



Wisconsin Elections Commission

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MEMORANDUM

**TO: Candidates Subject to a Nomination Papers Challenge
2022 General Election**

FROM: WEC Staff

DATE: June 2, 2022

SUBJECT: Response Procedures - Candidates Subject to Nomination Papers Challenge

This memorandum concerns candidates whose nomination papers have been challenged and discusses the procedure to be followed in responding to that challenge before the Wisconsin Elections Commission.

The Commission recommends reviewing the published manual titled “Common Nomination Paper Challenges” prior to responding to a challenge. The manual generally outlines the challenge process, but also includes prior Commission decisions on common challenges. This manual can be found here:

<http://elections.wi.gov/publications/manuals/common-nomination-paper-challenges>

Candidates should familiarize themselves with the requirements of Wisconsin Statutes Chapter 8, the statutory chapter governing nomination papers and nominations. In addition, administrative rules further explain requirements of nomination papers and the challenge procedure, which can be found in the Wisconsin Administrative Code EL §§ 2.05 - 2.07. Wis. Admin. Code EL §§ 2.05 - 2.07 are the rules governing the treatment and sufficiency of nomination papers and challenges to nomination papers.

Wis. Admin. Code EL § 2.05 sets forth the standards for determining whether nomination papers comply with Wis. Stat. Ch. 8 and Wis. Admin. Code EL § 2.07 sets forth the bases for challenges to those nomination papers. Both Wis. Admin. Code EL §§ 2.05 and 2.07 are rules attempting to interpret and clarify statutes; they are not statutes themselves. Because Wis. Admin. Code EL § 2.05(4) provides that “[a]ny information on a nomination paper is entitled to a presumption of validity,” any challenge to that information bears the burden of rebutting that presumption.

All challenges to nomination papers of candidates for the 2022 General Election filed with the Wisconsin Elections Commission will be considered and determined by the Commission at its June 10, 2022, virtual meeting, set to begin at 9:00 a.m. The meeting will be held virtually via Zoom.

Wisconsin Elections Commissioners

Ann S. Jacobs, chair | Marge Bostelmann | Julie M. Glancey | Dean Knudson | Robert Spindell | Mark L. Thomsen

Administrator
Meagan Wolfe

If the candidate wishes to contest the challenge to their nomination papers, the candidate should file a verified written response to the challenge. Wis. Admin. Code EL § 2.07(2)(b). Written verified responses are due not later than 4:30 p.m., 3 days after the challenge to your nomination papers is filed pursuant to Wis. Admin. Code EL § 2.07(2)(b). For example, if the challenge was filed on the deadline of June 6, 2022, your written response would be due by 4:30 p.m. on Thursday, June 9, 2022.

Both the challenger and the candidate may appear before the Commission, and/or by the party's representation. The parties will be given the opportunity to be heard on the challenge, present arguments in favor of the challenge, and present arguments in response to the challenge. The challenger and the candidate will each receive 5 minutes for his or her presentation. If you choose to appear before the Commission, additional details on appearing via Zoom Meeting will be provided.

Just as all challenges to nomination papers must be in the form of a verified complaint, a written response to a challenge should also be verified. A verified response is a response that the respondent (or other affiant) swears, under oath, is true based on the personal knowledge or information and belief of the respondent (or other affiant). The oath must be sworn to before a notary or other person authorized to administer oaths. In addition to filing a written response, a challenged candidate may appear, or by representation, before the Commission to explain why the challenge ought to be rejected.

Responses are filed by delivering a copy, or preferably emailing it, to the Wisconsin Elections Commission at its offices at 201 W. Washington Avenue, 2nd Floor, Madison, Wisconsin 53703 (email: elections@wi.gov) and by delivering and/or emailing a copy to the complainant who has challenged your nomination papers. If the response is emailed, please identify it as a challenge response in the subject line of the email. The response must contain a statement that a copy of the response has been served on, mailed, or emailed to the complainant. Due to the short timeframes involved, it is important that candidates provide a copy of their response to the complainant at the same time it is filed with the Commission.

The deadline for challenges to nomination papers that are filed with the WEC is set forth in Wis. Admin. Code EL § 2.07(2)(a), and is 4:30 p.m., Monday, June 6, 2022. New grounds for a challenge which were not raised in an initial complaint and which were raised after 4:30 p.m., June 6, 2022, will not be considered by the Commission.

A written response to a challenge should identify the nomination paper page and line number of the signature that has been challenged and must rebut the reasons for the challenge. *(For instance: the signature on nomination paper Page #2, Line 7, which has been challenged as outside the circulation period was actually obtained on May 27, 2022 – see the attached affidavit of the signatory, Mary Jones.)*

If you have any questions about the Commission's meeting to consider the challenges to nomination papers, please contact James C. Witecha at 608-266-0136 (james.witecha@wisconsin.gov).

Relevant Resources:

Wis. Stat. Ch. 8: <http://docs.legis.wisconsin.gov/statutes/statutes/8>

Wis. Adm. Code EL Ch. 2: https://docs.legis.wisconsin.gov/code/admin_code/el/2

Common Nomination Paper Challenges Manual:

<http://elections.wi.gov/publications/manuals/common-nomination-paper-challenges>