



Wisconsin Elections Commission

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April 8, 2024

Aline Kosloski
545 Franklin St.
Stevens Point, WI 54481

Brian Cychosz
3798 County Road Y
Custer, WI 54423

Mary Rosicky
5487 Conifer Drive
Stevens Point, WI 54481

Kari Yenter, City Clerk
1515 Strongs Avenue
Stevens Point, WI 54481

Sent via email to: chris.olmstead@wisgop.org; rppcwi@gmail.com;
maryrosicky@hotmail.com; linus2000_2000@yahoo.com; kyenter@stevenspoint.com

Re: In the Matter of: **Aline Kosloski et al v. Kari Yenter (EL 23-55)**

Dear Ms. Kosloski, Mr. Cychosz, Ms. Rosicky, and Clerk Yenter:

This letter is in response to the verified complaint submitted by Aline Kosloski, Brian Cychosz, and Mary Rosicky to the Wisconsin Elections Commission (“Commission”), which was filed in reply to actions taken by Clerk Kari Yenter of the City of Stevens Point concerning alleged violations of Wis. Stat. § 7.30. The complaint alleges that Clerk Yenter improperly imposed additional qualifications to be an election inspector beyond what is permitted by § 7.30.

The Commission has reviewed the complaint and Clerk Yenter’s response. The Complainants waived their right to file a reply pursuant to Wis. Admin. Code § EL 20.04(3).

As a preliminary matter, the Commission will first note that neither Mr. Cychosz nor Ms. Rosicky are electors of the jurisdiction served by Clerk Yenter, which is a requirement to bring a complaint under § 5.06. Wis. Stat. § 5.06(1)¹. Even though Mr. Cychosz and Ms. Rosicky are not electors of Clerk Yenter’s jurisdiction, the Commission will note that both individuals did swear they had personal knowledge of the facts in the complaint and that the allegations are true and correct. Complainant Kosloski is an elector of Clerk Yenter’s jurisdiction, so the Commission will review her allegations that Clerk Yenter took actions that were contrary to law or an abuse of discretion.

The Commission provides the following analysis and decision. In short, the Commission finds that Complainant Kosloski did show probable cause, in part, to believe that a violation of law or abuse of discretion occurred with relation to Clerk Yenter’s procedural actions.

¹ Ms. Rosicky’s address falls within the voting jurisdiction of the Town of Hull, which is not served by Clerk Yenter.

Commissioners

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

Administrator
Meagan Wolfe

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

Under Wis. Stat. §§ 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 to the affected parties. This letter serves as the Commission's final decision regarding the issues raised in the complaint of Aline Kosloski.

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

Complainant Kosloski is seeking an appointment to serve as an election inspector after being appointed by the Portage County Republican Party ("PCRP"). Mr. Cychosz is the Chairman of the PCRP, and Ms. Rosicky is the PCRP Secretary. Mr. Cychosz and Ms. Rosicky are the co-nominators of Complainant Kosloski.

Complainant Kosloski provided a letter from Clerk Yenter to the PCRP which listed qualifications to be a poll worker, including having strong clerical skills, being an effective communicator, and not being a convicted felon. The letter from Clerk Yenter also lists an additional qualification of completing an Authorization for Release of Information for a background check to be selected and nominated as an election inspector. Complainant Kosloski alleges that Clerk Yenter is requiring the PCRP to obtain from its nominees both a signature and personally identifiable information for a background check, including social security number and driver's license number. Complainant Kosloski also alleges that Clerk Yenter requires the PCRP to make its nominees aware that all new employees will be required to go through a background check. Complainant Kosloski alleges that Clerk Yenter also requires a background check for nominees who are unpaid volunteers.

Complainant Kosloski does not allege whether she or the PCRP provided, or refused to provide, the requested background check information in order for her to be nominated or appointed as an election inspector. Complainant Kosloski also does not allege that she was denied appointment, or otherwise prevented from being nominated by the PCRP, under any of the procedures alleged above.

Complainant Kosloski argues that Clerk Yenter's procedures impose additional qualifications to be an election inspector, in violation of the process described by § 7.30. She argues that the procedures for nominated election inspectors are clearly laid out in § 7.30, and that a municipal clerk has no authority to require anything more. Finally, she argues that the only method for a clerk to challenge an election inspector's qualifications is by submitting a request for nonappointment to the Commission under § 7.30(4)(e).

Response

In her response, Clerk Yenter admitted that the copies of the poll worker policy and application documents provided by Complainant Kosloski are true and accurate copies, along with the copy of her exchange with Mr. Cychosz where she confirmed that volunteer election inspectors also would need to complete the background check. Clerk Yenter denies any factual allegations or implications that Complainant Kosloski draws from those documents, but does not dispute that those documents reflect the current policies of her office with respect to the nomination and appointment of partisan election inspectors.

Clerk Yenter alleges that her policies and actions were taken in reliance upon advice from Commission staff. She alleges that Commission staff advised her on December 6, 2021, that if she required unaffiliated poll workers to complete an application form and background check, it would be a “fair request” to have the partisan nominees also complete those forms.

Clerk Yenter further alleges that the Authorization of Release of Information form is used by the City of Stevens Point for all applications of employment of any type, including unpaid volunteer positions. She alleges that the purpose of the form is to ensure that the Clerk and City staff can determine whether an applicant’s conviction status is compatible with the requirement to be a qualified elector of the district. She alleges that nothing else on the Authorization of Release of Information Form is utilized or accessed in the processing of applications for election officials. She also alleges that she has never rejected an individual for service as an election official.

Clerk Yenter argues that her requirements that poll workers have strong clerical skills, are able to solve problems, and are effective communicators are consistent with the requirement of § 7.30(2)(a) that poll workers “be capable, and be of good understanding.” Accordingly, she argues that her qualification requirements do not exceed what is required by statute.

Discussion

To a certain extent, Complainant Kosloski’s complaint appears to be premature, or at least lacking in sufficient allegations to for the Commission to reach all the findings she appears to seek. As noted above, Complainant Kosloski does not allege that Clerk Yenter challenged her qualifications to serve, nor does she allege that Clerk Yenter refused to appoint her as an election inspector. Complainant Kosloski does not allege that Clerk Yenter impermissibly requested nonappointment from the Commission, or that she should have done so in lieu of taking some other action. Neither party alleges what Clerk Yenter would have done had Complainant Kosloski refused to complete the background check authorization for release, and the Commission will not speculate about those facts.

Complainant Kosloski is challenging two discrete aspects of Clerk Yenter’s poll worker application policy: (1) the requirement of a background check authorization release form, and (2) the requirement that poll workers have strong clerical skills, be problem solvers, and be effective communicators. Each aspect will be discussed in further detail below.

First, an overview of the partisan election inspector nomination and appointment process is instructive. Major political parties and clerks both have a role to play in this process, and the obligations and powers of each are described in detail in § 7.30. By November 30 of odd-numbered

years, political parties are responsible for submitting a list of names from which all appointees to inspector positions, except the greeters, shall be chosen. Wis. Stat. § 7.30(4)(b). Excluding the election inspectors who serve as greeters, all other election inspectors must be appointed from available political party lists. Wis. Stat. § 7.30(4)(b)2.a.

Section 7.30(2) describes the qualifications of election inspectors appointed in this manner. Generally speaking, election officials must be “qualified elector[s] of a county in which the municipality serves is located.” Wis. Stat. § 7.30(2)(a). An individual cannot be a qualified elector if they have been convicted of “treason, felony, or bribery,” unless their right to vote has been restored. Wis. Stat. § 6.03(1)(b). Read together, these two statutes prohibit an individual from serving as an election official if they have been convicted of treason, a felony, or bribery unless their right has been restored by completing the term of imprisonment or probation for the crime that led to disqualification.

Additionally, election officials must be able to “read and write the English language, be capable, and of be of good understanding, and may not be a candidate for any office to be voted for at an election at which they serve.” Wis. Stat. § 7.30(2)(a). Furthermore, the governing body of a municipality may require election officials “to have a general knowledge of the election laws,” and may require examinations to prove that the qualifications can be met. Wis. Stat. § 7.30(2)(c).

A plain reading supports a conclusion that “strong clerical skills” and “being an effective communicator” are consistent with the statutory requirements that election inspectors be able to “read and write the English language, be capable, and of be of good understanding.” Wis. Stat. § 7.30(2)(a). The work of an election inspector is clerical by nature—inspectors review documents and complete and process paperwork. Capable election inspectors who are of good understanding must also by definition be effective communicators—they must be able to discuss and understand how to facilitate the voting procedure, and how to assist voters in the process. Accordingly, the Commission finds that it is not contrary to law or an abuse of discretion for Clerk Yenter to ask election inspectors to certify that they possess those skills.

This conclusion is consistent with the reality that a municipal clerk, or appointing body, must be able to take some reasonable steps to certify that the nominated individuals meet the qualifications of § 7.30(2), including whether an individual is a qualified elector. To find otherwise could result in the appointment of election inspectors who are statutorily ineligible to serve—a result that is clearly contrary to the intent of the Legislature. If Clerk Yenter, or the appointing body, have good cause to believe that a nominated election official should not be appointed on this ground, statute permits her to request nonappointment from the Commission pursuant to § 7.30(4)(e).

However, requiring this background check authorization form, which requires nominees to provide their date of birth, signature, Wisconsin driver’s license number, and social security number, is an unreasonable condition for nominated partisan election inspectors like Complainant Kosloski. An authorization such as the one in this complaint is not a statutory qualification listed in § 7.30(2). The Commission will reiterate that a clerk must be able to take some reasonable steps to confirm an elector’s qualifications, but ultimately concludes that this particular Authorization for Release of Information form, and the totality of its records sources, is unreasonable.

Requiring a nominated election inspector to complete the Authorization for Release of Information in Exhibit A goes beyond what a municipal clerk should do to verify qualifications under § 7.30. If Clerk Yenter, or the municipality, determines that an Authorization for Release of Information

is a required term or condition of employment for paid or unpaid city employees, the form cannot go beyond what § 7.30 permits.

Commission's Findings

Complainant Kosloski seeks various forms of relief from the Commission, including that Clerk Yenter be directed to conform her conduct to the law, that she be enjoined to accept nominees for chief election inspector from the Portage County Republican Party without a completed background check release, that she be enjoined from appointing nominees without a completed background check release, and that she be required to appoint nominees only with regard to the qualifications imposed by § 7.30, and no further qualifications.

Pursuant to the analysis above, the Commission hereby issues this order restraining Clerk Yenter from taking any action inconsistent with the analysis of the law in this decision. Wis. Stat. § 5.06(6). Clerk Yenter is not permitted, under § 7.30, to ask or require partisan election inspector nominees to complete the Authorization for Release of Information form, included as Exhibit A of the complaint, as a condition to being accepted or appointed as an election inspector. Finally, to the extent necessary, Clerk Yenter is instructed to rescind any memoranda, guidance, or policies that contradict these findings, and may not develop any future guidance or policy that contradicts these findings.

Clerk Yenter is permitted to continue to require partisan election inspectors to complete the Election Officials Application, also included as Exhibit A, which includes the certification paragraph. Use of the certification paragraph, as written in Exhibit A, is not contrary to law or an abuse of discretion as it enables Clerk Yenter to confirm that nominated election inspectors meet the qualifications of § 7.30(2).

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 me.

Sincerely,

WISCONSIN ELECTIONS COMMISSION

A handwritten signature in black ink that reads "Megan R.M. Wolfe". The signature is written in a cursive style with a large, looped initial 'M'.

Meagan Wolfe
Administrator

cc: Commission Members