

Fact Checking Articles of Impeachment

Below is a document WEC staff have prepared that fact checks the false claims made in the articles of impeachment against WEC Administrator Meagan Wolfe that have been circulated in recent months. Each impeachment article's false claim is presented in bold, while the WEC's response is provided in the text below it.

Article 1 (Administrator Wolfe's Maladministration During the 2020 Presidential Election)

- During its October 14, 2016 meeting, the Commission unanimously passed motions directing staff to issue guidance that clerks: 1. must add the name of the municipality of the witness if they are reasonably able to ascertain it from other information on the envelope, or other reliable extrinsic sources; 2. the witness address must include a street number, street name and municipality; 3. the clerk does not have to obtain consent from the voter prior to adding it to the envelope; and 4. if any addition is made by the clerk, should initial it.
- Based on the Commission's motions, staff issued guidance on October 17, 2016 (amended by the October 4, 2020 guidance) in the form of a clerk communication.
- This guidance was in place since October 2016, covering all elections subsequent to that date.
 - In September 2022, the Commission withdrew this guidance in accordance with a temporary injunction regarding this matter. Details can be found here: <https://elections.wi.gov/memo/temporary-injunction-wec-guidance-re-missing-absentee-witness-address-white-v-wisconsin>. In October 2022, the Commission was prohibited and enjoined from issuing guidance that clerks or election officials can add information to witness certifications in any form.
 - Notably, both actions, issuing the guidance and withdrawing it, were taken by the 6-member Commission, and not Administrator Wolfe.

Article 2 (Administrator Wolfe's Neglect of Duty in Safeguarding Wisconsinites' Personal Data)

ERIC is the most effective tool available to help election officials maintain more accurate voter rolls and detect possible illegal voting. More information is available here: <https://elections.wi.gov/statistics-data/voter-list-maintenance/electronic-registration-information-center-eric-0>; and here: <https://ericstates.org/>. Wisconsin has been a member of ERIC since 2016, when the director of the Government Accountability Board signed the membership agreement. Under the terms of that agreement, members remain members provided they comply with the agreement and pay dues, which Wisconsin has done. There is no requirement, or mechanism, for an active member to resign the agreement.

Article 3 (Administrator Wolfe's Maladministration in Ensuring Safeguards Against Fraudulent Voting)

It is not clear what Wisconsin statute this article is referencing regarding temporarily overseas voters, who are necessarily Wisconsin residents with Wisconsin residential addresses. In any case, the Wisconsin Elections Commission maintains the Statewide Voter Registration System, called WisVote, and that database contains the names and registration information of all individuals who vote as temporary overseas voters. The WEC's Election Administration Manual instructs local clerks that "all military and overseas voters and any absentee ballots issued to them must be tracked in the Statewide Voter Registration System (WisVote)." It is the responsibility of municipal clerks to adhere to these instructions.

The names of these individuals can be purchased from the Commission's Badger Voters website in accordance with Wis. Stat. § 6.36(6) and Wis. Admin. Code § EL 3.50.

Article 4 (Administrator Wolfe's Unlawful Advocacy for Ballot Drop Boxes)

- The use of secure ballot drop boxes at the local level in Wisconsin, and elsewhere in the country, predated the Wisconsin Elections Commission's August 19, 2020, memorandum on the topic ("August Memo"). That memo was designed to provide best practice recommendations, as opposed to an endorsement of the use of ballot drop boxes.
- The information in the August Memo was adapted from a resource developed by the U.S. Cybersecurity and Infrastructure Security Agency ("CISA") and other experts on elections infrastructure.
- At least 34 states had used or planned to use ballot drop boxes in 2020; about 16% of nationwide voters in the 2016 General Election used drop boxes; and only four states explicitly prohibited the use of drop boxes at the time of publication of the August Memo.
- In Wisconsin, additional interest in the purchase and use of absentee ballot drop boxes was generated by the distribution of federal funds and grants under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") signed into law in March of 2020. Clerks recognized that the voting public would have an increased interest in securely and personally returning their absentee ballots in a manner that minimized potential exposure to COVID-19 and avoided public polling places. The distribution of these funds provided the budget necessary to explore this option.
- At its April 18, 2020, meeting the Commission, in a unanimous motion, directed Commission staff to initiate the process of accepting CARES Act funding and to use the grants to begin the development of recommended improvements to the absentee ballot process, based on COVID-19 related issues.
- The WEC continues to abide by the Wisconsin Supreme Court's July 2022 decision in *Teigen v. WEC*, which held that absentee ballot drop boxes have no statutory authorization.

Article 5 (Administrator Wolfe's Role in Enabling Unlawful Absentee Voting in Long-Term Care Facilities Without Special Voting Deputies)

Administrator Wolfe does not have a vote on the Commission. As stated in article 5, Commissioners were responsible for their votes regarding SVDs. Please see the Commission's response from October 2021: <https://elections.wi.gov/news/statement-wec-commissioners-regarding-racine-county-sheriffs-department-press-conference>.

Article 6 (Administrator Wolfe's Neglect in Safeguarding the Votes of Overseas Military Voters)

The Court dismissed the lawsuit brought against the Commission referenced in article 6 for failure to state a claim. Each municipal clerk is required by statute to keep an "up-to-date list of all eligible military electors who reside in the municipality in the format prescribed by the commission." Wis. Stat. 6.22(6). All military voters are recorded by municipal clerks in the Commission's Statewide Voter Registration System, WisVote, and the relevant data can be purchased from the Commission's Badger Voters website

in accordance with Wis. Stat. § 6.36(6) and Wis. Admin. Code § EL 3.50. The WEC was represented by the Wisconsin Department of Justice, and the WEC has never engaged with the Mark Elias Law Group.

Article 7 (Administrator Wolfe's Involvement in the Employment of Partisan, Out-of-State Residents for Election Administration in 2020)

- On the matter of grant funding in elections, the Wisconsin Elections Commission Administrator provided written and in-person testimony on this topic to the Wisconsin Assembly Committee on Campaigns and Elections on March 31, 2021.
- WEC also complied with a Committee request to produce all emails and documents related to this matter prior to the hearing. The written testimony is attached.
- Video of the testimony can be found on WisconsinEye.
- In brief, the Commission Administrator testified that the agency was not involved in municipalities applying for or receiving private grant funds. WEC did not inform clerks about the private grants and did not promote them. Acceptance of grant funds by a municipality is a municipal decision that is subject to a municipality's approval structure, be it by the clerk's supervisor, mayor, City Council, or Town or Village Board. Whether statutes should regulate private election grants in the future is up to the Legislature to decide.
- Further, the matter of private grant funding has been considered before a court and dismissed, Wisconsin Voters Alliance v. WEC (Appeal Number 2020AP1930-OA)

Article 8 (Administrator Wolfe's Maladministration of Third-Party Submission of Absentee Ballot Applications)

It is unclear if this article is referring to absentee ballot applications or the in-person return of absentee ballots. Only the return of absentee ballots was at issue in *Teigen*.

Article 9 (Administrator Wolfe's Inadequate Absentee Ballot Request Web Page and Violation of Wisconsin Election Law)

Please see our public response to this incident: <https://elections.wi.gov/news/no-indication-myvote-vulnerability>

Article 10 (Administrator Wolfe's Maladministration of Addressing Accessibility Issues at Racine's Mobile Polling Place)

Please refer to the materials for complaint EL 22-59 filed with the Commission: <https://elections.wi.gov/resources/complaints/el-22-59-brown-v-mcmenamin>

Along with complaint EL 22-24: <https://elections.wi.gov/resources/complaints/el-22-24-weidner-et-al-v-coolidge>

Contrary to the claims in Article 10, the Commission issued an order against Racine in EL 22-24.

Article 11 (Administrator Wolfe's Maladministration of CTCL Grants from the September 2020 Election Preparedness Report)

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Article 12 (Administrator Wolfe's Maladministration of Reporting CTCL and the "Zuckerberg Five" Clerks for Unauthorized Creation of Absentee Voter Instructions)

WEC Commissioners, not Administrator Wolfe, approved the updated uniform instructions. While groups may provide input to Commissioners to inform their thinking, decision making authority always rests with the WEC's six bipartisan Commissioners. Further, municipal clerks, not the WEC administrator, have the responsibility to provide uniform instructions to voters.

Article 13 (Administrator Wolfe's Maladministration in Establishing a Systematic Program for the Removal of Incompetent Individuals from the Voter Roll)

Commissioners have maintained a process set forth by previous iterations of the WEC (GAB, Elections Board) for facilitating the transfer of incompetency adjudication information to clerks when received by courts.

Ensuring the voting system promptly deactivates individuals declared incompetent to vote by a court is a priority for the Wisconsin Elections Commission. However, a change in the law is required to improve the current system.

Current state law does not direct courts to send adjudicated incompetent records to the WEC, meaning some jurisdictions may be uncomfortable sending adjudicated incompetent records to the WEC and that the records may lack necessary detail to coordinate data matching with voter records. Further, the WEC lacks the legal authority to inactivate a voter registration based upon a finding of incompetency. WEC staff has communicated this to the Legislature.

The WEC has been in discussions with the professional organizations associated with the registers in probate and the Office of the Director of State Courts regarding their data maintenance procedures that would allow for the creation of a system of automated notifications of individuals adjudicated incompetent, or a more formal integration of our IT systems, similar to those with DOC, DHS, and DOT.

Article 14 (Administrator Wolfe's Unlawful Failure to Remove Names from the Wisconsin Voter Roll)

These claims are based upon a misunderstanding of how Wisconsin's election system works. Please see the following FAQs we've produced regarding this topic:

<https://elections.wi.gov/resources/quick-reference-topics/when-person-no-longer-registered-vote-why-does-wisconsin-make>

<https://elections.wi.gov/resources/quick-reference-topics/how-many-people-are-wisconsins-voter-list>

Article 15 (Administrator Wolfe's Promotion of an Unlawful Voter Registration Form)

Please see the following recent clerk communication: <https://elections.wi.gov/memo/national-mail-voter-registration-form>

As was shown in the court filings, this form has been in use since 1994, when Administrator Wolfe was a child.
