



Wisconsin Elections Commission

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MEMORANDUM

TO: Challengers to Nomination Papers and Other Interested Parties -
2025 Spring Election

FROM: WEC Staff

DATE: January 3, 2025

SUBJECT: Filing Challenges to Nomination Papers

This memorandum provides information to persons who are considering filing a challenge to the nomination papers of a candidate whose papers are required to be filed with the Wisconsin Elections Commission (“Commission”).

Challenges to nomination papers filed by independent presidential candidates for the 2025 Spring Election will be considered and determined by the Commission at its January 14, 2025, meeting. The Commission’s virtual teleconference **meeting will begin at 11:00 a.m. on January 14, 2025.**

Challengers should familiarize themselves with the requirements of Wisconsin Statutes Chapter 8, the statutory chapter governing nomination papers and nominations. Nomination papers and the challenge procedure are further governed by administrative rules which can be found in the Wisconsin Administrative Code EL §§ 2.05 – 2.07. **Please be advised that the emergency rules regarding nomination paper and declaration of candidacy challenge procedure that were promulgated on June 10, 2024 were suspended on July 22, 2024 by the Joint Committee for the Review of Administrative Rules (JCRAR) and are no longer in effect.**

Wisconsin Administrative Code EL § 2.05 sets forth the standards for determining whether nomination papers comply with Wis. Stat. Ch.8, and Wis. Adm. Code EL § 2.07 sets forth the bases for challenges to those nomination papers. Because Wis. Adm. Code EL § 2.05(4) provides that “[a]ny information on a nomination paper is entitled to a presumption of validity,” any challenge to that information bears the burden of rebutting that presumption.

Sworn complaints challenging nomination papers are filed by complying with Wis. Admin. Code EL § 2.07(2)(a) of the Wisconsin Administrative Code.

2025 DEADLINES

For the statewide candidate filing period for the 2025 Spring Election, the schedule for filing nomination papers and determining their validity and the validity of a challenge to them is as follows:

1. **January 7, 2025** - Nomination papers must be filed not later than 5:00 p.m., (Wis. Stat. § 8.10(2)(a)).
2. **January 10, 2025** - Challenges to nomination papers must be filed not later than **4:30 p.m. (Wis. Adm. Code EL § 2.07)**. The entire verified complaint, including all attachments and exhibits, must be delivered to the Commission at its offices at 201 W. Washington Avenue, 2nd Floor, Madison, Wisconsin, 53703, or, preferably, emailed to: elections@wi.gov not later than the prescribed time.
 - a. Challenges must be made by verified complaint and must establish clear and convincing evidence to believe that the paper or signature challenged does not comply with Wisconsin Statutes or the rules of the Wisconsin Elections Commission. (See discussion below.)
 - b. The challenge should be accompanied by affidavits or other relevant documentation. Any challenge which is not received in full (including all exhibits and attachments) by the challenge deadline will not be accepted.
3. **3 Days After Challenge Filed** – A challenged candidate may file a written, verified response not later than 3 calendar days after the challenge has been filed. Candidates may also appear before the Commission in person to respond to the challenge. A written response should be verified and should also be accompanied by affidavits or other documentation. Just as the burden of establishing a challenge is placed upon the challenger, the burden of rebutting an established challenge is placed upon the candidate whose papers are challenged.
5. **Optional Rebuttal** – The Commission again authorized an optional rebuttal filing for challengers after a response to a verified challenge has been received. Rebuttal filings must be filed **not later than 9:00 a.m.** on January 14, 2025.
6. **January 14, 2025** - The Commission will meet **at 11:00 a.m.** to consider the challenges, responses, and rebuttals, and to hear oral presentations by the Commission staff, challengers, and candidates.

Instructions for appearing before the Commission via Zoom at its meeting will be provided separately. Both the challenger (or by representation) and the candidate (or by representation) may appear before the Commission.

The challenger and the candidate will each receive 5 minutes for his or her presentation to the Commission.

DISCUSSION

All challenges to nomination papers must be in the form of a verified complaint. Wis. Admin. Code EL § 2.07(2)(a). Any challenge which is not in the form of a verified complaint will not be considered by the Commission and will be returned to the complainant by the Commission’s staff. A verified complaint is a complaint that the complainant swears, under oath, is true based on the personal knowledge or information and belief of the complainant. The oath must be sworn to before a notary or other person authorized to administer oaths. The complainant may also choose to utilize an “unsworn declaration” for the filing, under which they “declare under penalty of false swearing under the law of Wisconsin that the foregoing is true and correct,” with a signature, date and location added with that statement. The form of the complaint and its filing shall comply with the requirements of Wis. Admin. Code EL Chapter 20. Wis. Admin. Code EL § 2.07(2)(a).

Nomination paper challenge complaints should also follow the methodology provided below:

All challenges must refer to the nomination paper page number as shown on the nomination papers filed with the WEC for each nomination paper, any part of which is challenged. If a nomination paper page does not have a page number, contact the Commission's staff to establish a number for that page. *(For instance: John Smith. Page 1 or Tom Jones Pages 3-12 and 15-23, etc.)*

A challenger must establish insufficiency through “**clear and convincing evidence.**” Wis. Admin. Code EL 2.07(4). This a burden of proof that requires more than a “preponderance of the evidence,” but does not require proof “beyond a reasonable doubt.”

According to Wis. Admin. Code EL §§ 2.05(4) and 2.07(3)(a): "Any information which appears on a nomination paper is entitled to a presumption of validity," and "[t]he burden is on the challenger to establish any insufficiency. If the challenger establishes that the information on the nomination paper is insufficient, the burden is on the challenged candidate to establish its sufficiency by clear and convincing evidence. The invalidity or disqualification of one or more signatures on a nomination paper shall not affect the validity of any other signatures on that paper."

Challengers will have the opportunity to rebut responses made by challenged candidates. However, the Commission may, at its discretion, decline to consider any new grounds for a challenge which were not raised before the deadline for filing a challenge. The Commission may also decline to consider grounds which were alleged in a timely manner, but which are based on information and sworn statements to be provided after the deadline.

Challengers should also be aware that nomination paper challenges are political activity and may not be researched and/or prepared by State employees on State time.

Challenges may be made to an entire page or series of pages of a nomination paper, and challenges may also be made to individual signatures on a nomination paper page.

The Commission has published a manual titled “Common Nomination Paper Challenges,” which generally outlines the challenge process, but also includes prior Commission decisions on common challenges. This manual can be found here:
<https://elections.wi.gov/resources/manuals/common-nomination-paper-challenges-manual>.

I. Challenges to a whole page (or series of pages)

The first part of any challenge to nomination papers should consist of challenges (if any) to a whole page, or a group of pages that have the same deficiency in the composition of the paper. Challenges to a whole page consist of two categories: (A.) Challenges to the heading of the nomination paper and (B.) challenges to the certification of the circulator.

Challenges to an entire page or to a group of pages, because of a deficiency (or deficiencies) in the heading or in the certificate of the circulator, should include a copy of at least one of the pages with the deficiency (or deficiencies) circled and, again, must refer, by page number, to the page or pages challenged. *(For instance: John Smith pages 1 through 27 fail to name the candidate or Tom Jones pages 2,3,6-11 & 15-19 fail to identify the office sought, and pages 5-23 fail to contain the signature of the circulator, etc.)*

A. Challenges to the heading of the nomination paper

Wis. Stat. § 8.10(2)(b) and (c) requires that the heading of a nomination paper contain the following:

(b) Each nomination paper shall have substantially the following words printed at the top:

I, the undersigned, request that the name of (insert candidate's last name plus first name, nickname or initial, and middle name, former legal surname, nickname or middle initial or initials if desired, but no other abbreviations or titles) residing at (insert candidate's street address) be placed on the ballot at the (spring or special) election to be held on (date of election) as a candidate representing the (name of party) so that voters will have the opportunity to vote for (him or her) for the office of (name of office). I am eligible to vote in (name of jurisdiction or district in which candidate seeks office). I have not signed the nomination paper of any other candidate for the same office at this election.

(c) Each candidate shall include his or her mailing address on the candidate's nomination papers.

The heading must be substantially complete before the nomination paper is circulated. Otherwise, the signers would have no knowledge of what they were signing and that would render their signatures meaningless. Therefore, none of the information in the heading of the nomination paper, (i.e., candidate's name, candidate's address, political party represented, date of election, office sought, name of jurisdiction or district in which candidate seeks office), may be altered, amended, or added after circulation of the nomination paper. A challenge to the heading of a nomination paper should identify the page or pages (by number) and the defect or deficiency in the heading. The Commission ultimately decides whether the header of a nomination paper substantially complied with the requirements set forth in the statute.

B. Challenges to the certification of the circulator

In most, if not all cases, defects in the certificate of the circulator may be rehabilitated by a correcting affidavit of the circulator -- because the defect has no effect on the validity of the signatures or on the information presented to the signatories when they signed.

II. Challenges to Individual Signatures

The second part of any challenge to nomination papers consists of challenges (if any) to individual signatures. Challenges to individual signatures on various pages should include a copy of **each and every page** on which one or more signatures are challenged. Each page should be numbered as described above and the challenge should refer to the signature(s) challenged, by page and line number. *(For instance: John Smith Page 3, Line 6 - the address of the signatory is outside the XX Assembly District.)*

Challenges to individual signatures, like any other challenge, must be based on the personal knowledge of the complainant or that of a person whose affidavit or sworn statement accompanies the challenge. Therefore, as an example, a challenge to the eligibility to sign of various signers of a nomination paper, based on the non-residency of those signers, must be accompanied by a map of the district showing their address to be outside the district or other similar evidence. The allegation by the complainant—that the signers are not residents

of the district—without the attached map or other corroborating forensic evidence, is not sufficient.

If you have any questions about the Commission’s meeting to consider the challenges to nomination papers, please contact James C. Witecha at 608-266-0136 (james.witecha@wisconsin.gov).

Relevant Wisconsin Statutes and Administrative Code Provisions:

Wis. Stat. Ch. 8: <http://docs.legis.wisconsin.gov/statutes/statutes/8>

Wis. Adm. Code EL Ch. 2: https://docs.legis.wisconsin.gov/code/admin_code/el/2

Wis. Adm. Code EL Ch. 20: https://docs.legis.wisconsin.gov/code/admin_code/el/20