

NOTICE OF OPEN AND CLOSED MEETING

Wisconsin Ethics Commission

101 E Wilson Street, St. Croix Room
Madison, Wisconsin

Wednesday, February 22, 2023, 9:00 a.m.

Open Session Agenda

- A. Call to Order
- B. Report of Appropriate Meeting Notice – Administrator
- C. Introduction of New Commissioner(s)
- D. Election of New Vice Chair
- E. Approval of Minutes of Prior Meetings
 - 1. Open Session Minutes for Meeting on December 13, 2022 Page 3
- F. Personal Appearances
- G. Administrative Rule Update Page 7
- H. Campaign Finance Website/Budget Request Update Verbal
- I. Staff Report Page 11
- J. Consideration of Future Agenda Items
- K. Closed Session
 - 1. Requests for Advice
 - 2. Complaints and Investigations
 - 3. Personnel Matters
- L. Adjourn

Microsoft Teams meeting

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Phone Conference ID: 643 693 249#

Future Ethics Commission Meetings Scheduled:

- Tuesday, June 20, 2023, at 9:00 AM
- Tuesday, September 12, 2023, at 9:00 AM
- Tuesday, December 12, 2023, 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:

- (c) Considering employment, promotion, compensation, or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.
- (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

Campaign Finance | Lobbying | Ethics
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Wisconsin Ethics Commission

101 East Wilson Street, St. Croix Room
Madison, Wisconsin
December 13, 2022, 9:00 a.m.

Open Session Minutes

Present: Pat Strachota, David Wambach (Teams/Virtual), Maryann Sumi (Teams/Virtual), Timothy Van Akkeren, and Andrew D. Weininger.

Staff Present: Daniel Carlton, Colette Greve, David Buerger, Sathya Sivaji, Richard Bohringer, Harry Broderick.

A. Call to Order

Commission Chair Pat Strachota called the meeting to order at 9:01 a.m. A quorum was present.

B. Report of Appropriate Meeting Notice – Administrator

Administrator Daniel Carlton notified the Commission appropriate meeting notice had been provided to the public and news media.

C. Approval of Minutes of Prior Meetings

1. Open Session Minutes for Meeting on August 30, 2022

MOTION: To approve the minutes. Moved by Commissioner Van Akkeren, seconded by Commissioner Weininger. 5-0 Motion carried unanimously.

D. Personal Appearances

There were no personal appearances.

E. Revision and Adoption of Guidelines

Staff Counsel Buerger presented the memo on page 7 of the meeting materials.

1. ETH 1301 Attribution

MOTION: To adopt the guideline for attribution statements on pages 9 and 10. Moved by Commissioner Van Akkeren, seconded by Commissioner Weininger. 5-0 Motion carried unanimously.

2. New Guideline - ETH 1302 Exemption for State Candidate Committees

MOTION: To approve the guideline for Campaign Finance reports for State Committees. Moved by Commissioner Van Akkeren, seconded by Commissioner Weininger. 4-0 Motion carried unanimously. Commissioner Sumi dropped off the call.

3. New Guideline - ETH 1303 Exemption for Local Candidate Committees

MOTION: To approve the guideline for Campaign Finance report filing exemption for State local Committees. Moved by Commissioner Weininger, seconded by Commissioner Van Akkeren. 4-0 Motion carried unanimously.

Commissioner Sumi rejoined the call.

F. Lobbying Audit Update – Late 15-Day Report Audit

Administrator Daniel Carlton and Ethics Specialist Harry Broderick presented the memo on page 15 of the meeting materials.

MOTION: To request staff to resume conducting audits for late-filed 15-Day reports as described. Moved by Commissioner Van Akkeren, seconded by Commissioner Sumi. 5-0 Motion carried unanimously.

G. Legislative Recommendations for the 2023-24 Legislative Session

Administrator Daniel Carlton presented the memo on page 19 of the meeting materials.

1. Campaign Finance

a) Require an Email Address and Telephone Number on the Registration Statement

MOTION: To require an email address and telephone number on the registration statement with an exemption of a personal phone number from public records. Moved by Commissioner Van Akkeren, seconded by Commissioner Weininger. 5-0 Motion carried unanimously.

b) Administrative Termination or Suspension of Inactive or Non-compliant Committees

MOTION: To approve the recommendation made by the Administrator with tolling of statute of limitations. Moved by Commissioner Sumi, seconded by Commissioner Van Akkeren. 5-0 Motion carried unanimously.

c) Valuation and Reporting of Joint Ads

MOTION: Confirm interpretation of 2022 ETH 01 with Legislature and ask that they codify the holdings of that opinion or revise according to how they want it. Moved by Commissioner Van Akkeren, seconded by Commissioner Weininger. 5-0 Motion carried unanimously.

d) Require a Separate Committee for Each Office Sought

MOTION: Recommend that the Legislature require a separate committee for each office sought. Moved by Commissioner Van Akkeren, seconded by Commissioner Weininger. 5-0 Motion carried unanimously.

e) Disposal of Residual Conduit Funds

MOTION: To make the recommendation to the Legislature. Moved by Commissioner Van Akkeren, seconded by Commissioner Weininger. 5-0 Motion carried unanimously.

f) Local Committees Registering and Reporting with the Commission

Commission tabled this recommendation.

2. Lobbying

a) Clarify that Local Special Elections Do Not Open the Lobbyist Contribution Window

MOTION: To make this recommendation to the Legislature and let them decide the specifics of who the window applies to. Moved by Commissioner Van Akkeren, seconded by Commissioner Sumi. 5-0 Motion carried unanimously.

3. Ethics

a) Definition of Local Public Official

Commission tabled this recommendation.

4. Administrative

a) Records of Final Action

MOTION: To recommend the Legislature specify in the statutes that a warning can be made publicly available. Moved by Commissioner Van Akkeren, seconded by Commissioner Sumi. 5-0 Motion carried unanimously.

b) Audit Results

MOTION: To recommend the Legislature specify in the statutes that audit results are confidential unless the Commission issues a warning, orders litigation, refers the matter to an appropriate prosecutor, or the potential violation is settled. Moved by Commissioner Van Akkeren, seconded by Commissioner Sumi. 5-0 Motion carried unanimously.

Administrator Daniel Carlton stated he will bring back a draft from LRB at the next Commission meeting.

H. Ethics Commission Staff Report

Administrator Daniel Carlton presented the Staff Report on page 29 of the meeting materials.

No action taken.

I. Consideration of Future Agenda Items

None.

J. Closed Session

- 1. Requests for Advice**
- 2. Complaints and Investigations**
- 3. Personnel Matters**

MOTION: To go into closed session to discuss requests for advice, complaints, investigations, and personnel matters. Moved by Commissioner Van Akkeren seconded by Commissioner Weininger. 5-0 Motion carried unanimously.

K. Adjourn

Commissioner Sumi left the call.

MOTION: To adjourn the meeting. Moved by Commissioner Van Akkeren, seconded by Commissioner Weininger. 4-0 Motion carried unanimously. Meeting adjourned at 5:09 P.M.

December 13, 2022, Wisconsin Ethics Commission meeting minutes prepared by:

Sathya Sivaji, Office Management Specialist

February 22, 2023

December 13, 2022, Wisconsin Ethics Commission meeting minutes certified by:

Pat Strachota, Chair

February 22, 2023



Wisconsin Ethics Commission

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DATE: For the Commission Meeting on February 22, 2023
TO: Members, Wisconsin Ethics Commission
FROM: David Buerger, Staff Counsel
SUBJECT: Administrative Rules Update

FOR COMMISSION ACTION

1. For ETH 1 – Campaign Financing, does the Commission wish to direct staff to prepare a scope statement to initiate the rulemaking process?
2. For ETH 15 – Statement of Economic Interests, does the Commission wish to direct staff to prepare a scope statement to initiate the rulemaking process?

On February 1, 2023, the Legislative Reference Bureau (LRB) published a report regarding rules in the Wisconsin Administrative Code that the Chief of the LRB has identified as possibly being in need of revision. This report is required to be sent to the Joint Committee for Review of Administrative Rules (JCRAR) prior to the end of each even-numbered year. No Ethics Commission rules were identified in this report as needing revision.

I. Chapter ETH 1 – Campaign Financing

In closed session at its meeting on December 13, 2022, the Commission requested that staff prepare a draft guideline for consideration in open session at a future meeting to address anonymous contributions being left in an unsupervised location. A guideline can only communicate and explain existing legal requirements. It cannot create new requirements. As such, Commission staff wish to clarify whether the Commission simply wishes to better communicate existing legal requirements or if it wishes to propose an administrative rule to establish new requirements within the existing statutory framework.

Wisconsin law requires a committee to report the name and street address of each person who has made a contribution to the committee. *See, e.g.,* [WIS. STAT. § 11.0204\(1\)\(a\)1](#). If an individual makes cumulative contributions for the calendar year in excess of \$200, the committee must also report the occupation of the contributor. *See, e.g.,* [WIS. STAT. § 11.0204\(1\)\(a\)3](#). A committee that is required to file campaign finance reports is required to make a “good faith effort” to obtain all information required to be reported. *See* [WIS. STAT. § 11.0103\(1\)\(a\)](#). Wisconsin law also explicitly prohibits any committee from accepting an anonymous contribution exceeding \$10. [WIS. STAT. § 11.1108](#). If such an anonymous contribution is received the committee must provide with its periodic campaign

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(Vacant) | Pat Strachota | Maryann Sumi | Timothy Van Akkeren | (Vacant) | Andrew Weininger

Administrator

Daniel A. Carlton, Jr.

finance reports an itemized statement of each contribution made anonymously. *See, e.g.,* [WIS. STAT. § 11.0204\(1\)\(a\)4.](#)

Commission staff has observed that the above laws are commonly misunderstood to allow committees to accept contributions of \$10 or less anonymously. Committees also sometimes pass a hat or leave out a jar to collect contributions. These practices do not provide sufficient assurance that individuals are not putting in more than \$10. Further, it does not appear that the committees engaging in this practice are making a sufficient effort to obtain the name and street address of the contributors. This is not permitted under current law. As noted above, a committee is required to make a good faith effort to obtain the name and street address of each person who has made a contribution to the committee. This requirement is not simply for contributions of more than \$10.

If the Commission wishes to simply better explain and communicate the existing law, no rulemaking is necessary. However, if the Commission wishes to prohibit practices such as hat passing or leaving out jars for unsupervised contributions, rulemaking may be necessary. If so, Commission staff could be directed to prepare a scope statement and bring that back at the Commission's June meeting.

II. Chapter ETH 15 – Statement of Economic Interests

With the passage of 2021 Act 267, the law now requires a final statement of economic interests (“SEI”) to be filed within 21 days of an official required to file leaving office. The statute does not explicitly address circumstances where an official's term ends or he/she resigns but the official expects to assume either a new term of office or to hold a different office shortly after they leave. While the Commission has broad discretion to grant waivers, the Commission will want to consider expressly addressing these situations in the Administrative Code. This will allow the Commission to adopt a clear policy of general applicability that provides notice to the public and framework for the staff.

Additionally, Chapter ETH 15 has not been revised in a significant period of time. While the current provisions are not outdated and are valid, if the Commission is interested in proceeding with rulemaking concerning the final SEI, the Commission may want to direct staff to review those provisions for updates. Further, the Commission can have staff consider whether there are other practices and procedures that should be codified in rule.

If the Commission would like to pursue revising or additional rulemaking in Chapter ETH 15, the Commission can, via motion, direct staff to prepare a scope statement for approval at the June meeting.

III. Chapter ETH 21 – Practice and Procedure (No Action Required)

This rulemaking was originally proposed to clarify the Commission's procedures for requests for advice and complaints. The Commission held a preliminary public hearing on the scope statement for this proposed rule on August 18, 2020, but no members of the public appeared to comment on the scope statement at that meeting, and no public

comments were received. The Commission then formally approved the scope statement and directed staff to begin drafting the proposed rule and associated documents for submission to the Legislative Council Rules Clearinghouse. The draft rule and associated documents were presented to the Commission at its meeting on June 15, 2022. At that meeting, the Commission initially approved of the draft rule and associated documents and directed staff to submit them to the Legislative Council Rules Clearinghouse. Commission staff submitted the draft rule and associated documents to the Legislative Council Rules Clearinghouse on June 15, 2022.

The Legislative Council Rules Clearinghouse submitted a report to the Commission regarding this draft rule on June 24, 2022. The report made fourteen comments and Commission staff adopted and incorporated each comment except for one. Upon consultation with Legislative Council staff, that comment was determined to have been included out-of-context and no changes were needed in response.

The Commission held a public hearing on the final version of this rule on August 30, 2022. No public comments were received before or at the hearing. A motion to approve the final draft rule passed unanimously. Commission staff submitted the final draft rule to the Governor's Office for approval that same day. The Governor's Office approved the final draft version of the rule on September 8, 2022. Commission staff sent the final draft rule to the Legislature that same day. As the proposed rule was received after the Legislature's final general business floorperiod, no action was taken at that time. The final draft rule was recorded as received by the State Assembly on January 3, 2023. It was referred to the Assembly Committee on State Affairs on January 12, 2023. The State Senate recorded the final draft rule as received on January 31, 2023. As of the drafting of this memo, the rule has not yet been referred to a Senate committee.

IV. Chapter ETH 26 – Settlement Offer Schedule (No Action Required)

At its meeting on February 23, 2021, the Commission directed staff to begin the rulemaking process to revise ETH 26 to codify its practice of making a reduced settlement offer to committees whose late reports reflected no activity during the reporting period or who requested termination. The existing rule already permits the Commission to consider mitigating circumstances in determining the terms of any settlement offer that may be extended.

At its meeting on June 15, 2022, the Commission directed staff to bring this matter back for a broader review of the Commission's settlement schedule along with a proposed scope statement. At its meeting on August 30, 2022, the Commission approved the initial draft scope statement with a revision to include a settlement schedule for the final SEI. That revised initial draft scope statement was sent to the Governor's Office for approval on September 1, 2022. The Governor's Office approved the initial draft scope statement on September 8, 2022. No request for a preliminary public hearing on the scope statement was received. The next step is for Commission staff to prepare the preliminary rule text and

associated documents. Commission staff plan to prepare these documents for the Commission's June meeting.



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DATE: For the Commission Meeting on February 22, 2023
TO: Members, Wisconsin Ethics Commission
FROM: Ethics Commission Staff
SUBJECT: Ethics Commission Staff Report

Commission Administration

Legislative Recommendations

At the Commission meeting on December 13, 2022, the Commission approved several legislative recommendations related to campaign finance. The Commission also adopted several legislative recommendations to make certain records available to the public once matters have concluded. Finally, the Commission made one legislative recommendation regarding lobbying.

Staff reviewed the statutes implicated by the legislative recommendations and prepared draft language to address the legislative recommendations. That language was submitted to the Legislative Reference Bureau to prepare a draft bill. As of the drafting of this memo, the LRB has not yet provided a draft. This is understandable at this point in the session as LRB staff is very busy drafting legislators' requests as well as working on the budget. Once staff receives the draft, it will be provided to the Commissioners for review.

Trainings

Since the last Commission meeting, Staff Counsel Buerger conducted an encore presentation of "Understanding the Code of Ethics for Local Public Officials" for the League of Wisconsin Municipalities on January 20, 2023. This training was originally presented at the League of Wisconsin's Municipal Attorneys Institute. Additionally, Administrator Carlton presented a training session for legislative staff covering the 50-Piece Rule, campaign-related activity, the lobbying law, and the ethics laws on January 20, 2023.

Staff Counsel Buerger is scheduled to present a brief ethics refresher at the Chief Legal Counsel meeting on March 2, 2023. He is also planning to present a joint class with the Wisconsin Elections Commission at the UW-Green Bay Clerks and Treasurers Institute the week of July 17-21.

Campaign Finance

The January Continuing 2023 report was due January 17, 2023. This is a mandatory report for all committees not claiming the exemption. The report covered activity through December 31, 2022. There were 1075 committees required to file this report. We did have an issue that took the website offline for approximately 2 days between 1/9/23 and 1/11/23, and another issue on 1/16/23 between 8:30 pm and 5:45 am. These issues were resolved early enough prior to the filing deadline

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Administrator
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that we did not hear from any committees that they were unable to file by the deadline due to these issues. (Over 90.5% of the committees filed on time (973). There have been 45 committees file late with 57 (5.3%) still not filed.

In addition to the January 2023 report, all non-candidate committees with total disbursements in 2022 more than \$2,500 were required to pay a \$100 annual filing fee. This fee can be paid on our website by check, EFT (electronic funds transfer), or by debit/credit card. The fee, if required, was due by January 17, 2023. There were 320 committees that paid by 1/17/23, with 66 others that paid within 15 days, and 4 committees that are still out. Committees paying 16-45 days late are required to pay \$300 according to the standard settlement schedule. Those that paid online were assessed the additional amount automatically.

The next scheduled report is the Pre-Primary report for the Spring 2023 and Senate District 8 special elections. This report covers all activity from 1/1/23 through 2/6/23. The report is due by 2/13/23. With the revision to the exemption statutes, this is the first state election that requires all state candidates to file campaign finance reports in the year of their election. State candidates are no longer allowed to claim an exemption from filing campaign finance reports in the year of their election. We have 74 candidates registered for the April 4 election, required to file a Pre-Primary report.

Lobbying

2021-2022 Legislative Session

The Statement of Lobbying Activity and Expenditures (SLAE) covering July – December 2022 was due on January 31, 2023. Approximately 97% of principals required to file the report submitted it on time.

2023-2024 Legislative Session

Registration for the current session is available on the Commission’s lobbying website. As of February 10, 2023, there are 548 lobbyists licensed, 717 principals registered, and 1,497 lobbyist authorizations.

Legislative Liaison Reporting

The legislative liaison report for the last half of 2022 was due by January 31, 2023. As of February 8, all but 5 agencies had filed. Staff will continue to follow up until all reports are filed.

Code of Ethics and Financial Disclosure

Statements of Economic Interests (SEIs)

In April 2022, the SEI statutes changed to require departing officials to file a final SEI when they left their positions. This raised some questions. For example, should officials moving to another SEI-filing position would have to file a final SEI? Should the standard settlement schedule for late SEIs should be updated to treat final SEIs differently? Staff has included updating and amending Chapter ETH 15 of the Administrative Code in the Administrative Code Update materials for

rulemaking on these issues. Assuming the scope statement is approved, staff now plans to bring up these issues related to the new SEI laws at either the June or August meeting. This will allow us to present a full year's worth of data to the Commission to inform the Commission's decisions.

Staff updated the SEI website on November 17, 2022, to allow for filing and tracking of final SEIs, and to update the SEI forms and instructions now that mutual and money market funds no longer have to be reported. Staff continues to make minor updates as needed.

Candidates on the April 2023 ballot had to file an SEI by January 6, 2023. Newly elected officials and appointees beginning a new term on January 3, 2023, had to file an SEI by January 24, 2023. As of February 8th, only one of these officials had not filed – staff will continue to follow up until all SEIs are filed.

The annual SEI for approximately 2,500 state public officials will be due by May 1, 2023. Staff sent out the initial email notice to all filers on February 2, 2023.

State of Wisconsin Investment Board Quarterly Reports

The 2023 fourth quarter reports were due by January 31, 2023. As of February 8, 2 reports were still outstanding. Staff will continue to follow up until all reports are filed, and will provide copies to the Legislative Audit Bureau. The next Quarterly Reports are due May 1, 2023.

