



STATE OF WISCONSIN
Department of Employee Trust Funds
A. John Voelker
SECRETARY

Wisconsin Department
of Employee Trust Funds
PO Box 7931
Madison WI 53707-7931
1-877-533-5020 (toll free)
Fax 608-267-4549
etf.wi.gov

Correspondence Memorandum

Date: March 24, 2023
To: Deferred Compensation Board
From: Laura Patterson, Policy Advisor
Office of Policy, Privacy and Compliance
Subject: Board Policies and Format Update

The Department of Employee Trust Funds (ETF) recommends that the Deferred Compensation Board (Board) approve replacing the current Board policies with a unified Board Policies and Procedures Document.

Over the years, the Board has adopted governance policies and procedures to support day-to-day board operations and to comply with open meetings requirements. These board policies and procedures cover topics such as conduct of board meetings, quorum, conflicts of interest, resignation, communications, etc. Board policies are currently maintained as separate documents. ETF recommends these policies and procedures be transitioned from individual documents to a single document.

Consolidating all board governance policies and procedures into a single document will result in improved board governance and coordination. One document containing all the current board policies will be more efficient, especially for cyclic reviews and updates, which tend to scatter across many board meetings each year as each policy's review date comes up. If the Board approves, future routine reviews could be completed in one meeting every three years.

The attached draft of board policies and procedures contains substantially similar language to the existing board policies. The document covers the subjects in the current set of board policies with a few additions, which ETF staff will point out during the presentation of the policies draft at the Board meeting.

The draft only contains policies and procedures that are shared by all five of ETF's Governing Boards. The document will not contain benefit program policies, such as the [Self-Directed Brokerage Option: Grandfathering of "Legacy Funds"](#) and the [Investment Policy Statement](#). Eventually, this document will be expanded to include all governance matters and will replace the current Board Governance Manual.

Reviewed and approved by Steve Hurley, Director, Office of Policy, Privacy and Compliance
Electronically Signed 04/04/2023

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If the Board approves the recommendation, staff will maintain the policies on the ETF website.

Staff will be available at the Board meeting to respond to any questions.

Attachment A: Board Policies and Procedures

Board Policies & Procedures

Employee Trust Funds Board,
Wisconsin Retirement Board,
Teachers Retirement Board,
Deferred Compensation Board &
Group Insurance Board



BOARD POLICIES & PROCEDURES

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BOARD POLICIES & PROCEDURES

PURPOSE & REVIEW PERIOD

This document provides the framework for the Employee Trust Funds Board, Wisconsin Retirement Board, Teachers Retirement Board, Deferred Compensation Board, and the Group Insurance Board (Boards) members to fulfill their duties by setting forth the responsibilities, regulations, policies, procedures, and actions Board members should take.

The Boards will review, update, and approve these policies and procedures at least every three years.

BOARD MEMBER RESPONSIBILITIES

Oath of Office

- [Wis. Stats. §§ 15.07 \(7\) and 19.01](#) requires each Board member to take and file the official oath with the Office of the Secretary of State of Wisconsin prior to assuming office. If the Oath of Office is not executed or filed, the Board member cannot vote.
- **Oath of Office as stated by [Wis. Stat. § 19.01 \(1\)](#):**

State of Wisconsin,

County of

I, the undersigned, who have been elected (or appointed) to the office of, but have not yet entered upon the duties thereof, swear (or affirm) that I will support the constitution of the United States and the constitution of the state of Wisconsin, and will faithfully discharge the duties of said office to the best of my ability. So help me God.

.... ..,

Subscribed and sworn to before me this day of, (year).

Conflict of Interest

Board members shall not let their private interests interfere with their respective fiduciary duties to the Wisconsin Retirement System, the Wisconsin Deferred Compensation Program, and the Group Insurance Plans.

[Wis. Stat. § 40.01 \(3\)](#) prohibits Board members from participating in decisions directly related to a specific benefit, credit, claim, or application of the person, and from participating in negotiations or decisions on the selection of actuarial, medical, legal, insurance, or other independent contractors if the board member has a direct or indirect financial interest in or is otherwise associated with the independent contractor. Board members are not prohibited from holding any other public office or from being eligible for benefits under Ch. 40.

Conflict of Interest Definition

- [Wis. Stat. § 19.46](#) sets the framework on what constitutes a conflict of interest under Wisconsin statute. A conflict of interest can arise when a Board member has a direct or indirect personal or financial interest in a matter that interferes with the Board member's fiduciary duty to act in good

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faith on behalf of the program and not for the Board member's own interest or for the interest of others.

Disclosure of Actual or Potential Conflicts

- All Board members have a duty to promptly report any actual or potential conflict of interest of which the Board member becomes aware, whether such conflict resides with the Board member or with another Board member.
- Board members shall promptly disclose to the Board chairperson any personal or outside interest, relationship, or responsibility (financial, professional, or otherwise) held by the Board member regarding any matter that is or will be presented for the Board's discussion or consideration. The Board chairperson will obtain advice from the Board's legal counsel regarding the potential conflict.
- A conflict can exist, but the nature of the conflict can be such that, in the Board member's estimation, the conflict does not interfere with the Board member's fiduciary duty and would not require disclosure, recusal or other measures. However, it is the Board's policy that proactive disclosure of all potential conflicts will support and promote the welfare of the public employee trust funds.
- If the Board chairperson has an actual or potential conflict of interest, the chairperson shall promptly disclose the matter to the secretary of the Department of Employee Trust Funds. The secretary will obtain advice from the Board's legal counsel regarding the potential conflict.
- All disclosures shall be made in writing and as soon as possible after the conflict is known to the Board member.

Recusal

- Any Board member with an interest, relationship or responsibility that conflicts with the Board member's fiduciary responsibilities shall recuse himself or herself from any discussions, negotiations, appeal hearings and any votes on the issue that gave rise to the conflict and, if necessary, from the Board meeting or applicable part thereof.

Resignation

- If a Board member fails to disclose a substantial conflict of interest or has a continuing and irreconcilable conflict of interest that impedes the Board member's ability to carry out their fiduciary responsibility, resignation from the Board or from the conflicting interest may be required by Board action. Resignations shall be made per the Board Member Resignation Procedure.

Board Action

- For any potential conflict, the Board, with the abstention of the interested Board member, may decide whether a conflict of interest exists and whether such Board member may participate in any discussion or vote on the issue that gave rise to the potential conflict. No such decision is necessary if the Board member has already recused himself or herself from the discussions and vote on each issue that gave rise to the conflict.

Avoiding the Appearance of a Conflict of Interest

- Board members should be mindful not to put themselves into situations that can be perceived by others as a conflict of interest. Even the perception of a conflict of interest can erode the public's confidence in specific Board decisions.

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Criminal Penalties

- [Wis. Stat. § 946.13 \(1\) \(a\)-\(b\)](#) sets standards and provides that board members may be charged with a Class I felony if conflict of interest laws are violated in contracting.

Communications by Board Members

Board Meetings

- When a quorum of the Board or a committee of the Board meets and discusses Board business, discussion must be open to the public and held only after proper notice is given and be recorded with proper minutes. Board members should refrain from private communication when discussing Board or ETF business such as email, text, or instant message, to the extent that such communication could violate Wisconsin's Open Meetings law.

Outside of Board Meetings

- Any Board member may contact the chair, or in their absence, the vice-chair, regarding issues of interest or concern. Board members are to contact the Board chair or the ETF secretary if they wish to have specific issues discussed by the Board so that these items can be added to the Board meeting agenda.
- Board members must not engage in mass or sequential email exchanges with other Board members relating to Board or ETF business. The Wisconsin attorney general strongly discourages governmental bodies from using electronic mail to communicate about issues within the body's realm of authority, because of the risk of conducting a "meeting" or "convening of members" in violation of Open Meetings laws.
- Informal gatherings of Board members for social purposes are not considered public meetings under the Wisconsin Open Meetings law or this policy. If Board issues were to be discussed at an informal gathering, however, the character of the gathering may change to a public meeting. As a result, please take caution in discussing board business outside of a formal board meeting.

The ETF Secretary (or Designee) and the Board

- The ETF secretary shall communicate with the Board between meetings when issues arise that require their immediate attention and consideration and may communicate other issues of interest to the Board. Additionally, notice and information for special and regularly scheduled quarterly Board meetings will be sent to all Board members before the meetings.

ETF Staff and the Board

- If a Board member needs information related to benefits administration, the primary contacts are the ETF secretary or deputy secretary. Board members may contact Board liaisons directly regarding meeting schedules, travel arrangements, reimbursements, and other administrative matters.

Third Parties and the Board (Directly or through ETF)

- Board members shall forward to the Board liaison any materials received directly from third parties and notify the Board liaison of any communications from third parties to avoid a conflict of interest. To ensure adequate time for distribution, any communications should be provided to ETF from third parties directly, or from Board members from third parties, through the Board liaison at least 24 hours prior to a meeting for the material to be distributed timely to all Board members prior to the meeting, in accordance with Board correspondence procedures posted on ETF's website. If

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communications are not received by ETF at least 24 hours prior to a meeting, communications are not guaranteed to be distributed to Board members until the following meeting.

- Any correspondence to the Board received by ETF will be directed to the applicable Board without edit or redaction. All correspondence will be reviewed by ETF staff, and Board members will be informed that the correspondence includes individual personal information, and if applicable, protected health information that may be protected from disclosure by state or federal law. ETF will review and, as necessary, redact personal or sensitive information from the correspondence prior to any posting of the material on the ETF website.

Materials Provided by an Attendee to the Board at an Open Meeting

- Board members may receive materials from third-party attendees at an open Board meeting. Board members and attendees shall transfer any such materials directly to the Board liaison. If there are sufficient copies, the Board liaison may disseminate the information to the Board. If there are not sufficient copies to be disseminated at the meeting, the Board liaison will distribute the information as correspondence prior to the next Board meeting.

Communication between a Board Member and a Service Provider or Vendor

- If a Board member is contacted by anyone with a future interest in doing business with ETF or the Board, the Board member should refer the individual to the ETF secretary to avoid any conflict of interest, or appearance of a conflict of interest. The secretary may refer the matter to the appropriate ETF staff or other advisors to evaluate the business inquiry or solicitation.
- When a Board member discusses ETF or Board business with a vendor outside of a Board meeting, that Board member's independence may be perceived as compromised and could result in the Board member's disqualification from formal consideration of any related matters by the Board.

Presentations to External Groups

- If a Board member is asked to make a presentation to external groups, the Board member must indicate that they are not speaking on behalf of the Board, unless the Board member has specifically been authorized to do so by the Board. Board members shall be respectful of the Board, its policies, and its decisions in all external communications, even if the Board member disagrees with the Board's decision. The Board should speak with a single voice on ETF or Board issues for the benefit of all participants.
- To ensure accuracy of materials prepared by Board members for publication or general distribution, and to ensure ETF is not inadvertently placed at risk, Board members are encouraged to provide such materials to the ETF secretary for review prior to distribution or publication.

Discussion of Benefits and other Communication between a Board Member and Members

- Board members are discouraged from counseling others about eligibility or benefits. When a Board member discusses business with a member outside of a Board meeting, that Board member's independence may be compromised and could result in the member's disqualification from subsequent formal consideration of any related matters by the Board. Counseling and providing specific benefit information to others is outside the scope of Board member duties and responsibilities. Board members should either relay the benefits inquiries to the ETF secretary or encourage the person to contact ETF directly.

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Communication between a Board Member and the Media

- The ETF secretary and the Board chair are the only two individuals authorized to speak on behalf of ETF or the Board. The primary media contact is the ETF secretary or the secretary's designee. The ETF secretary may designate another staff person as a spokesperson, depending on the topic of inquiry by the press. When a statement from the Board is required, the Board chair will serve as the spokesperson. If the Board chair is unavailable, the vice-chair will serve as the spokesperson.

Privacy of Personal Information Policy

Board members will safeguard from unauthorized use and disclosure of all personal information of members, beneficiaries, dependents, and other individuals, encountered while in the performance of and in relation to Board duties, in accordance with the Boards' fiduciary responsibility and state and federal privacy statutes.

Fiduciary Duty, Wis. Ch. 40, & Federal Regulations

- As fiduciaries, Board members are subject to the privacy restrictions under [Wis. Stat. § 40.07 Records](#) relating to release of Individual Personal Information. Section 40.07 of the statute states that Individual Personal Information in the records of the department is not a public record and shall not be disclosed except as provided in the section. Individual Personal Information held by the Department and encountered by Board members is not a public record and must remain confidential unless an exception applies.
- In addition, the department is required under federal law to protect member medical information under the Health Insurance Portability and Accountability Act (HIPAA). Protected health information under HIPAA is a subset of individual personal information already protected under 40.07, but noncompliance in the disclosure of protected health information is subject to federal penalties.

Examples of Personal Information and the Duty to Protect

- Personal information covered under this policy is any information that can be used alone or in addition to other available information to identify an individual, including relatives, employers, dependents, beneficiaries, or household members. Example identifiers include: name, ETF ID, Social Security number, birth date, address, event dates, telephone number and disability status.
- Member information is most often encountered during the appeals process but may potentially arise under other closed session meetings. Member personal information should never be provided in open session.

BOARD OPERATIONS

Board Meetings: Frequency and Noticing Requirements

- [Wis. Stat. § 15.07 \(3\) \(a\)](#) requires the Employee Trust Funds Board meet quarterly.
- [Wis. Stat. § 15.07 \(3\) \(b\)](#) requires the Deferred Compensation Board, the Group Insurance Board, the Teachers Retirement, and the Wisconsin Retirement Boards meet at least once per year. Boards may meet at other times on the call of the chair or a majority of its members.

Emergency Meetings

- Emergency meetings can be called by Board members or ETF staff as necessary. All public noticing, quorum and other public meeting requirements must be followed.

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Public Noticing Board Chair Requirement and Delegation

- [Wis. Stat. § 19.84 \(1\)](#), requires the board chair of a governmental body, or the officer's designee, give notice of each meeting of the body to: the public; any members of the media who have submitted a written request for notice; and the official state newspaper.
- The Deferred Compensation Board Chair delegated authority to ETF Staff on March 7, 2019, to publicly notice Board meetings.
- The Group Insurance Board Chair delegated authority to ETF Staff on May 5, 2019, to publicly notice Board meetings.
- The ETF Board Chair delegated authority to ETF Staff on July 17, 2021, to publicly notice Board meetings on behalf of the ETF Board, Wisconsin Retirement Board, and Teachers Retirement Board.

Location of Public Notices

- According to the attorney general, the board chair may give notice of a meeting to the public by posting the notice in one or more places likely to be seen by the public. The attorney general has recommended posting notices at three different locations within the jurisdiction of the governmental body. Alternatively, the board chair may give notice to the public by paid publication in a news medium likely to give notice in the jurisdiction area the body serves. [Wisconsin Open Meeting Laws: A Compliance Guide, Pg.10 \(May 2019\)](#).
- ETF will post notice in the following places: the Hill Farms State Office Building bulletin board; the State Capitol bulletin board; on ETF's website; and on the Wisconsin Public Notice Website.
- ETF will provide the notice to members of the media who submit a written request for the notice through the online email and notice system utilized by the State of Wisconsin.
- ETF will provide copies of the notice to the Wisconsin State Journal, which is the official state newspaper. The Wisconsin State Journal will post the notice at their discretion. *Martin v. Wray*, [473 F. Supp. 1131](#) (1979).

Information to be Included in Public Notices

- Under [Wis. Stat. § 19.84 \(2\)](#), notices of board meetings must contain the time, date, place and subject matter of the meeting, including subjects intended to be considered in any contemplated closed session.
- In 2007, the Wisconsin Supreme Court declared that meeting notices must conform to a "reasonableness" standard in describing the subject matter of the public meeting. The net result is that generic descriptions of subject matter are prohibited, and notices must be detailed enough such that a citizen interested in a specific subject would be aware from the meeting notice that the subject might be discussed. (State ex rel. Buswell v. Tomah Area Sch. Dist., 2007 WI 71, 301 Wis. 2d 178, 732 N.W.2d 804.)

Time Frame of Public Notices

- Notice must be given at least 24 hours in advance of the meeting, except for good cause where such notice is impossible or impractical, in which case shorter notice may be given, but in no case may the notice be provided less than two hours in advance of the meeting. Sundays and legal holidays are disregarded in calculating the 24-hour notice.

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Joint Meetings or Meetings where a Quorum of Board Members from Multiple Boards will be in attendance

- Generally, a joint meeting notice must be given when a quorum of members of a Board or Committee attends another meeting to gather information about a subject over which they have ultimate decision-making responsibility. Therefore, if any Board member or Committee member plans to attend a meeting of another Board or Committee, the member shall inform the Board liaison at least 72 hours prior to the meeting. The Board liaison will determine if a quorum will be present and if so, will prepare a joint meeting notice to replace the existing notice, or take other appropriate action.

Committees

Creation

- Upon adoption of a motion to establish a committee by a vote of a majority of a quorum of the Board, the chair shall appoint member of the committee and may designate appointees to serve as committee chair, vice chair and secretary. Additionally, the Board must also create a Committee Charter to govern the committee to define the purpose, authority, responsibility, and limitations of the committee.

Committee Members

- ETF, WR and TR Board committees shall have a minimum of three and a maximum of five members. A majority of the committee's members shall constitute a quorum. Any motion before a committee may be passed by a majority vote of a quorum of the committee.
- DC Board committees shall have a minimum of two members Two Board members shall constitute a quorum for the transaction of business at DC committee meetings.
- GIB committees shall have a minimum of three and a maximum of five members. A majority of the committee's members shall constitute a quorum. Any motion before a committee may be passed by a majority vote of a quorum of the committee.

Vacancies

- The Board chair shall promptly fill vacancies on committees.

Call to Order and Quorum

- Committees shall meet on the call of the Committee chairperson or a majority of the committee's members. A majority of the committee's members shall constitute a quorum. Any motion before a committee may be passed by a majority vote of a quorum of the committee.

Authority and Reporting

- A committee may only act within the scope of the committee charter adopted by the Board.
- Committees shall report to the Board on their activities at the next meeting of the Board. This report may be made in open or closed session, depending on the subject matter. Minutes of committee meetings shall be taken and available to all Board members and the public.

Attendance of Meetings

- Any Board member may attend any committee meeting by informing the Board liaison at least 72 hours in advance of the meeting. Only committee members may be counted for quorum or voting purposes.

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Other Committee Matters

- Unless otherwise provided, the provisions of these Board Policies and Procedures pertaining to agendas, notices, closed sessions, public participation, determination of presiding officer and rules of order shall also apply to committee meetings, with references to the officers being to the respective officers of the committee.

Elections

Selection of Board Officers: Chairperson, Vice Chairperson and Secretary

- [Wis. Stat. § 15.07 \(2\)](#) provides that the chair, vice chair and secretary of each Board Board must be elected in the respective Board's first meeting each year. Those having held office are eligible to be re-elected for successive terms.

Maintaining Board Seat Qualifications

- [Wis. Stat. § 15.165 \(1\) \(a\)](#) Any Board member who loses the status upon which the appointment or election was based shall cease to be a member of the board upon appointment or election to the board of a qualified successor.
- If a term expires for a member that no longer meets the applicable qualifications and a call for nominations returns no candidates, then the seat must be filled via another election or remain vacant until an election may be held.

Notification Requirements if a Member's Qualification Status Changes

- If a member no longer meets the qualifications for their specific seat the member shall notify the applicable Board chair, or the highest-ranking Board member, and the secretary of ETF of such fact, in writing.
- In doing so, the member shall indicate whether they can continue to meet their fiduciary duty and whether their continued service on the Board is inconsistent with the qualifications for their specific seat. If such member determines that they are unable to fulfill their fiduciary duty or that their continued service on the Board is inconsistent with the qualification for their specific seat, the member is encouraged to resign from the Board. Such action by a member will ensure the Board will be able to meet the goals of broad representation.

Board Meetings – Conduct of Business/Quorum

Quorum and Voting

- [Wis. Stat. § 15.07 \(4\)](#) A quorum is the minimum number of Board members that must be present to transact the Board's official business. A majority of the Board's membership, including vacant seats, constitutes a quorum. Unless a more restrictive provision is adopted by the Board, a quorum may act in any matter within the jurisdiction of the Board. All official actions of the Board shall be taken by a majority vote with a quorum present. A roll call vote will be taken for all action item votes at virtual or hybrid meetings and may also be taken upon the request of any Board member.

Attendance of Meetings

- Board meetings will be held in person or virtually as determined by ETF staff with guidance from the Board chair. Board members are encouraged to attend Board meetings in person. While phone and electronic attendance is permitted in special situations, such as a business continuity event, it is not optimal because connectivity can cause issues with the quality of the meeting and with maintaining

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quorum. In-person attendance also enhances the overall meeting experience through member engagement and communications. Members who desire to attend Board meetings virtually must consult with ETF staff before the meeting to determine how to attend.

Agenda

- Board members shall submit any recommended agenda topics to the Board chair. The agenda is made available to the public and to Board members in advance of the meeting.

Closed Sessions

- A “closed session” is a meeting from which the public is excluded. Every Board meeting must initially be convened in open session. All Board business must be initiated, discussed, and acted upon in open session unless one of the exemptions in [Wis. Stat. § 19.85 \(1\)](#) applies.
- A closed session may be held only for those specific purposes listed in Wis. Stat. § 19.85 (1) (a) - (h). To go into closed session, Wis. Stat. § 19.85 (1) provides that a motion must be made and carried by a majority vote. The vote of each member on a motion to go into closed session must be ascertained and recorded in the minutes.
- The subject matter to be discussed and the specific provisions in Wis. Stat. § 19.85 (1) authorizing the closed session must be announced by the presiding officer to those present at the meeting in which the motion is made. No business may be taken up at the closed session except that which relates to the matters contained in the presiding officer’s announcement of the closed session.

Public Participation

- Public Participation Members of the public may attend any open session of any Board meeting. Members of the public may not have the floor unless specifically allowed by the Chairperson, with the consent of a majority of the Board members.

Determination of Presiding Officer

- If present, the chair presides.
- If the chair is absent, the vice chair presides.
- If the chair and vice chair are absent, the secretary presides.
- If all officers are absent, the Board shall designate a presiding officer.

Rules of order

- The rules contained in the current edition of Robert's Rules of Order, Newly Revised, shall govern meetings in all cases to which the rules are applicable and when such rules are not inconsistent with any special rules of order the Board may adopt. A copy of the latest volume is available from the Board liaison.

Board Member Expenses

- [Wis. Stat. § 15.07 \(5\)](#) provides, in part, that Board members shall be reimbursed for “...their actual and necessary expenses incurred in the performance of their duties.”
- It is recognized Board members will occasionally need to travel to attend business meetings, educational conferences, trainings, and other events that are required to conduct the business of the WRS, or that will better prepare Board members to perform their fiduciary duties.
- Board members are expected to exercise prudence, discretion, and good judgment to ensure that all expenses incurred in carrying out their duties, regardless of the source of funds, are authorized,

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reasonable, and necessary. Board members should contact ETF with any questions, and should receive pre-approval from the ETF secretary, upon consultation with the Board chair, for unique expenses or any exemptions to the expenses allowed below.

Per Diems

- [Wis. Stat. 15.07 § \(5\) \(f\)](#) provides: “Members of the teachers retirement board, appointive members of the Wisconsin retirement board, appointive members of the group insurance board, members of the deferred compensation board and members of the employee trust funds board, \$25 per day.”

Travel and Meal Expenses

- [Wis. Stats. §§. 20.916, 16.53 \(12\) \(c\)](#) provide that Board members shall be reimbursed for actual, reasonable, and necessary traveling expenses incurred in the discharge of their duties.
- Expenses incurred to attend Board meetings are limited to only in-state travel.
- Board members must follow the expense rates set in the [Pocket Travel Guide February 1, 2022](#), prepared by the Department of Administration Division of Personnel Management.

Lodging Expenses

- Single occupancy hotel rooms are reserved the night before Board meetings. If a Board member has additional guests, it is the responsibility of the Board member to notify the hotel and pay all amounts more than the State rate. If a Board member pays for the hotel room personally, the State rate can be added to the travel voucher document along with a copy of the hotel receipt for reimbursement. A tax-exempt document can be provided to Board members who make their own hotel arrangements.

Payment of Expenses

- [Wis. Stat. § 15.07 \(5\)](#) provides that approved expenses incurred by officers or employees of the State of Wisconsin who represent an agency as a Board member will be paid by the agency which pays the Board member’s salary. ETF will for pay necessary expenses for all other Board members.

Submitting Expenses to ETF

- Reimbursement is allowed only when reimbursement has not been, and will not be, received from other sources.
- Board members shall submit their actual, reasonable, and necessary travel expenses to the ETF Board liaison within two weeks of completion of the travel. If circumstances arise that are not specifically covered in this policy, the Board member should discuss the matter with the Board liaison prior to incurring the expense.

ADDITIONAL BOARD POLICIES

Vendor Procurement Appeals Policy

Contracting Authority:

- Employee Trust Funds Board - [WIS. STAT. § 40.03\(1\)\(c\)](#)
- Deferred Compensation Board - [WIS. STAT. § 40.80 \(1\), \(2\)](#)
- Group Insurance Board - [WIS. STAT. § 40.03\(6\)](#)

PHASE ONE: Notice of Intent to Appeal Received by a Board c/o ETF Secretary

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1. The Board authorizes ETF staff to issue the “Intent to Award” to the successful bidder.
2. ETF staff issue the Intent to Award to the successful bidder and notify all firms who submitted a bid.
3. A vendor who wants to appeal the award MUST send a written notice indicating that the vendor intends to appeal the decision. The vendor must send the notice to the Board, c/o the secretary of ETF, within five business days after the Intent to Award notice is sent.
4. Upon receiving the written intent to appeal from the vendor, the ETF secretary will forward the notice to all Board members.

PHASE TWO: Formal Appeal Received by the Board c/o ETF Secretary

5. Within 10 business days from the issuance of the Intent to Award, the vendor MUST submit the formal appeal in writing to the Board, c/o the secretary of ETF.
6. The appeal must state the contract number, detailed factual grounds for the objection to the contract award, and any violations of Chapter 40, Wisconsin Statutes.
7. The secretary will forward the formal appeal to the Board.
8. If the vendor withdraws the intention to appeal or does not follow up within ten business days with a formal appeal, the ETF secretary will notify the Board that the matter is adjudicated and no Board action is required.
9. All communications and documentation will be maintained with the procurement file.
10. The ETF secretary will direct ETF general counsel and the ETF director of the Bureau of Budget, Contract Administration & Procurement to investigate the alleged violation of Chapter 40.
11. The secretary will forward the results of the investigation to the Board and include a recommendation to the Board as well as legal and factual support for the recommendation.

PHASE THREE: Board Decision

12. The Board will review the appeal and ETF’s recommendation.
13. The Board will render a decision. For most appeals, the options available to the Board are: rescind the original Intent to Award and direct staff to issue the award to a different bidder, rescind the original Intent to Award and direct staff to terminate the procurement, or deny the appeal and proceed with implementing the original decision.
14. Following Board action, a written decision will be sent to the vendor. The vendor is allowed one appeal per procurement contract or process.
15. For appeals of procurement awards made under Chapter 40, the Board’s decision is final.