

Clearinghouse Rule 09-047

State of Wisconsin
Department of Employee Trust Funds
Employee Trust Funds Board
Wisconsin Retirement Board
Teachers Retirement Board
Group Insurance Board
Deferred Compensation Board

The Wisconsin department of employee trust funds proposes an order to amend ETF 11.11, relating to legal counsel advising the boards that are attached to the department while a board considers a final decision pertaining to an appeal.

Text of Proposed Rule

ETF 11.11 (1) and (2) are amended to read:

ETF 11.11 Counsel for the board. (1) In accordance with Wis. Stat. s. 40.03 (3), Board staff shall arrange for legal counsel to advise the board during its consideration of a final decision, ~~as follows:~~

~~1. In any appeal to which the department is a party, legal counsel shall be requested from the department of justice.~~

~~1. In any appeal to which the department is not a party, legal counsel shall be requested from the department's chief counsel.~~

~~(c) If neither the department of justice or the department's chief counsel are able to provide legal counsel, board staff shall follow the appropriate procedures for hiring outside counsel familiar with administrative law and ch. 40, Stats.~~

(2) Any legal counsel asked to represent the board under sub. (1) shall fully disclose any real or apparent conflict of interest to the board chair and state whether counsel is able to render objective advice to the board. The board chair may waive the conflict on behalf of the board.

ETF 11.11 (3) is repealed and recreated to read:

(3) Counsel appointed under sub. (1) shall provide legal representation to the board including:

(a) Advising the board during its deliberations and making specific recommendations for action by the board and

(b) Drafting findings of fact and conclusions of law.

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