



Wisconsin Elections Commission

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January 31, 2022

Honorable Members
Joint Legislative Committee on the Review of Administrative Rules
Wisconsin State Capitol

Sent via email

Re: Commission Actions re JCRAR Orders

Dear Co-Chairs Senator Nass and Representative Neylon and Honorable Committee Members:

In regard to your Jan. 10, 2022 orders issued to the Wisconsin Elections Commission, the Commission met on Jan. 28 and again on Jan. 31 and made the following motions resulting in the direction outlined below.

Drop Boxes

Regarding the JCRAR's order pertaining to the promulgation of an emergency rule or the withdrawal of guidance related to drop boxes, ultimately the Commission did not pass a motion by majority vote to withdraw this guidance or to begin an emergency rule. However, on Dec. 1, 2021 the Commission did vote to begin the promulgation process for a permanent rule and directed staff to draft a scope statement for the Commission's consideration at their Mar. 9, 2022 meeting.

On Jan. 28, 2022 the Commission considered the following motions related to the promulgation of an emergency rule and/or the withdrawal of guidance related to drop boxes:

- 1) **MOTION:** In accordance with the directive from JCRAR, cease issuing guidance as to drop boxes and withdraw any guidance related to drop boxes.

Moved by Commissioner Knudson. Seconded by Commissioner Spindell.

Roll call vote:	Bostelmann:	Aye	Glancey:	No
	Jacobs:	No	Spindell:	Aye
	Knudson:	Aye	Thomsen:	No

Motion failed 3-3.

Commissioners

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

Administrator
Meagan Wolfe

- 2) **MOTION:** Staff is directed to draft a scope statement promulgated as an emergency rule regulating the use of drop boxes based upon the current guidance consistent with the unanimous motion on December 1, 2021.

Moved by Commissioner Thomsen. Seconded by Commissioner Glancey.

AMENDMENT: Staff is directed to develop a scope statement for an emergency rule as to drop boxes that would follow the ruling of the Waukesha Circuit Court that would be sent on to the governor and the Department of Administration within five days, without coming back to the Commission for further input.

Moved by Commissioner Knudson. Seconded by Commissioner Spindell.

Roll call vote:	Bostelmann:	Aye	Glancey:	No
	Jacobs:	No	Spindell:	Aye
	Knudson:	Aye	Thomsen:	No

Motion failed 3-3.

ORIGINAL MOTION: Staff is directed to draft a scope statement promulgated as an emergency rule regulating the use of drop boxes based upon the current guidance consistent with the unanimous motion on December 1, 2021.

Roll call vote:	Bostelmann:	No	Glancey:	Aye
	Jacobs:	Aye	Spindell:	No
	Knudson:	No	Thomsen:	Aye

Motion failed 3-3.

Correction of Errors or Omissions on Absentee Ballot Certificates

As it relates to the Jan. 10, 2022 JCRAR order to promulgate an emergency rule or withdraw guidance related to correcting errors or omission on absentee ballot certificates, on Jan. 28, 2022 the Commission directed staff to begin the promulgation process by drafting two scope statements for the Commission's consideration at a special meeting on Jan. 31, 2022: one reflecting current guidance and one reflecting staff's best recommendations. It should also be noted that on December 1, 2021 the Commission directed staff to begin the promulgation of a permanent rule and will consider draft scope statements at the March 9, 2022 meeting.

On Jan. 28, 2022, the Commission made the following motions related to this request:

- 3) **MOTION:** Retract the guidance that the Commission issued at the October 2016 meeting relating to making corrections on the absentee ballot envelope.

Moved by Commissioner Knudson. Seconded by Commissioner Spindell.

Roll call vote:	Bostelmann:	No	Glancey:	No
	Jacobs:	No	Spindell:	Aye
	Knudson:	Aye	Thomsen:	No

Motion failed 4-2.

- 4) **MOTION:** Promulgate an emergency rule related to correction of absentee ballot envelopes.

Moved by Commissioner Knudson. Seconded by Commissioner Spindell.

FRIENDLY AMENDMENT: To ask the staff to bring to the Commission two scope statements, one based on current guidance, and one based on best recommendations.

Moved by Commissioner Spindell. Accepted by Commissioner Knudson.

Commissioner Thomsen clarified that the emergency rule promulgation would not stop the process on the permanent rule.

AMENDED MOTION: Pursuant to Jan. 10, 2022 letter from JCRAR, staff is directed to draft two scope statements for an emergency rule regarding corrections of absentee ballot envelopes, one of which reflecting current guidance and one of which reflecting staff's best recommendations.

Commissioner Knudson clarified that his motion includes that the scope statements should be presented as soon as possible to comply with the deadline expressed in the JCRAR order. The Commission and staff discussed scheduling the meeting at which the scope statements would be presented.

FRIENDLY AMENDMENT: Add a sentence clarifying that the Commission affirms it has never had guidance regarding the correction of absentee ballots.

Moved by Commissioner Thomsen. Accepted by Commissioner Knudson.

AMENDED MOTION: Pursuant to the letter from JCRAR dated Jan. 10, 2022, and assuming that directive is regarding correction of absentee ballot envelopes, staff is directed to draft two scope statements for an emergency rule regarding corrections of absentee ballot envelopes, one of which reflecting current guidance and one of which reflecting staff's best recommendations. The Commission affirms it has never had guidance regarding the correction of absentee ballots.

Roll call vote:	Bostelmann:	Aye	Glancey:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Knudson:	Aye	Thomsen:	Aye

Motion carried 6-0.

On January 31, 2022, the Commission made the following motions related to correcting errors and omissions on absentee certificate envelopes.

[Place holder for today]

Sincerely,

Wisconsin Elections Commissioners

Marge Bostelmann
Julie Glancey
Ann S. Jacobs
Dean Knudson
Bob Spindell
Mark Thomsen

cc: Committee Members
Meagan Wolfe, WEC Administrator

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