



Wisconsin Elections Commission

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February 17, 2023

Laura Gron
559 N. Elm Street, Apt. B
Adams, WI 54956

Adams-Friendship Area School District
201 W. 6th Street
Friendship, WI 53934

Sent via email to: lgron1952@gmail.com; llubinsky@axley.com; stanley_m@afasd.net

Re: In the Matter of: Laura Gron v. Adams-Friendship Area School District (Case No.: EL 23-04)

Dear Ms. Gron and District Clerk Stanley:

This letter is in response to the verified complaint submitted by Laura Gron (“Complainant”) to the Wisconsin Elections Commission (“Commission”), which was filed in reply to actions taken by election officials during the Spring of 2023 nomination paper review period. The complaint alleges that the Adams-Friendship Area School District and its clerk, Mandy Stanley, (“Respondent”) violated the Complainant’s rights by denying her ballot access.

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.”

The Commission has reviewed the complaint, the school district’s response, and Complainant’s reply. The Commission provides the following analysis and decision. In short, the Commission finds that the Complainant did show probable cause to believe that a violation of law or abuse of discretion occurred.

Complaint Allegations and Response

The Complainant is seeking ballot access for the Adams-Friendship Area School District Board in the Spring of 2023 election. She alleges that the Respondent provided her with a packet of candidacy and ballot access materials, but the packet included the wrong version of the Declaration of Candidacy (“DOC”) (*i.e.* Form EL-162 was issued rather than EL-162SD or “School District”).

Complainant also states that she diligently completed the forms given to her by school district officials and was not notified prior to the deadline that any of them were insufficient, particularly the DOC. Complainant also alleges there was disparate treatment across candidates, including during the 72-hour window for correction. Finally, the Complainant attests that she does meet the

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Administrator
Meagan Wolfe

residency requirements for school board candidates. Minutes for the verification of candidates meeting were submitted by both parties, and it was noted that Complainant's DOC was filed on January 3, 2023, on the incorrect form (EL-162; not EL-162SD).

An affidavit of Adams-Friendship Area School District Board Clerk Mandy Stanley was filed with the Commission. District Clerk Stanley noted that there was no disparate treatment of candidates, and all materials were reviewed in total on January 9, 2023, rather than on separate dates or with different treatment as alleged by the Complainant.

Additionally, District Clerk Stanley stated that she did not provide any candidates with ballot access materials. Complainant, and others, received the incorrect DOC from an administrative assistant employed by the school district. When the documentation was reviewed on January 9, 2023, district staff contacted Commission staff to inquire how best to proceed. They were advised that no specific position could be given by Commission staff and an assessment of the ballot access documents would remain a local decision. Thus, decisions were made by the district, as reflected in the analysis found in the minutes.

The Complainant contends in her final reply that it is of no consequence whether District Clerk Stanley personally delivered the documents to candidates, given that the school district distributed ballot access materials to candidates, and the clerk and her agent must be responsible for the actions that led to the confusing result. Complainant also alleges that the review date does not matter, as it still triggered a 72-hour extension window for correction. Finally, Complainant notes that Respondent's reasons for accepting the campaign finance registration documentation on an outdated form (*i.e.* reasonably similar documents) should be applied to the DOC that was submitted.

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 Laura Gron.

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.

Commission Findings

Most of the facts alleged or detailed in the sworn filings in this matter are not of any legal consequence, and only the question of whether form EL-162SD must be utilized for school board candidacy and ballot access remains. This is an issue of first impression for the Commission.

Despite the lack of relevancy surrounding most of the allegations and responses, the Commission will provide brief analysis pertaining to ballot access processes for the record. "Each candidate for public office has the responsibility to assure that his or her nomination papers are prepared, circulated, signed, and filed in compliance with statutory and other legal requirements." Wis. Admin. Code § EL 2.05(1). "[W]here any required item of information on a nomination paper is

incomplete, the filing officer shall accept the information as complete if there has been substantial compliance with the law.” Wis. Admin. Code EL § 2.05(5). “The filing officer shall review all nomination papers filed with it, up to the maximum number permitted, to determine the facial sufficiency of the papers filed. Where circumstances and the time for review permit, the filing officer may consult maps, directories and other extrinsic evidence to ascertain the correctness and sufficiency of information on a nomination paper.” Wis. Admin. Code § EL 2.05(3).

These statements collectively indicate that the Complainant’s arguments as to the Respondent providing the wrong form are of no consequence, because candidates have an affirmative obligation to assure the accuracy of their nomination papers. Wisconsin Statute § 8.30(4) mandates DOC submission for ballot placement, and the Commission has often noted that ancillary, required documents fall within the administrative code’s use of the term “nomination papers.” Additionally, a filing officer is only required to perform a facial review of the materials, despite the fact that they do have certain legal responsibilities to candidates and/or voters.

Again, these arguments do not impact the matter before the Commission, because only the question of the interchangeability of the two DOC forms is material—or more specifically, whether an error by a school board candidate who uses EL-162 instead of EL-162SD is fatal to ballot placement.

The Commission asserts that the answer is no, and use of the wrong DOC form is not fatal to a ballot access determination. As directed by Wis. Admin. Code EL §§ 2.05 (5) and (3), a filing officer shall accept information if there has been substantial compliance with the law by the candidate, and a filing officer can also consult other sources to ascertain the correctness and sufficiency of the data/filings.

The only substantive difference between EL-162 and EL-162SD is that the school district version of the form states, “...*at the time of filing this document, I will meet* the applicable age, citizenship, residency and voting qualification requirements...,” while the standard version indicates, “...*I meet or will meet at the time I assume office* the applicable age, citizenship, residency and voting qualification requirements...” (*Emphasis added*)

This specific language emphasizes the unique requirements for a school board member, as opposed to those for other elected offices (per Wis. Stat. § 120.06(6)(b)2. “...any qualified elector of the school district may file a sworn declaration of candidacy with the school district clerk in the form provided in s. 8.21...”). This statutory requirement dictates that the candidate must be a qualified elector at the time of filing the DOC.

However, while Wis. Stat. § 8.30(4) mandates the submission of a DOC for ballot placement, nothing in statute required the creation of two separate DOC forms. Instead, clerks petitioned the Commission for the creation of two forms, with one specifically identifying the need for immediate qualification of school board candidates, as opposed to qualification at the time the office would be assumed. Form EL-162SD is thus easier and preferred, but not mandatory or fatal with relation to ballot access.

That said, the submission of form EL-162, as opposed to EL-162SD, by a school board candidate who also lists a qualifying residential address on form EL-162 is absolutely lawful under Wis. Stats. §§ 8.21 and 120.06(6)(b)2. The combination of the statement, “*I meet* or will meet at the

time I assume office the applicable age, citizenship, residency and voting qualification requirements...” (*emphasis added*), coupled with the inclusion of a qualifying residential address in the section titled “My present address, including my municipality of residence for voting purposes is...” means that the candidate has explicitly complied with the requirements of Wis. Stats. §§ 8.21 and 120.06(6)(b)2. and should be placed on the ballot if all other qualifications are met.

It is not fatal to ballot access that a school district candidate submitted form EL-162 without listing a qualified residential address on the form itself at the time of submission. Address considerations can be quite complicated and would require further analysis by the filing officer. It is also likely that a party correctly completing EL-162 will have substantially complied with legal requirements for ballot placement, even those that are specifically detailed on EL-162SD. Most of the “age, citizenship, residency and voting qualification requirements” can be verified by examining the data on EL-162, and almost certainly can be verified if the clerk “consult[s] maps, directories and other extrinsic evidence to ascertain the correctness and sufficiency of information” using the ample data at their disposal (e.g. WisVote, voter registration submissions, other nomination paperwork, etc.). Regarding residency, which represents the primary difference between the forms and statutory requirements, both DOC templates require candidates to swear that “My present address, including my municipality of residence for voting purposes is[.]” For many offices, a candidate does not need to reside within the district when the declaration of candidacy is filed. However, since all candidates are asked to provide their “present address,” it can be determined whether that present address is within the district at the time of filing for school board candidates, particularly if extrinsic sources are consulted or the candidate is contacted.

Thus, it would not be improper for a filing officer to seek out this type of information, seek other remedies such as the submission of the EL-162SD form, request an attestation from the candidate that they currently meet candidacy requirements for a school board seat, or consult local legal counsel to determine other lawful solutions that may be available to the filing officer.

Therefore, the Commission finds that the Complainant did show probable cause to believe that a violation of law or abuse of discretion occurred.

Commission Decision

Based upon the above review and analysis, the Commission does find probable cause to believe that a violation of law or abuse of discretion occurred pertaining to Respondent’s January 10, 2023, ballot access denial on the premise of improper submission of form EL-162 rather than EL-162SD. In accordance with the authority granted to the Commission by Wis. Stats. §§ 5.06 (3), (4), and (6), it is ordered that the Respondent district correct its ballot access decision, which is inconsistent with the law, and grant ballot access to Ms. Gron for the Spring of 2023 Election. This order shall only be applied to Ms. Gron and not other candidates who have not timely filed a ballot access appeal with the Commission.

Right to Appeal – Circuit Court

This letter constitutes the Commission’s resolution of this complaint. 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 Wolfe". The signature is written in a cursive style with a large, stylized "M" and a long, sweeping underline.

Meagan Wolfe
Administrator

cc: Commission Members