



## MEMORANDUM

**TO:** Minority Leader Gordon Hintz  
**FROM:** Rick Champagne, Chief  
**DATE:** August 29, 2019  
**SUBJECT:** Enforcement of confidentiality agreements not signed by committee members

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You have asked whether there is any statute or other law that would bind a member of the legislature to a confidentiality agreement signed by counsel for a legislative committee on which the member serves, but the member has not signed the agreement.

In reviewing Wisconsin statutes and legislative rules, I cannot find any authority that would require a member of the legislature who serves on a committee to keep confidential any information delivered in closed session unless the information was required by state or federal law to be kept confidential or was information that the member had agreed to keep confidential under a confidentiality agreement signed by the member.

I have found one Attorney General Opinion which deals with the confidentiality of information on a statement of economic interest in the possession of a legislative committee. The attorney general opined: "It is clear that no statute imposes a confidentiality requirement on the statement when it is in the possession of the senate committee. Moreover, any mandated confidentiality would require specific legislation to that effect inasmuch as the important work of senate committees in determining whether to consent to a nomination often requires far-reaching discussion and deliberation by the senators."<sup>1</sup> In other words, the attorney general found that a confidentiality requirement on members of a senate committee would need to be imposed by statute or other law.

The Rules of Professional Conduct for Attorneys under SCR 20 do not apply to members of legislative committees. When a committee meets in closed session for the purpose of receiving confidential information, the committee chairperson may certainly poll members to determine if they intend to keep confidential information received in committee. If members indicate that they will not keep confidential the information, the committee chairperson may need to determine if the committee can receive the confidential information.

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<sup>1</sup> 68 Atty. Gen. 378, 382 (1979)

I hope this information is helpful. Please contact me if you would like additional information or further assistance.