



612 W. Main Street, #200
Madison, WI 53703

Phone: (608) 256-0827
www.lwwwi.org



April 22, 2026

FILED

By Electronic Mail (clerk@wicourts.gov)

MAY 18 2026

The Honorable Karofsky
Chief Justice
Supreme Court
P.O. Box 1688 Madison, WI 53701

CLERK OF SUPREME COURT
OF WISCONSIN

RE: Rule Petition 26-01, In re Amendments to SCR 60.04 (4), (5), (6), (7), and (8)

Dear Chief Justice Karofsky:

On behalf of the League of Women Voters of Wisconsin, we are submitting this letter concerning the Petition for Amendments to Campaign-Related Recusal Rules. The League of Women Voters of Wisconsin is a non-profit, non-partisan group focused on strengthening democracy and safeguarding every American's right to engage in the political process. The organization also represents public interests in administrative and legal matters related to campaign finance, voting rights, and government ethics.

The Petition, submitted by four retired Wisconsin judges, requests that the Court amend the Code of Judicial Conduct to establish an objective standard for requiring recusal or disqualification of a judge who has received campaign contributions or assistance from a party or lawyer and/or coordinates with outside groups on "issue advocacy" communications.

The League of Women Voters of Wisconsin supports the underlying policies behind the request in the Petition and urges this Court to move forward with a rulemaking procedure including commentary and a public hearing.

The League has reviewed the Petition and respectfully offers the following suggestions to clarify certain sections of the Petition:

- Sec (4) (h) (1) "... *In determining impartiality with respect to campaign contributions or support, the following should be considered:*"
 1. "The amount of contribution or support":

This provision would be more effective if it specified the amount or percentage of the contribution relative to total campaign contributions.
 4. "*The impact of the contribution or support relative to all contributions and*

support received.”

The question here is with the word “impact.” How is “impact” to be determined? (same issue as above)

5. *“The degree of the contributor’s or supporter’s involvement in the judge’s campaign.”*

Rather than using the term “degree,” it would be clearer to specify a percentage of the total funds received from contributors or supporters, as this could raise concerns about impartiality.

6. *“The nature of the contributor’s prior political activities or support and prior relationship with the judge.”*

The question here is with the word “nature.” What specifically does this word mean? Also, will the timing of “prior political activities or support and prior relationship with the judge” be relevant (e.g., were the prior political activities and/or the support in the distant, relative, or recent past)?

8. *“Whether the contribution or support was likely intended to trigger the recusal question.”*

It is unclear how the cause-and-effect of this provision can be proven. The provision should clarify the definition of “intent to trigger the recusal question” and outline how this intent will be determined.

- Sec.(4)(i) Effect of Independent Communications:

A judge shall recuse himself or herself in a proceeding, if, based on the facts and circumstances a judge knows or reasonably should know, the sponsorship of an independent expenditure or issue advocacy communication (collectively, an “independent communication”) by an individual or entity raises a reasonable question concerning the judge’s ability to be impartial. In determining impartiality with respect to campaign sponsorship, the following should be considered:

1. *The amount of the sponsorship.”*

See 4 (h) (1) above.

4. *“The impact of the sponsorship relative to all other sponsorships received.”*

See 4 (h) (4) above.

5. *“The degree of the sponsor’s involvement in the judge’s campaign.”*

See 4 (h) (5) above.

6. *“The nature of the sponsor’s prior political activities, contributions and support and prior relationship to the judge.*



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See 4 (h) 6 above.

General Concerns:

(4)(i) The title of the section, "Effect of Independent Communications."

The term "independent communications" is ambiguous and lacks sufficient clarity to encompass independent expenditures and issue advocacy communication.

"Issue advocacy" is the dominant form of electoral advocacy in Supreme Court elections and needs further clarification and description. Currently, "issue advocacy" has no disclosure requirements, making it simple to avoid regulation by not using express advocacy terms. While footnote 43 addresses "issue advocacy communication" in more depth, that statement would be more effective if moved to the body of the Petition: "...candidates and their campaigns may not collude with independent or 'issue advocacy' groups at any level, [and] if they do so, it is a joint campaign and all the spending counts against the candidate's limits."

Recusal of a justice:

If a justice recuses, the court must still have a quorum to hear the case. This issue is not addressed in the Petition. Acknowledging that an amendment to the Wisconsin Constitution would be necessary to resolve the issue should be included in the Petition.

Conclusion:

For all the above-stated reasons, the League of Women Voters of Wisconsin believes that the policies of the Petition for Amendments to Campaign-Related Recusal Rules SCR 60.04 (4), (5), (6) (7) and (8) represent a sound approach to judicial recusal in the context of campaign contributions, independent expenditures, and issue advocacy. We do advocate, however, that (4)(i) of the Petition about "issue advocacy communications" be discussed in more detail. We are further concerned that the Petition fails to consider the implications of a justice's recusal on the quorum required for issuing a decision.

We respectfully urge the Court and Petitioners to review our comments in support of Rule Petition 26-01, which aims to strengthen the recusal standard.

We appreciate the opportunity to submit this letter.

Sincerely,
The League of Women Voters of Wisconsin

A handwritten signature in black ink, appearing to read "Debra". The signature is written in a cursive style with a large, looping flourish at the end.