



Wisconsin Elections Commission

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TO: Wisconsin Municipal Clerks
Wisconsin County Clerks
City of Milwaukee Elections Commission
Milwaukee County Elections Commission

FROM: Meagan Wolfe, Administrator

SUBJECT: Recent Wis. Stat. § 6.48 Challenges to Voter Registration

County and municipal clerks who have recently seen an influx of requests from local electors challenging a host of processes, systems, and voter registrations under the authority granted in Wis. Stat. § 6.48(1)(a). It is recommended that clerks discuss these matters with their municipal attorneys and/or corporation counsel as appropriate. However, the Wisconsin Elections Commission (“WEC”) provides several relevant clarifications on this topic below as we understand many clerks have never received a challenge under this section.

Wis. Stat. § 6.48 Challenges:

Wisconsin Statutes § 6.48(1)(a) provides as follows:

Any **registered elector of a municipality** may challenge the registration of **any other registered elector** by submitting to the **municipal clerk or executive director of the board of election commissioners** in cities of more than 500,000 population an affidavit stating that the **elector is not qualified to vote and the reasons therefor**. The clerk or director, upon receipt of the affidavit, shall mail a notification of the challenge to the challenged elector, at his or her registered address. **(emphasis added)**

Many of the Wis. Stat. § 6.48(1)(a) challenges that have been forwarded to Wisconsin clerks so far have been overly broad when considered against the statutory requirements detailed above. The law requires requests to meet certain clear criteria:

- (1) the request should come from a local registered elector;
- (2) the request must be submitted to the appropriate municipal clerk/party (not the county clerk);
- and
- (3) the request must challenge the qualifications of a local registered elector.

Under Wis. Stat. § 6.48(1)(d), the sole recourse under Subsection 1 of this statute is to change the challenged elector’s registration from eligible to ineligible on the registration list if they are not qualified (*i.e.* the voter’s registration would be changed to “inactive” in WisVote). By extension, Wis. Stat. § 6.48 does not contemplate the challenge of “inactive” registrations, because the statute pertains to the challenge of an active registration and nothing more. The challenging elector must also demonstrate beyond a reasonable doubt that the person does not qualify as an elector or is not properly registered. Wis. Stat. § 6.325.

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Administrator
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Many aspects of the Wis. Stat. § 6.48(1)(a) challenges currently being received by clerks do not appear to meet minimum legal requirements. That said, due diligence may require your office to review certain challenged registrations for potential inactivation, as a valid complaint may reside alongside the challenges that fall outside of Wis. Stat. § 6.48. Again, consult with local counsel on the appropriate response to each respective challenge.

Requests for Deletion of Inactive WisVote Registration Records:

Many of the challenge documents being received by clerks under Wis. Stat. § 6.48 also include a demand to remove all “inactive” voter registrations from WisVote, or to move them to a separate database. To repeat, Wis. Stat. § 6.48 provides a sole remedy, and that is to inactivate a properly challenged registration. It does not contemplate the removal of an inactive registration, but rather requires such an inactivation. Additionally, Wisconsin’s clerks do not have the administrative rights necessary to perform such an action in WisVote, and should not do so regardless. The WEC has already addressed the justification and authority for maintaining these records in an FAQ document that can be reviewed at <https://elections.wi.gov/node/7509>. Inactive voters are not registered voters, are not on a pollbook, cannot request an absentee ballot, and cannot be issued a ballot.

Challenges to the Voter Registration Database Itself:

Several additional procedures and datapoints are being challenged under Wis. Stat. § 6.48 in many of the documents being submitted to Wisconsin’s clerks. These include clerk use of “generic data,” such as the entry of a 1918 birthdate for registrants, the use of a standard phone number of some kind for registration purposes (e.g. the number for the clerk’s office), and other similar data entry choices made by local clerks. The WEC has already addressed these concerns, and more, in FAQ documents that can be reviewed at <https://elections.wi.gov/node/7516>, <https://elections.wi.gov/node/7514>, and <https://elections.wi.gov/faq>. Challenges to these entries likely require no action on your part, but clerks should contact local counsel with concerns, a need for legal interpretation, or to consider some form of proactive outreach to update the respective registrations. The WEC Helpdesk can be contacted if questions remain.

Alleged Duplicate Registrations:

Some of the Wis. Stat. § 6.48 challenges that have been forwarded to the WEC for assistance also include a complainant’s allegation that the same registered voter was listed in WisVote several times, and that the system had improper duplicates. There are no duplicate registration numbers in WisVote. The WEC believes that many of these duplicates exist because the complainants converted a CSV file to Excel (using the “Election Data Analyzer Excel spreadsheet”) and lost leading zeros in the process, thus causing the perception of duplicate references that are not actually duplicated in the WisVote system.

There are many records in WisVote that contain these leading zeros. The complainants appear to be self-generating reports that flag false duplicates when they do not open the file correctly, do not use dedicated database software like Access, or they use other third-party applications to synthesize the data in some way. Clerks may still need to perform data checks to ensure there is not a valid Wis. Stat. § 6.48 challenge requiring some form of registration correction, but many of these duplications appear to be false based on some of the initial feedback from clerks performing data reviews of these alleged duplications.

Alleged Deficiencies in Management of the Voter Registration Database:

The complainants raise a variety of security and database management concerns that are wholly unrelated to the submission of “an affidavit stating that the elector is not qualified to vote and the reasons therefor,” which is the basis for consideration of a Wis. Stat. § 6.48 complaint. Recommendations for changes to the manner in which the WisVote database is maintained would be more appropriately submitted to the members of the Wisconsin Elections Commission. Please consult with local counsel on these database management requests, particularly if you get a request unique from those currently being submitted to clerks across the state. There is likely no legal basis for a local clerk to consider operational change recommendations pertaining to the WisVote database at the local level, particularly under the guise of a Wis. Stat. § 6.48 complaint.