not always relevant, was considered in this case. By asserting that, upon information and belief, several or all of the requested tapes in this case may have included offensive racial remarks and ethnic slurs, including but not limited to stereotyped accents, as well as sexist remarks, made by the attorney general when he was a district attorney, the language of the Democratic Party's petition in this case for a writ of mandamus suggested a partisan purpose underlying the request. When weighed against the likely harm to law enforcement's efforts to capture and convict sexual predators who target children, the justification offered for the request clearly did not tip the balance toward releasing the requested records. Democratic Party of Wisconsin v. Department of Justice, 2016 WI 100, 372 Wis. 2d 460, 888 N.W.2d 584, 14–2536.

The common law exception to disclosure for a prosecutor's case files, discussed in *Foust*, 165 Wis. 2d 429 (1991), applied in this case. Under *Foust*, a district attorney's closed files were not subject to the public records law based on the broad discretion a district attorney has in charging, the confidential nature of the contents of a file, and the threat disclosure poses to the orderly administration of justice. In this case, the prosecutor in charge of a sex extortion case discussed his thought processes for charging and walked through the case in a recorded educational presentation for prosecutors. The presentation was in great respect the oral equivalent of a prosecutor's closed case file. Democratic Party of Wisconsin v. Department of Justice, 2016 WI 100, 372 Wis. 2d 460, 888 N.W.2d 584, 14–2536.

A video requested in this case discussed the victims of a sex extortion case and the devastating impact of those crimes. Disclosing the recording would have reignited interest in the case and allowed identification in the same way it occurred the first time around. There was sufficient factual detail in the recording to easily connect the dots to identify the dozens of victims, who would have been re–traumatized should this case have resulted in a repeat exposure of their identities almost a decade after those events occurred. Disclosure leading to revictimization would have run afoul of Wisconsin's constitutional commitment to treating victims with "fairness, dignity and respect for their privacy" under article I, section 9m, of the Wisconsin Constitution. Democratic Party of Wisconsin v. Department of Justice, 2016 WI 100, 372 Wis. 2d 460, 888 N.W.2d 584, 14–2536.

When the Wisconsin Employment Relations Commission (WERC) had received detailed and specific complaints of past coercion in other certification elections, a WERC employee lawfully performed the balancing test in concluding that the public interest in elections free from voter intimidation and coercion outweighed the public interest in favor of openness of public records. The public interest in certification elections that are free from intimidation and coercion is evidenced by the requirement that those elections be conducted by secret ballot and free from prohibited practices. The public interest in elections that are free from intimidation and coercion outweighs the public interest in favor of open public records under the circumstances presented in this case. Madison Teachers, Inc. v. Scott, 2018 WI 11, 379 Wis. 2d 439, 906 N.W.2d 436, 16–2214.

Sub. (3) (a) defers to other statutes that specifically authorize records custodians to charge fees for records that differ from the fees that the open records law itself authorizes. Section 343.24 (2m) grants the Department of Transportation (DOT) authority to charge parties for inspecting accident reports. Therefore, the requester was not entitled to free access to DOT's database because both Wisconsin open records law and statutory authority permit DOT to charge access fees for certain records and because case law has held that the right to access records does not extend to the right to access databases. Media Placement Services, Inc. v. DOT, 2018 WI App 34, 382 Wis. 2d 191, 913 N.W.2d 224, 17–0791.

The second sentence in sub. (1) (b) only applies to a requester who appears in person. Leuders v. Krug, 2019 WI App 36, 388 Wis. 2d 147, 931 N.W.2d 898, 18–0431.

When a requester requests records in electronic form, providing access to only paper printouts of those records is not a satisfactory response to the request. Leuders v. Krug, 2019 WI App 36, 388 Wis. 2d 147, 931 N.W.2d 898, 18–0431.

In this case, the circuit court did not erroneously exercise its discretion when it ordered the plaintiff parents, if they wished to proceed, to file under seal and pursuant to a protective order an amended complaint stating their identities such that their identities would be disclosed only to the court and the attorneys for the litigants. Doe v. Madison Metropolitan School District, 2021 WI App 60, 399 Wis. 2d 102, 963 N.W.2d 823, 20–1032.

Affirmed. 2022 WI 65, 403 Wis. 2d 369, 976 N.W.2d 584, 20–1032.

A records custodian must determine whether the surrounding factual circumstances create an exceptional case not governed by the strong presumption of openness. An exceptional case exists when the facts are such that the public policy interest favoring nondisclosure outweigh the public policy interests favoring disclosure. The public has a strong interest in being informed about its public officials and whether those officials have engaged in misconduct. Those interests cannot be outweighed simply by the fact that an official played a minor role in an improper search. Milwaukee Deputy Sheriffs' Ass'n v. County of Milwaukee County Clerk, 2021 WI App 80, 399 Wis. 2d 769, 967 N.W.2d 185, 20–2028.

A custodian may not require a requester to pay the cost of an unrequested certification. Unless the fee for copies of records is established by law, a custodian may not charge more than the actual and direct cost of reproduction. 72 Atty. Gen. 36.

Copying fees, but not location fees, may be imposed on a requester for the cost of a computer run. 72 Atty. Gen. 68.

Discussing the fee for copying public records. 72 Atty. Gen. 150.

Public records relating to employee grievances are not generally exempt from disclosure. Nondisclosure must be justified on a case–by–case basis. 73 Atty. Gen. 20.

Discussing the disclosure of an employee's birthdate, sex, ethnic heritage, and handicapped status. 73 Atty. Gen. 26.

The Department of Regulation and Licensing may refuse to disclose records relating to complaints against health care professionals while the matters are merely "under investigation." Good faith disclosure of the records will not expose the custodian to liability for damages. Prospective continuing requests for records are not contemplated by public records law. 73 Atty. Gen. 37.

Prosecutors' case files are exempt from disclosure. 74 Atty. Gen. 4.

Discussing the relationship between the public records law and pledges of confidentiality in settlement agreements. 74 Atty. Gen. 14.

Discussing a computerized compilation of bibliographic records in relation to copyright law. A requester is entitled to a copy of a computer tape or a printout of information on the tape. 75 Atty. Gen. 133.

Ambulance records relating to medical history, condition, or treatment are confidential while other ambulance call records are subject to disclosure under the public records law. 78 Atty. Gen. 71.

Courts are likely to require disclosure of legislators' mailing and distribution lists absent a factual showing that the public interest in withholding the records outweighs the public interest in their release. OAG 2–03.

If a legislator custodian decides that a mailing or distribution list compiled and used for official purposes must be released under the public records statute, the persons whose names, addresses, or telephone numbers are contained on the list are not entitled to notice and the opportunity to challenge the decision prior to release of the record. OAG 2–03.

Access Denied: How *Woznicki v. Erickson* Reversed the Statutory Presumption of Openness in the Wisconsin Open Records Law. Munro. 2002 WLR 1197.

19.356 Notice to record subject; right of action. **(1)** Except as authorized in this section or as otherwise provided by statute, no authority is required to notify a record subject prior to providing to a requester access to a record containing information pertaining to that record subject, and no person is entitled to judicial review of the decision of an authority to provide a requester with access to a record.

(2) (a) Except as provided in pars. (b) to (d) and as otherwise authorized or required by statute, if an authority decides under s. 19.35 to permit access to a record specified in this paragraph, the authority shall, before permitting access and within 3 days after making the decision to permit access, serve written notice of that decision on any record subject to whom the record pertains, either by certified mail or by personally serving the notice on the record subject. The notice shall briefly describe the requested record and include a description of the rights of the record subject under subs. (3) and (4). This paragraph applies only to the following records:

1. A record containing information relating to an employee that is created or kept by the authority and that is the result of an investigation into a disciplinary matter involving the employee or possible employment–related violation by the employee of a statute, ordinance, rule, regulation, or policy of the employee's employer.

2. A record obtained by the authority through a subpoena or search warrant.

3. A record prepared by an employer other than an authority, if that record contains information relating to an employee of that employer, unless the employee authorizes the authority to provide access to that information.

(b) Paragraph (a) does not apply to an authority who provides access to a record pertaining to an employee to the employee who is the subject of the record or to his or her representative to the extent required under s. 103.13 or to a recognized or certified collective bargaining representative to the extent required to fulfill a duty to bargain or pursuant to a collective bargaining agreement under ch. 111.

(c) Paragraph (a) does not apply to access to a record produced in relation to a function specified in s. 106.54 or 230.45 or subch. II of ch. 111 if the record is provided by an authority having responsibility for that function.

(d) Paragraph (a) does not apply to the transfer of a record by the administrator of an educational agency to the state superintendent of public instruction under s. 115.31 (3) (a).

(3) Within 5 days after receipt of a notice under sub. (2) (a), a record subject may provide written notification to the authority of his or her intent to seek a court order restraining the authority from providing access to the requested record.

(4) Within 10 days after receipt of a notice under sub. (2) (a), a record subject may commence an action seeking a court order to restrain the authority from providing access to the requested record. If a record subject commences such an action, the record subject shall name the authority as a defendant. Notwithstanding s. 803.09, the requester may intervene in the action as a matter of right. If the requester does not intervene in the action, the authority shall notify the requester of the results of the proceedings under this subsection and sub. (5).

(5) An authority shall not provide access to a requested record within 12 days of sending a notice pertaining to that record under sub. (2) (a). In addition, if the record subject commences an action under sub. (4), the authority shall not provide access to the requested record during pendency of the action. If the record subject appeals or petitions for review of a decision of the court or the time for appeal or petition for review of a decision adverse to the record subject has not expired, the authority shall not provide access to the requested record until any appeal is decided, until the period for appealing or petitioning for review expires, until a petition for review is denied, or until the authority receives written notice from the record subject that an appeal or petition for review will not be filed, whichever occurs first.

(6) The court, in an action commenced under sub. (4), may restrain the authority from providing access to the requested record. The court shall apply substantive common law principles construing the right to inspect, copy, or receive copies of records in making its decision.

(7) The court, in an action commenced under sub. (4), shall issue a decision within 10 days after the filing of the summons and complaint and proof of service of the summons and complaint upon the defendant, unless a party demonstrates cause for extension of this period. In any event, the court shall issue a decision within 30 days after those filings are complete.

(8) If a party appeals a decision of the court under sub. (7), the court of appeals shall grant precedence to the appeal over all other matters not accorded similar precedence by law. An appeal shall be taken within the time period specified in s. 808.04 (1m).

(9) (a) Except as otherwise authorized or required by statute, if an authority decides under s. 19.35 to permit access to a record containing information relating to a record subject who is an officer or employee of the authority holding a local public office or a state public office, the authority shall, before permitting access and within 3 days after making the decision to permit access, serve written notice of that decision on the record subject, either by certified mail or by personally serving the notice on the record subject. The notice shall briefly describe the requested record and include a description of the rights of the record subject under par. (b).

(b) Within 5 days after receipt of a notice under par. (a), a record subject may augment the record to be released with written comments and documentation selected by the record subject. Except as otherwise authorized or required by statute, the authority under par. (a) shall release the record as augmented by the record subject.

History: 2003 a. 47; 2011 a. 84.

NOTE: 2003 Wis. Act 47, which creates this section, contains extensive explanatory notes.

The right of a public employee to obtain de novo judicial review of an authority's decision to allow public access to certain records granted by this section is no broader than the common law right previously recognized. It is not a right to prevent disclosure solely on the basis of a public employee's privacy and reputational interests. The public's interest in not injuring the reputations of public employees must be given due

consideration, but it is not controlling. Local 2489 v. Rock County, 2004 WI App 210, 277 Wis. 2d 208, 689 N.W.2d 644, 03–3101.

An intervenor as of right under the statute is "a party" under sub. (8) whose appeal is subject to the "time period specified in s. 808.04 (1m)." The only time period referenced in s. 808.04 (1m) is 20 days. Zellner v. Herrick, 2009 WI 80, 319 Wis. 2d 532, 770 N.W.2d 305, 07–2584.

This section does not set forth the only course of action that the subject of a disclosure may engage in to prevent disclosure. Subs. (3) and (4) state that "a record subject may commence an action." The plain language of the statute in no way discourages the subject of a records request from engaging in less litigious means to prevent disclosure nor does it prevent a records custodian from changing its mind. State ex rel. Ardell v. Milwaukee Board of School Directors, 2014 WI App 66, 354 Wis. 2d 471, 849 N.W.2d 894, 13–1650.

For challenges to decisions by authorities under the public records law to release records, as opposed to decisions by authorities to withhold records, the legislature has precluded judicial review except in defined circumstances. The right–of–action provision under sub. (1) unambiguously bars any person from seeking judicial review of an authority's decision to release a record unless: 1) a provision within this section authorizes judicial review; or 2) a statute other than this section authorizes judicial review. Teague v. Van Hollen, 2016 WI App 20, 367 Wis. 2d 547, 877 N.W.2d 379, 14–2360.

A district attorney is not an "employee" as defined in s. 19.32 (1bg) and as used in sub. (2) (a) 1. A district attorney may not maintain an action under sub. (4) to restrain an authority from providing access to requested records when the requested records do not fall within the sub. (2) (a) 1. exception to the general rule that a "record subject" is not entitled to notice or pre–release judicial review of the decision of an authority to provide access to records pertaining to that record subject. Moustakis v. Department of Justice, 2016 WI 42, 368 Wis. 2d 677, 880 N.W.2d 142, 14–1853.

Sub. (5) applies to an "authority" and does not preclude a court from providing limited access to the requested records on an attorney's eyes–only basis for purposes of briefing a case before the court. Section 19.37 (1) (a), which applies when a party seeks release of records in an action for mandamus, provides guidance. Whether the action seeks release or an injunction, the need for limited review by a party who intervenes by right, in order to ensure fair and fully informed adjudication of the dispute, is equally applicable. Hagen v. Board of Regents, 2018 WI App 43, 383 Wis. 2d 567, 916 N.W.2d 198, 17–2058.

Sub. (1) clearly abrogates the common law rules for pre–release notice and judicial review. It does not distinguish between different categories of individuals or records; it states a general rule that applies to all claims for pre–release judicial review and provides two types of exceptions. Wisconsin Manufacturers & Commerce v. Evers, 2022 WI 38, 401 Wis. 2d 699, 974 N.W.2d 753, 20–2081.

This section makes clear that no one has a right to block the release of a public record unless otherwise specified. The Declaratory Judgments Act, s. 806.04, does not fall within the exception to sub. (1) for statutes that "otherwise provide" for pre–release judicial review of records responses. Wisconsin Manufacturers & Commerce v. Evers, 2022 WI 38, 401 Wis. 2d 699, 974 N.W.2d 753, 20–2081.

In this case, the employer did not have the right under the sub. (2) (a) 3. exception to block the release by the sheriff's office of the requested surveillance video footage from the employer's parking garage. The employer did not qualify as a record subject, as defined in s. 19.32 (2g), because the employer was not an "individual" about whom personally identifiable information was contained in the record. Journal Sentinel, Inc. v. Milwaukee County Sheriff's Office, 2022 WI App 44, 404 Wis. 2d 328, 979 N.W.2d 609, 21–0615.

Sub. (2) (a) 1. must be interpreted as requiring notification when an authority proposes to release records in its possession that are the result of an investigation by an employer into a disciplinary or other employment matter involving an employee, but not when there has been an investigation of possible employment–related violation by the employee and the investigation is conducted by some entity other than the employee's employer. OAG 1–06.

Sub. (2) (a) 2. is unambiguous. If an authority has obtained a record through a subpoena or a search warrant, it must provide the requisite notice before releasing the records. The duty to notify, however, does not require notice to every record subject who happens to be named in the subpoena or search warrant records. Under sub. (2) (a), DCI must serve written notice of the decision to release the record to any record subject to whom the record pertains. OAG 1–06.

To the extent any requested records proposed to be released are records prepared by a private employer and those records contain information pertaining to one of the private employer's employees, sub. (2) (a) 3. does not allow release of the information without obtaining authorization from the individual employee. OAG 1–06.

Sub. (9) does not require advance notification and a five–day delay before releasing a record that mentions the name of a person holding state or local public office in any way. A record mentioning the name of a public official does not necessarily relate to that public official within the meaning of sub. (9) (a). Sub. (9) is not limited, however, to the specific categories of records enumerated in sub. (2) (a). OAG 7–14.

The use of the phrase "is created" in sub. (2) (a) 1. implies that the status of the record subject should be consistent with when the record was created. Therefore, if the record subject is an employee at the time the record is created, he or she is entitled to notice even if the employee is no longer employed by the authority at the time the authority receives the request. OAG 2–18.

Sub. (9) does not apply when a record contains information relating to a record subject who is an officer or employee who formerly held a local or state public office. The provision only applies when an officer or employee of the authority currently holds a local or state public office. OAG 2–18.

Should service fail in the manner specifically required in subs. (2) (a) 1. and (9) (a), after reasonable diligence, the alternatives to personal service in s. 801.11 may be used to provide notice to record subjects. Section 801.11 (1) appears reasonable and consistent with the public records law's purposes with the exception of the publication requirement. An authority may leave a copy of the notice at the record subject's usual place of abode in a manner substantially similar to s. 801.11 (1) (b). If the record subject's usual place of abode cannot be located after reasonable diligence, an authority may leave a copy of the notice at the record subject's usual place of business in a matter substantially similar to s. 801.11 (4) (b). If, after reasonable diligence, the authority is unable to effectuate service according to the public records law's provisions and other alternatives to personal service that are consistent with the public records law's purpose, the authority may release the records. OAG 2–18.

19.36 Limitations upon access and withholding.

(1) APPLICATION OF OTHER LAWS. Any record which is specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law is exempt from disclosure under s. 19.35 (1), except that any portion of that record which contains public information is open to public inspection as provided in sub. (6).

(2) LAW ENFORCEMENT RECORDS. Except as otherwise provided by law, whenever federal law or regulations require or as a condition to receipt of aids by this state require that any record relating to investigative information obtained for law enforcement purposes be withheld from public access, then that information is exempt from disclosure under s. 19.35 (1).

(3) CONTRACTORS' RECORDS. Each authority shall make available for inspection and copying under s. 19.35 (1) any record produced or collected under a contract entered into by the authority with a person other than an authority to the same extent as if the record were maintained by the authority. This subsection does not apply to the inspection or copying of a record under s. 19.35 (1) (am).

(4) COMPUTER PROGRAMS AND DATA. A computer program, as defined in s. 16.971 (4) (c), is not subject to examination or copying under s. 19.35 (1), but the material used as input for a computer program or the material produced as a product of the computer program is subject to the right of examination and copying, except as otherwise provided in s. 19.35 or this section.

(5) TRADE SECRETS. An authority may withhold access to any record or portion of a record containing information qualifying as a trade secret as defined in s. 134.90 (1) (c).

(6) SEPARATION OF INFORMATION. If a record contains information that is subject to disclosure under s. 19.35 (1) (a) or (am) and information that is not subject to such disclosure, the authority having custody of the record shall provide the information that is subject to disclosure and delete the information that is not subject to disclosure from the record before release.

(7) IDENTITIES OF APPLICANTS FOR PUBLIC POSITIONS. (a) In this subsection:

1. "Final candidate" means each applicant who is seriously considered for appointment or whose name is certified for appointment, and whose name is submitted for final consideration to an authority for appointment, to any of the following:

a. A state position that is not a position in the classified service and that is not a position in the University of Wisconsin System.

b. A local public office.

c. The position of president, vice president, or senior vice president of the University of Wisconsin System; the position of chancellor of an institution; or the position of the vice chancellor who serves as deputy at each institution.

2. "Final candidate" includes all of the following, but only with respect to the offices and positions described under subd. 1. a. and b.:

a. Whenever there are at least 5 applicants for an office or position, each of the 5 applicants who are considered the most qualified for the office or position by an authority.

b. Whenever there are fewer than 5 applicants for an office or position, each applicant.

c. Whenever an appointment is to be made from a group of more than 5 applicants considered the most qualified for an office or position by an authority, each applicant in that group.

3. "Institution" has the meaning given in s. 36.05 (9).

(b) Every applicant for a position with any authority may indicate in writing to the authority that the applicant does not wish the authority to reveal his or her identity. Except with respect to an applicant whose name is certified for appointment to a position in the state classified service or a final candidate, if an applicant makes such an indication in writing, the authority shall not provide access to any record related to the application that may reveal the identity of the applicant.

(8) IDENTITIES OF LAW ENFORCEMENT INFORMANTS. (a) In this subsection:

1. "Informant" means an individual who requests confidentiality from a law enforcement agency in conjunction with providing information to that agency or, pursuant to an express promise of confidentiality by a law enforcement agency or under circumstances in which a promise of confidentiality would reasonably be implied, provides information to a law enforcement agency or, is working with a law enforcement agency to obtain information, related in any case to any of the following:

a. Another person who the individual or the law enforcement agency suspects has violated, is violating or will violate a federal law, a law of any state or an ordinance of any local government.

b. Past, present or future activities that the individual or law enforcement agency believes may violate a federal law, a law of any state or an ordinance of any local government.

2. "Law enforcement agency" has the meaning given in s. 165.83 (1) (b), and includes the department of corrections.

(b) If an authority that is a law enforcement agency receives a request to inspect or copy a record or portion of a record under s. 19.35 (1) (a) that contains specific information including but not limited to a name, address, telephone number, voice recording or handwriting sample which, if disclosed, would identify an informant, the authority shall delete the portion of the record in which the information is contained or, if no portion of the record can be inspected or copied without identifying the informant, shall withhold the record unless the legal custodian of the record, designated under s. 19.33, makes a determination, at the time that the request is made, that the public interest in allowing a person to inspect, copy or receive a copy of such identifying information outweighs the harm done to the public interest by providing such access.

(9) RECORDS OF PLANS OR SPECIFICATIONS FOR STATE BUILDINGS. Records containing plans or specifications for any state–owned or state–leased building, structure or facility or any proposed state–owned or state–leased building, structure or facility are not subject to the right of inspection or copying under s. 19.35 (1) except as the department of administration otherwise provides by rule.

(10) EMPLOYEE PERSONNEL RECORDS. Unless access is specifically authorized or required by statute, an authority shall not provide access under s. 19.35 (1) to records containing the following information, except to an employee or the employee's representative to the extent required under s. 103.13 or to a recognized or certified collective bargaining representative to the extent required to fulfill a duty to bargain under ch. 111 or pursuant to a collective bargaining agreement under ch. 111:

(a) Information maintained, prepared, or provided by an employer concerning the home address, home electronic mail address, home telephone number, or social security number of an employee, unless the employee authorizes the authority to provide access to such information.

(b) Information relating to the current investigation of a possible criminal offense or possible misconduct connected with employment by an employee prior to disposition of the investigation.

(c) Information pertaining to an employee's employment examination, except an examination score if access to that score is not otherwise prohibited.

(d) Information relating to one or more specific employees that is used by an authority or by the employer of the employees for staff management planning, including performance evaluations, judgments, or recommendations concerning future salary adjustments or other wage treatments, management bonus plans, promotions, job assignments, letters of reference, or other comments or ratings relating to employees.

(11) RECORDS OF AN INDIVIDUAL HOLDING A LOCAL PUBLIC OFFICE OR A STATE PUBLIC OFFICE. Unless access is specifically authorized or required by statute, an authority shall not provide access under s. 19.35 (1) to records, except to an individual to the extent required under s. 103.13, containing information maintained, prepared, or provided by an employer concerning the home address, home electronic mail address, home telephone number, or social security number of an individual who holds a local public office or a state public office, unless the individual authorizes the authority to provide access to such information. This subsection does not apply to the home address of an individual who holds an elective public office or to the home address of an individual who, as a condition of employment, is required to reside in a specified location.

(13) FINANCIAL IDENTIFYING INFORMATION. An authority shall not provide access to personally identifiable information that contains an individual's account or customer number with a financial institution, as defined in s. 134.97 (1) (b), including credit card numbers, debit card numbers, checking account numbers, or draft account numbers, unless specifically required by law.

History: 1981 c. 335; 1985 a. 236; 1991 a. 39, 269, 317; 1993 a. 93; 1995 a. 27; 2001 a. 16; 2003 a. 33, 47; 2005 a. 59, 253; 2007 a. 97; 2009 a. 28; 2011 a. 32; 2013 a. 171; 2015 a. 55; 2017 a. 59.

NOTE: 2003 Wis. Act 47, which affects this section, contains extensive explanatory notes.

A settlement agreement containing a pledge of confidentiality and kept in the possession of a school district's attorney was a public record subject to public access under sub. (3). Journal/Sentinel v. School Board, 186 Wis. 2d 443, 521 N.W.2d 165 (Ct. App. 1994).

Sub. (3) does not require providing access to payroll records of subcontractors of a prime contractor of a public construction project. Building & Construction Trades Council v. Waunakee Community School District, 221 Wis. 2d 575, 585 N.W.2d 726 (Ct. App. 1999), 97–3282.

The ultimate purchasers of municipal bonds from the bond's underwriter, whose only obligation was to purchase the bonds, were not contractor's records under sub. (3). Machotka v. Village of West Salem, 2000 WI App 43, 233 Wis. 2d 106, 607 N.W.2d 319, 99–1163.

Production of an analog audio tape was insufficient under sub. (4) when the requester asked for examination and copying of the original digital audio tape. State ex rel. Milwaukee Police Ass'n v. Jones, 2000 WI App 146, 237 Wis. 2d 840, 615 N.W.2d 190, 98–3629.

Requests for university admissions records focusing on test scores, class rank, grade point average, race, gender, ethnicity, and socio–economic background were not requests for personally identifiable information and release was not barred by federal law or public policy. That the requests would require the university to redact information from thousands of documents under sub. (6) did not essentially require the university to create new records and, as such, did not provide grounds for denying the request under s. 19.35 (1) (L). Osborn v. Board of Regents, 2002 WI 83, 254 Wis. 2d 266, 647 N.W.2d 158, 00–2861.

"Investigation" in sub. (10) (b) includes only that conducted by the public authority itself as a prelude to possible employee disciplinary action. An investigation achieves its "disposition" when the authority acts to impose discipline on an employee as a result of the investigation, regardless of whether the employee elects to pursue grievance arbitration or another review mechanism that may be available. Local 2489 v. Rock County, 2004 WI App 210, 277 Wis. 2d 208, 689 N.W.2d 644, 03–3101. See also Zellner v. Cedarburg School District, 2007 WI 53, 300 Wis. 2d 290, 731 N.W.2d 240, 06–1143.

Misconduct investigation and disciplinary records are not excepted from public disclosure under sub. (10) (d). Sub. (10) (b) is the only exception to the open records law relating to investigations of possible employee misconduct. Kroeplin v. DNR, 2006 WI App 227, 297 Wis. 2d 254, 725 N.W.2d 286, 05–1093.

Municipalities may not avoid liability under the open records law by contracting with independent contractor assessors for the collection, maintenance, and custody of property assessment records and then directing any requester of those records to the independent contractor assessors. WIREdata, Inc. v. Village of Sussex, 2008 WI 69, 310 Wis. 2d 397, 751 N.W.2d 736, 05–1473.

When requests to municipalities were for electronic/digital copies of assessment records, "PDF" files were "electronic/digital" files despite the fact that the files did not have all the characteristics that the requester wished. It is not required that requesters must be given access to an authority's electronic databases to examine them, extract information from them, or copy them. Allowing requesters such direct access to the electronic databases of an authority would pose substantial risks. WIREdata, Inc. v. Village of Sussex, 2008 WI 69, 310 Wis. 2d 397, 751 N.W.2d 736, 05–1473.

By procuring a liability insurance policy and allowing the insurance company to retain counsel for it, the county in effect contracted with the law firm and created an attorney–client relationship. Because the liability insurance policy is the basis for the tripartite relationship between the county, insurance company, and law firm and is the basis for an attorney–client relationship between the law firm and county, the invoices produced or collected during the course of the law firm's representation of the county come under the liability insurance policy, and sub. (3) governs the accessibility of the invoices. Juneau County Star–Times v. Juneau County, 2013 WI 4, 345 Wis. 2d 122, 824 N.W.2d 457, 10–2313.

Responding to a public records request is not a "function" of the police department for purposes of the "agency functions" exception to the federal Driver's Privacy Protection Act, which allows disclosure of personal information from state motor vehicle records for use by a government agency in carrying out its functions. New Richmond News v. City of New Richmond, 2016 WI App 43, 370 Wis. 2d 75, 881 N.W.2d 339, 14–1938.

Under subs. (1) and (2), any record specifically exempted from disclosure pursuant to federal law also is exempt from disclosure under Wisconsin law. Federal regulations preclude release of any information pertaining to individuals detained in a state or local facility, and federal immigration detainer (I–247) forms contain only such information. Read together, subs. (1) and (2) and 8 CFR 236.6 exempt I–247 forms

from release under Wisconsin public records law, and the forms are not subject to common–law exemptions or the public interest balancing test. Voces de la Frontera, Inc. v. Clarke, 2017 WI 16, 373 Wis. 2d 348, 891 N.W.2d 803, 15–1152.

Separation costs must be borne by the agency. 72 Atty. Gen. 99.

Discussing a computerized compilation of bibliographic records in relation to copyright law. A requester is entitled to a copy of a computer tape or a printout of information on the tape. 75 Atty. Gen. 133.

An exemption to the federal Freedom of Information Act was not incorporated under sub. (1). 77 Atty. Gen. 20.

Former sub. (7), 2011 stats., is an exception to the public records law and should be narrowly construed. In former sub. (7), 2011 stats., "applicant" and "candidate" are synonymous. "Final candidates" are the five most qualified unless there are less than five applicants, in which case all are final candidates. 81 Atty. Gen. 37.

Public Access to Law Enforcement Records in Wisconsin. Fitzgerald. 68 MLR 705 (1985).

19.37 Enforcement and penalties. (1) MANDAMUS. If an authority withholds a record or a part of a record or delays granting access to a record or part of a record after a written request for disclosure is made, the requester may pursue either, or both, of the alternatives under pars. (a) and (b).

(a) The requester may bring an action for mandamus asking a court to order release of the record. The court may permit the parties or their attorneys to have access to the requested record under restrictions or protective orders as the court deems appropriate.

(b) The requester may, in writing, request the district attorney of the county where the record is found, or request the attorney general, to bring an action for mandamus asking a court to order release of the record to the requester. The district attorney or attorney general may bring such an action.

(1m) TIME FOR COMMENCING ACTION. No action for mandamus under sub. (1) to challenge the denial of a request for access to a record or part of a record may be commenced by any committed or incarcerated person later than 90 days after the date that the request is denied by the authority having custody of the record or part of the record.

(1n) NOTICE OF CLAIM. Sections 893.80 and 893.82 do not apply to actions commenced under this section.

(2) COSTS, FEES AND DAMAGES. (a) Except as provided in this paragraph, the court shall award reasonable attorney fees, damages of not less than $100, and other actual costs to the requester if the requester prevails in whole or in substantial part in any action filed under sub. (1) relating to access to a record or part of a record under s. 19.35 (1) (a). If the requester is a committed or incarcerated person, the requester is not entitled to any minimum amount of damages, but the court may award damages. Costs and fees shall be paid by the authority affected or the unit of government of which it is a part, or by the unit of government by which the legal custodian under s. 19.33 is employed and may not become a personal liability of any public official.

(b) In any action filed under sub. (1) relating to access to a record or part of a record under s. 19.35 (1) (am), if the court finds that the authority acted in a willful or intentional manner, the court shall award the individual actual damages sustained by the individual as a consequence of the failure.

(3) PUNITIVE DAMAGES. If a court finds that an authority or legal custodian under s. 19.33 has arbitrarily and capriciously denied or delayed response to a request or charged excessive fees, the court may award punitive damages to the requester.

(4) PENALTY. Any authority which or legal custodian under s. 19.33 who arbitrarily and capriciously denies or delays response to a request or charges excessive fees may be required to forfeit not more than $1,000. Forfeitures under this section shall be enforced by action on behalf of the state by the attorney general or by the district attorney of any county where a violation occurs. In actions brought by the attorney general, the court shall award any forfeiture recovered together with reasonable costs to the state; and in actions brought by the district attorney, the court shall award any forfeiture recovered together with reasonable costs to the county.

History: 1981 c. 335, 391; 1991 a. 269 s. 43d; 1995 a. 158; 1997 a. 94.

If an agency exercises due diligence but is unable to respond timely to a records request, the plaintiff must show that a mandamus action was necessary to secure the records release to qualify for an award of fees and costs under sub. (2). Racine Education Ass'n v. Racine Board of Education, 145 Wis. 2d 518, 427 N.W.2d 414 (Ct. App. 1988). But see Friends of Frame Park, U.A. v. City of Waukesha, 2022 WI 57, 403 Wis. 2d 1, 976 N.W.2d 263, 19–0096.

Assuming sub. (1) (a) applies before mandamus is issued, the trial court retains discretion to refuse counsel's participation in an in camera inspection. Milwaukee Journal v. Call, 153 Wis. 2d 313, 450 N.W.2d 515 (Ct. App. 1989).

If the trial court has an incomplete knowledge of the contents of the public records sought, it must conduct an in camera inspection to determine what may be disclosed following a custodian's refusal. State ex rel. Morke v. Donnelly, 155 Wis. 2d 521, 455 N.W.2d 893 (1990).

A pro se litigant is not entitled to attorney fees. State ex rel. Young v. Shaw, 165 Wis. 2d 276, 477 N.W.2d 340 (Ct. App. 1991).

Actions brought under the open meetings and open records laws are exempt from the notice provisions of former s. 893.80 (1), 1993 stats. Auchinleck v. Town of LaGrange, 200 Wis. 2d 585, 547 N.W.2d 587 (1996), 94–2809.

An inmate's right to mandamus under this section is subject to s. 801.02 (7), which requires exhaustion of administrative remedies before an action may be commenced. Moore v. Stahowiak, 212 Wis. 2d 744, 569 N.W.2d 711 (Ct. App. 1997), 96–2547.

When requests are complex, municipalities should be afforded reasonable latitude in time for their responses. An authority should not be subjected to the burden and expense of a premature public records lawsuit while it is attempting in good faith to respond, or to determine how to respond, to a request. What constitutes a reasonable time for a response by an authority depends on the nature of the request, the staff and other resources available to the authority to process the request, the extent of the request, and other related considerations. WIREdata, Inc. v. Village of Sussex, 2008 WI 69, 310 Wis. 2d 397, 751 N.W.2d 736, 05–1473.

The legislature did not intend to allow a record requester to control or appeal a mandamus action brought by the attorney general under sub. (1) (b). Sub. (1) outlines two distinct courses of action when a records request is denied, dictates distinct courses of action, and prescribes different remedies for each course. Nothing suggests that a requester is hiring the attorney general as a sort of private counsel to proceed with the case or that the requester would be a named plaintiff in the case with the attorney general appearing as counsel of record when proceeding under sub. (1) (b). State v. Zien, 2008 WI App 153, 314 Wis. 2d 340, 761 N.W.2d 15, 07–1930.

This section unambiguously limits punitive damages claims under sub. (3) to mandamus actions. The mandamus court decides whether there is a violation and, if so, whether it caused actual damages. Then, the mandamus court may consider whether punitive damages should be awarded under sub. (3). Capital Times Co. v. Doyle, 2011 WI App 137, 337 Wis. 2d 544, 807 N.W.2d 666, 10–1687.

Under the broad terms of s. 51.30 (7), the confidentiality requirements created under s. 51.30 generally apply to "treatment records" in criminal not guilty by reason of insanity (NGI) cases. All conditional release plans in NGI cases are, by statutory definition, treatment records. They are "created in the course of providing services to individuals for mental illness," and thus should be deemed confidential. An order of placement in an NGI case is not a "treatment record." La Crosse Tribune v. Circuit Court for La Crosse County, 2012 WI App 42, 340 Wis. 2d 663, 814 N.W.2d 867, 10–3120.

The plaintiff newspaper argued that s. 19.88 (3), of the open meetings law, which requires "the motions and roll call votes of each meeting of a governmental body shall be recorded, preserved and open to public inspection," in turn, required the defendant commission to record and disclose the information the newspaper requested under the open records law. The newspaper could not seek relief under the public records law for the commission's alleged violation of the open meetings law and could not recover reasonable attorney fees, damages, and other actual costs under sub. (2) for an alleged violation of the open meetings law. Journal Times v. City of Racine Board of Police & Fire Commissioners, 2015 WI 56, 362 Wis. 2d 577, 866 N.W.2d 563, 13–1715.

A record custodian should not automatically be subject to potential liability under sub. (2) (a) for actively providing information, which it is not required to do in response to a public records request, to a requester when no record exists. While it might be a better course to inform a requester that no record exists, the language of the public records law does not specifically require such a response. Journal Times v. City of Racine Board of Police & Fire Commissioners, 2015 WI 56, 362 Wis. 2d 577, 866 N.W.2d 563, 13–1715.

A mandamus litigant has prevailed in substantial part, and thus is entitled to fees, when the requester obtains access to improperly withheld public records through a judicial order. That a requester may have succeeded in obtaining access to some but not all of the records is an issue subject to the court's discretion in considering the amount of reasonable fees to be awarded. Under this section, the analysis of the extent of access goes to the discretionary award of reasonable fees, not the threshold determination of eligibility. Meinecke v. Thyes, 2021 WI App 58, 399 Wis. 2d 1, 963 N.W.2d 816, 20–0338. See also Friends of Frame Park, U.A. v. City of Waukesha, 2022 WI 57, 403 Wis. 2d 1, 976 N.W.2d 263, 19–0096.

For purposes of the fee shifting provision under sub. (2) (a), to prevail in whole or in substantial part means the party must obtain a judicially sanctioned change in the parties' legal relationship. Friends of Frame Park, U.A. v. City of Waukesha, 2022 WI 57, 403 Wis. 2d 1, 976 N.W.2d 263, 19–0096.

Actual damages are the liability of the agency. Punitive damages and forfeitures can be the liability of either the agency or the legal custodian, or both. Section 895.46 (1) (a) probably provides indemnification for punitive damages assessed against a custodian, but not for forfeitures. 72 Atty. Gen. 99.

19.39 Interpretation by attorney general. Any person may request advice from the attorney general as to the applicability of this subchapter under any circumstances. The attorney general may respond to such a request.

History: 1981 c. 335.

Wisconsin Elections Commission

Badger Voters

What is Badger Voters?

Badger Voters is a website established by the State of Wisconsin Elections Commission to provide a simple and automated way for the public to request voter data lists and candidate nomination papers.

What data is available?

We provide two basic types of data as standard requests: voter records and absentee records as well as PDF scans of candidate nomination papers.

A voter record includes a voter's name, address, and any contact information they provided with their registration; as well as the electoral districts that voter is in, what elections they voted in, and whether they voted at the polls or absentee back to 2006.

An absentee record includes the requester's name, address, and any contact information they provided with the absentee request, as well as information about the request and the ballot such as when the request was received by the clerk, when the ballot was issued, whether it was received and whether it was counted or disqualified and why. Absentee subscriptions expire 365-days after the date of purchase. An unsubscribe option is available if you wish to discontinue receiving updates before the expiration date.

Other types of information are available, such as polling place records, but are considered custom requests and additional fees may apply.

Statement on Data Availability and Quality 1-2021_0.pdf
Absentee Data Request Data Elements.pdf
Absentee Data Request Spreadsheet Example.csv
Voter Data Request Data Elements.pdf
Voter Data Request Spreadsheet Example.csv

What data is not available?

The WEC will never provide date of birth information (including age or age range), driver license numbers or social security numbers. Additionally, the WEC will never provide information regarding a confidential elector as defined in Wis. Stats. § 6.47.

The WEC does not have any information regarding party preference, demographics, or how a voter actually voted.

How does redistricting impact data requests?

Can I be notified if the information I requested has changed?

How much does it cost?

Nomination paper scans are available through Badger Voters at no charge.

Voter lists and custom requests have a base fee of $25. Additionally, there is a fee of $5 for every thousand records returned by the request, rounded up to a thousand if less than one thousand, or to the nearest thousand if more. The fee is capped at $12,500. If the request would cost more than that amount, it will instead cost $12,500.

Custom requests incur an additional charge of $75 per half hour of development time required to complete the request. Requests requiring less than fifteen minutes will not be charged this fee. Because data is continuously updated in our statewide database; quotes for custom requests expire 30 days after the estimate is entered in your account and will be removed from the customer view.

Subscriptions are available for the absentee data section only. Cost includes the full base fee for the initial request, plus a $25 fee for the subscription. However, updates to that subscription will only cost $5 for every thousand new records. There is a $5 base fee for updates to records already purchased, if there are no new records in the data set. Absentee subscriptions expire 365-days after the initial purchase date.

For absentee subscriptions, a "Clear" (checkmark) button is available in your account if you wish to discontinue receiving updates prior to the 365-day expiration timeframe. This will cancel future notification emails and data updates.

Can I download a file more than once?

Once a file is paid for, it is available for download for 6 months after purchase. During this time the file can be downloaded without limit by clicking on the blue Download link again. After 6 months, the file will be archived and no longer accessible. If you have questions about an archived file, please

contact commission staff at Elections@wi.gov.

How do I get my data removed from the list?

What is a confidential elector?

As provided by Wis. Stats. § 6.47, certain victims of domestic abuse, sexual assault and stalking may request confidential status. A confidential voter's record will not appear on any data requests, and their address will not appear in the poll book. They will be assigned a unique identifying number instead.

Can I find out how someone voted?

No. Ballot information is absolutely confidential, and once a ballot is placed into a ballot box or tabulation machine, a ballot cannot be tied back to a voter.

I am an academic/member of the press/candidate/government employee, can I get a free list?

There is no provision in law for data to be provided without charge except to Wisconsin election officials in their official capacity, law enforcement agencies for law enforcement purposes, subunits of the state government of another state for official purposes, or the Electronic Registration Information Center, Inc. for the purpose of maintaining the official registration list.

Can I use the list for commercial purposes?

Tips to using Badger Voters

Badger Voters provides self-service to voter data which is downloadable in CSV format which can be opened with Microsoft Excel or a similar application.

- Most information can be generated self-serve without incurring a custom fee or a wait time.
  - Enter a county, to drill down further by supervisory and municipality.
  - Enter a municipality (county must be entered first), to drill down further by aldermanic, first class school, and ward.
- Your computer must allow pop-ups to make a payment.
- After payment has been processed; log back into your Badger Voters account to refresh the queue and access the new data download link.

How is my file transmitted?

After payment is made, please log out and back into your Badger Voters account to refresh the queue which loads your download link. The data link will remain in your account may be downloaded at any time.

- Nomination Papers: click the download link in your Badger Voters account where scans will populate in Adobe Acrobat PDF format. A separate download link will appear for each candidate selected.
- Voter and Absentee Lists: click the download link in your Badger Voters account where your worksheet will populate in CSV format and will open with Excel or TXT software. Larger files are zipped and can be opened with Excel, Access, or a SQL database.
- For downloads of very large files: an FTP can be specified in your user account or we can exchange through the State's Dropbox folder.

Brought to you by the State of Wisconsin Elections Commission.
Phone: (608) 266-8005 Toll-Free: (866) VOTE-WIS Email : Elections@wi.gov

WISCONSIN ELECTIONS COMMISSION

Statement on Data Availability and Data Quality

Data Availability

Wisconsin municipalities are required to update voter participation and elections data in the Statewide voter database (WisVote) within 45 days of a general election, and 30 days of all other elections. The Wisconsin Elections Commission (WEC) provides a list of incomplete municipalities in the "Munis with Incomplete Reports" tab of the posted Election Voting and Registrations Statistics Report that can be found on the WEC website here: https://elections.wi.gov/statistics-data/voter-registration-statistics. Statewide voter participation and elections data is available from September 2006 to present. Information from February 2006, and April 2006, reflect only the jurisdictions in 21 counties that were using the Statewide voter database WisVote during those elections.

The price for data from WisVote is $25 plus $5 per 1000 voter registration data records ($5 for up to the first thousand, and then rounded to the nearest thousand thereafter). The price for printed data from WisVote is an additional $0.25 per page, plus the cost of postage and shipping. The system is constantly updated, so it is necessary to query the system before a price for a file can be provided. The maximum charge for voter registration data is $12,500. See Wis. Stat. § 6.36(6) and Section EL 3.50, Wis. Adm. Code, for additional information about charges for voter registration data.

Quotes are valid for 15 days from the time they are produced. The Wisconsin Elections Commission reserves the right to re-estimate the quote after the 15-day period due to the fluidity of the data. The Wisconsin Elections Commission strives to provide quotes within 1-2 business days of receiving the request. The Wisconsin Elections Commission also works to provide the requested data within 5-7 business days of receiving payment.

There is no charge for quantity-only data (data without individual identifiers, e.g., the number of registered voters in a municipality, or the number of absentee ballots cast in a particular county during a particular election), unless the request would require creating a custom report. There is also no charge for data from the Election Voting and Registration Statistics Report (formerly EL-190F) regarding election voting and registration statistics, and election cost tracking. This information is available on The Wisconsin Elections Commission website at https://elections.wi.gov/statistics-data. Data from the Election Voting and Registration Statistics Report (formerly EL-190F) is available for all Statewide elections beginning with the 2008 General Election. For data not yet posted on the website listed above, please contact The Wisconsin Elections Commission Data Request Team by email at elections@wi.gov, or by phone at (608) 261-2028.

Some information about voters is considered confidential, and can only be shared for law enforcement purposes, or official purposes of other government entities. As outlined in Wis. Stat. §6.36(1)(b), certain information cannot be released to the public, which includes:

• Date of birth

• Driver license or DOT-issued identification number

• Social Security Account Number

• The name or address of a confidential voter (see Wis. Stat. §6.47(3))

• An indication of a required accommodation to vote

Data Quality

In Wisconsin, elections are conducted at neither the state nor county level. Arguably, Wisconsin has the most decentralized elections administration systems in the nation. There are 1,850 municipalities and 72 counties in Wisconsin. The Wisconsin Elections Commission is charged by State law to maintain the official voter records and statistics, in Wis. Stat. § 6.36(1). Responsibility for entering accurate information into WisVote and the Election Voting and Registration Statistics Report (formerly EL-190F), however, resides with the individual municipal clerk or election commission, per Wis. Stats. §§ 6.275, 6.276, and 6.33(5).

Election cost data are provided by each municipality and county for each Statewide election. WEC staff asks that clerks provide the data based on actual paid invoices or the clerk's best available information (i.e. unpaid invoices, accepted bids, etc.) within the required reporting period. As clerks receive updates, they may revise their reports. The cost reporting is part of collecting elections statistics and is intended to provide a greater understanding about the costs of conducting elections. Collecting this data allows the WEC to provide detailed reports to the State Legislature, the media, voters, and the general public about elections throughout the State of Wisconsin and will assist municipalities to prepare and budget for elections.

These figures should not be construed as a complete accounting of audited election-related expenses. The Wisconsin Elections Commission has published instructions on completing the election cost report, but clerks may interpret these instructions and report expenditures differently. In addition, cost data may be incomplete and reflect the information available when the data was reported. While initial reports are due 30 days after an election, municipal and county clerks have the ability to update their data as more specific information becomes available.

The Wisconsin Elections Commission is dedicated to maintaining the highest possible voter data quality and accurate elections statistics. Every effort is made to assure their accuracy and completeness. Given the complexity of Wisconsin's elections administration structure and business processes, and despite best efforts and quality control management practices, some residual data errors resulting from compilation by multiple partners may occur. Reviewers of Wisconsin's voter participation and elections data are encouraged to contact the WEC if errors or omissions in the data are discovered.