



Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

MEMORANDUM

TO: Wisconsin Municipal Clerks
City of Milwaukee Election Commission
Wisconsin County Clerks
Milwaukee County Election Commission

FROM: Meagan Wolfe
Administrator

DATE: March 19, 2020

SUBJECT: Nomination Paper Review Standards

As a result of recent litigation related to ballot access decisions, the Wisconsin Elections Commission (WEC) adopted guidance to clarify two legal standards related to the review of nomination papers. The Commission directed its staff to utilize these standards in its review of nomination papers and to communicate the guidance to local election officials as it outlines how the Commission will analyze appeals of local ballot access decisions related to procedural requirements.

The Commission adopted the following principles for its review of nomination papers and election petitions and for such review by local filing officers:

1. The “will of the electors” language in Wis. Stat. § 5.01(1) does not apply to the review of nomination papers and election petitions. Commission staff will not consider the “will of the electors” in evaluating nomination papers and election petitions and the Commission will not take it into account when ruling on challenges or appeals of decisions issued by local filing officers related to nomination papers and other election petitions.
2. The “substantial compliance” language in Wis. Admin. Code EL § 2.05(5) applies only to evaluating the completeness of information on nomination papers or other election petitions. Examples include the required information related to candidates, circulators and signers of the petition.
3. The “substantial compliance” language in Wis. Admin. Code EL § 2.05(5) does not apply to procedural requirements for circulating and filing nomination papers and other election petitions. Procedural requirements involve acts that are done to the documents and include the time and place of filing.

Wisconsin Elections Commissioners

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Administrator
Meagan Wolfe

4. The plain language of Wis. Stat. § 8.04 requires that when a circulator collects signatures for more than one candidate for the same office in the same election, the earlier paper is deemed valid and the later paper is deemed invalid. In such cases, the Commission and local filing officers will not consider whether there has been substantial compliance with this provision because the requirement does not relate to the completeness of information on the page. (Filing officers are likely to detect this circulator error as well as signatures of the same individual on nomination papers for more than one candidate for the same office only upon review of a challenge because the facial review does not require a comparison of nomination papers between candidates).

Please incorporate these standards into your review of nomination papers and other election petitions.

There is more complete background information and legal analysis regarding these standards in the attached staff memorandum. If you have questions regarding this communication, please contact the Help Desk at 608-261-2028 or elections@wi.gov.