

Modifications From Agency

TEXT OF RULE

SECTION 1. Chapter ETH 26 is created to read:

CHAPTER ETH 26 SETTLEMENT OFFER SCHEDULE

ETH 26.01 Definitions. In this chapter:

- (1) “15 day report” means the report referred to in s. 13.67, Stats.
- (2) “Commission” means the Wisconsin Ethics Commission.
- (3) “Continuing report” includes the campaign finance reports due in January and July referred to in ss. 11.0204 (2) (c), (3) (b), (4) (c) and (d), (5) (b) and (c), and (6) (a) and (b); 11.0304 (2) (c), (3) (b), (4) (c) and (d), and (5) (b) and (c); 11.0404 (2) (c) and (d) and (3) (b) and (c); 11.0504 (2) (c), (3) (b), (4) (c) and (d), and (5) (b) and (c); 11.0604 (2) (c), (3) (b), (4) (c) and (d) and (5) (b) and (c); 11.0704 (2), (3) (a), (4) (a) and (b), and (5) (a) and (b); 11.0804 (2) (c), (3) (b), (4) (c) and (d), and (5) (b) and (c); and 11.0904 (2) (c), (3) (b), (4) (c) and (d), and (5) (b) and (c), Stats.
- (4) “Contribution” has the meaning given in s. 11.0101 (8), Stats.
- (5) “Contributor” means a person or committee who makes a contribution.
- (6) “Contributor information” includes the information required by ss. 11.0204 (1) (a) 1. and 3.; 11.0304 (1) (a) 1. and 3.; 11.0404 (1) (a) 1. and 3.; 11.0504 (1) (a) 1. and 3.; 11.0604 (1) (a) 1. and 3.; 11.0704 (1) (b) 1. and 2.; 11.0804 (1) (a) 1. and 2.; and 11.0904 (1) (a) 1. and 3., Stats.
- (7) “Disbursement” has the meaning given in s. 11.0101 (10), Stats.
- (8) “Disbursement information” includes the information required by ss. 11.0204 (1) (a) 8., 11.0304 (1) (a) 8., 11.0404 (1) (a) 8., 11.0504 (1) (a) 8., 11.0604 (1) (a) 8., 11.0804 (1) (a) 7., and 11.0904 (1) (a) 8., Stats., regarding disbursements greater than \$20.
- (9) “Excess contribution” means a contribution that exceeds any of the limits set in ss. 11.1101, 11.1104, 11.1107, and 11.1108, Stats.
- (10) “Filing fee” means the fee required by s. 11.0102 (2), Stats.
- (11) “Late contribution” means a contribution or contributions of \$1,000 or more cumulatively from a single contributor made later than 15 days prior to a primary or election as described in ss. 11.0204 (7), 11.0304 (7), and 11.0404 (4), Stats.

- (12) “Late contribution report” includes the campaign finance reports referred to in ss. 11.0204 (7), 11.0304 (7), and 11.0404 (4), Stats., that are due no later than 72 hours after receiving a late contribution if the late contribution was not previously included in the registrant’s preprimary or preelection report.
- (13) “Lobbyist” has the meaning given in s. 13.62 (11), Stats.
- (14) “Post-election campaign finance report” includes the campaign finance reports referred to in ss. 11.0204 (3) (c) and (5) (d); 11.0304 (3) (c) and (5) (d); 11.0404 (3) (d); 11.0504 (3) (c) and (5) (d); 11.0604 (3) (c) and (5) (d); and 11.0704 (3) (b) and (5) (c), Stats., that are due no earlier than 23 days and no later than 45 days after a special election.
- (15) “Preelection campaign finance report” includes the campaign finance reports referred to in ss. 11.0204 (2) (b), (3) (a), (4) (b), and (5) (a); 11.0304 (2) (b), (3) (a), (4) (b), and (5) (a); 11.0404 (2) (b) and (3) (a); 11.0504 (2) (b), (3) (a), (4) (b), and (5) (a); 11.0604 (2) (b), (3) (a), (4) (b), and (5) (a); 11.0804 (2) (b), (3) (a), (4) (b), and (5) (a); and 11.0904 (2) (b), (3) (a), (4) (b), and (5) (a), Stats., that are due no earlier than 14 days and no later than 8 days before an election.
- (16) “Preprimary campaign finance report” includes the campaign finance reports referred to in ss. 11.0204 (2) (a) and (4) (a); 11.0304 (2) (a) and (4) (a); 11.0404 (2) (a); 11.0504 (2) (a) and (4) (a); 11.0604 (2) (a) and (4) (a); 11.0804 (2) (a) and (4) (a); and 11.0904 (2) (a) and (4) (a), Stats., that are due no earlier than 14 days and no later than 8 days before a primary.
- (17) “Principal” has the meaning given in s. 13.62 (12), Stats.
- (18) “Prior offense” means a previous violation of the same provision within the past 3 years.
- (19) “Registrant” means an individual or organization registered with the ethics commission.
- (20) “September report” includes the campaign finance reports due in September referred to in ss. 11.0204 (4) (d), (5) (c), and (6) (b); 11.0304 (4) (d) and (5) (c); 11.0404 (2) (d) and (3) (c); 11.0504 (4) (d) and (5) (c); 11.0604 (4) (d) and (5) (c); 11.0704 (4) (b) and (5) (b); 11.0804 (4) (d) and (5) (c); and 11.0904 (4) (d) and (5) (c), Stats.
- (21) “Specific express advocacy report” includes the campaign finance reports referred to in ss. 11.0505, 11.0605, and 11.1001, Stats., that are due no later than 72 hours after making a disbursement on express advocacy during the period beginning on the day that is 60 days prior to the day of the primary or election and ending on the day of the primary or election.
- (22) “Statement of economic interests” means a statement of economic interests that an individual is required to file under s. 19.43, Stats.

- (23) “Statement of lobbying activity and expenditures” means the statement referred to in s. 13.68, Stats.

ETH 26.02 Settlement of campaign finance violations.

(1) FAILURE TO TIMELY FILE A CONTINUING REPORT OR SEPTEMBER REPORT.

- (a) If the commission receives a continuing or September report within 30 days after the due date for that report, the commission may issue a written warning to the registrant.
- (b) If the commission receives a continuing or September report within 31 to 60 days after the due date for that report, the commission may extend a settlement offer to the registrant as follows:
1. If the registrant has committed no prior offenses, a settlement offer of \$100 may be extended.
 2. If the registrant has committed a prior offense, a settlement offer of \$200 may be extended.
- (c) If the commission receives a continuing or September report within 61 to 90 days after the due date for that report, the commission may extend a settlement offer to the registrant as follows:
1. If the registrant has committed no prior offenses, a settlement offer of \$200 may be extended.
 2. If the registrant has committed a prior offense, a settlement offer of \$300 may be extended.
- (d) If the commission receives a continuing or September report within 91 to 120 days after the due date for that report, the commission may extend a settlement offer to the registrant as follows:
1. If the registrant has committed no prior offenses, a settlement offer of \$300 may be extended.
 2. If the registrant has committed a prior offense, a settlement offer of \$400 may be extended.
- (e) If the commission receives a continuing or September report more than 120 days after the due date for that report, the commission may extend a settlement offer of \$500.

(2) FAILURE TO TIMELY FILE A PREPRIMARY, PREELECTION, OR POST-ELECTION REPORT.

- (a) If the commission receives a preprimary, preelection, or post-election report one day after the due date for that report, the commission may extend a settlement offer of \$100.
- (b) If the commission receives a preprimary, preelection, or post-election report 2 days after the due date for that report, the commission may extend a settlement offer of \$150.
- (c) If the commission receives a preprimary, preelection, or post-election report 3 days after the due date for that report, the commission may extend a settlement offer of \$200.
- (d) If the commission receives a preprimary, preelection, or post-election report 4 days after the due date for that report, the commission may extend a settlement offer of \$250.
- (e) If the commission receives a preprimary, preelection, or post-election report 5 days after the due date for that report, the commission may extend a settlement offer of \$300.
- (f) If the commission receives a preprimary, preelection, or post-election report 6 days after the due date for that report, the commission may extend a settlement offer of \$350.
- (g) If the commission receives a preprimary, preelection, or post-election report 7 days after the due date for that report, the commission may extend a settlement offer of \$400.
- (h) If the commission receives a preprimary, preelection, or post-election report 8 days after the due date for that report, the commission may extend a settlement offer of \$450.
- (i) If the commission receives a preprimary, preelection, or post-election report 9 or more days after the due date for that report, the commission may extend a settlement offer of \$500.

(3) FAILURE TO TIMELY PAY A FILING FEE.

- (a) If the commission receives a filing fee within one to 15 days after the due date, the commission may issue a written warning to the registrant.
- (b) If the commission receives a filing fee within 16 to 45 days after the due date, the commission may extend a settlement offer of \$300.
- (c) If the commission receives a filing fee within 46 to 90 days after the due date, the commission may extend a settlement offer of \$500.
- (d) If the commission receives a filing fee more than 90 days after the due date, the commission may extend a settlement offer of \$800.

(4) FAILURE TO TIMELY FILE A LATE CONTRIBUTION REPORT. If a registrant fails to timely file a late contribution report, the commission may extend a settlement offer of 5 percent of the total amount of the late contribution.

(5) FAILURE TO TIMELY FILE A SPECIFIC EXPRESS ADVOCACY REPORT. If a person fails to timely file a specific express advocacy report, the commission may extend a settlement offer of 5 percent of the disbursement not timely reported.

(6) FAILURE TO PROVIDE CONTRIBUTOR INFORMATION.

(a) If contributor information is not included on a campaign finance report, but is received within 30 days after notification from the commission, the commission may issue a written warning to the registrant.

(b) If contributor information is not included on a campaign finance report, but is received more than 30 days after notification from the commission, the commission may extend a settlement offer of \$100 plus 10 percent of the total amount of contributions with incomplete contributor information.

(7) FAILURE TO PROVIDE DISBURSEMENT INFORMATION.

(a) If disbursement information is not included on a campaign finance report, but is received within 30 days after notification from the commission, the commission may issue a written warning to the registrant.

(b) If disbursement information is not included on a campaign finance report, but is received more than 30 days after notification from the commission, the commission may extend a settlement offer of \$100 plus 10 percent of the total amount of disbursements with incomplete disbursement information.

(8) CASH BALANCE DISCREPANCIES. If a registrant's cash balance at the beginning of a reporting period does not match the registrant's cash balance reported at the end of the prior reporting period; or the reported beginning balance of a report, plus all receipts, minus all expenditures, does not equal the reported ending balance of that report; and the cash balance is corrected:

(a) Within 30 days after notification from the commission, the commission may issue a written warning to the registrant.

(b) More than 30 days after notification from the commission, the commission may extend a settlement offer of \$100 plus 10 percent of the cash balance discrepancy.

(9) EXCEEDING CONTRIBUTION LIMITS. If a registrant receives an excess contribution, the commission may extend a settlement offer in the amount by which the contribution exceeded the applicable limit.

(10) PROHIBITED CORPORATE, UNION, ASSOCIATION, OR TRIBAL CONTRIBUTIONS.

- (a) If a registrant receives a contribution contrary to s. 11.1112, Stats., the commission may extend a settlement offer in the amount of 1.5 times the amount of the contribution, up to a maximum of \$500, plus surrendering the amount of the unlawful contribution.
- (b) If a person makes a contribution contrary to s. 11.1112, Stats., the commission may extend a settlement offer in the amount of 1.5 times the amount of the contribution.

(11) PROHIBITED LOBBYIST CONTRIBUTIONS.

- (a) If a candidate committee receives a contribution in violation of s. 13.625, Stats., the commission may extend a settlement offer requiring the return of the contribution to the lobbyist.
- (b) If a lobbyist makes a contribution in violation of s. 13.625, Stats., the commission may extend a settlement offer in the amount of 1.5 times the amount of the contribution, up to a maximum of \$1,000.

(12) AGGRAVATING OR MITIGATING CIRCUMSTANCES. Notwithstanding the settlement offer amounts specified in this section, the commission may consider aggravating or mitigating circumstances in determining the terms of any settlement offer that may be extended.

ETH 26.03 Settlement of lobbying violations.

(1) FAILURE TO TIMELY FILE A STATEMENT OF LOBBYING ACTIVITY AND EXPENDITURES.

- (a) If the commission receives a statement of lobbying activity and expenditures within 2 business days after the due date for that report:
 - 1. If the principal has committed no prior offenses, no penalty may be imposed.
 - 2. If the principal has committed a prior offense, the commission may issue a written warning to the principal.
- (b) If the commission receives a statement of lobbying activity and expenditures within 3 to 5 days after the due date for that report:
 - 1. If the principal has committed no prior offenses, the commission may issue a written warning to the principal.
 - 2. If the principal has committed a prior offense, the commission may extend a settlement offer of \$50.
- (c) If the commission receives a statement of lobbying activity and expenditures within 6 to 15 days after the due date for that report:

1. If the principal has committed no prior offenses, the commission may issue a written warning to the principal.
2. If the principal has committed a prior offense, the commission may extend a settlement offer of \$100.

(d) If the commission receives a statement of lobbying activity and expenditures within 16 to 29 days after the due date for that report:

1. If the principal has committed no prior offenses, the commission may extend a settlement offer of \$50.
2. If the principal has committed a prior offense, the commission may extend a settlement offer of \$250.

(e) If the commission receives a statement of lobbying activity and expenditures 30 days or more after the due date for that report:

1. If the principal has committed no prior offenses, the commission may extend a settlement offer of \$100.
2. If the principal has committed a prior offense, the commission may extend a settlement offer of \$500.

(2) FAILURE TO TIMELY FILE A 15 DAY REPORT.

(a) If the commission does not timely receive a 15 day report and the principal has no prior offenses:

1. If the unreported interest is less than 10 percent of the principal's total effort, the commission may issue a written warning to the principal.
2. If the unreported interest is 10 percent or more of the principal's total effort, the commission may extend a settlement offer of \$25 per late reported interest.

(b) If the commission does not timely receive a 15 day report and the principal has one prior offense:

1. If the unreported interest is less than 10 percent of the principal's total effort, the commission may extend a settlement offer of \$50 per late reported interest.
2. If the unreported interest is 10 percent or more of the principal's total effort, the commission may extend a settlement offer of \$100 per late reported interest.

- (c) If the commission does not timely receive a 15 day report and the principal has 2 or more prior offenses, the commission may extend a settlement offer of \$100 per late reported interest.

(3) AGGRAVATING OR MITIGATING CIRCUMSTANCES. Notwithstanding the settlement terms provided in this section, the commission may consider aggravating or mitigating circumstances in determining the terms of any settlement offer that may be extended.

ETH 26.04 Settlement of ethics violations.

(1) FAILURE TO TIMELY FILE A STATEMENT OF ECONOMIC INTERESTS.

- (a) If the commission receives a statement of economic interests within 15 days after the due date for the statement of economic interests, the commission may issue a written warning to the individual.
- (b) If the commission receives a statement of economic interests 16 or more days after the due date for the statement of economic interests, the commission may extend a settlement offer of \$100, plus \$100 for every additional 15 days after the 16th day following the due date.

(2) AGGRAVATING OR MITIGATING CIRCUMSTANCES. Notwithstanding the settlement terms provided in this section, the commission may consider aggravating or mitigating circumstances in determining the terms of any settlement offer that may be extended.

SECTION 2. EFFECTIVE DATE.

This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2), Stats.