



Wisconsin Elections Commission

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Wisconsin Elections Commission
Special Teleconference Meeting
201 W. Washington Avenue, Second Floor
Madison, Wisconsin
11:00 a.m. December 19, 2023

Open Session Minutes

Present: Commissioner Marge Bostelmann, Commissioner Ann Jacobs, Commissioner Don M. Millis, Commissioner Carrie Riepl, Commissioner Robert Spindell Jr., and Commissioner Mark Thomsen, all by teleconference.

Staff present: Sharrie Hauge, Brandon Hunzicker, Robert Kehoe, Anna Langdon, Angela O'Brien Sharpe, Riley Vetterkind, Riley Willman, and Meagan Wolfe, all by teleconference.

A. Call to Order

Commission Chair Millis called the meeting to order at 11:00 a.m. and called the roll. All Commissioners were present.

B. Administrator's Report of Appropriate Meeting Notice

Administrator Meagan Wolfe informed the Commission that the meeting was noticed in accordance with Wisconsin's open meetings laws.

C. Approval of Previous Meeting Minutes **a. November 2, 2023**

MOTION: To approve the November 2, 2023, open session meeting minutes.

Moved by Commissioner Thomsen. Seconded by Commissioner Bostelmann.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

D. Discussion and Appointment of Commission Secretary

Wisconsin Elections Commissioners

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

Administrator
Meagan Wolfe

Chair Millis noted that this was not an appointment of the Administrator or any executive or any position in the staff, but rather the member of the Commission who acts as secretary and signs the minutes.

MOTION: Nominate Commissioner Riepl for Secretary.

Moved by Commissioner Thomsen. Seconded by Commissioner Bostelmann.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

E. Discussion, Review, and Possible Action Pertaining to Ballot Templates for Spring 2024 Primary and Election, and Communication of Preliminary Ballot Order to County Clerks

Administrator Wolfe presented the agenda item. She noted that the Commission would first vote on approving the ballot design, then vote on authorizing the staff to share preliminary ballot order with county clerks as soon as it is drawn.

MOTION: The Commission approves the ballot design presented by staff and directs staff to utilize the ballot design for the 2024 Spring Primary and Spring Election.

Moved by Commissioner Spindell. Seconded by Commissioner Bostelmann.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

MOTION: The Commission authorize the staff to share preliminary ballot order with county clerks as soon as it is drawn. The staff would also make clear in this notification that ballot order and candidates are not final, or ready to print, until after the Commission has made their final ballot access decisions.

Moved by Commissioner Jacobs. Seconded by Commissioner Riepl.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

F. Discussion, Review, and Possible Action Pertaining to the Uniform Instructions for Wisconsin Absentee Voters

Deputy Administrator Robert Kehoe presented the agenda item and detailed the results of staff's usability testing.

MOTION: The Wisconsin Elections Commission approves and prescribes the Revised Uniform Instructions, as shown in Appendix F.1, F.2, and F.3, for all future elections. Staff are directed to update all Commission resources with this guidance and to notify clerks of this change.

Moved by Commissioner Thomsen. Seconded by Commissioner Jacobs.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

G. Review and Potential Action on the Election Observer Draft Administrative Rule¹

Staff Attorney Hunzicker reviewed updates to the draft rule before the Commission. He also provided an overview of next steps.

Chair Millis suggested that the second sentence of EL 4.02(2), "An individual authorized by the Commission to conduct any election related activities is an election official in this chapter," be moved to EL 4.02(9). Attorney Hunzicker stated he would move it.

Chair Millis suggested that the language struck on page 55 of the Commission's materials, "All questions shall be answered by the designated election official in a timely manner," be replaced with "The designated election official, or the person designated by the designated election official, to whom an election observer may direct a question, shall make a good faith effort to timely respond to the question."

Commissioner Jacobs disagreed with this suggestion. Commissioner Spindell suggested it be incorporated into training.

Commissioner Spindell noted that the draft rule allowed designated election officials to limit the number of observers, remove an observer from the polling place, and call law enforcement and requested that these duties be limited to clerks and chief inspectors. Attorney Hunzicker noted that while § 7.41 specifies chief inspectors and clerks to do these things, § 7.37(2) provides an identical ability to each and every election inspector.

Chair Millis asked if it made sense for EL 4.03(14)(b) to be updated to add, "consistent with § 7.37(2)" after "If the offending observer who is ordered to depart under par. (a) declines or otherwise fails to comply with the designated election official's order to depart, the official may summon law enforcement to remove the offending observer." Attorney Hunzicker answered yes.

Commissioner Thomsen stated he had no problem with the change.

¹ This section may be clarified prior to the February 8, 2024, Commission meeting.

Attorney Hunzicker noted that EL 4.03(14)(a) contained, “If the designated election official is a person other than the Chief Inspector or municipal clerk, the designated election official shall notify the Chief Inspector or municipal clerk,” and that step would need to occur before law enforcement would be summoned. Commissioner Spindell advised that that section be emphasized in training.

EL 4.03(4)

Attorney Hunzicker provided an overview of the section and staff’s recommendation to delete the last sentence in EL 4.03(4): “The 3-foot distance described in this paragraph shall be applied unless it would interfere with voting activities due to the physical limitations of the observable location” and instead incorporate it – replacing the “shall” with “should” – into guidance after the rule is completed.

Chair Millis noted that in their memo, staff contemplated replacing “shall” with “should.” He clarified with Attorney Hunzicker that “should” would take on a more aspirational meaning, if used.

MOTION: Delete the last sentence in EL 4.03(4) of the proposed rule consistent with Wis. Stat. § 227.11(2)(a)3: “The 3-foot distance described in this paragraph shall be applied unless it would interfere with voting activities due to the physical limitations of the observable location.”

Moved by Commissioner Thomsen. Seconded by Commissioner Jacobs.

Roll call vote:	Bostelmann:	No	Riepl:	Aye
	Jacobs:	Aye	Spindell:	No
	Millis:	No	Thomsen:	Aye

Motion failed 3-3.

Chair Millis suggested leaving the language in but replacing “shall” with “should.”

Commissioner Thomsen stated that it was not up to the Commission to express a preference for 3 feet in the rule.

Chair Millis suggested a motion to delete the last sentence of EL 4.03(4) and direct staff to incorporate the concept into future guidance and training. Commissioner Jacobs and Commissioner Thomsen disagreed with his suggestion.

Commissioner Spindell suggested encouraging chief inspectors to put the observation area as close to 3 feet away as possible, “following statute.” Commissioner Thomsen disagreed with this.

MOTION: Strike the last sentence of EL 4.03(4): “The 3-foot distance described in this paragraph shall be applied unless it would interfere with voting activities due to the physical limitations of the observable location.”

Moved by Commissioner Jacobs. Seconded by Commissioner Thomsen.

Commissioner Spindell stated that he did not recognize the last sentence as strictly against the statutes, but rather advice within the administrative rule.

Roll call vote: Bostelmann:	No	Riepl:	Aye
Jacobs:	Aye	Spindell:	No
Millis:	No	Thomsen:	Aye

Motion failed 3-3.

Chair Millis stated that the Commission would revisit 4.03(4) later.

EL 4.05(2)

Attorney Hunzicker presented the language options for EL 4.05(2) and reviewed staff's analysis of the word "cast" in statute at Commissioner Spindell's request.

Commissioner Spindell sought to clarify whether observers would be allowed to observe clerks accepting more than one absentee ballot for valid reasons in the foyer of a clerk's office. Attorney Hunzicker clarified that EL 4.05(2)(a) would explicitly allow observation of any return of an absentee ballot either by mail or in-person absentee voting. Chair Millis clarified that EL 4.05(2)(a) was consistent with what Commissioner Spindell articulated.

Commissioner Bostelmann questioned whether (a) and (b) were adding more information than the statute allows, or if that was the question at hand. Attorney Hunzicker answered that both options would be the Commission's attempt to interpret based on the difficulty of the word "cast," and that the language on page 42 of the Commission's materials just quoted statute without offering a definition of "cast."

MOTION: Adopt for EL 4.05(2) the language on page 42 of the Commission's materials: "An observer shall be permitted to observe in the office of any municipal clerk whose office is located in a public building or at an alternate site under s 6.855, Stats., during the hours that absentee ballots may be cast in those observable locations."

Moved by Commissioner Thomsen. Seconded by Commissioner Riepl.

Commissioner Bostelmann expressed a preference to pinpoint what observers could and could not observe.

Chair Millis expressed a preference for (a).

Commissioner Jacobs expressed a preference for (b) but stated she would vote for Commissioner Thomsen's motion.

Chair Millis agreed with Commissioner Jacobs that the postal service returning ballots should not be observable and reiterated a preference for (a). He agreed with Commissioner Spindell that observers should be allowed where members of the public are already allowed.

Commissioner Thomsen expressed disagreement with (a).

Commissioner Spindell suggested putting an amount of days when observation of absentee ballot return could take place.

Roll call vote: Bostelmann:	No	Riepl:	Aye
Jacobs:	Aye	Spindell:	No
Millis:	No	Thomsen:	Aye

Motion failed 3-3.

Commissioner Spindell suggested the rule language be clarified to eliminate observation of the delivery of mail and to add a specific number of days when observation could take place. Commissioner Jacobs disagreed with the suggestion to add a number of days.

Chair Millis reiterated his preference to exclude return of absentee ballots by the postal service from observation.

MOTION: Adopt for EL 4.05(2): “An observer shall be permitted to observe the in-person issuing and voting of absentee ballots under s. 6.86(1)(b), Stats., as well as the return of individually voted absentee ballots during the hours such activities may occur at a municipal clerk’s office whose office is located in a public building, or at an alternate absentee ballot site under s. 6.855, Stats.”

Moved by Commissioner Bostelmann. Seconded by Chair Millis.

FRIENDLY AMENDMENT: Add, “This does not apply to ballots returned by the postal service.”

Proposed by Chair Millis. Agreed to by Commissioner Bostelmann.

Commissioner Riepl asked if the observation period would include the Monday before Election Day. Attorney Hunzicker responded that it would. Chair Millis asked if there was any way to carve out the Monday beforehand, and Attorney Hunzicker responded that Monday and Election Day would be included in (a).

Chair Millis suggested going with (b) but clarifying that the return of voted by mail absentee ballots to the municipal clerk’s office or alternate site by the US Postal Service would not be covered by the chapter unless it occurs at the same location and same hours. He clarified with Attorney Hunzicker that this would alleviate the Monday before Election Day.

Commissioner Jacobs objected to how many days the language in the motion would encompass and stated that Commissioner Thomsen’s motion was the right one.

Commissioner Spindell reiterated his recommendation to add a specific number of days when observation could take place.

FRIENDLY AMENDMENT: Adopt for EL 4.05(2): “An observer shall be permitted to observe the in-person issuing and voting of absentee ballots under s. 6.86(1)(b), Stats., during the hours such activities may occur at a municipal clerk’s office whose office is located in a public building, or at an alternate absentee ballot site under s. 6.855, Stats. The return of voted by-mail absentee ballots to a municipal clerk’s office or alternate site by the US Postal Service is not covered by this chapter unless it occurs in the same location and during the same hours as the issuing and voting of absentee ballots.”

Proposed by Chair Millis. Agreed to by Commissioner Bostelmann.

Chair Millis clarified with Attorney Hunzicker that this would limit the observable days to the in person absentee voting period. Commissioner Spindell clarified that the number of days would depend on when a municipality chose to allow in-person absentee voting.

FINAL MOTION: Adopt: “An observer shall be permitted to observe the in-person issuing and voting of absentee ballots under s. 6.86(1)(b), Stats., during the hours such activities may occur at a municipal clerk’s office whose office is located in a public building, or at an alternate absentee ballot site under s. 6.855, Stats. The return of voted by-mail absentee ballots to a municipal clerk’s office or alternate site by the US Postal Service is not covered by this chapter unless it occurs in the same location and during the same hours as the issuing and voting of absentee ballots.”

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	No

Motion carried 5-1.

EL 4.05(2)(c)

Attorney Hunzicker presented staff’s recommended language.

Commissioners sought to clarify the logistics of the proposed rule language.

Chair Millis stated that the Commission would revisit 4.05(2)c later.

EL 4.05(4)(d) and (e)

Attorney Hunzicker presented the language options for EL 4.05(4)(d) and (e).

Commissioner Spindell suggested there be explicit instructions to Special Voting Deputies outlining how to help a voter vote a ballot without indicating to observers who the voter voted for.

Chair Millis recommended the proposed sub-section read: “Special Voting Deputies may not permit an observer or any other individual other than the person assisting or the Special Voting Deputy,” and clarifying “only conversation that would identify the elector’s choices.”

Commissioner Jacobs recommended that it read: “Special Voting Deputies may not permit any person other than the Special Voting Deputies or a person who is assisting the elector and marking the ballot to hear any statement by the elector regarding their electoral choices.”

Commissioner Spindell clarified with Attorney Hunzicker that aides could not be in the room with the voter while being assisted by Special Voting Deputies. Attorney Hunzicker answered that only a Special Voting Deputy or a relative of the elector could render voting assistance to an elector who is voting with Special Voting Deputies.

Commissioner Jacobs suggested language in the Zoom chat:

“The SVD's may not permit any person other than SVD or person assisting the elector in marking the ballot to hear any discussion regarding the electoral choices of the elector.”

Chair Millis suggested replacing “person assisting the elector” to “relative of the elector” to conform with statute.

Commissioner Spindell clarified that employees of the facility could not mark the ballot for the voter while Special Voting Deputies were there.

Attorney Hunzicker presented the positive and negative formulations of the language concerning a voter’s private room.

Commissioner Jacobs stated she was in favor of the second option requiring affirmative assent and suggested the following language, to be added after “... permitted to enter the voter’s private room:” “The voter shall be informed that their answer will not affect their right to complete their ballot with the assistance of the SVD’s.”

Chair Millis stated he had no problem with the addition.

Commissioner Bostelmann expressed that observers should not be invited into private rooms, and that the voter would feel intimidated to let an observer into their room. Commissioner Thomsen and Commissioner Spindell agreed, adding that voters might only let observers into their room to avoid coming across as rude. Commissioner Spindell expressed interest in letting observers observe from the doorway. Attorney Hunzicker noted this was close to what 4.05(4)e stated.

Chair Millis proposed: “Under (e), an observer shall not be permitted to enter a voter’s private room,” and “An observer shall not be permitted in a voter’s private room, however observers shall be permitted to observe voting from a common area in accordance with (4)(b).”

Commissioner Bostelmann agreed with the language but suggested that the voter have the right to close the door. Commissioner Thomsen agreed with Commissioner Bostelmann.

Commissioner Jacobs suggested the following language in the Zoom chat:
“e. If voting occurs outside of the common areas of a facility served by special voting deputies, an observer shall not be permitted to enter a voter’s private room, however, the observers shall be permitted to observe such voting from a common area in accordance with sub. (4)(d). An observer shall not be permitted to enter a voter’s private room, however, the observers shall be permitted to observe such voting from a common area in accordance with sub. (4)(d).”

Commissioner Bostelmann reiterated that a voter should be able to close the door if they wanted to. Chair Millis suggested adding, “unless the voter requests the door be shut” after “be permitted to observe such voting from a common area in accordance with sub. (4)(d).”

Commissioner Jacobs put an updated iteration of the language in the Zoom chat:
“An observer shall not be permitted to enter a voter’s private room, however, the observers shall be permitted to observe such voting from a common area in accordance with sub. (4)(d). The voter may elect to close their door or otherwise secure their voting privacy.”

Commissioner Bostelmann stated that the language was acceptable.

MOTION: Adopt the following language:

d. An observer shall be permitted to observe the process of absentee ballot distribution in the common areas of the home or facility.

e. The Special Voting Deputies may not permit any person other than a Special Voting Deputy or relative of the elector assisting the elector in marking the ballot to hear any discussion regarding the electoral choices of the elector. Special Voting Deputies must enforce the voter’s constitutional right to cast a secret ballot, just as the individual is entitled to in other absentee or polling place settings.

f. An observer shall not be permitted to enter a voter’s private room, however the observer shall be permitted to observe such voting from a common area in accordance with sub. (4)(d). The voter may elect to close their door or otherwise secure their voting privacy.

Moved by Commissioner Jacobs. Seconded by Commissioner Bostelmann.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

The Commission took a break at 2:00 p.m. They returned at 2:22 p.m.

EL 4.05(2)c

Administrator Wolfe provided references from the Election Administration Manual to clarify the logistics questions.

Commissioner Jacobs suggested language in the Zoom chat:

“An observer shall be permitted to observe the initial enclosing and securing of an absentee ballot required under section 6.88, Stats., that is received under section EL 4.05(2)(a).”

Chair Millis clarified that if (2)(b) were adopted, it would become (2)(a).

Attorney Hunzicker clarified that the proposed language would cover the initial enclosing of the absentee ballots and would encompass § 6.88.

Commissioner Spindell expressed a preference that the rule include observation of the ballots being taken out of the ballot box, put into a bag, sealing the bag, and the bag being delivered to the clerk’s office.

Commissioner Jacobs agreed with the initial securing being included.

Chair Millis stated he was okay with the language in the chat.

MOTION: An observer shall be permitted to observe the initial enclosing and securing of an absentee ballot required under s. 6.88, Stats., that is received under par. (2)(a).

Moved by Commissioner Bostelmann. Seconded by Commissioner Riepl.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	No

Millis: Aye Thomsen: Aye

Motion carried 5-1.

EL 4.03(4)

Chair Millis stated that he wanted to move the rule forward and was willing to change his position.

MOTION: Delete from EL 4.03(4) the last sentence: “The 3-foot distance described in this paragraph shall be applied unless it would interfere with voting activities due to the physical limitations of the observable location.”

Moved by Commissioner Thomsen. Seconded by Commissioner Jacobs.

Attorney Hunzicker clarified that the Commission would have further opportunities to comment on and alter rule language before the rulemaking order is finalized and after receiving public comments following the public hearing on the rule language.

Roll call vote: Bostelmann: Aye Riepl: Aye
 Jacobs: Aye Spindell: No
 Millis: Aye Thomsen: Aye

Motion carried 5-1.

MOTION: The Commission approves the language of the draft observer rule as modified during this meeting and directs staff to: redraft the text into rulemaking order format; submit the draft text to the Legislative Reference Bureau for editing; post the draft text to the agency and Wis. Admin. Rules websites for interested persons to comment concerning any economic impacts; and take other preliminary steps in the rulemaking process as needed. Staff shall then bring all comments and preliminary drafts to the Commission during the next available meeting.

Moved by Commissioner Thomsen. Seconded by Commissioner Jacobs.

Roll call vote: Bostelmann: Aye Riepl: Aye
 Jacobs: Aye Spindell: Aye
 Millis: Aye Thomsen: Aye

Motion carried 6-0.

- H. Consideration and Possible Action Pertaining to the Waiver of the Delegation of Authority and Commission Determinations on Wis. Stat. § 5.06 Complaints**
- a. Matt Roeser v. Celestine Jeffreys (EL 22-37)**
 - b. Eugene Wojciechowski v. Rebecca Grill (EL 22-58)**
 - c. Dawn M. Martin v. Rebecca Grill (EL 23-38)**

Staff Attorney Angela O’Brien Sharpe provided an overview of the agenda item and the options before the Commission.

Discussion.

The Commission did not opt to make a motion regarding this item.

I. Commission Consideration and Possible Action on Existing Ballot Return Guidance Document

The Commission did not consider this item.

J. Commission Discussion and Possible Action on Administrative Rules

a. Declaration of Candidacy Challenges (ss 089-23 and 090-23)

b. Nomination Paper Challenges (ss 091-23 and 092-23)

c. Mandatory Use of Uniform Instructions for Absentee Voting (ss 093-23 and 094-23)

Attorney O'Brien Sharpe reviewed the results of the public comment period for the six scope statements. She then provided an overview of the scope statements and the recommended motions.

MOTION: The Wisconsin Elections Commission has received and reviewed all relevant public commentary for scope statements SS 089-23 and SS 090-23, relating to the proposed rulemaking for the procedural challenge process for Declarations of Candidacy. As the body with policy-making powers over the subject matter of the proposed rule, the Commission accordingly approves these statements of scope as written. The Commission further directs staff to begin drafting proposed rule language for these scope statements to be reviewed and approved by the Commission at an upcoming meeting.

Moved by Commissioner Jacobs. Seconded by Commissioner Thomsen.

Chair Millis noted that he would only vote on a rule that would limit Declaration of Candidacy challenges to those candidates explicitly required by statute to file a Declaration of Candidacy, and only apply to the statutory requirements of a Declaration of Candidacy.

Chair Millis clarified that the 14th Amendment was not a statutory requirement in response to a question from Commissioner Jacobs.

Commissioner Bostelmann stated that her understanding of the scope statements was that the Declaration of Candidacy could be questioned on the basis of statutory requirements, rather than heresay.

Commissioner Jacobs noted that the Commissioners were not advised to prepare remarks on the substance of the rule, and that it was not noted on the agenda.

Commissioner Spindell agreed that Declaration of Candidacy challenges should be based on statutory situations rather than character.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	No
	Millis:	Aye	Thomsen:	Aye

Motion carried 5-1.

MOTION: The Wisconsin Elections Commission has received and reviewed all relevant public commentary for scope statements SS 091-23 and SS 092-23, relating to the proposed rulemaking for the procedural challenge process for Nomination Papers. As the body with policy-making powers over the subject matter of the proposed rule, the Commission accordingly approves these statements of scope as written. The Commission further directs staff to begin drafting proposed rule language for these scope statements to be reviewed and approved by the Commission at an upcoming meeting.

Moved by Commissioner Jacobs. Seconded by Commissioner Thomsen.

Commissioner Spindell advised that the rule language make nomination paper criteria more flexible.

Chair Millis expressed dislike for EL 2.07(3), which says, “Challengers are not limited to the categories set forth in pars. (a) and (b)” and recommended that the rule language specify the grounds.

Commissioner Jacobs sought clarification on whether that would mean an exhaustive list of every challenge raised. Chair Millis clarified that he would like it limited to the statutes. He drew on his experience serving on the State Elections Board to note that the process used to be more forgiving and reiterated Commissioner Spindell’s point about the rule language making nomination paper criteria more flexible.

Commissioner Spindell and Commissioner Thomsen agreed with Chair Millis.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

MOTION: The Wisconsin Elections Commission has received and reviewed all relevant public commentary for scope statements SS 093-23 and SS 094-23, relating to the mandatory use of uniform instructions for absentee voting. As the body with policy-making powers over the subject matter of the proposed rule, the Commission accordingly approves these statements of scope as written. The Commission further directs staff to begin drafting proposed rule language for these scope statements to be reviewed and approved by the Commission at an upcoming meeting.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

K. Discussion, Review, and Possible Action Pertaining to the Election Administration, Election Day, Caucus, and SVD Manuals for County and Municipal Clerks

Administrator Wolfe introduced the agenda item and its associated materials.

Category 1 – Formatting/Typo – Election Day Manual (Appendix A)

Discussion.

MOTION: Accept changes under Appendix A, Category 1, as well as the following:

- On page 22, change “This booth” to “A booth”
- On page 23, 1.b should either read, "Ballot marking devices, such as the ExpressVote, do not tabulate votes. Therefore, they are not considered electronic voting equipment," or "A ballot marking device, such as the ExpressVote, does not tabulate votes. Therefore, it is not considered electronic voting equipment."
- On page 96, refer to the specific variations of the EL-122 that the Commission has approved, in place of “or variation”

Moved by Commissioner Jacobs. Seconded by Commissioner Riepl.

Roll call vote: Bostelmann:	Aye	Riepl:	Aye
Jacobs:	Aye	Spindell:	Aye
Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

Category 1 – Formatting/Typo – Election Administration Manual (Appendix B)

Discussion.

MOTION: Accept changes under Appendix B, Category 1, as well as the following:

- On page 229, change “e.g.” to “such as,” to be consistent with line 8 of Appendix A

Moved by Commissioner Jacobs. Seconded by Commissioner Bostelmann.

Roll call vote: Bostelmann:	Aye	Riepl:	Aye
Jacobs:	Aye	Spindell:	Aye
Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

Category 2 – 7.08(3)(c) Manual Maintenance – Election Day Manual (Appendix A)

Administrator Wolfe reviewed the proposed changes line by line for Appendix A. Commissioners’ proposed edits are listed in the motion.

Discussion.

MOTION: Accept changes under Appendix A, Category 2, as well as the following:

- On page 21, add reference to EL-501 with “Polling Place Accessibility Self-Assessment”

- On page 39, clarify “this” in the redline: “If a municipality uses e-pollbooks, the machine maintains two copies, which may be maintained by a single poll worker.”
- On page 62, make the same clarification as above in (4)
- On page 68, make the language consistent with the corresponding language on page 163 of the Election Administration Manual: You can assist a voter with filling out a registration form. If a voter is unable to sign their own registration form, you can sign their name and then your own as the assistant.
- On page 84, insert footnote: “Badger Book users can find the poll list in the Participation List and Count report under the Admin section of the program.”
- On page 84, include a space after the paragraph
- On page 86, add language: “These individuals are not considered observers and may complete their work outside of any designated observer area.” Remove: “but may not disrupt or interfere with the election”
- On page 96, replace the semicolon after “or overseas voter” with a comma
- On page 105, replace “The notations may not indicate” with “The notations may or may not indicate”
- On page 109, replace, “Remade ballots are issued a sequential number regardless of the reason the ballot was remade. Serial numbers start with the number 1,” with, “Remade ballots are issued a sequential serial number, starting with 1, regardless of the reason the ballot was remade. These ballots are labeled: original ballot number, duplicate ballot number, same serial number.”

Roll call vote: Bostelmann: Aye Riepl: Aye
 Jacobs: Aye Spindell: Aye
 Millis: Aye Thomsen: Aye

Motion carried 6-0.

Category 2 – 7.08(3)(c) Manual Maintenance – Election Administration Manual (Appendix B)

Administrator Wolfe reviewed the proposed changes line by line in the chart for Appendix B. Commissioners’ proposed edits are listed in the motion.

Discussion.

MOTION: Accept changes under Appendix B, Category 2, as well as the following:

- On page 36, replace “If it’s a state recognized holiday” with “If it is a state recognized holiday”

- Throughout the manuals, standardize references to Badger Books to e-pollbooks (aside from the footnote on page 84 of the Election Day manual, listed above)
- On page 136, replace “home-based educational program” to “private home-based educational program,” consistent with statute
- On page 187, make redlined language consistent with the footnote on page 84 of the Election Day manual, listed above
- On page 202, replace “attached to an email” with “transmitted electronically”
 - o Make the same change on page 210
- Throughout the manuals, standardize “pollbook” and “poll book”
- On page 211, clarify “most electors” to show which voters specifically must return a ballot each time a ballot is sent to them. Detail how a voter could stay on the list to maintain a yearly absentee ballot application.
- On page 212, list “primary election, spring election, etc.” in place of “primary, spring election, etc.”
- On page 212, clarify 2.a.i. consistent with the Commission’s recent guidance on the process for reinstatement

Roll call vote: Bostelmann: Aye Riepl: Aye
 Jacobs: Aye Spindell: Aye
 Millis: Aye Thomsen: Aye

Motion carried 6-0.

The Commission took a break at 4:32 p.m. and returned at 4:47 p.m.

Category 3 – Commission Directives – Election Day Manual (Appendix A)

Administrator Wolfe reviewed the proposed changes line by line for Appendix A. Commissioners’ proposed edits are listed in the motion.

Discussion.

MOTION: Accept changes under Appendix A, Category 3, as well as the following:

- On page 92, replace “A ballot may also be rejected” with “A ballot may also be set aside for rejection”
- On page 142 and page 23, include a comprehensive list of ballot marking devices with the language “as of date of last approval”

Roll call vote: Bostelmann: Aye Riepl: Aye
 Jacobs: Aye Spindell: Aye
 Millis: Aye Thomsen: Aye

Motion carried 6-0.

Category 3 – Commission Directives – Election Administration Manual (Appendix B)

Administrator Wolfe reviewed the proposed changes line by line for Appendix A. Commissioners' proposed edits are listed in the motion.

Discussion.

MOTION: Accept changes under Appendix B, Category 3, as well as the following:

- On page 153, replace “At least 10% of statewide reporting units will be randomly selected” with “A certain percentage of statewide reporting units, as determined by the Commission, will be randomly selected”
- On page 240, include a comprehensive list of ballot marking devices with the language “as of date of last approval”

Category 4 – Updates due to Legislation or Court Decisions – Election Day Manual

Administrator Wolfe presented options for the Commissioners concerning Question #1 in the Commission's materials.

Discussion.

The Commission determined they did not have enough information to consider the questions in Category 4 and indicated they would meet in January to continue the discussion.

MOTION: Approve the proposed change to the Caucus manual and direct staff to publish that manual.

Moved by Commissioner Bostelmann. Seconded by Commissioner Jacobs.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

L. Closed Session

a. Advisory Opinion Consideration and Potential Action

b. Wis. Stat. § 5.05 Complaints

c. Litigation Update and Consideration of Potential Litigation

d. Closed Session Minutes Approved

MOTION: Adjourn into closed session pursuant to Wis. Stat. § 19.85(1)(f), § 19.85(1)(g), § 19.85(1)(h), and § 19.851.

Moved by Commissioner Bostelmann. Seconded by Commissioner Spindell.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

The Commission moved into closed session at 5:47 p.m.

M. Adjourn

The Commission adjourned in closed session at 6:19 p.m.

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December 19, 2023, Wisconsin Election Commission meeting minutes prepared by:



Anna Langdon, Help Desk Staff

December 21, 2023

December 19, 2023, Wisconsin Election Commission meeting minutes certified by:



Carrie Riepl, Commission Secretary

January 24, 2024