

# NOTICE OF OPEN AND CLOSED MEETING

## Wisconsin Ethics Commission

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

Tuesday, December 17, 2024, 9:00 a.m.

### Open Session Agenda

- A. Call to Order
- B. Report of Appropriate Meeting Notice – Administrator
- C. Approval of Minutes for Meeting on October 15, 2024 Page 3
- D. Personal Appearances
- E. New Campaign Finance System Update and Demonstration
- F. Administrative Termination of Dormant Committees Page 7
- G. Staff Report Page 13
- H. Consideration of Future Agenda Items
- I. 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 5, 2025, at 9:00 AM
- Tuesday, May 13, 2025, at 9:00 AM
- Tuesday, August 5, 2025, at 9:00 AM
- Tuesday, October 21, 2025, at 9:00 AM
- Tuesday, December 16, 2025, 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.

WIS. STAT. § 19.851(3) The commission shall convene in closed session for any of the following purposes:

(a) To consider whether there is a reasonable suspicion or probable cause to believe that a violation of the law occurred or is occurring based on a complaint and, if received, a response to that complaint.

(b) To receive reports concerning audit findings and consider whether there is a reasonable suspicion or probable cause to believe that a violation of the law occurred or is occurring.



# Wisconsin Ethics Commission

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## Wisconsin Ethics Commission

101 East Wilson Street, St. Croix Room  
Madison, Wisconsin  
October 15, 2024, 9:00 a.m.

### Open Session Minutes

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

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

#### A. Call to Order

Commission Chair Maryann Sumi called the meeting to order at 9:06 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 May 14, 2024
2. Open Session Minutes for Meeting on July 23, 2024
3. Open Session Minutes for Meeting on August 28, 2024

**MOTION:** To approve each set of minutes. Moved by Vice Chair Weininger, seconded by Commissioner Bayrd. 4-0 Motion carried unanimously.

*Commissioner Higginbotham joined the meeting.*

#### D. Personal Appearances

There were no personal appearances.

#### E. New Campaign Finance System Update

Administrator Daniel Carlton briefly gave an update on the new campaign finance system.

No action taken.

#### **F. Supplemental Appropriation Request Pursuant to WIS. STAT. § 13.10**

**In addition to the topics covered in the meeting memo, staff verbally sought authority to include additional requests for IT security needs and server application in the supplement request, if needed.**

Administrator Daniel Carlton presented the memo on page 13 of the meeting materials.

**MOTION:** To submit the supplement request, including additional request to seek IT security funds, if needed. Moved by Commissioner Higginbotham, seconded by Vice Chair Weininger.

5-0 Motion carried unanimously.

#### **G. Ethics Commission Staff Report**

Administrator Daniel Carlton presented the Staff Report on page 17 of the meeting materials.

No action taken.

#### **H. Consideration of future agenda items.**

Memo on legislation recommendations for December.  
New campaign finance system demonstration.

#### **I. Closed Session**

- 1. Requests for Advice**
- 2. Complaints and Investigations**
- 3. Legal Advice regarding potential litigation.**
- 4. Personnel Matters**
- 5. Adjourn**

**MOTION:** To go into closed session to discuss requests for advice, complaints, investigations, legal advice regarding potential litigation, personnel matters and adjourn. Moved by Commissioner Ptacek seconded by Commissioner Higginbotham.

5-0 Motion carried unanimously.

October 15, 2024, Wisconsin Ethics Commission meeting minutes prepared by:

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Sathya Sivaji, Office Management Specialist

December 17, 2024

October 15, 2023, Wisconsin Ethics Commission meeting minutes certified by:

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Andrew Weininger, Vice Chair

December 17, 2024





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**DATE:** For the Commission Meeting on December 17, 2024

**TO:** Members, Wisconsin Ethics Commission

**FROM:** Daniel A. Carlton, Jr., Administrator, and Ethics Specialists Cole Maberry and Thomas Jackson

**SUBJECT:** Administrative Termination of Dormant Registrants

## FOR COMMISSION ACTION

For this staff request, the Commission may:

1. Direct staff to terminate registrants in a manner consistent with today's discussion; or
2. Take other action consistent with today's discussion.

## Background

Any committee or conduit which has dissolved, or which anticipates no longer engaging in financial activity, may file a request for termination pursuant to [WIS. STAT. § 11.0105\(1\)](#). To be eligible for termination, the registrant must have a cash balance of zero and cannot have any outstanding loans or obligations. In the case of candidate committees, the candidate must not be in office, and the candidate committee cannot request termination prior to the date of the election in which the candidate committee is participating. Terminating committees must pay the filing fee under [WIS. STAT. § 11.0102\(2\)](#), if applicable, and must file a termination report detailing how any residual funds were disposed of.

However, while termination is available to eligible committees, the statutes do not provide any obligation to terminate. If a registrant ceases filing reports, Commission staff will detect the registrant in audits and attempt to communicate as appropriate. However, many registrants claim the exemption pursuant to [WIS. STAT. § 11.0104\(1\)\(a\)](#). In these instances, since the registrants are not missing any required reports, staff do not need to contact the registrants. Over time, a large number of registrants dissolve or otherwise become inactive without ever filing a request for termination. These dormant registrants remain officially registered, with a current status in the database, but are effectively defunct. In total, there are 1,592 registrants which have been exempt for more than 3 years.<sup>1</sup>

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<sup>1</sup> This figure is accurate as of November 25, 2024. Staff will re-query the database prior to commencing terminations pursuant to the Commission's decisions.

Prior to this past March, the Commission did not have statutory authority to administratively terminate any committee. These registrants remained on the books in perpetuity. In an effort to clean up the Commission's record and better reflect to the public what registrants are active, the Commission included in its legislative recommendations a provision allowing the Commission to administratively terminate dormant registrants. The Commission also sought authority to administratively suspend non-compliant committees. These recommendations were passed in [2023 Wisconsin Act 120](#) and were codified in [WIS. STAT. § 11.1305](#).

## Current Law

The authority to administratively terminate registrants is found in [WIS. STAT. § 11.1305\(1\)](#), which provides:

(1)

(a) Except as provided in par. (b), the commission or another filing officer may terminate any registrant under this chapter that has been exempt for more than 3 years from filing campaign reports pursuant to s. [11.0104](#).

(b) A filing officer other than the commission may terminate a registrant under par. (a) only if the registrant has not done any of the following:

1. Held an elective office during the 3 years prior to the proposed termination.
2. Filed a new or amended registration statement during the 3 years prior to the proposed termination.
3. After being exempt for more than 3 years from filing campaign finance reports, responded within 60 days from the date on which the filing officer attempted to contact the registrant using the contact information specified on the registrant's most current registration statement.

[WIS. STAT. § 11.1305\(1\)\(a\)](#) allows the Commission or other filing officer to terminate any registrant under this chapter that has been exempt for more than 3 years from filing campaign reports pursuant to s. [11.0104](#). [WIS. STAT. § 11.1301\(1\)\(b\)](#) establishes the criteria that other filing officers must use to determine whether the filing officer can terminate a registrant. This criteria does not apply to the Commission. It is also important to note that there is no requirement that a registrant have no cash on hand as a prerequisite for the Commission terminating the registrant.

During the legislative process, the Administrator was asked by some legislators whether the Commission should be subject to extra requirements that local filing officers were required to observe. During those meetings, the Administrator explained that it was not necessary. First, it is very easy for the Commission staff to reactivate registrants in CFIS (and will be in the new system as well). So, while there may be some mistakes made, it is easy to rectify it and return the registrant to a "current" status. Second, the primary reason for the recommendation was that the Commission wanted to terminate a large number of committees for which there is no current contact information. Third, staff envisioned sending at least one communication to the registrant before the registrant would be terminated.



Commission staff is ready to administratively terminate registrants pursuant to this new authority. Prior to beginning this process, staff want the Commission to provide input on the process and criteria.

### **Proposed Termination of Inactive, Exempt Registrants**

Staff would like to complete this process prior to transitioning to the new website in April. Staff has spent significant considering how to approach terminating the registrants that have been exempt for more than 3 years. The process as it is currently envisioned is laid out below. Additionally, the staff has some questions for the Commission to address.

The first step of the process will be to identify the registrants that have not logged into CFIS. The Commission's staff has determined that approximately 600 registrants are in the system that have never logged in. This is due to converting and entering data prior to CFIS' creation. Staff proposes to terminate these registrants without notification.

The staff will then research the remaining registrants to determine whether they:

- Currently hold an elective office or are not a candidate for an elective office;
- Have amended their committee's registration statement in the past three years;
- Have filed any reports in the past three years; or
- Emailed the Commission during the past three years.

If the registrant has done any of these things, staff will not proceed with the termination process. However, if time allows, the staff may contact them to determine if the registrant intends to be active again and discuss voluntary termination.

If the registrant has not done any of these things, staff will email the registrant at the current email addresses on file. The email will indicate that Staff has determined that the registrant has been inactive and on exempt status for more than 3 years and that staff intends to administratively terminate the registrant within 30 days, unless the registrant advises that it would like to remain "current."

After the notice has been sent and the registrant has been given 30 days to respond, the Commission's staff will be ready to proceed with termination. However, there are some things that need to be considered prior to the termination step. Commission staff needs guidance from the Commission on these questions which will impact the decision of whether to terminate a registrant. Staff needs guidance from the Commission on the following criteria/considerations:

#### 1) Cash on Hand

The statute authorizing the Commission to administratively terminate a committee does not contain a requirement that the registrant have no cash on hand. Obviously, if the registrant reports \$0 on hand in its last report, staff can terminate it. However, many registrant's reports will indicate that the registrant still has cash on hand. The question for the Commission is how to handle those that indicate on their last filed report that they had cash on hand. Staff experience shows that the registrants that have been exempt for more than three years typically no longer have any cash on

hand. There are two common ways this is possible. First, an exempt committee is not prohibited from engaging in activity. It must simply have an aggregate amount of contributions, disbursements, and incurred obligations that does not exceed \$2,500. Theoretically, a registrant could make disbursements of up to \$2,500 per year. Second, bank fees could have consumed the balance, especially if the amount remaining is insignificant.

However, there may be some committees with a significant enough reported balance on hand that one would not expect to be disbursed or exhausted by bank fees. In these cases, the Commission may not want to terminate those committees because the people involved with the registrant could be essentially allowed to keep the money. This would essentially be allowing them to convert registrant funds for a strictly personal use.

The question is what the threshold should be. The threshold should be calculated using a formula that includes the relevant timeframe and reasonably anticipatable expenses that would draw down the balance on hand. We know that registrants can spend or contribute to other committees up to \$2,500 per year without reporting it. We also know that bank fees play a role in consuming the remaining cash on hand. While some banks do not charge fees, or the amounts vary, the Commission can take a reasonable guess as to how much money would be taken and base a threshold off of that. A quick internet search revealed that inactive account fees are typically between \$10 and \$20 per month. These bank fees may or may not have been reported as disbursements (they could be considered administrative expenses).

One threshold option could be to simply take the exempt threshold and multiply that by the number of years the registrant has been exempt. So, for example, a registrant that has been exempt for three years could be administratively terminated by staff if the last reported balance on hand was \$7,500 or less. This option might be the clearest, most consistent, and easiest to apply.

Another option could be to take into consideration the time the committee has been exempt, up to \$2,500 in disbursements, and bank fees of \$20 per month. For example, a registrant has been exempt for 3 years. Staff would not terminate the registrant if their last reported bank balance exceeded \$8,220. This allows for up to \$7,500 in disbursements and \$720 in bank fees. Since some registrants do not report bank fees as disbursements, this takes both into account.

## 2) Outstanding Incurred Obligations

The statute authorizing the Commission to administratively terminate a registrant does not contain a requirement that the registrant have no outstanding obligations. However, the Commission may want to take steps to make sure that outstanding obligations to others are satisfied before a registrant is terminated. In a lot of these cases, these loans come from the candidate or treasurer. However, there are some cases where the obligation arises from a loan from someone else or a bill that has not yet been paid. The Commission should be mindful not to deprive these individuals or companies of monies rightfully owed to them.

Staff believes that the Commission should allow termination where the only outstanding incurred obligations are loans from the registrant's candidate, treasurer, or other person authorized to

receive and spend money on behalf of the registrant. If there is an outstanding incurred obligation owed to someone other than those individuals, the registrant cannot be terminated.

### 3) Conduits

Unlike other registrants, conduits are much more limited in what they can do with conduit funds deposited by individuals for the purpose of supporting or opposing candidates. The conduit can only make contributions as directed by the depositor, return the funds to the contributor or, in certain limited circumstances, redirect the funds to the conduit sponsor following the procedure in [WIS. STAT. § 11.0705](#). Conduits cannot do anything else with the money. There are some circumstances in which a conduit cannot return the money to the contributor or redirect following the statutory procedure. Current law does not provide these conduits a mechanism by which to legally achieve a zero-dollar cash balance.

Because of the unique nature of conduits, staff recommends not terminating any conduit that has a cash balance on hand.<sup>2</sup> However, the Commission could decide to terminate them. This could be done on a case by cases basis. Because conduits do not report a cash balance, staff would only discover this in the course of communicating with these conduits. If necessary, staff will present these circumstances to the Commission.

### **Termination**

If the above procedures are followed, and the criteria adopted by the Commission are met, the remaining registrants will be terminated. For those registrants that cannot be terminated under the criteria established by the Commission, and did not respond to the notice of intent to terminate, staff will send a follow-up communication encouraging termination. This will be sent by regular mail. The registrant will be given 30 days to respond to this notification. If the registrant responds, staff will work with them to determine whether termination is appropriate and, if so, assist them with termination.

If the registrant does not respond, the Commission has a final choice. The Commission can either authorize staff to terminate the registrant or not authorize staff to terminate the registrant. As to authorizing termination if the final group does not respond within 30 days, this is the cleanest and most efficient way to proceed. There is minimal downside to terminating because, if the registrant wants to reactivate, or the people want to create a new registrant, Commission staff can easily do so. Moreover, since they would be contacting staff, there would be an opportunity to make sure that there are no outstanding issues with the registrant before they become active again.

Alternatively, the Commission could decide not to allow termination if a registrant does not respond. Obviously, this alleviates some of the concerns, such as converting remaining money to personal funds. The Commission could also require another attempt to notify the registrant via certified mail, but with the passage of more time, we are less likely to have any success. We may simply be avoiding the inevitable. Further, the statute of limitations is likely to be an issue as more time passes. The Commission could not enforce any violations it identifies and would likely still

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<sup>2</sup> The law does not authorize a conduit to incur obligations. Therefore, staff does not expect outstanding incurred obligations to be a consideration.

end up terminating the registrant with no consequences. So, the Commission may see this as an inefficient use of resources. If the Commission requires a certified mail, the Commission may want to authorize termination if the certified mail is returned undeliverable, staff cannot find alternative contact information for the registrant, or the registrant does not respond within 30 days.

## **Conclusion**

Staff intends to begin terminating registrants that have been exempt for more than three years in the coming weeks. To recap, the proposed procedure is as follows:

**Step One:** Terminate any registrant that never logged into CFIS.

**Step Two:** Identify whether the registrant has:

- Amended the registration statement within the past three years;
- Filed a report within the past three years;
- In the case of a candidate committee, identify whether the candidate currently holds an elective office; or
- In the case of a candidate committee, identify whether the candidate is currently a candidate for an elective office.

**Step Three:** Email each registrant that does not meet the criteria in Step 2 to advise the registrant that the Commission intends to administratively terminate the registrant and provide the registrant 30 days to respond.

**Step Four:** If the registrant does not respond within 30 days, and it meets the criteria established by the Commission concerning cash on hand, outstanding obligations, and conduits, it will be administratively terminated.

**Step Five:** For any registrant that has not responded and does not meet the criteria concerning cash on hand, outstanding obligations, and conduits, staff will do one of the following based on the Commission's instructions at the meeting:

- Terminate the registrant; or
- Require an attempt to contact the registrant via mail and/or certified mail and any other subsequent steps the Commission requires before termination (or just leaving the registrant on exempt status).

Of course, the Commission can consider any other criteria or additional steps that the Commission deems appropriate.



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**DATE:** For the Commission Meeting on December 17, 2024

**TO:** Members, Wisconsin Ethics Commission

**FROM:** Ethics Commission Staff

**SUBJECT:** Ethics Commission Staff Report

## Commission Administration

### Trainings

Since the last staff report, Administrator Carlton presented an ethics and lobbying training to Representatives-elect and Senators-elect at the Legislature's New Legislator Conference on December 11, 2024. The New Legislator Conference is a two-day conference at which the newly elected legislators learn about the legislative processes, public records laws, open meeting laws, ethics, lobbying, and more.

Staff Counsel Buerger presented an ethics and lobbying training to members of the Deferred Compensation Board at its meeting on December 5<sup>th</sup>. Staff Counsel Buerger also participated as a panelist at the 2024 COGEL Annual Conference in December. The panel was titled "Timely and Thorough? Best Practices for Efficient and Effective Campaign Finance Audits" and discussed the various models for auditing processes, their benefits, and their limitations. COGEL is the Council on Governmental Ethics Laws. COGEL's membership is comprised of government staff that regulate campaign finance, lobbying, and ethics, and private sector professionals in the industry. Its membership includes government officials and employees at the local, state, and national levels. It has some international members as well.

Staff Counsel Buerger is also scheduled to present ethics trainings to the Office of the Commissioner of Insurance – Injured Patients and Families Compensation Fund Board in December and the State of Wisconsin Investment Board in 2025.

Finally, the Commission's staff conducted a webinar for the lobbying community on November 20, 2024. The training provided a general overview of license, registration, and reporting requirements. In addition, Commission staff provided a brief demonstration of how to register for the upcoming 2025-2026 Legislative Session. Staff also touched on the prohibitions placed on lobbyists and lobbying principals. The webinars had 137 attendees and will be posted on the Commission's website.

## Campaign Finance

Since the last meeting there has only been one report required to be filed. The Fall Pre-Election report was due October 28, 2024. This report was required of every candidate for all 2024 election

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*Wisconsin Ethics Commissioners*  
Carousel Bayrd | Paul Higginbotham | Gerald Ptacek | Pat Strachota | Maryann Sumi | Andrew Weinger

*Administrator*  
Daniel A. Carlton, Jr.

cycle, even if they lost the Primary. Any non-candidate committee that filed a previous election related report: Fall Pre-Primary 2024, or September 2024, as well as any committee making a disbursement to support or oppose a 2024 fall candidate since the September 2024 report would be required to file the Fall Pre-Election 2024 report.

There were 363 candidates required to file this report, with 316 (87%) filing on time, 25 (6.9%) filed late, and 22 (6.1%) have not yet filed. In addition, there were 303 non-candidate committees that filed this report.

Commission staff continues its normal efforts to follow up with those who have not yet filed and will be offering settlements for those who filed late, where appropriate. Any registrant that receives a settlement may appeal that decision to the Commission.

The next report for all registered committees not claiming the exemption, as well as any 2024 candidates that did claim exemption, is the 2025 January Continuing report. This report is due January 15, 2025. Non-candidate committees with over \$2,500 of disbursements during calendar year 2024 will be required to pay the annual filing fee of \$100. This year, the fee is due by January 15, 2025.

## **Lobbying**

### 2023–2024 Legislative Session

The final Statement of Lobbying Activities and Expenditures (“SLAE”) of the 2023–2024 Legislative Session for all currently registered lobbyists and principals will be due by January 31, 2025.

### 2025–2026 Legislative Session

Registration for the 2025–2026 Legislative Session opened on December 2, 2024.

## **Code of Ethics and Financial Disclosure**

### Statements of Economic Interests (“SEIs”)

Officials, candidates, and nominees have begun filing the 2025 SEI. Judicial candidates will be required to file the 2025 SEI for ballot access for the Spring 2025 election by 4:30 p.m. on January 10, 2025. The annual SEI for all officials required to file will be due on April 30, 2025.

### State of Wisconsin Investment Board Quarterly Reports

The 2024 third quarter reports for 59 filers covering July to September were due on October 31, 2024. All reports were submitted on time. The fourth quarter reports covering October to December will be due on January 31, 2024.