



# Wisconsin Ethics Commission

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## Wisconsin Ethics Commission

Board Room  
212 East Washington Avenue  
Madison, Wisconsin  
December 6, 2016  
9:00 a.m.

### Open Session Minutes

Present: Peg Lautenschlager, Katie McCallum, Mac Davis, David Halbrooks, Robert Kinney, and Pat Strachota

Staff present: Brian Bell, David Buerger, Richard Bohringer, Kyle Kundert, Molly Nagappala, and Adam Harvell

#### **A. Call to Order**

Commission Chair Peg Lautenschlager called the meeting to order at 9:09 a.m.

#### **B. Report of Appropriate Meeting Notice**

Administrator Brian Bell reported that appropriate notice of the Commission meeting had been given to the public and news media.

#### **C. Minutes of the October 10, 2016 Meeting**

Commission Chair Lautenschlager directed Commissioners to the draft meeting minutes in the meeting materials.

Commissioner Davis - Correct a spelling error on page 9.

**MOTION:** Approve the minutes as corrected. Moved by Commissioner McCallum, seconded by Commissioner Kinney. Motion carried unanimously.

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*Wisconsin Ethics Commissioners*

Mac Davis | David R. Halbrooks | Peg Lautenschlager | Katie McCallum | Pat Strachota

*Administrator*  
Brian M. Bell, MPA

## D. Personal Appearances

There was one personal appearance by members of the public:

**Doug Haefele of the Assembly Democratic Campaign Committee** appeared regarding a campaign finance complaint his organization filed against the Republican Assembly Campaign Committee.

## E. Complaint and Investigation Procedures

Ethics Specialist Kundert presented the memo starting on page 13 of the meeting materials.

Discussion of front desk procedures to screen Ethics complaints from Elections complaints.

Discussion of a finding of no reasonable suspicion versus failing to find reasonable suspicion. Ethics Specialist Kundert will redraft to consistently use “failure to find reasonable suspicion”.

Discussion of non-jurisdictional complaint process.

**MOTION:** On page 14 of the materials, section B.2., amend complaint procedure to require staff to provide written notice to complainant when their complaint is dismissed due to facial deficiencies. Moved by Commissioner Kinney, seconded by Commissioner Lautenschlager.

Roll call vote: Strachota:	No	Davis:	No
McCallum:	No	Kinney:	Aye
Halbrooks:	No	Lautenschlager:	Aye

Discussion of investigations that are closed, but not terminated as defined by statute. Staff to add a section C.3.d. to address this situation where the Commission closes an investigation for other reasons.

Correction on page 16 of the materials, section C.1., the words “the law” should be inserted between “under” and “have occurred”. Adopted with unanimous consent.

Clarification on page 15 of the materials, section 2.b, sentence should read “Before voting on whether to take any action regarding the complaint, other than to dismiss, the Commission (via the Administrator) shall give the responding party(s) the opportunity to demonstrate to the Commission, in writing and within 15 days after receiving the notice that the Commission should take no action against the person based on the complaint.” Adopted with unanimous consent.

Clarification on page 15 of the materials, section 3.a. that staff will provide recommendations in writing where statutorily obligated.

**MOTION:** Approve the complaint and investigation procedures as amended. Moved by Commissioner Kinney, seconded by Commissioner McCallum. Motion carried unanimously.

## **F. Review of Formal Opinions**

Ethics Specialist Kundert presented the memo starting on page 21 of the meeting materials.

**MOTION:** The Commission makes a determination to withdraw all of the advisory opinions listed on pages 23-40, and directs staff to make available the withdrawn opinions with a clear disclaimer as to the lack of legal effect of all listed opinions. In addition, the Commission directs staff to inform the regulated community of the withdrawal of advisory opinions that referenced the previous campaign finance statutes, and included information on how to request a new advisory opinion, if interested. Moved by Commissioner Davis, seconded by Commissioner Strachota. Motion carried unanimously.

## **G. Reconsideration of 2005 Ethics Board Opinion 06**

Staff Counsel Buerger presented the memo starting on page 41 of the meeting materials.

**MOTION:** The Commission withdraws 2005 Eth Bd 06. Moved by Commissioner Davis, seconded by Commissioner Halbrooks. Motion carried unanimously.

## **H. Potential Legislation**

Administrator Bell presented the memo starting on page 47 of the meeting materials.

Discussion.

**MOTION:** The Commission places items 1-8, and 11 on the agency's legislative agenda. Moved by Commissioner Kinney, seconded by Commissioner Halbrooks. Motion carried unanimously.

Commission took a break at 10:50 a.m. and reconvened at 10:55 a.m.

## **I. Confidentiality of Commission Actions Related to Campaign Finance**

Staff Counsel Buerger presented the memo starting on page 51 of the meeting materials.

Discussion.

No action was taken.

## **J. Administrative Rules Update – ETH Chapters 6, 21, 25, and 26**

Staff Counsel Buerger presented the memo starting on page 53 of the meeting materials.

Discussion.

**MOTION:** The Commission approves the proposed administrative rules, ETH 6 and ETH 21. Moved by Commissioner Kinney, seconded by Commissioner Strachota.

Commissioner Davis raised a point of order and asked for division of the question. Chairperson Lautenschlager agreed division was appropriate.

**MOTION:** The Commission approves the proposed administrative rule, ETH 6. Moved by Commissioner Kinney, seconded by Commissioner Strachota. Motion carried unanimously.

Discussion. Chairperson Lautenschlager called the question.

**MOTION:** To approve the proposed administrative rule, ETH 21. Moved by Commissioner Kinney, seconded by Commissioner Lautenschlager. Motion carried unanimously.

Roll call vote: Strachota:	No	Davis:	No
McCallum:	No	Kinney:	Aye
Halbrooks:	No	Lautenschlager:	Aye

Discussion.

**MOTION:** The Commission repeals the proposed administrative rule, ETH 21. Moved by Commissioner Davis, seconded by Commissioner Halbrooks. Motion carried unanimously.

Discussion.

**MOTION:** The Commission approves the repeal of administrative rule, ETH 25. Moved by Commissioner Kinney, seconded by Commissioner Strachota. Motion carried unanimously.

Discussion.

**MOTION:** The Commission directs staff to draft the text of the rule for ETH 26. Moved by Commissioner Kinney, seconded by Commissioner Davis. Motion carried unanimously.

## **K. Delegation of Authority to Administrator – Informal Opinions**

Staff Counsel Buerger verbally presented the Commission's options if it wished to delegate authority to the administrator under Wis. Stat. § 19.46(2) to issue informal opinions.

Discussion.

The Commission directs staff to draft a written policy for the Commission to consider that would permit the Administrator to issue informal opinions on behalf of the Commission under Wis. Stat. § 19.46(2). The policy should include that any requests for advice under this policy must be time-sensitive, must be in writing, and must be reviewed by the Chairperson and Vice Chair (or their designees) prior to being issued.

**L. Nonpartisan Staff Policy**

Administrator Bell presented the memo starting on page 55 of the meeting materials.

Discussion. Add a footnote on page 59 to reflect that the Supreme Court Rule prohibiting judges from being a member of a political party was overturned in subsequent litigation.

**MOTION:** The Commission adopts the draft nonpartisan policy for staff on pages 62-63 of the materials and adopts the rest as comment supporting the policy. Moved by Commissioner Kinney, seconded by Commissioner Strachota. Motion carried unanimously.

**M. Administrator's Report**

Administrator Bell presented the memo starting on page 65 of the meeting materials.

Discussion. No action was taken.

Commission took a break for lunch at 12:15 p.m. and reconvened at 12:45 p.m.

**N. Closed Session**

**MOTION:** The Commission went into closed session pursuant to Wis. Stat. §§ 19.50, 19.55(3), 19.85(1)(g), (h). Moved by Commissioner Davis, seconded by Commissioner McCallum. Motion carried unanimously.

**O. Adjourn**

**MOTION:** To adjourn. Moved by Commissioner McCallum, seconded by Commissioner Halbrooks. Motion carried unanimously.

The Commission adjourned at 4:19 p.m.

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December 6, 2016 Wisconsin Ethics Commissioners meeting minutes prepared by:

  
David Buerger, Staff Counsel

March 7, 2017

December 6, 2016 Wisconsin Ethics Commissioners meeting minutes certified by:

  
Katie McCallum, Vice Chair

March 7, 2017