

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

Rule No.: ETH Ch. 26 (Create)

Relating to: Ethics Commission Settlement Schedule

Rule Type: Permanent

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

The Commission proposes a rule to comply with the requirement of Wis. Stat. § 19.49 (2) (b) 10. This statute requires the Commission to prescribe, by rule, categories of civil offenses which the Commission will agree to compromise and settle without a formal investigation upon payment of specified amounts by the alleged offender. The Commission may only settle alleged offenses, which in the opinion of the Commission, constitute a minor violation, a violation caused by excusable neglect, or which for other good cause shown is not in the public interest to prosecute. The Commission proposes to extend settlement offers in the following categories: (1) Late filing of continuing campaign finance reports; (2) late filing of pre-primary, pre-election, and special post-election campaign finance reports; (3) late payment of annual campaign finance filing fees; (4) late or incomplete filing of 72-hour campaign finance reports; (5) incomplete contribution information; (6) cash balance discrepancies; (7) exceeding contribution limits; (8) prohibited corporate contributions; (9) prohibited lobbyist contributions; (10) late filing of semi-annual lobbying reports; (11) late reports of lobbying activity; and (12) late filing of statements of economic interest.

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

The Ethics Commission currently does not have a settlement schedule established in administrative code. The Legislative Audit Bureau in Report 14-14 observed that the predecessor Government Accountability Board directed its staff to promulgate administrative rules to establish an updated penalty schedule in administrative code, but the rule was never promulgated. There is no new policy being proposed. The proposed rule will simply enshrine the Commission's most recently adopted settlement schedule. Promulgating the rule would also permit the Commission to authorize the Commission Administrator to settle the specified alleged offenses on its behalf if the alleged offenses in aggregate do not involve payment of more than \$2,500.

The alternative would be to not create such a rule, but instead continue to rely on the Commission's established schedule. Such inaction could lead to confusion among the regulated community as to what offenses the Commission would settle and the amounts to be paid for various offenses as these have varied over time and between the predecessor agencies and the new Commission. Lack of an administrative rule would also limit the ability of the Commission to delegate settlement authority to the Commission Administrator, which could significantly delay resolution of complaints and audit findings.

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

The Wisconsin Ethics Commission is specifically directed to promulgate this rule pursuant to Wis. Stat. § 19.49 (2) (b)10.

10. The commission shall, by rule, prescribe categories of civil offenses which the commission will agree to compromise and settle without a formal investigation upon payment of specified amounts by the alleged offender.

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

Wis. Stat. § 11.1304 (17):

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

Wis. Stat. § 19.48 (1):

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

Wis. Stat. § 227.11 (2) (a):

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

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

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

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

Candidates, political parties, other registered committees; lobbyists and lobbying principals; state public officials; and the general public may be affected by the proposed rule.

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

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

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

The Wisconsin Ethics Commission anticipates the rule having no economic impact beyond the specified amounts proposed to be forfeited in the event of a violation. The settlement schedule is

designed to deprive the alleged violator of any benefit and serve as a deterrent to violations. This proposed rule includes no significant economic impact on small businesses.

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