

Minnesota

# ***Campaign Finance and Public Disclosure Board Meeting***

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Wednesday, December 13, 2023

9:30 A.M.

Blazing Star Room  
Centennial Office Building

## **REGULAR SESSION AGENDA**

1. **Approval of minutes**
  - A. November 1, 2023
2. **Chair's report**
  - A. Meeting schedule
3. **Executive director's report – No written material**
4. **Enforcement report**
5. **Advisory opinion requests**
  - A. **Advisory Opinion 456**
  - B. **Advisory Opinion 457**
  - C. **Layover of Advisory Opinion Requests**
6. **Rulemaking update**
7. **Legal report**
8. **Other business**

## **EXECUTIVE SESSION**

Immediately following regular session



**STATE OF MINNESOTA  
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

.....  
**November 1, 2023  
Room 212  
Centennial Office Building**  
.....

**MINUTES**

The meeting was called to order by Chair Soule.

Members present: Asp (arrived during the executive director's report), Flynn, Leppik, Rashid, Soule, Swanson

Others present: Sigurdson, Engelhardt, Johnson, Olson, staff; Hartshorn, counsel

**MINUTES** (October 6, 2023)

The following motion was made:

Member Flynn's motion: To approve the October 6, 2023, minutes as drafted.

Vote on motion: Unanimously passed.

**CHAIR'S REPORT**

**2023 meeting schedule**

The next Board meeting is scheduled for 9:30 a.m. on Wednesday, December 13, 2023.

**EXECUTIVE DIRECTOR'S REPORT**

Mr. Sigurdson stated that the Board has entered into an agreement with MNIT to move the Board's computer servers to Azure cloud platform. Mr. Sigurdson said that the arrangement will increase the Board's data storage and computing bandwidth, and will improve IT security. Mr. Sigurdson explained that he has asked that the migration to the Azure platform be completed by January 2024.

Mr. Sigurdson stated that he has made several presentations to organizations interested in and concerned about legislative changes made in 2023, particularly the changes made to the lobbying program. Mr. Sigurdson said he has made presentations to the Minnesota School Boards Association and the Minnesota State Bar Association, and they may seek advisory opinions related to the new lobbying provisions. Mr. Sigurdson explained that he and Ms. Engelhardt made a presentation to the

federal General Accounting Office about the public subsidy program. Mr. Sigurdson stated that he also recently made a presentation about the Board for a course at Metro State University.

Mr. Sigurdson stated that Greta Johnson has begun working for the Board, filling the vacant legal/management analyst position.

**ENFORCEMENT REPORT**

**A. Discussion Items**

**1. Request to refer matter to the Attorney General’s Office – Carlos Mariani and Neighbors for (Carlos) Mariani Committee (#12353)**

Ms. Engelhardt stated that Mr. Mariani is a former member of the Minnesota House of Representatives and failed to file his 2022 annual economic interest statement, which was due January 30, 2023. Ms. Engelhardt said that he has incurred the maximum late filing fee of \$100 and maximum civil penalty of \$1,000, and numerous notices, emails, and phone calls were made to Mr. Mariani informing him of the deadline for the statement and that the statement had not been filed. Ms. Engelhardt explained that Mr. Mariani also owes a late filing fee of \$100 and civil penalty of \$1,000 for the annual economic interest statement that was due January 28, 2019.

Ms. Engelhardt stated that the Neighbors for (Carlos) Mariani Committee has failed to file its 2022 year-end report of receipts and expenditures, which was due January 31, 2023, and the committee has incurred the maximum late filing fee of \$1,000 and maximum civil penalty of \$1,000. Ms. Engelhardt said that numerous notices, emails, and phone calls were made to Mr. Mariani informing him of the deadline for the report and that the report had not been filed. Ms. Engelhardt explained that the Neighbors for (Carlos) Mariani Committee also owes a significant amount of other late filing fees and civil penalties from previously filed late reports, totaling \$6,720, which does not include the maximum late filing fee and civil penalty for the 2022 year-end report.

Ms. Engelhardt stated that Board staff is asking the Board to refer the matter to the Attorney General’s Office to seek an order compelling filing the 2022 annual economic interest statement and the 2022 year-end report of receipts and expenditures, and payment of the balance owed amount of \$10,920.

The following motion was made:

Member Flynn’s motion: To refer the matter to the Attorney General’s Office.

Vote on motion: Unanimously passed.

**B. Waiver Requests**

Paul Lintilhac appeared before the Board by Webex on behalf of Trace and spoke in favor of waiver request 5. Mr. Lintilhac explained that there was significant upheaval within the company including the termination of its CEO that caused a breakdown in communication, and he was not aware of the need to file a principal’s report. Mr. Lintilhac said that the company exists solely as an IP holding company and has very minimal assets aside from the patents it is attempting to sell. Mr. Lintilhac said he did not receive communications from the Board until he received a notice from the Attorney General’s Office that was mailed to his parent’s address. Mr. Lintilhac explained that if the waiver request is not approved a payment plan would be needed to pay the balance owed.

Bridget Fisher appeared before the Board by Webex on behalf of the 65th Senate District DFL and spoke in favor of waiver request 6. Ms. Fisher stated that she was out of the country when the report was due and it slipped her mind when she returned. Ms. Fisher said that she has taken steps to prevent the issue from recurring, including providing personal email addresses for herself and the party unit’s chair to receive communications from the Board. Ms. Fisher explained that she did not open mail received from the Board, thinking it was standard communications like filing schedules and updates, and she promptly filed the report after being contacted by Ms. Engelhardt by phone in September 2023.

Entity	Late Fee/ Civil Penalty	Report Due	Factors and Recommended Action	Board Member's Motion	Motion	Vote on Motion
1. Lobbyist Jeffrey Bauer (2196)	\$25 LFF	1st 2023 Lobbyist Disbursement Report	Report due 6/15/2023, and filed 6/16/2023, one day late. Bauer had personal medical issues he was taking care of that prevented him from filing the report on time. RECOMMENDED ACTION: Waive	Leppik	Approve staff recommendation for requests 1-3	Unanimously approved
2. Christina Cauble (Board on Aging)	\$50 LFF	Original EIS	Report due 9/5/2023 and filed 10/3/2023. Ms. Cauble stated she completed the EIS online in July after receiving voicemail from CFB. She thought she submitted it, but it was only saved instead of submitted. RECOMMENDED ACTION: Waive	Leppik	Approve staff recommendation for requests 1-3	Unanimously approved

<p>3. Anisa Hajimumin (DEED)</p>	<p>\$100 LFF        \$1,000 CP</p>	<p>2022 Annual EIS</p>	<p>Report due 1/30/2023 and filed 9/21/2023. Appointment to DEED board ended 8/1/2022. Stated last day of official work with the state was 8/31/2022 and she gave her contact info to DEED before her departure. Board's only contact information for Ms. Hajimumin was for her DEED contact information and DEED did not forward the Board's correspondence until September. The current commissioner's executive assistant notified her that her EIS was overdue in September 2023. She then promptly filed her EIS. RECOMMENDED ACTION: Waive</p>	<p>Leppik</p>	<p>Approve staff recommendation for requests 1-3</p>	<p>Unanimously approved</p>
<p>4. Daniel Karpowitz (DOC)</p>	<p>\$100 LFF        \$1,000 CP</p>	<p>2022 Annual EIS</p>	<p>Report due 1/30/2023 and filed 3/21/2023. Appointment as assistant commissioner ended 1/3/2023. CFB had contact with Mr. Karpowitz in February via e-mail and a phone call but he did not personally take the phone call. Certified letter sent to his home address on 3/1/2023 warning him a civil penalty will be imposed if EIS is not received by 3/14/23. Mr. Karpowitz stated he neglected to file on time because his main focus was on familial challenges including part of immediate family relocating to NYC and caring for his out-of-state elderly parents and children. RECOMMENDED ACTION: Waive CP only</p>	<p>Swanson</p>	<p>Approve staff recommendation</p>	<p>Unanimously approved</p>

<p>5. Trace (7629)</p>	<p>\$1,000 LFF          \$1,000 CP</p>	<p>2021 Principal</p>	<p>Report due 3/15/2022 and filed 10/3/2023. Former CIO, Paul Lintilhac, resigned from CIO position 10/2020 and was subsequently unaware of day-to-day business activities. Lintilhac stated they were not aware of lobbying activity in 2021. Principal went through restructuring at end of 2021 and Lintilhac did not have access to PO Box, and principal's mailbox rental lapsed. Changed official address in 2022 but never updated CFB. CFB referred to MN Attorney General office to find principal and Trace received notice of the AG's lawsuit in September 2023. Mr. Lintilhac filed the lobbyist principal report promptly after discovering that it needed to be filed. RECOMMENDED ACTION: No recommendation</p>	<p>Rashid</p>	<p>Authorize staff to establish a payment plan to pay the balance owed of \$2,000</p>	<p>Unanimously approved</p>
<p>6. 65th Senate District DFL (20457)</p>	<p>\$1,000 CP          \$1,000 LFF</p>	<p>2022 Year-End</p>	<p>Report due 1/31/2023 and filed 9/19/2023. Treasurer (Bridget Fisher ) stated she forgot to file it due to concentrating on other work. Among other letters, emails, and phone calls stating that the report was not filed, CFB staff left a voicemail for Fisher 9/15/23 letting her know the report had not been filed. Fisher then promptly filed the report listing an ending cash balance of \$1,143. RECOMMENDED ACTION: No recommendation</p>	<p>Flynn</p>	<p>Waive CP only</p>	<p>Unanimously approved</p>

**C. Informational Items**

**1. Payment of civil penalty for excess special source contributions**

(Joe) Schomacker Volunteer Committee, \$125  
 Raines (Brian) for 34A, \$165

**2. Payment of civil penalty for excess individual contributions**

People for Maria Isa (Pérez-Vega), \$125

**3. Payment of civil penalty for prohibited contribution during legislative session**

John Palmer, \$100

**4. Payment of late filing fee for September 2023 report of receipts and expenditures**

Minneapolis for the Many, \$75  
Minneapolis Regional Labor Federation, \$75

**5. Payment of late filing fee for 2023 pre-primary report of receipts and expenditures**

SEIU Healthcare Minnesota, \$100

**6. Payment of late filing fee for failure to timely amend 2022 year-end report of receipts and expenditures**

Dennis Smith for Attorney General, \$50

**7. Payment of late filing fee for 2022 year-end report of receipts and expenditures**

Lenz (Paul) for House, \$825

**8. Payment of late filing fee for 2020 year-end report of receipts and expenditures**

Rachael Bucholz for House, \$250

**9. Payment of late filing fee for 2019 year-end report of receipts and expenditures**

Melissa Wagner for Minnesota 23B, \$1,000

**10. Payment of late filing fee for 2018 year-end report of receipts and expenditures**

Melissa Wagner for Minnesota 23B, \$1,000

**11. Payment of late filing fee for lobbyist disbursement report due June 15, 2023**

John Evans, \$175  
Megan Peterson, \$150 (\$75 x 2)



**RULEMAKING UPDATE**

Mr. Olson stated that Board staff continues working on draft language for the potentially controversial proposed rules, and intends to have draft language ready for rulemaking committee members to review before the next Board meeting.

**ANNUAL REPORT**

The following motion was made:

Member Rashid's motion: To approve the Board's Fiscal Year 2023 Annual Report.

Vote on motion: Unanimously passed.

**LEGAL REPORT**

Mr. Hartshorn presented members with a legal report that is attached to and made a part of these minutes. Mr. Hartshorn said that the Board's action on the Trace matter may impact the default judgment hearing scheduled in that matter. Member Swanson suggested canceling the default judgment hearing in the Trace matter but keeping the suit active for the time being.

**OTHER BUSINESS**

Ms. Johnson introduced herself and members welcomed her to the Board.

**EXECUTIVE SESSION**

Chair Soule recessed the regular session of the meeting and called to order the executive session. Upon recess of the executive session, Chair Soule reported into regular session the Final Audit Report issued in the matter of the Audit of Eligibility for Public Subsidy Payments – House District 52B Special Election.

There being no other business, the meeting was adjourned by the chair.

Respectfully submitted,

Jeff Sigurdson  
Executive Director

Attachments:  
Fiscal Year 2023 Annual Report  
Legal report





# MINNESOTA

## CAMPAIGN FINANCE BOARD

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### **Board Meeting Dates for Calendar Year 2024**

Meetings are at **9:30 A.M.** unless otherwise noted.

#### **2024**

Wednesday, January 3

Wednesday, February 7

Wednesday, March 6

Wednesday, April 3

Wednesday, May 1

Wednesday, June 5

Wednesday, July 3

Wednesday, August 7

Wednesday, September 4

Wednesday, October 2

Wednesday, November 6

Wednesday, December 4





# MINNESOTA CAMPAIGN FINANCE BOARD

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**Date:** December 1, 2023

**To:** Board members  
Counsel Hartshorn

**From:** Megan Engelhardt, Assistant Executive Director      **Telephone:** 651-539-1182  
Greta Johnson, Legal/Management Analyst                      **Telephone:** 651-539-1183

**Subject:** Enforcement report for consideration at the December 13, 2023, Board meeting

## **A. Discussion Items**

### **1. Balance adjustment request—Marla Vagts Campaign (#17728)**

The Vagts committee wants to terminate; however, in preparing the termination report in 2023, they discovered a cash balance discrepancy. The current treasurer spent considerable time looking at the issue. She discovered a \$100 error in 2022, and several expenditures totaling \$1,303.52 that were not reported in 2014 and 2015. The treasurer filed amended year-end reports for 2014, 2015, and 2022. Board staff did not request that the treasurer file amended reports for 2016 through 2021 to change the beginning cash balance based on the corrected 2015 ending cash balance. Instead, Board staff reviewed the 2016-2021 reports to calculate the correct beginning cash balance for 2022 based on the amendments to 2014 and 2015 to obtain the current 2022 beginning cash balance. The 2022 ending cash balance according to the amended 2022 year-end report was \$1,106.01; however, the 2022 ending cash balance according to the 2022 bank statement was \$467.37, a difference of \$638.64. The treasurer brought records in and reviewed the records and bank statements with Board staff in November 2023 and has worked hard to discover the errors to terminate the committee. The Vagts committee is requesting a downward adjustment of \$638.64, to its reported 2022 ending cash balance, changing the balance from \$1,106.01 to \$467.36. The Vagts committee will then file a 2023 year-end termination report to close the committee.

### **2. Balance adjustment request—Friends of Mark Bishofsky (#18729)**

The Bishofsky committee wants to terminate; however, in preparing the termination report in 2023, they discovered a balance discrepancy. After discovering the issue, Mr. Bishofsky spent a significant amount of time trying to fix the account while keeping in touch with the Board. The original 2022 year-end report showed an ending cash balance of \$1,106.22. The Bishofsky committee filed an amended 2022 year-end report with an ending cash balance of \$322.15. The 2022 ending cash balance according to the 2022 bank statement was \$593.50, a difference of \$271.35. Therefore, the Bishofsky Committee is requesting an upward balance adjustment from \$322.15 to \$593.50. The Bishofsky committee will then file a 2023 year-end termination report to close the committee.

**B. Waiver Requests**

#	Committee/ Entity	Late Fee/ Civil Penalty	Report Due	Factors	Prior Waivers	Recommended Action
1	Susan Landwehr Marshall (Board of Dietetic and Nutrition Practice)	\$100 LFF \$1,000 CP	2022 EIS	Report due 1/30/23 and filed 10/25/23. CFB sent multiple letters to an old address where she had not lived in years. Ms. Landwehr-Marshall had provided her current and correct address to the Governor when she applied to be on the board; however Board staff used the wrong address by accident. When the letters sent to her old address bounced back, CFB contacted the agency and the agency stated the address CFB had on file was incorrect. CFB sent the letter to the correct address and Ms. Landwehr- Marshall filed her EIS promptly.	No.	Waive.
2	Scott Wallner (Board of School Administrators)	\$100 LFF \$1,000 CP	2022 EIS	Report due 1/30/23 and filed 10/21/23. Mr. Wallner retired from his position on 9/15/22. CFB sent letters to his previous work and email addresses that were not forwarded to him. CFB also e-mailed BOSA on 1/26/23 stating Mr. Wallner's EIS had not been filed and asked for Mr. Wallner's contact info - BOSA did not respond. CFB found the correct address and Mr. Wallner received a letter at his home address on 10/19/23 alerting him of the fees, and he promptly sent his EIS to CFB. Mr. Wallner states he will pay the \$100 LFF but would like the \$1,000 CP waived.	No.	Waive.

3	Scott Mismash (DEED)	\$100 LFF \$1,000 CP	2022 EIS	Report due 1/30/23 and filed 11/02/23. DEED appointment ended 8/1/22 and DEED did not forward correspondence from CFB to Mr. Mismash. Mr. Mismash received a letter on 10/19/23 at his home address stating EIS was due and promptly filed his statement.	No.	Waive.
4	Representative Aisha Gomez	\$100 LFF \$1,000 CP	2022 EIS	Report due 1/30/23 and filed 10/25/23. Rep. Gomez's treasurer informed her correspondence from CFB was being sent to an incorrect address. Ms. Gomez changed her address with CFB in 2019 and has now again updated her address with the board with her treasurer's address. Rep. Gomez states she was informed by her staff that they were contacted regarding the missing statement, but it slipped her mind due to the amount of pressure she was under during the legislative session. Rep. Gomez was Chair of the Tax committee. During the session Rep. Gomez also lost someone very close to her. Gomez states she has limited income and asks that the fee be reduced.	\$70 LFF for Candidate EIS waived in Dec. 2020 due to impacts of civil unrest in Minneapolis at the time the EIS was due.	No recommendation.

5	Gertrude Matemba - Mutasa (DHS)	\$100 LFF \$1,000 CP	2022 EIS	Report due 1/30/23 and filed 11/15/23. Ms. Matemba-Mutasa received multiple letters from CFB, but she assumed they were sent to her by mistake. Ms. Matemba-Mutasa was unaware that her financial transactions were subject to campaign rules, as she had only worked for the state for three months in 2022. Ms. Matemba is no longer a public official and previously filed her statements on time.	No.	Do not waive.
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**C. Informational Items**

**1. Payment of civil penalty for excess special source contributions**

Committee for Jess Hanson for House, \$165

**2. Payment of late filing fee for 2023 pre-general report of receipts and expenditures**

AFSCME Council 5 PEOPLE Fund, \$125

**3. Payment of late filing fee for 2023 pre-general report of receipts and expenditures**

International Union of Operating Engineers, \$1,000  
 Joint Council 32 DRIVE, \$100  
 North Central States Carpenters PAC, \$100

**4. Payment of late filing fee for 2022 year-end report of receipts and expenditures**

Friends for Ethan (Cha), \$250

**5. Payment of late filing fee for 2022 pre-general large contribution notice**

Friends for Ethan (Cha), \$250

**6. Payment of late filing fee for 2022 pre-primary large contribution notice**

North Central States Carpenters PAC, \$1,000



**7. Payment of late filing fee for lobbyist disbursement report due June 15, 2023**

Jonathan Bohn, \$25  
Elizabeth Emerson, \$50 (\$25 x 2)  
Sherry Munyon, \$25  
Troy Olsen, \$25

**8. Payment of late filing fee for 2022 annual EIS**

Jay Hedtke, \$5

**9. Payment of late filing fee for Original EIS**

Destry Hell, \$100  
Richard Menholt, \$10  
Pete Thelemann, \$45

**Johnson, Greta (CFB)**

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**Subject:** FW: Vagts committee termination

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**From:** Diana Rico <[rdiana91@gmail.com](mailto:rdiana91@gmail.com)>  
**Sent:** Wednesday, November 15, 2023 7:24 AM  
**To:** Engelhardt, Megan (CFB) <[megan.engelhardt@state.mn.us](mailto:megan.engelhardt@state.mn.us)>  
**Subject:** Vagts committee termination

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Hi Megan,

I uploaded the amendment for 2022 this morning. I was out of town for my wedding anniversary over the weekend and work got crazy the last couple of days, sorry for the delay.

Let me know if you see it/that it works. I couldn't get the committee year to show my old work for the year end report so I just re-entered the info that I was trying to correct anyway and had it submit as an amendment. Let me know if this works or if I need to do a paper amendment for this too since I can't get the CFR software to show my work on either computer I have it on and my restore to backup isn't working either.

I'm taking my dog in for surgery this morning so I will be leaving work early to pick her up and can stop by the office if I need to for anything. (She's fine, just a cracked tooth that needs to come out)

Diana Rico

## Johnson, Greta (CFB)

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**From:** Bishofsky <Bishofsky@protonmail.com>  
**Sent:** Wednesday, November 15, 2023 7:43 PM  
**To:** Engelhardt, Megan (CFB)  
**Subject:** 2022 Addendum  
**Attachments:** Statements\_April\_2023.pdf; Statements\_June\_2023.pdf; Statements\_January\_2023.pdf; Statements\_September\_2023.pdf; Statements\_May\_2023.pdf; Statements\_December\_2022.pdf; Statements\_October\_2023.pdf; Statements\_February\_2023.pdf; Statements\_July\_2023.pdf; Statements\_March\_2023.pdf; Statements\_August\_2023.pdf; Statements\_November\_2022.pdf; Statements\_August\_2022.pdf; Statements\_September\_2022.pdf; Statements\_July\_2022.pdf; Statements\_October\_2022.pdf; Bishofsky Statements 1-22 to 6-22.pdf; Mark Bishofsky Campaign Report Addendum Notes.docx

**Follow Up Flag:** Follow up  
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Megan,

I have spent the last 6 hours straight digging through bank records and my report and I was not able to find the discrepancy other than the \$127.77 double entry. I have done the best I can. I filed an addendum for 2022. Below are my notes and I have also provided a Word document with more details. The best I can figure, I am off by \$270 and some cents.

Addendum Notes:

**A double entry of 127.77 was made for expenditure at Costco. One of those was moved to \$0**

I added an expenditure for **\$800 for Majority Strategies** (price dispute for services in which we settled on \$800. The service was provided in August 2022 but I did not pay it until March 2023)

I added 3 expenditures for Google Ads for \$5.19, \$56.65, and \$50.00 (These charges came through late for unknown reasons and were paid in August and July for services in October of 2022) **Total for Google Addendum is \$111.84**

██████████ donated \$100 total. She donated \$50 in 2021 and \$50 in 2022. She had Winred take back the donations in January of 2023 because she did not remember what the charge was for. I alerted her that is essentially fraud since she received the PCR and so she gave me \$100 cash which I put into the campaign account in August of 2023. There are multiple changes on the addendum as I initially changed the amount to zero, then I changed it back to \$50 and then to \$100 as I made the mistake of adding the 2021 donation amount. In the end, I changed it back to the original \$50.

If we take the original report cash balance for 2022 of \$1106.22 and add in the \$127.77 to make up for the double entry for Costco and we then subtract the \$800 (Maj. Strat) and \$111.84, we get a balance of \$322.15

**The only change for 2023 was that I purchased the campaign printer for \$115 and then paid out the remaining balance of \$707.30 to SD33 Republicans.**

The best I can come up with is that I was short **\$270.15**

I've attached all my 2022 bank statements as well as a Word document with more details. Sorry for all the confusion and thank you for helping!

Susan Landwehr Marshall (Board of Dieticians and Nutrition Practice)

October 25, 2023

Erika Ross  
Campaign Finance and Public Disclosure Board

Dear Erika,

I am requesting a waiver regarding my Economic Interest Statement completion. Unbeknownst to me the Campaign Finance and Public Disclosure Board has been mailing the Statement to a very old address of mine. It was mailed to an address that I did not provide to the Governor's Office or Secretary of State of MN when I applied to be a public member on the Board of Dietetics and Nutrition Practice. I have attached the letter sent to Governor Walz confirming the correct address that was provided.

Thank you for your consideration.

Sincerely,



Susan Landwehr Marshall

612.720.0903

susanlandwehr@hotmail.com

Susan Landwehr Marshall  
4241 Basswood Road  
St. Louis Park, MN 55416

August 9, 2022

Office of Governor Tim Walz  
75 Rev. Dr. Martin Luther King Jr., Blvd  
Suite 130  
Saint Paul, MN 55155-1611

Dear Governor Walz:

I have submitted an application electronically thru the Secretary of State web portal for the Board of Dieticians and Nutrition Practice as a public member.

Please accept this email letter as an addendum to the application outlining my interest in the Board. As a caregiver of my spouse who is largely housebound, I ultimately am the person who implements care plans and provides nutrition to best promote his healing and wellbeing. I have experienced firsthand how nutrition can and does affect his strength, his ability to stay ambulatory, his ability to fight off infection. After 4 hospitalizations and 1 stint in rehab between Jan and April 2022, I am keenly aware of how much nutrition impacts recovery.

My husband is African American, and has different tastes and food preferences than me. What appeals to him is different than what traditional Minnesota food might be. Buying and preparing food that he will be interested enough to eat is an ongoing challenge. Keeping him hydrated is just as important as making sure he has food nutrition. Guidelines for what types of nutrition are recommended for certain health conditions are so far off the mark from what the actuality of the day-to-day situation is for a caregiver.

Lastly, my husband has cognitive impairment. This presents multiple difficulties, not the least of which is his propensity to buy supplements on-line. He is attracted by the tv ads, the internet ads, the phone calls about the healing power of various pills, capsules, nutritional supplements.

I believe all of these experiences and my commitment to the Board mission of public protection provide a platform to be an effective public member.

Sincerely,

Susan Landwehr Marshall  
612-339-4599

## SCOTT D. WALLNER

Retired Community Education Director  
30095 Lilac Road  
St. Joseph, Minnesota 56374  
(320) 247-9532  
scott.wallner1@gmail.com

Megan Engelhardt, Assistant Executive Director  
Minnesota Campaign Finance Board  
Centennial Office Building, Suite 190  
658 Cedar Street  
St. Paul, Minnesota 55155-1603

Dear Ms. Engelhardt –

The purpose of my letter is to request that the Minnesota Campaign Finance Board grant leniency for statutory and civil fees incurred by the lateness of my Annual Statement of Economic Interest for 2023. It is my contention that I did not receive adequate notice, caused mostly due to my retirement from both my position with the Willmar public Schools as well as the Board of School Administrators (BOSA).

I was appointed to BOSA in mid-2020, and served through the end of September 2022. During my time there, I helped the Board transition from a long-time Executive Director to an interim one, helped the organization navigate through the COVID-19 pandemic, and was part of a two-day site visit to Hamline University to review the university's administrative licensing programs. As part of my responsibilities, I always completed and submitted without incident the proper Annual Statement of Economic Interest by the deadline.

On September 15, 2022, I retired from my K-12 administrative position with the Willmar Public Schools. To stay in compliance with state statute, I also retired/resigned from BOSA through an email that also included my personal contact information. My last BOSA Meeting was in late September 2022. After that meeting, I honestly believed I had fulfilled all my duties in regards to state documentation. Soon afterwards, the Governor appointed my replacement, and I spoke with that person a couple of times over the telephone and did what I could to help with his transition.

For several months, I heard nothing further from the Minnesota Campaign Finance Board. Imagine my surprise when I received a mailed letter to my home on October 19, 2023, from Erika Ross, stating that I would owe the State of Minnesota \$1,100 in fees and penalties. Included with the letter was a blank Annual Statement of Economic Interest which I immediately completed, signed, scanned, and emailed to Erika.

Also included in Erika's letter was a copy of a certified letter mailed to my former work address on March 1, 2023, reiterating the need for my completed statement and laying out the fees I was incurring. By that time, I was six months past my retirement and service to BOSA and was certainly not receiving any of my former work mail, nor was I thinking that I still needed to complete documentation for a state board that I was no longer on. I have attached a copy of the March 1 letter.

As an additional measure, I contacted the IT department with Willmar Public Schools and they sent me a screenshot of my work emails received in January 2022. As you can see from the attached screenshot, reminder emails from Erika were sent to my work email address, [wallners@willmar.k12.mn.us](mailto:wallners@willmar.k12.mn.us), on January 20, January 27, and January 30, 2023. In all three cases, my auto-response sent back a message saying that I

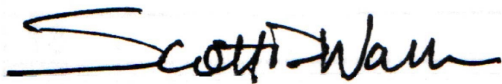
had retired and was no longer working for the school district. Like my USPS work mail, I no longer had access to this email address and thus never saw any of Erika's email messages. I have attached a copy of the screenshot to this email.

I have always been a law-abiding citizen, right down to my own administrative licenses which have always been complete and updated. I assure you, if I had personally received any of Erika's emails from January 2023 or the certified letter from March 1, 2023, I absolutely would have responded in a timely manner.

As a potential solution to this, I would like to propose the following: that I do pay the \$100 late that was incurred as of March 14, 2023, but that the Minnesota Campaign Finance Board waives the more severe civil penalty of \$1,000. Such an outcome would hold me accountable to the fact that I misinterpreted the calendar year covered by the form, and the Minnesota Campaign Board would recognize that I was not given appropriate notice to my personal email and mailing addresses. I'm hoping this will find favor with you.

Thank you for your consideration. Please let me know if you'd like further information, or if you'd like me to come before the Minnesota Campaign Finance Board for a conversation.

Sincerely,

A handwritten signature in black ink that reads "Scott Wallner". The signature is written in a cursive style with a large, sweeping initial "S".

Scott D. Wallner  
Retired Community Education Director &  
Former Board of School Administrators (BOSA) Member



# MINNESOTA

## CAMPAIGN FINANCE BOARD

March 1, 2023

Scott Wallner  
1234 Kandiyohi Avenue  
Willmar, MN, 56201

CERTIFIED AND FIRST CLASS MAIL

7017 1000 0000 0877 6835

**Re:** Annual statement of economic interest due January 30, 2023  
School Administrators, Board of

Scott Wallner

You have failed to file with the Board your annual statement of economic interest. This filing is a statutory requirement of the position listed above. Because you served in the position listed above during all or part of 2022, you are required to review and certify your statement of economic interest even if nothing on it has changed since your last statement or you left the position during the year.

To date you have accrued \$55 in late filing fees due to your failure to file the 2022 annual. The late fee will continue to accrue at a rate of \$5 per business day until it reaches the statutory maximum of \$100 on March 14, 2023. If you do not file the statement by the end of the day on March 14, 2023, a civil penalty of \$1,000 will be imposed on March 15, 2023.

Please complete the enclosed form and return it to the Board at the address listed below by March 14, 2023. Failure to submit the statement may result in referral to the Office of the Minnesota Attorney General to begin legal efforts to obtain the statement and/or to the Minnesota Department of Revenue to begin the collection process.

After you submit the statement, the Board will send you a letter specifying the amount owed. This letter will include information about how to ask the Board to waive the late fees and civil penalty if you had good cause for not filing the statement on time.

If you have any questions about filing your statement or the assessment of late filing fees, please contact me at 651-539-1187, 800-657-3889, or [erika.t.ross@state.mn.us](mailto:erika.t.ross@state.mn.us).

Sincerely,

A handwritten signature in cursive script that reads "Erika Ross".

Erika Ross  
Programs Administrator



Hello -- I've retired from ISD 347 [End now](#) [Vacation Settings](#)

**Gmail**

99+  
Mail

Compose

Mail

2,637

Inbox

Starred

Snoozed

Sent

Drafts

More

Chat

Spaces

Labels

- [Gmail]Trash
- 1Archived
- Administration
- Advertising & Outreach
- Advisory Council
- Associations

Erika.T.Ross@state.mn.us

Active

Mail Conversations Spaces

From Any time Has attachment To Is unread [Advanced search](#)

1-7 of 7

**R** Ross, Erika (CFB)

<input type="checkbox"/>	<input type="checkbox"/>	<b>Ross, Erika (CFB)</b>	<b>Economic interest statement</b> - As a public official in Minnesota, you must annual...	Jan 30
<input type="checkbox"/>	<input type="checkbox"/>	me	Hello -- I've retired from ISD 347 Re: Economic interest statement - Hello -- I have retired f...	Jan 27
<input type="checkbox"/>	<input type="checkbox"/>	<b>Ross, Erika (CFB)</b>	<b>Economic interest statement</b> - As a public official in Minnesota, you must annual...	Jan 27
<input type="checkbox"/>	<input type="checkbox"/>	me	Hello -- I've retired from ISD 347 Re: Economic interest statement - Hello -- I have retired f...	Jan 20
<input type="checkbox"/>	<input type="checkbox"/>	<b>Ross, Erika (CFB)</b>	<b>Economic interest statement</b> - As a public official in Minnesota, you must annual...	Jan 20
<input type="checkbox"/>	<input type="checkbox"/>	Ross, Erika (CFB)	<a href="#">.../Board of School Admin...</a> RE: Economic interest statement - Good Afternoon, This reminder...	3/18/22
<input type="checkbox"/>	<input type="checkbox"/>	Ross, Erika (CFB)	<a href="#">.../Board of School Admin...</a> Economic interest statement - The Campaign Finance and Public...	3/18/22

Using 12.56 GB

Program Policies  
Powered by Google

Last account activity: 0 minutes ago  
[Details](#)

**From:** [s.mismash](mailto:s.mismash)  
**To:** [Engelhardt, Megan \(CFB\)](#); [Ross, Erika \(CFB\)](#)  
**Subject:** Late Fee and Penalty Waiver Request  
**Date:** Tuesday, November 07, 2023 10:37:33 AM

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Some people who received this message don't often get email from smismash@gmail.com. [Learn why this is important](#)

**This message may be from an external email source.**

Do not select links or open attachments unless verified. Report all suspicious emails to Minnesota IT Services Security Operations Center.

CFB,

In late October 2023, I received a letter from your office informing me I had been assessed late filing fees and a civil penalty for failing to file an annual statement of economic interest (ASEI).

I request all fees and penalties be waived for the following reasons:

- 1) I separated from state employment with DEED in August 2022;
- 2) DEED did not forward any mail to me following the separation. Thus, I did not receive, in a timely manner, anything from the CFB sent to my address on file, which was my work address. This includes the original disclosure form and a follow-up reminder dated March 1, 2023.
- 3) I did, however, receive a letter dated October 19, 2023, stating I failed to file the ASEI, which was mailed to my home address.
- 4) The October 19, 2023 letter was the first notice I received indicating I needed to file the ASEI let alone that it was past due.
- 5) I completed and returned the ASEI shortly after I actually received it.

Ultimately, I did not receive timely notice and when I did receive notice, I both contacted your office and submitted the completed form. I believe this warrants waiver of all fees and penalties.

Thank you for your consideration,

Scott Mismash

**From:** [Gertrude K. Matemba-Mutasa](#)  
**To:** [Engelhardt, Megan \(CFB\)](#)  
**Subject:** RE: <EXTERNAL>URGENT - ACTION REQUIRED: Failure to file 2022 Annual m wStatement of Economic Interest  
**Date:** Wednesday, November 15, 2023 12:08:35 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)

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Here is my official statement:

When I joined state service, I understood that my private life would be public. I complied with the requirement to fill out the campaign forms every year during that time. When I left state service, I became a private citizen and assumed that the letters to fill out the form were sent to me in error. It was only recently that I learned that because I worked for the state for the first 3 months of the year, I was still required -even as a former state employee-, to fill out this form. The form has now been completed and I would like to request that the fees be waived because you now have the information you needed, and I was not aware until recently that those first 3 months of the year when I worked for the state, meant that my financial dealings would be subject to campaign rules.

Thank you for your consideration.

**Gertrude Matemba-Mutasa (She/Her)**

President/CEO

Lifeworks Services, Inc. | c: 651-802-3080 |

[lifeworks.org](#) | [Facebook](#) | [Instagram](#) | [LinkedIn](#) | [Twitter](#)



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Lifeworks Services, Inc. | 6636 Cedar Ave S, Suite 250 | Richfield | MN | 55423  
phone: 651-454-2732 | toll free: 1-866-454-2732

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**From:** [Aisha Gomez](#)  
**To:** [Engelhardt, Megan \(CFB\)](#)  
**Subject:** Re: Gomez 2022 EIS  
**Date:** Wednesday, November 29, 2023 1:51:39 PM

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## Dear Megan,

I am writing to ask for a reduction in my civil penalty that accrued because of my late statement of economic interest.

I am sorry that my paperwork was filed so late. I understand the importance of financial disclosures when someone is in a position of public trust as I am.

It was never my intention to hide any economic interests that I have from the board or the public. As you can see in my filing I basically have no economic interests to obscure.

My treasurer informed me that communication to my campaign about the missing EIS was going to an address not associated with her. We changed my address with the board when I was being harassed in 2019 and have now updated it to my treasurer's home address so this kind of thing will not happen again.

I was also informed by the board that my legislative office was contacted. Someone in my office did tell me about receiving a message from the Board but it was a busy day early in session in the middle of the work day and it slipped my mind.

It's hard to communicate the pressure of this year's session. Being appointed the tax chair for the first time in the context of the surplus and trifecta was a lot of work and required a lot of my brain. At the same time, someone very close to me, who was living in my home, went missing early in session. He was missing for six weeks and his body was found the same week that I presented the Tax budget bill on the floor of the house.

Unfortunately this is not the only thing that I neglected to take care of outside the legislature during that tumultuous and intense time.

I understand the need to make penalties meaningful in order to discourage violations of policy. But when fines and penalties are not dependent on ability to pay or do not take someone's financial situation into account they can have a disproportionate impact on lower income people. This is an issue we are trying to deal with in the legislature, in fact.

Just to share a little about my own situation, I am a single parent with very limited income outside of my legislative salary. I am certainly not complaining because I do enjoy a lot of material privilege compared to so many people in my district and across the state but I make well below the median income in MN. Like most Minnesotans and Americans I live check to check with nothing left over after I pay my monthly expenses.

An \$1100 fine, which to many of my colleagues who have more financial resources than I do would be a pain but manageable, would require me to go into debt to pay.

Again I admit my failure here and understand the need for a penalty. I would respectfully ask the board to consider reducing the amount of the fine and assure you that even having to pay a couple hundred dollars would constitute a meaningful penalty for my violation of policy and act as a strong disincentive to fail like this in the future.

Thank you for your consideration,  
Aisha

Aisha Gomez  
She/her





# MINNESOTA CAMPAIGN FINANCE BOARD

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**Date:** December 6, 2023

**To:** Board Members

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

**Re:** Advisory Opinion 456 – Communication between a membership organization and members of the organization is not lobbying.

The request for this advisory opinion was received from Patricia Beety, General Counsel for the League of Minnesota Cities, on behalf of the League of Minnesota Cities, the Association of Metropolitan Municipalities, the Minnesota Association of Small Cities, the Coalition of Greater Minnesota Cities, and the Municipal Legislative Commission, (the Membership Organizations) on November 3, 2023. Ms. Beety signed a release making her request and the resulting opinion public data.

The request provides that the Membership Organizations lobby at the legislature on behalf of, and at the direction of the member cities. The Membership Organizations report back to the member cities on the progress of the lobbying effort, and may suggest that the member cities sign a letter or contact local legislators to support the lobbying effort. In order for a city official to sign a letter, or contact a legislator, on behalf of the city, the city council must take a vote to authorize that action. The request asks if the Membership Organizations are lobbying the member cities when the organizations report on the legislative session or suggest that the cities indicate support for the lobbying that is being done on behalf of the membership.

The opinion as drafted concludes that the Membership Organizations are not lobbying political subdivisions when the organizations provide legislative status reports to member cities or suggest that the member cities show support for lobbying done at the direction of the member cities. That conclusion is explained in the draft opinion.

Attachments:

Advisory opinion request

Draft advisory opinion







November 3, 2023

Jeff Sigurdson, Executive Director  
Minnesota Campaign Finance and Public Disclosure Board  
190 Centennial Office Building  
658 Cedar St,  
St Paul, MN 55155

DELIVERED BY EMAIL to [jeff.sigurdson@state.mn.us](mailto:jeff.sigurdson@state.mn.us)

Dear Mr. Sigurdson:

On behalf of the League of Minnesota Cities, Metro Cities, the Minnesota Association of Small Cities, the Coalition of Greater Minnesota Cities, and the Municipal Legislative Commission, I am requesting an advisory opinion from the Campaign Finance and Public Disclosure Board. We seek clarification on the applicability of recent changes to the Campaign Finance statutes to municipal member organizations regarding the actions of municipal member organizations taken in support of our member cities

As you are aware, under 2023 Minn. Laws Ch. 62, Art. 5, a person is considered a “lobbyist” if they are compensated to attempt to influence official action of any Minnesota city by communicating with council members or senior staff (local officials) of that city. An “official action” for cities is essentially any action that requires a vote or approval by one or more council members, but also recommendations by city staff and other advisors regarding expenditures and investments of city funds. It is not clear whether there was any discussion prior to enactment of this law regarding how this may apply to actions by city member organizations on behalf of its member cities, but we believe it was not intended to capture our efforts to assist our members.

Each of our member organizations adopts legislative policies for the sole purpose of encouraging positive state support for local government. While we have different processes, the policies are exclusively determined and prioritized by formal committees of city officials who take time out of their day to tell us what is important to the functions of local government. These policies range from the general (support for local control, opposition to unfunded mandates,) to more specific outcomes (traffic enforcement cameras, statewide pension levels that encourage police and fire recruitment), but they are never the policies of a particular city. Cities that wish to pursue their own city-specific Legislative policies must use their own lobbyists. With these policies as “marching orders,” our organizations represent city government at the Legislature and leave cities to do what they do best—serve the public.

Because we are responsive and eager to help our members, we routinely reach out to local officials to alert them of some effort at the legislature that aligns or conflicts with the adopted legislative policies. We may notify all officials of all members or, if only a subset of cities would be affected, we only notify the subset. We may encourage cities to sign a letter in support or opposition to the action, or we may recommend city officials reach out to their legislative representatives. Since it takes a vote of council for a city official to either sign a letter or reach out to a Legislative representative, we are arguably influencing official actions of the cities.<sup>1</sup> While it may make sense to see registration and report by individuals who lobby a city to make a decision in the individual's interest, it doesn't make much sense for membership organizations to report actions taken in support of policies directed by members themselves.

To be clear, we are not seeking guidance on registration or reporting related to efforts to lobby the State Legislature. Our organizations believe good government includes a healthy balance between transparency and expediency of action. We already comply with registration and reporting requirements with respect to all actions taken to influence the Legislature. However, we cannot believe there was any intention by the Legislature for member organizations that represent cities to report communications with cities that are taken in service to the cities and their expectations of membership.

We are happy to supply as much or as little information on policy development and our practices of interacting with our members as may be useful to you. In hopes it is helpful, I am enclosing a link to the League's most recent "City Policies" document.

Sincerely yours,



Patricia Beety  
General Counsel  
League of Minnesota Cities

Encl: <https://www.lmc.org/advocacy/legislative-policies/current-legislative-policies-priorities/>

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<sup>1</sup> For the League, our attempts to influence city decisions doesn't end there. While we promote the importance of decision making at the local level, we also provide robust services to our members that help individual cities with guidance on a myriad of issues. This includes a Research department staffed with local government experts who develop written informational materials and answer individual member inquires. League staff also administer the largest municipal insurance pool in the state, so much of our effort is put into loss control and risk management to protect the public funds in the pool. Like the schools, in the 1980s we founded a local government investment pool which is governed by a document which can only be amended by a majority of favorable votes by participating cities. We have encouraged such amendments. We have also provided invaluable resources for state agencies intending to influence city actions. For example, when a city's regulatory compliance falls short, we have proven to be good partners with the state to pass along an agency's message. Just recently, we were instrumental to the efforts of the Attorney General's Office in encouraging cities to join the state in national opioid settlements to maximize funds coming into Minnesota and its communities. All of these efforts have impacted or resulted in official action by cities.

**State of Minnesota**  
**Campaign Finance and Public Disclosure Board**  
Suite 190, Centennial Building. 658 Cedar Street. St. Paul, MN 55155-1603

**THIS ADVISORY OPINION IS PUBLIC DATA**  
**pursuant to a consent for release of information**  
**provided by the requester**

Issued to: Patricia Beety  
General Counsel  
League of Minnesota Cities  
145 University Avenue West  
St. Paul, MN 55103

**RE: Lobbyist Registration and Reporting**

**ADVISORY OPINION 456**

**SUMMARY**

A membership organization for political subdivisions that communicates with its members about lobbying efforts made on behalf of those members, and suggests that members take action to support those lobbying efforts, is not lobbying its own members.

**FACTS**

On behalf of the League of Minnesota Cities, the Association of Metropolitan Municipalities, the Minnesota Association of Small Cities, the Coalition of Greater Minnesota Cities, and the Municipal Legislative Commission, (Membership Organizations) you request an advisory opinion from the Campaign Finance and Public Disclosure Board based on the following facts which were provided to the Board in a written request, and through Board records.

1. Each of the five Membership Organizations that request this opinion have lobbyists registered with the Board, and are lobbyist principals. As of the date of this opinion the Coalition of Greater Minnesota Cities is represented by fourteen lobbyists, the League of Minnesota Cities is represented by twelve lobbyists, the Association of Metropolitan Municipalities is represented by five lobbyists, the Municipal Legislative Commission is represented by one lobbyist, and the Minnesota Association of Small Cities is represented by one lobbyist.
2. Cities in Minnesota pay dues to belong to one or more of the Membership Organizations. In return, the Membership Organizations provide services and take actions on behalf of the cities. This includes lobbying the legislature and, in some cases, lobbying the Metropolitan Council and state agencies.

3. Each Member Organization adopts legislative policies that are then brought to the legislature to encourage actions that will support local government. The legislative policies that the Membership Organizations' lobbyists support are exclusively determined and prioritized by formal committees made up of local officials from member cities. The Membership Organizations do not have legislative goals independent of their members; only policy recommendations formally developed by their members are supported by lobbyists registered for the Membership Organizations. The policies range from general to more specific, but are never policies to benefit a single city.
4. A city that wishes to pursue legislative policy specific to that city must hire its own lobbyist.
5. The Membership Organizations report back to the cities on the legislative session, and in particular the lobbying efforts as directed by the members. This includes identifying and explaining legislation that would support or conflict with the legislative goals established by the Membership Organizations.
6. As part of lobbying efforts the Membership Organizations may suggest that cities sign a letter in support or opposition to a given legislative action, or suggest that cities contact their legislative delegation to ask for support of legislation, or to voice opposition to legislation, that aligns or conflicts with the legislative goals established by the member cities of the Membership Organizations.
7. A city council must vote to authorize a city official to either sign a letter on behalf of the city, or reach out to a legislator on behalf of a city. Therefore, the city council is taking an "official action of a political subdivision"<sup>1</sup> when it authorizes communication in the city's name to support or oppose legislative action.

### **Issue One**

Is a Membership Organization lobbying its member cities when it reports on the status of legislation and lobbying made on behalf of the membership, and recommends actions by the member cities that will support that lobbying effort?

### **Opinion One**

No. The member cities pay dues and fees to the Membership Organizations, in part, as payment for lobbying the legislature on issues selected by the cities. The Membership Organizations are, in effect, lobbying the legislature as paid agents of the member cities

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<sup>1</sup> Effective January 1, 2024, Minnesota Statutes section 10A.01, subdivision 26b, will provide that "[o]fficial action of a political subdivision' means any action that requires a vote or approval by one or more elected local officials while acting in their official capacity; or an action by an appointed or employed local official to make, to recommend, or to vote on as a member of the governing body, major decisions regarding the expenditure or investment of public money."

of each organization. As described, the legislative status reports are an update on the progress and obstacles faced by the Membership Organizations' lobbyists while working on the issues that were selected by the member cities. Chapter 10A does not restrict communication between a lobbyist and the lobbyist's client, or require that the communication between a lobbyist and the client be reported as lobbying, even if the client is a political subdivision of the state.

Minnesota Rules 4511.0100, subpart 3, defines the term lobbying to mean "attempting to influence legislative action, administrative action, or the official action of a metropolitan governmental unit<sup>2</sup> by communicating with or urging others to communicate with public officials or local officials in metropolitan governmental units. Any activity that directly supports this communication is considered a part of lobbying." The vote required by a city council in order for a city official to sign a letter of support for a legislative action, or contact a legislator, on behalf of the city is an official action by the city. If the Membership Organizations were asking the cities to take an official action in support of an issue or agenda brought to the cities by the Membership Organizations independent of their member cities, that would be lobbying of political subdivisions as provided in Chapter 10A. However, under the facts of this advisory opinion, the cities are not being asked to support the legislative agenda of the Membership Organizations, because the Membership Organizations do not have their own legislative agenda. The legislative agenda of each Membership Organization was created by its member cities, and lobbying effort to support the issues included in that agenda is being paid for by the member cities.

The question for the Board is whether lobbying of political subdivisions includes this situation in which an entity is reporting to a political subdivision the result of lobbying made on the political subdivision's behalf, or recommends actions by the political subdivision that will support that lobbying effort. When attempting to ascertain legislative intent courts are guided by Minnesota Statutes section 645.17, which states, in relevant part, that "the legislature does not intend a result that is absurd, impossible of execution, or unreasonable." Here, the Board concludes that the legislature intends for there to be meaningful disclosure to the public of lobbying by individuals and associations to influence the official actions of political subdivisions, but did not intend to include providing information on work requested and paid for by the political subdivision as lobbying of that political subdivision.

Further, if the Board was to conclude that the actions described in this opinion request is lobbying of political subdivisions then, as a consequence, the Membership Organization's lobbyists would need to file reports that list each member city as a subject of lobbying, and each issue that the Membership Organization lobbied on at the legislature as a lobbying subject for each city.

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<sup>2</sup> The Board intends to replace the term "metropolitan governmental unit" with the term "political subdivision" within its administrative rules in order to reflect changes to Minnesota Statutes section 10A.01, subdivision 21, and other lobbying provisions, which will take effect on January 1, 2024.

Each of the Member Organizations that requested this opinion already have lobbyists registered with the Board. Under the lobbyist reporting requirements that will be in effect as of January 1, 2024, lobbyists will disclose separately each issue on which they attempted to influence legislative action, and then separately each political subdivision where the lobbyist attempted to influence an official action. The League of Minnesota Cities currently has eight hundred and thirty-eight cities as members. Lobbyists for the League of Minnesota Cities will report the subjects they are lobbying on at the legislature on behalf of the member cities. If communicating with member cities about the legislative session as described is lobbying of political subdivisions, then the lobbyists will also list each of the eight hundred and thirty-eight cities separately, and for each city list the same lobbying subjects that were already disclosed as legislative lobbying. This would distort the disclosure provided in lobbyist reports by making it appear that the League of Minnesota Cities is lobbying the cities on those subjects, when actually the League of Minnesota Cities is lobbying on those subjects at the legislature at the direction of the member cities. The Board concludes that classifying requests by the Membership Organizations to member cities to express support for lobbying would have the consequence of distorting the reported lobbying by the Membership Organizations, and is not the intent of the legislature.

Although the activities contemplated in the request do not constitute lobbying of political subdivisions, encouraging member cities to communicate with members of the legislature, who are public officials, is legislative lobbying. For that reason, the conclusion that the contemplated activities do not constitute lobbying of political subdivisions does not impact which individuals are required to register as lobbyists under Minnesota Statutes section 10A.03. The Membership Organizations will need to track the cost of communicating with member cities to encourage support for a legislative effort as a cost to be reported on the Annual Report of the Lobbyist Principal.

Issued: December 13, 2023

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George Soule, Chair  
Campaign Finance and Public Disclosure Board



# MINNESOTA

## CAMPAIGN FINANCE BOARD

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**Date:** December 6, 2023

**To:** Interested Members of the Public

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

**Re:** Advisory Opinion 457

This advisory opinion request was received on November 17, 2023. The requester is an association whose members may be affected by recent changes to the statutes regulating lobbyist registration and reporting. The association does not wish to make their request public. Therefore, the draft opinion that is provided to the public does not identify the requestor. The Board will only discuss the public version of the draft opinion during regular session.

**Attachments:**

Public version of draft advisory opinion 457





**State of Minnesota**  
**Campaign Finance and Public Disclosure Board**  
Suite 190, Centennial Building. 658 Cedar Street. St. Paul, MN 55155-1603

**THE FOLLOWING PUBLICATION DOES NOT IDENTIFY THE  
REQUESTER OF THE ADVISORY OPINION, WHICH IS NON PUBLIC DATA  
under Minn. Stat. § 10A.02, subd. 12(b)**

**RE: Lobbyist Registration and Reporting**

**ADVISORY OPINION 457**

**SUMMARY**

Attorneys who represent clients by communicating with public or local officials are engaged in lobbying if that communication is intended to influence the official action of a political subdivision. Whether an action is an official action of a political subdivision is dependent upon whether the action must be approved by one or more public or local officials. Routine administrative tasks that need not be approved by a specific official or body of officials is not an official action.

**FACTS**

This advisory opinion from the Campaign Finance and Public Disclosure Board is based on the following facts, which were provided to the Board in a written request.

1. Some members of an association are unsure if the new definition of “official action of a political subdivision” may require the members who have interacted with political subdivisions in a way traditionally considered the practice of law may now need to register and report as a lobbyist.
2. The association requests that the Board provide general guidance on how attorneys can ensure that they are in compliance with lobbyist registration and reporting requirements, and provide advice on specific situations provided in the advisory opinion request.

**INTRODUCTION**

The determination of whether communication with government employees or officials is lobbying, and whether registration and reporting as a lobbyist is required for that communication, is determined by a number of factors. Although the requestor expresses specific concern over the definition of “official action of a political subdivision” the scenarios provided in the request require the Board to consider all of the following factors when providing the opinions within this advisory opinion. The factors are described in

terms of how they relate to attempting to influence the official action of a political subdivision. Because the request concerns statutory language that will be amended effective January 1, 2024, all references to statutory text within this opinion concern the language that will be in effect on that date, unless otherwise noted.

**Purpose of the communication** – Lobbying occurs when the communication is for the purpose of attempting to influence the official action of a political subdivision. The communication may be directly with public or local officials, but also occurs indirectly by asking other individuals to contact public or local officials to request an official action.<sup>1</sup> Communication that is a request for information is, by itself, not an attempt to influence an official action, and is therefore not lobbying.<sup>2</sup>

**Who are public and local officials** – The definition of public official is specific, and includes county commissioners, members of a watershed management organization, and supervisors of a soil and water conservation district.<sup>3</sup> The list of local officials is less definitive. Local officials include all individuals who hold an elective position in a political subdivision, and individuals who are appointed or employed by a political subdivision to a position in which the person has authority to make, to recommend, or to vote on as a member of the governing body, major decisions regarding the expenditure or investment of public money. The term “major decision” is not defined in Chapter 10A, and may be applied differently by the various political subdivisions. In the opinions below the Board provides that negligible expenditures of public funds are clearly not a “major decision,” but the Board recognizes that providing greater clarity on what constitutes a major decision through administrative rule or statutory update would be beneficial to individuals who are trying to comply with lobbyist registration and reporting requirements.

**Official action of a political subdivision** – As noted by the requestor, the definition of “official action of a political subdivision” is new. The definition is provided in Minnesota Statutes section 10A.01, subdivision 26b:

“Official action of a political subdivision” means any action that requires a vote or approval by one or more elected local officials while acting in their official capacity; or an action by an appointed or employed local official to make, to recommend, or to vote on as a member of the governing body, major decisions regarding the expenditure or investment of public money.

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<sup>1</sup> Minn. Stat. § 10A.01, subd. 21, (a) 1 (i). See also [Minn. R. 4511.0100, subp. 3](#). The Board intends to replace the term “metropolitan governmental unit” with the term “political subdivision” within its administrative rules in order to reflect changes to various statutes that will take effect on January 1, 2024.

<sup>2</sup> See [Findings and Order in the Matter of the Complaint by Karl Bremer regarding The Conach Group and Mike Campbell \(Aug. 16, 2011\)](#). The Board notes that in certain circumstances Minnesota Statutes section 10A.01, subdivision 21, provides that consulting or providing advice for a lobbying effort, or attempting to influence the official action of a political subdivision for more than 50 hours in any month while employed as a local official or employee of a political subdivision, may also make an individual a lobbyist, but those conditions do not apply to the scenarios provided in the opinion request.

<sup>3</sup> [Minn. Stat. § 10A.01, subd. 35](#).

Although the definition is new, it reflects the preexisting definition of who is a local official. The definition can be read as having two parts. The first part of the definition applies only to elected local officials. Any matter before an elected public official that requires a vote of members of the governing body of the political subdivision, or any subcommittee of the governing body of the political subdivision, is an official action of the political subdivision. Further, any action that requires “the approval” of the elected local official is an official action of the political subdivision. In the Board’s view, routine administrative tasks that are done through the office of a local elected official, and do not require the elected official to personally approve the action, are not official actions. An action that requires the elected public official to personally use their discretion to approve or not approve an action is an official action of the political subdivision.

The second part of the definition applies only to individuals who are local officials because they hold appointed positions or are employed in positions within political subdivision with the authority to make major decisions regarding expenditures or investments of public money. An action by a non-elected local official that does not relate to a major expenditure or investment of public funds is not an official action of a political subdivision. Therefore, attempting to influence the action of a non-elected local official that does not require a major expenditure or investment of public funds is not lobbying of a political subdivision.

**Compensation** – An individual who is not compensated for attempting to influence legislative action, administrative action, or the official action of a political subdivision is not required to register or report as a lobbyist unless the individual spends more than \$3,000 of their own money in a calendar year in support of those attempts (not including the cost of travel expenses or membership dues related to that effort).

An individual who is compensated for attempting to influence legislative action, administrative action, or the official action of a political subdivision is required to register and report as a lobbyist only when the compensation exceeds \$3,000 from all sources in a calendar year. It is important to note that registration and reporting as a lobbyist for a client may be required even if the compensation from that client is less than \$3,000 if other compensation for lobbying in aggregate exceeds \$3,000.

The scenarios provided in this advisory opinion do not indicate if an individual is being compensated for representing an individual or association, or what is the individual’s aggregate compensation for the year from lobbying. For all of the opinions provided in this request the Board assumes that the individual is being compensated for representing the individual or association, and that the lobbying compensation received from all sources within the calendar year exceeds \$3,000.

An individual who is determining if they must register and report as a lobbyist must consider all of these factors, and not just the definition of official action of a political subdivision.

## ISSUE

Do the following situations constitute lobbying?

1. Conveying proposed amendments to a comprehensive plan or zoning ordinance to city officials, even if the city requested comments from the local bar association.

Opinion: The proposed amendments to a comprehensive plan or zoning ordinance are an attempt to influence an official action of elected officials of the city, and therefore conveying the amendments is lobbying. The fact that a city either generally or specifically requested comments on the plan or ordinances does not change the purpose of the proposed amendments provided in response to the request. Although the scenario does not indicate that the individual or local bar association was paid by the city to provide testimony on the plan or ordinances, the Board notes that the definition of lobbyist specifically excludes an individual who is “a paid expert witness whose testimony is requested by the body before which the witness is appearing, but only to the extent of preparing or delivering testimony”<sup>4</sup>.

2. Conveying objections to an interim ordinance prohibiting some or all development of land for a one-year period, taking the position on behalf of a real estate developer that the moratorium was adopted to impede a single project.

Opinion: The Board assumes that the objections of the real estate developer are an attempt to modify or repeal the ordinance, and that action on the ordinance will require a vote of elected local officials. Communicating the objections to the political subdivision on behalf of the real estate developer is lobbying of a political subdivision.

3. Contacting the county auditor on behalf of a property owner to request a single parcel identification number for adjoining parcels.

Opinion: For the purpose of this opinion the Board assumes that the county auditor is either elected to their office, or is an appointed local official. The Board also assumes that assigning a single parcel identification number for adjoining parcels is a discretionary decision for the county auditor, and not an administrative task which is automatically performed upon the completion of required forms and/or the payment of a fee. Requesting a discretionary action by the county auditor under those circumstances is lobbying.

4. Representing a real estate developer before a city or county planning commission, seeking approval of a subdivision plat.

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<sup>4</sup> [Minn. Stat. § 10A.01, subd. 21 \(b\) \(8\)](#).

Opinion: The Board assumes that the planning commission is either composed of public or local officials, or if the planning commission members are not public or local officials, they are being asked to recommend the subdivision plat to the city council or county board. The request to approve the subdivision plat is either direct lobbying of public or local officials, or the request is lobbying because asking or urging others to communicate with public or local officials to approve the subdivision plat is also lobbying.

5. Representing a group of neighbors at a city planning commission meeting who object to the issuance of a short-term rental license.

Opinion: Similar to question four, the Board assumes that the city planning commission is either composed of local officials, or is composed of individuals who are not local officials but who are being asked to recommend that local officials deny or revoke the short-term rental license. In either case the request to deny or revoke the short-term rental license is asking for an official action of a political subdivision, and is therefore lobbying.

6. Representing a real estate developer at a city council meeting seeking a variance in connection with a planned unit development.

Opinion: Yes, representing the real estate developer is lobbying. The city council members are all elected local officials, and any vote on the variance is an official action of a political subdivision.

7. Representing a group of neighbors at a town board meeting who object to the grant of a conditional use permit for the operation of a gravel pit.

Opinion: Town board members are elected officials of a political subdivision and are thereby local officials. Asking the town board to deny or revoke the conditional use permit is lobbying to influence an official action of a political subdivision.

8. Meeting with members of the city parking commission to discuss the construction of a new city parking ramp.

Opinion: The Board again assumes that the city parking commission either includes individuals that are elected local officials, or that the commission is composed of individuals who will make recommendations on an official action regarding the parking ramp that will be made by the city council or a single local official. The Board further assumes that the discussion of the construction of the parking ramp is done for a purpose, and that purpose is to influencing official decisions regarding the parking ramp. With those assumptions in place, the discussion of the parking ramp with the city

parking commission is lobbying.

9. Representing a group of local tennis players at a meeting of the parks and recreation commission, requesting that the city build new tennis courts.

Opinion: The Board assumes that if a decision to build the tennis courts is made by the parks and recreation commission, that the expenditure needed to build the courts will represent a major decision on an expenditure of public funds. Therefore, the members of the commission are local officials, and the request is lobbying of those local officials. If the approval of the tennis courts will require a vote of the city council, the request is still lobbying because the commission members are being asked to recommend the construction of the courts to elected local officials, which is lobbying of a political subdivision.

10. Representing a group of downtown business owners before the city heritage preservation commission, requesting that the commission recommend acquisition by the city of a downtown historic theatre.

Opinion: Using the same assumptions about the authority of the members of the city heritage preservation commission to make expenditures or recommendations as described for the membership of the commission in question nine, the request for the commission to recommend that the city acquire the theater is lobbying.

11. Representing a local business at a meeting of the civil rights commission, to promote economic development in the form of economic assistance to LBTQIA+ businesses located in the city.

Opinion: Using the same assumptions about the authority of members of the civil rights commission to make expenditures or recommendations as described for the membership of the commission in question nine, the request for economic assistance is lobbying.

12. Representing a real estate developer before a local zoning authority, seeking a rezoning to allow a residential group home.

Opinion: Using the same assumptions about the members of the local zoning authority as described for the membership of the planning commission in question five, the request for rezoning to allow a residential group home is lobbying.

13. Negotiating a development contract with City or County planning staff on behalf of a real estate developer that requires the expenditure of public money on public infrastructure.

Opinion: The Board assumes that expenditure of public funds needed for the

infrastructure represents a major decision regarding the use of public funds. If the city or county planning staff are local officials, then the negotiations on the contract is lobbying. If the planning staff are not local officials, then the negotiations do not constitute lobbying. However, lobbying would occur if at the end of the negotiations the planning staff is urged to ask the city council or county board to approve the contract with the developer.

14. Meeting with the county planning director to review a proposed preliminary plat for development of multifamily housing that will receive a grant from HUD.

Opinion: The Board assumes that the county planning director is a local official. If the meeting is only for the purpose of collecting information on the specifics of the proposed preliminary plat, then the meeting is not lobbying. If the meeting is for the purpose of influencing the planning director on the content or approval of the preliminary plat, then the meeting is lobbying.

15. Speaking with the county surveyor about his objections to a proposed preliminary plat if a component of the project includes a business subsidy.

Opinion: County surveyor is typically not an elected position, and for the purposes of this opinion, the Board assumes that the county surveyor is not elected. The Board further assumes that the business subsidy represents a major decision on the use of public funds. If the purpose of the meeting is only to gather information on the surveyor's objections to the proposed preliminary plat, then the meeting is not lobbying. If the purpose of the meeting is to change the surveyor's position on the preliminary plat, and to have the surveyor convey that change in position and encourage public or local officials to approve the plat, then the meeting is lobbying.

16. Participating in a meeting, on behalf of a real estate developer, with a county commissioner and other county officials to discuss a new development project that will require a zoning change.

Opinion: All county commissioners are public officials. Regardless of the positions held by the other county officials, meeting with a public official regarding a decision that will require a vote of elected officials of a political subdivision is lobbying.

17. Speaking on behalf of a group of neighbor residents at a planning commission or city council meeting, objecting to a zoning change in their district.

Opinion: The city council members are local officials. The Board assumes that at least some of the planning commission members are elected local officials, or that the commission members are being asked to encourage the city council to make or deny a requested zoning change. Therefore, in either case, appearing at a meeting to ask for or object to a change in zoning is lobbying.

18. Meeting with the city engineer to negotiate street improvements on behalf of local residents who object to their street assessment.

Opinion: A city employee who has the authority to make significant decisions regarding the expenditure of public money is a local official. Based on the description of the action requested, and the authority the city engineer apparently has to decide how much the city spends on street repairs, the Board assumes that the city engineer is a local official and that the decision on the street improvements is a major decision regarding the expenditure of public funds. Based on those assumptions, the meeting is lobbying.

19. Speaking at a town board meeting on behalf of an apple grower who objects to a petition for a cartway through his apple orchard.

Opinion: Members of the town board are elected local officials. If an official action of the town board is needed to approve the requested cartway, then appearing at the town board meeting is lobbying.

20. Contacting the county surveyor to review and discuss the county surveyors' recommended changes to a proposed subdivision plat if the development agreement requires the county to expend any public money on infrastructure for the project.

Opinion: If the meeting with the surveyor is solely for the purpose of gathering information on surveyor's recommendations, then the discussion is not lobbying. If the surveyor is being asked to change the recommendations, and then urge the county board to accept the recommendations, then the discussion is lobbying. If the surveyor is being asked to change the recommendations and the surveyor is elected and is thereby a local official, then the discussion is lobbying.

21. Representing a group of parents of elementary school age children before the school board who object to the closure and razing of their neighborhood elementary school.

Opinion: School districts are political subdivisions, and members of the school board are elected local officials. Asking the school board to reverse a decision regarding the closing of the school is lobbying.

22. Representing rural property owners who lack access to the internet at a town meeting, advocating for the installation of broadband throughout the township.

Opinion: Members of the town board are elected local officials. The Board assumes that it will take an official action of the town board to install broadband, therefore advocating for that official action is lobbying.



23. Representing a resort owner in connection with the appeal of an alleged zoning violation.

Opinion: The answer in this instance is dependent upon whom the appeal is made to, and the content of the appeal. If the appeal is made to a county or municipal zoning board and the membership of the board includes elected officials, then the appeal is lobbying because accepting the appeal will require a vote by the elected officials. If the zoning board members are not elected officials, and are not being asked to communicate with public or local officials in support of the appeal, then the appeal is not lobbying. The Board understands that disputes over alleged zoning violations may result in court action. Representing a client in court on a zoning dispute is not lobbying.

24. Asking a city police department or county attorney for U visa certification.

Opinion: The Board has limited knowledge of the U visa certification process. It is the Board's understanding that a U visa certification is a statutorily required form that confirms the helpfulness of a witness who was the victim of a serious crime. A county attorney is a public official. If issuing the U visa certification is an administrative act provided to any individual who has qualified for the certification, and does not involve a discretionary decision by the county attorney, then requesting the certification from the county attorney is not lobbying. Conversely, if issuing the certification is a discretionary official action by the county attorney, then the request is lobbying. The Board assumes that issuing the certification is not a major decision regarding an expenditure of public funds, therefore the request does not require an official action by a political subdivision even if the individual in the police department who issues the certification is a local official. As a result, a request made to a city police department is not lobbying.

25. Asking a non-federal official for a character letter for noncitizen client.

Opinion: If the official contacted is appointed or employed by the state, then the request is not lobbying. The Board assumes that the letter does not involve a major decision on the use of public funds, and that a vote of elected officials is not required to authorize the official to sign the letter. With those assumptions in place, requesting the letter is not lobbying.

26. Asking state and other local officials to contact federal officials on behalf of an immigration client.

Opinion: If the officials contacted are employed by the state, then the request is not lobbying. A request to a local official would be lobbying only if an official action by the elected officials of the political subdivision is required before the letter can be provided.

27. Participating in the Minneapolis or Saint Paul immigration forums.

Opinion: Participating in the forums will be lobbying if the participation is intended to influence an official action of Minneapolis or St. Paul, and the individual participating in the forum either communicates with a local or public official in attendance at the forum, or urges other individuals at the forum to communicate with public or local officials to influence an official action.

Issued: December 13, 2023

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George Soule, Chair  
Campaign Finance and Public Disclosure Board

DRAFT



# MINNESOTA CAMPAIGN FINANCE BOARD

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**Date:** December 6, 2023

**To:** Board members  
Nathan Hartshorn, counsel

**From:** Andrew Olson, Legal/Management Analyst      **Telephone:** 651-539-1190

**Subject:** Rulemaking update

Attached to this memorandum is draft rule language regarding rulemaking topics that have been deemed potentially controversial by Board staff, excluding rulemaking topics pertaining to the lobbying program. Potential rule language regarding the lobbying program is still being drafted and Board staff intends to provide it to the Board's rulemaking committee and members of the public in the very near future.

The attached document includes comments identifying the rule topics being addressed and the rule topic numbers correspond to the numbers listed within the Board's request for comments.<sup>1</sup> Board staff anticipates that this batch of draft rule language, as well as the batch of draft language for rules deemed technical or not controversial, will be considered by the Board's rulemaking committee at a future date that has yet to be determined. The Board does not need to take any action at this time regarding administrative rulemaking.

## **Campaign Finance Topic 2 – noncampaign disbursements for operation of a legislative caucus**

The draft language defines the terms "legislative caucus," "legislative caucus leader," and "legislative party unit." The draft language includes provisions describing when a legislative caucus leader may classify expenses incurred in carrying out their leadership responsibilities as noncampaign disbursements, and when office holders more generally may classify the cost of signage outside their official office and the cost of office supplies as noncampaign disbursements. This language is intended to codify Advisory Opinion 450.<sup>2</sup>

## **Campaign Finance Topic 3 – application of prohibition on corporate contributions to underlying sources of funding of a contributor that is an unregistered association**

The draft language includes a provision stating that a campaign finance filer that is prohibited from accepting corporate contributions must consider an association's sources of funding in

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<sup>1</sup> [cfb.mn.gov/citizen-resources/the-board/statutes-and-rules/rulemaking-docket/](https://cfb.mn.gov/citizen-resources/the-board/statutes-and-rules/rulemaking-docket/)

<sup>2</sup> [Advisory Opinion 450 \(Feb. 6, 2019\)](#).

determining whether a contribution may be accepted from that association. This language is intended to codify Advisory Opinion 447.<sup>3</sup>

#### **Campaign Finance Topic 4 – contribution processors not treated as contributors**

The draft language includes a provision describing how a vendor may process or otherwise facilitate the accumulation of contributions without thereby making a contribution to the recipient. This language is intended to codify Advisory Opinions 319, 369, and 434.<sup>4</sup>

#### **Campaign Finance Topic 5 – whether a contributor’s payment of a contribution processing fee is an in-kind contribution to the recipient**

The draft language includes two versions of a provision addressing a situation in which a contributor, when making a contribution electronically, elects to pay a processing fee that would otherwise be paid by the recipient. Version 1 states that payment of the fee is an in-kind contribution, and if the fee is greater than \$20, the recipient must report that as an in-kind contribution received. Version 2 states that payment of the fee is not an in-kind contribution, which is consistent with the conclusion reached by the Board in Advisory Opinion 434.<sup>5</sup>

#### **Campaign Finance Topic 7 – criteria to consider when a violation results from a coordinated expenditure**

The draft language includes a provision stating that if a violation occurs as the result of a coordinated expenditure, knowledge of the circumstances that caused the expenditure to be a coordinated expenditure is not necessary to find that a violation occurred. The provision also details the factors the Board must consider when determining any penalty to be imposed for such a violation, including steps taken to prevent a coordinated expenditure from occurring, steps taken to mitigate the impact of the violation or to prevent future violations, and the factors listed in Minnesota Statutes section 14.045, subdivision 3.<sup>6</sup>

#### **Campaign Finance Topic 8 – circumstances under which an equipment purchase by a principal campaign committee is a campaign expenditure or a noncampaign disbursement**

The draft language includes a provision describing when the cost of equipment purchased by a principal campaign committee must be classified as a campaign expenditure, and when it may be classified as a noncampaign disbursement. This language is broadly intended to codify Advisory Opinions 89, 127, 209, 211, and 228.<sup>7</sup>

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<sup>3</sup> [Advisory Opinion 447 \(June 6, 2018\)](#).

<sup>4</sup> [Advisory Opinion 319 \(Dec. 14, 1999\)](#); [Advisory Opinion 369 \(Sept. 13, 2005\)](#); [Advisory Opinion 434 \(May 7, 2013\)](#).

<sup>5</sup> [Advisory Opinion 434 \(May 7, 2013\)](#).

<sup>6</sup> [Minn. Stat. § 14.045, subd. 3](#).

<sup>7</sup> [Advisory Opinion 228 \(Jan. 26, 1996\)](#); [Advisory Opinion 211 \(Oct. 4, 1995\)](#); [Advisory Opinion 209 \(Oct. 4, 1995\)](#); [Advisory Opinion 127 \(Nov. 12, 1992\)](#); [Advisory Opinion 89 \(May 22, 1984\)](#).

## **Campaign Finance Topic 11 – definition of the term “nomination”**

The draft language generally defines the term “nomination” to mean “the placement of a candidate or a local candidate’s name on a general election or special general election ballot.” The definition of the term is important particularly because that term is used in Chapter 10A to define the terms “campaign expenditure,” “candidate,” and “local candidate.” That definition is consistent with how the term is generally used within Minnesota Statutes Chapters 200 through 212, which pertain to elections. However, the definition would not apply in two instances in which the term nomination has a different meaning, including within Minnesota Statutes section 10A.09, which uses the term to refer to the appointment of a public official, and within Minnesota Statutes section 10A.201, which uses the term to refer to a political party’s nomination of a candidate.

## **Campaign Finance Topic 15 – disclaimer requirements for electronic campaign material**

The draft language includes a new rule that would define the terms “broadcast media” and “social media platform,” and establish the circumstances under which the disclaimer requirement is satisfied by including within electronic campaign material a link to an online page that includes the required disclaimer.

## **Audits and Investigations Topic 2 – general audit procedures**

The draft language includes a provision stating that in conducting an audit, the Board may require testimony, written statements, and the production of records that a filer is required to maintain, and may issue subpoenas as needed to obtain records or testimony. The draft language also includes a provision that lists the factors the Board must consider in determining whether to conduct an audit, states that the Board may conduct partial audits, and states that the Board may conduct audits of respondents selected on a randomized basis.

## **Audits and Investigations Topic 3 – affidavit of contributions audit procedures**

The draft language includes a provision establishing when the executive director must request the information necessary to audit a principal campaign committee’s affidavit of contributions in order to ensure that the candidate is eligible to receive a public subsidy payment.

## **Audits and Investigations Topic 5 – procedures related to probable cause**

The draft language includes a provision stating that “[p]robable cause exists if a complaint raises sufficient questions of fact which, if true, would result in the finding of a violation.” The draft language also includes a provision providing that when concluding an investigation, the Board’s “determination of any disputed facts must be based upon a preponderance of the evidence.”

### Attachments:

Draft language for rules deemed potentially controversial, excluding lobbying language

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## CHAPTER 4503, CAMPAIGN FINANCE ACTIVITIES

### 4503.0100 DEFINITIONS.

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**Subp. 8. Legislative caucus.** “Legislative caucus” means an organization whose members consist solely of legislators belonging to the same house of the legislature and the same political party, and is not limited to a majority or minority caucus described in Minnesota Statutes, Chapter 3, but does not include a legislative party unit.

**Subp. 9. Legislative caucus leader.** “Legislative caucus leader” means a legislator elected or appointed by a legislative caucus to lead that caucus, and is not limited to leaders designated pursuant to Minnesota Statutes, section 3.099.

**Subp. 10. Legislative party unit.** “Legislative party unit” means a political party unit established by the party organization within a house of the legislature.

**Subp. 11. Nomination.** Except as used in Minnesota Statutes, sections 10A.09 and 10A.201, “nomination” means the placement of a candidate or a local candidate’s name on a general election or special general election ballot.

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### 4503.0500 CONTRIBUTIONS.

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**Subp. 7. Contribution processors and professional fundraisers.** A vendor may solicit, process, collect, or otherwise facilitate the accumulation of contributions made to a principal campaign committee, political party unit, political committee, or political fund, and may temporarily retain or control any contributions collected, without thereby making a contribution to the intended recipient of the contributions, if the vendor is paid the fair market value of the services provided. Contributions collected must be transmitted to the intended recipient, minus any fees withheld by the vendor. A vendor that is paid the fair market value of any goods or services provided is not a political committee or a political fund by virtue of providing those goods or services. A vendor that determines which principal campaign committee, party unit, political committee, or political fund receives the contributions collected is a political committee or political fund as provided in Minnesota Statutes, section 10A.01, even if the recipient pays the vendor the fair market value for the services provided to collect the contributions.

**Subp. 8. [Repealed, L 2017 1Sp4 art 3 s 18] Underlying source funding.** A principal campaign committee, party unit, or political committee or fund that is not an independent expenditure or ballot question political committee or fund, must consider an association’s sources of funding in determining whether a contribution may be accepted from an association

that is not registered with the board as a principal campaign committee, a party unit, a political committee, or the supporting association of a political fund. A contribution from an unregistered association is prohibited if any of that association's sources of funding would be prohibited from making the contribution directly under Minnesota Statutes, section 211B.15, subdivision 2. Types of unregistered associations that are prohibited from making a contribution to a principal campaign committee, a party unit, or a political committee or fund that is not an independent expenditure or ballot question political committee or fund, include, but are not limited to:

A. a political committee under the Federal Election Campaign Act of 1971, as amended, including a separate segregated fund, that has received funding or administrative support from a corporation that is not exempt under Minnesota Statutes section 211B.15, subdivision 15;

B. a political organization under section 527 of the Internal Revenue Code, as amended, including an association that may be regulated by or operate within a state other than Minnesota, that has received funding or administrative support from a corporation that is not exempt under Minnesota Statutes section 211B.15, subdivision 15; and

C. an association that is not a political organization under section 527 of the Internal Revenue Code, as amended, including an association not operated primarily for the purpose of influencing elections, that has received funding or administrative support from a corporation that is not exempt under Minnesota Statutes section 211B.15, subdivision 15.

Subp. 9. [Repealed, L 2005 c 156 art 6 s 68]

#### **4503.0800 DONATIONS IN KIND AND APPROVED EXPENDITURES.**

[Version 1 – Would nullify [Advisory Opinion 434](#)]

Subpart 1. [Repealed, L 2005 c 156 art 6 s 68] **Contributor payment of processing fee.** If a contributor pays a processing fee when making a contribution and the fee would otherwise have been billed to the recipient of the contribution or withheld from the amount transmitted to the recipient, the amount of the fee is a donation in kind to the recipient of the contribution. If the donation in kind exceeds the amount specified in Minnesota Statutes, section 10A.13, subdivision 1, the recipient's treasurer must keep an account of the contribution and must include the contribution within campaign reports as required by Minnesota Statutes, section 10A.20.

[Version 2 – Would codify [Advisory Opinion 434](#)]

Subpart 1. [Repealed, L 2005 c 156 art 6 s 68] **Contributor payment of processing fee.** If a contributor pays a processing fee when making a contribution, equal to the fair market value of the services provided, the amount of the fee is not donation in kind to the recipient of the contribution.



...

**4503.0900 NONCAMPAIGN DISBURSEMENTS.**

...

**Subp. 2. [Repealed, 21-SR-1779] Expenses incurred by leaders of a legislative caucus.** Expenses incurred by a legislative caucus leader in carrying out their leadership responsibilities may be paid by their principal campaign committee and classified as a noncampaign disbursement for expenses incurred by leaders of a legislative caucus. These expenses must be incurred for the operation of the caucus and include, but are not limited to, expenses related to operating a website, social media accounts, a telephone system, similar means of communication, travel expenses, and legal expenses.

**Subp. 3. Signage and supplies for office holders.** Expenses incurred by an office holder for signage outside their official office and for basic office supplies purchased to aid the office holder in performing the tasks of their office may be paid by their principal campaign committee and classified as a noncampaign disbursement for expenses for serving in public office. These expenses may include signage, stationary, or other means of communication that identify the office holder as a member of a legislative caucus.

**Subp. 4. Equipment purchases.** The cost of durable equipment purchased by a principal campaign committee, including but not limited to computers, cell phones, and other electronic devices, must be classified as a campaign expenditure unless the equipment is purchased to replace equipment that was lost, stolen, or damaged to such a degree that it no longer serves its intended purpose, or the equipment will be used solely:

A. by a member of the legislature or a constitutional officer in the executive branch to provide services for constituents during the period from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held;

B. by a winning candidate to provide services to residents in the district in accordance with subpart 1;

C. for campaigning by a person with a disability in accordance with subpart 1;

D. for running a transition office in accordance with subpart 1; or

E. as home security hardware.

**4503.1700 VIOLATIONS RESULTING FROM COORDINATED EXPENDITURES.**

[Repealed, L 2017-1Sp4 art 3 s 18] A principal campaign committee is responsible for a violation of a contribution limit or prohibition resulting from a coordinated expenditure, and the

spender is also responsible if it thereby violated a contribution limit or prohibition for which the contributor may be penalized by the board. A principal campaign committee's or spender's knowledge of the circumstances that resulted in an expenditure being a coordinated expenditure, including the use of a common vendor or subcontractor, is not necessary for the board to determine that a violation occurred as a result of a coordinated expenditure. When determining any penalty to be imposed for a violation resulting from a coordinated expenditure, the board must consider:

A. any steps taken prior to the violation to determine whether the candidate engaged in fundraising for the spender;

B. any steps taken prior to the violation to determine whether the candidate served as an officer of the spender;

C. any steps taken prior to the violation to determine whether a vendor or subcontractor provided or may provide services that may result in a coordinated expenditure;

D. any steps taken prior to the violation to determine whether a vendor or subcontractor that provides consulting services has satisfied the conditions in Minnesota Statutes, section 10A.176, subdivision 4;

E. any steps taken prior to the violation to determine whether a spender received nonpublic information regarding a candidate's campaign plans, strategy, or needs;

F. any steps taken prior to the violation to determine whether a spender provided nonpublic information to a candidate regarding an expenditure;

G. any steps taken prior to the violation to ensure that the candidate did not participate in making the expenditure;

H. any additional steps taken prior to the violation to ensure that the expenditure was not coordinated with the candidate;

I. any steps taken after the violation to mitigate its impact, including ceasing to disseminate a communication that is a coordinated expenditure;

J. any steps taken after the violation to prevent an additional violation; and

K. the factors listed in Minnesota Statutes, section 14.045.

#### **4503.1800 DISCLAIMERS.**

[Repealed, L 2017 1Sp4 art 3 s 18]Subpart 1. **Additional definitions.** The following definitions apply to this chapter and Minnesota Statutes, section 211B.04:

A. "Broadcast media" means a television station, radio station, cable television system, or satellite system.

B. "Social media platform" means a website or application that allows multiple users to create, share, and view user-generated content, excluding a website controlled primarily by the association or individual that caused the communication to be prepared or disseminated.

Subp. 2. **Material linked to a disclaimer.** Minnesota Statutes, section 211B.04, does not apply to the following communications that link directly to an online page that includes a disclaimer in the form required by that section, if the communication is made by or on behalf of a candidate, principal campaign committee, political committee, political fund, political party unit, or person who has made an electioneering communication, as those terms are defined in Minnesota Statutes, Chapter 10A:

A. text, images, video, or audio, disseminated via a social media platform;

B. a text or multimedia message disseminated only to telephone numbers;

C. text, images, video, or audio, disseminated using an application accessed primarily via mobile phone, excluding email messages, telephone calls, and voicemail messages; and

D. paid electronic advertisements disseminated via the internet by a third-party, including but not limited to online banner advertisements and advertisements appearing within the electronic version of a newspaper, periodical, or magazine.

The link must be conspicuous and when selected must result in the display of an online page that prominently includes the required disclaimer.

## CHAPTER 4525, HEARINGS, AUDITS, AND INVESTIGATIONS

### 4525.0100 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to this chapter and Minnesota Statutes, chapter 10A. The definitions in chapter 4501 and in Minnesota Statutes, chapter 10A, apply to this chapter.

Subp. 1a. ~~[Repealed, 20 SR 2504]~~

Subp. 2. ~~[Repealed, 20 SR 2504]~~

~~Subp. 2a.~~ **Complaint.** "Complaint" means a written statement, including any attachments, that:

A. alleges that the subject named in the complaint has violated Minnesota Statutes, chapter 10A, or another law under the board's jurisdiction; and

B. complies with the requirements in part 4525.0200, subpart 2.

Subp. ~~3a.~~ **Complainant.** "Complainant" means the filer of a complaint.

Subp. ~~4.~~ **Contested case.** "Contested case" means a proceeding conducted under Minnesota Statutes, chapter 14, in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after a board hearing. "Contested case" includes a proceeding pursuant to a request for exemption from campaign reporting requirements under Minnesota Statutes, section 10A.20, subdivisions 8 and 10; a hearing ordered by the board under part 4525.0900, subpart 2, concerning a complaint, investigation, or audit; and any other hearing which may be ordered by the board under parts 4525.0100 to 4525.1000 or which may be required by law.

"Contested case" does not include a board investigation or audit conducted under Minnesota Statutes, section 10A.022, subdivisions 1 and 2.

Subp. 4. ~~[Repealed, 20 SR 2504]~~

Subp. 5. ~~[Repealed, 39 SR 757]~~ **Preponderance of the evidence.** "Preponderance of the evidence" means, in light of the record as a whole, the evidence leads the board to believe that a fact is more likely to be true than not true.

Subp. 6. ~~[Repealed, 39 SR 757]~~

Subp. 7. ~~[Repealed, 20 SR 2504]~~

~~Subp. 8. Respondent.~~ "Respondent" means the subject of a complaint, an investigation, or an audit.

#### **4525.0210 DETERMINATIONS PRIOR TO AND DURING FORMAL INVESTIGATION.**

Subpart 1. [~~Repealed, L 2017-1Sp4 art 3 s 18~~]

~~Subp. 2. Making the prima facie determination.~~ In determining whether a complaint states a prima facie violation, any evidence outside the complaint and its attachments may not be considered. Arguments of the respondent, which are not themselves evidence, must be considered.

If a finding is made that a complaint does not state a prima facie violation, the complaint must be dismissed without prejudice. The dismissal must be ordered by the board member making the determination or by the full board if the full board makes the determination. The determination must be in writing and must indicate why the complaint does not state a prima facie violation.

If a finding is made that a complaint states a prima facie violation, the board chair must schedule the complaint for a probable cause determination.

Subp. ~~2~~**3. Action after prima facie violation determination.** The executive director must promptly notify the complainant and the respondent of the prima facie determination. The notice must include a copy of the prima facie determination.

If a determination is made that a complaint states a prima facie violation, the notice also must include the date of the meeting at which the board will make a probable cause determination regarding the complaint and a statement that the complainant and the respondent have the opportunity to be heard before the board makes the probable cause determination.

Subp. 3. Making the probable cause determination. In determining whether there is probable cause to believe a violation occurred, any evidence obtained by or known to the board may be considered. Arguments of the respondent and complainant must be considered. Probable cause exists if a complaint raises sufficient questions of fact which, if true, would result in the finding of a violation.

Subp. 4. **Action after probable cause not found.** If the board finds that probable cause does not exist to believe that a violation has occurred, the board must order that the complaint be dismissed without prejudice. The order must be in writing and must indicate why probable cause does not exist to believe that a violation has occurred.

The executive director must promptly notify the complainant and the respondent of the board's determination. The notice must include a copy of the order dismissing the complaint for lack of probable cause.

Subp. 5. **Action after probable cause found.** If the board finds that probable cause exists to believe that a violation has occurred, the board then must determine whether the alleged violation warrants a formal investigation.

When making this determination, the board must consider the type of possible violation; the magnitude of the violation if it is a financial violation; the extent of knowledge or intent of the violator; the benefit of formal findings, conclusions, and orders compared to informal resolution of the matter; the availability of board resources; whether the violation has been remedied; and any other similar factor necessary to decide whether the alleged violation warrants a formal investigation.

If the board orders a formal investigation, the order must be in writing and must describe the basis for the board's determination, the possible violations to be investigated, the scope of the investigation, and the discovery methods available for use by the board in the investigation.

The executive director must promptly notify the complainant and the respondent of the board's determination.

The notice to the respondent also must:

A. include a copy of the probable cause order;

B. explain how the investigation is expected to proceed and what discovery methods are expected to be used;

C. explain the respondent's rights at each stage of the investigation, including the right to provide a written response and the right to counsel; and

D. state that the respondent will be given an opportunity to be heard by the board prior to the board's determination as to whether any violation occurred.

At the conclusion of the investigation the board must determine whether a violation occurred. The board's determination of any disputed facts must be based upon a preponderance of the evidence.

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#### **4525.0550 FORMAL AUDITS.**

**Subpart 1. Formal audit.** The purpose of a formal audit is to ensure that all information included in the report or statement being audited is accurately reported. The fact that the board is conducting a formal audit does not imply that the subject of the audit has violated any law. When conducting an audit, the board may require testimony under oath, permit written statements to be given under oath, and to issue subpoenas and cause them to be served. When conducting an audit the board may require the production of any records required to be retained under Minnesota Statutes, section 10A.025.

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**Subp. 4. Audits of affidavits of contributions.** The board may audit the affidavit of contributions filed by a candidate or the candidate's treasurer to determine whether the candidate is eligible to receive a public subsidy payment. The executive director must contact

the principal campaign committee of a candidate and request the information necessary to audit any affidavit of contributions that was not filed by electronic filing system, if the committee has accepted contributions from individuals totaling less than twice the amount required to qualify for a public subsidy payment.

**Subp. 5. Audits of other campaign finance filings.** The board may audit any campaign finance report or statement that is filed or required to be filed with the Board under Minnesota Statutes, Chapter 10A or Chapter 211B. The board may conduct a partial audit, including auditing a campaign finance report to determine whether a beginning or ending balance reconciles with the filer's financial records. In determining whether to undertake an audit, the board must consider the availability of board resources, the possible benefit to the public, and the magnitude of any reporting failures or violations that may be discovered as a result of the audit. The board may conduct audits in which respondents are selected on a randomized basis designed to capture a sample of respondents that meet certain criteria. The board may conduct audits in which all respondents meet certain criteria. When undertaking an audit with respondents selected on a randomized basis, the board must, to the extent possible, seek to prevent the audit from affecting respondents differently based on their political party affiliation, or if the respondents are candidates, based on their incumbency status.





**CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD  
December 2023  
ACTIVE FILES**

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Personally Served	Default Hearing Date	Date Judgment Entered	Case Status
Mariani, Carlos	Neighbors for Mariani	2022 year-end report  Late filing of 2018 year-end report  Late filing of 2020 pre-primary report  Late filing of 2018 pre-primary report  2018 pre-general report  2020 pre-general 24- hour large contribution notice  2022 annual statement of economic interest  Late filing of 2018 annual statement of economic interest  Late filing of 2018 candidate statement of economic interest	\$1,000 LFF \$1,000 CP  \$525 LFF  \$1,000 LFF \$1,000 CP  \$1,000 LFF \$100 CP  \$1,000 LFF \$1,000 CP  \$1,000 LFF  \$1,000 LFF \$100 CP  \$95 LFF	11/22/23				

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Personally Served	Default Hearing Date	Date Judgment Entered	Case Status
Thompson, John	John Thompson for 67A	Civil Penalty and late filing fee for the committee's 2022 year-end report	\$1,000 LFF \$1,000 CP	3/10/23	7/5/23	11/9/23		Default granted from the bench
	Trace, LLC Contacts: Ashley Moore, Patrick Hynes	2021 Annual Report of Lobbyist Principal, due 3/15/22	\$1,000 LFF \$1,000 CP	12/6/22	4/21/23	(11/13/23, but cancelled)		Settlement in principle reached

**CLOSED FILES**

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Served by Mail	Default Hearing Date	Date Judgment Entered	Case Status