



Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics
101 E. Wilson Street | Suite 127 | P.O. Box 7125 | Madison, WI 53707-7125
(608) 266-8123 | ethics@wi.gov | <https://ethics.wi.gov>

DATE: For the Commission Meeting on February 25, 2020

TO: Members, Wisconsin Ethics Commission

FROM: Daniel A. Carlton, Jr., Administrator

SUBJECT: Establishment of Legislative Protocols

FOR COMMISSION ACTION

The purpose of this agenda item is to establish protocols for commenting or testifying before the Legislature on matters relating to the Commission. The Commission may:

1. Establish protocols, or
2. Take other action consistent with today's discussion.

In the context of Legislative hearings, the role of the Commission Administrator is to represent the Commission and inform the Legislature of the positions of the Commission regarding policy, budgetary, and/or technical concerns. The Administrator is not to speak for the Commission without an adequate basis for doing so. The purpose of today's discussion is to advise the Administrator how the Commission wishes to address certain legislative matters.

First, it is important to establish what it means to have an adequate basis for the Administrator to speak on behalf of the Commission. The Administrator has an adequate basis to speak on behalf of the Commission under three circumstances:

1. The Commission has adopted a rule, policy, or opinion that directly addresses the issue;
2. The Commission has acted on complaint or audit proceedings sufficiently to inform the Administrator of the Commission's interpretation or application of the law; or
3. The Commission has directly authorized the Administrator to take a position on its behalf.

In appearances before the Legislature, the Administrator must limit testimony and/or comments to provide the positions of the Commission only where the Administrator has an adequate basis as outlined above. If the Administrator does not have an adequate basis for testimony or comment, the Administrator should refrain from testimony and comment unless absolutely necessary under the circumstances and where it is clearly stated that the Commission has not yet weighed in on the matter.

In most cases, the Commission will have sufficient time to deliberate concerning legislation and/or rulemaking at its next regularly scheduled meeting. In those circumstances, the Commission directs the Administrator to consult with the Chair and Vice Chair to determine whether an item should be placed on the agenda for discussion and adoption of a position.

Wisconsin Ethics Commissioners

Paul Connell | Mac Davis | David R. Halbrooks | Tamara Packard | Pat Strachota | Timothy Van Akkeren

Administrator

Daniel A. Carlton, Jr.

However, in some cases, there may not be sufficient time to wait until the next regularly scheduled meeting. In this circumstance, there are at least 3 options:

1. If it is possible to call a meeting with appropriate meeting notice, consult with the Chair and Vice Chair to call a meeting to discuss the matter either in person or via telephone;
2. If it is not possible to call a meeting with appropriate meeting notice, the Commission could authorize the Chair and Vice Chair to direct the Administrator to take a position on its behalf; or
3. If it is not possible to call a meeting with appropriate notice, authorize the Administrator to provide comment or opinion if:
 - a. The Administrator clearly states that the Commission has not opined;
 - b. The Administrator limits comment/testimony to operational, technical, and administrative concerns; and
 - c. The Administrator reports to the Chair and Vice Chair the content of the testimony provided.

The Commission can adopt one or more of the foregoing as directions to the Administrator. If the Commission would like to authorize the Chair and Vice Chair to direct the Administrator to take a position on the Commission's behalf, the Commission may want to consider requiring the Chair and Vice Chair to agree on the position to be taken on behalf of the Commission.