

NOTICE OF OPEN AND CLOSED MEETING

Wisconsin Ethics Commission

Teleconference Meeting
101 E. Wilson Street, Pecatonica Room
Madison, Wisconsin
Wednesday, November 13, 2019, 11:00 a.m.

Open Session Agenda

- A. Call to Order
- B. Report of Appropriate Meeting Notice – Staff Counsel
- C. Approval of Notice of Hearing on Scope Statement
- D. Closed Session
 1. Complaints and Investigations
- E. Adjourn

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Future Ethics Commission Meetings Scheduled:

- Tuesday, December 3, 2019 at 9:00 AM
- Tuesday, March 3, 2020 at 9:00 AM
- Tuesday, June 16, 2020 at 9:00 AM
- Tuesday, August 18, 2020 at 9:00 AM
- Tuesday, October 13, 2020 at 9:00 AM
- Tuesday, December 8, 2020 at 9:00 AM

The Ethics Commission will convene in open session but may move to closed session under WIS. STAT. § 19.85(1)(c), (g), (h), or WIS. STAT. § 19.851. This notice is to inform the public that the Commission intends to convene in open session, but may move to closed session. The Commission plans to return to open session following that closed session, as outlined in the above agenda. WIS. STAT. § 19.85(2).

WIS. STAT. §§ 19.50 & 19.55(3) No employee of the Commission may disclose information related to an investigation or prosecution under ch. 11, subchapter III of ch. 13, or ch. 19.

WIS. STAT. § 19.85(1) Any meeting of a governmental body, upon motion duly made and carried, may be convened in closed session under one or more of the exemptions provided in this section. The motion shall be carried by a majority vote in such manner that the vote of each member is ascertained and recorded in the minutes. No motion to convene in closed session may be adopted unless the chief presiding officer announces to those present at the meeting at which such motion is made, the nature of the business to be considered at such closed session, and the specific exemption or exemptions under this subsection by which such closed session is claimed to be authorized. Such announcement shall become part of the record of the meeting. No business may be taken up at any closed session except that which relates to matters contained in the chief presiding officer's announcement of the closed session. A closed session may be held for any of the following purposes:

- (g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.
- (h) Consideration of requests for confidential written advice from the elections commission under s. 5.05 (6a) or the ethics commission under s. 19.46 (2), or from any county or municipal ethics board under s. 19.59 (5).

WIS. STAT. § 19.851(2) The commission shall hold each meeting of the commission for the purpose of deliberating concerning an investigation of any violation of the law under the jurisdiction of the commission in closed session under this section.



Wisconsin Ethics Commission

101 East Wilson Street | Room 127 | P.O. Box 7125 | Madison, WI 53707-7125
(608) 266-8123 | ethics@wi.gov | ethics.wi.gov

DATE: For the Commission Meeting on November 13, 2019
TO: Members, Wisconsin Ethics Commission
FROM: David Buerger, Staff Counsel
SUBJECT: Administrative Rule Update

FOR COMMISSION ACTION

1. For ETH 1 – Comprehensive Review of ETH 1 for Consistency with Statute, does the Commission approve of the attached draft hearing notice and direct staff to publish the notice for a preliminary public hearing on the scope statement for this rule at the meeting on December 3, 2019?

I. Chapter ETH 1 – Comprehensive Review of ETH 1 for Consistency with Statute

At the Commission’s meeting on June 18, 2019, it directed staff to prepare a new broader scope statement based on the recommendation of the Legislative Council Rules Clearinghouse to conduct a comprehensive review of ETH 1 to ensure that the terms used in ETH 1 are consistent with the terms used in Chapter 11. This broader scope statement would permit the Commission to conform the rule to the statutes in the eleven other provisions in ETH 1 that were not within the scope of the earlier rulemaking.

At the Commission’s meeting on August 20, 2019, the Commission approved the draft scope statement (see attached) and directed staff to submit it to the Department of Administration (“DOA”) and the Governor’s Office for review and approval. Staff submitted the scope statement to DOA on August 23, 2019, and it was approved by DOA and submitted to the Governor’s Office on August 30, 2019. The Governor’s Office approved the scope statement on October 3, 2019. Staff then submitted the statement of scope to the Legislative Reference Bureau for publication in the Administrative Register. Pursuant to [WIS. STAT. § 227.135\(3\)](#), that same day staff also submitted the scope statement to the chief clerks of each house of the Legislature, who are required to distribute the scope statement to the co-chairs of the Joint Committee for Review of Administrative Rules (“JCRAR”). The scope statement was published in the October 7, 2019 edition of the Administrative Register as SS 098-19.

Within 10 days of the publication of a statement of scope either co-chair of JCRAR may submit a written directive to the agency to hold a preliminary public hearing and comment period on a statement of scope. [WIS. STAT. § 227.136\(1\)](#). Commission staff

Wisconsin Ethics Commissioners

Mac Davis | David R. Halbrooks | Katie McCallum | Tamara Packard | Pat Strachota | Timothy Van Akkeren

Administrator

Daniel A. Carlton, Jr.

received such a letter from Senator Nass, a co-chair of JCRAR, on October 14, 2019 (see attached). To hold a preliminary public hearing on a statement of scope, an agency is required to prepare and publish a hearing notice that must be published in the Administrative Register at least three days before the preliminary hearing. The notice is required to be approved by the body with policy-making powers over the subject matter of the proposed rule. [WIS. STAT. § 227.136\(2\)](#).

Staff has prepared a draft preliminary public hearing notice (see attached) that would schedule a hearing on this scope statement for the Commission's previously scheduled meeting on December 3, 2019. If approved by the Commission today, staff can submit the hearing notice to the Legislative Reference Bureau for publication in the November 18, 2019 edition of the Administrative Register, which would provide sufficient notice to hold the hearing at the meeting scheduled for December 3, 2019.

II. Attachments

- A. ETH 1 – Statement of Scope
- B. Senator Nass Letter, RE: SS 098-19 (October 14, 2019)
- C. ETH 1 – Draft Preliminary Public Hearing Notice

**STATEMENT OF SCOPE
PURSUANT TO WIS. STAT. § 227.135
WISCONSIN ETHICS COMMISSION**

Rule No.: ETH Ch. 1

Relating to: Campaign Finance

Rule Type: Permanent

1. Detailed description of the objective of the proposed rule:

In review of Clearinghouse Rule 19-035, the Legislative Council Rules Clearinghouse report recommended the Ethics Commission should review the entire chapter to ensure consistency between the rule and Chapter 11 as re-created by 2015 Wisconsin Act 117. As such a review would require a broader statement of scope than initially proposed, rather than amending the scope of CR 19-035, the Ethics Commission proposes a new rule to amend those provisions of Wis. Admin. Code ETH 1 that contain outdated language (e.g., “personal campaign committee” instead of “candidate committee”) or are otherwise not consistent with Chapter 11 as re-created by 2015 Wisconsin Act 117 (e.g., removing references to collecting the place of employment of a contributor) that were not previously identified as needing further revision. The Wisconsin Ethics Commission has tentatively identified the following provisions to be re-examined: Wis. Admin. Code ETH 1.20 (3), 1.25, 1.39 (1) (b), 1.56 (2), 1.60 (1) (a), 1.60 (1) (c), 1.60 (2), 1.70 (2), 1.70 (3), 1.85 (3), and 1.855 (3).

2. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The Government Accountability Board previously reviewed the provisions of Wis. Admin. Code ETH 1 for consistency as required by 2015 Wisconsin Act 117. In that review, the Board noted several provisions that were inconsistent with the new law, but it did not address other statutory and administrative references within ETH 1 that needed to be updated to harmonize the language with the newly created Chapter 11 or current administrative procedures. The Ethics Commission has another rule (CR 19-035) currently in development that addresses the provisions identified by the Government Accountability Board, but this new rule would include other provisions not previously identified by the Board as inconsistent and attempt to harmonize those provisions with Chapter 11 as re-created as well.

3. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

The Commission has general authority for the promulgation of rules to carry out the requirements of Chapter 11.

s. 11.1304(17), Stats.:

11.1304 Duties of the ethics commission. The commission shall:
(17) Promulgate rules to administer this chapter.

s. 19.48(1), Stats.:

19.48 Duties of the ethics commission. The commission shall:
(1) Promulgate rules necessary to carry out ch. 11, subch. III of ch. 13, and this subchapter.

s. 227.11(2)(a), Stats.:

227.11 Extent to which chapter confers rule-making authority.
(2) Rule-making authority is expressly conferred on an agency as follows:
(a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.

4. Estimate of the amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The Commission estimates that it will use approximately 0.05 FTE staff to develop this rule. This includes time required for research, rule drafting, preparing related documents, coordinating stakeholder meetings, holding public hearings, legislative review and adoption, and communicating the final rule with affected persons and groups. The Commission will use existing staff resources to develop this rule.

5. List with description of all entities that may be affected by the proposed rule:

Candidates, candidate committees, political parties, legislative campaign committees, political action committees, independent expenditure committees, conduits, referendum committees, recall committees, and the general public may be affected by the proposed rule.

6. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

The Wisconsin Ethics Commission is unaware of any existing or proposed federal regulation that is applicable to this rule.

7. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The Wisconsin Ethics Commission anticipates the rule having no economic impact. This proposed rule includes no significant economic impact on small businesses.

Contact person: David P. Buerger
david.buerger@wisconsin.gov (608) 267-0951



David Buerger
Staff Counsel
Wisconsin Ethics Commission

August 23, 2019
Date Submitted



JOINT COMMITTEE FOR THE REVIEW OF ADMINISTRATIVE RULES

COMMITTEE CO-CHAIRS: SENATOR STEVE NASS AND REPRESENTATIVE JOAN BALLWEG

October 14, 2019

Daniel Carlton, Administrator
Wisconsin Ethics Commission
101 E. Wilson St., Room 127
P.O. Box 7125
Madison, WI 53707-7125

RE: SS 098-19 – Changes to Campaign Finance Provisions as a Result of 2015 Act 117

Dear Mr. Carlton:

As co-chairperson of the Joint Committee for Review of Administrative Rules (JCRAR) and pursuant to s. 227.136 (1), Stats., I write to direct the Wisconsin Ethics Commission to hold a preliminary public hearing and comment period on Scope Statement SS 098-19, relating to changes to campaign finance provisions as a result of 2015 Wisconsin Act 117. SS 098-19 was published in the Wisconsin Administrative Register on October 7, 2019.

Additionally, pursuant to s. 227.135 (2), Stats., please note that a scope statement may not be approved by the Ethics Commission or any individuals within the Commission until after the preliminary public hearing and comment period are held by the agency, and accordingly, no activity may be conducted in connection with the drafting of a proposed rule until after such hearing and approval have occurred.

Please confirm receipt of this letter directing a preliminary hearing and comment period on the above scope statement.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Nass'.

Senator Steve Nass
Co-Chair, JCRAR

Notice of Hearing

The Wisconsin Ethics Commission announces that it will hold a preliminary public hearing on statement of scope SS 098-19 for WIS. ADMIN. CODE ETH 1 relating to campaign finance. The type of the proposed rule is permanent. In accordance with s. 227.136, Stats., the Commission is seeking public comment and feedback on this scope statement at the time and place shown below.

Hearing Information

Date: December 3, 2019

Time: 9:00 A.M.

Location: 101 East Wilson Street, St. Croix Room, Madison, WI 53703

Appearances at the Hearing and Submittal of Written Comments

The statement of scope may be reviewed, and comments made at:
http://docs.legis.wisconsin.gov/code/scope_statements/comment.

Written comments may be submitted to David Buerger, Staff Counsel, Wisconsin Ethics Commission, P.O. Box 7125, Madison, WI 53707-7125, or by email to eth.rulecomments@wi.gov. Written comments must be received no later than December 2, 2019 to be included in the record of rulemaking proceedings.

Individuals who wish to provide their comments in person at the hearing are encouraged to also submit a written copy of their testimony for inclusion in the record.

