



# Wisconsin Elections Commission

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November 1, 2024

Collective Complainants  
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Waukesha, WI 53186

Celestine Jeffreys  
Clerk for the City of Green Bay  
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Green Bay, WI 54301

**Sent via email to:** [mmf@cmlawgroup.com](mailto:mmf@cmlawgroup.com); [Celestine.Jeffreys@greenbaywi.gov](mailto:Celestine.Jeffreys@greenbaywi.gov);  
[Lindsay.Mather@greenbaywi.gov](mailto:Lindsay.Mather@greenbaywi.gov)

Re: In the Matter of: **Glen Hogan et al v. Celestine Jeffreys– EL 24-35**

Dear Mr. Hogan, Ms. Lensing, Mr. VanderLeest, and Clerk Jeffreys:

This letter is in response to the verified complaint submitted by Glen Hogan, Joanne Lensing, and David VanderLeest (“the Complainants”) to the Wisconsin Elections Commission (“Commission”), which was filed in reply to actions taken by Clerk Celestine Jeffreys of the City of Green Bay concerning alleged violations of Wis. Stats. §§ 6.55, 6.56, and similar provisions of Chapter 6, concerning procedures for conducting the post-election audit of all electors who registered to vote using election day registration (“EDR”) processes. The complaint alleges that Clerk Jeffreys has not been complying with Wis. Stat. § 6.56(3)’s procedures for auditing electors who registered to vote at their polling place on election day for the August 2020, November 2020, February 2021, April 2021, April 2022, August 2022, November 2022, February 2023, and April 2023 elections.

The Commission has reviewed the complaint and the response from Clerk Jeffreys. The Commission has also reviewed the Complainants’ reply to Clerk Jeffreys’s response.

The Commission provides the following analysis and decision. In short, and as detailed further in the analysis below, the Commission finds that the Complaint did show probable cause to believe that a violation of law or abuse of discretion occurred with relation to Clerk Jeffreys’s procedural actions. Clerk Jeffreys admits in her response that she has not been following the statutory requirements in Wis. Stat. § 6.56(3), as alleged, during the identified elections. Clerk Jeffreys is ordered to conform her conduct to the law and is further ordered to certify to the Commission that she has completed her EDR report in accordance with Wis. Stats. §§ 6.275(1)(f) and 6.56(3) and the Commission guidelines at the earliest time practicable after the November 5, 2024 election, but no later than **Monday, February 3, 2025**.

## Commission Authority and Role in Resolving Complaints Filed Under Wis. Stat. § 5.06

Under Wis. Stats. §§ 5.05(1)(e) and 5.06(6), the Commission is provided with the inherent, general, and specific authority to consider the submissions of the parties to a complaint and to issue findings. In instances where no material facts appear to be in dispute, the Commission may summarily issue a decision and provide that decision

*Commissioners*

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

*Administrator*  
Meagan Wolfe

to the affected parties. This letter serves as the Commission’s final decision regarding the issues raised in this complaint.

The Commission’s role in resolving verified complaints filed under Wis. Stat. § 5.06, which challenge the decisions or actions of local election officials, is to determine whether a local official acted contrary to applicable election laws or abused their discretion in administering applicable election laws.

Complaints “...shall set forth such facts as are within the knowledge of the Complainant to show probable cause to believe that a violation of law or abuse of discretion has occurred or will occur.” Wis. Stat. § 5.06(1). Probable cause is defined in Wis. Admin. Code § EL 20.02(4) to mean “the facts and reasonable inferences that together are sufficient to justify a reasonable, prudent person, acting with caution, to believe that the matter asserted is probably true.”

### Complaint Allegations

The Complainants allege that, for the August 2020, November 2020, February 2021, April 2021, April 2022, August 2022, November 2022, February 2023, and April 2023 elections, Clerk Jeffreys failed to comply with the procedures for conducting post-election audit of all electors who registered to vote using the EDR process established under procedure in Wis. Stats. §§ 6.56(3).

The Complainants allege that, under Wis. Stat. § 6.56(3), the Wisconsin Elections Commission mails 1st class postcards to the address provided by all electors who register on election day. They allege that for any postcards which are returned undelivered, the Wisconsin Elections Commission then returns the undelivered postcard to the clerk’s office in the jurisdiction where the elector is registered to vote. They allege Wis. Stat. § 6.56(3) contains mandatory language (“shall”) obligating the clerk to perform three actions. First, the clerk shall “change the status of the elector from eligible to ineligible on the registration list. Second, the clerk shall “mail the elector a notice of the change in status. Third, the clerk shall “provide the name of the elector to the district attorney for the county where the polling place is located and the election commission.”

The Complainants further allege that the February 9, 2023 Wisconsin Elections Commission guidance on Election Day Registration Postcard Instructions (“EDR guidance”) confirms that the Wis. Stat. § 6.56(3) requirements are mandatory and are to be performed by municipal clerks.

The Complainants allege that the EDR guidance instructs clerks to “[r]eview the address on the undeliverable audit postcards for any missing information or other obvious error of an election official or the post office.” They allege that the guidance incorporates the standard found in Wis. Stat. § 6.325, which requires a “beyond a reasonable doubt” standard to be met that “the person does not qualify as an elector or is not properly registered” before the person can be disqualified as an elector. They allege that if the address review reveals no errors, the EDR guidance recommends that clerks “investigate if the elector deliberately gave an invalid address, or if some other circumstances apply, such as the elector moving between Election Day and when the postcard was delivered, the elector being homeless, the elector making a minor error when filling out the registration, or another circumstance leading to a legitimate address being undeliverable.”

The Complainants allege that if the investigation provides “reason to believe that an elector moved between Election Day and when the postcard was delivered,” the EDR Guidance instructs clerks to “mail the voter a 30-day notice letter under Wis. Stat. § 6.50(3) to confirm the registration or update the registration if the elector moved within the municipality.” They allege that if the investigation causes “belie[f] beyond a reasonable doubt that the individual does not qualify as an elector or is not properly registered, the postcard and any other

materials related to the clerk’s investigation should be forwarded to the District Attorney” and the record’s inactivation should be recorded in WisVote.

The Complainants allege that Wis. Stat. § 6.275(1)(f) requires municipal clerks to submit to the Wisconsin Elections Commission a report of actions taken pursuant to Wis. Stat. § 6.56(3) no later than 90 days after each election. They allege that Wis. Stat. § 6.275(2) requires the Wisconsin Elections Commission to publish and update the EDR postcard data received from municipal clerks under Wis. Stat. § 6.275(1)(f).

The Complainants allege that Clerk Jeffreys has not been performing these mandatory duties as required by Wis. Stat. § 6.56(3) and instructed by the EDR guidance. Referencing several Wis. Stat. § 6.275(2) reports published on the Wisconsin Elections Commission website, the Complainants allege that between the August 2020 election and April 2023 election, Clerk Jeffreys has received over 200 postcards returned “undeliverable,” but has inactivated only two registrants and referred only one registrant to the district attorney. They allege that in seven of the nine identified elections where Clerk Jeffreys received at least one postcard returned “undeliverable,” that Clerk Jeffreys inactivated zero registrants and referred zero registrants to the district attorney.

They allege that Clerk Jeffrey’s current procedure, when receiving postcards returned “undeliverable,” is to record the postcards as undeliverable in WisVote and take no further action. They allege that Clerk Jeffreys’s practices do not comply with Wis. Stat. § 6.56(3)’s three mandatory requirements to change the status of the elector from eligible to ineligible on the registration list, mail the elector a notice of the change in status, and provide the name of the elector to the district attorney for the county where the polling place is located and the elections commission. They further allege that Clerk Jeffreys does not perform the address review, investigation, address confirmation, or district attorney referral as instructed by the EDR guidance.

The Complainant requested as relief that Clerk Jeffreys be directed to conformer her conduct to the law as described in Wis. Stat. § 6.56(3) and the EDR guidance, an award of all costs and fees incurred in bringing the matter, and such equitable or other relief as is just and appropriate.

### The Response

Clerk Jeffreys admits that she has not been strictly adhering to the statutory requirements in Wis. Stat. § 6.56 during the elections alleged. She claims that her failure to do so was inadvertent and due to a lack of awareness of the statutory requirements, and not the result of any willful violation of state law. Clerk Jeffreys claims that her practice, upon receiving undeliverable EDR postcards, has been to review them for typographical or other errors that may have prevented their delivery to the voter, and engaging in other investigations of the errors where appropriate, such as registration using on-campus addresses at the University of Wisconsin-Green Bay, where there may be differences between a voter’s physical address and their mailing address.

Clerk Jeffreys admits that she has not been conducting thorough investigations into all voters with undeliverable EDR postcards according to the procedure recommended in the EDR guidance. She claims that to address this problem in the future, she has begun formulating a plan for addressing postcards returned “undeliverable” going forward that aligns with both the statutory requirements and guidance from the Wisconsin Elections Commission.

The Respondent describes the new process that she will follow in compliance with Wis. Stat. § 6.56(3) and the EDR guidance as follows:

First, Clerk Jeffreys will review the postcard for administrative errors in the voter’s address (such as typographical errors, differences from what is on the registration form, etc.), and if such errors are found she will email the WEC to have new postcards sent and update WisVote accordingly. If an error is not found in the first step, Clerk Jeffreys will investigate the situation to the extent possible to determine the reason for the undeliverability of the EDR postcard in a manner consistent with the latest WEC guidance. The reason for the undeliverability will govern the next step(s). For example, if Clerk Jeffreys can verify that the voter moved after Election Day, that voter’s status would be changed and the voter would be informed of the change, but their name would not be forwarded to the District Attorney and the WEC. However, if Clerk Jeffreys believes beyond a reasonable doubt that the voter deliberately used an invalid address, that voter would be referred to the District Attorney and the WEC in addition to being informed of their status change. Clerk Jeffreys will make the appropriate changes in WisVote depending on the result of these investigations.

The Respondent did not oppose Complainants’ first request for relief, that Clerk Jeffreys be directed to conform her conduct to statute and EDR guidance.

### Reply

In their reply, the Complainants acknowledged the Respondent’s statement that she “does not oppose Complainants’ first request for relief.” The Complainants requested that the Wisconsin Elections Commission issue an order finding that Clerk Jeffreys has violated Wis. Stat. § 6.56(3) and the Wisconsin Elections Commission Guidance and ordering Clerk Jeffreys to conformer her conduct to the law. The Complainants waived any entitlements they may have to recover costs and fees incurred in bringing this matter in their second request for relief.

### Discussion

Given Clerk Jeffreys’ admissions, it appears as if the parties agree that she failed to follow the procedures established in Wis. Stat. § 6.56(3) and the EDR guidance for auditing electors who registered to vote at their polling place on election day on nine separate occasions.

As a preliminary matter, the Complainant does correctly cite that Wis. Stat. § 6.56(3) contains the statutory procedure for clerks to follow when they receive undeliverable EDR postcards. The statute directs clerks, in part, to “...change the status of the elector from eligible to ineligible on the registration list, mail the elector a notice of the change in status, and provide the name of the elector to the district attorney for the county where the polling place is located and the elections commission.”

However, on February 2, 2023, the Commission provided updated EDR postcard guidance<sup>1</sup> to clerks to ensure that voters were not being inactivated or referred for prosecution due to errors or other reasonable explanations as to why the EDR postcard was returned as undeliverable. To be fully compliant with § 6.56(3), when a clerk receives an undeliverable EDR postcard they should:

1. First check for data entry or post office errors before even considering the post card undeliverable.
2. If the address on the undeliverable postcard is complete and correct and matches what the voter put on their registration form, investigate the circumstances to determine beyond a reasonable doubt that the individual does not qualify as an elector or is not properly registered.
3. If there is belief beyond a reasonable doubt that the individual does not qualify or is not properly registered, the clerk should refer such cases to the District Attorney.

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<sup>1</sup> Available at: <https://elections.wi.gov/memo/updated-election-day-registration-edr-postcard-guidance>.

4. If there is not believe beyond a reasonable doubt that the voter committed any kind of election fraud but the clerk has reason to believe that the elector has moved between Election Day and when the postcard was delivered, mail the voter a 30-day notice letter under Wis. Stat. § 6.50(3).
5. If the voter fails to respond to the 30-day notice letter, the clerk should inactivate the voter record.

Based on Clerk Jeffrey’s response, it appears that while she may consistently complete step (1) above, she has not been completing steps (2) – (5), and has instead been reporting that she has zero inactivations and zero referrals to the Green Bay District Attorney.

The only remaining discussions will focus on the remedies to ensure future compliance.

Municipal clerks are required to submit to the Wisconsin Elections Commission a report of actions taken pursuant to Wis. Stat. § 6.56(3) no later than 90 days after each election. Wis. Stat. § 6.275(1)(f). They are also required to accurately report this data based on completing the recommended process steps laid out by the Commission in the updated EDR postcard guidance from February 2023. Clerk Jeffreys is accordingly ordered to conform her conduct to Wis. Stats. § 6.56(3) and is further ordered to certify to the Commission that she has completed her EDR report in accordance with Wis. Stat. § 6.56(3) and the Wisconsin Elections Commission guidelines at the earliest time practicable after the November 5, 2024 election, but no later than **Monday, February 3, 2025** to ensure her compliance with the deadlines in that statute.

#### Commission’s Findings

Pursuant to the analysis above, the Commission hereby issues this order restraining Clerk Jeffreys from taking any action inconsistent with the analysis in this decision. Wis. Stat. § 5.06(6).

Clerk Jeffreys is ordered to take affirmative steps to comply with Wis. Stat. § 6.56(3) as well as the Commission’s updated EDR postcard guidance from February 2023. She is further ordered to certify to the Commission that she has completed her EDR report in accordance with Wis. Stat. § 6.56(3) and the Wisconsin Elections Commission guidelines at the earliest time practicable after the November 5, 2024 election, but no later than **Monday, February 3, 2025**.

#### Right to Appeal – Circuit Court

This letter constitutes the Commission’s resolution of these complaints. Wis. Stat. § 5.06(2). Pursuant to Wis. Stat. § 5.06(8), any aggrieved party may appeal this decision to circuit court no later than 30 days after the issuance of this decision.

If any of the parties should have questions about this letter or the Commission’s decision, please feel free to contact the Commission at 608-266-8005 or [elections@wi.gov](mailto:elections@wi.gov).

Sincerely,

**WISCONSIN ELECTIONS COMMISSION**