

STATE OF WISCONSIN ELECTIONS COMMISSION

LAURA GRON,

Complainant

-vs-

Complaint Number: EL 23-04

ADAMS-FRIENDSHIP SCHOOL DISTRICT,

Respondent.

AFFIDAVIT OF MANDY STANLEY

STATE OF WISCONSIN)
) ss.
DANE COUNTY)

MANDY STANLEY, being first duly sworn, on oath deposes and states as follows:

1. I am an adult resident of the state of Wisconsin.
2. I have personal knowledge of the facts as set forth herein.
3. I am an elected member of the School Board for the Adams Friendship School District (“District”). I serve in the role of the Clerk for the District.
4. I have reviewed the Complaint Laura Gron filed with the Wisconsin Elections Commission, dated January 14, 2023.
5. The Complaint states in part that I “examined the ballot access documents by the other candidates, all incumbents, on January 3[.]” I did not examine any Declarations of Candidacy, nomination papers, and Campaign Finance Registration Statements on January 3, 2023. I first examined Declarations of Candidacy, nomination papers, and Campaign Finance Registration Statements on January 9, 2023.

6. The Complaint also implies I provided Ms. Gron with an incorrect Declaration of Candidacy form. I did not provide any forms to any potential school board candidates. I am aware an administrative assistant employed by the District provided incorrect Declaration of Candidacy forms to many interested persons, including Ms. Gron, but I did not do so.
7. During my review of the Declarations of Candidacy, I determined eight of the ten potential school board candidates who filed a Declaration of Candidacy form filed the incorrect form EL-162 rather than the correct form EL-162SD.
8. I am aware the attorney for the District contacted the Wisconsin Elections Commission prior to my review of Declarations of Candidacy, nomination papers, and Campaign Finance Registration Statements on January 9, 2023, to inquire how the District should address potential school board candidates who submit Declarations of Candidacy on an incorrect form. I am aware the Wisconsin Election Commission advised it did not have a position whether a clerk should or should not accept a Declaration of Candidacy filed on an incorrect form and the choice to accept or reject a Declaration of Candidacy is a local decision.
9. My reasons for accepting and not accepting Declarations of Candidacy, nomination papers, and Campaign Finance Registration Statements, determining the sufficiency of these documents, and providing potential school board candidates time to redress substantially compliant documents are articulated in the Minutes as to the Verification of Candidates and Drawing of Lots ("Minutes"), which Ms. Gron attached to her Complaint. I have also attached a true and correct copy of the Minutes to my affidavit as Exhibit A. The Minutes accurately reflect my rationale for rejecting Ms. Gron's Declaration of Candidacy, nomination papers, and Campaign Finance Registration Statement.

Dated this 24th of January, 2023

Mandy Stanley

Signed on 2023/01/24 13:55:27 -6:00

Mandy Stanley

Subscribed and sworn to before me
this 24th day of January, 2023.



Notary Public, State of Wisconsin
My commission expires: 08/26/2023

Sara E Curry

Notary Public - State of Wisconsin

My Commission Expires Aug 26, 2023

Notary Stamp 2023/01/24 12:55:27 PST

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Notarial act performed by audio-visual communication



MINUTES AS TO THE VERIFICATION OF CANDIDATES AND DRAWING OF LOTS

The School District Clerk of the Adams-Friendship Area School District held a public verification of candidates and the drawing of lots at the School District Office of said School commencing at 8:30 o'clock a.m. on January 10, 2023. The Clerk presented proof of public notice of this meeting and announced that all persons filing declarations had been notified of the time and place of this meeting.

The following persons were present: (see attached)

The Clerk proceeded to publicly check the declarations filed and announced the names as he/she reviewed the declarations.

There were four (4) declarations filed on or before January 3, 2023, at 5:00 p.m. They are the following:

James Bays II:	Declaration filed on 12/27/2022 The declaration was filed on the incorrect form (EL-162; not EL-162SD)
Lucas Griffin:	Declaration filed on 1/3/2023 The declaration was filed on the incorrect form (EL-162; not EL-162SD)
Laura L. Gron (Dryden):	Declaration filed on 1/3/2023 The declaration was filed on the incorrect form (EL-162; not EL-162SD) The name contained parentheses, which is not permitted

EXHIBIT

A

Richard Pease: Declaration filed on 12/27/2022
The declaration was filed on the incorrect form (EL-162; not EL-162SD)

There were six (6) declarations filed after January 3, 2023, at 5:00 p.m. and before January 6, 2023, at 5:00 p.m. They are the following:

Shawn Bula: Declaration filed on 1/6/2023
The declaration was filed on the incorrect form (EL-162; not EL-162SD)

Miranda Christensen: Declaration filed on 1/6/2023
No deficiencies

Jared Cook: Declaration filed on 1/6/2023
The declaration was filed on the incorrect form (EL-162; not EL-162SD)

Garret Gould: Declaration filed on 1/6/2023
The declaration was filed on the incorrect form (EL-162; not EL-162SD)

Roberta L. P. Pantaleo: Declaration filed on 1/6/2023
No deficiencies

Daric Smith: Declaration filed on 1/6/2023
The declaration was filed on the incorrect form (EL-162; not EL-162SD)

Eight of the ten candidates used the wrong declaration form. The form EL-162 is used in all elections and for all offices other than school board. The form specifically states that “all school district candidates must file the EL-162sd.” Information provided by a WEC attorney is that whether or not to accept the incorrect form is a local decision and that the Commission has never addressed the issue.

The primary difference between the two forms is in the attestation clause. Under Wisconsin law, candidates for elected office must meet the qualifications for office (residency, age, citizenship, etc.) as of the date of taking office. School Board candidates must meet the qualifications at the time of filing the declaration of candidacy.

I have decided not to accept the form EL-162 for the following reasons:

First the form EL-162 expressly states that school district candidates are to use the form EL-162sd. Second, two candidates, Ms. Christensen and Ms. Pantaleo, did file the correct forms. Third, the attestation for the school district form reflects the candidate's sworn statement that the candidate meets the qualifications for election to the school board on the date of filing the declaration. The attestation on the EL-162 reflects the candidate's sworn statement that the candidate will meet the qualifications for election to the school board at the time of assuming office, which is not sufficient for school board candidates. Finally, the two distinct forms have been available and in use since August 2019.

The Clerk further announced that she had received and filed Campaign Registration Statements from each declarant. She reviewed each Campaign Finance Registration Statement (CF-1) as follows:

James Bays II:

- An outdated form was used. The most recent revision of the CF-1 is 12/22 and the candidate used the 11/2018 form.
- The candidate did not check the box at line 1 indicating whether this is an amendment. This is an insufficiency/incompletion where there is still substantial compliance. Wis. Admin. Code sec. ETH 6.02(2).
- The form is not signed. This is an insufficiency as to essential form, Wis. Stat. sec. 11.0203(2); Wis. Admin. Code sec. ETH 6.02(1).

Lucas Griffin:

- Outdated form
- Did not check amendment box at line 1. This is an insufficiency/incompletion where there is still substantial compliance. Wis. Admin. Code sec. ETH 6.02(2).
- The entire form is not completed. Except as noted below, most of this constitutes an insufficiency/incompletion where there is still substantial compliance. Wis. Admin. Code sec. ETH 6.02(2).
- The name and mailing address of the treasurer were not provided at lines A14 and A17-20. This is an insufficiency as to essential form Wis. Stat. sec. 11.0203(1)(b); Wis. Admin. Code sec. ETH 6.02(1).

Laura L. Gron:

- Outdated form

Richard Pease:

- Outdated form
- Did not check amendment box at line 1. This is an insufficiency/incompletion where there is still substantial compliance. Wis. Admin. Code sec. ETH 6.02(2).
- The name and mailing address of the treasurer were not provided at lines A14 and A17-20. This is an insufficiency as to essential form Wis. Stat. sec. 11.0203(1)(b); Wis. Admin. Code sec. ETH 6.02(1).

Shawn Bula:

- The entire form is not completed. Except as noted below, most of this constitutes an insufficiency/incompletion where there is still substantial compliance. Wis. Admin. Code sec. ETH 6.02(2).
- The name and mailing address of the treasurer were not provided at lines A13 and A16-19. This is an insufficiency as to essential form Wis. Stat. sec. 11.0203(1)(b); Wis. Admin. Code sec. ETH 6.02(1).

Miranda Christensen:

- Outdated form
- Did not check amendment box at line 1. This is an insufficiency/incompletion where there is still substantial compliance. Wis. Admin. Code sec. ETH 6.02(2).
- The name and mailing address of the treasurer were not provided at lines A14 and A17-20. This is an insufficiency as to essential form Wis. Stat. sec. 11.0203(1)(b); Wis. Admin. Code sec. ETH 6.02(1).

Jared Cook:

- The entire form is not completed. The omissions constitute an insufficiency/incompletion where there is still substantial compliance. Wis. Admin. Code sec. ETH 6.02(2).

Garret Gould:

- Did not check amendment box at line 1. This is an insufficiency/incompletion where there is still substantial compliance. Wis. Admin. Code sec. ETH 6.02(2).
- The entire form is not completed. Except as noted below., most of this constitutes an insufficiency/incompletion where there is still substantial compliance. Wis. Admin. Code sec. ETH 6.02(2).

- The name and mailing address of the treasurer were not provided at lines A13 and A16-19. This is an insufficiency as to essential form, Wis. Stat. sec. 11.0203(1)(b); Wis. Admin. Code sec. ETH 6.02(1).

Roberta L. P. Pantaleo:

- Outdated form

Daric Smith:

- Did not check amendment box at line 1. This is an insufficiency/incompletion where there is still substantial compliance. Wis. Admin. Code sec. ETH 6.02(2).
- The name and mailing address of the treasurer were not provided at lines A13 and A16-19. This is an insufficiency as to essential form, Wis. Stat. sec. 11.0203(1)(b); Wis. Admin. Code sec. ETH 6.02(1).

Under Wis. Admin. Code sec. 6.02(1), any registration filed with a filing officer which is insufficient as to essential form, information or attestation shall be rejected by such officer and shall be promptly returned if possible to the proposed registrant indicating the nature of the insufficiency. The proposed registrant shall be informed that the attempted registration is not effective.

Under Wis. Admin. Code sec. 6.02(2), any registration statement filed with a filing officer which is insufficient or incomplete in some manner but substantially complies with law shall be accepted by such officer who shall then promptly notify the registrant indicating the nature of the incompleteness or insufficiency. The registrant shall then have 15 days from the date of such notice to rectify the problem. If the incompleteness or insufficiency is not rectified by the registrant within 15 days from the date of the notice, the registration lapses and is not effective.

Here, several outdated CF-1 forms were filed. I have determined to accept outdated forms for the following reasons:

First, the two forms require the same information from candidates. Second, the revised CF-1 form was not available until 12/2022.

There were also several forms filed that were insufficient as to essential form. This means that information specifically required under Wis. Stat. sec. 11.0203 was missing from the form.

Wis. Stat. sec. 11.0203 requires the following information:

(1) REQUIRED INFORMATION. The candidate committee shall indicate on the registration statement that it is registering as a candidate committee and shall include all of the following, where applicable, on the registration statement:

(a) The name and mailing address of the candidate committee.

(b) The name and mailing address of the candidate committee treasurer and any other custodian of books and accounts. Unless otherwise directed by the treasurer on the registration form and except as otherwise provided in this chapter or any rule of the commission, all mailings that are required by law or by rule of the commission shall be sent to the treasurer at the treasurer's address indicated upon the form.

(c) In the case of a candidate committee of an independent candidate for partisan office or a candidate for nonpartisan county or municipal office, a list of the members of the committee, in addition to those specified in par. (b), if any, whom the filing officer shall recognize as eligible to fill a nomination vacancy if the candidate dies before the election.

(d) The name and address of the depository account of the candidate committee and of any other institution where funds of the committee are kept.

(2) CERTIFICATION. The individual responsible for filing or amending a candidate committee's registration statement and any form or report required of the committee under this chapter shall certify that all information contained in the statement, form, or report is true, correct, and complete.

As noted above, the CF-1 form filed by Mr. Bays was not signed and the CF-1 forms filed by Mr. Griffin, Mr. Pease, Mr. Bula, Ms. Christensen, Mr. Gould and Mr. Smith failed to provide the name and mailing address of the candidate committee treasurer. Those forms will be returned to the candidates, together with the reason for return, and will not be accepted for filing.

The CF-1 forms filed by all the other candidates are accepted for filing. Candidates whose forms are insufficient/incomplete but which substantially comply with the law will be notified of the deficiencies and, if the candidate is otherwise eligible for ballot placement, provided an opportunity to rectify the problem or problems.

The Clerk then reviewed nomination papers filed by some, but not all, of the candidates. The Clerk is aware that nomination papers have not historically been used in the District. The Clerk is further aware Board Policy (Bylaw) No. 0142.1 states as follows:

0142.1 - ELECTORAL PROCESS

Members of the Board shall be elected annually at the spring election on the first Tuesday in April in a manner that is consistent with State law.

Declaration of Candidacy

If an incumbent fails to file a Declaration of Candidacy and nomination papers by the 5:00 p.m. deadline on the first Tuesday in January, candidates may file a Declaration of Candidacy and nomination papers within seventy-two (72) hours following the original Tuesday deadline.

In addition, if an incumbent files written notification that the incumbent is not a candidate for reelection to their office or fails to file a declaration of candidacy within the time prescribed by this paragraph, the District Clerk shall promptly provide public notice of that fact on the District's website or, if the District does not maintain a website, by posting notices in at least three (3) different locations within the District.

Declaration of Non-Candidacy

If an incumbent files a Declaration of Non-Candidacy no later than 5:00 p.m. on the 2nd Friday preceding the Tuesday deadline, there is no extension of the Tuesday deadline.

When the first Tuesday in January is a holiday, the deadline becomes 5:00 p.m. the next day.

Whether or not nomination papers must be filed is ambiguous. There is no history of nomination papers being used in the District. There is no resolution, as required under Wis. Stat. sec. 120.06(6)(a), that can be located requiring the filing of nomination papers. The policy, however, was adopted by vote of the school board:

131.1 - BYLAWS AND POLICIES

The Board shall adopt bylaws and policies for the organization and operation of this Board. Such policies are to include those needed to meet the education standards established by Wisconsin Statute. In the event of any conflict between these bylaws and policies and any applicable law or regulation, including temporary emergency orders or mandates, the legal authority shall prevail.

Those bylaws and policies which are not dictated by the statutes or rules of the Department of Public Instruction or ordered by the State Superintendent of Public Instruction or a court of competent authority may be adopted, amended, and repealed at any meeting of the Board, provided the proposed adoption, amendment, or repeal shall have been proposed at a previous Board meeting and, once proposed, shall have remained on the agenda of each succeeding Board meeting until approved or rejected.

When compelling reasons exist for an immediate revision, the Board may adopt, amend, or suspend any bylaw or policy contained herein, provided the amendment, adoption, or suspension does not conflict with law.

Bylaws and policies shall be adopted, amended, repealed, or suspended by a majority vote of the Board.

The adoption, modification, repeal, or suspension of a Board bylaw or policy shall be recorded in the minutes of the Board. All bylaws and policies shall be included in the Board policy manual.

There is also no clear language establishing that all candidates must file nomination papers. The only reference is to the consequences of an incumbent Board member failing to file both a timely declaration of candidacy and nomination papers.

Despite the ambiguity, under these circumstances, it appeared to the Clerk that nomination papers are required under the terms of the Board's policy/bylaw and that the better practice is to require nomination papers unless and until the policy is modified by the Board or the Board or annual meeting adopts a resolution on the issue of filing nomination papers.

Three candidates, all of whom are incumbents, did not file nomination papers: Mr. Bays, Mr. Griffin and Mr. Pease. It is this determination that permitted the filing, subsequent to January 3, 2023, at 5:00 p.m., of election documents by other candidates.

The remaining seven candidates did file nomination papers. No written, verified challenges to the nomination papers have been filed by any person under Wisconsin Administrative Code section EL 2.07. The Clerk, however, is required under Wisconsin Administrative Code section EL 2.06 to determine the sufficiency of nominations papers. Like other documents, at a minimum, nomination papers must contain at least the information required

by statute (Wis. Stat. sec. 8.21). This means that the information required to be included at the top of the form must comport with the requirements of Wis. Stat. sec. 8.10(2)(b) at the time of circulation.

The Clerk reviewed the nomination papers prior to the verification. While there were some deficiencies in signatures that might have given rise to a challenge, there were four candidates who submitted entire pages of the form that failed to substantially comply with the law.

In the case of Mr. Bula, two of the three nomination papers did not contain his mailing address. Thirty electors signed Mr. Bula's nomination papers and twenty signatures appear on those two pages.

In the case of Ms. Christensen, one page does not contain her mailing address. Twenty-seven electors signed Ms. Christensen's nomination papers and one signature appears on that page.

In the case of Ms. Pantaleo, one page does not identify the name of the school district for which office is sought. Thirty-four electors signed Ms. Pantaleo's nomination papers and ten signatures appear on that page.

In the case of Mr. Smith, none of the pages identifies the election date, the office sought or the name of the district. Twenty-six electors signed Mr. Smith's nomination papers and twenty-six signatures appears on those pages.

The Clerk stated that under the law he/she had the responsibility of designating the form of the names of each candidate as the names are to appear on the ballot. The Clerk then again reviewed the names of the declarant and announced the form of the name of each candidate as he/she proposed to designate it. The Clerk asked if any candidate or other elector objected to any of the designations, or otherwise questioned the declarations or the campaign registration statements. After again considering the designation, the Clerk read the names as finally determined.

Based on the foregoing, the only candidate eligible for ballot placement is Ms. Pantaleo and the drawing of lots is unnecessary.

The Clerk announced that the record of the verification would be filed with the School Elections Records kept by the Clerk. The certificate of the verification of the candidates is by reference incorporated as a part of these minutes.


Clerk of the School District Aforesaid

Attendees

January 10, 2023

Verification
Meeting

Barbara Gransee
Laura L. Dion
Jen Jackson
Jared Cook
Keronea Vandrakhyden
Cuphd N. Gaurat
Justin Allard
Missie Smith
Roberta Pantaleo
Tom Wermuth

Eileen Brownlee

Brian Goodman

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