



# Wisconsin Elections Commission

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December 9, 2022

Kenneth L. Brown  
610 Main St. Suite 400  
Racine, WI 53403

Sent via email: [klbinv@tds.net](mailto:klbinv@tds.net)

**Re: Complaints Filed with Wisconsin Elections Commission  
Brown v. McMenamín and Walker (EL 22–95) and Brown v. McMenamín and Salvo (EL 22–96)**

On December 6, 2022, the Wisconsin Elections Commission (Commission) received two sworn complaints from you. EL 22–95 names Clerk McMenamín and Chief Inspector Walker as respondents and EL 22–96 names Clerk McMenamín and Chief Inspector Salvo as respondents. Wis. Admin. Code § EL 20.04(1) requires that I review each complaint and determine within 10 business days whether the complaint is timely, is sufficient as to form, and states probable cause.

Since both complaints share respondents who are City of Racine election officials, were received on the same day, and involve the same general issue in two different polling places, this letter will address both complaints. Your complaints are timely, but otherwise fail to meet the requirements for consideration. Neither complaint sufficiently cites an election statute and alleges that any of the named respondents failed to follow it. Therefore, I am returning the complaint to you without prejudice pursuant to Wis. Stat. § 5.06 and Wis. Admin. Code § EL 20.04(1) and (2).

## Sufficiency as to Form

Your complaints both name election officials as respondents and make allegations regarding the conduct of the 2022 General Election. For this reason, and due to the absence of anything appearing to be a criminal allegation, I am treating both complaints as Wis. Stat. § 5.06 complaints, though Wis. Stat. § 5.06 is not cited on either document. For more information about the kinds of complaints that can be filed with the Wisconsin Elections Commission, please see the Commission’s website here: <https://elections.wi.gov/filing-sworn-complaint>.

Regarding Brown v. McMenamín and Walker (EL 22–95), the complaint does not cite any election statutes, and thus fails to allege that an election official took an action contrary to law or abused the discretion granted by a law. Without citing a statute that is alleged to have been violated, the Commission has no basis on which to evaluate the allegations in the complaint. To correct this deficiency, please cite each statute that you are alleging has not been properly followed by the respondents, explain precisely how the election official failed to follow the statute, and provide any relevant evidence of the issue.

Related to the issue of your complaint lacking statutory citations, it is not clear exactly which allegations you are asking the Commission to consider, or which respondent is alleged to be at fault for which actions. If you

*Wisconsin Elections Commissioners*

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

Administrator  
Meagan Wolfe

choose to refile this complaint, please clarify these points as well. The complaint raises issues related to the sign-in sheet and the location of the observer area, but it is not clear if you are asking the Commission to consider these issues or which of the named respondents is alleged to be responsible for the issues. The complaint clearly alleges that election observers were not provided with chairs and were not allowed to use the restrooms in the school serving as the polling place, but your complaint only alleges actions taken by the chief inspector and does not clearly allege any related actions taken by the municipal clerk.

Regarding *Brown v. McMenemy and Salvo* (EL 22–96), the complaint also does not cite any election statutes and thus fails to inform the Commission of how the respondents are alleged to have taken actions contrary to law or abused the discretion granted by a law. This complaint alleges that election observers were not provided with chairs or allowed to use the restrooms in the school serving as the polling place, but it also does not allege any related actions taken by the municipal clerk.

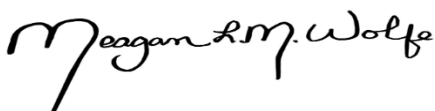
Both complaints raise the question with the Commission of removing the chief inspectors. In a Wis. Stat. § 5.06 complaint, the Commission can order an election official to conform to the law, but the Commission does not possess the authority to dismiss an election official. In this case, the governing body of the municipality would appoint election inspectors and the municipal clerk would choose the chief inspectors from among them. This aspect of your complaint would need to be presented to your municipal clerk and your governing body for consideration.

### Conclusion

I am returning your complaints, without prejudice, as they fail to meet the complaint requirements described in Wis. Stat. § 5.06 and Wis. Admin. Code § EL 20. I have specified the defects in the complaints and provided information needed to cure the defects (cite a statutory basis upon which you allege that the respondents have failed to meet the obligations of their positions, describe the alleged violations in detail, and provide any evidence relevant to the alleged violations). In accordance with Wis. Admin. Code § EL 20.04(2), this correspondence is also being provided to the named Respondents. Though the Commission now considers this matter closed, the Respondents may independently take actions to address the issues discussed in your complaints.

If you believe that the Respondents in your complaints took actions contrary to law or abused the discretion granted by a law, you may provide the statutes you are asking the Commission to consider, fully explain the allegations, and refile these complaints. I cannot advise what to allege in any refiled complaint, but I want to point out that the Commission has published a scope statement for an administrative rule on the subject of election observers, and that some of your concerns could be presented to the Commission during an upcoming preliminary public hearing and comment period regarding the scope statement. Information on attending the hearing and submitting comments can be found here: <https://elections.wi.gov/event/notice-preliminary-public-hearing-and-comment-period>.

Sincerely,



Meagan Wolfe  
Administrator  
Wisconsin Elections Commission

cc: Commission Members  
Tara McMenemy, Celeste Walker, and Stacy Salvo