

**STATE OF WISCONSIN  
ELECTIONS COMMISSION**

COMPLAINT FORM

Please provide the following information about yourself:

Name Dean Knudson  
Address 1753 Laurel Avenue, Hudson, WI 54016  
Telephone Number 715-220-4946  
E-mail dean.knudson@wisconsin.gov

State of Wisconsin  
Before the Elections Commission

The Complaint of Dean Knudson, Commissioner,  
Wisconsin Elections Commission, Complainant(s) against  
Tony Evers, Governor, State of Wisconsin, Respondent, whose  
address is Office of the Governor, State Capitol, Box 7863, Madison, WI 53707

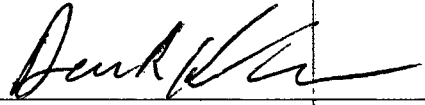
This complaint is under 5.10, 9.01, 7.70 (Insert the applicable sections of law in chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing)

I, Dean Knudson, allege that:

Governor Tony Evers violated Wisconsin Statute 7.70(5)  
by signing and sending a document titled "Certificate  
of Ascertainment" to National Archives before the time  
allowed for petition for a full statewide recount had  
passed and before the time allowed for filing an  
appeal of the recount had passed. See attached  
document.

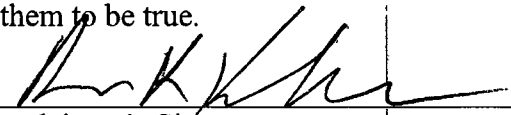
(Set forth in detail the facts that establish probable cause to believe that a violation has occurred. Be as specific as possible as it relates to dates, times, and individuals involved. Also provide the names of individuals who may have information related to the complaint. Use as many separate pages as needed and attach copies of any supporting documentation.)

Date: December 7, 2020



Complainant's Signature

I, Dean Knudson, being first duly sworn, on oath, state that I personally re the above complaint, and that the above allegations are true based on my personal knowledge and, as those stated on information and belief, I believe them to be true.

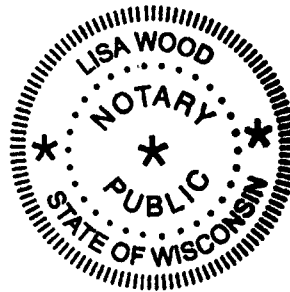


Complainant's Signature

STATE OF WISCONSIN

County of St. Croix,  
(county of notarization)

Sworn to before me this 7 day of  
December, 2020.



(Signature of person authorized to administer oaths)

My commission expires 4-1-23, or is permanent.

Notary Public or \_\_\_\_\_  
(official title if not notary)

**Please send this completed form to:**

Mail: Wisconsin Elections Commission  
P.O. Box 7984  
Madison, WI 53707-7984

Fax: (608) 267-0500

Email: [elections@wi.gov](mailto:elections@wi.gov)

Sworn Complaint against Governor Tony Evers under Section 5.06

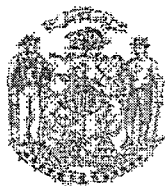
1. I am a resident of Wisconsin and a duly qualified elector in the State of Wisconsin
2. I am a member of the Wisconsin Elections Commission. As a member of the Commission, I have sworn that I will support the constitution of the United States and the constitution of the State of Wisconsin, and will faithfully discharge the duties of said office to the best of my ability.
3. The Wisconsin Elections Commission has the responsibility for administration of chs. 5 to 10 and 12 and other laws relating to elections and election campaigns. Wis Stats 5.05(1)
4. The Constitution of Wisconsin requires the Governor shall take care that the laws be faithfully executed. Wis. Cons. Art V Sec 4
5. Governor Tony Evers abused the discretion vested in him under Wis Stats 7.70(5) by sending to the National Archives on November 30, 2020 a document titled "Certificate of Ascertainment". The document contained this statement: "I DO, THEREFORE, HEREBY DETERMINE AND CERTIFY that all the candidates for Presidential Elector on the Democratic Ticket, having received the greatest number of votes, are duly appointed Presidential Electors for the State of Wisconsin: Meg Andrietsch, Shelia Stubbs, Ronald Martin, Mandela Barnes, Khary Penebaker, Mary Arnold, Patty Schachtner, Shannon Holsey, Tony Evers, Benjamin Wikler".
6. Wisconsin law allows for any qualified elector to bring a complaint against an official for violations of the law regarding election administration or the conduct of an election. The role of the governor is included in Chapter 7 "ELECTION OFFICIALS; BOARDS; SELECTION AND DUTIES; CANVASSING". In his official capacity as governor, Tony Evers is subject to a formal sworn complaint under Section 5.06.
7. Wisconsin law requires that when a petition for recount is filed, the governor or commission may not issue a certificate of election until the recount has been completed and the time allowed for filing an appeal has passed, or if appealed until the appeal is decided. Wis Stat 7.70(5)(a)
8. Wisconsin law requires that certificates of election be prepared by the Commission. Wis Stat 7.70(5)(a)
9. Wisconsin law requires "The certificate shall be countersigned by the secretary of state. Wis Stat 7.70(5)(a)
10. For presidential electors, the commission shall prepare a certificate showing the determination of the results of the canvass and the names of the persons elected, and

the governor shall sign, affix the great seal of the state, and transmit the certificate by registered mail to the U.S. administrator of general services. Section 7.70(5)(b)

11. Governor Evers released a statement in the evening of November 30, 2020 announcing that he had signed a Certificate of Ascertainment to be sent to the National Archives.
12. A copy of the document sent by Evers to the National Archives was already available in the evening of December 1, 2020. The time stamp on the document posted on the Archives website shows posting at 2:59pm December 1, 2020. Accessed at <https://www.archives.gov/files/electoral-college/2020/ascertainment-wisconsin.pdf>
13. Wisconsin law allows for an aggrieved candidate to petition for a partial recount. In such cases, the law allows "the opposing candidate, or any voter or other interested party including a municipality if on a referendum question, may similarly file a petition for recount in any or all of the remaining wards or municipalities in the jurisdiction or district. The petition shall be filed not later than 5 p.m. 2 days after the board of canvassers completes the first recount." Wis Stat 9.01(4)
14. In the current instance the time the period allowed for petition for full recount started upon the determination of the state canvass by the commission chairperson at approximately 3:30pm November 30, 2020. The commission administrator and the commission chairperson stated that the determination of the state canvass started the time for appeal under 9.01(6)(a) because the appeal would be made on the basis of the official result. The same reasoning must apply to Section 9.01(4) because until the recount results were canvassed by the chairperson, and the determination of the chairperson had been made, the interested parties could not know whether they had any reason to ask for a full recount.
15. In the current instance any voter, or other interested party, had the right to petition for a full statewide recount as long as the petition filed not later than 5pm on December 2, 2020.
16. Wisconsin law allows for the appeal of a recount to district court. The time period allowed for the appeal to be filed is 5 business days after the determination of the commission chairperson. The law prohibits the issuance of a certificate of election until the time allowed for an appeal has passed.
17. In Wisconsin under state law the appointment of presidential electors is by "election". The United States Constitution, in Article II, Section 1, Clause 2 grants the authority over this process to the state legislatures. The constitutional wording, "Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors" has long been interpreted to grant maximum flexibility to the state legislatures as to the method of selecting those electors to be appointed.

18. Wisconsin law makes clear that presidential electors are elected. Section 5.10 states “Although the names of the electors do not appear on the ballot and no reference is made to them, *a vote for the president and vice president named on the ballot is a vote for the electors of the candidates for whom an elector’s vote is cast*. Under chs. 5 to 12, all references to the presidential election, the casting of votes and the canvassing of votes for president, or for president and vice president, mean votes for them through their pledged presidential electors.” Wis Stat 5.10
19. Wisconsin law makes clear that the certificate sent to the federal authorities must be a certificate showing the determination of the results of the canvass and **the names of the persons elected**”. Wis Stat 7.70(5)(b)
20. The certificate of ascertainment signed and sent to Washington by Governor Evers constitutes a certificate of election under Wisconsin law because electors are elected in Wisconsin, and state law requires that the governor send a “certificate” showing “the persons elected”.
21. Upon information and belief, the Governor has relied upon advice from Attorney General Josh Kaul, or individuals working under the supervision of Kaul, in claiming that Section 7.70(5)(a) does not apply to presidential elections because it is “superseded” by Section 7.70(5)(b).
22. Governor Evers had the Secretary of State countersign the Certificate prior to sending to Washington as required by Section 7.70(5)(a). Governor Walker did the same in 2016.
23. On November 30, 2020, Tony Evers signed the certificate showing the election of the Wisconsin electors, and sent the certificate to the National Archives, prior to the expiration of the time to request a full statewide recount.
24. On November 30, 2020, Tony Evers signed the certificate showing the election of the Wisconsin electors, and sent the certificate to the National Archives, prior to the expiration of the time to appeal the recount.
25. In contrast, in 2016 Governor Walker signed the certificate on December 12, 2016 after the time period for appeal of the 2016 recount had expired.
26. A document posted on the website of the National Archives instructs state officials to: “Send these (Certificate of Ascertainment) to the Archivist as soon as possible **after the general election results for your state are finalized**. This instruction from the Archivist is consistent with our Wisconsin law directing that a certificate shall not be prepared until the time period for recounts and appeals have expired or have been decided. It is also the precedent in Wisconsin.

27. It is important that Governor Evers and future Governors conform their actions to comply with the law.



# Tony Evers

Office of the Governor | State of Wisconsin

## CERTIFICATE OF ASCERTAINMENT

FOR

**PRESIDENT, VICE PRESIDENT AND PRESIDENTIAL ELECTORS**

**GENERAL ELECTION - NOVEMBER 3, 2020**

I, TONY EVERS, Governor of the State of Wisconsin, DO HEREBY CERTIFY that the following is a true listing of the votes cast for the election of Presidential Electors, at a General Election held in the several towns, villages, cities, wards and election districts within the State of Wisconsin, on the Tuesday next succeeding the first Monday in November 2020, being the THIRD day of said month.

That from the certified returns, the total number of votes cast for the election of Electors for President and Vice President of the United States was 3,298,041, of which number:

JOSEPH R. BIDEN and KAMALA D. HARRIS, candidates of the Democratic Party for President and Vice President, and each of their electors, Meg Andrietsch, Shelia Stubbs, Ronald Martin, Mandela Barnes, Khary Penebaker, Mary Arnold, Patty Schachner, Shannon Holsey, Tony Evers, and Benjamin Wikler received 1,630,866 votes;

DONALD J. TRUMP and MICHAEL R. PENCE, candidates of the Republican Party for President and Vice President, and each of their electors, Carol Brunner, Edward Scott Grabins, Bill Feehan, Robert F. Spindell, Jr., Tom Schreiber, Darryl Carlson, Pam Travis, Kelly Ruh, Andrew Hitt, and Mary Buestrin received 1,610,184 votes;

DON BLANKENSHIP and WILLIAM MOHR, candidates of the Constitution Party for President and Vice President, and each of their electors, Nigel Brown, Dan Herro, Matthew Kloskowski, Colin Hudson, Thomas Harland, Andrew Zuelke, Elizabeth Lindee, Josh Young, Glenn Petroski, and Lorraine Decker received 5,146 votes;

JO JORGENSEN and JEREMY SPIKE COHEN, candidates of the Libertarian Party for President and Vice President, and each of their electors, Darek Raese, Patrick Baird, Stephen Ecker, Kristin Walker, Jeff Kortsch, Brian Defferding, Nathan Gall, Mike Hammond, Kevin Litten, David Grover received 38,491 votes;

BRIAN CARROLL and AMAR PATEL, candidates of the American Solidarity Party for President and Vice President, and each of their electors, Christopher E. Hansen, Thuy Quyen Tran, Steven L. Carlson, Stephen M. Beall, Patrick William Malone, Charles Adams, Fergus E. McKiernan, Riley Martin Drew, David S. Bovee, and Marianne F. Bovee received 5,259 votes;

REGISTERED WRITE-IN CANDIDATES and other individuals received a combined total of 8,095 write-in votes.

CERTIFICATE OF ASCERTAINMENT

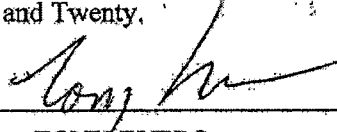
November 30, 2020

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I DO, THEREFORE, HEREBY DETERMINE AND CERTIFY that all the candidates for Presidential Elector on the Democratic Ticket, having received the greatest number of votes, are duly appointed Presidential Electors for the State of Wisconsin:

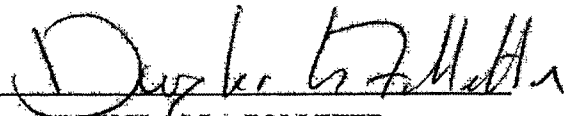
Meg Andrietsch  
Shelia Stubbs  
Ronald Martin  
Mandela Barnes  
Khary Penebaker  
Mary Arnold  
Patty Schachtner  
Shannon Holsey  
Tony Evers  
Benjamin Wikler

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Wisconsin to be affixed. Done at the Capitol, in the City of Madison, this 30<sup>th</sup> day of November Two Thousand and Twenty.

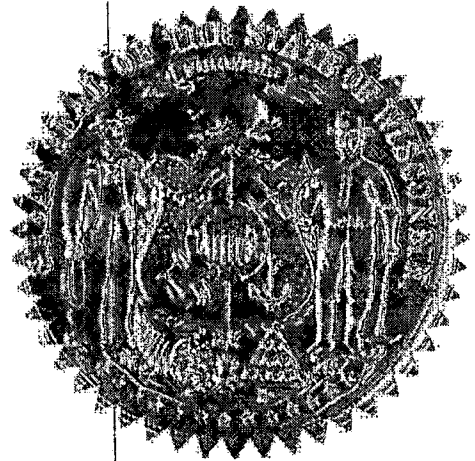


TONY EVERS  
Governor

By the Governor:



DOUGLAS LA FOLLETTE  
Secretary of State







**SCOTT WALKER**  
**OFFICE OF THE GOVERNOR**  
**STATE OF WISCONSIN**

P.O. Box 7863  
MADISON, WI 53707

**CERTIFICATE OF ASCERTAINMENT**  
**FOR**  
**PRESIDENT, VICE PRESIDENT AND PRESIDENTIAL ELECTORS**  
**GENERAL ELECTION - NOVEMBER 8, 2016**

I, SCOTT WALKER, Governor of the State of Wisconsin, DO HEREBY CERTIFY that the following is a true listing of the votes cast for the election of Presidential Electors, at a General Election held in the several towns, villages, cities, wards and election districts within the State of Wisconsin, on the Tuesday next succeeding the first Monday in November 2016, being the EIGHTH day of said month.

That from the certified returns, the total number of votes cast for the election of Electors for President and Vice President of the United States was 2,976,150, of which number:

DONALD J. TRUMP and MICHAEL R. PENCE, candidates of the Republican Party for President and Vice President, and each of their electors, Kim Travis, Kim Babler, Brian Westrate, Brad Courtney, Kathy Kiernan, Dan Feyen, Jim Miller, Bill Berglund, Steve King and Mary Buestrin received 1,405,284 votes;

HILLARY CLINTON and TIM KAINE, candidates of the Democratic Party for President and Vice President, and each of their electors, Randy Bryce, Gretchen Lowe, Ryan Greendeer, Martha Love, Khary Penebaker, John W. Miller, Michael Childers, Mary Ginnebaugh, Martha Laning and Jullily Kohler received 1,382,536 votes;

DARRELL L. CASTLE and SCOTT N. BRADLEY, candidates of the Constitution Party for President and Vice President, and each of their electors, Nigel Brown, Dino Bohlman, Lorraine Rose Decker, Colin L. Hudson, William Hemenway, Robert E. Desjarlais, Larry A. Oftedahl, Mark H. Gabriel, Michelle J. Gabriel, Jerry Broitzman received 12,162 votes;

GARY JOHNSON and BILL WELD, candidates of the Libertarian Party for President and Vice President, and each of their electors, Jason Lebeck, Patrick Baird, Todd Daniel Welch, Andy Craig, Jeff Kortschi, Brian Defferding, Jim Maas, Kevin Winterstein, Joseph Kexel and Phillip Anderson received 106,674 votes;

JILL STEIN and AJAMU BARAKA, candidates of the Wisconsin Green Party for President and Vice President, and each of their electors, Shanon L. Page, Nelson Z. Eisman, Michael J. White, Tiffany Anderson, Mike McCallister, Jeff Reese, Lawrence E. Dale, Wendy L. Gribben, Cynthia S. Stimmler and Angela M. Aker received 31,072 votes;

CERTIFICATE OF ASCERTAINMENT

December 12, 2016

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MONICA MOOREHEAD and LAMONT LILLY, candidates of the Workers World Party for President and Vice President, and each of their electors, Bernadine Theresa Jackson, Ron Blascoe, Michael Landers, Babette Grunow, Ian Michel, Lynne Pfeifer, Philip Anderson, Dennis Kelln, John Stoltenberg and Eric Jefferson received 1,770 votes;

ROCKY ROCQUE DE LA FUENTE and MICHAEL STEINBERG, candidates of the American Delta Party for President and Vice President, and each of their electors, Joseph Lelac, Brad Engel, John Lloyd, John Ewing, George F. Anderson, Arthur Deleon, Jim A. Lewis, Stewart Smith, Janice Lahey and Ron Jacobs received 1,502 votes;

REGISTERED WRITE-IN CANDIDATES and other individuals received a combined total of 35,150 write-in votes.

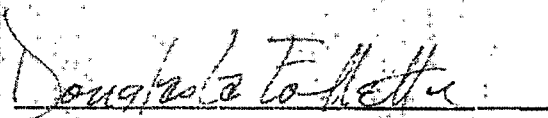
I DO, THEREFORE, HEREBY DETERMINE AND CERTIFY that all the candidates for Presidential Elector on the Republican Ticket, having received the greatest number of votes, are duly appointed Presidential Electors for the State of Wisconsin:

Kim Travis  
Kim Babler  
Brian Westrate  
Brad Courtney  
Kathy Kiernan  
Dan Feyen  
Jim Miller  
Bill Berghund  
Steve King  
Mary Buestrin

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Wisconsin to be affixed. Done at the Capitol, in the City of Madison, this twelfth day of December, Two Thousand and Sixteen.

SCOTT WALKER  
Governor

By the Governor:



DOUGLAS LA FOLLETTE  
Secretary of State



## 2020 Electoral College

# Instructions and Guidance for State Officials and Points of Contact

Before this year's election, OFR's Legal Staff will contact your Secretary of State's Office or other appropriate election officials to identify designated points of contact for your State.

OFR prepared this material to help you carry out the activities required under 3 U.S.C. 6, 11, 12, and 13.

*The term "Governor" includes the Mayor of the District of Columbia and the term "State" includes the District of Columbia.*

### **Before the General Election**

**Make sure that you are in communication with OFR. If you have not completed the following steps, please contact OFR.**

Sign up to receive important email announcements and reminders from OFR.

### **Duties of State Officials for the Electoral College**

#### ***Appoint electors***

Following the general election, appoint electors following your State's established procedures.

Note: Under the Constitution, State legislatures have broad powers to direct the process for selecting electors, with one exception: Article II, section 1, clause 2 provides that "no Senator, Representative, or Person holding an Office of Trust or Profit under the United States" may be appointed as an elector. Since it is not settled as to whether this restriction extends to all Federal officials regardless of their level of authority or the capacity in which they serve, it is possible that the restriction could disqualify any person who holds a Federal government job from serving as an elector.

### ***Prepare Certificates of Ascertainment***

After the general election, your Governor signs no fewer than SEVEN (7) original Certificates of Ascertainment along with TWO (2) certified copies. Alternatively, your Governor may sign NINE (9) original Certificates of Ascertainment.

Federal law does not govern the general appearance of the Certificate of Ascertainment. The format can vary from State to State and from year to year, generally conforming to State law or custom. You can view your State's (and others') recent Certificates in the Results section of this website.

However, Federal law does require that you prepare and authenticate the original Certificates of Ascertainment as follows:

Each of the SEVEN (7) (or NINE (9)) original Certificates MUST meet the following four (4) requirements:

- List the names of the electors chosen by the voters and the number of votes each received.
- List the names of all other candidates for elector and the number of votes each received.
- Be signed by the Governor (auto-pen signatures or stamps are not permitted).
- Carry the State seal.

### ***Distribute Certificates of Ascertainment***

- Send ONE (1) of the SEVEN (7) original Certificates of Ascertainment along with TWO (2) certified copies (or THREE (3) originals, if NINE (9) were prepared) to the Archivist of the United States:

David S. Ferriero, c/o Office of the Federal Register (F).

Send these to the Archivist as soon as possible after the general election results for your state are finalized.

Once we receive them, OFR's Legal Staff will examine the Certificates of Ascertainment for the requirements listed above. If the certificates meet all the requirements, OFR will post a digital copy of the certificate to the Results section of this website.

If the certificates do not contain all the required elements, OFR's Legal Staff will notify your State's designated point of contact. We will work with you to resolve outstanding problems within the prescribed timeline.

- ❑ Retain the other SIX (6) original Certificates of Ascertainment for the meeting of the electors. (You will pair them with the SIX (6) Certificates of Vote executed at the meeting of the electors.)

### ***Decide any controversy or contest concerning the appointment of electors***

Resolve any controversy or contest concerning the appointment of electors according to the process and procedures determined by your State's law *at least six days before the meeting of the electors*. (See Title 3, Section 6 of the U.S. Code.)

### ***Hold the meeting of electors***

Your State's electors will meet in your State on the same day all the other electors meet in their respective States. Federal law does not permit your State to choose an alternate date for the meeting of electors. However, your State may designate where the meeting will take place. At this meeting, the electors vote for President and Vice President.

If a designated elector is unable to carry out the required duties on this day, follow the laws of your State to fill the vacancy. When appointing a replacement elector, create SIX (6) identical original documents establishing the appointment.

### ***Prepare Certificates of Vote***

The electors must execute SIX (6) original Certificates of Vote.

Federal law does not govern the general appearance of the Certificate of Vote. The format can vary from State to State and from year to year, generally conforming to State law or custom. You can view your State's (and others') recent Certificates in the Results section of this website.

However, Federal law requires that you prepare and authenticate the Certificates of Vote as follows:

<https://www.archives.gov/electoral-college/state-officials/so-instructions>

Published Aug. 5, 2020

Each of the SIX (6) original Certificates MUST meet the following requirements:

- Contain two (2) distinct lists, one for President and one for Vice President that:
  - List all persons who received electoral votes for President and the number of electors who voted for each person.
  - List all persons who received votes for Vice President and the number of electors who voted for each person.
- Not include the names of any persons who did not receive electoral votes.
- Be signed by all of the electors.

THEN, pair the Certificates as follows:

- The SIX (6) original Certificates of Ascertainment provided to the electors by the Governor must be paired with the SIX (6) original Certificates of Vote.
- Each of the SIX (6) pairs must include any documentation regarding the substitution of elector(s).

The electors must seal and certify that each of the SIX (6) pairs of Certificates contain the list of electoral votes of your State for President and Vice President.

***Distribute Paired Certificates of Ascertainment and Vote***

Distribute the SIX (6) pairs of Certificates to the designated Federal and State officials as follows.

- Send ONE (1) pair to the President of the Senate,  
The Honorable Michael R. Pence.
- Send TWO (2) pairs to the Archivist of the United States,  
David S. Ferriero, c/o Office of the Federal Register (F).
- Send TWO (2) pairs to the Secretary of State in your State.
- Send ONE (1) pair to the Chief Judge of the Federal District Court located where your State's electors met.

### ***Meet Statutory Deadline for Receipt of Certificates***

Send the pairs of Certificates as soon as possible after the meeting of electors. The statutory deadline for the designated Federal and State officials to receive the paired Certificates is *9 days after the meeting*.

We strongly recommend that you send the pairs of Certificates either the day of or, if necessary, no later than the morning after, the meeting of electors to minimize delays that could occur during the holiday season.

Once we receive them, OFR's Legal Staff will examine the pairs of Certificate for the required elements listed above. If the certificates meet all the requirements listed above, OFR will post a digital copy of the Certificate of Vote to the Results section of this website.

If the certificates do not meet all the requirements listed above, OFR's Legal Staff will notify your State's designated point of contact. We will work with you to resolve outstanding problems within the prescribed timeline.

Once validated pairs of Certificates have been received by the designated Federal and State officials listed above, your State's Electoral College duties are complete.

### **OFR Contact Information**

Request permission to sign up for OFR's email list by sending an email to [election.officials+subscribe@nara.gov](mailto:election.officials+subscribe@nara.gov) from your official government email account.