



# Wisconsin Elections Commission

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August 11, 2021

Charles Stanek  
W5456 Raven Road  
Wausauke, WI 54177

Town of Middle Inlet,  
Clerk Patricia Schutte  
W7901 County Road X  
Middle Inlet, WI 54114

**Sent via post and email to:** [clerk@middleinlet.org](mailto:clerk@middleinlet.org)

Re: In the Matter of: Charles Stanek v. Patricia Schutte (Case No.: EL 21-14)

Dear Mr. Stanek and Ms. Schutte:

This letter is in response to the verified complaint submitted by Charles Stanek (“Complainant”) to the Wisconsin Elections Commission (“Commission”), which was filed in reply to actions taken by election officials during and leading up to the February of 2021 Primary in the Town of Middle Inlet. The complaint alleges that the clerk violated Stanek and others’ rights under Wis. Stat. § 10.02 pertaining to allegedly deficient primary notice processes in the town.

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/reply and the Town of Middle Inlet Clerk’s (“Respondent”) response. 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 with relation to the deficient posting of type B notices under Wis. Stat. § 10.02, or more precisely, for failing to comply with the publishing requirements of Wis. Stat. § 10.05. The Commission orders the Respondent to comply with all requirements contained in Chapter 10 of the Wisconsin Statutes for the posting of all notices pertaining to future elections.

## Complaint Allegations and Response

Mr. Stanek filed a complaint with the Commission pursuant to Wis. Stat. § 5.06 alleging that Town of Middle Inlet officials violated applicable sections of Wisconsin Statutes, Chapter 10. Specifically, the complaint alleges a Wis. Stat. § 10.02 type B notice violation, arguing that town officials improperly failed to post the notice in the Peshtigo Times (the newspaper of record). The Complainant also alleges that the clerk admitted she forgot to post the notice when

*Commissioners*

Ann S. Jacobs, chair | Marge Bostelmann | Julie M. Glancey | Dean Knudson | Robert Spindell | Mark L. Thomsen

*Administrator*  
Meagan Wolfe

confronted by a third party about this matter at the election, while another party was allegedly told that it was published. Neither of these third parties filed a sworn statement on the record, but it is of no consequence.

Clerk Schutte filed a sworn response to the complaint, countering the allegations by noting that she did mistakenly forget to publish the notice in the Peshtigo Times, but also detailing the three posting places for the Town at which she posted the election materials.

The Complainant submitted a response indicating that he did not notice the posting while voting at Town Hall on February 16, 2021, but it was on the posting board when he returned to check on February 17, 2021. He could not confirm whether the posting occurred at the second and third locations.

#### 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 by Mr. Stanek's complaint.

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

##### *Election Notices*

Wisconsin Statute § 10.02 provides in relevant part:

Before any election an appropriate type B notice shall be published in substantially the form prescribed by the commission at the times prescribed in s. 10.06.

Additionally, Wis. Stat. § 10.06(3)(b) requires:

If there is to be a municipal primary, the municipal clerk shall publish a type B notice on the Monday before the primary election. In cities and villages, the municipal clerk shall publish a type C notice on the Monday before the primary election of any direct legislation questions to be voted on at the primary.

Finally, Wis. Stat. § 10.05 provides the following:

Unless specifically designated elsewhere, this section applies to villages, towns and school districts. Whenever a notice is required to be published, a village, town or school district may post 3 notices in lieu of publication under ch. 985 whenever there is not a newspaper published within the village, town or school district or whenever the governing body of the

village, town or school district chooses to post in order to supplement notice provided in a newspaper. Whenever the manner of giving notice is changed by the governing body, the body shall give notice of the change in the manner used before the change. Whenever posting is used, the notices shall be posted no later than the day prescribed by law for publication, or if that day falls within the week preceding the election to be noticed, at least one week before the election. All notices given for the same election shall be given in the same manner.

It is undisputed in the record that the type B notice was not properly published “in a newspaper likely to give notice in the area or to the person affected.” (*see* Wis. Stat. § 985.02). Not only does Wis. Stat. § 10.02 require a type B notice to be posted, but Wis. Stat. § 10.05 also requires a town such as Middle Inlet to post in the newspaper of record, if such a newspaper exists. The alternative of posting in three designated locations is only sufficient on its own if there is no newspaper of record, but a town may post in three locations to supplement the newspaper-based notice if there is a newspaper of record. In the instant matter, the Peshtigo Times served as the newspaper of record in accordance with Chapter 985 of the Wisconsin Statutes.

As such, the Commission finds that the Complainant did show probable cause to believe that a violation of law or abuse of discretion occurred with relation to the Respondent’s failure to comply with the requirements of Wis. Stat. § 10.02 for publishing type B notices. The severity of this violation is sufficiently mitigated by the placement of three notices on the public posting boards for the town in this one instance, which represents a minimally acceptable conformance with Wis. Stat. § 10.05, and thus Wis. Stat. § 10.02. It is, however, ordered that Clerk Schutte and the Town of Middle Inlet must conform all future posting of elections notices with the requirements of Chapter 10 of the Wisconsin Statutes. This will ensure the electors of Middle Inlet are given notice that is fully compliant with statute.

#### Commission Decision

Based upon the above review and analysis, the Commission finds probable cause to believe that a violation of law or abuse of discretion has occurred with regard to the town’s deficiencies in posting the type B notice for the Spring of 2021 Primary. The Commission orders the Respondent to comply with all requirements contained in Chapter 10 of the Wisconsin Statutes for the posting of all notices pertaining to future elections.

#### 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.

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Sincerely,

COMMISSION

A handwritten signature in black ink that reads "Megan H.M. Wolfe". The signature is written in a cursive style with a large, prominent initial "M".

Meagan Wolfe  
Administrator

cc: Commission Members