



# Wisconsin Elections Commission

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**DATE:** February 9, 2024

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

**FROM:** Wisconsin Elections Commission

**SUBJECT:** **AMENDED February 8, 2024:** Permanent Injunction on WEC Guidance re: Missing Absentee Witness Address in *White et al. v. Wisconsin Elections Commission* (2022-CV-001008)

On October 3, 2022, the Honorable Judge Michael J. Aprahamian of the Waukesha County Circuit Court issued a Permanent Injunction declaring two memoranda issued by the Wisconsin Elections Commission (WEC) invalid and contrary to law. The Permanent Injunction, attached to this memorandum, prohibits the WEC from disseminating or displaying the following memoranda:

- 1) The October 18, 2016, memorandum entitled, “AMENDED: Missing or Insufficient Witness Address on Certificate Envelopes”
- 2) The October 19, 2020, memorandum entitled, “Spoiling Absentee Ballot Guidance”

The Court further prohibited WEC from providing any advice or guidance that municipal clerks or other local election officials have the duty or ability to modify or add information to absentee ballot certifications. The Court additionally prohibited WEC from giving any advice or guidance contrary to the provision in Wis. Stat. § 6.87 that, if a municipal clerk receives an absentee ballot with an improperly completed certificate or with no certificate, the clerk may return the ballot to the elector, inside the sealed envelope when an envelope is received, together with a new envelope if necessary, whenever time permits for the elector to correct the defect and return the ballot by the applicable deadline. *See*, Wis. Stat. § 6.87(9).

Pursuant to the Permanent Injunction of October 3, 2022, this communication is hereby issued to give notice that the WEC memoranda of October 18, 2016, and October 19, 2020, have been declared invalid and contrary to law and have been withdrawn. The Court stated that the Permanent Injunction is not “intended, nor shall be construed, to enjoin WEC from issuing or distributing its guidance regarding the definition of ‘address’ as used in Wis. Stat. § 6.87.” **With respect to witness address content, please refer to the Commission’s memoranda concerning *League of Women Voters of Wisconsin v. WEC, et al.* and *Rise, Inc., et al. v. WEC et al.* issued on February 9, 2024.**

Please review this notice and the attached Permanent Injunction with your municipal attorney to determine if any changes to your procedures are required.

Wisconsin Elections Commissioners  
Don M. Millis, chair | Marge Bostelmann | Ann S. Jacobs | Carrie Riepl | Robert Spindell | Mark L. Thomsen

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Administrator  
Meagan Wolfe

Please contact the WEC Help Desk at [elections@wi.gov](mailto:elections@wi.gov) or at 608-261-2028 with any questions. Thank you for your prompt attention to this matter. This memorandum was reviewed and approved by the six members of the Wisconsin Elections Commission at their February 8, 2024, public meeting.

FILED  
10-03-2022  
Clerk of Circuit Court  
Waukesha County  
2022CV001008

DATE SIGNED: October 3, 2022

Electronically signed by Michael J. Aprahamian  
Circuit Court Judge

STATE OF WISCONSIN    CIRCUIT COURT    WAUKESHA COUNTY  
BRANCH 9

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MICHAEL WHITE, EVA WHITE, EDWARD  
WINIECKE, *and* REPUBLICAN PARTY OF  
WAUKESHA COUNTY,

*Plaintiffs,*

Case No. 2022CV1008

THE WISCONSIN STATE LEGISLATURE,

*Intervenor-Plaintiff,*

*v.*

WISCONSIN ELECTIONS COMMISSION,

*Defendant,*

WAUKESHA COUNTY DEMOCRATIC PARTY,  
*and* LEAGUE OF WOMEN VOTERS OF  
WISCONSIN,

*Intervenor-Defendants.*

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**ORDER GRANTING FINAL JUDGMENT TO PLAINTIFFS AND INTERVENOR  
PLAINTIFF THE WISCONSIN STATE LEGISLATURE**

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After considering the parties' briefing, arguments, and all other record evidence presented in this case, it is hereby **ORDERED** that Plaintiffs and Intervenor Plaintiff are entitled to final judgment on their claims for declaratory and permanent injunctive relief, *see* Wis. Stat. § 806.01(1)(c);

Defendant the Wisconsin Election Commission (“WEC”) is **PERMANENTLY PROHIBITED** and **ENJOINED** from publicly displaying or disseminating any document, communication, guidance, or memoranda that municipal clerks or election officials can add information to absentee ballot witness certifications in any form including, but not limited to, the October 18, 2016, memorandum entitled “AMENDED: Missing or Insufficient Witness Address on Absentee Certificate Envelopes,” and the memorandum dated October 19, 2020, entitled “Spoiling Absentee Ballot Guidance”;

WEC is **PERMANENTLY PROHIBITED** and **ENJOINED** from advising, guiding, instructing, publishing, or otherwise communicating information to Wisconsin municipal clerks and local elections officials that is contrary to Wis. Stat. § 6.87(9), which provides that if a municipal clerk receives an absentee ballot with an improperly completed certificate or with no certificate, the clerk may return the ballot to the elector, inside the sealed envelope when an envelope is received, together with a new envelope if necessary, whenever time permits the elector to correct the defect and return the ballot by the applicable deadline;

WEC is **PERMANENTLY PROHIBITED** and **ENJOINED** from advising, guiding, instructing, publishing, or otherwise communicating information to Wisconsin municipal clerks and local elections officials that clerks or local election officials have the duty or ability to modify or add information to incomplete absentee ballot certifications;

The Court's final judgment applies to portions of the WEC memoranda of October 18, 2016 and October 19, 2020, now withdrawn, and any other memoranda, communication, guidance, or publication of WEC that contains or indicates that municipal clerks or local election officials can modify or add information to absentee ballot certifications;

Nothing herein is intended, nor shall be construed, to enjoin WEC from issuing or distributing its guidance regarding the definition of "address" as used in Wis. Stat. § 6.87;

Thus, the Court now enters final judgment in favor of Plaintiffs and Intervenor-Plaintiff, consistent with the above. This final judgment resolves all claims pending in this case, and is final for purposes of appeal.

**SO ORDERED.**