

BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

JOEL BORGQUIST,

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Complainant,

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}

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v.

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}

BERNADETTE WILSON,

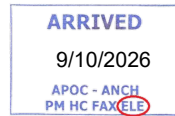
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Respondent.

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APOC Case No. 26-13-POFD



OPPOSITION TO REQUEST FOR EXPEDITED CONSIDERATION

Respondent, Bernadette Wilson, by and through the undersigned counsel, hereby opposes Complainant's request for expedited consideration, and in support thereof states as follows:

This meritless Complaint is nothing more than a facile misapplication of the financial disclosure rules. Ms. Wilson's POFD was filed nearly four months ago and has been publicly available for all to consider and review during that time. Despite that, Complainant suggests that the Commission dispense with its carefully considered regular procedures that provide due process to respondents and grant the Commission's staff sufficient time to review and consider all materials prior to a hearing, and instead should hastily rush its consideration of the present matter. The Commission should decline to take the bait.

Complainant's request for expedited consideration is procedurally improper and fails to demonstrate the need for expedited consideration. As such, the request for expedited consideration should be denied.

I. Complainant has not properly requested expedited consideration

Pursuant to A.S. 15.13.380(c), a Complainant “may request in writing that the commission expedite consideration of the complaint.” 2 AAC 50.888, however, requires that any such “request for expedited consideration **must** be submitted as a separate document from any other filing. . .” (emphasis added).

Here, while the Complainant has requested expedited consideration, he has plainly not followed this mandatory requirement. Instead, Complainant has improperly combined his request to expedite the proceedings into the body of the complaint itself. *See* Expedited Complaint at ¶ 8 (explaining why Complainant believes expedited consideration is justified). This failure to follow the Commission’s regulations frustrates quick review by both Ms. Wilson and the Commission, and is emblematic of why expedited consideration is not appropriate here. Given that this mandatory requirement was not followed, the request for expedited consideration must be denied.

II. Complainant has not alleged any immediate or irreparable harm to justify expedited consideration

Alaska law sets specific standards for whether a complaint requires expedited consideration, rather than proceeding through normal Commission procedures and giving the respondent the normal time to respond. Namely, “the commission shall consider such factors as whether the alleged violation, if not immediately restrained, could materially affect the outcome of an election or other impending event; whether the alleged violation could cause irreparable harm that penalties could not adequately remedy; and whether there is reasonable cause to believe that a violation has occurred or will occur.” A.S. § 15.13.380(c). “The person

that requested expedited consideration has the burden of proof to demonstrate the need for expedited consideration.” 2 AAC 50.888.

Here, those standards and Complainant’s burden of proof are simply not met. Complainant’s principal argument seems to be that expedited consideration is appropriate because Ms. Wilson is a candidate in an election nearly two months away, and that “if not immediately restrained,” any putative “violation could materially affect an election or impending event or cause irreparable harm that penalties could not adequately remedy.” Complaint at ¶ 8. But of course, that is not the standard for expedited review or the Commission would be adjudicating “emergency” complaints multiple times per week between now and November each and every year.

In the present case, there’s simply no ongoing, in-progress behavior that needs to be restrained. Ms. Wilson filed her POFD in May, and no questions or complaints were raised about it in all that time. Moreover, Ms. Wilson’s POFD discloses all income from Denali Disposal and discloses that business by name. Therefore, even if the Complaint were substantively correct (it is not), all that relevant information has already been disclosed to the public, and the adjudication of this complaint will center on technical issues on whether that information needs to be presented in a slightly different way.

Thus, the present matter markedly differs from circumstances where the Commission typically grants expedited consideration: where there is alleged to be an “in progress” harm caused by current ongoing activities. Complainant does not credibly allege otherwise, and instead merely repeats the legal definitions to justify his request for rushed consideration.

Complainant’s only concrete argument is his suggestion that Commission action in this matter could lead to Bernadette Wilson not being certified as a candidate on the General

Election Ballot. *See* Expedited Complaint at ¶ 13 (*citing to In re Tregarrrick Taylor*, for the principle that “substantial POFD noncompliance by a gubernatorial candidate can have an immediate certification consequence rather than merely resulting in a later civil penalty.”).

But there are two major problems with this argument. First, Ms. Wilson has already been certified as a candidate to appear on the 2026 General Election Ballot. *See* Division of Elections, Election Candidates, *available at* <https://www.elections.alaska.gov/election-candidates/?election=26genr&contest=GOVERNOR+%2F+LIEUTENANT+GOVERNOR&district=governor> (last accessed Sep. 9, 2026). Therefore, the idea that there could be a “certification consequence” at this stage does not hold water.

Second, Lieutenant Governor Dahlstrom announced last week that she would not take such stark action based on issues with POFDs. *See* Office of the Lieutenant Governor, “Lieutenant Governor Dahlstrom Will Certify Nominations of Treg Taylor and Jose Tagle,” Sep. 4, 2026, <https://ltgov.alaska.gov/newsroom/2026/09/lieutenant-governor-dahlstrom-will-certify-nominations-of-treg-taylor-and-jose-tagle/>. Given that pronouncement from the Lieutenant Governor, it is clear that there is no immediate time exigency related to certification of the candidates. As the Department of Law explained, if someone believes that there’s a discrepancy with POFD paperwork, “they can refer that to the APOC commission to take action on, and at that point, we’re talking about different fines and in the form of penalties.” James Brooks & Corinne Smith, “Alaska Department of Law says it found dozens of potential gaps in candidates’ financial disclosures,” *Alaska Beacon*, Sep. 8, 2026, *available at* <https://alaskabeacon.com/2026/09/07/alaska-department-of-law-says-it-found-dozens-of-potential-gaps-in-candidates-financial-disclosures/>.

Therefore, given these intervening statements by the Department of Law and the Lieutenant Governor, it is clear there's no time exigency necessitating this matter being decided on an expedited basis.

III. Due Process and fundamental fairness require that Ms. Wilson be permitted adequate time to respond to the complaint

Even if the Commission were to consider expedited consideration notwithstanding the Complaint's procedural and substantive failings, additional time is required in order to provide due process of law. *See* Alaska Const. Art. I, § 7 ("No person shall be deprived of life, liberty, or property, without due process of law. The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.").

In the present context, 2 AAC 50.888(e) provides that a hearing will be conducted pursuant to the normal regulation governing hearings "except the commission may, for good cause and **consistent with due process**, modify any procedure in order to expedite the hearing." (emphasis added).

"When principles of due process attach, there is a certain level of procedural fairness that must be accorded to an affected party." *Nichols v. Eckert*, 504 P.2d 1359, 1364 (Alaska 1973); *see also K&L Distributors, Inc. v. Murkowski*, 486 P.2d 351, 357 (Alaska 1971) (noting that administrative proceedings require due process and that subsequent judicial review of such administrative proceedings will focus on ensuring "that no findings were made except on **due notice** and opportunity to be heard, that the procedure at the hearing was consistent with a fair trial, and that the hearing was conducted in such a way that there is an opportunity for a court to ascertain whether the applicable rules of law and procedure were observed.") (emphasis added).

Here, due process requires that Ms. Wilson be afforded more time to respond. First, as noted above, Ms. Wilson asserts that her POFD is compliant with Alaska law and that the Complaint is meritless. That being said, the response to the Complaint is going to be fairly complex: focusing on a detailed legal and factual analysis of whether Ms. Wilson qualifies as being “self-employed.” *See* 2 AAC 50.799(a) (defining “self-employed”). Ms. Wilson would be significantly prejudiced if forced to defend these issues without sufficient time to prepare a written response on the merits, and without the opportunity to present all necessary factual witnesses consistent with her defense.¹

Moreover, given that Complainant is arguing (albeit erroneously) that a “consequence. . . [greater] than . . . merely . . . a later civil penalty” should be applied here, that potential penalty heightens the requirement for due process in the present matter. *See Mathews v. Eldridge*, 424 U.S. 319, 341 (1976) (“the degree of potential deprivation that may be created by a particular decision is a factor to be considered in assessing the validity of any administrative decision making process.”).

Given the foregoing, due process requires that the Commission deny expedited consideration here.

IV. Conclusion

Expedited consideration of the Complaint is not appropriate under the present circumstances. The Commission should deny expedited consideration, and if it does not decide to dismiss the Complaint altogether for lack of a factual basis, it should “refer the complaint for investigation as provided in 2 AAC 50.875.” 2 AAC 50.888(d).

¹ The Commission would also benefit through additional time for it and the Commission staff to review these materials.

RESPECTFULLY SUBMITTED this 10th day of September, 2026.

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Certificate of Service

I certify that a true and correct copy of the foregoing was sent on September 10, 2026, to the following:

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