

NOTICE OF OPEN AND CLOSED MEETING

Wisconsin Ethics Commission

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

Tuesday, December 12, 2023, 9:00 a.m.

Open Session Agenda

- A. Call to Order
- B. Report of Appropriate Meeting Notice – Administrator
- C. Approval of Minutes of Prior Meetings
 - 1. Open Session Minutes for Meeting on October 26, 2023 Page 3
 - 2. Open Session Minutes for Meeting on November 3, 2023 Page 7
- D. Personal Appearances
- E. Lobbying Audit Update and Guidance – Unauthorized Lobbying Page 9
- F. Staff Report Page 13
- G. Consideration of Future Agenda Items
- H. Closed Session
 - 1. Requests for Advice
 - 2. Complaints and Investigations
 - 3. Legal Advice Regarding Potential Litigation
 - 4. Personnel Matters
 - 5. Adjourn

Future Ethics Commission Meetings Scheduled:

- Tuesday, February 20, 2024, at 9:00 AM
- Tuesday, May 14, 2024, at 9:00 AM
- Tuesday, July 23, 2024, at 9:00AM
- Tuesday, October 15, 2024, at 9:00 AM
- Tuesday, December 17, 2024, 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 intends to adjourn in closed session after completion of the closed session agenda.

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 an 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
October 26, 2023, 9:00 a.m.

Open Session Minutes

Present: Pat Strachota, Maryann Sumi, Andrew D. Weininger, Carousel Bayrd and Gerald Ptacek (Virtual/ Teams).

Staff Present: Daniel Carlton, David Buerger, Sathya Sivaji, Richard Bohringer, Chloe Ruppel, Coleman Maberry and Thomas Jackson.

A. Call to Order

Commission Chair Pat Strachota called the meeting to order at 9:05 a.m. A quorum was present.

B. Report of Appropriate Meeting Notice – Administrator

Administrator Daniel Carlton notified the Commission an 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 07, 2023

MOTION: To approve the minutes. Moved by Vice Chair Sumi, seconded by Commissioner Weininger. 5-0 Motion carried unanimously.

2. Open Session Minutes for Meeting on October 05, 2023

MOTION: To approve the minutes. Moved by Commissioner Ptacek, seconded by Vice Chair Sumi. 5-0 Motion carried unanimously.

D. Personal Appearances

There were no personal appearances.

E. Consideration of Anonymous Contribution Guideline

Guidance for Acceptance and Reporting of Anonymous Contributions.

Administrator Daniel Carlton presented the memo on page 7 of the meeting materials.

MOTION: To approve the draft guidance for acceptance and reporting of anonymous contributions with additional example of donation of full contribution to charity. Moved by Commissioner Bayrd, seconded by Commissioner Weininger. 5-0 Motion carried unanimously.

F. Ethics Commission Staff Report

Administrator Daniel Carlton presented the Staff Report on page 15 of the meeting materials.

No action taken.

Administrator Daniel Carlton introduced the two new Ethics Specialists, Thomas Jackson, and Chloe Ruppel, to the Commission.

G. Consideration of Future Agenda Items

None.

H. 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 Ptacek seconded by Vice Chair Sumi. 5-0 Motion carried unanimously.

I. Adjourn

MOTION: To adjourn the meeting. Moved by Commissioner Weininger, seconded by Vice Chair Sumi. 5-0 Motion carried unanimously. The meeting was adjourned at 1:37 P.M.

October 26, 2023, Wisconsin Ethics Commission meeting minutes prepared by:

Sathya Sivaji, Office Management Specialist

December 12, 2023

October 26, 2023, Wisconsin Ethics Commission meeting minutes certified by:

MaryAnn Sumi, Vice Chair

December 12, 2023



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Wisconsin Ethics Commission

101 East Wilson Street, Pecatonica Room
Madison, Wisconsin
Friday, November 03, 2023, 12:30 p.m.

Open Session Minutes

Present via Teams: Gerald Ptacek, Carousel Bayrd, Maryann Sumi, and Andrew D. Weininger.

Staff Present: Daniel Carlton, David Buerger, Sathya Sivaji (Teams/Virtual).

A. Call to Order

Commission Vice Chair MaryAnn Sumi called the meeting to order at 12:37 p.m. A quorum was present.

B. Report of Appropriate Meeting Notice – Administrator

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

C. Closed Session

1. Investigations

MOTION: To go into closed session to discuss investigations. Moved by Commissioner Weininger seconded by Commissioner Bayrd. 4-0 Motion carried unanimously.

Wisconsin Ethics Commissioners

Carousel Bayrd | Gerald Ptacek | Pat Strachota | Maryann Sumi | Timothy Van Akkeren | Andrew Weininger

Administrator

Daniel A. Carlton, Jr.

November 03, 2023, Wisconsin Ethics Commission meeting minutes prepared by:

Sathya Sivaji, Office Management Specialist

December 12, 2023

November 03, 2023, Wisconsin Ethics Commission meeting minutes certified by:

MaryAnn Sumi, Vice Chair

December 12, 2023



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DATE: For the Commission Meeting on December 12, 2023

TO: Members, Wisconsin Ethics Commission

FROM: Cole Maberry, Ethics Specialist

SUBJECT: Lobbying Audit Update and Guidance – Unauthorized Lobbying

FOR COMMISSION ACTION

For this agenda item the Commission could take one of the following actions:

1. Instruct staff to conduct an audit for unauthorized lobbying in the first period of the 2023 session on an educational basis;
2. Request staff to conduct the audit and pursue enforcement of violations; or
3. Take other action consistent with today's discussion.

Background

The Ethics Commission launched the new Lobbying Website on May 7, 2022. Since then, staff has been working to familiarize lobbyists and principals with the new design. In July 2023, multiple lobbyists contacted Commission staff, stating that they were unable to report their lobbying hours for the Period One Statement of Lobbying Activities and Expenditures. Staff learned that, in nearly all cases, lobbyists were encountering this issue because they had not been authorized to lobby on behalf of the principal in question. From these contacts, staff identified 26 principals who had yet to authorize designated lobbyists. Recently, staff conducted a preliminary query to identify potential instances of unauthorized lobbying. Staff tentatively identified at least 53 lobbyists that had lobbying communication prior to authorization during Period 1 of the 2023 Legislative Session.¹ This amounts to roughly 8.4% of the 630 lobbyists licensed in Period 1. In comparison, the 2021 Period One Unauthorized Lobbying Audit found 32 lobbyists with unauthorized communications, or 5.3%, and the 2019 Period One Audit found 45 such lobbyists or 7.4%. Possible reasons for the difference this year could be attributable to website changes. Alternatively, it could simply be a mistake that is unrelated to the website changes.

Applicable Law

[WIS. STAT. § 13.65](#) states:

¹ As the audit has not been formally conducted, staff is still in the process of reviewing the query. It appears there may be additional lobbyists not captured in the preliminary query.

Before engaging in lobbying on behalf of a principal, a lobbyist or the principal who employs a lobbyist shall file with the commission a written authorization for the lobbyist to represent the principal, signed by or on behalf of the principal. A lobbyist or principal shall file a separate authorization for each principal represented by a lobbyist.

This provision indicates that lobbyists must obtain authorization from a principal before lobbying on a principal's behalf. There are two types of unauthorized lobbying that can result in noncompliance. If a lobbyist's duties on behalf of a principal are exclusive to lobbying, then the lobbyist must obtain authorization prior to any communications. Alternatively, if a lobbyist's duties on behalf of a principal are not exclusive to lobbying, they must be authorized before their fifth day of lobbying communications in a six-month reporting period.

In the absence of mitigating or aggravating factors, the Commission typically issues settlements to principals following the standard settlement schedule for unauthorized lobbying established in [Wis. ADMIN. CODE ETH 26.03\(3a\)](#). The following is the standard settlement schedule for Unauthorized Lobbying:

	First Session of Unauthorized Lobbying	Subsequent Session of Unauthorized Lobbying	Aggregate Total Maximum
Lobbyist	\$100 per excess communication	\$200 per excess communication	\$1,000 per principal
Principal	\$200 per excess communication	\$400 per excess communication	\$2,000 per lobbyist

Future Auditing

Staff have not recently conducted an unauthorized lobbying audit. Staff would like to proceed with auditing. However, prior to doing so, staff wanted the Commission's guidance on how to proceed.

As noted above, the slight increase could be attributed to either a mistake by the lobbyist or principal or it could be a result of an opportunity to improve the lobbying website. As such, it is important to consider how the lobbying website changed and how that impacts compliance. Prior to the new website launch in May 2022, lobbyists and principals were required to register on the old platform. The previous site split the information for registration, including authorizing lobbyists, over multiple prompted pages. The new system streamlines the organization of information and displays requirements on one page. However, this new design may make it easier for users to skip over sections and therefore leave registrations as incomplete.

[Edit Html Content](#)

Please note: Entering a general topic in this section does not satisfy the lobbying principal's requirement to fully report lobbying interests. This information is only used to help convey to elected officials, appointed officials, and the public the areas of policy your organization has an interest in. If a principal has a lobbying communication on specific legislation, a budget bill subject, or an administrative rule, the principal should report an interest under those categories, even if they have already reported an interest in a similar topic.

Authorized Lobbyists

[Add Lobbyist](#)

No authorized lobbyists found.

Assigned Principal User Permissions

[Add User Permission](#)



Coleman Maberry

- Can Amend Principal Registration
- Can Pay Principal Fees
- Can Perform Principal 15 Day Reporting
- Can Perform Principal 6 Month Reporting

[Edit](#)

[Back](#)

[Save And Continue >](#)

Lobbyist authorizations cannot be a required field for principal registrations, as principals may register without knowing whom they plan to authorize. Staff are currently testing updates to the website to reduce the likelihood of accidental unauthorized lobbying. The first update is a new authorization tile on the dashboard, which will display all principals the lobbyist is authorized for. The second update is a warning message if a principal attempts to register without authorizing any lobbyists, ensuring that the principal did so intentionally.

In the first period of the 2023-2024 Legislative Session the Commission conducted the Late 15-Day Report Audit for educational purposes only. The Commission decided that users needed to familiarize themselves with the new system before enforcement resumed. In a similar way, given that the number of potential violations rose significantly, and that they could be attributable to website changes, staff would like to suggest using the 2023 Unauthorized Lobbying Audit for Period One as an educational opportunity for lobbyists and principals and resume enforcement in Period Three (January-July 2024). Staff is suggesting that enforcement not start until that period because Period Two is almost over and principals will not receive the educational communication until nearly the end of Period Two. The audit will be conducted using the same process that has been used in previous years. If the Commission would like, staff can provide an update on the results of the audit at the next Commission meeting.



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DATE: For the Commission Meeting on December 12, 2023

TO: Members, Wisconsin Ethics Commission

FROM: Ethics Commission Staff

SUBJECT: Ethics Commission Staff Report

Commission Administration

New Campaign Finance Information System

As the Commission is aware, the Legislature and Governor approved additional funding for the Commission to work with a vendor to build a new campaign finance website. In consultation with the Chair and Vice Chair, the contract was executed in August. Unfortunately, the process was delayed a little as a result of consulting with the Division of Enterprise Technology. Ultimately, the Commission and the vendor, in consultation with the Division of Enterprise Technology, began work in earnest on the new website in August.

So far, the Commission's staff has provided publicly available information from the current site. The vendor has created what will become the public display of information page. While there is still some work to do on it, what they have come up with so far provides a more modern, robust search capability. It also provides graphical summaries of the searched data. Additionally, the vendor has created the registration and reporting parts of the website. Staff expects to begin testing the website the week of December 5, 2023. In addition to staff members, there are a couple of people that are responsible for their registrant's reporting that have also agreed to volunteer to test. It is important to note that, due to the condensed timeline to build the website, the website version being tested will still have some items that need cleaning up. For example, there are places on the website where "dummy" text was put in to occupy the space. That will be rectified before going live. However, since we need to get testing to try to meet our goal, it was not urgent to create the new text. We want to make sure the functions all work and get user feedback because that takes more time than simply adding text.

One thing we are excited about is that there is a new alternative way to enter transactions. Some committees get spreadsheets from multiple places. The format differs both from the current upload spreadsheet we use and the format differs amongst the vendors. So, while registrants will still be able to manually enter transactions and upload them using the Commission's spreadsheet, registrants will now be able to simply copy and paste the transactions into the website. This is a much faster method than uploading.

As I noted before, because of the position we were put in by the previous vendor, we are working on a minimum viable product. We are working very hard to achieve a minimum viable product that is ready to launch in December. The minimum viable product will have full public displays of

information, the ability to register and report, and the necessary administrative functionality. There will be aesthetic enhancements and additional functions created after the initial launch. We hope to launch sometime between mid-month and the end of the month. However, the exact launch date will be determined after we consider user testing feedback. We want to have as good of a product as possible for our users!

Legislation

The Administrator has been meeting with legislators regarding the Commission's legislative recommendations for this session. Most of the recommendations have not raised any objections or concerns. Staff is optimistic that a bill will be introduced that will encompass most of the Commission's legislative recommendations soon.

Additionally, there are two bills amending the laws within the Commission's jurisdiction that have had a public hearing in recent weeks.

SB 334/AB 335- These bills are currently identical. Upon conviction of certain election and campaign finance law crimes, the bill requires a court to appoint a new treasurer, properly dispose of remaining funds, and terminate the committee. An amendment has been filed on the Assembly bill, but not on the Senate bill yet. The amendment clarifies that the committee obligations can be paid and provides for disposal of residual funds. It also prohibits returning the candidate's contributions to the candidate and prohibits the candidate and former treasurer from being able to access the funds in the depository. Finally, the amendment requires the court to notify the Commission of the actions it has taken after the conviction. AB 335 passed and was presented to the Governor on November 30, 2023.

SB 408/AB 414- These bills are also currently identical. The bills amend the 50-Piece Rule. As drafted, the bills change the date the 50-Piece Rule begins to apply. For Assembly members who become a candidate for partisan election, the 50-Piece Rule applies beginning the last date to circulate nomination papers. For Senators, the new rule related to partisan elections increases the number of permissible pieces to 150 pieces. It also applies regardless of whether the senator has become a candidate for a new partisan office. The new rule also states that it applies beginning the last day to circulate nomination papers. As drafted, it does not appear that this bill has any other effect on the current version of the 50-Piece Rule.

These bills also create an exception for a state of emergency declared by the federal government, the Governor, or local government if the materials are substantially related to the emergency or a government order issued in connection with the emergency. It also provides that no legislative rule can provide stricter limits on the use of public funds than the statutory rule.

Finally, the bills establish penalties for violations. If the violation occurs within the first 7 days after the 50-Piece Rule kicks in, the Commission can only issue a warning. If it occurs between the 7th and 14th day after, there is a \$100 forfeiture which may not be paid for by funds from the candidate's committee. Finally, the bill provides that any violation after the 14th day is punishable by a \$500 forfeiture which cannot be paid by the candidate's committee.

The act applies to the 2024 general election.

One concern with this legislation is that it will end up with the rules applying at different points. For example, if an Assembly Representative decides to run for a nonpartisan office, the current rule still applies. This means that the 50-Piece Rule kicks in on the *first day* to circulate nomination papers. However, if the Assembly Representative decides to run for a partisan office, the new 50-Piece Rule will kick in on the *last day* to file nomination papers. A similar situation will occur in the case of Senators depending on whether the election is partisan or not. There is no problem with the policy. As the Commission knows, it is the Legislature's prerogative to set policy. Rather, the concern is that the legislators will be confused by the conflicting start times for the 50-Piece Rule. By not having consistent start times, it creates a higher likelihood of unintentional violations. Commission staff believes it would be better if the Legislature made the beginning of the period consistent regardless of whether the race is partisan. It does not matter whether that date is the first date to circulate nomination papers or the last date to file them. Consistency will help avoid unintentional violations.

Commission staff addressed this issue with Senate staff of the Senators who have shepherded this bill through the Senate. Staff learned that this was intentional and unlikely to change. Because of that, and the extremely heavy workload currently, staff did not have the opportunity to discuss with Assembly staff or members. The bill passed the Senate. According to the Legislature's website, the Assembly received the Senate bill on November 14, 2023.

Commission staff will continue to monitor legislation.

Trainings

Since the last Commission meeting, Staff Counsel Buerger presented at the UW-Green Bay Presidential Election Academy on November 8th. Approximately 140 municipal and county clerks attended. Staff Counsel Buerger also presented a class tailored to new district attorneys at a State Prosecutors Education and Training (SPET) conference on November 17th. The Administrator presented two ethics trainings for legislative staff on October 30th and November 3rd.

No other training presentations are scheduled for the remainder of the year. However, it is expected that Commission staff will be scheduling trainings for the new campaign finance system in advance of the go live date either later this year or early next year.

Administrative Rules

Commission staff continue to work on a proposed draft rule and supporting documents for the review and revision of ETH 26.

Campaign Finance

There have been no reports due since the October meeting. The next report will be the January Continuing 2024 report. This report will be required of all committees not claiming exemption (approximately 1,000 committees). All non-candidate committees with total disbursements in 2023 in excess of \$2,500 will be required to pay the annual \$100 filing fee. Both the January Continuing report and the Filing Fee are due by January 16, 2024.

Staff completed a review of all unreported transactions that were entered into the database with a date prior to July 1, 2023. All committees should have filed their July Continuing reports, which were due July 17, 2023. This pending transaction audit is completed prior to doing the cash balance audit. Staff will be conducting the cash balance audit later this month.

Lobbying

2023-2024 Legislative Session

Registration for the current session is available on the Commission's lobbying website. As of December 5, 2023, there are 671 lobbyists licensed, 839 principals registered, and 1,886 lobbyist authorizations.

Code of Ethics and Financial Disclosure

Statements of Economic Interests (SEIs)

The 2024 annual SEI for approximately 2,500 state public officials will be due on April 30, 2024. Additionally, SEIs required for ballot access for judicial positions in the 2024 Spring Election, held on April 2, 2024, will be due by 4:30 p.m. on January 5, 2024. All 2024 SEIs will be available to file online beginning in early December.

State of Wisconsin Investment Board Quarterly Reports

The 2023 third quarter reports covering July to September were due on October 31, 2023. All but one of the 63 filers filed on time. The fourth quarter reports covering October to December will be due on January 31, 2024.