



# Wisconsin Elections Commission

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November 2, 2023

Dear Representative Hong:

¶ 1 You asked the Wisconsin Elections Commission (“the Commission”) to issue an advisory opinion on whether an electronic signature (“e-signature”) is a valid signature that must be accepted on an otherwise valid voter registration form.

¶ 2 The Commission may issue a formal or informal written electronic advisory opinion in response to a request for an advisory opinion made under Wis. Stat. § 5.05(6a). The Commission welcomes this opportunity to provide its position on this question of first impression in Wisconsin. The interpretation provided herein reflects the formal advisory opinion of the Commission with respect to your specific question. The Commission’s opinions on these matters may be subject to judicial or legislative review.

¶ 3 After a review of the statutory provisions, case law, and legislative history relating to electronic signatures, voter registration, and consultation with staff, it is the Commission’s opinion that e-signatures are a valid method of signing voter registration forms and must be accepted as signatures by election officials.

## I. Relevant Statutory Provisions

¶ 4 Regarding registration requirements, Wisconsin has several different types of voters and provides several different methods of registering to vote, and all registrations require a signature. Some voters are not required to register. Wis. Stats. §§ 6.15(2) (new residents), 6.22(3) (military voters). Most voters, however, are required to register. Wis. Stats. §§ 6.24(3) (Permanent Overseas voters), 6.27 (general requirement to register). Voters have several options for registering to vote, each of which requires signing a form prescribed by the Commission. Wis. Stats. §§ 6.30(4) (By Mail), 6.30(5) (Online), 6.29(2)(a) (Late Registration in person), 6.55(2)(a) (Election Day Registration). Each of these registration processes link to Wis. Stat. § 6.33, which requires the Commission to prescribe registration forms that contain “a space for the elector’s signature.”<sup>1</sup> The statute also requires that “each elector shall sign his or her own name” while allowing for an elector with a disability to authorize another individual to sign on his or her behalf. Wis. Stat. § 6.33(2)(a).

¶ 5 Turning to the relevant statutes regarding signatures and e-signatures, the definition of “signature” can be found in Wis. Stat. § 990.01, which governs the construction of laws and

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<sup>1</sup> Online voter registration, as defined by Wis. Stat. § 6.30(5), expressly requires an elector to authorize the Commission to obtain “an electronic copy” of the voter’s signature, which originally was very likely an e-signature, from the Department of Transportation. Thus, a significant number of voter registrations already are completed using a type of e-signature.

*Wisconsin Elections Commissioners*

Don M. Millis, chair | Marge Bostelmann | Carrie Riepl | Ann S. Jacobs | Robert F. Spindell | Mark L. Thomsen

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*Administrator*  
Meagan Wolfe

specifically lays out what certain commonly used words and phrases mean within the Wisconsin Statutes. Under Wis. Stat. § 990.01(38) the definition of signature states,

If the signature of any person is required by law it shall always be the handwriting of such person or, if the person is unable to write, the person's mark or the person's name written by some other person at the person's request and in the person's presence, or, subject to any applicable requirements under ch. 137, the electronic signature of the person.

¶ 6 Chapter 137 of the Wisconsin State Statutes provides necessary clarification on e-signatures. The relevant requirements and general guidance provided by this chapter regarding the resolution of this issue are stated below.

(1) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form . . . (4) If a law requires a signature, an electronic signature satisfies that requirement in that law.

Wis. Stat. § 137.15

[W]ith the consent of a governmental unit of this state that is to receive a record, any record that is required by law to be submitted in writing to that governmental unit and that requires a written signature may be submitted as an electronic record, and if submitted as an electronic record may incorporate an electronic signature.

Wis. Stat. § 137.25(1)

## II. Analysis

¶ 7 It is the opinion of the Commission that e-signatures are valid signatures on voter registration forms and must be accepted as signatures by election officials. This conclusion is supported by a plain language analysis of voter registration and e-signature statutes, legislative history, and case law.

¶ 8 Wisconsin law provides that electronic signatures are valid signatures on voter registration forms and must be accepted by election officials. Wisconsin's law on the required elements of a voter registration form has no explicit requirement for a written signature; instead it simply states "each elector shall sign his or her own name[.]" Wis. Stat. § 6.33(2)(a). In fact, there has never been a requirement for voter registration forms to have a written signature since e-signature laws have taken effect. *E.g.*, Wis. Stat. § 6.33(2)(a) (amended 1999), Wis. Stat. § 6.33(2)(a) (amended 2003), Wis. Stat. § 6.33(2)(a) (amended 2005), Wis. Stat. § 6.33(2)(a) (amended 2013), Wis. Stat. § 6.33(2)(a) (amended 2015). The law is clear that unless a written signature is required, e-signatures qualify as valid signatures. Wis. Stat. § 137.25(1), Wis. Stat. § 137.15(4). Since Wisconsin law does not explicitly state that signatures on voter registration forms must be written, e-signatures are valid signatures on voter registration forms without the consent of individual units of government.

¶ 9 There is some case law suggesting that a signature must be handwritten, and nothing else is able to take the place of a handwritten signature. However, the case law suggesting this conclusion

dates from the 1980s. *E.g., Kocinski v. Home Ins. Co.*, 147 Wis. 2d 278, 433 N.W.2d 654 (Wis. Ct. App. 1988). Chapter 137 of the Wisconsin State Statutes—which governs e-signatures—was enacted in 1997, well after these cases were decided. Additionally, these cases significantly predate common use of e-signatures, and the technology and applications that have since made them ubiquitous. These changed circumstances certainly give rise to a credible argument that statutory changes in Wisconsin have nullified the cases, and they would likely be overturned if reconsidered under present laws. The Commission will follow the current statutes which speak directly to the issue at hand.

### **III. Conclusion**

¶ 10 The Commission hereby finds that e-signatures must be accepted as valid signatures on otherwise valid voter registration forms unless and until directed by a court of law, or a reevaluation of this opinion becomes necessary due to a legislative change.