

# State of Wisconsin\Government Accountability Board

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## Government Accountability Board Complaint Procedures Adopted March 4, 2015

The procedures outlined below are intended to comply with and implement the statutes and administrative rules governing the processing of and resolution of complaints filed with the Government Accountability Board (G.A.B. or Board). These procedures make use of the Complaint Tracking Database created in SharePoint, which contains separate tracking mechanisms for complaints handled by the Elections Division and the Ethics and Accountability Division.

### A. Complaint Intake

1. A complaint may be received as a paper complaint or by fax, email, or through the agency website. When received as a paper or fax complaint, Front Desk staff shall forward the complaint to the Elections Division Administrator if it relates to election laws, and to the Ethics and Accountability Division Administrator if it relates to laws governing campaign finance, lobbying, or the code of ethics for public officials. The Public Information Officer shall forward any complaints received through the agency website to the appropriate Division Administrator. Email complaints received by other staff shall be forwarded to the appropriate Division Administrator.
2. The agency website shall be modified to permit electronic filing of complaints and other communications, but to remove the categorization of the complaint or communication by the individual submitting it.
3. Regardless of the form of the submission, the appropriate Division Administrator shall determine whether it constitutes a complaint which is entered into the Complaint Tracking Database. The Elections Division portal of the Database is intended to track complaints regarding an action or decision of a local election official. The Ethics Division portal of the Database is intended to track complaints under that Division's jurisdiction as well as submissions relating to matters outside of its jurisdiction. The Database is not intended to track campaign finance audits or requests for advice.
4. If the submission constitutes a complaint to be included in the Database, the appropriate Division Administrator shall open a record in the database using the proper naming convention, or shall designate a staff member to do so. Paper complaints shall be scanned and attached to the complaint record, and complaints submitted through the website or by email shall be saved and attached to the complaint file in the Database.
5. When the record is created in the Database, the Database will automatically generate a complaint identification number and the date on which the record was created. The

ID number will include a designation for the year in which the complaint was opened. The ID numbers will be sequential across the two Divisions, but reports can be generated to include only those assigned to either of the Divisions to facilitate management oversight of complaints handled by each Division as well as reporting to the Board. The Database will also create a folder to store documents related to the complaint which will be linked to the complaint record.

B. Complaint Processing – Elections Division

1. Within two days of receiving a complaint, the Elections Division Administrator shall determine whether the complaint will be processed using informal fact finding and resolution or the formal procedures outlined in Wis. Stat. §5.06 and Ch. GAB 20, Wis. Adm. Code. The decision to utilize the formal Section 5.06 procedures to resolve a complaint shall be made in consultation with Staff Counsel and the Director and General Counsel. To invoke the formal Section 5.06 procedures, the G.A.B. must receive an original sworn complaint.
2. When a complaint is designated for informal fact finding and resolution, the Division Administrator shall assign it to a staff member for processing and resolution. Factors favoring the use of the informal resolution process include a complaint which raises a minor issue of fact or law, involves a straightforward application of the law, is not an appeal of a ballot access decision or decision regarding the sufficiency of an election petition, and is not a matter for which the complainant or local election official appears likely to request a court determination.
3. The staff member assigned to undertake informal fact finding and resolution of a complaint shall, within five days of being assigned the complaint, make initial contact with the complainant by telephone or email to obtain any necessary additional facts. If the staff member will be unable to seek additional information within five days, the staff member shall send an email to the complainant acknowledging receipt of the complaint and advising that additional contact will be made shortly. If necessary, the staff member shall also contact the local election official involved to obtain additional facts or opposing arguments.
4. The assigned staff member shall analyze the facts and relevant law, and determine the proper outcome or resolution, consulting with Staff Counsel and the Division Administrator as necessary. The assigned staff member shall convey the agency's determination to the complainant and the local election official, either by email or via a telephone call and confirmation email. The assigned staff member shall notify the Division Administrator of the resolution of the complaint.
5. When a complaint is designated for the formal Section 5.06 process, the Division Administrator shall assign it to Staff Counsel, after consultation with the Director and General Counsel. Factors to be considered in invoking the Section 5.06 procedures include that the complaint involves a decision regarding ballot access or the sufficiency of an election petition, a significant factual dispute or legal issue, or a matter for which the complainant or local election official is likely to seek court review.

6. Within 10 days of receipt of the complaint, the assigned Staff Counsel shall determine if the complaint is not timely, is not in proper form, or does not establish probable cause that the local election official has failed to comply with the election laws. If Staff Counsel recommends dismissing the complaint on that basis, Staff Counsel shall draft correspondence outlining such determination for the review and signature of the Director and General Counsel. Upon approval of such letter and within 10 days of receipt of the complaint, the assigned Staff Counsel shall convey the correspondence to the complainant and the local election official.
7. If Staff Counsel determines that the complaint establishes probable cause, or that the complaint otherwise merits issuance of formal findings and order, Staff Counsel shall implement the procedures outlined in Ch. GAB 20, soliciting the local election official's answer within 10 business days of the election official receiving the complaint, and any reply from the complainant within 10 days of the complainant receiving the election official's answer. Staff Counsel may seek assistance from another staff member to obtain and analyze the submissions of the parties. In the event that the filing schedule cannot accommodate the timing necessary for a Board decision (e.g., complaint affects printing of ballots), the timeline for submissions by the parties may be shortened as approved by the Director and General Counsel.
8. After review of all submissions, the assigned Staff Counsel shall draft a formal Findings and Order document for the review and approval of the Director and General Counsel, who shall consult with the Board Chair prior to executing the Findings and Order. The Board Chair may approve or reject the decision, require modifications, or determine that the matter should be set for a hearing before the Board as provided for in Chapter GAB 20, Wis. Adm. Code. Upon approval and execution of the Findings and Order, Staff Counsel shall transmit the decision to the complainant and local election official.
9. Throughout the processing of resolving the complaint, either informally or using the Section 5.06 procedures, the assigned staff member or Staff Counsel shall document the status and significant information regarding the complaint in the Complaint Tracking Database. This shall include completing the data fields indicating the status of the complaint, the source of the complaint, deadlines for party filings, resolution information, and any additional comments. An example of a completed Elections Division complaint record is attached. The Order or other communication resolving the matter shall be attached to the complaint record in the Database. The assigned staff or Staff Counsel shall also be responsible for maintaining the electronic and paper files for said complaints.
10. The Elections Division Administrator shall review the status of open complaints on a weekly basis to monitor the progress of complaint resolution. The Division Administrator shall also prepare a summary report for each Board meeting regarding the status of complaint files that are open or that have been closed since the previous Board meeting.

C. Complaint Processing – Ethics and Accountability Division

1. Within two days of receiving a complaint, the Ethics Division Administrator shall determine whether the complaint involves a matter outside of the agency's jurisdiction or pertains to a local matter. In either case, the Division Administrator will assign a staff member to generate an email or letter advising the complainant: (1) that the agency does not have jurisdiction regarding the matter, and informing the complainant of any other governmental agency that may be able to assist with the matter, if that information is known; or (2) that the matter should be addressed to a District Attorney. Standardized communications shall be utilized to resolve matters outside of the Board's jurisdiction. Staff assigned to the matter shall attach the complaint and the closing correspondence to the complaint record in the database.
2. Within five days of receipt of a complaint that is within the jurisdiction of the Ethics Division, staff will verify the receipt of the complaint to the complainant and the Division Administrator shall determine whether it may be possible to resolve the complaint through informal fact finding and communication, or if staff should seek the Board's input regarding, or approval of, a resolution authorizing an investigation pursuant to Wis. Stat. §5.05. The decision to utilize the formal Section 5.05 procedures to resolve a complaint shall be made in consultation with Staff Counsel and the Director and General Counsel.
3. Factors favoring the use of the informal resolution process include a complaint which raises a minor issue of fact or law, involves a straightforward application of settled law, and for which staff does not intend to seek a monetary penalty. When a complaint is designated for informal fact finding and resolution, the Division Administrator shall assign it to a staff member and/or Staff Counsel for processing and resolution.
4. The staff member or Staff Counsel assigned to undertake informal fact finding and resolution of a complaint shall, within five days of being assigned the complaint, make initial contact with the complainant by telephone or email to obtain any necessary additional facts. If the staff member will be unable to seek additional information within five days, the staff member shall send an email to the complainant acknowledging receipt of the complaint and advising that additional contact will be made shortly. If necessary, the staff member shall also contact other parties involved to obtain additional facts or opposing arguments.
5. The assigned staff member or Staff Counsel shall analyze the facts and relevant law, and determine the proper outcome or resolution, consulting with the Division Administrator and Director and General Counsel as necessary. The assigned staff member or Staff Counsel shall convey the agency's determination to the complainant and other involved parties, either by email or via a telephone call and confirmation email if permitted by law. The assigned staff member or Staff Counsel shall notify the Division Administrator of the resolution of the complaint.
6. When a complaint is designated for the formal Section 5.05 process, the Division Administrator shall assign it to himself or herself or to Staff Counsel, after

consultation with the Director and General Counsel. Factors to be considered in invoking the Section 5.05 procedures include that the complaint involves the potential for the Board to seek a monetary penalty or prosecution, or involves a significant question of law.

7. After being assigned a complaint to be handled under the formal Section 5.05 process, the assigned staff or Staff Counsel shall complete any necessary preliminary inquiry and research, and, if appropriate, prepare a memorandum and proposed resolution authorizing an investigation for the Board's review and consideration. Assigned staff shall subsequently proceed as directed by the Board. If the Board authorizes an investigation or further inquiry or research, or approves a settlement agreement, assigned staff and Staff Counsel shall continue to resolve the complaint and report its status at subsequent Board meetings until the resolution of the matter.
8. After completion of all Board action and investigation regarding the complaint, the assigned staff or Staff Counsel shall draft the appropriate closing documents, if any, for transmission to the parties.
9. Throughout the processing of the complaint, the assigned staff member or Staff Counsel shall document the status and significant information regarding the complaint in the Complaint Tracking Database. This shall include completing the data fields indicating the status of the complaint, the source of the complaint, whether it is confidential, the subject category and subcategory of the complaint, forfeiture and resolution information, and any additional comments. The dismissal letter, settlement agreement, or other communication resolving the matter shall be attached to the complaint record in the Database. Attached is an example of a blank Ethics Division complaint record. Assigned staff or Staff Counsel shall also be responsible for maintaining the electronic and paper files for said complaints.
10. The Ethics Division Administrator shall review the status of open complaints on a weekly basis to monitor the progress of complaint resolution. The Division Administrator shall also prepare a summary report for each Board meeting regarding the status of complaint files that are open or that have been closed since the previous Board meeting.