### CHAPTER 19

#### GENERAL DUTIES OF PUBLIC OFFICIALS

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| 19.01   | Oaths and bonds. (1) **Form of Oath.** Every official oath required by article IV, section 26, 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) .... ...

**(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-
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(3) OFFICIAL DUTIES DEFINED. The official duties referred to in sub. (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.
2. 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.

(dn) 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.

(i) 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.


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.


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
sures on any 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 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 the service of the summons 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.

**History:** 1999 a. 316; 1995 a. 224.

**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 rendered 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. 61 (11).

**19.07 Bonds of public officers and employees. (1)**

(1) CIVIL SERVICE EMPLOYEES; BLANKET BONDS. (a) The surety bonds of any civil service employee of any 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.

(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 to the surety by registered mail, such cancellation to be effective 15 days after receipt of such notice.

(2) CANCELLATION OF BOND. (a) Any city, village, town or county by their respective governing body may cancel such bond or any other judgment entered in any such action, by whatsover nature belonging to the officer’s offices.

(b) 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 secretarial officer 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 shorter 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 elected 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 originating unit or agency 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).
(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 recorded 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).


Sub. (1) provides that a police chief, as an officer of a municipality, is the legal custodian of official department records. 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, 306 Wis. 2d 247, 742 N.W.2d 530, 60−2455.

Under sub. (1), district attorneys must indefinitely preserve papers of a document 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 s. 19.21 (5) (f) provide for the destruction of obsolete cases 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 s. 19.21 (7) [now s. 19.21 (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 or 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 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.


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 ss. 52; 1981 c. 350 ss. 13; 1985 a. 180 ss. 30m; 1987 a. 147 ss. 20, 57; 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, to and in the hands of the 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


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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 62, 552 N.W.2d 892 (Cl. 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 earmarks 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 record 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 of the University of Wisconsin System, 2002 WI App 43, 383 Wis. 2d 567, 916 N.W.2d 198, 17–2058.


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 and politic created by the constitution or by any law, ordinance, rule or order; or a formally constituted sub−division 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.

(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).

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

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

(1d) “Local governmental unit” has the meaning given in s. 19.42 (7a).

(1d) “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, in its limited sense, handwritten, typewritten, printed, mimeographed, stamped, written, recorded,graph, visual, vocal, electromagnetic, electronic, or 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 besquest; 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) “Requestor” 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) (i) to (gm).
Rapids, LLC v. Wisconsin Rapids Public School District, 2007 WI App 223, 305 Wis. 2d 679, 741 N.W.2d 774, 06−25375.

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. The municipalities were not proper recipients of the open records requests. WIREdata, Inc. v. Village of Sussex, 2008 WI 69, 310 Wis. 2d 397, 751 N.W.2d 786, 07−25377.

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 is that the body was partially funded by public tax dollars or interest thereon. Additionally, its office was located in the municipal building, it was listed on the city Web site, 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 Corporation, 2016 WI 173, 372 Wis. 2d 84, 752 N.W.2d 295, 08−0662.

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, 09−2772.

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 whether an entity is being influenced by public policy is essential for effective oversight of our government. Whether a communication is sent to a public official from a public official that appears associated with a particular unit of government, a private entity, or a nonprofit organization is not different in some meaningful way from an entity that is not a corporation, but instead a different record. Stone v. Board of Regents of the University of Wisconsin, 2007 WI App 223, 305 Wis. 2d 679, 741 N.W.2d 774, 06−25375.

The legislature’s use of the word corporation. Wisconsin Professional Police Association, 2010 WI 86, 327 Wis. 2d 572, 786 N.W.2d 177, 09−2772.

An entity is not a corporation would effectively rewrite the statute to eliminate the corporation, or from individuals who may be associated with a specific interest or organization, or from individuals who may be associated with a specific interest or organization.

“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 original author. 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, 09−2772.

A copy that is not different in some meaningful way from an original available records. A copy that is not different in some meaningful way from an original available records. A copy that is not different in some meaningful way from an original available records.

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 cochairspeople of a joint committee of elective officials, or the designee of the cochairspeople, 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 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 by which, 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 officer or the unit of government of which it is a part as a legal custodian to fulfill its duties under this subchapter.

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 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 facts that establish the existence of a quasi−governmental corporation include: 1) whether the entity’s funding comes from predominantly public or private sources; 2) whether the entity serves a public function; 3) whether the entity resembles a governmental body; 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.

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

The treatment of drafts under the public records law is discussed. 72 Atty. Gen. 100.
19.34 GENERAL DUTIES OF PUBLIC OFFICIALS

(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.

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

19.35 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.

19.36 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.

(b) 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.

(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).

(j) 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 require the person to be identified.

(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

2019–20 Wisconsin Statutes updated through 2021 Wis. Act 267 and through all Supreme Court and Controlled Substances Board Orders filed before and in effect on July 1, 2022. Published and certified under s. 35.18. Changes effective after July 1, 2022, are designated by NOTES. (Published 7–1–22)
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 fee 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 therefore.

(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, it shall inform the requester that if the request for the record was made in writing, 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.


NOTE: The following annotations relate to public records statutes in effect prior to the creation of 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 89 Wis. 2d 190; 257 N.W.2d 877 (1977). Police direct 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 governmental body. When taken in a properly 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 harm to the public interest resulting from inspection would outweigh the specific 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 that made the pledge requests this submission. 60 Atty. Gen. 310 (1983).

The right to inspection and copying of public records in decentralized offices is discussed. 61 Atty. Gen. 12.

Efforts to inspect 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 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.


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. Bedford v. Turcotte, 195 Wis. 2d 244, 536 N.W.2d 400 (Ct. App. 1995). 63 Atty. Gen. 143.

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).

Regulatory remedies are not violative of the public records law. 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. Bedford v. Turcotte, 195 Wis. 2d 244, 536 N.W.2d 400 (Ct. App. 1995). 63 Atty. Gen. 143.

The right to examine and copy computer–stored information is discussed. 68 Atty. Gen. 213.

The scope of the duty of the governor to allow members of the public to examine and copy public records in his custody is discussed. 63 Atty. Gen. 400.

The public’s right to inspect land acquisition files of the department of natural resources is discussed. 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. 67 Atty. Gen. 214.

The amount of prepayment required for copies may be based on a reasonable estimate. 2022, are designated by NOTES. (Published 7−1−22)


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

Due process cannot promulgate a non-statutory 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.

In 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 denying access to the records sought. Chvala v. Bubolz, 204 Wis. 2d 82, 552 N.W.2d 892 (Ct. App. 1996), 95–3120.

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. Bedford v. Turcotte, 195 Wis. 2d 244, 536 N.W.2d 400 (Ct. App. 1995). 63 Atty. Gen. 143.

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Reversed on other grounds. Voces de la Frontera, Inc. v. Clarke, 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 release of specific police evidence and techniques being taught and used in Wisconsin outweighed the general legal presumptive that public records should be disclosed. Because the video contained almost entirely of police tactics and techniques, the WERC’s decision 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 interest in having the criminal justice system work would be undermined, and the public interest in preventing release of specific police strategy to protect 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 context of the records’ requests though 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 but not limited to those contained in the tapes, as well as sexual 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 clearly 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. Wisconsin 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, applied in this case. Under Foust, a district attorney’s closed files were not subject to the Act. 72 Atty. Gen. 73, 391 N.W.2d 177, 305 Wis. 2d 582, 741 N.W.2d 530, 06–2455.

The public interest in preventing release of specific police strategy to protect 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.

A video requested in this case discussed the victims of a sex extortion case and the dangers of releasing the record for that purpose. The court concluded that the public interest in preventing release of specific police strategy to protect 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.

When 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 electors fee 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. State, 2014 WI App 24, 341 Wis. 2d 607, 815 N.W.2d 57, 11–1112.

Sub. (3) (a) deems to other statutes that specifically authorize records custodians to charge fees for records that differ from the fees that open records law itself authorize. 343.24 (2m)(b)3., 72 Atty. Gen. 147, 931 N.W.2d 898, 14–2536.

The request for a video requested in this case discussed the victims of a sex extortion case and the dangers of releasing the record for that purpose. The court concluded that the public interest in preventing release of specific police strategy to protect 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.

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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.

Paragraph 111 does not apply to access to a record produced by an authority having record custody, if the record is provided by an authority having record custody, if the record is provided, 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

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 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 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.

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 shall (a) release the record as augmented by the record subject.
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 to ensure fair and full informed adjudication of the dispute, is equally applicable. Hagen v. Board of Regents of the University of Wisconsin System, 2018 WI App 43, 383 Wis. 2d 567, 916 N.W.2d 198, 17–2058.

Sub. (2) (a) 2. shall 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) 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 5−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 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 serve the manner specifically required in sub. (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 public records law’s purposes with the exception of the publica-

tion 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, the 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 believes effective service according to the public records law’s provi-
sions 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 author-
ized 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 of accepting federal funds, a public official may 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 pro-
duced 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 informa-
tion that is subject to disclosure under s. 19.35 (1) (a) (i) and (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 certified 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 indi-
cate 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 pro-
vide access to any record related to the application that may reveal the identity of the applicant.

(8) IDENTITIES OF LAW ENFORCEMENT INFORMATORS. (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, relating to investigative information obtained for law enforce-
ment purposes be withheld from public access, then that information is exempt from disclosure under s. 19.35 (1).

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 with-
hold 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 BUILD-
INGS. 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 experiences 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.

(12) 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.


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 District of Shorewood, 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 and Construction Trades Council v. City of Milwaukee Community School District, 221 Wis. 2d 575, 585 N.W.2d 726 (Ct. App. 1999), 97–3282.

Production of an audio tape was insufficient under sub. (4) when the requesting authority was not provided with a copy of the original digital audio tape. State ex rel. Milwaukee Police Association v. Jones, 2000 WIS APP 146, 237 Wis. 2d 440, 615 N.W.2d 190, 98–3629.

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 WIS APP 43, 233 Wis. 2d 106, 607 N.W.2d 319, 99–1163.

Requests for university admissions records focusing on test scores, class rank, grade point average, race, gender, ethnicity, and socio-economic background was not a request for personally identifiable information and release was not barred by federal law under public policy. That the request would require the university to disclose 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 s. 19.35 (1) (L). Oneida Nation of Wisconsin v. Department of State, 2002 WI 83, 254 Wis. 2d 266, 647 N.W.2d 158, 00–2861.

Misconduct investigation and disciplinary records are not excepted from public disclosure under sub. (10) (b) is the only exception to the open records law relating to investigations of possible misconduct employee. Koepelin v. DNR, 2006 WI APP 227, 297 Wis. 2d 254, 725 N.W.2d 286, 05–1093.

An exemption to the open records law relating to investigations of possible misconduct employee as 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 other review mechanism that may be available.

Local 2489 v. Rock County, 2004 APP WAP 210, 277 Wis. 2d 208, 689 N.W.2d 644, 04–3035. See also Zellmer v. Cedarburg School District, 2007 WIS APP 53, 300 Wis. 2d 290, 731 N.W.2d 246, 00–1153.

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 requestor of those records to the independent contractor assessor. WIREdata, Inc. v. Village of Sussex, 2008 WI 69, 310 Wis. 2d 397, 751 N.W.2d 736, 05–0367.

NOTE: “Final candidates” are the five most qualified unless there are less than five alternatives under pars. (a) and (b).

(b) 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

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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 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 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.


A party seeking fees under sub. (2) must show that the prosecution of an action could reasonably be regarded as necessary to obtain the information and that a "causal nexus" exists between that action and the agency's surrender of the information. State ex rel. Vaughan v. Faust, 155 Wis. 2d 515 (Ct. App. 1989).

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 and a request for a public records fee or award of fees and costs under sub. (2) (c). Racine Education Association v. Racine Board of Education, 145 Wis. 2d 518, 427 N.W.2d 414 (Ct. App. 1988).

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, 155 Wis. 2d 313, 450 N.W.2d 515 (Ct. App. 1989).

If there is 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).

A favorable judgment or order is not a necessary condition precedent for finding that a party prevailed against an agency under sub. (2). A causal nexus must be shown between the prosecution of the mandamus action and the release of the requested information. Eau Claire Press Co. v. Gordon, 176 Wis. 2d 154, 499 N.W.2d 918 (Ct. App. 1993).

Actions brought under the open meetings and open records laws are exempt from the notice provisions of s. 893.80 (1), 1993 stats. Auchenheick v. Town of LaGrange, 208 Wis. 2d 555, 547 N.W.2d 587 (1996), 94-3238.

An inmate's right to mandamus under this section is subject to s. 801.02 (7), which conflicts between their personal interests and their public responsibilities, will improve standards of public service and will promote and strengthen the faith and confidence of the people of this state in their state public officials and state employees.

(2) It is the intent of the legislature that in its operations the commission shall protect to the fullest extent possible the rights of individuals affected.

History: 1973 c. 90; Stats. 1973 s. 11.01; 1973 c. 334 s. 33; Stats. 1973 s. 19.41; 1977 c. 275; 2013 a. 118 s. 266 (10).

19.42 Definitions. In this subchapter:

(1) “Anything of value” means any money or property, favor, service, payment, advance, forbearance, loan, or promise of future employment, but does not include compensation and expenses paid by the state, fees and expenses which are permitted and reported under s. 19.56, political contributions which are reported under ch. 11, or hospitality extended for a purpose unrelated to state business by a person other than an organization.

(2) “Associated,” when used with reference to an organization, includes 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, and severally or in the aggregate, at least 10 percent of the outstanding equity or of which an individual or a member of his or her immediate family is an authorized representative or agent.

(3) “Candidate,” except as otherwise provided, has the meaning given in s. 11.0101 (1).
19.42 GENERAL DUTIES OF PUBLIC OFFICIALS

(3s) “Candidate for local public office” means any individual who files nomination papers and a declaration of candidacy under s. 8.21 or who is nominated at a caucus under s. 8.05 (1) for the purpose of appearing on the ballot for election as a local public official or any individual who is nominated for the purpose of appearing on the ballot for election as a local public official through the write-in process or by appointment to fill a vacancy in nomination and who files a declaration of candidacy under s. 8.21.

(4) “Candidate for state public office” means any individual who files nomination papers and a declaration of candidacy under s. 8.21 or who is nominated at a caucus under s. 8.05 (1) for the purpose of appearing on the ballot for election as a state public official or any individual who is nominated for the purpose of appearing on the ballot for election as a state public official through the write-in process or by appointment to fill a vacancy in nomination and who files a declaration of candidacy under s. 8.21.

(4g) “Clearly identified,” when used in reference to a communication containing a reference to a person, means one of the following:

(a) The person’s name appears.
(b) A photograph or drawing of the person appears.
(c) The identity of the person is apparent by unambiguous reference.

(4p) “Commission” means the ethics commission.

(4r) “Communication” means a message transmitted by means of a printed advertisement, billboard, handbill, sample ballot, radio or television advertisement, telephone call, or any medium that may be utilized for the purpose of disseminating or broadcasting a message, but not including a poll conducted solely for the purpose of identifying or collecting data concerning the attitudes or preferences of electors.

(5) “Department” means the legislature, the University of Wisconsin System, any authority or public corporation created and regulated by an act of the legislature and any office, department, independent agency or legislative service agency created under ch. 13, 14 or 15, any technical college district or any constitutional office other than a judicial office. In the case of a district attorney, “department” means the department of administration unless the context otherwise requires.

(5m) “E elective office” means an office regularly filled by vote of the people.

(6) “Gift” means the payment or receipt of anything of value without valuable consideration.

(7) “Immediate family” means:

(a) An individual’s spouse; and
(b) An individual’s relative by marriage, lineal descent or adoption who receives, directly or indirectly, more than one-half of his or her support from the individual or from whom the individual receives, directly or indirectly, more than one-half of his or her support.

(7m) “Income” has the meaning given under section 61 of the internal revenue code.

(7s) “Internal revenue code” has the meanings given under s. 71.01 (6).

(7u) “Local governmental unit” means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of such a political subdivision or special purpose district, a combination or subunit of any of the foregoing or an instrumentality of the state and any of the foregoing.

(7w) “Local public office” means any of the following offices, except an office specified in sub. (13):

(a) An elective office of a local governmental unit.
(b) A county administrator or administrative coordinator of a city or village manager.
(c) An appointive office or position of a local governmental unit in which an individual serves for a specified term, except a position limited to the exercise of ministerial action or a position filled by an independent contractor.

(cm) The position of member of the board of directors of a local exposition district under subch. II of ch. 229 not serving for a specified term.

(d) An appointive office or position of a local government which is filled by the governing body of the local government or the executive or administrative head of the local government and in which the incumbent serves at the pleasure of the appointing authority, except a clerical position, a position limited to the exercise of ministerial action or a position filled by an independent contractor.

(e) The position of member of the Milwaukee County mental health board as created under s. 51.41 (1d).

(f) An employee of a school district who holds a school administrator license or permit issued by the department of public instruction under rules promulgated by the department under s. 118.19 and whose employment requires that the individual hold that license or permit.

(g) An employee of a school district who acts as the head of facilities and maintenance and whose employment duties include making purchasing decisions or recommendations for the school district.

(7x) “Local public official” means an individual holding a local public office.

(8) “Ministerial action” means an action that an individual performs in a given state of facts in a prescribed manner in obedience to the mandate of legal authority, without regard to the exercise of the individual’s own judgment as to the propriety of the action being taken.

(9) “Nominee” means any individual who is nominated by the governor for appointment to a state public office and whose nomination requires the advice and consent of the senate.

(10) “Official required to file” means:

(a) A member or employee of the elections commission.
(b) A member or employee of the ethics commission.
(b) A member of a technical college district board or district director of a technical college, or any individual occupying the position of assistant, associate or deputy district director of a technical college.

(c) A state public official identified under s. 20.923 except an official holding a state public office identified under s. 20.923 (6).
(d) A state public official whose appointment to state public office requires the advice and consent of the senate, except a member of the board of directors of the Bradley Center Sports and Entertainment Corporation created under ch. 323.

(e) An individual appointed by the governor or the state superintendent of public instruction pursuant to s. 17.20 (2) other than a trustee of any private higher educational institution receiving state appropriations.

(f) An auditor for the legislative audit bureau.
(g) The chief clerk and sergeant at arms of each house of the legislature.

(h) The members and employees of the Wisconsin Housing and Economic Development Authority, except clerical employees.

(i) A municipal judge.
(j) A member or the executive director of the judicial commission.

(k) A division administrator of an office created under ch. 14 or a department or independent agency created or continued under ch. 15.

(L) The executive director, executive assistant to the executive director, internal auditor, chief investment officer, chief financial officer, chief legal counsel, chief risk officer and investment directors of the investment board.
(n) The chief executive officer and members of the board of directors of the University of Wisconsin Hospitals and Clinics Authority.

(o) The chief executive officer and members of the board of directors of the Fox River Navigational System Authority.

(q) The executive director and members of the board of directors of the Wisconsin Aerospace Authority.

(r) The employees and members of the board of directors of the Lower Fox River Remediation Authority.

(sm) The employees of the Wisconsin Economic Development Corporation and the members of the board of directors of the Wisconsin Economic Development Corporation employed in the private sector who are appointed by the speaker of the assembly and the senate majority leader.

(11) “Organization” means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust or other legal entity other than an individual or body politic.

(11m) “Political party” means a political organization under whose name individuals who seek elective public office appear on the ballot at any election or any national, state, or local unit or affiliate of that organization.

(12) “Security” has the meaning given under s. 551.102 (28), except that the term does not include any of the following:

(a) A certificate of deposit or a deposit in a savings and loan association, savings bank, credit union or similar association organized under the laws of any state.

(b) A defined benefit retirement plan.

(c) An annuity.

(d) A money market fund.

(e) A mutual fund.

(f) An exchange-traded fund or exchange-traded note.

(13) “State public office” means:

(a) All positions to which individuals are regularly appointed by the governor, except the position of member of the district board of a local professional baseball park district created under subch. III of ch. 229, and the position of member of the district board of a local cultural arts district created under subch. V of ch. 229.

(b) The positions of associate and assistant vice presidents of the University of Wisconsin System.

(c) All positions identified under s. 20.923 (2), (4), (6) (f) to (h), (7), and (8) to (10), except clerical positions.

(1m) The president and vice presidents of the University of Wisconsin System and the chancellors and vice chancellors of all University of Wisconsin institutions, the University of Wisconsin Colleges, and the University of Wisconsin–Extension.

(e) The chief clerk and sergeant at arms of each house of the legislature or a full-time, permanent employee occupying the position of auditor for the legislative audit bureau.

(f) A member of a technical college district board or district director of a technical college, or any position designated as assistant, associate or deputy district director of a technical college.

(g) The members and employees of the Wisconsin Housing and Economic Development Authority, except clerical employees.

(h) A municipal judge.

(i) A member or the executive director of the judicial commission.

(j) A division administrator of an office created under ch. 14 or a department or independent agency created or continued under ch. 15.

(k) The executive director, executive assistant to the executive director, internal auditor, chief investment officer, chief financial officer, chief legal counsel, chief risk officer and investment directors of the investment board.

(m) The chief executive officer and members of the board of directors of the University of Wisconsin Hospitals and Clinics Authority.

(n) The chief executive officer and members of the board of directors of the Fox River Navigational System Authority.

(om) The employees of the Wisconsin Economic Development Corporation and the members of the board of directors of the Wisconsin Economic Development Corporation employed in the private sector who are appointed by the speaker of the assembly and the senate majority leader.

(p) All members of the elections commission and all members of the ethics commission.

(14) “State public official” means any individual holding a state public office.

19.43 Financial disclosure. (1) Each individual who in January of any year is an official required to file, and who is an official required to file for at least 14 days in that year, shall file with the commission no later than April 30 of that year a statement of economic interests meeting each of the requirements of s. 19.44 (1). The information contained on the statement shall be current as of December 31 of the preceding year.

(2) An official required to file shall file with the commission a statement of economic interests meeting each of the requirements of s. 19.44 (1) no later than 21 days following the date he or she assumes office if the official has not previously filed a statement of economic interests with the commission during that year. The information on the statement shall be current as of the date on which the individual’s term of office ends or the individual leaves the office. An individual who files a statement as provided under this subsection is not required to file another statement of economic interests unless such time as the individual again becomes an official required to file.

(3) A nominee shall file with the commission a statement of economic interests meeting each of the requirements of s. 19.44 (1) within 21 days of being nominated unless the nominee has previously filed a statement of economic interests with the commission during that year. The information on the statement shall be current as of the date he or she was nominated. Following the receipt of a nominee’s statement of economic interests, the com-
mission shall forward copies of such statement to the members of the committee of the senate to which the nomination is referred.

(4) A candidate for state public office shall file with the commission a statement of economic interests meeting each of the requirements of s. 19.44 (1) no later than 4:30 p.m. on the 3rd day following the last day for filing nomination papers for the office which the candidate seeks, or no later than 4:30 p.m. on the next business day after the last day whenever that candidate is granted an extension of time for filing nomination papers or a declaration of candidacy under s. 8.05 (1) (j), 8.10 (2) (a), 8.15 (1), or 8.20 (8) (a); no later than 4:30 p.m. on the 5th day after notification of nomination is mailed or personally delivered to the candidate by the municipal clerk in the case of a candidate who is nominated at a caucus; or no later than 4:30 p.m. on the 3rd day after notification of nomination is mailed or personally delivered to the candidate by the appropriate official or agency in the case of a write-in candidate or candidate who is appointed to fill a vacancy in nomination under s. 8.35 (2) (a). The information contained on the statement shall be current as of December 31 of the year preceding the filing deadline. Before certifying the name of any candidate for state public office under s. 7.08 (2) (e) or filing of the elections commissioner, municipal clerk, or board of election commissioners shall ascertain whether that candidate has complied with this subsection. If not, the elections commission, municipal clerk, or board of election commissioners may not certify the candidate’s name for ballot placement.

(5) Each member of the investment board and each employee of the investment board who is a state public official shall complete and file with the commission a quarterly report of economic transactions no later than the last day of the month following the end of each calendar quarter during any portion of which he or she was a member or employee of the investment board. Such reports of economic transactions shall be in the form prescribed by the commission and shall identify the date and nature of any purchase, sale, put, call, option, lease, or creation, dissolution, or modification of any economic interest made during the quarter for which the report is filed and disclosure of which would be required by s. 19.44 if a statement of economic interests were being filed.

(7) If an official required to file fails to make a timely filing, the commission shall promptly provide notice of the delinquency to the secretary of administration, and to the chief executive of the department of which the official’s office or position is a part, or, in the case of a district attorney, to the chief executive of that department and to the county clerk of each county served by the district attorney or in the case of a municipal judge to the clerk of the municipality of which the official’s office is a part, or in the case of a justice, court of appeals judge, or circuit judge, to the director of state courts. Upon such notification both the secretary of administration and the department, municipality, or director shall withhold all payments for compensation, reimbursement of expenses, and other obligations to the official until the commission notifies the officers to whom notice of the delinquency was provided that the official has complied with this section.

(8) On its own motion or at the request of any individual who is required to file a statement of economic interests, the commission may extend the time for filing or waive any filing requirement if the commission determines that the literal application of the filing requirements of this subchapter would work an unreasonable hardship on that individual or that the extension of the time for filing or waiver is in the public interest. The commission shall set forth in writing as a matter of public record its reason for the extension or waiver.

History: 1973 c. 90; Stats. 1973 s. 11.03; 1973 c. 333; 1973 c. 334 s. 33; Stats. 1973 s. 19.43; 1977 c. 223, 277; 1979 c. 221; 1983 a. 166 ss. 5, 16; 1983 a. 484, 538; 1985 a. 29, 304; 1987 a. 399; 1989 a. 31; 1993 a. 266; 2003 a. 33; 2007 a. 1; 2015 a. 181, 368 (101); 2021 a. 267.

Cross-reference: See also ch. ETH 15, Wis. adm. code.

The extent of confidentiality of investment board nominees’ statements of economic interests rests in the sound discretion of the senate committee to which the nomination is referred under sub. (3). 68 Att’y Gen. 378.

The possible conflict between requirements of financial disclosure and confidentiality requirements for lawyers is discussed. 68 Att’y Gen. 411.

19.44 Form of statement. (1) Every statement of economic interests which is required to be filed under this subchapter shall be in the form prescribed by the commission, and shall contain the following information:

(a) The identity of every organization with which the individual required to file is associated and the nature of his or her association with the organization, except that no identification need be made of:

1. Any organization which is described in section 170 (c) of the internal revenue code.

2. Any organization which is organized and operated primarily to influence voting at an election including support for or opposition to an individual’s present or future candidacy or to a present or future referendum.

3. Any nonprofit organization which is formed exclusively for social purposes and any nonprofit community service organization.

4. A trust.

(b) The identity of every organization or body politic in which the individual who is required to file or that individual’s immediate family, severally or in the aggregate, owns, directly or indirectly, securities having a value of $5,000 or more, the identity of such securities and their approximate value, except that no identification need be made of a security or issuer of a security when it is issued by any organization not doing business in this state or by any government or instrumentality or agency thereof, or an authority or public corporation created and regulated by an act of such government, other than the state of Wisconsin, its instrumentalities, agencies and political subdivisions, or authorities or public corporations created and regulated by an act of the legislature.

(c) The name of any creditor to whom the individual who is required to file or such individual’s immediate family, severally or in the aggregate, owes $5,000 or more and the approximate amount owed.

(d) The real property located in this state in which the individual who is required to file or such individual’s immediate family holds an interest, other than the principal residence of the individual who is required to file or such individual’s immediate family, held in the case of any economic interest made during the quarter for which the report is filed and disclosure of which would be required by s. 19.44 if a statement of economic interests were being filed.

(e) The identity of each payer from which the individual who is required to file or a member of his or her immediate family received $1,000 or more of his or her income for the preceding taxable year, except that if the individual who is required to file identifies the general nature of the business in which he or she or his or her immediate family is engaged, then no identification need be made of a decedent’s estate or an individual, not acting as a representative of an organization, unless the individual is a lobbyist as defined in s. 13.62. In addition, no identification need be made of payers from which only dividends or interest, anything of pecuniary value reported under s. 19.56 or reportable under s. 19.57, or political contributions reported under ch. 11 were received.

(f) If the individual who is required to file or a member of his or her immediate family received $10,000 or more of his or her income for the preceding taxable year from a partnership, limited liability company, corporation electing to be taxed as a partnership under subchapter S of the internal revenue code or service corporation under ss. 180.1901 to 180.1921 in which the individual or a member of his or her immediate family, severally or in the aggregate, has a 10 percent or greater interest, the identity of each payer from which the organization received $10,000 or more of its income for its preceding taxable year, except that if the individual who is required to file identifies the general nature of the business in which he or she or his or her immediate family is engaged,

Sub. (8) does not authorize the ethics board to extend the date by which a candidate must file a statement of economic interest and cannot waive the filing requirement. 81 Att’y Gen. 85.
then no identification need be made of a decedent's estate or an individual, not acting as a representative of an organization, unless the individual is a lobbyist as defined in s. 13.62. In addition, no identification need be made of payers from which dividends or interest are received.

(g) The identity of each person from which the individual who is required to file received, directly or indirectly, any gift or gifts having an aggregate value of more than $50 within the taxable year preceding the time of filing, except that the source of a gift need not be identified if the donation is permitted under s. 19.56 (3) (e), (em) or (f) or if the donor is the donee's parent, grandparent, great-grandparent, child, stepchild, brother, sister, grandchild, brother-in-law, sister-in-law, uncle, aunt, niece, nephew, spouse, fiancé or fiancée.

(h) Lodging, transportation, money or other things of pecuniary value reportable under s. 19.56 (2).

(2) Whenever a dollar amount is required to be reported pursuant to this section, it is sufficient to report whether the amount is not more than $50,000, or more than $50,000.

(3) (a) An individual is the owner of a trust and the trust's assets and obligations if he or she is the creator of the trust and has the power to revoke the trust without obtaining the consent of all of the beneficiaries of the trust.

(b) An individual who is eligible to receive income or other beneficial use of the principal of a trust is the owner of a proportional part of the principal in the proportion that the individual's beneficial interest in the trust bears to the total beneficial interests vested in all beneficiaries of the trust. A vested beneficial interest in a trust includes a vested reverter interest.

(4) Information which is required by this section shall be provided on the basis of the best knowledge, information and belief of the individual filing the statement.


Cross-reference: See also ch. ETH 15, Wis. adm. code.

Law Revision Committee Note, 1983: Under the ethics code, each state public official and candidate for state public office must file a statement of economic interests with the ethics board listing the businesses, organizations and other legal entities from which they and their families received substantial income during the preceding taxable year. However, the ethics code does not require identification of individuals from whom the income is received. This bill provides that if the individual filing the statement of economic interests identifies the general natures of the business in which the individual or a member of his or her family is engaged, then no identification need be made of the estate of any deceased individual from which income was received. This bill makes it unnecessary to identify a decedent’s estate which was indebted to a state public official or candidate for state public office, and makes it unnecessary to identify decedents' estates which are represented by lawyer—public officials.

A beneficiary of a future interest in a trust must identify the securities held by the trust if the individual’s interest in the securities is valued at $5,000 or more. 80 Atty. Gen. 183.

19.45 Standards of conduct; state public officials.

(1) The legislature hereby reaffirms that a state public official holds his or her position as a public trust, and any effort to realize substantial personal gain through official conduct is a violation of that trust. This subsection does not prevent any state public official from accepting other employment or following any pursuit which in no way interferes with the full and faithful discharge of his or her duties to this state. The legislature further recognizes that in a representative democracy, the representatives are drawn from society and, therefore, cannot and should not be without all personal and economic interest in the decisions and policies of government; that citizens who serve as state public officials retain their rights as citizens to interests of a personal or economic nature; that standards of ethical conduct for state public officials need to distinguish between those minor and inconsequential conflicts that are unavoidable in a free society, and those conflicts which are substantial and material; and that state public officials may need to engage in employment, professional or business activities, other than official duties, in order to support themselves or their families and to maintain a continuity of professional or business activity, or may need to maintain investments, which activities or investments do not conflict with the specific provisions of this subchapter.

(2) No state public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. This subsection does not prohibit a state public official from using the title or prestige of his or her office to obtain contributions permitted and reported as required by ch. 11.

(3) No person may offer or give to a state public official, directly or indirectly, and no state public official may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the state public official's vote, official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the state public official. This subsection does not prohibit a state public official from engaging in outside employment.

(4) No state public official may 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.

(5) No state public official may use or attempt to use the public position held by the public official to influence or gain unlawful benefits, advantages or privileges personally or for others.

(6) No state public official, member of a state public official’s immediate family, nor any organization with which the state public official or a member of the official’s immediate family owns or controls at least 10 percent of the outstanding equity, voting rights, or outstanding indebtedness may enter into any contract or lease involving a payment or payments of more than $3,000 within a 12-month period, in whole or in part derived from state funds, unless the state public official has first made written disclosure of the nature and extent of such relationship or interest to the commission and to the department acting for the state in regard to such contract or lease. Any contract or lease entered into in violation of this subsection may be voided by the state in an action commenced within 3 years of the date on which the commission, or the department or officer acting for the state in regard to the allocation of state funds from which such payment is derived, knew or should have known that a violation of this subsection had occurred. This subsection does not affect the application of s. 946.13.

(7) (a) No state public official who is identified in s. 20.923 may represent a person for compensation before a department or any employee thereof, except:

1. In a contested case which involves a party other than the state with interests adverse to those represented by the state public official; or
2. At an open hearing at which a stenographic or other record is maintained; or
3. In a matter that involves only ministerial action by the department; or
4. In a matter before the department of revenue or tax appeals commission that involves the representation of a client in connection with a tax matter.

(b) This subsection does not apply to representation by a state public official acting in his or her official capacity.

(8) Except in the case where the state public office formerly held was that of legislator, legislative employee under s. 20.923 (b) (hp), (f), (g) or (h), chief clerk of a house of the legislature, sergeant at arms of a house of the legislature or a permanent employee occupying the position of auditor for the legislative audit bureau.
ch. 11, or anyone making a communication that contains a reference to a clearly identified state public official holding an elective office or to a candidate for state public office.

(14) If a state public official receives an item that the official is not permitted to accept or retain under this subchapter or subch. III of ch. 13, the official shall do one of the following:

(a) Give the item to the official’s agency to use or sell, except that the agency may not sell the item to any government employee or official.

(b) Give the item to another state agency or to a public institution, such as a local school, library, or museum, that can use the item.

(c) Give the item to a charitable organization, as defined in s. 11.0101(4), not including a charitable organization with which the official or his or her immediate family is associated.

(d) Return the item to the donor.

(e) If the donor is neither a lobbyist, as defined in s. 13.62(11), nor a principal, as defined in s. 13.62(12), purchase the item at its full retail value and keep the item.


Cross-reference: See also ch. EHR-MRS 24, Wis. adm. code.

A county board may provide for a penalty in the nature of a forfeiture for a violation of a code of ethics ordinance but may not bar violators from running for office. A violation is not a neglect of duties under s. 59.10 [now s. 59.15] or an ipso facto cause for removal under ch. 77.09 (1). 66 Atty. Gen. 148. See also 67 Atty. Gen. 164.

The ethics law does not prohibit a state public official from purchasing items and services that are available to the official because he or she holds public office. If the opportunity to purchase the item or service itself has substantial value, the purchase of the item or service is prohibited. 80 Atty. Gen. 201.

19.45 Discounts at certain stadiums.

No person serving in a national, state or local office, as defined in s. 5.02, may accept any discount on the price of admission or parking charged to members of the general public, including any discount on the use of a sky box or private luxury box, at a stadium that is exempt from general property taxes under s. 70.11 (36).


19.46 Conflict of interest prohibited; exception.

(1) Except in accordance with the commission’s advice under sub. (2) and except as otherwise provided in sub. (3), no state public official may:

(a) Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official has associated is a substantial financial interest.

(b) Use his or her official or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official’s immediate family either separately or together, or an organization with which the official is associated.

(2) (a) 1. Any individual, either personally or on behalf of an organization or governmental body, may make a request of the commission in writing, electronically, or by telephone for a formal or informal advisory opinion regarding the propriety under ch. 11, subch. III of ch. 13, or this subchapter of any matter to which the person is or may become a party. Any appointing officer, with the consent of a prospective appointee, may request of the commission a formal or informal advisory opinion regarding the propriety under ch. 11, subch. III of ch. 13, or this subchapter of any matter to which the prospective appointee is or may become a party. The commission shall review a request for an advisory opinion and may issue a formal or informal written or electronic advisory opinion to the person making the request. Except as authorized or required for opinions specified in s. 19.55 (4) (b), the commission’s deliberations and actions upon such requests shall be in meetings not open to the public. A member of the commission...
may, by written request, require the commission to review an advisory opinion.

2. To have legal force and effect, each formal and informal advisory opinion issued by the commission must be supported by specific legal authority under a statute or other law, or by specific case or common law authority. Each formal and informal advisory opinion shall include a citation to each statute or other law and each case or common law authority upon which the opinion is based, and shall specifically articulate or explain which parts of the cited authority are relevant to the commission’s conclusion and why they are relevant.

3. No person acting in good faith upon a formal or informal advisory opinion issued by the commission under this subsection is subject to criminal or civil prosecution for so acting, if the material facts are as stated in the opinion request.

4. At each regular meeting of the commission, the commission administrator shall review informal advisory opinions requested of and issued by the administrator and that relate to recurring issues or issues of first impression for which no formal advisory opinion has been issued. The commission may determine to issue a formal advisory opinion adopting or modifying the informal advisory opinion. If the commission disagrees with a formal or informal advisory opinion that has been issued by or on behalf of the commission, the commission may withdraw the opinion, issue a revised formal or informal advisory opinion, or request an opinion from the attorney general. No person acting after the date of the withdrawal or issuance of the revised advisory opinion is exempted from prosecution under this subsection if the opinion upon which the person’s action is based has been withdrawn or revised in relevant degree.

5. Except as authorized or required under s. 19.55 (4) (b), no member or employee of the commission may make public the identity of the individual requesting a formal or informal advisory opinion or of individuals or organizations mentioned in the opinion.

(b) 1. The commission may authorize the commission administrator or his or her designee to issue an informal written advisory opinion or transmit an informal advisory opinion electronically on behalf of the commission, subject to such limitations as the commission deems appropriate. Every informal advisory opinion shall be consistent with applicable formal advisory opinions issued by the commission, statute or other law, and case law.

2. Any individual may request in writing, electronically, or by telephone an informal advisory opinion from the commission under this paragraph. The commission’s designee shall provide a written response, a written reference to an applicable statute or law, or a written reference to a formal advisory opinion of the commission to the individual, or shall refer the request to the commission for review and the issuance of a formal advisory opinion.

3. Any person receiving an informal advisory opinion under this paragraph may, at any time, request a formal advisory opinion from the commission on the same matter.

(c) 1. Any individual may request in writing, electronically, or by telephone a formal advisory opinion from the commission or the review or modification of a formal advisory opinion issued by the commission under this paragraph. The individual making the request shall include all pertinent facts relevant to the matter.

The commission shall review a request for a formal advisory opinion and may issue a formal advisory opinion to the individual making the request. Except as authorized or required for opinions specified in s. 19.55 (4) (b), the commission’s deliberations and actions upon such requests shall be in meetings not open to the public.

2. Any person requesting a formal advisory opinion under this paragraph may request a public or private hearing before the commission to discuss the opinion. The commission shall grant a request for a public or private hearing under this paragraph.

3. Promptly, upon issuance of each formal advisory opinion, the commission shall publish the opinion together with the information specified under s. 19.55 (4) (c) on the commission’s Internet site.

4. If the commission declines to issue a formal advisory opinion, it may refer the matter to the attorney general or to the standing legislative oversight committees.

5. This section does not prohibit a state public official from taking any action concerning the lawful payment of salaries or employee benefits or reimbursement of actual and necessary expenses, or prohibit a state public official from taking official action with respect to any proposal to modify state law or the state administrative code.


19.47 Operation. (1) Office. The office of the commission shall be in Madison, but the commission may, after proper public notice and in compliance with subch. V, meet or exercise any of its powers at any other place in the state.

2. Administrator. The commission shall appoint an administrator in the manner provided under s. 15.62 (1) (b). The administrator shall be outside the classified service. The administrator shall appoint such other personnel as he or she requires to carry out the duties of the commission and may designate an employee of the commission to serve as legal counsel of the commission. The administrator shall perform such duties as the commission assigns to him or her in the administration of ch. 11, subch. III of ch. 13, and this subchapter.

3. Statements of economic interests. All members and employees of the commission shall file statements of economic interests with the commission.

4. Action. Any action by the commission, except an action relating to procedure of the commission, requires the affirmative vote of at least two-thirds of its members.

5. Annual report. The commission shall submit an annual report under s. 15.04 (1) (d) and shall include in its annual report the names and duties of all individuals employed by the commission and a summary of its determinations and advisory opinions issued under s. 19.46 (2). Except as authorized or required under s. 19.55 (4) (b), the commission shall make sufficient alterations in the summaries to prevent disclosing the identities of individuals or organizations involved in the decisions or opinions. The commission shall identify in its report the statutory duties of the administrator of the commission, together with a description of the manner in which those duties are being fulfilled. Notwithstanding ss. 19.50 and 19.55 (3), the commission shall also specify in its report the total number of investigations conducted by the commission since the last annual report and a description of the nature of each investigation, including whether the investigation related to campaign finance, ethics, or lobbying. The commission may also include in its annual report any information compiled under s. 11.1304 (14). The commission shall make such further reports on the matters within its jurisdiction and such recommendations for legislation as it deems appropriate.

6. Operation. The joint committee on legislative organization shall be advisory to the commission on all matters relating to operation of the commission.

7. Guidance following binding court decisions. Within 2 months following the publication of a decision of a state or federal court that is binding on the commission and this state, the commission shall issue updated guidance or formal advisory opinions, commence the rule-making procedure to revise administrative rules promulgated by the commission, or request an opinion from the attorney general on the applicability of the court decision.

8. Standing. The commission has standing to commence or intervene in any civil action or proceeding for the purpose of enforcing the laws regulating campaign finance, ethics, or lobbying or ensuring their proper administration.
19.47 GENERAL DUTIES OF PUBLIC OFFICIALS

(9) POLICIES AND PROCEDURES. (a) Annually, the commission shall adopt written policies and procedures in order to govern its internal operations and management and shall annually report such policies and procedures to the appropriate standing committees of the legislature under s. 13.172 (3).

(b) Notwithstanding par. (a), the commission may reconsider at any time any policy or procedure adopted as provided under par. (a). If, upon reconsideration, the commission revises a previously reported policy or procedure, the commission shall report the revision to the appropriate standing committees of the legislature under s. 13.172 (3).

(c) The commission may reconsider at any time any written directives or written guidance provided to the general public or to any person subject to the provisions of ch. 11, subch. III of ch. 13, and this subchapter with regard to the enforcement and administration of those provisions.

(10) EMPLOYEES. All employees of the commission shall be nonpartisan.

(11) PAYMENTS. The commission may accept payment by credit card, debit card, or other electronic payment mechanism for any amounts owed pursuant to the administration of ch. 11, subch. III of ch. 13, or this subchapter, and may charge a surcharge to the payer to recover charges associated with the acceptance of that electronic payment.


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. The commission shall give prompt notice of the contents of its rules to state public officials who will be affected thereby.

(2) Prepare and make available forms for use under ch. 11, subch. III of ch. 13, and this subchapter, including the forms specified in s. 13.685 (1).

(3) Accept and file any information related to the purposes of ch. 11, subch. III of ch. 13, and this subchapter which is voluntarily supplied by any person in addition to the information required by this subchapter.

(4) Preserve the statements of economic interests filed with it for a period of 6 years from the date of receipt in such form, including microfilming, optical imaging or electronic formatting, as will facilitate document retention, except that:

(a) Upon the expiration of 3 years after an individual ceases to be a state public official the commission shall, unless the former state public official otherwise requests, destroy any statement of economic interests filed by him or her and any copies thereof in its possession.

(b) Upon the expiration of 3 years after any election at which a candidate for state public office was not elected, the commission shall destroy any statements of economic interests filed by him or her as a candidate for state public office and any copies thereof in the commission’s possession, unless the individual continues to hold another position for which he or she is required to file a statement, or unless the individual otherwise requests.

(c) Upon the expiration of 3 years from the action of the senate upon a nomination for state public office at which the senate refused to consent to the appointment of the nominee, the commission shall destroy any statements of economic interests filed by him or her as a nominee and any copies thereof in the commission’s possession, unless the individual continues to hold another position for which he or she is required to file a statement, or unless the nominee otherwise requests. This paragraph does not apply to any individual who is appointed to state public office under s. 17.20 (2).

(5) Except as provided in s. 19.55 (2) (c), make statements of economic interests filed with the commission available for public inspection and copying during regular office hours and make copying facilities available at a charge not to exceed actual cost.

(6) Compile and maintain an index to all the statements of economic interests currently on file with the commission to facilitate public access to such statements of economic interests.

(7) Prepare and publish special reports and technical studies to further the purposes of ch. 11, subch. III of ch. 13, and this subchapter.

(8) Report the full name and address of any individual and the full name and address of any person represented by an individual seeking to copy or obtain information from a statement of economic interests in writing to the individual who filed it, as soon as possible.

(9) Administer programs to explain and interpret ch. 11, subch. III of ch. 13, and this subchapter for state public officials, and for elective state officials, candidates for state public office, legislative officials, agency officials, lobbyists, as defined in s. 13.62, local public officials, corporation counselors and attorneys for local governmental units. The programs shall provide advice regarding appropriate ethical and lobbying practices, with special emphasis on public interest lobbying. The commission may delegate creation and implementation of any such program to a group representing the public interest. The commission may charge a fee for participants in any such program.

(10) Compile and make available information filed with the commission in ways designed to facilitate access to the information. The commission may charge a fee to a person requesting information for compiling, disseminating or making available such information, except that the commission shall not charge a fee for inspection at the commission’s office of any record otherwise open to public inspection under s. 19.35 (1).


Cross-reference: See also ETH, Wis. adm. code.

19.49 Administration; enforcement. (1) GENERAL AUTHORITY. The commission shall have the responsibility for the administration of ch. 11, subch. III of ch. 13, and this subchapter. Pursuant to such responsibility, the commission may:

(a) In the discharge of its duties and after providing notice to any party who is the subject of an investigation, subpoena and require the production of any papers, book, or other records relevant to an investigation. Notwithstanding s. 885.01 (4), the issuance of a subpoena requires action by the commission at a meeting of the commission. A circuit court may by order permit the inspection and copying of the accounts and the depositor’s and loan records at any financial institution, as defined in s. 705.01 (3), doing business in the state to obtain evidence of any violation of ch. 11 upon showing by the commission of probable cause to believe there is a violation and that such accounts and records may have a substantial relation to the violation. In the discharge of its duties, the commission may cause the deposition of witnesses to be taken in the manner prescribed for taking depositions in civil actions in circuit court.

(b) Bring civil actions to require a forfeiture for any violation of ch. 11, subch. III of ch. 13, or this subchapter or for a license revocation for any violation of subch. III of ch. 13 for which the offender is subject to a revocation. The commission may compromise and settle any civil action or potential action brought or authorized to be brought by it which, in the opinion of the commission, constitutes a minor violation, a violation caused by excusable neglect, or which for other good cause shown, should not in the public interest be prosecuted under such chapter. Notwithstanding s. 778.06, a civil action or proposed civil action authorized under this paragraph may be settled for such sum as may be agreed between the parties. Any settlement made by the commission shall be in such amount as to deprive the alleged violator of any benefit of his or her wrongdoing and may contain a penal component to serve as a deterrent to future violations. In settling civil
actions or proposed civil actions, the commission shall treat comparable situations in a comparable manner and shall assure that any settlement bears a reasonable relationship to the severity of the offense or alleged offense. Except as otherwise provided in sub. (2) (b) 13., and 14. and ss. 19.554 and 19.59 (8), forfeiture and license revocation actions brought by the commission shall be brought in the circuit court for the county where the defendant resides, or if the defendant is a nonresident of this state, in circuit court for the county wherein the violation is alleged to occur. For purposes of this paragraph, a person other than an individual resides within a county if the person’s principal place of operation is located within that county. Whenever the commission enters into a settlement agreement with an individual who is accused of a civil violation of ch. 11, subch. III of ch. 13, or this subchapter or who is investigated by the commission for a possible civil violation of one of those provisions, the commission shall reduce the agreement to writing, together with a statement of the commission’s findings and reasons for entering into the agreement and shall retain the agreement and statement in its office for inspection.

(c) Sue for injunctive relief, a writ of mandamus or prohibition, or other such legal or equitable relief as may be appropriate to enforce any law regulating campaign financing or ensure its enforcement. No bond is required in such actions. Actions shall be brought in circuit court for the county where a violation occurs or may occur.

(1m) Complaints. No complaint alleging a violation of s. 19.45 (13) may be filed during the period beginning 120 days before a general or spring election, or during the period commencing on the date of the order of a special election under s. 8.50, and ending on the date of that election, against a candidate who files a declaration of candidacy to have his or her name appear on the ballot at that election.

(2) Enforcement. (a) The commission shall investigate violations of laws administered by the commission and may prosecute alleged civil violations of those laws, directly or through its agents under this subsection, pursuant to all statutes granting or assigning that authority or responsibility to the commission. Prosecution of alleged criminal violations investigated by the commission may be brought only as provided in par. (b) 10., based on a sworn complaint filed with the commission, as provided under par. (b). Neither the commission nor any member or employee of the commission, including the commission administrator, may file a sworn complaint for purposes of this subsection.

(b) 1. Any person may file a complaint with the commission alleging a violation of ch. 11, subch. III of ch. 13, or this subchapter. No later than 5 days after receiving a complaint, the commission shall notify each person who or which the complaint alleges committed such a violation. Before voting on whether to take any action regarding the complaint, other than to dismiss, the commission shall give each person receiving a notice under this subdivision an opportunity to demonstrate to the commission, in writing and within 15 days after receiving the notice, that the commission should take no action against the person on the basis of the complaint. The commission may not conduct any investigation or take any other action under this subsection solely on the basis of a complaint by an unidentified complainant.

1m. If the commission finds, by a preponderance of the evidence, that a complaint is frivolous, the commission may order the complainant to forfeit not more than the greater of $500 or the expenses incurred by the commission in investigating the complaint.

2. Any person to whom ch. 11, subch. III of ch. 13, or this subchapter may have application may request the commission to make an investigation of his or her own conduct or of allegations made by other persons as to his or her conduct. Such a request shall be made in writing and shall set forth in detail the reasons therefor.

3. If the commission reviews a complaint and finds that there is a reasonable suspicion that a violation under subd. 1. has occurred or is occurring, the commission shall dismiss the complaint. If the commission believes that there is reasonable suspicion that a violation under subd. 1. has occurred or is occurring, the commission may by resolution authorize the commencement of an investigation. The resolution shall specifically set forth any matter that is authorized to be investigated. To assist in the investigation, the commission may elect to retain a special investigator. If the commission elects to retain a special investigator, the administrator shall submit to the commission the names of 3 qualified individuals to serve as a special investigator. The commission may retain one or more of the individuals. If the commission retains a special investigator to investigate a complaint against a person who is a resident of this state, the commission shall provide to the district attorney for the county in which the person resides a copy of the complaint and shall notify the district attorney that it has retained a special investigator to investigate the complaint. For purposes of this subdivision, a person other than an individual resides within a county if the person’s principal place of operation is located within that county. The commission shall enter into a written contract with any individual who is retained as a special investigator setting forth the terms of the engagement. A special investigator who is retained by the commission may request the commission to issue a subpoena to a specific person or to authorize the special investigator to request the circuit court of the county in which the specific person resides to issue a search warrant. The commission may grant the request by approving a motion to that effect at a meeting of the commission if the commission finds that such action is legally appropriate.

4. Each special investigator who is retained by the commission shall make periodic reports to the commission, as directed by the commission, but in no case may the interval for reporting exceed 30 days. If the commission authorizes the administrator to investigate any matter without retaining a special investigator, the administrator shall make periodic reports to the commission, as directed by the commission, but in no case may the reporting interval exceed 30 days. During the pendency of any investigation, the commission shall meet for the purpose of reviewing the progress of the investigation at least once every 90 days. The special investigator or the administrator shall report in person to the commission at that meeting concerning the progress of the investigation. If, after receiving a report, the commission does not vote to continue an investigation for an additional period not exceeding 90 days, the investigation is terminated at the end of the reporting interval. The commission shall not expend more than $25,000 to finance the cost of an investigation before receiving a report on the progress of the investigation and a recommendation to commit additional resources. The commission may vote to terminate an investigation at any time. If an investigation is terminated, any complaint from which the investigation arose is deemed to be dismissed by the commission. Unless an investigation is terminated by the commission, at the conclusion of each investigation, the administrator shall present to the commission one of the following:

a. A recommendation to make a finding that probable cause exists to believe that one or more violations under subd. 1. have occurred or are occurring, together with a recommended course of action.

b. A recommendation for further investigation of the matter together with facts supporting that course of action.

c. A recommendation to terminate the investigation due to lack of sufficient evidence to indicate that a violation under subd. 1. has occurred or is occurring.

d. A. If the commission finds that there is probable cause to believe that a violation under subd. 1. has occurred or is occurring, the commission may authorize the administrator to file a civil complaint against the alleged violator. In such case, the adminis-
tractor may request the assistance of special counsel to prosecute any action brought by the commission. If the administrator requests the assistance of special counsel with respect to any matter, the administrator shall submit to the commission the names of 3 qualified individuals to serve as special counsel. The commission may retain one of the individuals to act as special counsel. The staff of the commission shall provide assistance to the special counsel as may be required by the counsel to carry out his or her responsibilities.

b. The commission shall enter into a written contract with any individual who is retained as special counsel setting forth the terms of the engagement. The contract shall set forth the compensation to be paid such counsel by the state. The contract shall be executed on behalf of the state by the commission and the commission shall file the contract in the office of the secretary of state. The compensation shall be charged to the appropriation under s. 20.521 (1) (br).

6. No individual who is appointed or retained by the commission to serve as special counsel or as a special investigator is subject to approval under s. 20.930.

7. At the conclusion of its investigation, the commission shall, in preliminary written findings of fact and conclusions based thereon, make a determination of whether or not probable cause exists to believe that a violation under subd. 1. has occurred or is occurring. If the commission determines that no probable cause exists, it shall dismiss the complaint. Whenever the commission dismisses a complaint or a complaint is deemed to be dismissed under subd. 4., the commission shall immediately send written notice of the dismissal to the accused and to the party who made the complaint.

8. The commission shall inform the accused or his or her counsel of exculpatory evidence in its possession.

9. If the commission finds that there is probable cause to believe that a violation under subd. 1. has occurred or is occurring, the commission may, in lieu of civil prosecution of any matter by the commission, refer the matter to the district attorney for the county in which the alleged violator resides, or if the alleged violator is a nonresident, to the district attorney for the county where the matter arises, or if par. (h) applies, to the attorney general or a special prosecutor. For purposes of this subdivision, a person other than an individual resides within a county if the person’s principal place of operation is located within that county.

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 may authorize the administrator to compromise and settle such alleged offenses in the name of the commission if the alleged offenses by an offender, in the aggregate, do not involve payment of more than $2,500.

11. If a special investigator or the administrator, in the course of an investigation authorized by the commission, discovers evidence that a violation under subd. 1. that was not within the scope of the authorized investigation has occurred or is occurring, the special investigator or the administrator may present evidence to the commission. If the commission finds that there is a reasonable suspicion that a violation under subd. 1. that is not within the scope of the authorized investigation has occurred or is occurring, the commission may authorize the special investigator or the administrator to investigate the alleged violation or may elect to authorize a separate investigation of the alleged violation as provided in subd. 3.

12. If a special investigator or the administrator, in the course of an investigation authorized by the commission, discovers evidence of a potential violation of a law that is not administered by the commission arising from or in relation to the official functions of the subject of the investigation or any matter that involves campaign finance, ethics, or lobbying regulation, the special investigator or the administrator may present that evidence to the commission. The commission may thereupon refer the matter to the appropriate district attorney specified in subd. 9. or may refer the matter to the attorney general. The attorney general may then commence a civil or criminal prosecution relating to the matter.

13. Except as provided in subd. 15., if the commission refers a matter to the district attorney specified in subd. 9. for prosecution of a potential violation under subd. 1. or 12. and the district attorney informs the commission that he or she declines to prosecute any alleged civil or criminal violation related to any matter referred to the district attorney by the commission, or the district attorney fails to commence a prosecution of any civil or criminal violation related to any matter referred to the district attorney by the commission within 60 days of the date of the commission’s referral, the commission may refer the matter to the district attorney for another prosecutorial unit that is contiguous to the prosecutorial unit of the district attorney to whom the matter was originally referred. If there is more than one such prosecutorial unit, the chairperson of the commission shall determine the district attorney to whom the matter shall be referred by publicly drawing lots at a meeting of the commission. The district attorney may then commence a civil or criminal prosecution relating to the matter.

14. Except as provided in subd. 15., if the commission refers a matter to a district attorney under subd. 13. for prosecution of a potential violation under subd. 1. or 12. and the district attorney informs the commission that he or she declines to prosecute any alleged civil or criminal violation related to any matter referred to the district attorney by the commission, or the district attorney fails to commence a prosecution of any civil or criminal violation related to any matter referred to the district attorney by the commission within 60 days of the date of the commission’s referral, the commission may refer the matter to the attorney general. The attorney general may then commence a civil or criminal prosecution relating to the matter.

15. The commission is not authorized to act under subd. 13. or 14. if a special prosecutor is appointed under s. 978.045 in lieu of the district attorney specified in subd. 9.

16. Whenever the commission refers a matter to special counsel or to a district attorney or to the attorney general under this subsection, the special counsel, district attorney, or attorney general shall report to the commission concerning any action taken regarding the matter. The report shall be transmitted no later than 40 days after the date of the referral. If the matter is not disposed of during that period, the special counsel, district attorney, or attorney general shall file a subsequent report at the end of each 30–day period following the filing of the initial report until final disposition of the matter.

(c) 1. No individual who serves as the administrator may have been a lobbyist, as defined in s. 13.62 (11). No such individual may have served in a partisan state or local office.

2. No employee of the commission, while so employed, may become a candidate, as defined in s. 11.0101 (1), for a state or partisan local office. No individual who is retained by the commission to serve as a special investigator or as special counsel may, while so retained, become a candidate, as defined in s. 11.0101 (1), for any state or local office. A filing officer shall decline to accept nomination papers or a declaration of candidacy from any individual who does not qualify to become a candidate under this paragraph.

(d) No individual who serves as an employee of the commission and no individual who is retained by the commission to serve as a special investigator or a special counsel may, while so employed or retained, make a contribution, as defined in s. 11.0101 (8), to a candidate for state or local office. No individual who serves as an employee of the commission and no individual who is retained by the commission to serve as a special investigator or as special counsel, for 12 months prior to becoming so
employed or retained, may have made a contribution, as defined in s. 11.0101 (8), to a candidate for a partisan state or local office.

(e) Pursuant to any investigation authorized under par. (b), the commission has the power:

1. To require any person to submit in writing such reports and answers to questions relevant to the proceedings as the commission may prescribe, such submission to be made within such period and under oath or otherwise as the commission may determine.

2. To order testimony to be taken by deposition before any individual who is designated by the commission and has the power to administer oaths, and, in such instances, to compel testimony and the production of evidence in the same manner as authorized by sub. (1) (a).

3. To pay witnesses the same fees and mileage as are paid in like circumstances by the courts of this state.

4. To request and obtain from the department of revenue copies of state income or franchise tax returns and access to other appropriate information under s. 71.78 (4) regarding all persons who are the subject of such investigation.

(f) 1. Except as provided in subd. 2, no action may be taken on any complaint that is filed later than 3 years after a violation of ch. 11, subch. III of ch. 13, or this subchapter is alleged to have occurred.

2. The period of limitation under subd. 1. is tolled for a complaint alleging a violation of s. 19.45 (13) or 19.59 (1) (br) for the period during which such a complaint may not be filed under sub. (1m) or s. 19.59 (8) (cm).

(g) If the defendant in an action for a civil violation of ch. 11, subch. III of ch. 13, or this subchapter is a district attorney or a circuit judge or a candidate for either such office, the action shall be brought by the commission. If the defendant in an action for a civil violation of ch. 11, subch. III of ch. 13, or this subchapter is the attorney general or a candidate for that office, the commission may appoint special counsel to bring suit on behalf of the state.

(h) If the defendant in an action for a criminal violation of ch. 11, subch. III of ch. 13, or this subchapter is a district attorney or a circuit judge or a candidate for either such office, the action shall be brought by the attorney general. If the defendant in an action for a criminal violation of ch. 11, subch. III of ch. 13, or this subchapter is the attorney general or a candidate for that office, the commission may appoint a special prosecutor to conduct the prosecution on behalf of the state.

(i) Any special counsel or prosecutor who is appointed under par. (g) or (h) shall be independent of the attorney general and need not be a state employee at the time of his or her appointment.

(j) The commission’s power to initiate civil actions under this subsection for the enforcement of ch. 11, subch. III of ch. 13, or this subchapter shall be the exclusive remedy for alleged civil violations of ch. 11, subch. III of ch. 13, or this subchapter.

(2g) AUDITING. In addition to the facial examination of reports and statements required under s. 11.1304 (9), the commission shall conduct an audit of reports and statements which are required to be filed with it to determine whether violations of ch. 11 have occurred. The commission may examine records relating to matters required to be treated in such reports and statements. The commission shall make official note in the file of a committee, as defined in s. 11.0101 (6), of any error or other discrepancy which the commission discovers and shall inform the person submitting the report or statement. The commission may not audit reports, statements, or records beyond the 3-year period for which a committee must retain records under ch. 11.

(2q) SUPPLEMENTAL FUNDING FOR ONGOING INVESTIGATIONS. The commission may request supplemental funds to be credited to the appropriation account under s. 20.521 (1) (be) for the purpose of continuing an ongoing investigation initiated under sub. (2). A request under this subsection shall be filed with the secretary of administration and the cochairpersons of the joint committee on finance in writing and shall contain a statement of the action requested, the purposes therefor, the statutory provision authorizing or directing the performance of the action, and information about the nature of the investigation for which the commission seeks supplemental funds, excluding the name of any individual or organization that is the subject of the investigation. If the cochairpersons of the joint committee on finance do not notify the secretary of administration that the committee has scheduled a meeting for the purpose of reviewing the request within 14 working days after the commission filed the request, the secretary shall supplement the appropriation under s. 20.521 (1) (be) from the appropriation under s. 20.505 (1) (d) in an amount not to exceed the amount the commission requested. If, within 14 working days after the commission filed the request, the cochairpersons of the joint committee on finance notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the commission’s request under this subsection, the secretary may supplement the appropriation under s. 20.521 (1) (be) only with the committee’s approval. The committee and the secretary shall notify the commission of all their actions taken under this subsection.


19.50 Unauthorized release of records or information. (1) Except as specifically authorized by law and except as provided in sub. (2), 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 ch. 11, subch. III of ch. 13, or this subchapter or any other law specified in s. 978.05 (1) (1) or (2) or provide access to any record of the investigator, prosecutor, or the commission that is not subject to access under s. 19.55 (3) 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.

(2) This section 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:

(a) Communications made in the normal course of an investigation or prosecution.

(b) Communications with a local, state, or federal law enforcement or prosecutorial authority.

(c) 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: 2015 a. 118.

19.55 Public inspection of records. (1) Except as provided in subs. (2) to (4), all records under ch. 11, this subchapter, or ch. 13 are open to public inspection at all reasonable times. The commission shall require an individual wishing to examine a statement of economic interests or the list of persons who inspect any statements which are in the commission’s possession to provide his or her full name and address, and if the individual is representing another person, the full name and address of the person which he or she represents. Such identification may be provided in writing or in person. The commission shall record and retain for at least 3 years information obtained by it pursuant to this subsection. No individual may use a fictitious name or address or fail to identify a principal in making any request for inspection.

(2) The following records in the commission’s possession are not open for public inspection:

(c) Statements of economic interests and reports of economic transactions which are filed with the commission by members or employees of the investment board, except that the commission shall refer statements and reports filed by such individuals to the legislative audit bureau for its review, and except that a statement...
of economic interests filed by a member or employee of the investment board who is also an official required to file shall be open to public inspection.

(d) Records of the social security number of any individual who files an application for licensure as a lobbyist under s. 13.63 or who registers as a principal under s. 13.64, except to the department of children and families for purposes of administration of s. 49.22, to the department of revenue for purposes of administration of s. 73.0301, and to the department of workforce development for purposes of administration of s. 108.227.

(dm) Records of the address of the primary residence of any individual who files an application for licensure as a lobbyist under s. 13.63.

(3) Records obtained or prepared by the commission in connection with an investigation, including the full text of any complaint received by the commission, are not subject to the right of inspection and copying under s. 19.35 (1), except as follows:

(a) The commission shall permit inspection of records that are distributed or discussed in the course of a meeting or hearing by the commission in open session.

(am) The commission shall provide to the joint committee on finance records obtained or prepared by the commission in connection with an ongoing investigation when required under s. 19.49 (2q).

(b) Investigatory records of the commission may be made public in the course of a prosecution initiated under ch. 11, subch. III of ch. 13, or this subchapter.

(bm) The commission shall provide investigatory records to the state auditor and the employees of the legislative audit bureau to the extent necessary for the bureau to carry out its duties under s. 13.94.

(c) The commission shall provide information from investigation and hearing records that pertains to the location of individuals and assets of individuals as requested under s. 49.22 (2m) by the department of children and families or by a county child support agency under s. 59.53 (5).

(d) If the commission commences a civil prosecution of a person for an alleged violation of ch. 11, subch. III of ch. 13, or this subchapter as the result of an investigation, the person who is the subject of the investigation may authorize the commission to make available for inspection and copying under s. 19.35 (1) records of the investigation pertaining to that person if the records are available by law to the subject person and the commission shall then make those records available.

(e) The following records of the commission are open to public inspection and copying under s. 19.35 (1):

1. Any record of the action of the commission authorizing the filing of a civil complaint under s. 19.49 (2) (b) 5.
2. Any record of the action of the commission referring a matter to a district attorney or other prosecutor for investigation or prosecution.
3. Any record containing a finding that a complaint does not raise a reasonable suspicion that a violation of the law has occurred.
4. Any record containing a finding, following an investigation, that no probable cause exists to believe that a violation of the law has occurred.

(a) Except as authorized or required under par. (b), records obtained in connection with a request for an advisory opinion issued under s. 19.46 (2), other than summaries of advisory opinions that do not disclose the identity of individuals requesting such opinions or organizations on whose behalf they are requested, are not subject to the right of inspection and copying under s. 19.35 (1). Except as authorized or required under par. (b), the commission shall make sufficient alterations in the summaries to prevent disclosing the identities of individuals or organizations involved in the opinions.

(b) The commission may make records obtained in connection with an informal advisory opinion under par. (a) public with the consent of the individual requesting the informal advisory opinion or the organization or governmental body on whose behalf it is requested. A person who makes or purports to make public the substance of or any portion of an informal advisory opinion requested by or on behalf of the person is deemed to have waived the confidentiality of the request for an informal advisory opinion and of any records obtained or prepared by the commission in connection with the request for an informal advisory opinion.

(c) Within 30 days after completing an investigation related to and the preparation of a formal advisory opinion on a matter under the jurisdiction of the commission, the commission shall make public the formal advisory opinion and records obtained in connection with the request for the formal advisory opinion, replacing the identity of any organization or governmental body on whose behalf the formal opinion is requested with generic, descriptive terms. The commission shall redact information related to the identity of any natural person making the request.

19.552 Action to compel compliance. Whenever a violation of the laws regulating campaign financing occurs or is proposed to occur, the attorney general or the district attorney of the county where the violation occurs or is proposed to occur may sue for injunctive relief, a writ of mandamus or prohibition, or other such legal or equitable relief as may be appropriate to compel compliance with the law. No bond is required in such actions.

19.554 Petition for enforcement. In addition to or in lieu of filing a complaint, any elector may file a verified petition alleging such facts as are within his or her knowledge to indicate that an election official has failed or is failing to comply with any law regulating campaign financing or proposes to act in a manner inconsistent with such a law, and requesting that an action be commenced for injunctive relief, a writ of mandamus or prohibition or other such legal or equitable relief as may be appropriate to compel compliance with the law. The petition shall be filed with the district attorney for the county having jurisdiction to prosecute the alleged failure to comply under s. 978.05 (1) and (2). The district attorney may then commence the action or dismiss the petition. If the district attorney declines to act upon the petition or if the district attorney fails to act upon the petition within 15 days of the date of filing, the petitioner may file the same petition with the attorney general, who may then commence the action.

19.56 Honorariums, fees and expenses. (1) Every state public official is encouraged to meet with clubs, conventions, special interest groups, political groups, school groups and other gatherings to discuss and to interpret legislative, administrative, executive or judicial processes and proposals and issues initiated by or affecting a department or the judicial branch.

(2) (a) Except as provided in par. (b), every official required to file who receives for a published work or for the presentation of a talk or participation in a meeting, any lodging, transportation, money or other thing with a combined pecuniary value exceeding $50 excluding the value of food or beverage offered coincidentally with a talk or meeting shall, on his or her statement of economic interests, report the identity of every person from whom the official receives such lodging, transportation, money or other thing during his or her preceding taxable year, the circumstances under which it was received and the approximate value thereof.

(b) An official need not report on his or her statement of economic interests under par. (a) information pertaining to any lodg-
ing, transportation, money or other thing of pecuniary value which:
1. The official returns to the payor within 30 days of receipt;
2. Is paid to the official by a person identified on the official’s statement of economic interests under s. 19.44 (1) (e) or (f) as a source of income;
3. The official can show by clear and convincing evidence was unrelated to and did not arise from the recipient’s holding or having held a public office and was made for a purpose unrelated to the purposes specified in sub. (1);
4. The official has previously reported to the commission as a matter of public record;
5. Is paid by the department or municipality of which the official’s state public office is a part, or, in the case of a district attorney, by that department or a county which the district attorney serves, or, in the case of a justice or judge of a court of record, is paid from the appropriations for operation of the state court system; or
6. Is made available to the official by the Wisconsin Economic Development Corporation or the department of tourism in accordance with sub. (3) (e), (em) or (f).

(3) Notwithstanding s. 19.45:
(a) A state public official may receive and retain reimbursement or payment of actual and reasonable expenses and an elected official may retain reasonable compensation, for a published work or for the presentation of a talk or participation in a meeting related to a topic specified in sub. (1) if the payment or reimbursement is paid or arranged by the organizer of the event or the publisher of the work.

(b) A state public official may receive and retain anything of value if the activity or occasion for which it is given is unrelated to the official’s use of the state’s time, facilities, services or supplies not generally available to all citizens of this state and the official can show by clear and convincing evidence that the payment or reimbursement was unrelated to and did not arise from the recipient’s holding or having held a public office and was paid for a purpose unrelated to the purposes specified in sub. (1).

(bm) A state public official may attend a meeting with clubs, conventions, special interest groups, political groups, school groups, and other gatherings, without paying admission costs, to discuss and to interpret legislative, administrative, executive, or judicial processes and proposals and issues initiated by or affecting the state legislature, state government, a department, or the judicial branch. A state public official may receive food, beverages, or other items included in the cost of admission unless the official pays the event organizer, including a principal or lobbyist, for the actual cost of the food, beverages, or items.

(c) A state public official may receive and retain from the state or on behalf of the state transportation, lodging, meals, food or beverage, or reimbursement therefor or payment or reimbursement of actual and reasonable costs that the official can show by clear and convincing evidence were incurred or received on behalf of the state of Wisconsin and primarily for the benefit of the state and not primarily for the private benefit of the official or any other person.

(d) A state public official may receive and retain from a political committee under ch. 11 transportation, lodging, meals, food or beverage, or reimbursement therefor or payment or reimbursement of costs permitted and reported in accordance with ch. 11.

(e) A state public official who is an officer or employee of the Wisconsin Economic Development Corporation may solicit, receive and retain on behalf of the state anything of value for the purpose of any of the following:
1. The sponsorship by the Wisconsin Economic Development Corporation of a trip to a foreign country primarily to promote trade between that country and this state that the Wisconsin Economic Development Corporation can demonstrate through clear and convincing evidence is primarily for the benefit of this state.
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2. Use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official’s immediate family either separately or together, or an organization with which the official is associated.

(d) Paragraph (c) does not prohibit a local public official from taking any action concerning the lawful payment of salaries or employee benefits or reimbursement of actual and necessary expenses, or prohibit a local public official from taking official action with respect to any proposal to modify a county or municipal ordinance.

(6) Paragraphs (a) to (c) do not apply to the members of a local committee appointed under s. 289.33 (7) (a) to negotiate with the owner or operator of, or applicant for a license to operate, a solid waste disposal or hazardous waste facility under s. 289.33, with respect to any matter contained or proposed to be contained in a written agreement between a municipality and the owner, operator or applicant or in an arbitration award or proposed award that is applicable to those parties.

(6) Paragraphs (a) to (c) do not apply to the members of a local committee appointed under s. 289.33 (7) (a) to negotiate with the owner or operator of, or applicant for a license to operate, a solid waste disposal or hazardous waste facility under s. 289.33, with respect to any matter contained or proposed to be contained in a written agreement between a municipality and the owner, operator or applicant or in an arbitration award or proposed award that is applicable to those parties.

(g) 1. In this paragraph:

a. “District” means a local professional baseball park district created under subch. III of ch. 229 or a local professional football stadium district created under subch. IV of ch. 229.

b. “District board member” means a member of the district board of a district.

2. No district board member may accept or receive transportation, lodging, meals, food or beverage, or reimbursement therefor, except in accordance with this paragraph.

3. A district board member may receive and retain reimbursement or payment of actual and reasonable expenses for a published work or for the presentation of a talk or participation in a meeting related to processes, proposals and issues affecting a district if the payment or reimbursement is paid or arranged by the organizer of the event or the publisher of the work.

4. A district board member may receive and retain anything of value if the activity or occasion for which it is given is unrelated to the member’s use of the time, facilities, services or supplies of the district not generally available to all residents of the district and the member can show by clear and convincing evidence that the payment or reimbursement was unrelated to and did not arise from the recipient’s holding or having held a public office and was paid for a purpose unrelated to the purposes specified in subd. 3.

5. A district board member may receive and retain from the district or on behalf of the district transportation, lodging, meals, food or beverage, or reimbursement therefor or payment or reimbursement of actual and reasonable costs that the member can show by clear and convincing evidence were incurred or received on behalf of the district and primarily for the benefit of the district and not primarily for the private benefit of the member or any other person.

6. No district board member may 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.

7. No district board member may use or attempt to use the position held by the member to influence or gain unlawful benefits, advantages or privileges personally or for others.

8. No district board member, member of a district board member’s immediate family, nor any organization with which the district board member or a member of the district board member’s immediate family owns or controls at least 10 percent of the outstanding equity, voting rights, or outstanding indebtedness may enter into any contract or lease involving a payment or payments of more than $3,000 within a 12-month period, in whole or in part derived from district funds unless the district board member has first made written disclosure of the nature and extent of such relationship or interest to the commission and to the district. Any con-

2019–20 Wisconsin Statutes updated through 2021 Wis. Act 267 and through all Supreme Court and Controlled Substances Board Orders filed before and in effect on July 1, 2022. Published and certified under s. 35.18. Changes effective after July 1, 2022, are designated by NOTES. (Published 7–1–22)
tract or lease entered into in violation of this subdivision may be voided by the district in an action commenced within 3 years of the date on which the commission, or the district, knew or should have known that a violation of this subdivision had occurred. This subdivision does not affect the application of s. 946.13.

9. No former district board member, for 12 months following the date on which he or she ceases to be a district board member, may, for compensation, on behalf of any person other than a governmental entity, make any formal or informal appearance before, or negotiate with, any officer or employee of a district with which he or she was associated as a district board member within 12 months prior to the date on which he or she ceased to be a district board member.

10. No former district board member, for 12 months following the date on which he or she ceases to be a district board member, may, for compensation, on behalf of any person other than a governmental entity, make any formal or informal appearance before, or negotiate with, any officer or employee of a district with which he or she was associated as a district board member in connection with any judicial or quasi-judicial proceeding, application, contract, claim, or charge which might give rise to a judicial or quasi-judicial proceeding which was under the former member's responsibility as a district board member within 12 months prior to the date on which he or she ceased to be a member.

11. No former district board member may, for compensation, act on behalf of any party other than the district with which he or she was associated as a district board member in connection with any judicial or quasi-judicial proceeding, application, contract, claim, or charge which might give rise to a judicial or quasi-judicial proceeding in which the former member participated personally and substantially as a district board member.

12. If a local public official receives an item that the official is not permitted to accept or retain under this subchapter or subch. III of ch. 13, the official shall do one of the following:

(a) Give the item to the official's agency to use or sell, except that the agency may not sell the item to any government employee or official.

(b) Give the item to another local agency or to a public institution, such as a local school, library, or museum, that can use the item.

(c) Give the item to a charitable organization, as defined in s. 11.0101 (4), not including a charitable organization with which the official or his or her immediate family is associated.

(d) Return the item to the donor.

(e) If the donor is neither a lobbyist, as defined in s. 13.62 (11), nor a principal, as defined in s. 13.62 (12), purchase the item at its full retail value and keep the item.

13. In addition to the requirements of sub. (1), any county, city, village or town may enact an ordinance establishing a code of ethics for public officials and employees of the county or municipality and candidates for county or municipal elective offices.

2. An ordinance enacted under this section shall specify the positions to which it applies. The ordinance may apply to members of the immediate family of individuals who hold positions or who are candidates for positions to which the ordinance applies.

3. An ordinance enacted under this section may contain any of the following provisions:

(a) A requirement for local public officials, other employees of the county or municipality and candidates for local public office to identify any of the economic interests specified in s. 19.44.

(b) A provision directing the county or municipal clerk or board of election commissioners to omit the name of any candidate from an election ballot who fails to disclose his or her economic interests in accordance with the requirements of the ordinance.

(c) A provision directing the county or municipal treasurer to withhold the payment of salaries or expenses from any local public official or other employee of the county or municipality who fails to disclose his or her economic interests in accordance with the requirements of the ordinance.

(d) A provision vesting administration and civil enforcement of the ordinance with an ethics board appointed in a manner specified in the ordinance. A board created under this paragraph may issue subpoenas, administer oaths and investigate any violation of the ordinance on its own motion or upon complaint by any person. The ordinance may empower the board to issue opinions upon request. Records of the board's opinions, opinion requests and investigations of violations of the ordinance may be closed in whole or in part to public inspection if the ordinance so provides.

(e) Provisions prescribing ethical standards of conduct and prohibiting conflicts of interest on the part of local public officials and other employees of the county or municipality or on the part of former local public officials or former employees of the county or municipality.

(f) A provision prescribing a forfeiture for violation of the ordinance in an amount not exceeding $1,000 for each offense. A minimum forfeiture not exceeding $100 for each offense may also be prescribed.

4. This section may not be construed to limit the authority of a county, city, village or town to regulate the conduct of its officials and employees to the extent that it has authority to regulate that conduct under the constitution or other laws.

5. (a) Any individual, either personally or on behalf of an organization or governmental body, may request of a county or municipal ethics board, a county corporation counsel or attorney for a local governmental unit, an advisory opinion regarding the propriety of any matter to which the person is or may become a party. Any appointing officer, with the consent of a prospective appointee, may request of a county or municipal ethics board, or in the absence of a county or municipal ethics board, a county corporation counsel or attorney for a local governmental unit an advisory opinion regarding the propriety of any matter to which the prospective appointee is or may become a party. The county or municipal ethics board or the county corporation counsel or attorney shall review a request for an advisory opinion and may advise the person making the request. Advisory opinions and requests therefor shall be in writing. It is prima facie evidence of intent to comply with this section or any ordinance enacted under this section when a person refers a matter to a county or municipal ethics board or a county corporation counsel or attorney for a local governmental unit and abides by the advisory opinion, if the material facts are as stated in the opinion request. A county or municipal ethics board may authorize a county corporation counsel or attorney to act in its stead in instances where delay is of substantial inconvenience or detriment to the requesting party. Except as provided in par. (b), neither a county corporation counsel or attorney for a local governmental unit nor a member or agent of a county or municipal ethics board may make public the identity of an individual requesting an advisory opinion or of individuals or organizations mentioned in the opinion.

(b) A county or municipal ethics board, county corporation counsel or attorney for a local governmental unit replying to a request for an advisory opinion may make the opinion public with the consent of the individual requesting the advisory opinion or the organization or governmental body on whose behalf it is requested and may make public a summary of an advisory opinion issued under this subsection after making sufficient alterations in the summary to prevent disclosing the identities of individuals involved in the opinion. A person who makes or purports to make public the substance of or any portion of an advisory opinion requested by or on behalf of the person waives the confidentiality
of the request for an advisory opinion and of any records obtained or prepared by the county or municipal ethics board, the county corporation counsel or the attorney for the local governmental unit in connection with the request for an advisory opinion.

(6) Any county corporation counsel, attorney for a local governmental unit or statewide association of local governmental units may request the commission to issue an opinion concerning the interpretation of this section. The commission shall review such a request and may advise the person making the request.

(7) (a) Any person who violates sub. (1) may be required to forfeit not more than $1,000 for each violation, and, if the court determines that the accused has violated sub. (1) (br), the court may, in addition, order the accused to forfeit an amount equal to the amount or value of any political contribution, service, or other thing of value that was wrongfully obtained.

(b) Any person who violates sub. (1) may be required to forfeit not more than $1,000 for each violation, and, if the court determines that a local public official has violated sub. (1) (br) and no political contribution, service or other thing of value was obtained, the court may, in addition, order the accused to forfeit an amount equal to the maximum contribution authorized under s. 11.1101 (1) for the office held or sought by the official, whichever amount is greater.

(8) (a) Subsection (1) shall be enforced in the name and on behalf of the state by action of the district attorney of any county wherein a violation may occur, upon the verified complaint of any person.

(b) In addition and supplementary to the remedy provided in sub. (7), the district attorney may commence an action, separately or in conjunction with an action brought to obtain the remedy provided in sub. (7), to obtain such other legal or equitable relief, including but not limited to mandamus, injunction or declaratory judgment, as may be appropriate under the circumstances.

(c) If the district attorney fails to commence an action to enforce sub. (1) (a), (b), or (c) to (g) within 20 days after receiving a verified complaint or if the district attorney refuses to commence such an action, the person making the complaint may petition the attorney general to act upon the complaint. The attorney general may then bring an action under par. (a) or (b), or both.

(cm) No complaint alleging a violation of sub. (1) (br) may be filed during the period beginning 120 days before a general or spring election, or during the period commencing on the date of the order of a special election under s. 8.50, and ending on the date of that election against a candidate who files a declaration of candidacy to have his or her name appear on the ballot at that election.

(cn) If the district attorney for the county in which a violation of sub. (1) (br) is alleged to occur receives a verified complaint alleging a violation of sub. (1) (br), the district attorney shall, within 30 days after receipt of the complaint, either commence an investigation of the allegations contained in the complaint or dismiss the complaint. If the district attorney dismisses the complaint, with or without investigation, the district attorney shall notify the complainant in writing. Upon receiving notification of the dismissal, the complainant may then file the complaint with the attorney general or the district attorney for a county that is adjacent to the county in which the violation is alleged to occur. The attorney general or district attorney may then investigate the allegations contained in the complaint and commence a prosecution.

(d) If the district attorney prevails in such an action, the court shall award any forfeiture recovered together with reasonable costs to the county wherein the violation occurs. If the attorney general prevails in such an action, the court shall award any forfeiture recovered together with reasonable costs to the state.

19.62 Definitions. In this subchapter:

(1) “Authority” has the meaning specified in s. 19.32 (1).

(2) “Internet protocol address” means an identifier for a computer or device on a transmission control protocol–Internet protocol network.

(3) “Matching program” means the computerized comparison of information in one records series to information in another records series for use by an authority or a federal agency to establish or verify an individual’s eligibility for any right, privilege or benefit or to recoup payments or delinquent debts under programs of an authority or federal agency.

(4) “ Personally identifiable information” means information that can be associated with a particular individual through one or more identifiers or other information or circumstances.

(5) “Record” has the meaning specified in s. 19.32 (2).

(6) “Records series” means records that are arranged under a manual or automated filing system, or are kept together as a unit, because they relate to a particular subject, result from the same activity or have a particular form.

(7) “State authority” means an authority that is a state elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, rule or order; a state governmental or quasi–governmental corporation; the supreme court or court of appeals; or the assembly or senate.


19.65 Rules of conduct; employee training; and security. An authority shall do all of the following:

(1) Develop rules of conduct for its employees who are involved in collecting, maintaining, using, providing access to, sharing or archiving personally identifiable information.

(2) Ensure that the persons identified in sub. (1) know their duties and responsibilities relating to protecting personal privacy, including applicable state and federal laws.


19.67 Data collection. (1) Collection from data subject or verification. An authority that maintains personally identifiable information that may result in an adverse determination about any individual’s rights, benefits or privileges shall, to the greatest extent practicable, do at least one of the following:

(a) Collect the information directly from the individual.

(b) Verify the information, if collected from another person.


19.68 Collection of personally identifiable information from Internet users. No state authority that maintains an Internet site may use that site to obtain personally identifiable information from any person who visits that site without the consent of the person from whom the information is obtained. This section does not apply to acquisition of Internet protocol addresses.

History: 2001 a. 16.

19.69 Computer matching. (1) Matching specification. A state authority may not use or allow the use of personally identifiable information maintained by the state authority in a match under a matching program, or provide personally identifiable information for use in a match under a matching program, unless the state authority has specified in writing all of the following for the matching program:

(a) The purpose and legal authority for the matching program.

(b) The justification for the program and the anticipated results, including an estimate of any savings.

19.81 Declaration of policy. (1) In recognition of the fact that a representative government of the American type is dependent upon an informed electorate, it is declared to be the policy of this state that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business.

(2) To implement and ensure the public policy herein expressed, all meetings of all state and local governmental bodies shall be publicly held in places reasonably accessible to members of the public and shall be open to all citizens at all times unless otherwise expressly provided by law.

(a) Any person who willfully requests or obtains personally identifiable information from an authority under false pretenses may be required to forfeit not more than $500 for each violation.


SUBCHAPTER V
OPEN MEETINGS OF GOVERNMENTAL BODIES

19.81 Declaration of policy. (1) In recognition of the fact that a representative government of the American type is dependent upon an informed electorate, it is declared to be the policy of this state that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business.

(2) To implement and ensure the public policy herein expressed, all meetings of all state and local governmental bodies shall be publicly held in places reasonably accessible to members of the public and shall be open to all citizens at all times unless otherwise expressly provided by law.

(3) In conformance with article IV, section 10, of the constitution, which states that the doors of each house shall remain open, except when the public welfare requires secrecy, it is declared to be the intent of the legislature to comply to the fullest extent with this subchapter.

(4) This subchapter shall be liberally construed to achieve the purposes set forth in this section, and the rule that penal statutes must be strictly construed shall be limited to the enforcement of forfeitures and shall not otherwise apply to actions brought under this subchapter or to interpretations thereof.

History: 1975 c. 426; 1983 a. 192.

NOTE: The following annotations relate to ss. 66.77, repealed by Chapter 426, laws of 1975.

Subsequent to the presentation of evidence by the taxpayer, a board of review’s consideration of testimony by the village assessor at an executive session was contrary to the open meeting law. Although it was permissible for the board to convene a closed session for the purpose of deliberating after a quasi-judicial hearing, the proceedings did not constitute mere deliberations but were a continuation of the quasi-judicial hearing without the presence of or notice to the objecting taxpayer. Dolphin v. Butler Board of Review, 70 Wis. 2d 403, 234 N.W.2d 277 (1975).

The open meeting law is not applicable to the judicial commission. State ex rel. Lynch v. Dancey, 71 Wis. 2d 287, 238 N.W.2d 81 (1976).

A regular open meeting, held subsequent to a closed meeting on another subject, does not constitute a reconvened open meeting when there was no prior open meeting on that day. 58 Att’y Gen. 41.

Consideration of a resolution is a formal action of an administrative or minor governing body and when taken in proper closed session, the resolution and result of the vote must be made available for public inspection, pursuant to s. 19.21, absent a specific showing that the public interest would be adversely affected. 60 Att’y Gen. 9.

Joint apprenticeship committees, appointed pursuant to Wis. Adm. Code provis., are governmental bodies and subject to the requirements of the open meeting law. 63 Att’y Gen. 363.

Procedures employed by worker’s compensation and unemployment advisory councils that utilized adjournment of public meeting for purposes of having members representing employers and members representing employees to separately meet in closed caucuses and to vote as a block on reconvening was contrary to the open records law. 63 Att’y Gen. 414.

A governmental body can call closed sessions for proper purposes without giving notice to members of the news media who have filed written requests. 63 Att’y Gen. 470.

The meaning of “communication” is discussed with reference to giving the public and news media members adequate notice. 63 Att’y Gen. 509.

The posting in the governor’s office of agenda of future investment board meetings is not sufficient communication to the public or the news media who have filed a written request for notice. 63 Att’y Gen. 549.

A county board may not utilize an unidentified paper ballot in voting to appoint a county highway commissioner, but may vote by ayes and nays or show of hands at an open session if some member does not require the vote to be taken in such manner that the vote of each member may be ascertained and recorded. 63 Att’y Gen. 589.

NOTE: The following annotations refer to ss. 19.81 to 19.98.

When the city of Milwaukee and a private non-profit festival organization incorporated the open meetings law into a contract, the contract allowed public enforcement of the contractual provisions concerning open meetings. Journal/Sentinel, Inc. v. Pleva, 155 Wis. 2d 704, 456 N.W.2d 359 (1990).

Sub. (2) requires that a meeting be held in a facility that gives reasonable public access, not total access. No person may be systematically excluded or arbitrarily refused admittance. State ex rel. Badke v. Greendale Village Bd. 173 Wis. 2d 555, 494 N.W.2d 408 (1993).

This subchapter is discussed. 65 Att’y Gen. preface.

Public notice requirements for meetings of a city district school board under this subchapter and s. 120.48, 1983 stats., are discussed. 66 Att’y Gen. 93.
A volunteer fire department organized as a nonprofit corporation under s. 213.05 is not subject to the open meeting law. 66 Att'y Gen. 113.

Anyone has the right to tape-record an open meeting of a governmental body provided the body is not thereby physically disturbed. 66 Att'y Gen. 171.

The open meeting law does not apply to a coroner's inquest. 67 Att'y Gen. 250.

The open meeting law does not apply if the common council holds a grievance under a collective bargaining agreement. 67 Att'y Gen. 276.

The application of the open meeting law to the duties of WERC is discussed. 68 Att'y Gen. 171.

A senate committee meeting was probably held in violation of the open meetings law where there was never any intention of the gathering to attempt to make any matter of policy, to reach agreement on differences, to make any decisions on any bill or part thereof, to take any votes, or to resolve substantive differences. Quorum gathering should be presumed to be in violation of the law, due to a quorum's ability to thereafter call, compose and control by vote a formal meeting of a governmental body. 71 Att'y Gen. 67.

Nonstock corporations created by statute as bodies politic clearly fall within the term “governmental body” as defined in the open meetings law and are subject to the provisions of the open meetings law. Nonstock corporations that were not created by the legislature or by rule, but were created by private citizens are not bodies politic and not governmental bodies. 73 Att'y Gen. 53.


19.82 Definitions. As used in this subchapter:

(1) “Governmental body” means a state or local agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, ordinance, rule or order; a governmental or quasi-governmental corporation except for the Bradley center sports and entertainment corporation; a local exposition district under subch. II of ch. 229; a town sanitary district under s. 60.77 (5) (k); or a formally constituted subunit of any of the foregoing, but excludes any such body or committee or subunit of such body which is formed for or meeting for the purpose of collective bargaining under subch. I, IV or V of ch. 111.

(2) “Meeting” means the convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. If one-half or more of the members of a governmental body are present, the meeting is no longer merely a gathering of members. If any member is not present, the meeting is merely a gathering of members. Authority, power or duties delegated to or vested in the body. The term does not include any social or chance gathering or conference which is not intended to avoid this subchapter, any gathering of the members of a town board for the purpose specified in s. 60.50 (6), any gathering of the commissioners of a town sanitary district for the purpose specified in s. 60.77 (5) (k), or any gathering of the members of a drainage board created under s. 88.16, 1991 stats., or under s. 88.17, for a purpose specified in s. 88.065 (5) (a) or (b).

(3) “Open session” means a meeting which is held in a place reasonably accessible to members of the public and open to all citizens at all times. In the case of a state governmental body, it means a meeting which is held in a building and room thereof which enables access by persons with physical limitations, as defined in s. 101.13 (1).


A “meeting” under sub. (2) was found although the governmental body was not empowered to exercise the final powers of its parent body. State v. Swanson, 92 Wis. 2d 310, 284 N.W.2d 655 (1979).

A “meeting” under sub. (2) was found when members met with a purpose to engage in government business and the number of members present was sufficient to determine policy. State v. Badke v. Greendale Village Board, 173 Wis. 2d 253, 449 N.W.2d 608 (1993).

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 examination. In a primary consideration, the body was functioning exclusively by public tax dollars or interest thereon. Additionally, its office was located in the municipal building, it was listed on the city Web site, 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 Cor- poration, 2008 WI 90, 312 Wis. 2d 423, 752 N.W.2d 305, 4662.

A particular group of members of the government compose a governmental body if there is a constitution, statute, ordinance, rule, or order conferring collective power, and the entity functions when it exists. To constitute a governmental body, there must be (1) a constitution, statute, ordinance, rule, or order conferring collective power to act uniformly in sufficient number to reach a quorum, (2) a body, and (3) the act of the body must constitute governmental body's existence under the open meetings law. The creation of a governmental body is not triggered merely by the formation of a governmental body. Rather, the entity must exist that has the power to take collective action that the members could not take individually. Krueger v. Appleton Area School District Board of Education, 2017 WI 70, 376 Wis. 2d 898, 928 N.W.2d 15, 15–0231.

When a governmental entity adopts a rule authorizing the formation of committees and conferring on them the power to take collective action, such committees are created rule under sub. (1) and the open meetings law applies. Here, a school board provided that the review of educational materials should be done according to the board−approved handbook. The handbook, in turn, authorized the formation of committees with a defined membership and the power to review educational materials and make formal recommendations for board approval. Because the committee in question was formed as one of these committees, pursuant to the authority delegated from the board by rule and the handbook, it was created by rule and therefore was a governmental body” under sub. (1). Krueger v. Appleton Area School District Board of Education, 2017 WI 70, 376 Wis. 2d 239, 898 N.W.2d 35, 15–0231.

Under Snows, 115 Wis. 2d 77, the open meetings law may apply to a walking quorum. A walking quorum is a series of gatherings among separate groups of members of a governmental body, each less than quorum size, who agree, tacitly or explicitly, to uniformly reach a quorum. To establish a quorum, a plaintiff must prove that members of a governmental body purposefully engaged in discussions of governmental business and that the discussions were held with sufficient number of members so as to affect the vote. State ex rel. Dept. of Natural Resources v. Boone County, 2018 WI App 19, 380 Wis. 2d 453, 909 N.W.2d 203, 17–00002.

A municipal public utility commission managing a city owned public utility is a governmental body under s. 60.50 (6), but a county owned public utility is not. 67 Atty Gen. 243.

A “private conference” under s. 118.22 (3), on nonrenewal of a teacher’s contract is a “meeting” within s. 19.82 (2). 66 Att’y Gen. 211.

A private home may qualify as a meeting place under sub. (3). 67 Att’y Gen. 125.

A telephone conference call involving members of governmental body is a “meeting” that must be reasonably accessible to the public and public notice must be given. 69 Atty Gen. 143.

A “quasi−governmental corporation” in sub. (1) includes private corporations that closely resemble governmental corporations in function, effect, or status. 80 Att’y Gen. 129.

Electron canvassing boards operating under ss. 7.51, 7.53, and 7.60 are governmental bodies subject to the open meetings law — including the public notice, open session, and reasonable public access requirements — when they convene for the purpose of canvassing activities, but not when they canvass only as individual inspectors fulfilling administrative duties. OAG 5–14.

19.83 Meetings of governmental bodies. (1) Every meeting of a governmental body shall be preceded by public notice as provided in s. 19.84, and shall be held in open session. At any meeting of a governmental body, all discussion shall be held and all action of any kind, formal or informal, shall be initiated, deliberated upon and acted upon only in open session except as provided in s. 19.85.

(2) During a period of public comment under s. 19.84 (2), a governmental body may discuss any matter raised by the public.


When a quorum of a governmental body attends the meeting of another governmental body when any one of the members is not also a member of the second body, the gathering is a “meeting,” unless the gathering is social or by chance. State ex rel. Badke v. Greendale Village Board, 173 Wis. 2d 553, 494 N.W.2d 408 (1993).

19.84 Public notice. (1) Public notice of all meetings of a governmental body shall be given in the following manner:

(a) As required by any other statutes; and

(b) By communication from the chief presiding officer of a governmental body or such person’s designee to the public, to the news media who have requested written notice, and to the official newspaper designated under ss. 95.04, 95.05, 985.06 or, if none exists, to a news medium likely to give notice in the area. Communication from the chief presiding officer of a governmental body or such person’s designee shall be made to the public using one of the following methods:

1. Posting a notice in at least 3 public places likely to give notice to persons affected.

2. Posting a notice in at least one public place likely to give notice to persons affected and placing a notice electronically on the governmental body’s Internet Site.

3. By paid publication in a news medium likely to give notice to persons affected.
Every public notice of a meeting of a governmental body shall set forth the time, date, place and subject matter of the meeting, including that intended for consideration at any contemplated closed session, in such form as is reasonably likely to apprise members of the public and the news media thereof. The public notice of a meeting of a governmental body may provide for a period of public comment, during which the body may receive information from members of the public.

Public notice of every meeting of a governmental body shall be given at least 24 hours prior to the commencement of such meeting unless for good cause such notice is impossible or impracticable in which case shorter notice may be given, but in no case may the notice be provided less than 2 hours in advance of the meeting.

Separate public notice shall be given for each meeting of a governmental body at a time and date reasonably proximate to the time and date of the meeting.

Departments and their subunits in any University of Wisconsin System institution or campus are exempt from the requirements of subs. (1) to (4) but shall provide meeting notice which is reasonably likely to apprise interested persons, and news media who have written requests for such notice.

Notwithstanding the requirements of s. 19.83 and the requirements of this section, a governmental body which is a formally constituted subunit of a parent governmental body may conduct a meeting without public notice if required by this section during a lawful meeting of the parent governmental body, during a recess in such meeting or immediately after such meeting for the purpose of discussing or acting upon a matter which was the subject of that meeting of the parent governmental body.

The presiding officer of the parent governmental body shall publicly announce the time, place and subject matter of the meeting of the subunit in advance at the meeting of the parent body.


There is no requirement in this section that the notice provided be exactly correct in every detail. State ex rel. Olson v. City of Baraboo Joint Review Board, 2002 WI App 64, 252 Wis. 2d 628, 643 N.W.2d 796, 01−2021.

Sub. (2) does not expressly require that the notice indicate whether a meeting will be purely deliberative or if action will be taken. The notice must alert the public of the importance of the meeting. Although a failure to expressly state whether action will be taken can be a violation, the importance of knowing whether a vote would be taken is diminished when no input from the audience is allowed or required. State ex rel. Olson v. City of Baraboo Joint Review Board, 2002 WI App 64, 252 Wis. 2d 628, 643 N.W.2d 796, 01−2021.

Sub. (2) sets forth a reasonable standard for determining whether notice of a meeting is sufficient that strikes the proper balance between the public’s right to information and the government’s need to efficiently conduct its business. The standard requires taking into account the circumstances of the case, which includes analyzing such factors as the burden of providing more detailed notice, whether the subject is of particular public interest, and whether it involves non−routine action that the public has a right to anticipate. Baswell v. Tomah Area School District, 2007 WI 71, 301 Wis. 2d 178, 732 N.W.2d 804, 05−2998.

The supreme court declined to review the validity of the procedure used to give notice of a joint legislative committee on elections alleged to violate the sub. (3) 24−hour notice requirement. The court will not determine whether internal operating rules or procedural statutes have been complied with by the legislature in the course of its enactments and will not intermeddle in what it views, in the absence of constitutional directives to the contrary, to be purely legislative concerns. Ozanne v. Fitzgerald, 2011 WI 43, 334 Wis. 2d 70, 798 N.W.2d 436, 11−0613.

Under sub. (3), a written request for notice of meetings of a governmental body should be filed with the chief presiding officer or designee and a separate written request should be filed with each specific governmental body. 65 Atty. Gen. 166.

The method of giving notice pursuant to sub. (1) is discussed. 65 Atty. Gen. 250.

The specificity of notice required by a governmental body is discussed. 66 Atty. Gen. 143, 195.

The requirements of notice given to newspapers under this section is discussed. 66 Atty. Gen. 230.

A town board, but not an annual town meeting, is a “governmental body” within the meaning of the open meetings law. 66 Atty. Gen. 237.

News media who have written requests for notices of public meetings cannot be charged fees by governmental bodies for communication of the notices. 77 Atty. Gen. 372.

A newspaper is not obligated to print a notice received under sub. (1) (b), nor is governmental body obligated to pay for publication. Martin v. Wray, 473 F. Supp. 1131 (1979).

**19.85 Exemptions.** (1) Any meeting of a governmental body, upon motion duly made and carried, may be convened in closed session under one or more of the exemptions provided in this section. The motion shall be carried by a majority vote in such manner that the vote of each member is ascertained and recorded in the minutes. No motion to convene in closed session may be adopted unless the chief presiding officer announces to those present at the meeting at which such motion is made, the nature of the business to be considered at such closed session, and the specific exemption or exemptions under this subsection by which such closed session is claimed to be authorized. Such announcement shall become part of the record of the meeting. No business may be taken up at any closed session except that which relates to matters contained in the chief presiding officer’s announcement of the closed session. A closed session may be held for any of the following purposes:

(a) Deliberating concerning a case which was the subject of any judicial or quasi−judicial trial or hearing before that governmental body.

(b) Considering dismissal, demotion, licensing or discipline of any public employee or person licensed by a board or commission or the investigation of charges against such person, or considering the grant or denial of tenure for a university faculty member, and the taking of formal action on any such matter; provided that the faculty member or other public employee or person licensed is given actual notice of any evidentiary hearing which may be held before final action being taken and of any meeting at which final action may be taken. The notice shall contain a statement that the person has the right to demand that the evidentiary hearing or meeting be held in open session. This paragraph and par. (f) do not apply to any such evidentiary hearing or meeting where the employee or person licensed requests that an open session be held.

(c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.

(d) Except as provided in s. 304.06 (1) (eg) and by rule promulgated under s. 304.06 (1) (em), considering specific applications of probation, extended supervision or parole, or considering strategies for crime detection or prevention.

(e) Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session.

(ee) Deliberating by the council on unemployment insurance in a meeting at which all employer members of the council or all employee members of the council are excluded.

(eg) Deliberating by the council on worker’s compensation in a meeting at which all employer members of the council or all employee members of the council are excluded.

(emin) Deliberating under s. 157.70 if the location of a burial site, as defined in s. 157.70 (1) (b), is a subject of the deliberation and if discussing the location in public would be likely to result in disturbance of the burial site.

(f) Considering financial, medical, social or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where par. (b) applies which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations.

(g) Confering with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.

(h) Consideration of requests for confidential written advice from the elections commission under s. 5.05 (6a) or the ethics commission under s. 19.46 (2), or from any county or municipal ethics board under s. 19.59 (5).

No governmental body may commence a meeting, subsequently convene in closed session and thereafter reconvene again
in open session within 12 hours after completion of the closed session, unless public notice of such subsequent open session was given at the same time and in the same manner as the public notice of the meeting convened prior to the closed session.

(3) Nothing in this subchapter shall be construed to authorize a governmental body to consider at a meeting in closed session the final ratification or approval of a collective bargaining agreement under subch. I, IV, or V of ch. 111 which has been negotiated by such body or on its behalf.


Although a meeting was properly closed, in order to refuse inspection of records of the meeting, the custodian was required by s. 19.35 (1) (a) to state specific and sufficient reasons why the public interest in nonpublic disclosure outweighed the public’s right of inspection. Oshkosh Northwestern Co. v. Oshkosh Library Board, 125 Wis. 2d 480, 373 N.W.2d 459 (Ct. App. 1985).

The balance between protection of reunion under sub. (1) (f) and the public interest in openness is discussed. Wis. State Journal v. UW–Platteville, 160 Wis. 2d 31, 465 N.W.2d 260 (Ct. App. 1990). See also Sangman v. Stugler, 161 Wis. 2d 828, 468 N.W.2d 783 (App. 1991).

A “case” under sub. (1) (a) contemplates an adversarial proceeding. It does not conote the mere application for and granting of a permit. Hodge v. Turtle Lake, 180 Wis. 2d 62, 550 N.W.2d 603 (1993).

A closed session to discuss an employee’s dismissal was properly held under sub. (1) (b) and did not require notice to the employee under sub. (1) (b) when no evidentiary hearing or final action took place in the closed session. State ex rel. Epping v. School Board, 300 Wis. 2d 649, 776 N.W.2d 616 (2007).

The exception under (1) (e) must be strictly construed. A private entity’s desire for confidentiality does not permit a closed meeting. A governing body may hold a closed meeting that secret meetings will produce cost savings does not justify closing the door to public scrutiny. Providing contingencies allowing for future public input was insufficient. Citizens for Responsible Development v. City of Milton, 2007 WI App 172, 312 Wis. 2d 1, 731 N.W.2d 640 (2007).

Nothing in sub. (1) (e) suggests that a reason for going into closed session must be shared by each municipality participating in an intergovernmental body. It is not inconsistent with the open meetings law for a body to move into closed session under sub. (1) (e) when the bargaining position to be protected is not shared by every member of the body. Once a vote passes to go into closed session, the reason for requesting the meeting is the reason of the entire body. Herro v. Village of McFarland, 2007 WI App 172, 303 Wis. 2d 749, 737 N.W.2d 55, 06–1929.

In allowing governmental bodies to conduct closed sessions in limited circumstances, this section does not create a blanket privilege shielding closed session contents from discovery. There is no implicit or explicit confidentiality mandate. A closed meeting is not synonymous with a meeting that, by definition, entails a privilege protecting contents from discovery. Sands v. The Whitnall School District, 2007 WI App 138, 305 Wis. 2d 649, 776 N.W.2d 580, 06–1437.

Boards of review cannot rely on the exemptions in sub. (1) to close any meeting in view of the explicit requirements in s. 70.47 (2m). 65 Atty. Gen. 162.

Neither sub. (1) (c) nor (f) authorizes a school board to make actual appointments of a new member in closed session. 74 Atty. Gen. 279.

A county board chairperson and committee are not authorized by sub. (1) (c) to meet in closed session to discuss appointments to county board committees. In appropriate circumstances, sub. (1) (f) would authorize the closed sessions. 66 Atty. Gen. 60.

A governmental body may convene in closed session to formulate collective bargaining strategy, but sub. (3) requires that deliberations leading to ratification of a tentative agreement with a bargaining unit, as well as the ratification vote, be held in open session. 81 Atty. Gen. 139.

“Evidentiary hearing” as used in sub. (1) (b), means a formal examination of accu- mulated evidence, including testimony or other forms of evidence that may be relevant to dismissal, demotion, licensing, or discipline of any public employee or person covered by that section. A council that considered a mayor’s accusations against an employee in closed session without giving the employee prior notice violated the requirement of actual notice to the employee. Campana v. City of Greenfield, 38 F. Supp. 2d 1043 (1999).


19.851 Closed sessions by ethics or elections commission.

(1) Prior to convening under this section or under s. 19.85 (1), the ethics commission and the elections commission shall vote to convene in closed session in the manner provided in s. 19.85 (1). The elections commission shall identify the specific reason or reasons under sub. (2) and s. 19.85 (1) (a) to (b) for convening in closed session. The elections commission shall identify the specific reason or reasons under s. 19.85 (1) (a) to (b) for convening in closed session. No business may be conducted by the ethics commission or the elections commission at any closed session under this section except that which relates to the purposes of the session as authorized in this section or as authorized in s. 19.85 (1).

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

History: 2007 a. 1; 2015 a. 118.

19.86 Notice of collective bargaining negotiations.

Notwithstanding s. 19.82 (1), where notice has been given by either party to a collective bargaining agreement under subch. I, IV, or V of ch. 111 to reopen such agreement at its expiration date, the employer shall give notice of such contract reopening as provided in s. 19.84 (1) (b). If the employer is not a governmental body, notice shall be given by the employer’s chief officer or such person’s designee.


19.87 Legislative meetings.

This subchapter shall apply to all meetings of the senate and assembly and the committees, subcommittees and other subunits thereof, except that:

Section 19.84 shall not apply to any meeting of the legislature or a subunit thereof called solely for the purpose of scheduling business before the legislative body; or adopting resolutions of which the sole purpose is scheduling business before the senate or the assembly.

No provision of this subchapter which conflicts with a rule of the senate or assembly or joint rule of the legislature shall apply to a meeting conducted in compliance with such rule.

No provision of this subchapter shall apply to any partisan caucus of the senate or any partisan caucus of the assembly, except as provided by legislative rule.

Meetings of the senate or assembly committee on organization under s. 71.78 (4) (c) or 77.61 (5) (b) 3. shall be closed to the public.

History: 1975 c. 426; 1977 c. 418; 1987 a. 312 s. 17.

Former open meetings law, s. 66.74 (4) (g), 1973 stats., that excepted “partisan cau- sices of the members” of the state legislature from coverage of the law applied to a closed meeting of the members of a joint legislative committee to discuss a bill. The contention that this exception was only intended to apply to the partisan caucuses of the whole houses would have been supportable if the exception were simply for “partisan caucuses of the state legislature” rather than partisan caucuses of members of the state legislature. State ex rel. Lynch v. Con, 71 Wis. 2d 662, 239 N.W.2d 313 (1976).

In contrast to former s. 66.74 (4) (g), 1973 stats., sub. (3) applies to partisan cau- sices of the houses, rather than to caucuses of members of the houses. State ex rel. Newspapers v. Shoovers, 135 Wis. 2d 77, 398 N.W.2d 154 (1987).

19.88 Ballots, votes and records.

(1) Unless otherwise specifically provided by statute, no secret ballot may be utilized to determine any election or other decision of a governmental body except the election of the officers of such body in any meet- ing.

(2) Except as provided in sub. (1) in the case of officers, any member of a governmental body may require that a vote be taken at any meeting in such manner that the vote of each member is ascertained and recorded.

(3) The motions and roll call votes of each meeting of a govern- mental body shall be recorded, preserved and open to public inspection to the extent prescribed in subch. II of ch. 19.


The plaintiff newspaper argued that sub. (3), 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 other 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 s. 19.37 (2) for an alleged violation of the open meetings law. The Journal Times v. City of Racine Board of Police and Fire Commissioners, 2015 WI 56, 362 Wis. 2d 577, 866 N.W.2d 563, 13–1715.
19.88 Exclusion of members. No duly elected or appointed member of a governmental body may be excluded from any meeting of such body. Unless the rules of a governmental body provide to the contrary, no member of the body may be excluded from any meeting of a subunit of that governmental body.

History: 1975 c. 426.

19.90 Use of equipment in open session. Whenever a governmental body holds a meeting in open session, the body shall make a reasonable effort to accommodate any person desiring to record, film or photograph the meeting. This section does not permit recording, filming or photographing such a meeting in a manner that interferes with the conduct of the meeting or the rights of the participants.

History: 1977 c. 322.

19.96 Penalty. Any member of a governmental body who knowingly attends a meeting of such body held in violation of this subchapter, or who, in his or her official capacity, otherwise violates this subchapter by some act or omission shall forfeit without reimbursement not less than $25 nor more than $300 for each such violation. Any member of a governmental body who, in his or her official capacity, otherwise violates this subchapter by some act or omission shall forfeit without reimbursement not less than $25 nor more than $300 for each such violation. No member of a governmental body is liable under this subchapter, or who, in his or her official capacity, otherwise violates this subchapter by some act or omission shall forfeit without reimbursement not less than $25 nor more than $300 for each such violation.

History: 1975 c. 426.

19.97 Enforcement. (1) This subchapter shall be enforced in the name and on behalf of the state by the attorney general or, upon the verified complaint of any person, by the district attorney of any county wherein a violation may occur. 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.

(2) In addition and supplementary to the remedy provided in s. 19.96, the attorney general or the district attorney may commence an action, separately or in conjunction with an action brought under s. 19.96, to obtain such other legal or equitable relief, including but not limited to mandamus, injunction or declaratory judgment, as may be appropriate under the circumstances.

(3) Any action taken at a meeting of a governmental body held in violation of this subchapter is voidable, upon action brought by the attorney general or the district attorney of the county wherein the violation occurred. However, any judgment declaring such action void shall not be entered unless the court finds, under the facts of the particular case, that the public interest in the enforcement of this subchapter outweighs any public interest which there may be in sustaining the validity of the action taken.

(4) If the district attorney refuses or otherwise fails to commence an action to enforce this subchapter within 20 days after receiving a verified complaint, the person making such complaint may bring an action under subs. (1) to (3) on his or her relation in the name, and on behalf, of the state. In such actions, the court may award actual and necessary costs of prosecution, including reasonable attorney fees to the relator if he or she prevails, but any forfeiture recovered shall be paid to the state.

(5) Sections 893.80 and 893.82 do not apply to actions commenced under this section.

History: 1975 c. 426; 1991 c. 289; 1995 a. 158.

Judicial Council Note, 1981: Reference in sub. (2) to a “writ” of mandamus has been removed because that remedy is now available in an ordinary action. See s. 781.01, stats., and the note thereeto. [Bill 613—A]

Awards of attorney fees are to be at a rate applicable to private attorneys. A court may review the reasonableness of the hours and hourly rate charged, including the rates for similar services in the area, and may in addition consider the peculiar facts of the case and the responsible party’s ability to pay. Hodge v. Town of Turtle Lake, 190 Wis. 2d 181, 526 N.W.2d 784 (Ct. App. 1994).

Actions brought under the open meetings and open records laws are exempt from the notice provisions of s. 903.80. Aaschulson v. Town of LaGrange, 200 Wis. 2d 585, 547 N.W.2d 587 (1996), 94–2809.

Failure to bring an action under this section on behalf of the state is fatal and deprives the court of competency to proceed. Fabyan v. Achtenhagen, 2002 WI App 214, 257 Wis. 2d 310, 652 N.W.2d 649, 01–3298.

Complaints under the open meetings law are not brought in the individual capacity of the plaintiff but on behalf of the state, subject to the 2–year statute of limitations under s. 893.93 (2). Leung v. City of Lake Geneva, 2003 WI App 129, 265 Wis. 2d 2d 674, 666 N.W.2d 104, 02–2747.

When a town board’s action was voided by the court due to lack of statutory authority, an action for enforcement under sub. (4) by an individual as a private attorney general on behalf of the state against individual board members for a violation of the open meetings law that would subject the individual board members to civil forfeitures was not rendered moot. Lawton v. Town of Barton, 2005 WI App 16, 278 Wis. 2d 388, 692 N.W.2d 304, 04–0659

19.98 Interpretation by attorney general. Any person may request advice from the attorney general as to the applicability of this subchapter under any circumstances.

History: 1975 c. 426.

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