



Wisconsin Elections Commission

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Background Info On WEC v. LeMahieu

MADISON – On Monday, Nov. 18, the Wisconsin Supreme Court will meet to hear oral arguments on Wisconsin Elections Commission v. Devin LeMahieu, Case Number 24AP351. This case is before the Supreme Court to review an order of the Dane County Circuit Court, Judge Ann M. Peacock, presiding, that granted the Wisconsin Election Commission’s motion for declaration and permanent injunction.

The WEC has compiled background information on the case, below, to assist reporters with their coverage.

Core Issue:

Whether the Wisconsin Supreme Court will uphold a January 2024 Dane County Circuit Court decision that determined that Administrator Meagan Wolfe is lawfully holding over, there is no vacancy in the role during that holdover, and that the Commission has no duty to make a new appointment.

Key Background Info:

In June 2023, the six bipartisan members of the Wisconsin Elections Commission voiced unanimous support for Administrator Meagan Wolfe’s performance. The Commissioners differed on whether or not they had the legal authority to vote on the matter, based on relevant statutory language and a Wisconsin Supreme Court decision in 2022, *State ex rel. Kaul v. Prehn*.

The three Republican appointees on the Commission voted in favor of appointing Wolfe to another term, and the three Democratic appointees all abstained because they said they did not believe the Commission had the ability or authority to appoint an administrator.

Wolfe has continued serving in her role as a holdover appointment pursuant to the circuit court’s final decision. She has and continues to serve at the will of the six bipartisan Commissioners, who always retain the authority to remove Wolfe or reconsider the matter if they so choose.

Quotes from WEC Administrator Meagan Wolfe:

“I want to be clear here: I am serving in this role at the will of the six bipartisan Commissioners, who voiced unanimous support for me in June of last year. While they disagreed on the mechanism for making my appointment, the Commissioners have always supported me staying in this role. If they didn’t, they always had the ability to terminate my appointment and select someone new.”

“While I remain at the WEC because of Commissioner support, I will of course honor any decision of the court or Commission.”

Wisconsin Elections Commissioners

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

Administrator
Meagan Wolfe

Timeline:

- **March 2018:** WEC members unanimously appointed Meagan Wolfe to serve as interim administrator of the agency and Wisconsin's chief election official.
- **May 2019:** Republican-controlled Wisconsin State Senate unanimously confirmed Meagan Wolfe as Administrator of the Wisconsin Elections Commission.
- **June 2022:** Wisconsin Supreme Court in *Joshua L. Kaul v. Frederick Prehn* ruled that, under Wis. Stat. § 17.03, the expiration of Frederick Prehn's term on the DNR Board does not create a vacancy, and that Prehn lawfully retained his position on the DNR Board as a holdover.
- **June 2023:** Wolfe issued [statements and a letter](#) to legislative leadership regarding inaccurate claims made about her leadership.
- **June 2023:** WEC members met in open session on June 27 to discuss the appointment of an administrator. The three Republican appointees on the Commission voted in favor of appointing Wolfe to another term, and the three Democratic appointees all abstained because they said they did not believe the Commission had the ability or authority to appoint an administrator. The motion to appoint an administrator thus failed, as Commission decisions require at least four affirmative votes, per state law.
- **June 2023:** In contravention of what state law considers to be a majority vote of the Commission, the Wisconsin Senate passed 2023 Senate Resolution 3, which falsely stated that it considered Administrator Wolfe to have been nominated by the Commission for a term expiring on 7/1/2027. Subsequently, Attorney General Josh Kaul wrote a letter to Wisconsin Legislative Council, and a Wisconsin Legislative Council memorandum was released by legislative clients, indicating that there was no appointment of Administrator Wolfe before the Senate because the Commission had not approved it with at least four votes.
- **September 2023:** The Senate on Sept. 14 voted to deem Administrator Wolfe to have been nominated by the Commission and rejected her appointment.
- **September 2023:** Immediately after, Attorney General Josh Kaul announced the filing of a lawsuit on behalf of the WEC and Administrator Wolfe seeking an order declaring that Wolfe is lawfully holding over in her current position and the Senate has no power to reject her.
- **October 2023:** Legislative leaders, in a court filing, said the vote on Sept. 14 to reject Wolfe's appointment "was symbolic and meant to signal disapproval of Administrator Wolfe's performance."
- **January 2024:** Dane County Circuit Judge Ann Peacock on Jan. 12 ruled that Wolfe was legally holding her position, there is no vacancy to fill during the holdover, and the Commission is under no obligation to nominate an administrator during the holdover.
- **February 2024:** Legislative leaders filed a notice of appeal with the Court of Appeals.
- **July 2024:** Wisconsin Elections Commission and Administrator Wolfe file a petition with the Wisconsin Supreme Court to bypass the Court of Appeals.
- **September 2024:** Wisconsin Supreme Court granted a petition for bypass and takes up the case.

Note: This news release was amended on Nov. 19, 2024.