



Wisconsin Elections Commission

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DATE: October 28, 2022

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

FROM: Wisconsin Elections Commission

SUBJECT: Temporary Injunction for WEC concerning Spoiling Absentee Ballots
(*Kormanik v. Wisconsin Elections Commission, 22-CV-1395*)

On October 7, 2022, the Honorable Judge Brad D. Schimel of the Waukesha County Circuit Court issued an order for a Temporary Injunction in *Kormanik v. Wisconsin Elections Commission* concerning information about spoiling absentee ballots or returning absentee ballots to electors. The Temporary Injunction is attached to this memorandum. This order was stayed by the Court of Appeals until it made a decision to lift the stay on October 27, 2022, and the order will now go into effect starting at 3 p.m. on October 28, 2022.

The order enjoins and prohibits the Commission from “advising, guiding, instructing, publishing, or otherwise communicating information related to spoiling absentee ballots and/or returning absentee ballots to electors that contravenes Wis. Stat. §§ 6.84, 6.86(1)(ar), 6.86(5) and 6.86(6), except as otherwise provided in Wis. Stat. § 6.87(9).”

Specifically, the order enjoins and prohibits the Commission from “publicly displaying, applying, or disseminating” its August 1, 2022, memorandum called *Spoiling Absentee Guidance for the 2022 Partisan Primary*, an accompanying August 2, 2022, press release called *Rules about ‘Spoiling’ Your Ballot*, and “any other publication that communicates information contrary to Wis. Stat. §§ 6.86(5) and 6.86(6).” Further, the Commission is prohibited from disseminating or publishing any information stating 1. “that a municipal clerk or local election official may return a previously completed and submitted absentee ballot to an elector, except as otherwise provided in Wis. Stat. § 6.87(9)” or 2. “that a municipal clerk or local election official is authorized to spoil an absentee ballot on behalf of an elector.” The Commission may not otherwise provide or publicly display information contrary to Wis. Stat. §§ 6.86(5) and 6.86(6), except as provided in Wis. Stat. § 6.87(9).

Pursuant to the temporary injunction of October 7, 2022, this communication gives notice that the August 1, 2022, memo and the August 2, 2022, press release have been withdrawn by the Commission, subject to further appeals and a final determination.

Please review this notice and the attached Temporary Injunction with your municipal attorney to determine if any changes to your procedures are required. Please contact the WEC Help Desk at elections@wi.gov or by phone at (608) 261-2028 if you have any questions. Thank you for your prompt attention to this matter.

Wisconsin Elections Commissioners

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

Administrator
Meagan Wolfe