



Wisconsin Elections Commission

201 West Washington Avenue | Second Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

DATE: August 8, 2024

TO: Wisconsin Elections Commission

FROM: Angela O'Brien Sharpe
Staff Attorney

SUBJECT: **Ballot Access Challenge Procedure
Independent Presidential Candidates – Wis. Stat. § 8.20(8)(am)**

Introduction

Independent presidential candidates seek ballot access by circulating and filing nomination papers containing between 2,000 and 4,000 signatures. Wis. Stat. § 8.20(4). Major party candidates who are nominated by parties that have attained ballot status¹ do not file nomination papers. Independent candidates may start circulating on July 1, and must file their nomination papers with the Wisconsin Elections Commission (“the Commission”) no later than 5 p.m. on Tuesday, August 6, 2024.

After independent presidential candidates file nomination papers, those papers may be reviewed and are subject to challenge pursuant to Chapter 2 of the Commission’s administrative code. Wis. Admin. Code EL § 2.07.

The Commission is scheduled to meet on Tuesday, August 27 to hear and decide nomination paper challenges, and to grant ballot status to any qualifying independent presidential candidate.

Challenge Timeline & Deadlines

- **Tuesday, August 6, 2024 at 5 p.m.** – Filing deadline for independent presidential candidates. Wis. Stat. § 8.20(8)(am).
- **Wednesday, August 7, 2024** – First day a challenge could be filed to independent presidential candidate nomination papers. Wis. Admin. Code EL § 2.07(2)(a).
- **Friday, August 9, 2024 at 4:30 p.m.** – Last day a challenge could be filed to independent presidential candidate nomination papers. Wis. Admin. Code EL § 2.07(2)(a).
- **Monday, August 12, 2024 at 4:30 p.m.** – Last day a response could be filed to a challenge. Wis. Admin. Code. EL § 2.07(2)(b). Please note that a response deadline that falls on a Saturday or Sunday

¹ The parties that have ballot status in Wisconsin in 2024 are: the Democratic Party, the Republican Party, the Libertarian Party, the Constitution Party, and the Green Party.

Wisconsin Elections Commissioners

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

Administrator
Meagan Wolfe

means the response will instead be due on the next business day, which would be Monday, August 12. Wis. Stat. § 990.001(4)(c).

- **Wednesday, August 14, 2024 at 4:30 p.m.** – Last day a rebuttal could be filed – 48 hours after response filed.
- **Monday, August 26, 2024 at 4:30 p.m.** – Last day for challenger or challenged candidate to notify the Commission of intent to appear to present at the ballot access meeting.
- **Tuesday, August 27, 2024 at 11:00 a.m.** – Commission Ballot Access meeting to decide challenges to independent presidential candidates who file nomination papers under Wis. Stat. § 8.20(8)(am).

Discussion

In May, the Commission voted unanimously accept an optional rebuttal filing from the challenger, so long as it was received no later than 9 a.m. on the morning of the June 10, 2024, ballot access meeting. The Commission should consider whether it wishes to accept any optional rebuttal filings from potential challenges to independent presidential candidates.

If the Commission does wish to accept rebuttal filings, it should consider the deadline for submitting that filing. The proposed administrative rule for nomination paper challenge procedure included a 24 hour deadline for rebuttal filings after the response to a challenge was filed. Given that there is more time between the response deadline and the ballot access meeting in August than there was in June, the Commission should consider whether challengers should instead receive 48 hours to submit a rebuttal filing.

The motion below contains substantially the same procedural language as the motion that passed unanimously on May 16, 2024, adjusted to be applicable to the August 27 meeting.

Possible Motion: Any filing submitted in rebuttal to a response for the August 27, 2024 ballot access meeting shall be provided to the Commission no later than Wednesday, August 14, 2024 at 4:30 p.m. Staff are directed to immediately forward any submitted documents to the Commissioners. If someone offers to provide factual testimony with a limit of three minutes during the August 27 meeting, Chair Jacobs will swear that person in under oath. Parties filing a rebuttal shall explain to the Commission the steps they took to serve a copy of the rebuttal on the candidate. A challenger shall serve the rebuttal on a candidate electronically, and if unable to do so, shall explain to the Commission why they could not do so. Commission staff are instructed to communicate with candidates the instructions listed in this motion.