

# NOTICE OF OPEN AND CLOSED MEETING

## Wisconsin Ethics Commission

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

Tuesday, February 25, 2025, 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 January 7, 2025 Page 3
- D. Personal Appearances
- E. Proposed Revisions to Guidelines 1235 Page 7
- F. Budget Request Update Page 13
- G. Staff Report Page 15
- H. Closed Session
  - 1. Requests for Advice
  - 2. Complaints and Investigations
  - 3. Legal Advice Regarding Potential Litigation
  - 4. Audit Matters
- I. 2025 ETH 01 - Use of Campaign Funds for Mileage Reimbursement Page 19
- J. Consideration of Future Agenda Items
- K. Adjourn

### Future Ethics Commission Meetings Scheduled:

- 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 return to open session after completing 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

Campaign Finance | Lobbying | Ethics  
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## Wisconsin Ethics Commission

101 East Wilson Street, St. Croix Room  
Madison, Wisconsin  
January 7, 2025, 9:00 a.m.

### Open Session Minutes

Present: Maryann Sumi, Andrew D. Weininger (Remote via Teams), Pat Strachota, Gerald Ptacek, Paul Higginbotham and Debra Kolste.

Staff Present: Daniel Carlton, Colette Greve, David Buerger, Catherine Luoma, 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.

Commission Chair Maryann Sumi introduced and welcomed Commissioner Debra Kolste.

#### **C. Approval of Minutes for Meeting on October 15, 2024**

**MOTION:** To approve the draft minutes as modified by today's discussion. Moved by Commissioner Ptacek, seconded by Commissioner Higginbotham.

6-0 Motion carried unanimously.

#### **D. Personal Appearances**

There were no personal appearances.

#### **E. New Campaign Finance Information System Update and Demonstration**

Administrator Daniel Carlton presented the new campaign finance website.

No action was taken.

## **F. Administrative Termination of Dormant Committees**

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

**MOTION:** To terminate committees that are exempt for at least three (3) years and have a cash balance of \$7,500 or less. Moved by Commissioner Ptacek, seconded by Commissioner Higginbotham.

Discussion.

**AMENDED MOTION:** To terminate committees that are exempt for at least three (3) years and have a cash balance of less than \$2,500, times the number of years since the last filed report. Moved by Commissioner Ptacek, seconded by Commissioner Higginbotham.

6-0 Motion carried unanimously.

**MOTION:** To approve allowing 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. Moved by Commissioner Higginbotham, seconded by Commissioner Kolste.

6-0 Motion carried unanimously.

**MOTION:** To approve allowing termination of committees that are dormant prior to 2008 and CFIS system implementation. Subsequent termination will be on a case-by-case basis. By Commissioner Strachota, seconded by Commissioner Ptacek.

6-0 Motion carried unanimously.

**MOTION:** To approve the five (5) step process on page 12. Moved by Commissioner Ptacek, seconded by Commissioner Kolste.

6-0 Motion carried unanimously.

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

Administrator Daniel Carlton presented the memo beginning on page 13 of the meeting materials. Administrator Carlton updated the Commission on the status and anticipated timeline for its supplemental appropriation request. Administrator Carlton indicated to the Commissioners that it may be beneficial to contact their appointing authority regarding the request.

No action was taken.

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

Commissioners requested a review of the final version of the system.

## **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.

6-0 Motion carried unanimously.

January 7, 2025, Wisconsin Ethics Commission meeting minutes prepared by:

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Catherine Luoma, Office Management Specialist      February 25, 2025

January 7, 2025, Wisconsin Ethics Commission meeting minutes certified by:

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Andrew Weininger, Vice Chair      February 25, 2025





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**DATE:** For the Commission Meeting on February 25, 2025  
**TO:** Members, Wisconsin Ethics Commission  
**FROM:** Daniel A. Carlton, Jr., Administrator  
**SUBJECT:** Proposed Revision to Commission Guideline 1235

## FOR COMMISSION ACTION

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

1. Adopt the revised Guideline;
2. Make changes and adopt the Guideline as revised; or
3. Take action consistent with today's discussion.

Guideline 1235 contains the recommended courses of action in the event an official receives a gift that he or she is not allowed to keep. This Guideline was previously approved by the Commission several years ago. Since then, the Commission recommended that the Legislature codify these disposition methods. This was accomplished by the passage of 2021 Wisconsin Act 267.

In light of the passage of 2021 Wisconsin Act 267, it is necessary to revise the Guideline to reference the appropriate statutory citations. Additionally, staff has recommended revising the paragraph related to reporting receipt of a gift. The current version states, "Unless the official returned the gift to the donor, the official should identify the donor on the Statement even if the official has redirected the gift to another person, organization, or office or agency, or has applied it to the benefit of the state or a local government." This language implies that reporting donors on an SEI is not required if the gift was returned to the donor. Generally, this is not consistent with the statutory language. However, there is an exception for honoraria related items if the official returns it to the payor within 30 days of receipt. *See* WIS. STAT. § 19.56(2). As honoraria are treated separately in the statutes and in reporting, this reference could be confusing to the public. Therefore, it has been removed from the draft of the revised Guideline. Finally, the revised Guideline includes the appropriate disclaimer advising that Guidelines are for general informational purposes and are not the law.

### Statement of Compliance with Commission Guideline Adoption Policy

At its meeting on October 13, 2020, the Commission adopted a policy related to Guideline adoption and revision. The policy requires the Guidelines to be written in plain language with appropriate citations in footnotes. It also requires staff to publish the proposed Guideline or revision for public comment no later than two weeks before meeting materials are publicly available, unless the Chair and Vice Chair approve.

Commission staff posted the proposed Guideline on its website on January 31, 2025. Commission staff also sent an email those who have requested to be on the Commission's notification email list that same day. Meeting materials will not be made public until at least February 14, 2025, which is two weeks after publication.

As of the drafting of this memo, staff has not received any public comment regarding the revisions to this Guideline. If staff receives comment before the meeting, it will be provided to the Commission at the meeting.

Attachment: Notice of Proposed Revision to Commission Guideline 1235





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**DATE:** For the Commission Meeting on February 25, 2025

**TO:** Members, Wisconsin Ethics Commission

**FROM:** David Buerger, Staff Counsel

**SUBJECT:** Notice of Proposed Revision to Commission Guideline 1235

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## Purpose

This notice is being posted pursuant to the Wisconsin Ethics Commission's [Guideline Policy](#). Any member of the public is free to comment on this proposed revised guideline by sending an email to [ethics@wi.gov](mailto:ethics@wi.gov). Please label the subject line "Comment – Proposed Revision to Commission Guideline 1235." Any comments received that would change the substance of the guideline will be presented to the Commission for its consideration.

## Summary of Changes

- The proposed revised guideline expressly references WIS. STAT. §§ [19.45\(14\)](#) and [19.59\(1b\)](#) as created by [2021 Wisconsin Act 267](#).
- The proposed revised guideline removes the second sentence of the paragraph titled "Reporting receipt of a gift" which previously provided that, unless returned to the donor, an official needed to identify the donor on his or her statement of economic interests, even if the gift was redirected to another person.
- The proposed revised guideline includes language reflecting the legal status of the Commission's guidelines and explaining how to contact the Commission with questions regarding the guideline.

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*Wisconsin Ethics Commissioners*

Debra Kolste | Paul Higginbotham | Gerald Ptacek | Pat Strachota | Maryann Sumi | Andrew Weininger

*Administrator*

Daniel A. Carlton, Jr.

# Wisconsin Ethics Commission

## *For State And Local Public Officials*

### Disposition And Reporting Of Gifts

Occasionally, an official receives a gift that the Ethics Code does not permit the official to retain. Appropriate disposition of an item depends on the circumstances.

If a state or local public official receives an item that they are not allowed to keep, Wisconsin law<sup>1</sup> allows the official to:

- Give the item to the official's agency to use or sell, except that the agency may not sell the item to any government employee or official.
- Give the item over to another state agency or to a public institution, such as a local school, library, or museum that can use the item.
- Donate the item to a charitable organization (other than one with which the official or an immediate family member is associated).
- Return the item to the donor.
- If the donor is neither a lobbyist nor an individual or organization that employs a lobbyist, purchase the item (by paying the donor the full retail value), and retain it.

#### **Reporting Receipt of a Gift**

An official required to file a Statement of Economic Interests with the Ethics Commission must identify in the Statement each organization or individual (other than certain family members) that gave the official any gift or gifts valued at more than \$50 in the aggregate during the prior year.<sup>2</sup>

#### **Additional Information and Resources**

This is a guideline adopted by the Wisconsin Ethics Commission. Guidelines are prepared to provide general information to the public concerning the laws within the Commission's jurisdiction. Guidelines are not the law. Legal authority can be found in Wisconsin Statutes, the Wisconsin Administrative Code, case law, and the Commission's advisory opinions. If you have additional questions, please contact the Wisconsin Ethics Commission staff by email at [ethics@wi.gov](mailto:ethics@wi.gov), or by phone at (608) 266-8123. Advice sought from the Ethics Commission is confidential. For additional information, please visit the Ethics Commission website: <https://ethics.wi.gov>.

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<sup>1</sup> See [WIS. STAT. § 19.45\(14\)](#) for state public officials. See [WIS. STAT. § 19.59\(1b\)](#) for local public officials.

<sup>2</sup> [WIS. STAT. § 19.44\(1\)\(g\)](#).

## Gift Disposition Resources

### Books, Magazines, CDs, DVDs, Videos

Madison area:

- Madison Public Library, 201 W. Mifflin St. (608) 266-6300
- Memorial Library, 728 State St. (608) 262-3193

For locations of other libraries in Wisconsin and throughout the United States, visit [www.publiclibraries.com](http://www.publiclibraries.com).

### Clothing and Merchandise

Madison area:

- American Red Cross, 4860 Sheboygan Avenue (608) 233-9300
- Goodwill Industries of South Central Wisconsin, 2127 E. Springs Dr. (608) 246-3147
- Salvation Army of Dane County, 3030 Darbo Dr. (608) 256-2321
- St. Vincent de Paul, 1309 Williamson St. (608) 257-0673
- YWCA, 101 E. Mifflin St. (608) 257-1436

For other donation information and locations, you may visit the national websites for the above organizations at: [www.redcross.org](http://www.redcross.org); [www.goodwill.org](http://www.goodwill.org); [www.svdpusa.org](http://www.svdpusa.org); [www.ywca.org](http://www.ywca.org); [www.salvationarmyusa.org](http://www.salvationarmyusa.org).

### Food/Perishables and Non-perishable Food Items

Madison area:

- Second Harvest Foodbank of Southern Wisconsin, 2802 Dairy Drive (608) 223-9121; [www.seconddharvestmadison.org](http://www.seconddharvestmadison.org).
- YWCA, 101 E. Mifflin St. (608) 257-1436
- Salvation Army, 630 E. Washington Ave. (608) 256-2321
- St. Vincent de Paul, 1309 Williamson St. (608) 257-0919

You may also contact a local food pantry or other charitable organization of your choosing. It is always a good idea to call ahead and see what is being accepted and/or what is in greatest need prior to your donation.

### Flowers/Plants

Madison area:

- Madison Senior Center, 330 W. Mifflin St. (608) 266-6581
- Other suggested donation sites are churches and senior centers in the area of your choosing.

Many of the above items are welcomed by Porchlight, Inc., an organization in Madison that provides emergency shelter and assists with homelessness. 306 N. Brooks St. (608) 257-2534.

For other charitable organizations, you may visit the Partners in Giving website at <https://giving.wi.gov/>.

*Please note that the resources listed are simply suggestions for your convenience, and the Wisconsin Ethics Commission does not endorse or recommend any particular charitable organization. If you would like to nominate additional organizations for inclusion on the list, please send an e-mail to [Ethics@wi.gov](mailto:Ethics@wi.gov).*





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**DATE:** For the Commission Meeting on [date]  
**TO:** Members, Wisconsin Ethics Commission  
**FROM:** Daniel A. Carlton, Jr., Administrator  
**SUBJECT:** Biennial Budget Request Update

## FOR COMMISSION ACTION

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

1. Approve the budget options as presented;
2. Make changes to the budget options and approve; or
3. Take action consistent with today's discussion.

As the Commission is aware, 2023 Wisconsin Act 126 requires all local candidates to register their candidate committees and file campaign finance reports with the Commission beginning on July 1, 2025. For the sake of brevity, this memo will not go into depth regarding the history of that Act.

As a result of the Act, the Commission's budget request contained 19 new positions and supplies and services for those positions. The Commission's budget request also addressed reclassifying the Entry Ethics Specialists to Senior Ethics Specialists given their additional workload and the autonomy that they would be given. The request contains a few other items related to the new campaign finance website, our IT contractor, and office equipment. Most of the items in the Commission's biennial budget request were contained in the request for supplemental appropriation the Commission submitted in the late fall.

The Joint Committee on Finance has not yet taken up the Commission's supplemental appropriation request. Staff has heard that the effective date of the Act might be delayed. As of the writing of this memo, no bill has been filed to accomplish that. However, staff felt it appropriate to examine the budgetary needs and decide what needs will exist even if the effective date is delayed or the Act is repealed.

Attached is a table showing what is in the biennial budget request, what is in the supplemental budget request, and what staff believes will be necessary even if the effective date is delayed or the Act is repealed. If the Act is delayed or repealed, staff will need to pivot quickly to make sure that all of the needs are addressed. Staff expects to be discussing this scenario with legislative leadership soon. To do so, staff needs the Commission's direction on how to proceed. The Commission can authorize staff to proceed as outlined in the attached table, make changes and authorize staff to proceed, or take other actions as directed by the Commission.

Request	Biennial Budget	Supplemental Request	If Delayed Effective Date
Reclassification of Current Entry Ethics Specialists	Yes	Yes	Recommend budgeting for promotion during biennium.
Trainers	2	Same	N/A
Attorneys	3	Same	At least 1
Ethics Specialists	13	Same	To Be Determined
OMS	1	Same	To Be Determined
Office Relocation	Yes	Yes	To Be Determined
Rent Increase	Yes	Yes	To Be Determined
IT/Copier	Yes	Yes	Copier
Civera (Maintenance Both Years)	Yes	N/A	Yes
Civera Deduplication	Yes	Yes	Now paid for in FY 25
Civera Payment Page	Yes	No	Decided to go another route
Ethan Extension	Yes	N/A	Yes
Monitor Replacement (Existing Staff)	Yes	Yes	Yes
Ending Lobbying PR	Yes	N/A	Yes



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**DATE:** For the Commission Meeting on February 25, 2025  
**TO:** Members, Wisconsin Ethics Commission  
**FROM:** Ethics Commission Staff  
**SUBJECT:** Ethics Commission Staff Report

## Commission Administration

### Records Management

As a state agency, the Commission creates and accepts many public records. There are several aspects to public records: whether it is a record, whether the record is available to the public, and the retention/disposition of records. Retention of records is addressed in a couple of ways. First, there are what are called General Retention Schedules (“GRS”). These establish the period during which records must be maintained for common record types across the enterprise. The Public Records Board is responsible for maintaining them. Second, there are agency specific Records Disposition Agreements “RDAs.” These are established by each agency for records series that are unique to the agency. If a GRS does not apply, and the agency does not have an RDA for that type of record, the agency is not allowed to disposition those records. If an RDA expires, the agency cannot dispose of records of those type until a new RDA has been approved.

The Commission has multiple RDAs in place. Three of the RDAs are getting ready to lapse soon. These RDAs cover SEIs, Lobbying Licenses and Principal Subject Files, and Campaign Finance Reports, Registration Statements, and Audit Records. As they are lapsing soon, staff reviewed them to determine whether any changes should be made. Ultimately, it was determined that no substantive changes were necessary. However, there were a couple of minor technical changes to clarify that we only have to maintain electronic versions of the records and other technical changes recommended by the Public Records Board staff. After consulting with the Chair and Vice Chair, the Administrator submitted new RDAs for these records. Commission staff expects those to be approved by the Public Records Board in March.

### Training

Since the last staff report, Administrator Carlton presented an ethics training to new legislative staff on January 31, 2025. Administrator Carlton will be presenting additional ethics training to other legislative staff twice during the week of February 24, 2025. Administrator Carlton has also been invited back to present on ethics at this year’s Judicial College in September.

Staff Counsel Buerger has been invited back as an instructor at the UW-Green Bay Clerks and Treasurers Institute for the fifth year in a row this coming July. The Clerks and Treasurers Institute is an annual event that provides 30+ hours of education and training to Wisconsin’s clerks each

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Paul Higginbotham | Debra Kolste | Gerald Ptacek | Pat Strachota | Maryann Sumi | Andrew Weininger

*Administrator*

Daniel A. Carlton, Jr.

year as part of an ongoing professional development program. This year's training is expected to focus on the implementation of 2023 Wisconsin Act 126, which will require local registrants to file with the Commission beginning July 1, 2025. Staff Counsel Buerger is also scheduled to conduct an ethics training for the State of Wisconsin Investment Board in September.

## **Campaign Finance**

All committees that did not claim exemption from filing reports, as well as candidates in 2024 who did claim exemption, were required to file a January Continuing 2025 report. There were 1,182 committees required to file. We received reports from 1,078 committees, or 91.2% of the committees. There are still 104 committees (8.8%) which have not filed the report. Staff has sent numerous email reminders and will continue to try to reach these committees to file the required report.

In addition to the January Continuing report, all non-candidate committees and conduits with over \$2,500 of disbursements during 2024 were required to pay a \$100 filing fee to the Commission by January 15, 2025. There were a total of 396 committees required to pay the filing fee for 2024 activity. There were 369 that paid by January 30, 2025. We currently have 27 committees which still owe the filing fee. The standard settlement schedule calls for committees paying 16 to 45 days late to pay \$300.

There was a Spring Pre-Primary Report due for all candidates running in the April 2025 election, as well as any committees supporting or opposing these candidates. This report was due Monday, February 10, 2025. There were 77 candidates required to file the report, and all but 6 (7.8%) filed by 11:59 p.m., on the due date. As of February 12, 2025, 2 candidates have yet to file.

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.

All candidates registered for the April 2025 election as well as any committees supporting or opposing these candidates will be required to file a Spring Pre-Election 2025 report by March 24, 2025. The next report for all registered committees not claiming exemption, as well as any 2025 candidates that did claim exemption, is the 2025 July Continuing report. This report is due July 15, 2025.

## **Lobbying**

### 2023–2024 Legislative Session

The final Statement of Lobbying Activities and Expenditures (“SLAE”) of the 2023–2024 Legislative Session for all lobbyists and principals was due on January 31, 2025. All but 18 principals filed on time. As of February 12, 2025, 12 principals have yet to file.



### 2025–2026 Legislative Session

Registration for the 2025–2026 Legislative Session opened on December 2, 2024. As of February 12, 2025, there are 591 lobbyists licensed, 759 principals registered, and 1,676 lobbyist authorizations.

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

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

Judicial candidates and candidates for superintendent of public instruction were required to file the 2025 SEI for ballot access for the Spring 2025 election by 4:30 p.m. on January 10, 2025. All candidates who submitted nomination papers filed on time. Officials elected at the November 2024 election were required to file their 2025 SEI by January 27, 2025. All but ten elected officials filed on time. As of February 12, 2025, one such SEI remains outstanding. Similarly, officials were not reelected were required to file their final SEIs but January 27, 2025. All but three former officials filed on time. As of February 12, 2025, two such final SEIs remain outstanding.

The annual SEI for approximately 2,069 officials required to file will be due on April 30, 2025. As of February 12, 2025, 864 officials have filed.

#### State of Wisconsin Investment Board Quarterly Reports

The 2024 fourth quarter reports covering October to December were due on January 31, 2025. All officials filed on time. The 2025 first quarter reports covering January to March will be due on April 30, 2025.





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**DATE:** For the Commission Meeting on February 25, 2025  
**TO:** Members, Wisconsin Ethics Commission  
**FROM:** Colette Greve, Assistant Administrator  
**SUBJECT:** 2025 ETH 01 – Use of Campaign Funds for Mileage Reimbursement

## FOR COMMISSION ACTION

For this agenda item, the Commission may:

1. Adopt the formal advisory opinion as drafted by staff;
2. Adopt a formal advisory opinion consistent with today's discussion; or
3. Decline to adopt the formal advisory opinion.

The Commission received a request for advice on whether a candidate may use campaign funds to reimburse herself for campaign travel in her personal vehicle. If permissible, the candidate also requested advice on how to calculate such mileage expenses and reimbursements. The Commission reviewed the request at its meeting on January 7, 2025. At that meeting, the Commission requested staff draft both an informal opinion (for the requestor) and a formal opinion for the Commission to review at today's meeting. Pursuant to WIS. STAT. 19.85(1)(h), the Commission will review the informal advisory opinion in today in closed session. The Commission will reconvene in open session to review the formal advisory opinion, after it has reviewed the informal advisory opinion in closed session.

Attachments:

- A. 2025 ETH 01 Draft and Request

*Wisconsin Ethics Commissioners*

Paul Higgenbotham | Debra Kolste | Gerald Ptacek | Pat Strachota | Maryann Sumi | Andrew Weininger

*Administrator*

Daniel A. Carlton, Jr.

USE OF CAMPAIGN FUNDS FOR MILEAGE REIMBURSEMENT

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You were a state candidate for the Fall 2024 Election. You maintain a registered candidate committee. You requested that the Commission provide advice on whether you may use campaign funds to reimburse yourself for campaign travel in your personal vehicle. If so, you also request advice on how to calculate such mileage expenses and reimbursements.

Summary:

It is the opinion of the Commission that reimbursement of mileage, when determined by tracking and documenting mileage used specifically for campaign purposes, is not a strictly personal use, but an allowable use of campaign funds. As to the question of what rate to use for mileage reimbursement, the Commission advises you to use Wisconsin's standard rate for state employees. This rate is currently 51 cents per mile.<sup>1</sup>

Analysis

You were a state candidate for the Fall 2024 Election. You maintain a registered candidate committee. As such, you and the candidate committee are subject to Wisconsin campaign finance law.<sup>2</sup> The following are the relevant statutory provisions.

[WIS. STAT. § 11.0101\(10\)\(a\)](#)**(10)**

**(a)** "Disbursement" means any of the following:

1. An expenditure by a committee from the committee's depository account.
2. The transfer of tangible personal property or services by a committee.
3. A transfer of funds between committees.

[WIS. STAT. § 11.1208\(2\)\(a\)](#)

**(2) (a)** Except as provided in pars. **(b)** and **(c)**, a committee may not make a disbursement or incur an obligation for the committee's or an individual's strictly personal use.

This statute prohibits a committee from making a disbursement or incurring an obligation for the committee or individual's strictly personal use.

Application

As noted above, you are seeking advice on whether you can use campaign funds to reimburse yourself and/or others for mileage. Additionally, if permitted, you inquire about the rate at which mileage should be reimbursed. A reimbursement from the candidate committee to you or another individual is a transfer of money and a disbursement. [WIS. STAT. § 11.0101\(10\)\(a\)1.](#) A reimbursement from the committee to you or another individual for the gas is an allowable disbursement. However, you are now seeking to reimburse yourself for mileage, not only the cost

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<sup>1</sup> [Wisconsin Department of Administration - Personal Mileage Reimbursement Rate, July 1, 2012.](#)

<sup>2</sup> [WIS. STAT. § 11.0103\(1\).](#)

of gas. Mileage considers the cost of owning, operating, gas, and wear and tear on a vehicle. [WIS. STAT. § 11.1208\(2\)\(a\)](#) prohibits a candidate committee from making a disbursement that is for an individual's strictly personal use. The intent of the prohibition on disbursements for strictly personal use is clear, a candidate should not be permitted to convert campaign contributions into his or her own personal funds. To answer your request, we must determine whether mileage reimbursement is a strictly personal use of campaign funds.

“Strictly personal use” is not defined in Wisconsin campaign finance statutes. The analogous federal restriction uses the term “personal use” instead. The Federal Election Commission’s (“FEC”) administrative rules define the term “personal use.” The rule begins with the definition that personal use “means any use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation, or expense of any person that would exist irrespective of the candidate’s campaign or duties as a federal officeholder.” [11 CFR § 113.1\(g\)](#). From there, the rule lists specific uses that are deemed to be a “personal use,” provides some uses which are reviewed on a case-by-case basis, and addresses whether other specific scenarios are a “personal use.” Two uses that are to be reviewed on a case-by-case basis are travel expenses and vehicle expenses.

In determining whether an expense is personal or campaign-related the Federal Elections Commission uses a test called the “irrespective test.” Under the “irrespective test,” personal use is any use of funds in a campaign account of a candidate to fulfill a commitment, obligation, or expense of any person that would exist irrespective of the candidate’s campaign or responsibilities as an officeholder. A plain language restatement of the FEC’s test would be that an expense is a personal use if the use of funds is to fulfill a commitment, obligation, or expense that would exist without regard for (or consideration of) the candidate’s campaign or responsibilities as an officeholder. As Wisconsin’s standard is more permissive than the federal standard, it stands to reason that if an expense is permissible under federal law, it should also be permissible under the Wisconsin standard.

The Commission has used the FEC’s test in previous opinions regarding use of campaign funds for child-care costs and vehicle repairs. In the opinion related to vehicle repairs, the Commission advised that the expense of repair and/or replacement of a blown tire on a personal vehicle would exist irrespective of a campaign for the State Assembly. As such, the expense is a strictly personal use of campaign funds and it would be a prohibited disbursement of campaign funds under [WIS. STAT. § 11.1208\(2\)\(a\)](#). In that case, the candidate’s tire was damaged on a trip that was specifically for campaign purposes. However, as the tire blowout could have occurred during any travel, personal or campaign related, even if the individual had not been a candidate, the Commission opined that the expense of replacing the tire existed irrespective of the campaign.

The FEC has issued one opinion regarding mileage reimbursement.<sup>3</sup> That opinion has the reverse circumstances in this request. In the FEC opinion a campaign purchased a vehicle with campaign funds. The vehicle was used for 95% campaign purposes and 5% personal. The FEC used the irrespective test to determine whether the campaign funds could be used to purchase a vehicle, that would have a 5% personal use, would be an allowable use of campaign funds or prohibited as a personal use of campaign funds. The FEC advised under federal law that the personal use in question was de minimis. As such, it was not a personal use of campaign funds. As personal use

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<sup>3</sup> [FEC AO 2001-03](#).

was de minimis, the FEC advised that it was not necessary for the individual using the campaign vehicle to reimburse the campaign. However, as the individual had informed the FEC that they intended to reimburse the campaign, the FEC advised that though not required, the individual could use the Internal Revenue Service's ("IRS") mileage reimbursement standard to determine the reimbursement amount. While the FEC opinion is not entirely factually on point, the Commission may take into consideration that the FEC has found the IRS mileage standard to be acceptable.

You advised that you used a personal vehicle for campaign trips. You are seeking to reimburse yourself for mileage, not only the cost of gas. The question is whether mileage reimbursement is a strictly personal use of campaign funds. The Commission applied the irrespective test to this set of facts. It is reasonable to argue that you used your vehicle for personal purposes and accrued mileage and wear and tear on your vehicle regardless of travel for your campaign. However, as you were a candidate engaged in campaign activity, there were certain trips you made, and miles traveled related to your campaign activity. These miles traveled, the cost of gas, and additional wear and tear on your vehicle would not have existed irrespective of your responsibilities as a candidate for the fall 2024 election.

If limited to miles traveled for campaign purposes and such travel tracked and documented appropriately, wear and tear can be attributed specifically to campaign related uses. This is different than the Commission's prior opinion with the tire blowout where there was specific damage. When considering wear and tear and/or costs of ownership with mileage, there is the ability to track this, just as you would for gas used on campaign trips. Additionally, there are federal, and state recognized formulas to account for mileage. Mileage reimbursement is tied directly to miles traveled for a specific purpose.

## **Conclusion**

It is the opinion of the Commission that reimbursement of mileage, when determined by tracking and documenting mileage used specifically for campaign purposes, is not a strictly personal use, but an allowable use of campaign funds. As to the question of what rate to use for mileage reimbursement, the Commission advises to use Wisconsin's standard rate for state employees. This rate is currently 51 cents per mile.<sup>4</sup>

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<sup>4</sup> [Wisconsin Department of Administration - Personal Mileage Reimbursement Rate, July 1, 2012.](#)

**From:** [REDACTED]  
**To:** [ETHICS Campaign Finance](#)  
**Subject:** Mileage expense reporting  
**Date:** Wednesday, July 10, 2024 11:22:23 AM

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**CAUTION: This email originated from outside the organization.  
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Good morning:

I am looking for guidance on how to calculate mileage expenses. It isn't really practical to calculate mileage for each individual trip by using a gas receipt and miles traveled, how many miles per gallon the car uses, etc. I do not have a vehicle that is only used for campaign purposes nor would I use an entire tank of gas for campaign purposes.

I know I can report it as an in-kind contribution with matching expense, or as an expense the campaign pays to me or another person. But do you have any guidance on how to calculate the amount? It would make sense to be able to use the IRS mileage rate multiplied by the number of miles traveled.

Thank you.

[REDACTED]  
Assembly Candidate [REDACTED]

