



Wisconsin Elections Commission

201 West Washington Avenue | Second Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

February 18, 2024

Susan Nondorf
203 William St.
Avoca, WI 53506

Sent via email: lnondorfsusan@gmail.com

Re: Complaint Filed with Wisconsin Elections Commission:
Susan Nondorf v. Elizabeth Wilkinson (EL 25–16)

Dear Ms. Nondorf,

I am in receipt of your complaint filed with the Wisconsin Elections Commission (the Commission), received on February 12, 2025, against Clerk Elizabeth Wilkinson of the Village of Avoca (Iowa County). The administrative rules governing the Commission's processing of complaints require that I review the complaint and determine within 10 business days whether the complaint is timely, is sufficient as to form, and states probable cause. Wis. Admin. Code EL § 20.04(1).

Your complaint is timely, but it is not sufficient as to form and does not state allegations that could lead to a finding of probable cause under the Wis. Stat. § 5.06 complaint process. Therefore, I am returning the complaint to you without prejudice pursuant to Wis. Stat. § 5.06 and Wis. Admin. Code § EL 20.04(1) and (2).

Some explanation is needed regarding timeliness. Under Wis. Stat. § 5.06(3):

In no case may a complaint relating to nominations, qualifications of candidates or ballot preparation be filed later than 10 days after the complainant knew or should have known that a violation of law or abuse of discretion occurred or was proposed to occur.

Were this complaint to ask the Commission to reconsider ballot access at this time, it would not be timely. The municipal clerk should have determined ballot access by January 14 under Wis. Stat. § 5.58(1b)(cm), and your complaint form states that you were first made aware of this issue on February 1. Setting aside whether you could or should have known of the issue on January 14, it is clear that this complaint was filed 11 days after you became aware of the issue, and thus the complaint would not be timely under that section if you asked the Commission to find that you timely filed ballot access documents and to order the clerk to review the paperwork and add your name to the ballot if qualified. The allowable time for those findings and order has passed.

That said, I do not read your current complaint to ask for those remedies and find that the allegations as stated are timely as they relate to election administration procedures regarding the organization and review of ballot access documents. However, if you refile this § 5.06 complaint, please ensure that you ask for relief that can be provided by the Commission.

Wisconsin Elections Commissioners

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

Administrator
Meagan Wolfe

The issues of form and probable cause are closely related in this instance. The issue is that the Commission can only take certain actions in specific complaint types, and the allegations you have made do not match the complaint type you have selected. In step 4 on the complaint form, you have listed Wis. Stat. § 12.13(3)(b) as the applicable statute. Though the Commission could consider that statute within the context of a § 5.05 complaint, it would not be appropriate to do so in the context of a § 5.06 complaint, which is the complaint type you have indicated in Step 1. In general, a § 5.05 complaint may be made against any individual and must allege a criminal violation of chapters 5 to 10 or chapter 12. If the Commission finds there is probable cause to believe a crime was committed, a § 5.05 complaint may be referred to a District Attorney for prosecution. A § 5.06 complaint, on the other hand, may only be filed against an election official by someone served by that official and generally alleges that an election official or officials have failed to properly follow a statute or abused the discretion granted to them by a statute. A § 5.06 complaint asks the Commission to issue an order correcting the error. The Commission may not, however, impose any criminal or monetary penalties based on a § 5.06 complaint alone.

There are several options to address the issues of form and probable cause in this complaint. The Wis. Stat. § 12.13(3)(b) allegation you have raised could be considered in a § 5.05 complaint, and you could refile your complaint under § 5.05 and allege in Step 5 specifically how the actions of the clerk violated that section. You could also refile your complaint again under § 5.06 and add statutory and rule citations concerning the election administration processes that you allege were not properly followed. While I cannot advise you of what statutes or rule to cite in your complaint, I would point you to the Commission's "Candidate Ballot Access Procedures" manual for a useful summary of the processes that contains citations. The manual can be accessed on the Commission's website at the following address:

<https://elections.wi.gov/sites/default/files/documents/Ballot%20Access%20Manual%20Oct%202023.pdf>.

Finally, you could submit both a § 5.05 and a § 5.06 complaint if you wish the Commission to consider both criminal and procedural allegations.

Overall, to refile your complaint with the Commission, you will need to specify either the Wis. Stat. § 5.05 or Wis. Stat. § 5.06 complaint process or submit one complaint of each type, cite the specific election statutes or rules that you are alleging were violated or improperly followed, and describe how the actions of the respondent violated or failed to follow those provisions.

I am now returning the complaint, without prejudice, pursuant to Wis. Admin. Code § EL 20.04(2). Accordingly, the Commission now considers this complaint to be disposed of pursuant to Wis. Stat. § 5.06(2).

Please feel free to contact me if you have any additional questions regarding this complaint.

Sincerely,

A handwritten signature in black ink that reads "Megan Wolfe". The signature is written in a cursive, flowing style.

Meagan Wolfe
Administrator

WISCONSIN ELECTIONS COMMISSION

Cc: Commission Members