

**STATE OF WISCONSIN  
BEFORE THE ELECTIONS COMMISSION**

---

SANDRA L. JUNO,

Complainant,

v.

CELESTINE JEFFREYS, in her capacity  
as City Clerk of the City of Green Bay,

Respondent.

---

**RESPONSE OF RESPONDENT CELESTINE JEFFREYS**

---

Respondent Celestine Jeffreys, in her capacity as City Clerk of the City of Green Bay, by and through Assistant City Attorney Lindsay Mather, hereby submits the following response to the Complaint filed by Sandra L. Juno with the Wisconsin Elections Commission (WEC).

**BACKGROUND**

During the course of processing absentee ballots for the City of Green Bay at Central Count during the April 4, 2023 election, there were two instances in which election inspectors discovered that a voter's absentee ballot envelope was unsealed. At the time of the first instance, election inspectors at Central Count identified an absentee ballot envelope from in-person absentee voting that was unsealed. The Board of Absentee Ballot Canvassers determined that the ballot would be rejected at the end of the day because of the unsealed envelope. The voter learned of that decision and came to City Hall to discuss the situation with Clerk Jeffreys.

Clerk Jeffreys consulted legal counsel and the WEC's Election Administration Manual's provisions concerning "Correcting Defective Absentee Certificate Envelopes," which details allowing absentee voters opportunities to correct errors with their envelopes such as missing information but is silent as to whether correction is possible when an absentee ballot envelope is open. (Aff. Lindsay Mather Ex. A at 99-100.) Because that Manual does not contemplate correction of

unsealed envelopes, the voter was informed that he could not correct the error with his absentee ballot and it would be rejected after 8:00 p.m. that day when the polls closed.

Complainant Juno was present at Central Count and observed the interactions with the voter. Ms. Juno made no reference to having called the WEC, nor to believing that the correct decision had been made. To the contrary, at the time the voter was informed of the decision—which Ms. Juno also heard—she suggested to the undersigned counsel that the voter could be allowed to look at the ballot and verify that it was his.

Clerk Jeffreys, again in consultation with legal counsel, revisited the question of this same ballot a short time later, this time after having examined the WEC's Election *Day* Manual. For its part, the Election Day Manual indicates that a voter may be allowed to “correct” a ballot that may otherwise be rejected for being unsealed by going to polling place or central count location, examining the ballot to ensure it is theirs, and completing a new absentee ballot certificate. (Mather Aff. Ex. B at 99.) Because the Election Day Manual contemplates correction of an unsealed ballot envelope and the Election Administration Manual does not contradict that guidance but is instead silent, Clerk Jeffreys decided to follow the more specific guidance and allow the voter to correct the issue in order to prevent disenfranchising him. Clerk Jeffreys informed that he could come to Central Count to make the correction, which he did in accordance with the procedure outlined in the Election Day Manual.

Another unsealed absentee ballot envelope was found during the Central Count process, and that voter was also given the chance to come to Central Count to correct their ballot in the same manner, according to the procedure in the Election Day Manual, which that voter also did. Both corrections were announced at Central Count. Complainant Juno subsequently went to the Clerk's office and expressed her approval to Clerk Jeffreys. At that time, Ms. Juno did not mention having discussed the situation with anyone from the WEC, nor did she complain to Clerk Jeffreys that the situations had been handled inappropriately. In fact, she did quite the opposite, informing Clerk

Jeffreys that, in Ms. Juno’s opinion, Clerk Jeffreys had made the correct decision. Additionally, neither Clerk Jeffreys nor the City’s legal counsel was contacted by the WEC about the matter.

## **ARGUMENT**

It is Clerk Jeffreys’s position that she followed the instructions the WEC provides to clerks in its election-related manuals by allowing the voters in question opportunities for correction when their absentee ballot envelopes were unsealed. Because there is ambiguity in the instructions from the WEC within its manuals, Clerk Jeffreys chose to err on the side of enfranchising the voters.

### **I. Ballots “To Be Rejected” at Central Count can be corrected until the polls close.**

As an initial matter, the two statutes cited by Ms. Juno in the Complaint relate specifically to rejection of ballots under the specific circumstances listed therein. WIS. STAT. § 6.88(3)(b); 6.15(4)(a). However, the fact that deficiencies such as insufficient certifications or open envelopes are listed in the statutes as reasons to reject an absentee ballot does not, by itself, mandate the conclusion that such ballots must automatically be rejected without providing an opportunity to correct the error. Absentee ballots are not rejected at Central Count until after polls close at 8:00 p.m. on Election Day, as voters are given as much time as possible to correct mistakes with their absentee ballot envelopes in order to avoid potential disenfranchisement. (*E.g.*, Mather Aff. Ex. A (*Election Admin. Manual*) at 98 (Election inspectors “reject the ballot if the error is not corrected by 8:00 p.m. on Election Day”); Ex. B (*Election Day Manual*) at 91 (Regarding “To Be Rejected” ballots: “Set these aside and process them after 8 p.m. on Election Day to give the voter an opportunity to correct these errors.”).) Also listed in Wisconsin Statutes Section 6.88(3)(b) as a rejection reason, for example, is an insufficient certification; however, it is indisputable that voters are given all of Election Day to correct errors with their absentee ballot certifications.

This is also consistent with the WEC’s Election Day Manual. In the instructions for processing absentee ballots, that Manual states, “If the envelope has been opened or resealed, the signature of

either the elector or the witness is missing or the witness' address is missing, the absentee ballot certificate envelope is insufficient, and the absentee ballot must be rejected.” (Mather Aff. Ex. B at 93.) However, just a few pages later, it also provides instructions to Clerks to allow for correction of those errors prior to the closing of the polls. (*See generally id.* at 99–100.)

Accordingly, one cannot read the language of the statutes in isolation to resolve this Complaint. The statutory language referring to “rejection” of ballots must be read together with the established practice of not rejecting ballots until after the polls close, allowing for the correction of correctable absentee ballot envelopes errors. This Complaint therefore centers around whether an absentee ballot envelope being unsealed is an error that can be fixed prior to ballots being rejected at the close of the polls at 8:00 p.m. on Election Day in the same way that insufficient absentee ballot certifications can be corrected in order to avoid rejection. The statutes Complainant Juno cites are silent as to the answer to this question.

## **II. The WEC has outlined procedures for correcting unsealed absentee ballot envelopes.**

In circumstances such as this, where the statutes are silent as to the answer to the central question, clerks look to publications from the WEC for guidance. In this specific instance, Clerk Jeffreys looked to the Election Administration and Election Day Manuals. The WEC’s Election *Administration* Manual provides directions for affording absentee voters opportunities to correct errors such as “missing certificate, voter signature, witness signature and address, or two SVD signatures.” (Mather Aff. Ex. A at 99.) Said manual is silent as to the handling of open or unsealed absentee ballot envelopes. (*Id.*)

At the same time, the Election *Day* Manual instructs that “a voter may correct the certificate envelope at a polling place/central count site” if the ballot is going to be rejected “because the signature of the elector or witness is missing, the witness address is missing or *if the envelope is open* or appears to have been resealed.” (Mather Aff. Ex. B at 99 (emphasis added).) Because there is a

discrepancy, but not an outright conflict, between the two manuals—one explicitly allows for correction when an envelope is unsealed or open, and the other is silent—Clerk Jeffreys decided to follow the more specific guidance from the WEC on the subject and allow the two voters to correct their absentee ballot envelopes in accordance with the instructions provided in the Election Day Manual.

Importantly, had Clerk Jeffreys determined that they could not correct the issue, both voters would have been prevented from voting at the polls, and instead would have been completely disenfranchised. Wisconsin Statutes section 6.86(6) dictates that “an elector who mails or personally delivers an absentee ballot to the municipal clerk at an election is not permitted to vote in person at the same election on election day.” This is underscored in the Election Day Manual, which emphasizes that if a ballot “has been returned and there are errors that would cause the ballot to be rejected, the voter may only correct the error. The voter may NOT vote a new ballot at the polling place.” (Mather Aff. Ex. B at 101 (emphasis original).) Given the ambiguity in the two manuals and fact that the voters would not be allowed to vote at all if their absentee ballots were rejected at Central Count, Clerk Jeffreys chose to allow the individuals to make the corrections in accordance with the more specific instructions found in the Election Day Manual.

**III. Clerk Jeffreys was justified in relying on the more specific correction instructions in the WEC’s Election Day Manual as those instructions remained in effect even following the injunction in *Kormanik v. Wisconsin Elections Commission*.**

Clerk Jeffreys’s reliance on the Election Day Manual’s guidance on correcting unsealed absentee ballot envelopes was justified. At the time of the April 2023 election, and as of this writing, both the Election Day and Election Administration Manuals remain in effect on the WEC’s website. When changes to the Election Administration Manual were made necessary owing to court cases in 2022, the WEC published an updated version of that manual in September 2022. Clerk Jeffreys was justified in assuming that, had any substantive changes been required to the processes articulated in

the Election Day Manual, the WEC would likewise have issued a revised version of that Manual indicating to Clerks and other elections officials that correction under the circumstances articulated therein was no longer valid.

This is particularly true given that, following the injunction issued in October 2022 in *Kormanik v. Wisconsin Elections Commission*, Waukesha County Circuit Court, 22CV1395, the Commission issued a memo to clerks specifically revoking certain guidance related to spoiling ballots. The injunction prohibited “publicly displaying, applying, or disseminating” a memo and press release related to spoiling absentee ballots, as well as “any other publication” with information contrary to the court’s order on spoiling ballots. (Mather Aff. Ex. C.) The WEC’s memo to Clerks on October 28, 2022 specifically gave notice that the memo and press release in question had been withdrawn by the Commission, but made no mention of the provisions concerning correcting errors with absentee ballot certificate envelopes in its published Manuals. (*Id.*)

In consultation with legal counsel, Clerk Jeffreys considered the implications of the *Kormanik* injunction on the situations concerning unsealed absentee ballot envelopes. The situations with the unsealed envelopes are distinct from the ballot spoiling issue in *Kormanik*, however. The voters here sought not to get *new* ballots, but merely to have their existing ballots counted. The ballots were not returned to the voters—they never left the custody of Central Count. Instead, the voters only examined the ballots that were inside the unsealed envelopes to verify they were their own before putting those same ballots in new envelopes in accordance with the WEC’s established envelope correction procedures. Had the voters stated that the ballots were not theirs, and been given the opportunity to spoil those ballots, that may have run afoul of *Kormanik*—but that is simply not the situation here. Further, if either of the voters had indicated the ballots were not theirs, those ballots would have been rejected, in accordance with *Kormanik*, as at that point they could neither be corrected nor spoiled.

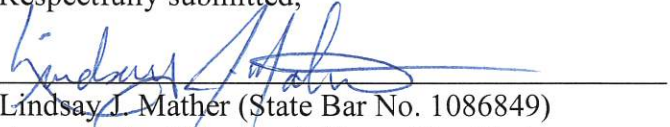
Given the factual distinctions and the fact that the WEC had not revised or revoked its absentee ballot envelope correction guidance from the Election Day Manual in the memo issued after the *Kormanik* injunction went into effect, Clerk Jeffreys made the decision to allow the voters to correct their absentee ballot envelope issues. Accordingly, Clerk Jeffreys respectfully asks the Commission to determine that she acted appropriately under the circumstances by allowing those individuals' votes to be counted.

**CONCLUSION**

For the foregoing reasons, Respondent Celestine Jeffreys respectfully requests that the Commission find that she acted appropriately in her handling of two unsealed absentee ballot envelopes during the April 4, 2023 election by following the Commission's instructions for absentee ballot envelope correction in the Election Day Manual.

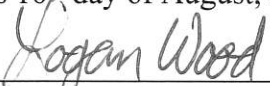
Dated this 16<sup>th</sup> day of August, 2023.

Respectfully submitted,



Lindsay J. Mather (State Bar No. 1086849)  
*Attorney for Celestine Jeffreys, City Clerk*  
CITY OF GREEN BAY  
100 N. Jefferson Street, Room 200,  
Green Bay, WI 54301  
Telephone: (920) 448-3080  
Facsimile: (920) 448-3081  
[Lindsay.Mather@greenbaywi.gov](mailto:Lindsay.Mather@greenbaywi.gov)

Subscribed and sworn to before me  
this 16<sup>th</sup> day of August, 2023.



---

Notary Public, Brown County  
State of Wisconsin  
My commission expires permanent



VERIFICATION

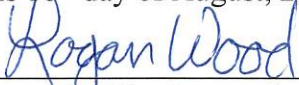
I, Celestine Jeffreys, being first duly sworn on oath, state that I personally read the above verified Response to the Complaint of Sandra L. Juno, and that the above Response is true and correct based upon my personal knowledge.

Dated this 16<sup>th</sup> day of August, 2023.



\_\_\_\_\_  
Celestine Jeffreys  
City Clerk, City of Green Bay

Subscribed and sworn to before me  
this 16<sup>th</sup> day of August, 2023.



\_\_\_\_\_  
Notary Public, Brown County  
State of Wisconsin

My commission expires permanent

