

NOTICE OF OPEN AND CLOSED MEETING

Wisconsin Ethics Commission

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

Friday, May 13, 2025, 9:00 a.m.

Open Session Agenda

- | | |
|------------------------------------------------------------------|--------|
| A. Call to Order | |
| B. Report of Appropriate Meeting Notice – Administrator | Verbal |
| C. Approval of Minutes for Meeting on February 25, 2025 | Page 3 |
| D. Personal Appearances | |
| E. Staff Report | Page 7 |
| F. Closed Session | |
| 1. Request for Advice | |
| 2. Complaints and Investigations | |
| 3. Litigation/Potential Litigation | |
| 4. Audit Matters | |
| 5. Personnel Matters | |
| G. 2025-ETH 01 – Use of Campaign Funds for Mileage Reimbursement | Page 9 |
| H. Consideration for Future Agenda Items | |
| I. Adjourn | |

Future Ethics Commission Meetings Scheduled:

- Tuesday, August 5, 2025, at 9:00 AM
- Tuesday, October 21, 2025, at 9:00AM
- 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)(g), (h), or WIS. STAT. § 19.851. This notice is to inform the public that the Commission intends to convene in open session but may move to closed session. The Commission plans to return to open session following that closed session, as outlined in the above agenda. WIS. STAT. § 19.85(2).

WIS. STAT. §
19.46(2)(c)1.

1. Any individual may request in writing, electronically, or by telephone a formal advisory opinion from the commission or the review or modification of a formal advisory opinion issued by the commission under this paragraph. The individual making the request shall include all pertinent facts relevant to the matter. The commission shall review a request for a formal advisory opinion and may issue a formal advisory opinion to the individual making the request. Except as authorized or required for opinions specified in s. [19.55 \(4\) \(b\)](#), the commission's deliberations and actions upon such requests shall be in meetings not open to the public.

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
February 25, 9:00 a.m.

Open Session Minutes

Present: Maryann Sumi, Andrew D. Weininger, Pat Strachota, and Debra Kolste.

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

A. Call to Order

Commission Chair Maryann Sumi called the meeting to order at 9:02 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 for Meeting on January 7, 2025

MOTION: To approve the draft minutes. Moved by Vice Chair Weininger, seconded by Commissioner Kolste.

4-0 Motion carried unanimously.

D. Personal Appearances

There were no personal appearances.

E. Proposed Revisions to Guideline 1235

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

MOTION: To approve and adopt the revised guideline as drafted. Moved by Commissioner Strachota, seconded by Vice Chair Weininger.

4-0 Motion carried unanimously.

Wisconsin Ethics Commissioners

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

Administrator

Daniel A. Carlton, Jr.

F. Budget Request Update

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

MOTION: To delegate authority to the Administrator exercise discretion in adjusting and amending the budget request and to work with the Legislature's Joint Finance Committee if the effective date of 2023 Wisconsin Act 126 is postponed. The Administrator will consult with the Chair and Vice Chair when necessary. The Administrator will also keep the Commission up to date on 2023 Wisconsin Act 126 postponement and budget request amendments. Moved by Commissioner Kolste, seconded by Vice Chair Weininger.

4-0 Motion carried unanimously.

G. Ethics Commission Staff Report

Administrator Daniel Carlton presented the memo beginning on page 15 of the meeting materials.

No action was taken.

H. Closed Session

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

MOTION: To go into closed session to discuss requests for advice, complaints, investigations, legal advice regarding potential litigation, and audit matters. Moved by Commissioner Kolste, seconded by Vice Chair Weininger.

4-0 Motion carried unanimously.

The Commission returned to Open Session at 11:35 a.m..

I. 2025 ETH 01 – Use of Campaign Funds for Mileage Reimbursement

MOTION: To table this matter until the next Commission meeting on May 13, 2025. Moved by Commissioner Strachota, seconded by Vice Chair Weininger.

4-0 Motion carried unanimously.

J. Adjourn

MOTION: To adjourn the meeting. Moved by Commissioner Kolste, seconded by Commissioner Strachota.

4-0 Motion carried unanimously.

The meeting adjourned at 11:36 a.m..

February 25, 2025, Wisconsin Ethics Commission meeting minutes prepared by:

Colette Greve, Assistant Administrator

May 13, 2025

February 25, 2025, Wisconsin Ethics Commission meeting minutes certified by:

Andrew Weininger, Vice Chair

May 13, 2025



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DATE: For the Commission Meeting on May 13, 2025

TO: Members, Wisconsin Ethics Commission

FROM: Ethics Commission Staff

SUBJECT: Ethics Commission Staff Report

Commission Administration

Records Management

The three (3) Records Deposit Authorizations (RDAs) submitted (see below) were approved by the Public Records Board on March 24, 2025.

1. Statements of Economic Interest
2. Lobbying Licenses and Principle Subject Files
3. Campaign Finance Reports, Registration Statements, Audit Records

Administrative Rules

Wisconsin law requires that every agency submit a biennial report to the Legislature that identifies any of its rules: (1) that are unauthorized, (2) where the agency's authority to promulgate has been restricted, (3) that are obsolete or have been rendered unnecessary, (4) that are duplicative, or (5) that are economically burdensome. The report is also required to include a description of the agency's actions to address each rule listed in the report, the status of each rule identified in the previous report, and a formal statement by the agency that there are no rules that fall into a particular category (if applicable).

Commission staff submitted the agency's biennial report to the Legislature on March 28, 2025. The report updated the Legislature on the Commission's review of WIS. ADMIN. CODE ETH § 1.26(5), which had been identified as potentially in conflict with a statute in the 2023 report. The report stated that Commission staff plan to present this issue to the Commission at a future meeting.

Training

Staff Counsel Buerger will be presenting an ethics training to new and continuing board members of the Department of Safety and Professional Services on May 16th. He has also 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 year as part of an ongoing professional development program. Staff Counsel Buerger is also scheduled to conduct an ethics training for the State of Wisconsin Investment Board in September. DSPPS – May 16.

Wisconsin Ethics Commissioners

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

Administrator

Daniel A. Carlton, Jr.

Campaign Finance

All candidates registered for the April 2025 election as well as any committees supporting or opposing these candidates were required to file a Spring Pre-Election 2025 report by March 24, 2025. There were 59 candidates required to file. They all filed the report, with only 2 filing late. A total of 271 committees filed this report. Seven reports were filed after the March 24 due date.

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. This will be the first report period required to be filed using the new Campaign Finance website.

Consistent with the Commission's decisions at its meeting on January 7, 2025, Commission staff conducted a series of administrative terminations. On January 22, 2025, staff terminated 556 registrants which had never had any activity in CFIS. On April 9, 2025, staff terminated a further 769 registrants which met the established criteria and did not request to stay active in response to notice from Commission staff.

Lobbying

2025–2026 Legislative Session

The January–June 2025 Statement of Lobbying Activity and Expenditures (“SLAE”) will be due on July 31, 2025. As of May 1, 2025, the SLAE will be required of 641 lobbyists and 826 principals, and will include 1,833 lobbyist time reports.

Code of Ethics and Financial Disclosure

Statements of Economic Interests (“SEIs”)

The annual SEI for approximately 2,015 officials required to file was due on April 30, 2025. All but 84 officials filed on time.

State of Wisconsin Investment Board Quarterly Reports

The SWIB Quarterly Report for the first quarter of 2025, which covers from January to March, was due on April 30, 2025. All 53 officials filed on time.



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DATE: For the Commission Meeting on May 13, 2025

TO: Members, Wisconsin Ethics Commission

FROM: Colette Greve, Assistant Administrator

SUBJECT: Adoption of Formal Advisory Opinion –
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 your 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 an informal opinion for the requestor and a formal opinion, each for the Commission to review at its meeting on February 25, 2025. At that meeting, the Commission tabled this matter for today's meeting. One revision was made to both the informal opinion and formal opinion. That is a note in the conclusion that if the candidate does choose to reimburse themselves for mileage, they cannot also reimburse for the cost of gas for campaign travel.

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.

Attachment 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.

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. If you reimburse yourself for mileage, you cannot also reimburse yourself for the cost of gas for campaign travel. 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.¹

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.² 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

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

² [WIS. STAT. § 11.0103\(1\).](#)

disbursement. However, you are now seeking to reimburse yourself for mileage, not only the cost 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.³ 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

³ [FEC AO 2001-03](#).

question was de minimis. As such, it was not a personal use of campaign funds. As personal use 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. If you reimburse yourself for mileage, you cannot also reimburse yourself for the cost of gas for campaign travel. 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.⁴

⁴ [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

**CAUTION: This email originated from outside the organization.
Do not click links or open attachments unless you recognize the sender and know the content is safe.**

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]

